



**6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**[EPA-HQ-OW-2015-0499; FRL-9941-35-OW]**

**Draft National Pollutant Discharge Elimination System (NPDES) Pesticide General Permit for Point Source Discharges from the Application of Pesticides; Reissuance**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of draft permit and request for public comment.

**SUMMARY:** All ten EPA Regions today are proposing for public comment the draft 2016 National Pollutant Discharge Elimination System (NPDES) pesticide general permit (PGP) – the “draft 2016 PGP.” The draft 2016 PGP covers point source discharges from the application of pesticides to waters of the United States. Once finalized, the draft 2016 PGP will replace the existing permit that will expire at midnight on October 31, 2016. The draft 2016 PGP has the same conditions and requirements as the 2011 PGP and would authorize certain point source discharges from the application of pesticides to waters of the United States in accordance with the terms and conditions described therein. EPA proposes to issue this permit for five (5) years in all areas of the country where EPA is the NPDES permitting authority. EPA solicits public comment on all aspects of the draft 2016 PGP. This Federal Register notice describes the draft 2016 PGP in general and also includes specific topics about which the Agency is particularly seeking comment. The fact sheet accompanying the permit contains supporting documentation. EPA encourages the public to read the fact sheet to better understand the draft 2016 PGP.

**DATES:** Comments on the draft 2016 PGP must be received on or before **[insert date 45 days after publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OW-2015-0499, to the *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** EPA Regional Office listed in Section I.D, or Prasad Chumble, EPA Headquarters, Office of Water, Office of Wastewater Management at tel.: 202-564-0021 or e-mail: [chumble.prasad@epa.gov](mailto:chumble.prasad@epa.gov).

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## **I. General Information**

### *A. Does This Action Apply to Me?*

You may be affected by this action if you apply pesticides, under the use patterns in Section III.B., that result in a discharge to waters of the United States in one of the geographic areas identified in Section III.A. Potentially affected entities, as categorized in the North American Industry Classification System (NAICS), may include, but are not limited to:

Table 1. - Entities Potentially Regulated by the Draft 2016 PGP
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Category	NAICS	Examples of Potentially Affected Entities
<p>Agriculture parties— General agricultural interests, farmers/producers, forestry, and irrigation.</p> <p>Pesticide parties (includes pesticide manufacturers, other pesticide users/interests, and consultants).</p> <p>Public health parties (includes mosquito or other vector control districts and commercial applicators that service these).</p> <p>Resource management parties (includes State departments of fish and wildlife, State departments of pesticide regulation, State environmental agencies, and universities).</p>	111 Crop Production	Producers of crops mainly for food and fiber, including farms, orchards, groves, greenhouses, and nurseries that have irrigation ditches requiring pest control.
	113110 Timber Tract Operations	The operation of timber tracts for the purpose of selling standing timber.
	113210 Forest Nurseries Gathering of Forest Products	Growing trees for reforestation and/or gathering forest products, such as gums, barks, balsam needles, rhizomes, fibers, Spanish moss, ginseng, and truffles.
	221310 Water Supply for Irrigation	Operating irrigation systems.
	325320 Pesticide and Other Agricultural Chemical Manufacturing.	Formulation and preparation of agricultural pest control chemicals.
	923120 Administration of Public Health Programs	Government establishments primarily engaged in the planning, administration, and coordination of public health programs and services, including environmental health activities.
	924110 Administration of Air and Water Resource and Solid Waste Management Programs	Government establishments primarily engaged in the administration, regulation, and enforcement of air and water resource programs; the administration and regulation of water and air pollution control and prevention programs; the administration and regulation of flood control programs; the administration and regulation of drainage development and water resource consumption programs; and coordination of these activities at intergovernmental levels.
	924120 Administration of Conservation Programs	Government establishments primarily engaged in the administration, regulation, supervision and control of land use, including recreational areas; conservation and preservation of natural resources; erosion control; geological survey program administration; weather forecasting program administration; and the administration and protection of publicly and privately owned forest lands. Government establishments responsible for planning, management, regulation and conservation of game, fish, and wildlife populations, including wildlife management areas and field stations; and other administrative matters relating to the protection of fish, game, and wildlife are included in this industry.

Utility parties (includes utilities)	221 Utilities	Provide electric power, natural gas, steam supply, water supply, and sewage removal through a permanent infrastructure of lines, mains, and pipes.
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*B. How Can I Get Copies of This Document and Other Related Information?*

The draft 2016 PGP, fact sheet and all supporting documents are available at [www.regulations.gov](http://www.regulations.gov) under Docket ID No. EPA-HQ-OW-2015-0499. Electronic versions of the draft 2016 PGP and fact sheet are also available on EPA’s NPDES website at [www.epa.gov/npdes/pesticides](http://www.epa.gov/npdes/pesticides).

*C. Will Public Hearings be Held on this Action?*

EPA has not scheduled any public hearings to receive public comment concerning the draft 2016 PGP. However, interested persons may request a public hearing pursuant to 40 CFR 124.12 concerning the draft 2016 PGP. Requests for a public hearing must be sent or delivered in writing to the same address as provided above, for public comments prior to the close of the comment period. Requests for a public hearing must state the nature of the issues proposed to be raised in the hearing. Pursuant to 40 CFR 124.12, EPA shall hold a public hearing if it finds, on the basis of requests, a significant degree of public interest in a public hearing on the draft 2016 PGP. If EPA decides to hold a public hearing, a public notice of the date, time and place of the hearing will be made at least 30 days prior to the hearing. Any person may provide written or oral statements and data pertaining to the draft 2016 PGP at any such public hearing.

*D. Finalizing the Draft 2016 PGP*

EPA intends to issue a final 2016 PGP on or prior to October 31, 2016 (the expiration date of the 2011 PGP). The final 2016 PGP will be issued after all public comments received

during the public comment period have been considered and appropriate changes made to the draft 2016 PGP. EPA will include its response to comments received in the docket as part of the final permit decision. Once the final 2016 PGP becomes effective, eligible Operators may seek authorization under the new PGP as outlined in the permit. To ensure uninterrupted permit coverage from the 2011 PGP to the new permit, Operators, who are required to submit a Notice of Intent (NOI), must submit their NOI for coverage under the new permit prior to discharge as outlined in the permit (no later than 10 or 30 days before discharge). See Part 1.2.4 of the draft 2016 PGP.

*E. Who Are the EPA Regional Contacts for the Draft 2016 PGP?*

For EPA Region 1, contact George Papadopoulos at tel.: (617) 918-1579; or e-mail at *papadopoulos.george@epa.gov*.

For EPA Region 2, contact Maureen Krudner at tel.: (212) 637-3874; or e-mail at *krudner.maureen@epa.gov*.

For EPA Region 3, contact Mark Smith at tel.: (215) 814-3105; or e-mail at *smith.mark@epa.gov*.

For EPA Region 4, contact Sam Sampath at tel.: (404) 562-9229; or e-mail at *sampath.sam@epa.gov*.

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For EPA Region 6, contact Kilty Baskin at tel.: (214) 665-7500 or e-mail at *baskin.kilty@epa.gov*.

For EPA Region 7, contact Kimberly Hill at tel.: (913) 551-7841 or e-mail at *hill.kimberly@epa.gov*.

For EPA Region 8, contact David Rise at tel.: (406) 457-5012 or e-mail at *rise.david@epa.gov*.

For EPA Region 9, contact Pascal Mues at tel.: (415) 972-3768 or e-mail at *mues.pascal@epa.gov*.

For EPA Region 10, contact Dirk Helder at tel.: (208) 378-5749 or e-mail at *helder.dirk@epa.gov*.

## **II. Background**

Section 301(a) of the Clean Water Act (CWA) provides that “the discharge of any pollutant by any person shall be unlawful” unless the discharge is in compliance with certain other sections of the Act. 33 U.S.C. 1311(a). The CWA defines “discharge of a pollutant” as “(A) any addition of any pollutant to navigable waters from any point source, (B) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than

a vessel or other floating craft.” 33 U.S.C. 1362(12). A “point source” is any “discernible, confined and discrete conveyance” but does not include “agricultural stormwater discharges and return flows from irrigated agriculture.” 33 U.S.C. 1362(14).

The term “pollutant” includes, among other things, “garbage... chemical wastes, biological materials ...and industrial, municipal, and agricultural waste discharged into water.” 33 U.S.C. 1362(6).

A person may discharge a pollutant without violating the section 301 prohibition by obtaining authorization to discharge (referred to herein as “coverage”) under a section 402 NPDES permit (33 U.S.C. 1342). Under section 402(a), EPA may “issue a permit for the discharge of any pollutant, or combination of pollutants, notwithstanding section 1311(a)” upon certain conditions required by the Act.

EPA issued the first Pesticide General Permit (PGP) on October 31, 2011 in response to a United States Sixth Circuit Court of Appeals ruling vacating EPA’s 2006 Final Rule on Aquatic Pesticides. *National Cotton Council of America. v. EPA*, 553 F.3d 927 (6th Cir. 2009). EPA developed the PGP to control point source discharges of biological pesticides, and chemical pesticides that leave a residue, into waters of the United States.

Implementation of the 2011 PGP has been successful during its first four years. EPA is not aware of any lawsuits brought against Operators discharging under EPA’s PGP. The regulated community has raised very few implementation issues, and EPA resolved those issues. The provisions in the permit for pesticide applications during emergencies have been effectively implemented. Finally, Operators have generally submitted the NOIs and Annual Reports on time to the Agency. However, in an effort to pursue continuous improvement to protect water quality,



EPA seeks comment on the draft 2016 PGP, in general, and on specific topics as described in Section III.C, below.

### **III. Scope and Applicability of the draft 2016 PGP**

#### **A. Geographic Coverage**

EPA would provide permit coverage for classes of discharges where EPA is the NPDES permitting authority. The geographic coverage of today's draft 2016 PGP is listed below. Where the permit covers activities on Indian Country lands, those areas are as listed below within the borders of that state:

##### *EPA Region 1*

- Massachusetts, including Indian Country lands within Massachusetts
- Indian Country lands within Connecticut
- New Hampshire
- Indian Country lands within Rhode Island
- Federal Facilities within Vermont

##### *EPA Region 2*

- Indian Country lands within New York State
- Puerto Rico

##### *EPA Region 3*

- The District of Columbia
- Federal Facilities within Delaware

##### *EPA Region 4*

- Indian Country lands within Alabama

- Indian Country lands within Florida
- Indian Country lands within Mississippi
- Indian Country lands within North Carolina

*EPA Region 5*

- Indian Country lands within Michigan
- Indian Country lands within Minnesota
- Indian Country lands within Wisconsin

*EPA Region 6*

- Indian Country lands within Louisiana
- New Mexico, including Indian Country lands within New Mexico, except Navajo Reservation Lands (see Region 9) and Ute Mountain Reservation Lands (see Region 8)
- Indian Country lands within Oklahoma
- Discharges in Texas that are not under the authority of the Texas Commission on Environmental Quality (formerly TNRCC), including activities associated with the exploration, development, or production of oil or gas or geothermal resources, including transportation of crude oil or natural gas by pipeline, including Indian Country lands

*EPA Region 7*

- Indian Country lands within Iowa
- Indian Country lands within Kansas
- Indian Country lands within Nebraska, except Pine Ridge Reservation lands (see Region 8)

*EPA Region 8*

- Federal Facilities in Colorado, including those on Indian Country lands within Colorado as well as the portion of the Ute Mountain Reservation located in New Mexico
- Indian Country lands within Montana
- Indian Country lands within North Dakota
- Indian Country lands within South Dakota, as well as the portion of the Pine Ridge Reservation located in Nebraska (see Region 7)
- Indian Country lands within Utah, except Goshute and Navajo Reservation lands (see Region 9)
- Indian Country lands within Wyoming

*EPA Region 9*

- The Island of American Samoa
- Indian Country lands within Arizona as well as Navajo Reservation lands in New Mexico (see Region 6) and Utah (see Region 8)
- Indian Country lands within California
- The Island of Guam
- The Johnston Atoll
- Midway Island, Wake Island, and other unincorporated U.S. possessions
- The Commonwealth of the Northern Mariana Islands
- Indian Country lands within the State of Nevada, as well as the Duck Valley Reservation in Idaho, the Fort McDermitt Reservation in Oregon (see Region 10) and the Goshute Reservation in Utah (see Region 8)

*EPA Region 10*

- Indian Country lands within Alaska

- Idaho, including Indian Country lands within Idaho, except Duck Valley Reservation lands (see Region 9)
- Indian Country lands within Oregon, except Fort McDermitt Reservation lands (see Region 9)
- Federal Facilities in Washington, including those located on Indian Country lands within Washington.

## **B. Categories of Facilities Covered**

The draft 2016 PGP has the same requirements and conditions as EPA's 2011 PGP and regulates the same discharges to waters of the United States from the application of (1) biological pesticides, and (2) chemical pesticides that leave a residue. These apply to the following pesticide use patterns:

- **Mosquito and Other Flying Insect Pest Control** - to control public health/nuisance and other flying insect pests that develop or are present during a portion of their life cycle in or above standing or flowing water. Public health/nuisance and other flying insect pests in this use category include mosquitoes and black flies.
- **Weed and Algae Pest Control** - to control weeds, algae, and pathogens that are pests in water and at water's edge, including ditches and/or canals.
- **Animal Pest Control** - to control animal pests in water and at water's edge. Animal pests in this use category include fish, lampreys, insects, mollusks, and pathogens.
- **Forest Canopy Pest Control** – application of a pesticide to a forest canopy to control the population of a pest species (*e.g.*, insect or pathogen) where, to target the pests effectively, a portion of the pesticide unavoidably will be applied over and deposited to water.

The scope of activities encompassed by these pesticide use patterns is described in greater detail in Part III.1.1 of the Fact Sheet for the draft 2016 PGP.

### **C. Summary of the Permit Requirements and Provisions for which EPA is Soliciting**

#### **Comment**

Once issued, the final 2016 PGP will replace the 2011 PGP, which was issued for a five-year term on October 31, 2011 (see 76 FR 68750). The draft 2016 PGP has the same conditions and requirements as the existing 2011 PGP, and is structured in the same nine parts: (1) coverage under the permit, (2) technology-based effluent limitations, (3) water quality-based effluent limitations, (4) monitoring, (5) pesticide discharge management plan, (6) corrective action, (7) recordkeeping and Annual Reporting, (8) EPA contact information and mailing addresses, and (9) permit conditions applicable to specific states, Indian country lands or territories.

Additionally, as with the 2011 PGP, the draft 2016 PGP includes nine appendices with additional conditions and guidance for permittees: (A) definitions, abbreviations, and acronyms, (B) standard permit conditions, (C) areas covered, (D) Notice of Intent (NOI) form, (E) Notice of Termination (NOT) form, (F) Pesticide Discharge Evaluation worksheet (PDEW), (G) Annual Reporting template, (H) Adverse Incident template, and (I) endangered species procedures.

The following is a summary of the draft 2016 PGP's requirements:

- The draft 2016 PGP defines "Operator" (*i.e.*, the entity required to obtain NPDES permit coverage for discharges) to include any (a) *Applicator* who performs the application of pesticides or has day-to-day control of the application of pesticides that results in a discharge to waters of the United States, or (b) *Decision-maker* who controls any decision to apply pesticides that results in a discharge to waters of the United States. There may be instances when a single entity acts as both an Applicator and a Decision-maker.

- All Applicators are required to minimize pesticide discharges by using only the amount of pesticide and frequency of pesticide application necessary to control the target pest, maintain pesticide application equipment in proper operating condition, control discharges as necessary to meet applicable water quality standards, and monitor for and report any adverse incidents.
- All Decision-makers are required, to the extent not determined by the Applicator, to minimize pesticide discharges by using only the amount of pesticide and frequency of pesticide application necessary to control the target pest. All Decision-makers are also required to control discharges as necessary to meet applicable water quality standards and monitor for and report any adverse incidents.
- Certain Decision-makers [*i.e.*, any agency for which pest management for land resource stewardship is an integral part of the organization's operations, entities with a specific responsibility to control pests (*e.g.*, mosquito and weed control districts), local governments or other entities that apply pesticides in excess of specified annual treatment area thresholds, and entities that discharge pesticides to Tier 3 waters or to waters of the United States containing National Marine Fisheries Service (NMFS) Listed Resources of Concern] are required to also submit an NOI to obtain authorization to discharge and implement pest management options to reduce the discharge of pesticides to waters of the United States. Of this group, certain large Decision-makers must also develop a Pesticide Discharge Management Plan (PDMP), submit annual reports, and maintain detailed records. Certain small Decision-makers are required to complete a pesticide discharge evaluation worksheet for each pesticide application (in lieu of the more comprehensive PDMP), an annual report, and detailed recordkeeping.



activities covered under this permit could impact drinking water source protection areas. One possible approach would be to require a determination of whether a portion of the Pest Management Area is within a public drinking water supply source protection area. If EPA adopted this approach, EPA would add a “Yes/No” indicator to the eNOI form (Appendix D) to indicate whether a portion of the Pest Management Area is within a public water supply source water protection area. EPA solicits comment on this approach.

(2) *Annual Reporting.* As with the 2011 PGP, the draft 2016 PGP requires any Decision-maker who is required to submit an NOI and is a large entity, and any Decision-maker with discharges to waters of the United States containing NMFS Listed Resources of Concern including small entities, to submit an annual report to EPA that contains, among other things, a previous calendar year’s compilation of pesticide products applied, total annual quantities applied, locations where pesticide applications were made, and information on any adverse incidents or corrective actions resulting from discharges covered under the draft 2016 PGP. See Appendix G of the draft 2016 PGP, Annual Report template. Due to the potential burden of accounting and submitting information on each and every location of application, type, and amount of pesticides, EPA asked for a compilation of that information for the previous year of application. However, as with the information requested in the NOI, EPA received a variety of descriptions for the Pest Management Areas and treatment areas in the Annual Reports. The Agency is interested in comments on the utility and value of the information collected by the reports. EPA would also like feedback on whether less, more, or different information would provide a more accurate accounting of the amount, type, and location of pesticide discharges. Annual Reports submitted under the 2011 PGP are available online at ([http://ofmpub.epa.gov/apex/aps/f?p=PGP\\_2011:HOME:::::](http://ofmpub.epa.gov/apex/aps/f?p=PGP_2011:HOME:::::)). In addition, to ensure consistency



and prevent confusion among the pesticides user community, EPA seeks comment on whether the terminology is clear and easily understandable. For example, many state pesticide regulations require Applicators to report pesticides in “amount used,” unlike the 2011 PGP, which requires that pesticides be reported in “quantity applied.” See Part III.7 of the Fact Sheet for further discussion on Annual Reporting requirements.

(3) *Water Quality-Based Effluent Limitations (WQBEL)*. The 2011 PGP contained several provisions to protect water quality and the draft 2016 PGP includes those same provisions. It includes a narrative WQBEL requiring that discharges be controlled as necessary to meet applicable water quality standards. Failure to control discharges in a manner that meets applicable water quality standards is a violation of the permit.

In addition to the narrative WQBEL, the draft 2016 PGP contains related provisions which act together to further protect water quality. These provisions were also included in the 2011 PGP. For example, the draft 2016 PGP requires the Operator to implement control measures and to take corrective action in response to any excursion of applicable water quality standards. Additionally, EPA expects that, as with the 2011 PGP, the Agency will receive CWA Section 401 certifications for the final 2016 PGP. Some of those certifications will include additional conditions that are required by the state, territory, or tribe, that are necessary to assure compliance with the applicable provisions of the CWA, including water quality standards, in specific geographic areas where the permit is available. The CWA Section 401 certifications submitted by states, territories and tribes for the 2011 PGP are included in the docket at EPA-HQ-OW-2010-0257-1267.

The draft 2016 PGP retains the same eligibility provisions from the 2011 PGP which provides additional water quality protection. For instance, the draft 2016 PGP makes clear that

Operators must comply with all applicable statutes, regulations, and other requirements including, but not limited to, requirements contained in the labeling of pesticide products approved under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), known as “FIFRA labeling.” If Operators are found to have applied a pesticide in a manner inconsistent with any relevant water quality-related FIFRA labeling requirements, EPA will presume that the effluent limitation to minimize pesticides entering the waters of the United States has been violated under the NPDES permit. Many provisions of FIFRA labeling -- such as those relating to application sites, rates, frequency, and methods, as well as provisions concerning proper storage and disposal of pesticide wastes and containers -- are requirements that protect water quality. Also, it is important to note that biological pesticides do not cause water quality toxicity because they do not work through a toxic mode of action, and the discharges of chemical pesticides that would be covered by the draft 2016 PGP are residues of pesticides after they have performed their intended purpose. Thus, residue concentrations will be no higher than the concentration of the pesticide as applied.

To provide further protection, the draft 2016 PGP also includes the provision from the 2011 PGP which excludes from coverage any discharges of pesticides to waters listed as impaired, including waters with Total Maximum Daily Loads (TMDLs), where the waterbody is impaired for the active ingredient in that pesticide or its degradates. For geographic areas covered under the draft 2016 PGP, the 303(d) list of impairments<sup>1</sup> indicates that of the 17 pesticide active ingredients identified on the impairment list, seven are for legacy pollutants that have had their FIFRA registrations cancelled and are no longer authorized for use. Furthermore, for the remaining pesticides, analysis of the 2011 PGP annual reports data indicate that none of the reported pesticides are on the 303(d) list of impairments in geographic areas where the PGP

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<sup>1</sup> [http://iaspub.epa.gov/waters10/attains\\_nation\\_cy.control?p\\_report\\_type=T](http://iaspub.epa.gov/waters10/attains_nation_cy.control?p_report_type=T)

is authorized. See document titled, “*Comparison of 303(d) Pesticides Impairment Data with 2011 PGP Annual Reports Data*” in the docket.

In addition, as identified in Part 1.2.3 of the 2011 PGP and the draft 2016 PGP, for eligible discharges (*e.g.*, discharges to waters that are impaired for pollutants other than the pesticide product or degradates of that product), EPA may determine that additional TBELs or WQBELs are necessary, or may deny coverage under the PGP and require submission of an application for an individual permit.

Prior to reissuing permits, EPA evaluates opportunities for improving permit requirements to protect water quality. Although EPA finds that the conditions and requirements of the draft 2016 PGP are protective of water quality, EPA is aware that some states, tribes, and territories include additional WQBELs in their states-issued permits or included additional conditions in their 401 certifications for the draft 2011 PGP. EPA has examined these additional BMPs and permit conditions and seeks feedback on whether some of these additional measures or others should be added to the draft 2016 PGP WQBELs to further protect water quality. EPA has included examples of some permit requirements from NPDES authorized state WQBELs in the docket. See document titled, “*Examples of State PGP Provisions that Address WQBELs/WQ Monitoring.*” Additionally, examples of some BMPs from pesticides labels are available in the docket as well. See document titled, “*Examples of BMPs in Pesticides Product FIFRA Labels to Address Water Quality.*”

#### **IV. Cost Impacts of the PGP**

EPA performed a cost impact analysis on Operators covered by the 2011 PGP for the purpose of examining the economic achievability of complying with the technology-based effluent limitations and the administrative requirements embodied in the permit. EPA performs

this type of analysis where a general permit is developed in the absence of existing applicable national effluent limitations. Based on the 2011 PGP analysis and the updated cost analysis for the draft 2016 PGP, EPA expects that there will be minimal burden on entities, including small businesses, covered under the draft 2016 PGP. EPA finds the limitations to be economically achievable. A copy of EPA's cost analysis, titled, "*Cost Impact Analysis for the Draft 2016 Pesticide General Permit (PGP)*," is available in the docket. EPA solicits additional information during the public notice of the draft 2016 PGP that will allow for a more accurate cost analysis, and will update the cost impact analysis as appropriate, for the final permit.

#### **V. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review**

The draft 2016 PGP is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

#### **VI. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments**

This action does not have tribal implications as specified in E.O. 13175. It will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. EPA directly implements the NPDES Program, including the proposed 2016 PGP, in Indian Country; therefore, in compliance with the EPA Policy on Consultation and Coordination with Indian Tribes, EPA consulted with tribal officials early in the process to permit tribes to have meaningful and timely input into the renewal of the 2016 PGP. To gain an understanding of, and where necessary, to address tribal implications of the draft 2016 PGP, EPA conducted the following activities:

- October 28, 2015—EPA mailed notification letters to tribal leaders initiating consultation and coordination on the renewal of the PGP. The initiation letter was posted on the tribal portal website at <http://tcots.epa.gov>.
- November 19, 2015—EPA held an informational teleconference open to all tribal representatives, and reserved the last part of the teleconference for official consultation comments. Seven tribal officials participated. EPA also invited tribes to submit written comments on the draft 2016 PGP. The presentation was posted on the tribal portal website at <http://tcots.epa.gov>.

Although EPA did not receive any comments during the formal consultation period, EPA encourages tribes to participate in the public review process by submitting comments through [regulations.gov](http://regulations.gov). EPA will consider the comments and address them in the final action.

**Authority:** Clean Water Act, 33 U.S.C. 1251 et seq.

Dated: January 14, 2016.

**H. Curtis Spalding,**

Regional Administrator, EPA Region 1.

Dated: January 14, 2016.

**Joan Leary Matthews,**

Director, Clean Water Division, EPA Region 2.

Dated: January 14, 2016.

**Jose C. Font,**

Division Director, Caribbean Environmental Protection Division, EPA Region 2.



Dated: January 13, 2016.

**Jon M. Capacasa,**

Director, Water Protection Division, EPA Region 3.

Dated: January 13, 2016.

**James D. Giattina,**

Director, Water Protection Division, EPA Region 4.

Dated: January 13, 2016.

**Tinka G. Hyde,**

Director, Water Division, EPA Region 5.

Dated: January 14, 2016.

**William K. Honker, P.E.,**

Director, Water Division, EPA Region 6.

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**Karen A. Flourney,**

Director, Water, Wetlands and Pesticides Division, EPA Region 7.

Dated: January 14, 2016.

**Darcy O'Connor,**

Acting Assistant Regional Administrator, Office of Partnerships and Regulatory Assistance, EPA  
Region 8.

Dated: January 13, 2016.

**Tomas Torres,**

Director, Water Division, EPA Region 9.

Dated: January 14, 2016.

**Daniel D. Opalski,**

Director, Office of Water and Watersheds, EPA Region 10.

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