

National Pollutant Discharge Elimination System (NPDES) Pesticide General Permit

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Background On Pesticide Applications to Water

- Court Orders & Lawsuits Create Confusion—Early 2000
- Applicators Ask EPA To Clarify Permit Requirements
- EPA Issued Clean Water Act Pesticides Rule—2006



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Clean Water Act (CWA) Pesticides Rule-2006

The application of a pesticide... does not constitute the discharge of a pollutant and does not require an NPDES permit:

1. The application of pesticides directly **to** waters of the US to control pests;
2. The application of pesticides **over** waters, **including near** waters of the US to control pests.



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Challenge to 2006 CWA Pesticides Rule

- December 2006
 - Petitions filed in 11 Circuit Courts
 - Consolidated in 6th Circuit Court of Appeals
- January 2009
 - 6th Circuit - NPDES permit required
 - Biological materials – are a pollutant
 - Chemicals pesticides – are a pollutant
- June 2009
 - 6th Circuit granted 2-year stay (**April 9, 2011**)



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Subsequent Court Actions

- August 2009 - 6th Circuit rejected industry's request for a rehearing
- February 2010 - Supreme Court rejected industry's request to review the case
- Today - NPDES permits are not required for pesticide applications to waters of the U.S.
- April 10, 2011 – Pesticide applications into waters of the U.S. will require an NPDES permit



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Course of Action

- 44 States will develop permits
- EPA will develop Pesticide General Permit
 - ID, AK, NM, OK, MA, NH, D.C.
 - Indian Country
 - Some federal facilities & land
- Extensive outreach & public comments



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Outside Scope of PGP

- Applications to crops or forest floors
 - Off target spray drift
 - Irrigation return flow from ag. fields
 - Agricultural stormwater runoff



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Pesticide General Permit

- Pesticide uses to be covered under PGP
 - Mosquito & Other Flying Insect Control
 - Aquatic Weed and Algae Control
 - Aquatic Nuisance Animal Control
 - Forest Canopy Pest Control
- Pesticide Application To Waters of the US



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Notice Of Intent (NOI)

- NOI required for some applications
 - Federal/State gov't with pest control function
 - Irrigation, Weed, Mosquito control district
 - Applications above threshold
- NOI will not be required immediately
 - Phase in period



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Monitoring

- All applicators
 - Visual monitoring for adverse effects
 - Monitoring of management practices



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Water-Quality Based Effluent Limits

- All applicators
 - Compliance with label & PGP will control discharges to meet applicable water quality standards
 - "Your discharge must be controlled as necessary to meet applicable water quality standards."



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Technology Based Effluent Limits

- **All applicators-Best Management Practices**
 - **Use lowest effective amount of pesticide**
 - **Perform regular maintenance**
 - **Calibrate, clean, and repair equipment**
- **Decision makers above threshold**
 - **Identify/assess pest problem**
 - **Assess pest management alternatives**



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Reporting & Recordkeeping

- Applicators maintain equipment records
 - Equipment calibration
 - Maintenance
- Decision makers
 - Pesticide discharge management plan
 - Application records for some
 - Submit annual report for some



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Additional Considerations

- Endangered Species Act Consultation
 - US Fish and Wildlife Service
 - National Marine Fisheries Service
- CWA 401 Certification
 - States, territories, and tribes
 - Treatment as a State (TAS) designation
 - Applicable water quality requirements



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Next Steps

Task	Estimated Date Completed
Final EPA Permit	Soon
State & Tribal Certification	Soon
Permit Available To Applicators	Deadline April 10, 2011



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Further Discussion & More Information

www.epa.gov/npdes/agriculture

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