

# National Pollutant Discharge Elimination System Guidance for Region 3

## Background

After October 31, 2011, point-source discharges of pesticides into “Waters of the United States” (WOTUS) are required to be authorized through an EPA or State-issued pesticide general permit (PGP) in compliance with National Pollutant Discharge Elimination System (NPDES) regulations of the Clean Water Act. In comparison to individual permits that are specific to a particular facility, general permits such as PGPs provide NPDES coverage for point-source discharges that occur over large geographic areas. Point-source discharges of pollutants allowed under general permits are typified by a specific outlet or discharge point through a discrete, confined conveyance (pipes, ditches, conduits, etc.) which by definition includes pesticide spraying through nozzles, drip techniques with piscicides for fish restorations, and other similar types of pesticide applications. Both chemical pesticides (herbicides, insecticides, piscicides, etc.) and biological pesticides (e.g., Bt insecticide) are potential pollutants that require coverage under a PGP when discharged into a WOTUS.

Because of the different processes involved with PGP development in individual states, PGPs and their respective permit forms vary accordingly. In Region 3, Arizona and Texas have delegated NPDES permit authority that allows these states to develop their own PGPs with requirements that are at least as stringent as EPA’s PGP. The PGP issued by EPA serves states such as New Mexico and Oklahoma that do not have delegated NPDES permit authority. PGPs and other general permits (storm water, confined animal feedlot operations, etc.) remain in effect for 5 years after which they must be renewed by EPA or the State. Coverage for applicants may be renewed under the new general permit at the discretion of the permitting agency.

The PGP provides NPDES coverage for operators (Applicators and/or Decision-makers) who (1) meet conditions of eligibility defined in the permit and (2) have submitted a Notice of Intent (NOI) and other documents in accordance with permit requirements. A “Decision-maker” is any entity with control over the decision to perform pesticide applications including the ability to modify those decisions. For purposes of PGP compliance, the Forest Service is considered to be a large entity Decision-maker. As per the January 9, 2012 letter sent agency-wide by the Deputy Chief for State & Private Forestry (File Code 2150), regional foresters and station directors have the responsibility under FSM 7440.41 for approving NOIs. They may delegate other responsibilities for PGP compliance (e.g., preparation of pesticide discharge management plans) in writing.

## Region 3’s Process for NPDES Compliance

The 11-step process for obtaining and maintaining NPDES permit coverage of potential pesticide discharge into WOTUS on National Forest System (NFS) lands in Region 3 is as follows:

1. Download and Review Pesticide General Permit (PGP) Documents

A complete review should be made of the PGP and accompanying factsheet that apply in the State in which the pesticide application(s) will occur. The websites shown below may be used to download specific PGPs, factsheets, and forms necessary to comply with NPDES requirements for individual States associated with Region 3:

Arizona – <http://www.azdeq.gov/enviro/water/permits/pgp.html>

New Mexico (EPA) – [http://cfpub.epa.gov/npdes/home.cfm?program\\_id=410](http://cfpub.epa.gov/npdes/home.cfm?program_id=410)

Oklahoma (EPA) – [http://cfpub.epa.gov/npdes/home.cfm?program\\_id=410](http://cfpub.epa.gov/npdes/home.cfm?program_id=410)

Texas – <http://www.tceq.texas.gov/permitting/wastewater/general/pestgpair>

## 2. Determine Whether a Proposed Pesticide Application Involves WOTUS

The Clean Water Act (CWA) gives Federal protection to “Waters of the United States,” or WOTUS, which are defined according to regulations that have been promulgated by EPA and the Army Corps of Engineers. The CWA applies principally to surface waters and does not directly address groundwater. WOTUS includes wetlands which are areas covered by water or saturated within the soil at a frequency and duration sufficient to support growth of hydrophytic plants and development of hydric soils with characteristic mottling. In general, the following waters are considered to be WOTUS under the CWA:

- Traditional navigable waters;
- Interstate waters;
- Wetlands adjacent to either traditional navigable waters or interstate waters;
- Non-navigable tributaries to traditional navigable waters that are relatively permanent, meaning they contain water at least seasonally; and
- Wetlands that directly abut relatively permanent waters.

In addition, waters are protected by the CWA if a fact-specific analysis determines they have a “significant nexus” to a traditional navigable water or interstate water:

Tributaries to traditional navigable waters or interstate waters;

- Wetlands adjacent to jurisdictional tributaries to traditional navigable waters or interstate waters; and
- Waters that fall under the “other waters” category of the regulations. These waters are divided into two categories, those that are physically proximate to other jurisdictional waters and those that are not, and EPA guidance discusses how each category should be evaluated.

The status of a WOTUS does not change with the absence of perennial water (standing or flowing) or continuous saturation. Coverage under a NPDES permit is still necessary even when some WOTUS such as streams, lakes, or wetlands are ephemeral or become intermittent (seasonally dry). In addition to the water-bearing channel(s) of a WOTUS, any adjacent floodplain that remains “active” due to periodic flooding is considered to be part of the WOTUS. Pesticide application to canals and irrigation ditches that are either WOTUS or are conveyances to WOTUS require NPDES permit coverage either under a PGP, an individual permit, or an alternative general permit.

The following aquatic areas are generally not protected by the CWA and therefore do not require coverage under an NPDES permit:

- Wet areas that are not tributaries or open waters and do not meet the agencies’ regulatory definition of “wetlands;”
- Waters excluded from coverage under the Clean Water Act by existing regulations;
- Waters that lack a “significant nexus” where one is required for a water to be protected by the Clean Water Act;
- Artificially irrigated areas that would revert to upland should irrigation cease;

- Artificial lakes or ponds created by excavating and/or diking dry land and used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing;
- Artificial reflecting pools or swimming pools created by excavating and/or diking dry land;
- Small ornamental waters created by excavating and/or diking dry land for primarily aesthetic reasons;
- Water-filled depressions created incidental to construction activity;
- Groundwater drained through subsurface drainage systems; and
- Erosional features (gullies and rills) and swales that are not tributaries or wetlands.

For purposes of determining WOTUS, forests in Region 3 should consider all waterbodies, wetlands, canals, irrigation ditches, and bottomland areas (riparian areas, floodplains, etc.) on NFS lands as WOTUS unless these areas can be positively excluded by the Forest or Regional Hydrologist. This includes waterbodies or wetlands that are ephemeral or intermittent (seasonally dry). The Forest or Regional hydrologist must be consulted whenever any of these water-related areas on NFS lands are to be excluded from NPDES requirements, and the process for excluding such areas as WOTUS must be documented in project files. For further information on WOTUS, see 40 CFR 122.2; EPA’s PGP Appendix A: Definitions, Abbreviations, and Acronyms; or EPA’s website <http://water.epa.gov/lawsregs/guidance/wetlands/CWAwaters.cfm>.

### 3. Determine Whether NPDES Permit Coverage Is Necessary for Pesticide Application

Coverage under a PGP is needed ONLY for pesticide discharges that are into, on, or over WOTUS. This includes pesticide applications conducted “at water’s edge” that unavoidably cause a point-source discharge of pesticide into a WOTUS.<sup>1</sup> Water treatments for aquatic weeds or animal pests, fish restoration projects with piscicides, and aerial pesticide applications involving WOTUS automatically require coverage under a NPDES permit since direct (into, on, or over) pesticide applications are involved. However, indirect pesticide discharges such as runoff from uplands and airborne spray drift are not subject to NPDES permitting. Regardless of whether a particular waterbody qualifies as a WOTUS, applicators must comply with pesticide label requirements when conducting pesticide applications.

The following examples illustrate cases where NPDES permit coverage may or may not be required for applications in close proximity to a WOTUS:

Example A – The treatment area occurs adjacent to a floodplain of a currently flowing stream that qualifies as a WOTUS. Although currently dry, the floodplain is still part of the WOTUS. Invasive weeds in the treatment area will be treated by a backpack sprayer using an herbicide with an aquatic label. Coverage under a NPDES permit would be

---

<sup>1</sup> The phrase “at water’s edge” is used in AZ’s and EPA’s PGP as a term that allows coverage of activities targeting pests that are not necessarily “in” the water but are near the water such that control of the pests may unavoidably involve a point-source discharge of pesticides to WOTUS. Texas’ PGP defines “water’s edge” as the surface area of the channel that is not covered by water during low flow conditions immediately bordering (1) waters of the U.S., or (2) a conveyance to waters of the U.S. along which water (e.g., runoff, irrigation waters, or floodwaters) flows.

unnecessary if the floodplain of the WOTUS is not directly sprayed by the nozzle of the backpack sprayer during treatment and instructions on the pesticide label are followed.

Example B – Saltcedar shrubs scattered along the streambank of a WOTUS waterbody are to be treated with a cut-stump method by using a paintbrush and herbicide with an aquatic label. Saltcedar shrubs standing in water are to be cut above the water level and the cut-stumps treated with the paintbrush. Coverage under a NPDES permit is necessary since dripping of herbicide into the water would be expected during application.

Example C – Backpack spraying of an invasive grass will occur within the streambed and along the streambank of a currently dry stream that qualifies as a WOTUS. An herbicide with a non-aquatic label may be used since water is not present, but coverage under a NPDES permit would have to be obtained since direct application of herbicide to a WOTUS is involved.

If a particular pesticide application cannot be clarified as to the need for PGP coverage, coverage should be obtained as a precaution. FS applicants should consult EPA Region 6 in Dallas, TX, or the State EPA issuing the PGP for specific information if in doubt regarding certain pesticide applications.

#### 4. Complete Required Notice of Intent (NOI) Forms for PGP Coverage

Applicants seeking authorization for pesticide discharge under a PGP must submit a complete and accurate NOI (Notice of Intent) form to EPA or the State EPA. In Texas, an NOI or Self-Certification form must be submitted to the Regional TCEQ or kept onsite when certain criteria defined in the PGP are exceeded. Required NOI forms for obtaining coverage under NPDES permits for a particular State may be found at the websites listed above in step 1 of this guidance. An NOI provides notice of the intent by an operator (Applicator or Decision-maker) to discharge during pesticide application activities that should be covered under the PGP. For New Mexico and Oklahoma, NOIs for EPA may be submitted electronically through EPA's electronic Notice of Intent (eNOI) system or by using a paper NOI form (OMB No. 2040-NEW). Arrangements must be made with Regional pesticide coordinator to complete the eNOI form (see step 6 below).

The geographic area to be covered by each NOI should be thoroughly evaluated. An entire forest (or smaller geographic unit within the forest) may be covered by a single NOI in Arizona, New Mexico, Oklahoma, and Texas.<sup>2</sup> NOIs may also be set up individually for specific projects such as fish restorations. However, the Forest should consider obtaining NPDES coverage indefinitely on a forest-wide basis if pesticide operations are an annual occurrence over various parts of the Forest.

Permitting agencies have different requirements for submission of NOIs. In New Mexico and Oklahoma, the Forest Service (as a large entity Decision-maker) is required to submit an NOI whenever pesticide discharge to a WOTUS potentially occurs. Under the Texas PGP, the NOI and Self Certification forms do not have to be submitted until annual treatment thresholds are reached. In Arizona, an NOI does not have to be submitted to ADEQ unless there is potential discharge to one or more of the surface waters identified in Appendix B: Surface Waters and Designated Uses found in Arizona's Administrative

---

<sup>2</sup> In a March 27, 2012 letter, ADEQ authorized the Forest Service to submit a single NOI (single source or areawide) in obtaining PGP coverage for an entire forest rather than following conditions stated in the State's permit.

Code Title 18, Chapter 11, Article 1 ([http://www.azsos.gov/public\\_services/Title\\_18/18-11.htm](http://www.azsos.gov/public_services/Title_18/18-11.htm)). Discharges to WOTUS in Arizona other than those identified in the Appendix B surface waters (e.g., unnamed ephemeral or intermittent WOTUS) are automatically covered by the State's PGP and **do not** require an NOI to be submitted. To obtain PGP coverage for an entire forest in Arizona, the type of NOI to be submitted to ADEQ should be for an "areawide discharge" which allows discharges into 2 or more receiving waters.<sup>3</sup> In addition to the NOI, Arizona also requires that an "NOI Supplement A" form (AZG2011-001) also be submitted which accounts for additional receiving waters if there are more than one receiving water. Specific receiving waters to list on ADEQ's NOI and NOI Supplemental A forms along with their requisite latitude-longitude coordinates should be taken directly from Appendix B surface waters in the Arizona Administrative Code as indicated above.

Fees may be charged by permitting agencies to process NOIs. For each NOI submitted, ADEQ charges an initial fee of \$500 for an areawide discharge (\$250 for a single discharge) to receiving waters as well as charging similar annual fees to retain PGP coverage (see Section 2.4.2 Type of Permit Coverage and Associated Fee in Arizona's PGP). Texas has a similar fee structure for NOIs that exceed a particular annual threshold of treatment with restricted pesticides. Coverage under EPA's PGP for New Mexico and Oklahoma does not require a fee. The Forest is responsible for remitting fees to permitting agencies to initiate and annually maintain PGP coverage. ADEQ will invoice permittees annually until permit coverage is terminated.

The NOI remains in effect until a Notice of Termination (NOT) is submitted to the permitting agency (see step 11 below). NOIs and any required documents such as the PDMP should be comprehensive for coverage of pesticide applications on NFS lands by both FS personnel as well as contracted applications. Authorization to discharge extends to the operator who filed the NOI, including its employees, contractors, subcontractors, and other agents, for all activities identified on the NOI for the duration of the PGP until coverage is terminated. Pesticide applications by non-FS applicators on NFS lands should be covered appropriately under either the Forest's NOI or by a separate NOI specific to their operation.

#### 5. Develop a Pesticide Discharge Management Plan (PDMP)

In addition to the NOI, an up-to-date pesticide discharge management plan (PDMP) is required for permit coverage of pesticide applications unless otherwise exempted by a permitting agency. The intent of the PDMP is to specifically identify and evaluate control measures that will meet pollutant restrictions and minimize discharges. The PDMP generally includes the following elements:

- a. Pesticide discharge management team (including names and individual responsibilities)
- b. Pest problem description
- c. Pest management options evaluation

---

<sup>3</sup> Arizona's PGP requires an NOI to be submitted either as (a) a single source with a discharge activity involving only one receiving water or (b) "areawide" discharge activities with discharges to 2 or more receiving waters. Receiving waters are defined as those waterbodies into which wastewater or effluent is discharged.

- d. Response procedure
- e. Spill response procedures
- f. Adverse incident response procedures
- g. Documentation to support eligibility considerations under other Federal laws
- h. Signature requirements

Arizona's PGP does not require a PDMP to be developed if the treated acreage is below annual application thresholds as defined by the PGP (see Table 6.0 in the AZ PGP). However, applicants in Arizona are required to submit both an NOI and PDMP for pesticide discharge in Tier 3 waters or impaired waters. Tier 3 waters are waters specifically designated under the Clean Water Act as Outstanding National Resource Waters (ONRWs). Impaired waters are those waters that have been identified by State EPAs or EPA as not meeting applicable water quality standards pursuant to section 303(d) of the Clean Water Act. For impaired waters, the PDMP has to be submitted only when the impairment is due to the same pollutant (e.g., pesticide) that will be discharged. Impairment in waters generally is due to factors such as sediment or *E. coli* rather than a particular pesticide.

The PGPs of New Mexico and Oklahoma require development of a PDMP by the Forest Service regardless of the area treated since the Forest Service is considered to be a "large entity" operator. The Texas PGP requires permittees to prepare a PDMP for each pest management area covered under the permit. A pest management area is defined in the Texas PGP to be a contiguous area of land, including any waters of the U.S., where the permittee is responsible for and is authorized to conduct pest management activities.

Applications involving impaired or Tier 3 waters must be identified in the NOIs and PDMPs, and additional time should be allowed for authorization by the permitting agency for these waters. Arizona ONRWs (Outstanding Arizona Waters) are listed in Arizona Administrative Code R18-11-112(G). In New Mexico, many perennial waters within U.S. Forest Service wilderness areas have been designated as ONRWs as identified in New Mexico Administrative Code 20.6.4.9.D. Section 9 of EPA's PGP specifies additional requirements for new pesticide discharges to Oklahoma waterbodies and watersheds that have been designated as a Scenic River or Outstanding Resource Water, High Quality Water, Sensitive Public and Private Water Supply, or any waterbody located within the boundaries of an area listed in Table 1 of Appendix B in Oklahoma's Water Quality Standards.

If development of a PDMP is required, the PDMP usually must be developed by the time the NOI is filed; however, Texas allows the PDMP to be prepared within 90 days of coverage under the general permit. The Forest must retain a copy of the current PDMP along with all supporting maps and documents at the address (Supervisor's Office or Ranger District) provided in the NOI. A copy of the PDMP does not have to be submitted to the permitting agency together with the NOI unless otherwise required.

To develop the PDMP, forests should use the EPA template or State-specific template (for PDMP templates, see agency websites as shown above in step 1). The EPA template should be used by forests in Arizona since ADEQ currently does not have a template listed on its website; however, these forests should use the ADEQ template for developing a PDMP when it becomes available. Information in PDMPs may be cut-and-

pasted from existing documents or plans (NEPA documents, forest management plans, etc.) that address pesticide applications on the Forest. The PGPs issued by Arizona, Texas, and EPA all allow Decision-makers such as the Forest Service to incorporate into the PDMP by reference any procedures or plans from other documents that meet the requirements of the permit. If a document is used as a reference, the specific page number(s) containing the necessary information from the document should be listed in the PDMP template. For purposes of filing or submitting the PDMP to a permitting agency, a copy of the documents used by reference must be attached to the PDMP form to document implementation of restrictions on pesticide discharge.

6. Submit the NOI(s) and PDMP to Regional Office for Certification

Each NOI or Self Certification form filed with a permitting agency for pesticide treatment on NFS lands must be authorized by the Regional Forester who serves as the certifying official for the Forest Service. However, the address used to complete the NOI should be specific to the office (Supervisor's Office or Ranger District) on the Forest that originated the NOI since that office will be responsible for maintaining the necessary NPDES documents. The Regional Forester's address or email should be used only in the context of identifying the Forest Service's certification official to the permitting agency.

Requests for certification of NOIs should be sent by the Forest Supervisor under a cover letter to the Regional Forester. In Texas, an NOI or Self-Certification form (if applicable) must be submitted to the Regional Forester. If a paper NOI form is to be submitted to the permitting agency, a completed, unsigned NOI should be sent as an enclosure together with the cover letter to the Regional Forester. ADEQ's "NOI Supplement A" forms (AZG2011-001) for areawide discharges should also be completed and sent to the Regional Office for review together with the NOI. For New Mexico and Oklahoma, authorization for the NOI may be obtained either by using EPA's electronic NOI (eNOI) system or by obtaining the Regional Forester's signature on EPA's paper NOI form (OMB No. 2040-NEW) for certification. EPA's paper NOI form (found in Appendix D in EPA's PGP) has a waiver request allowing it to be used instead of the eNOI. If EPA's eNOI system is used (see [www.epa.gov/npdes/pesticides](http://www.epa.gov/npdes/pesticides)), arrangements must be made with the Regional Pesticide Coordinator to coordinate certification of the eNOI by the Regional Forester. A Central Data Exchange (CDX) account will have to be established at the Regional Office for the eNOI whereby the preparer furnishes necessary information that can be certified by the Regional Forester. A summary of requirements for submitting NPDES forms and information may be found in Table 1 below.

Any PDMP that must be developed in accordance with the State's or EPA's PGP must also be sent as an attachment to the Regional Forester's cover letter along with the NOI. If EPA's template for the PDMP incorporates other documents by reference such as a NEPA document, a copy of the document does not have to be sent if the Regional Office already has one available. Sufficient time should be allowed to complete the certification process by the Regional Office while meeting any deadlines as indicated in the section below for submitting the NOI and PDMP (if required) to the State permitting agency or EPA before the application is to occur. The Regional pesticide coordinator should be consulted beforehand for an appropriate time frame to process NPDES documents.

7. Submit the NOI(s) and Any Required PDMP to Permitting Agency

Forest Service applicants should consult their respective State or EPA-issued PGP for pertinent information on submitting NPDES forms and time frames required for discharge authorizations. EPA's PGP for New Mexico and Oklahoma requires the Forest Service as a Decision-maker to submit an NOI at least 10 days before any discharge for which an NOI is required. The discharge is authorized no earlier than 10 days after EPA posts receipt of the NOI on the Internet. For Arizona, Decision-makers must submit an NOI and PDMP (if required) to ADEQ at least 7 days before the planned discharge activity and are authorized to discharge only after 7 calendar days from the time the signed NOI is received by the department or when an authorization certificate is issued, whichever is earlier. In Texas, provisional authorization to discharge begins immediately following confirmation of receipt of an electronic NOI by the Texas Commission of Environmental Quality (TCEQ) or 48 hours after a completed NOI is postmarked for delivery. For operators in Texas, the Self Certification form should be submitted to the Regional TCEQ or kept onsite when criteria in the PGP are exceeded.

An applicant is not automatically eligible for PGP coverage for pesticide applications that involve discharges to impaired waters or ONRWs. Extended time periods exist for submission deadlines involving NOIs, PDMPs, and for authorization of discharge with respect to these specific waters. In Arizona, Decision-makers (e.g., the Forest Service) must submit a copy of the PDMP to ADEQ together with the NOI at least 31 days in advance of a pesticide discharge to an impaired water, an Outstanding Arizona Water, or as part of a specific approval.

#### 8. Conduct Site Monitoring and Report Adverse Incidents After Pesticide Application

During post-application surveillance of pesticide application as required under the PGP, all applicators must visually assess the area where the pesticide(s) were applied for any possible adverse incidents, including the unanticipated death or distress of non-target organisms and disruption of wildlife habitat, recreation, or municipal water use. If an applicator observes or is otherwise made aware of an adverse incident that may have resulted from the pesticide application, the applicator must immediately notify the permitting agency at their agency hotlines within 24 hours. Within 30 days of a reportable adverse incident, operators must also provide a written report of the adverse incident to the permitting agency. Similar requirements for reporting may be necessary when a leak, spill, or other release of pesticide or other hazardous substance occurs in any 24-hour period in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302. The National Response Center (NRC) must be notified immediately at 800-424-8802 in accordance with the requirements of 40 CFR Part 110, 40 CFR Part 117, and 40 CFR Part 302. State or local requirements may also necessitate reporting spills or leaks to local emergency response, public health, or drinking water supply agencies.

#### 9. Maintain Required Documentation and Recordkeeping

The following records must be retained by the Forest at the address (Supervisor's Office or Ranger District) provided for the NOI:

- a. A copy of the NOI submitted to permitting agency, any correspondence exchanged between the Decision-maker (i.e., Forest Service) and permitting agency specific to coverage under this permit, and a copy of the acknowledgment letter by the permitting agency showing the assigned permit tracking number;



- b. Copies of the PGP and the PDMP (if required), including any modifications made to the PDMP during the term of this permit;
- c. A copy of annual reports submitted to permitting agency;
- d. Documentation of equipment calibration (only if the Decision-maker is also the Applicator);
- e. Information on each treatment area to which pesticides are discharged, including:
  - 1) Description of each treatment area, including location and size (acres or linear feet) of treatment area and identification of WOTUS, either by name or by location, to which pesticide(s) are discharged;
  - 2) Identification of which pesticide use pattern was involved, i.e.,
    - a) mosquito and other flying insects,
    - b) weeds and algae,
    - c) animal pests, or
    - d) forest canopy;
  - 3) Target pest(s) and explanation of need for pest control;
  - 4) Action thresholds (as established from larval or adult densities for insect pest populations or from measurable changes in environmental condition(s), either current or based on historical data);
  - 5) Method and/or data used to determine that action threshold(s) has been met;
  - 6) Description of pest management measure(s) implemented prior to the first pesticide application;
  - 7) Forest Service unit name and contact information for pesticide applicator;
  - 8) Name of each pesticide product used including the EPA registration number;
  - 9) Quantity of each pesticide product applied to each treatment area;
  - 10) Pesticide application date(s); and
  - 11) Whether or not visual monitoring was conducted during pesticide application and/or post-application and if not, why not, and whether monitoring identified any possible or observable adverse incidents caused by application of pesticides.

In addition to the documents listed above, the following records must also be kept:

- A copy of any adverse incident reports;
- The rationale for any determination that reporting of an identified adverse incident is not required;
- A copy of any corrective action documentation; and
- A copy of any spill, leak, or other unpermitted discharge documentation.

The NOI, PDMP, and other documents pertaining to the NPDES process should be properly stored in the Forest's project files and/or records database system. Information pertaining to pesticide treatment listed above should be entered into the FACTS (Forest Service Activity Tracking System) database. Applicators (including contractors) must

also keep appropriate records according to the PGP. The NOI, PDMP, and all supporting documents must be readily available for review; and copies of any of these documents must be provided upon request to EPA, the State's permitting agency, or other agencies governing pesticide discharges. EPA and the State EPA may provide copies of the Forest's PDMP and other PGP-related information to members of the public.

10. Prepare and Submit the Annual Report to the Permitting Agency and Regional Office

The Forest is required to prepare an annual report each calendar year for the duration of PGP coverage, regardless of whether discharges from the application of pesticides have been made. The annual report from the Forest to the permitting agency should contain the following information:

- a. The Forest's name and contact information;
- b. NPDES permit tracking number(s);
- c. Contact person name, title, e-mail address (if any), and phone number at the Supervisor's Office or Ranger District originating the NOI; and
- d. For each treatment area, the following information must be reported:
  - 1) A description of treatment area, including location and size (acres or linear feet) of treatment area and identification of any WOTUS, either by name or by location, to which pesticide(s) are discharged;
  - 2) Identification of which pesticide use pattern was involved, i.e.,
    - a) mosquito and other flying insects,
    - b) weeds and algae,
    - c) animal pest, or
    - d) forest canopy;
  - 3) Company name(s) and contact information for pesticide applicator(s) if different from the Forest Service (e.g., contractors);
  - 4) Total amount of each pesticide product applied for the reporting year by the EPA registration number(s) and by application method (e.g., aerially by fixed-wing or rotary aircraft, broadcast spray, etc.);
  - 5) Whether this pest control activity was addressed in the PDMP prior to pesticide application;
  - 6) If applicable, an annual report of any adverse incidents as a result of these treatment(s), for incidents; and
  - 7) If applicable, a description of any corrective action(s), including spill responses, resulting from pesticide application activities and the rationale for such action(s).

The annual report should be sent to the Regional Invasive Species/Pesticides Coordinator at the same time that the report is required by EPA or the State's permitting agency. For New Mexico and Oklahoma, an annual report on pesticide application activities performed by FS personnel under each NOI is due to EPA no later than February 15. The Forest must submit the annual report electronically through EPA's notice processing system (eNOI), which is available at [www.epa.gov/npdes/pesticides](http://www.epa.gov/npdes/pesticides) (for the annual

report template, see *Additional Resources for Permittees* in the EPA website for New Mexico or Oklahoma as shown above in step 1). An annual report must be prepared and kept onsite for permittees in Texas who meet the criteria in Part II.A.1 of the Texas PGP. In Arizona, an annual report form may be provided by ADEQ in the future at the website shown in step 1 above. Otherwise, the annual report for Arizona should be completed according to requirements in Arizona's PGP. The annual report for Arizona must be completed by February 14 and kept with the PDMP. These documents must be available to ADEQ upon request. Arizona operators required to submit an annual report to ADEQ (e.g., an annual report for a discharge involving an impaired water or Outstanding Arizona Water) must have their annual report received by the ADEQ no later than February 21.

When the Forest terminates permit coverage through a Notice of Termination (NOT), an annual report must still be submitted to EPA for the portion of the year that was covered by the permit up through the date of termination (see next section below). The annual report is due to EPA no later than February 15 of the next year. In Arizona (and Texas if required), the annual report is due no later than 45 days after the permit termination date.

11. Submit a Notice of Termination (NOT) Form to Permitting Agency and Regional Office

To terminate permit coverage, an operator is required to submit a Notice of Termination (NOT) to the permitting agency. NOT forms may be found at the agency websites listed in step 1 above. **A copy of the NOT must be sent to the Regional Invasive Species/Pesticides Coordinator at the same time that the NOT is submitted to EPA or the State's permitting agency.** An NOI remains in effect until the NOT is submitted to the permitting agency; however, an annual report must still be submitted by the Forest to the permitting agency for the portion of the year that was covered by the permit up through the date of termination with the NOT. To avoid submitting unnecessary annual reports in future years when applications are not taking place, a NOT generally should be submitted for an ongoing pesticide project soon after the project has been completely finished. Submission of a NOT at the end of the project will also help limit annual fees as charged by Arizona and Texas for maintenance of permit coverage.

**Table 1. Summary of NPDES requirements**

State	Requirement for NOI development	Requirement for PDMP development	NOI certification by Regional Forester	Forms or information to send to Regional Office	Submission of NOI and PDMP to permitting agency	Fees required by permitting agency	Annual report
Arizona	NOI not submitted unless there is potential discharge to surface waters as identified in <i>Appendix B: Surface Waters and Designated Uses</i> found in Title 18, Chapter 11, Article 1 of Arizona's Administrative Code	PDMP to be developed if (1) treated acreage exceeds annual application thresholds defined in Table 6.0 of the PGP <b>or</b> (2) pesticide discharge occurs in impaired waters or Tier 3 waters (ONRWs)	NOI form certified by Regional Forester	NOI form NOI Suppl. A forms PDMP (if required) annual report notice of termination	NOI and PDMP (if required) sent to ADEQ at least 7 days before discharge activity PDMP (if required) and other NPDES documents must be kept available for inspection by ADEQ at the office address (SO or Ranger District) given for the NOI	initial fee of \$500 for NOI covering areawide discharges (\$250 for single discharges) annual fee of \$500 to maintain PGP coverage for areawide discharges (\$250 for single discharges)	annual report must be completed by February 14 and kept with the PDMP. If pesticide discharge occurred in an Arizona Outstanding Water or impaired water, the report must be submitted directly to ADEQ by Feb. 21.
New Mexico and Oklahoma	NOI submitted whenever pesticide discharge to a WOTUS potentially occurs	PDMP to be developed regardless of area treated	eNOI or paper NOI form certified by Regional Forester	eNOI information or paper NOI form PDMP annual report notice of termination	NOI to be submitted to EPA at least 10 days before any discharge PDMP and other NPDES documents must be kept available for inspection by EPA at the office address (SO or Ranger District) given for the NOI	none	annual report due to EPA no later than February 15

<b>State</b>	<b>Requirement for NOI development</b>	<b>Requirement for PDMP development</b>	<b>NOI certification by Regional Forester</b>	<b>Forms or information to send to Regional Office</b>	<b>Submission of NOI and PDMP to permitting agency</b>	<b>Fees required by permitting agency</b>	<b>Annual report</b>
Texas	NOI, eNOI, or Self Certification form not submitted unless annual treatment thresholds are reached	PDMP to be developed for each pest management area covered under the permit	NOI, eNOI, or Self Certification form certified by Regional Forester	NOI or Self Certification forms or eNOI information PDMP annual report notice of termination	authorization begins upon receipt of eNOI or 48 hours after NOI is postmarked PDMP and other NPDES documents must be kept available for inspection by TCEQ at the office address (SO or Ranger District) given for the NOI	fee is charged for NOIs that exceed annual threshold of treatment with restricted pesticides	annual report prepared and kept onsite for permittees who meet PGP criteria