

Minimizing Duplicative Regulations NPDES Permits

Issue: Public health pesticides registered by the Environmental Protection Agency (EPA) under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) should not require additional regulatory oversight by National Pollutant Discharge Elimination System (NPDES) permits.

Background: Due to a 2009 court ruling, commencing October 31, 2011, EPA and the states instituted NPDES permits for the application of mosquito control pesticides (both biological and synthetic), whenever an application results in a pesticide residue, however minimal, entering waters of the US. The ruling negated a final rule issued by the EPA in 2006 clarifying two specific circumstances in which a Clean Water Act NPDES permit is not required for discharges from the application of pesticides to or around water:

1. Pesticides are applied to control pests in the water.
2. Pesticides are applied to control pests that are present over or near water, where a portion of the pesticides will unavoidably be deposited to the water to target the pests.

Discussion: The American Mosquito Control Association worked with EPA and authorized states to craft NPDES pesticide general permits that minimize potential impacts on Mosquito Control Programs' (MCP) public health mission. Those permits have resulted in scarce public funds being spent on duplicative regulatory requirements, administrative fees, and legal costs. Pesticides are already effectively regulated for uses in and near water under the registration process required by FIFRA. Under FIFRA, EPA requires a comprehensive range of scientific studies, which determine potential impacts on water quality and aquatic species. These include a suite of studies on ecological effects (e.g., freshwater fish toxicity, acute toxicity freshwater invertebrates, estuarine and marine organisms, fish early-life stage, fish life cycle, bioavailability, biomagnification and whole sediment toxicity), environmental fate (e.g., hydrolysis, photodegradation in water, photodegradation in soil, aerobic and anaerobic aquatic metabolism, volatility, absorption and desorption, groundwater monitoring), and residue chemistry.

EPA has broad powers to require additional information and does so where necessary to ensure that it thoroughly understands a pesticide's risks. EPA will only approve a registrant application when it is confident that based on the data, there is reasonable certainty the intended use of the product will not cause unreasonable adverse effects on man or the environment.

The need for MCP's to utilize their time and resources efficiently is more important than ever, especially with the emergence of Zika virus affecting the U.S. population. The U.S. has also seen significant impacts of other diseases such as West Nile virus, Chikungunya, and Dengue in recent years and the potential for new and emerging viruses is ongoing. Ensuring that funds are spent on the actual control of mosquitoes and not duplicative regulations is paramount.

Action Needed: We urge Congress to pass legislation consistent with the goals and objectives of H.R. 953 and S. 340, clarifying that pesticide applications for mosquito control in accordance with label requirements are fully and effectively regulated under FIFRA, requiring no further oversight under the Clean Water Act NPDES permit program.

