

Questions and Answers about Nebraska's General National Pollutant Discharge Elimination System (NPDES) Permit for Pesticides

1. **What is the definition of “waters of the state”?** Waters of the state, as defined by statute, includes “all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.” This definition may include pesticide use sites not usually considered by the Nebraska Department of Agriculture (NDA) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) label as being “aquatic” sites, including road ditches and waterways in fields. Anyone applying pesticides to any of these sites must comply with the General Permit requirements.
2. **What is the definition of “near”?** If the pesticide can migrate to waters of the state under the influence of gravity at the time of, or within 24 hours of, the application, it is considered “near.” Applications to sites considered as ‘riparian’ and ‘upland’ would generally not be considered as needing coverage under a NPDES Permit, unless water is present at the time of the application, or the applied material (solution, dust, or granule) migrates to water under the influence of gravity as indicated above.
3. **What forms do I need to submit in order to apply pesticides to, over, or near water?** Please refer to the flowchart and permit at Nebraska Department of Water, Energy, and Environment (NDWEE) web site (see other side) to determine if a Notice of Intent (NOI) application form, a Pesticide Use Management Plan, and/or additional Best Management Practices (BMPs) are required for each of your pesticide applications. Waters of the state have been divided into:
 - **Group III** waters include (a) State Resource Waters; (b) 303(d) pesticide-impaired waters; (c) waters with threatened and endangered species (T&E species) or critical habitat for T&E species present, and which do not have a pesticide standard procedure developed by the Nebraska Game and Parks Commission; (d) waters within 250 feet and directly connected to Group III (a), Group III (b), or Group III (c); and (e) waters within 250 feet and directly connected to a public drinking water supply. Except as noted below, an NOI and Pesticide Use Management Plan (PUMP), and subsequent NDWEE authorization, are required prior to applying pesticides to Group III waters. The NOI and PUMP should be submitted far enough in advance of applying the pesticide to ensure authorization. These can be submitted as much as 90 days before the application date, but no later than seven days before the application date, in some cases. This may require significant time and effort on the part of the applicator to gather the needed information before submitting the NOI. NDWEE, and possibly the Nebraska Game and Parks Commission, will review the NOI before authorization, under this General Permit, is granted in these cases. Authorization will be made available on NDWEE’s web site, and must be granted before the pesticide application can be made.
 - (1) Applications for flying adult or larval insect control are excluded from the NOI requirement for Group III (a), State Resource Waters, however, applicators should follow the required BMPs of the permit, including keeping records of all applications.
 - (2) For applications to Group III (d) or III (e) above, the submitted NOI and PUMP will be considered authorized, if no denial or delay has been issued on NDWEE’s web site within seven days.
 - For all other Group I (non-flowing) and Group II (flowing) waters, an NOI and PUMP is not required, and the application is considered automatically authorized, as long as the required BMPs are followed and required records are kept. Following BMPs and keeping records is a requirement for all applications to Group I and Group II waters, including pesticide applications for flying adult insects or larvae, including mosquitoes.
4. **Who is responsible for submitting the NOI, the PUMP, and other documentation for the General Permit?** In most cases, it will likely be the responsibility of the applicator, or the applicator in conjunction with the person or entity who has, or who has been delegated, management authority of the waterbody.

5. **Who is required to keep records and how long should they be kept?** Records are to be retained by the permittee for a period of three years. Note that the record keeping requirements for this General Permit are for ALL applications covered under this General Permit, including those for general-use pesticides to Group I, II, and III waters. The records must also be signed by the applicator. Please refer to the PUMP and BMP sections of the General Permit on NDWEE's web site for all requirements.
6. **What are the penalties for not following the NPDES pesticide permit?** Violations will be issued by NDWEE under authority granted in the Clean Water Act for the NPDES program. People applying any pesticide product are still obligated to follow the product label directions. Pesticide applications made contrary to the label directions are enforced by NDA through provisions of the Nebraska Pesticide Act and regulations.
7. **I apply insecticides, including both adulticides and larvacides, to control mosquitoes for a village, which has both impounded and flowing water in the application area. What do I need to do for this General Permit?** First, determine for sure the area does not meet any of Group III (b) through Group III (e) waters criteria (see the flowchart at the web link below). If not, no NOI or related forms are needed for any waters for these types of pesticide applications; however, you must follow the BMPs in Table 2 of the Flowchart, and keep the required records.
8. **I have some drains in my pastures and crop fields that are sprayed with agricultural herbicides and insecticides. Some have flowing water at times, others are dry most of the time. What do I need to do for this General Permit?** Although it is unlikely this scenario will require an NOI, first, determine if the area meets any of the criteria for a Group III water (see the flowchart at the web link below). If so, proceed as directed in the flowchart. If not, no NOI or related forms are needed; however, you must follow the BMPs in Table 2 of the flowchart, follow the label directions, and keep the required records for all pesticide applications (including GUPs).
9. **I apply herbicides to canal water to prevent algae and other plants from choking the canal, which keeps water from being delivered for its intended use. What do I need to do for this General Permit?** Most canals would be considered as Group I or Group II waters, depending on whether water was present. Only in cases where the water is considered Group III water would a NOI and PUMP be required. Regardless, you must still follow the BMPs in Table 2 of the flowchart, and keep the required records for all pesticide applications.
10. **Is an applicator license from NDA needed?** No, except as already required by the Nebraska Pesticide Act for people applying restricted-use pesticides, or those who apply any pesticides in certain use categories. Please consult with NDA or refer to on-line information to determine if you should be licensed.
11. **What is the cost to obtain coverage under the General Permit?** There is no application fee associated with this process, regardless of whether one needs to submit a NOI, PUMP, or other documentation.

Additional Information:

Additional Information on the NPDES Program and the Pesticide NPDES Permit can be found at NDWEE's website at <https://dee.nebraska.gov/forms/publications-grants-forms/11-007>, or call (402) 471-2186 or 877-253-2603.

Information on the Nebraska Pesticide Act, applicator license certification, and general pesticide information can be found at NDA's web site at bit.ly/NDAPP, or call (402) 471-2351.

Information on applicator license training opportunities, training material, and pesticide safety for applicators, the public, and the environment, can be found on the University of Nebraska's Pesticide Safety Education Program web page at pested.unl.edu, or call (402) 472-1632 or 800-627-7216.

