

PUBLIC NOTICE

In accordance with the Clean Water Act, 33 U.S.C. §§ 1251 *et seq.*, the United States Environmental Protection Agency (EPA) is proposing to reissue the National Pollutant Discharge Elimination System (NPDES) pesticide general permit (PGP) which authorizes the point source discharges of biological and chemical pesticides to waters of the United States. The 2026 PGP will replace EPA's 2021 PGP on October 31, 2026 and will be available to Operators in geographic areas where EPA is the NPDES permitting authority. Supporting information and materials for the draft 2026 PGP are included in Docket ID No. EPA-HQ-OW-2023-0268 available at <https://www.regulations.gov/>

In accordance with Section 401 of the Clean Water Act, the Grand Portage Water Quality Standards, and the Grand Portage Water Resources Ordinance (as amended, the "Water Resources Ordinance"), the Grand Portage Environmental Resources Board ("Board") has examined the application of the 2026 PGP and determined that there is reasonable assurance—with the conditions listed below—that the activities associated with the reissuance of the PGP will not violate applicable water quality standards.

However, certain conditions are necessary to protect (a) the public health and welfare of the Band, its members, and others living on its Reservation, and (b) the present and future use of Reservation waters for public and private water supplies, propagation of fish and aquatic life and wildlife, domestic and recreational purposes, and for agricultural, cultural, religious, commercial, industrial and other legitimate uses.¹ Accordingly, the following conditions will apply to discharges made under the 2026 PGP into the Waters of the Grand Portage Reservation (as defined in the Water Resources Ordinance):

1. In accordance with Water Quality Standards PGPs are denied within the no discharge zone of Lake Superior designated as Outstanding Resource Value Waters-Prohibited. These waters are located in the Grand Portage Zone of Lake Superior in "that portion of the Shoreline Waters north of latitude 47 degrees, 57 minutes, 13 seconds and east of Hat Point."²
2. Only those activities specifically authorized by the PGP are authorized by this Certification. This Certification does not authorize impacts to cultural properties including wild rice waters, historical sites, or properties that may be eligible for listing as such.³

¹ Grand Portage Water Resources Ordinance, as amended, 2004, section 1.02 Authority.

² Cooperative Agreement between the Grand Portage Band of Lake Superior Chippewa and the Minnesota Pollution Control Agency, 1996. Attachment 1, Grand Portage Water Quality Standards.

³ Grand Portage Water Resources Ordinance as amended, 2004, section 1.02.

3. All pesticide application discharges authorized by the PGP must comply with the Grand Portage Water Quality Standards, the Water Resources Ordinance, and Applicable Federal Standards (as defined in the Water Resources Ordinance).⁴ As such, appropriate steps must be taken to ensure that biological and chemical pollutants associated with pesticide applications are prevented from entering Waters of the Reservation.⁵ All spills must be reported to the appropriate emergency-management agency, and measures must be taken to prevent the pollution of Waters of the Reservation, including groundwater.⁶
4. A copy of the Pesticide Discharge Management Plan (the “Plan”) required by the PGP must be submitted to the Board when the requisite Notice of Intent is sent to EPA.⁷ The Board may require monitoring of pesticide application discharges as determined on a case-by-case basis.⁸ If the Board determines that a monitoring plan is necessary, the monitoring plan must be prepared and incorporated into the Plan before the Notice of Intent is submitted to the EPA⁹. The Plan should be sent to:

Grand Portage Environmental Resources Board
P.O. Box 428
Grand Portage, MN 55605

Copies of the Notice of Intent and Notice of Termination required under the PGP must be submitted to the Board at the address above at the same time they are submitted to the EPA.¹⁰

5. If requested by the Grand Portage Environmental Department, the permittee must provide additional information necessary for a case-by-case eligibility determination to assure compliance with the Grand Portage Water Quality Standards and any Applicable Federal Standards.¹¹
6. Discharges that the Board has determined to be or that may reasonably be expected to be contributing to a violation of Grand Portage Water Quality Standards or Applicable Federal Standards are not authorized by this certification.¹²

⁴ *Id.*, Section 3.03(A).

⁵ Grand Portage Water Quality Standards, section XI. General Standards.

⁶ Grand Portage Water Quality Standards, section XI. General Standards. Grand Portage Water Resources Ordinance as amended, Section 3.04 General Orders, and section 3.05 Special/Emergency Orders.

⁷ Grand Portage Water Resources Ordinance, section 3.03(3)(a).

⁸ Grand Portage Water Quality Standards, section XIV. Enforcement, Grand Portage Water Resources Ordinance, sections 4.01 and 5.01.

⁹ Grand Portage Water Resources Ordinance, as amended, 2004, Section 3.03.

¹⁰ Grand Portage Water Resources Ordinance, as amended, 2004, Section 3.03.

¹¹ Grand Portage Water Quality Standards, section XIV. Enforcement, Grand Portage Water Resources Ordinance, sections 4.01 and 5.01.

¹² Grand Portage Water Resources Ordinance, as amended, 2004, Section 3.03(A).

7. The Board retains full authority provided by the Water Resources Ordinance to ensure compliance with and enforcement of the provisions of the Water Resource Ordinance, the Grand Portage Water Quality Standards, Applicable Federal Standards, and these certification conditions¹³
8. Appeals related to Board actions taken in accordance with any of the preceding conditions may be heard by the Grand Portage Tribal Court.¹⁴

The Public Comment Period for this conditional certification begins November 21, 2023 and expires on December 20, 2023. Comments regarding this conditional certification can be sent to mwatkins@grandportage.com or to the Environmental Board at the address provided below. As the Water Resources Ordinance provides, any interested party may request that a public hearing be scheduled regarding the Board's decision to grant conditional certification of the 2026 PGP.¹⁵ Such a request must be directed to the following address within 30 days of this notice:

Grand Portage Environmental Resources Board
P.O. Box 428
Grand Portage, MN 55605

Materials reviewed by the Board concerning its conditional certification of the 2026 PGP may be requested from the Grand Portage Environmental Resources Board at the address listed above. In addition, the Federal Register Notice proposing the PGP was published on November 17, 2023 and can be accessed electronically through the EPA Internet at: <https://www.epa.gov/npdes/pesticide-permitting-proposed-2026-pgp> You may also contact EPA Headquarters, Office of Water, Office of Wastewater Management via email: PGP@epa.gov Electronic versions of the draft 2026 PGP and Fact Sheet are also available at <https://www.epa.gov/npdes/pesticide-permitting> The EPA Region 5 contact for the PGP is John Colletti at tel.: (312) 886-6106; or email at colletti.john@epa.gov

¹³ Grand Portage Water Resources Ordinance, as amended, 2004, section 1.02 Authority.

¹⁴ *Id.*, section 5.01.

¹⁵ *Id.*, section 3.03, (3)(d)(iv).