



Agricultural Pollutant Discharge Elimination System (AgPDES) General Permit #OKG87A000 Pesticide General Permit (PGP) for Discharges from the Application of Pesticides in Oklahoma

Response to Comments

The Oklahoma Department of Agriculture, Food, & Forestry (ODAFF) published a notice in The Daily Oklahoman, a daily business and legal newspaper, as well as posted on our website at <https://ag.ok.gov/divisions/agricultural-environmental-management/>, on January 17, 2023, regarding the permit draft Pesticide General Permit (PGP) for Discharges from the Application of Pesticides in Oklahoma pursuant to Oklahoma Agricultural Pollutant Discharge Elimination System (AgPDES) Act, Title 2A O.S. § 2A et seq. and the Oklahoma Administrative Code (OAC) 35:44.1 and 35:44.3, the rules of the ODAFF and made it available for public review and comment. The public review period ended on February 16, 2023.

ODAFF reviewed the comments and prepared the following responses and several changes were made in the draft 2023-2028 OKG87A000 permit in response to the comments received. The ODAFF's responses to comments were sent to all individuals/entities that submitted comments during the 30-day public review period. The permit will become effective on March 26, 2023. This will be the ODAFF's final permit decision. A summary of the comments, ODAFF's responses, and changes made to the draft 2023-2028 permit after the public review are listed below. A copy of the final permit, fact sheet, and responses to comments are available on ODAFF's website at: <https://ag.ok.gov/divisions/agricultural-environmental-management/>.

COMMENT #1 from City of Tulsa Water and Sewer Department:

"Part II A.#32 Definition of Waters of the U.S.: The definition for Waters of the United States at 40 CFR 120.2 was revised as of January 18, 2023, therefore the definition for Waters of the U.S. in this section of the draft AgPDES PGP is now obsolete. Item (i) in the same definition in this draft AgPDES PGP defers to the latest federal definition at 40 CFR 122.2 (and §122.2 actually refers to the full definition at 40 CFR 120.2), however, we submit that the definition in this draft revision should be the current federal definition at 40 CFR 120.2."

AEMS/AgPDES RESPONSE #1:

Based on federal changes finalized during the process of permit review, the definition of "Waters of the United States" was updated to reflect it as shown in current 40 CFR 120.2.

COMMENT #2 from City of Tulsa Water and Sewer Department:

"Part II G. Water Quality Standards: Citation of OAC 785:45 regarding Water Quality Standards is invalid. Oklahoma Water Quality Standards authority was transferred to DEQ by Senate Bill

1325. Currently, Emergency Rule for Oklahoma Water Quality Standards is located at OAC 252:730, approved by Governor 10/25/22. Permanent Rule is in approval process by DEQ, and should be approved before end of 2023. We submit that the citation should be revised to OAC 252:730.”

AEMS/AgPDES RESPONSE #2:

The citation for water quality standards was updated to reflect OAC 252:730-5-9 et seq.

COMMENT #3 from City of Tulsa Water and Sewer Department:

“Appendix A Notice of Intent (NOI) form: Because text in the body of draft AgPDES PGP now refers to “Waters of the State” instead of “Waters of the U.S.”, we submit that the Notice of Intent (NOI) form should be changed to refer to “Waters of the State” also. There are six (6) instances of the phrase “Waters of the U.S.” within the form.”

AEMS/AgPDES RESPONSE #3:

Based on comments from other AgPDES permit programs, the pesticide final permit was updated to reflect “Waters of the United States” throughout. This will ensure forms and other documentation related to all AgPDES permits will remain consistent. As such, the Notice of Intent form is not being updated at this time to reflect those changes.

COMMENT #4 from City of Tulsa Water and Sewer Department:

“Appendix B Notice of Termination (NOT) form: Because text in the body of draft AgPDES PGP now refers to Waters of the State” instead of “Waters of the U.S.”, we submit that the Notice of Termination (NOT) form should be changed to refer to “Waters of the State” also. There is one (1) instance of the phrase “Waters of the U.S.” within the form.”

AEMS/AgPDES RESPONSE #4:

Based on comments from other AgPDES permit programs, the pesticide final permit was updated to reflect “Waters of the United States” throughout. This will ensure forms and other documentation related to all AgPDES permits will remain consistent. As such, the Notice of Termination form is not being updated at this time to reflect those changes.