



BEYOND PESTICIDES

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Clearing up the Confusion Surrounding the New NPDES General Permit

In the U.S., the Clean Water Act (CWA) oversees the discharge of pollutants into waterways, through the National Pollutant Discharge Elimination System (NPDES) permit program. Since being instituted decades ago, the degradation of the health of the nation's waterways slowed. However, pesticides and other pollutants are still routinely detected in U.S. waterways at concentrations that can affect aquatic life and even human health. 56 percent of streams samples by the U.S. Geological Survey contain one or more pesticides that exceed water quality standards. These pesticide residues threaten aquatic life and drinking water supplies.

Industry, agriculture, and vector control groups have been strongly against the institution of the CWA stewardship of pesticide discharge into surface waters via the NPDES general permit. However, the permit does not prevent pesticide residues from entering aquatic environments,

nor does it burden farmers with unnecessary red tape. Simply put, the NPDES general permit helps authorities monitor where and when pesticides enter these environments.



This factsheet dispels the myths and misleading information surrounding the General Permit established under the NPDES permits of the *Clean Water Act*.

Why do we need the NPDES permit for pesticide discharges?

In 2009, a federal court found that point source discharges of pesticides into waters of the U.S. were pollutants under the *Clean Water Act* (CWA). As a result of the Court's decision, NPDES permits are now required for these discharges beginning on October 31, 2011. Permits will help EPA and state and local agencies monitor chemicals entering the nation's waterways, help mitigate any downstream adverse effects, and safeguard drinking water.

Will the NPDES permit prevent pesticides from entering surface waters?

No. The permit will not prevent farmers, states, or federal agencies from spraying pesticides that may adversely impact aquatic environments. Pesticide applications would not be interrupted by the permit. However, the permit does provide some level of accountability for

applicators, as pesticide applications must now be recorded and approved through the permitting process.

Who needs to apply for the NPDES permit?

Any federal or state agency, irrigation or vector control district, or decision-maker responsible for pesticide application to area(s) adjacent to a water body in the following use patterns:



1. Mosquito and other flying insect pest control,
2. Weed and algae control,
3. Animal pest control, and
4. Forest canopy pest control.

Small-area applications: less than 6,400 acres/year for mosquito and forest canopy, and less than 80 water acres/year for weed and algae control, do not require permits. As a result, most farmers DO NOT need a NPDES permit. Permit coverage includes staff, employees, contractor and subcontractors of decision makers applying for the permit, thereby eliminating the need for multiple applications.

Where is the NPDES permit applicable?

EPA's General Permit is in effect in six states where EPA is the permitting authority: Alaska, Idaho, Massachusetts, New Hampshire, New Mexico, and Oklahoma, as well as Washington, D.C. and most U.S. territories. All other U.S. states will draft and issue their own permits for pesticide discharges. As such, some states can take a more stringent approach to regulating pesticide discharges near waterways. Pesticide applicators should contact their state environmental regulatory agency for more information on applicable permit requirements for discharges occurring after January 12, 2012.

How does the NPDES permit work?

To be covered under the NPDES general permit, a pesticide applicator must submit a Notice of Intent (NOI) 10 days prior to pesticide application. If applying near water habitat recognized by the National Marine Fisheries Service (NMFS) as a Resource of Concern under the Endangered Species Act, the applicator must submit the NOI 30 days prior to application. EPA has created an electronic NOI to facilitate easy NOI submission: <http://cfpub.epa.gov/npdes/npdesnoi.cfm>. Once submitted and approved, the permit is valid for pesticide applications until the expiration date. NOIs only need to be submitted once for pesticide applications, unless there are changes to discharges.

The NOI requires applicants to submit their contact information, description of treatment area, identification of pest and pest management practices, and product information. As part of the permit, the applicant must also inspect and monitor pest populations, possible environmental

adverse effects, and keep records of pesticide application.

Would the NPDES Permit Prevent Officials from Controlling Public Health Pests like Mosquitoes?

No. In many states the entity responsible for mosquito control is the local state department of health, department of environmental management, or mosquito abatement district or control board. This agency would then be required to submit an NOI to either the state or the EPA prior to applying pesticides for mosquito control and other mosquito related activities. The permit would therefore not inhibit local authorities from carrying out mosquito control.

How Will the NPDES Permit Impact Farmers?

Generally, FARMERS ARE NOT AFFECTED by the new NPDES permit. This is because farmers applying pesticides to agricultural cropland, greenhouses, or gardens DO NOT need to apply for a NPDES permit. Similarly, irrigation flows and pesticide run-off from fields ARE NOT subject to permitting requirements.

Farmers who need to apply pesticides to more than 6,400 acres/year for forest canopy control or to more than 80 acres of water/year for weed or algae control would need to submit an NOI.

Does the NPDES Permit Pose Undue Economic Burden?

There is NO FEE to submit NOIs to EPA, if EPA is the permitting authority. However, if the state is the permitting authority, there may be an application fee required with submission of the NOI. This fee varies by state, but can range from \$183-\$770. Violations of NPDES permit requirements will also be subject to fines. A state directory is available at www.epa.gov/npdes/pesticides/statecontacts

What about Violations of NPDES Permits Requirements?

Like any other permit, violations of NPDES permit requirements can result in penalties which may differ by state. Usually fines are instituted and can range from thousands to hundreds of thousands of dollars per violation. If there are adverse incidents associated with pesticide applications under the NPDES permit, the relevant authorities would conduct an investigation to determine whether permit criteria were violated (e.g., exceeding label application rates). If violations are found, the permittee will be held responsible for civil, criminal, or administrative penalties.