

State of Oregon

Department of Environmental Quality
Department of Agriculture
Department of Forestry

Contact: Beth Moore (moore.beth@deq.state.or.us)



FAQ Sheet on the Pesticide General Permit (2300A) for Agriculture and Forestry

KEEP IN MIND THESE THREE IMPORTANT POINTS FOR THIS GUIDANCE

1. If pesticide applications are not made over, in, or within 3 feet of waters of the state, the pesticide general permit (PGP) requirements do not apply: a permit is not required.
2. Comply with all environmental laws including the Clean Water Act, Federal Insecticide Fungicide Rodenticide Act (FIFRA) and the Forest Practices Act. Pesticide applications must meet the terms of the pesticide general permit and comply with pesticide label directions. Pesticide applications on forestlands must also meet all requirements of the Oregon Forest Practices Act
3. Drift is regulated by pesticide product label directions (state and federal law) and is NOT covered by the PGP.

DEFINING WATERS OF THE STATE

What is the definition of waters of the state?

Waters of the state means lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters) that are located wholly or partially within or bordering the state or within its jurisdiction. (ORS468B.005(10)).

Examples of waters of state are provided in Attachment 1.

What is meant by 'complying' with the permit or 'registering' for the permit?

All pesticide applications that are covered by the permit must follow the basic requirements of the permit. State and Federal agencies and special districts like Weed Control Districts and Vector Control Districts MUST register for a permit. No threshold of treatment area applies to these entities. An annual treatment area threshold is used to determine when entities other than state and federal agencies and special districts are required to register for the permit. The annual treatment area is based on a linear distance or acres treated over a calendar year. Permit requirements for those who must register for the permit are more extensive than the basic requirements. A table with more detailed information on registration is provided

with DEQ's permit at this web address:

<http://www.deq.state.or.us/wq/wqpermit/docs/general/npdes2300a/2300aTable1.pdf>.

The NPDES PGP is not intended to apply to agricultural, forestry or rangeland pesticide applications that do not result in a point source discharge to waters of the state. However, if any pesticide applications are made **over water, directly into water, or within 3 feet of the edge of water, this permit will be necessary for compliance.**

Who is responsible to comply or register for this permit?

A person or entity with "operational control" over day-to-day decisions as to what, when, where and why a pesticide is applied to water, over water, or within 3 feet of water's edge. Examples of entities that typically exercise control over day-to-day pesticide operations are vector or weed control districts, landowners, or marina managers.

If a landowner gives permission for a Soil Water Conservation District (SWCD) to apply pesticides on the landowner's property, who has to register or comply with the permit?

If the SWCD, watershed council or other entity requests permission to conduct a pesticide application on someone else's property, the SWCD, watershed council, or other entity that decided that a pesticide application was to be made, is responsible to comply with the permit. The party responsible for permit compliance is usually the entity that has financial control over the pesticide application.

What about landowners conducting the pesticide applications in, over or within 3 feet of water on their own property?

The property owner that hires a pesticide applicator or conducts their own pesticide applications in, over or within 3 feet of water on their own property is responsible for following the permit requirements.

What about a SWCD or watershed council or government agency that hires a pesticide application company to spray for the control of riparian invasive species on private forest land?

If the pesticide application is made over, in, or within 3 feet of water, then, in most situations the SWCD, watershed council (WC), Community Weed Management Area (CWMA), or other entity is responsible for following the terms and conditions of the permit. If the SWCD, WC, CWMA or other entity has received funds to conduct weed control activities involving pesticides being applied on land (private or public) with the property owner's permission, then the responsibility for the pesticide general permit falls to the entity with financial control.

How will permit-related complaints be handled?

DEQ will first verify the complaint is related to this permit rather than a FIFRA or a Forest Practices Act complaint. DEQ will work with the Oregon Department of Agriculture and Oregon Department of Forestry staff when determining the appropriate response to complaints.

What if a pesticide (or pesticide degradate/metabolite) is detected in a water sample, but it is unclear if it is from a direct application vs. runoff?

Standard procedures are in place with ODA to investigate pesticide use in a variety of situations. DEQ, ODF and ODA will collaborate on their methods to evaluate the presence of pesticides in water and potential source determination. The connection to a direct application would have to be made before any enforcement action of a water quality violation is likely to be taken under the permit.

Attachment 2 provides a summary of recordkeeping requirements for ODF, ODA and USDA that overlap with recordkeeping requirements in the permit.

QUESTIONS PERTAINING TO AGRICULTURE

Provide an example of irrigation return flow

Scenario 1: Water is pumped from a storage pond to provide drip irrigation for plants growing in containers at a nursery. A pesticide is added to the irrigation system to water and treat the plants at the same time. Minimal drainage from containers is the goal, but there will be some drainage of treated water from the container yard back to the storage pond.

Response to Scenario 1: Water that returns to the pond is irrigation return flow and is not regulated by permitting under the Clean Water Act.

What about pesticide applications for agricultural crops?

Agriculture and forestry landowners do not have to follow the permit requirements for their pesticide applications as long as the pesticide applications are **not made over water, to water, or within 3 feet of the edge of water.**

QUESTIONS PERTAINING TO FORESTRY

What PGP categories could apply to forestry pesticide applications?

To the extent that pesticide applications are made over, in or within 3 feet of water, forest canopy pest control, weed and algae control and nuisance animal control (e.g., mountain beaver) are categories of pest control and forest management that require permit coverage.

What does the term forest environment mean?

The term “forest environment” includes both mature and immature forest canopies, including canopies that may not be continuously connected. Compliance with the permit is required when in order to effectively target pests associated with the canopy (i.e., branches and leaves of the trees), a portion of the pesticide unavoidably will be applied over and deposited in water.

What is included in the 6,400 acres threshold for mosquito and other flying insect pest control, forest canopy pest control and area-wide pest control?

For Mosquito and Other Flying Insect Pest Control, Forest Canopy Pest Control and Area-Wide Pest Control, count the entire treatment area **when pesticides are applied, over water**. The treatment area includes land and water. The area does not have to be contiguous since it is the total amount of area treated over a calendar year. Pesticide applications made in forest operations must be in compliance with the Forest Practices Act and pesticide product label directions.

How is the threshold for weed & algae control calculated?

For treated lakes, ponds or other water bodies, include the surface area of the treatment area. This may be a portion of the lake and not be the entire area of the lake. Count applications only once regardless if multiple applications are made. The threshold is 20 total acres per year. For applications made within 3 feet of the water’s edge, count only the length treated that is within 3 feet of water. The treatments do not have to be contiguous. Count applications only once regardless of the number of applications made and only count one side of the ditch, stream, etc. Add all treatment segments together to determine the total linear amount treated. The threshold is 20 total linear miles per year.

Provide examples of the area-wide pest control category.

DEQ provided general permit coverage for pesticide applications that were not included in the other categories. For example, USDA conducted aerial spraying of pesticides to control grasshoppers over 13,000 acres of rangeland. Other scenarios may include ODA spraying for gypsy moths over a varied rural, urban and forest landscape. This category does not apply to forest operations.

How will three feet distance from water be applied?

The three feet distance applies to the weed and algae control and nuisance animal pest control categories and is used to define water's edge. **Water's edge** means pesticide applications made within 3 feet, measured horizontally, of waters of the state and conveyances with a hydrologic surface connection to waters of the state **at the time of pesticide application**. Permit coverage is required for pesticide applications made at the water's edge

What about individual stem injection within 3 feet of water?

Any pesticide application made within 3 feet of the edge of water requires coverage of this permit.

What about granular pesticide applications for rodent control or weed control?

Any pesticide application made within 3 feet of the edge of water requires coverage of this permit. The categories of these applications would be nuisance animal control and weed and algae control.

What if the intent is not to apply pesticide over water, but a wind gust during application caused it to drift over water?

Off-target spray drift or pesticide applications made inconsistent with the label directions are not allowed under FIFRA regulations and would not be covered by any water quality permit.

Attachment 1

Use this table to determine when the requirements of the pesticide general permit need to be followed at the time of the pesticide application. Keep in mind that the pesticide general permit does not apply to pesticide applications that are not made over, in or within 3 feet of waters of the state.

Follow the permit requirement if the pesticide application occurs when?	
YES	NO
A pond is fed by a spring (groundwater).	A pond is lined and does not have a connection to groundwater.
A pond is lined, but when it overflows it reaches a natural water way.	To dry land.
Standing water is fed by a spring (groundwater).	To a drainage ditch, or seasonal stream that is dry.
A flooded field with water is draining back or is still connected to its original source of flooding, such as a lake or river.	Pesticide application was made to a dry ditch but it rained after the pesticide application was completed.
A channel with water is in a forest environment. The channel is a distinct bed or banks scoured by water, which serves to confine water and that periodically, or continually contains flowing water.	Agricultural stormwater runoff and irrigation return flow are exempt from NPDES permitting.
A drainage ditch goes into a creek.	The ground is muddy or has wet soil.
Ditch has water that is from its connection with the shallow groundwater table.	To standing water following irrigation.
Drainage ditch has water from a creek.	Puddles left in a ditch – isolated from natural waters.
The water disappears into an underground channel as underground flow.	A wetland is dry at the time of pesticide applications.
	Heavy rain that is left as standing water in a field.
	Flooded field that is left with standing (isolated) water.
	Reaches subsurface water via tile drain.
	To a drainage ditch that is diverted back onto land.
	To a drainage ditch that is diverted back onto land, filters through the soil and then reemerges into a stream.
	Ephemeral overland flow in a forest environment that does not have a channel.
	DEQ has a separate general permit 400-J or individual permits for log ponds.

Attachment 2

ODF ¹	ODA ²	USDA ³	DEQ	Records kept for ODF ¹ , ODA ² and USDA ³ that are the same as recordkeeping requirements in the pesticide general permit. References to the pesticide general permit (2300A) are provided in parenthesis ().
X	X	X	X	Number of acres treated (Schedule B.8.d. page 19)
X	X		X	Pesticide application rate (Schedule B.3.c.v. on page 18)
	X		X	Method of application (Schedule B.3.c.v. on page 18)
X	X	X	X	EPA registration number and name of the pesticide product (Schedule B.3.c.v. on page 18 and Schedule B.9.d.viii.page 20)
	X		X	Name of the person for whom the pesticide was applied (Schedule B.8.e. page 19)
X	X	X	X	Description of the location of the land or property on which the pesticide was applied. (Schedule B.8.e. page 19, Schedule B.9.d.vii.page 20)
X	X	X	X	Date and time of the application (Schedule B.8.e. page 19 and Schedule B.9.d.vi. page 20)
	X		X	Person who supplied the pesticides (Schedule B.8.e. page 19)
	X		X	The trade name. (Schedule B.8.e. page 19)
X	X	X	X	Applicator/Name of person applying the chemical (Schedule B.8.e. page 19 and Schedule B.9.d.v. page 20)
	X	X amount	X	The amount and concentration (Schedule B.8.e. page 19, Schedule B.9.d.ix., Schedule B.9.d.x. and Schedule B.9.d.xi. page 20)
	X	X	X	The specific property, crop or crops to which the pesticide was applied. (Schedule B.8.e. page 19)
		X	X	Records as required by US Department of Agriculture Agricultural Marketing Service (If licensed as a private pesticide applicator, Schedule B.8.f. page 19)
X	X		X	Keep records for three years. (Schedule B.8.g. page 19)
X			X	Assessment of environmental conditions related to pesticide use, e.g. wind, weather. (Schedule B.9.d.xiv. page 20)

¹ Oregon Department of Forestry requirements for all pesticide applicators

² Oregon Department of Agriculture requirements for commercial and public applicators

³ U.S. Department of Agriculture requirements for private pesticide applicators using restricted use pesticides (RUPs)