

NPDES Pesticide General Permit (PGP) Fact Sheet

Q: Prior to the decision of the 6th Circuit in *National Cotton Council v. EPA* in 2009, was a NPDES permit required for the application of pesticide in mosquito control operations to protect the public's health and welfare, or use of pesticides to control weeds or algae in irrigation canals or ditches, or treatment of forests to control canopy pests, or treatment to control animal pests such as fish, insects or mollusks in water or at the water's edge?

A: No. For more than 35 years, EPA and the States believed that the application of a pesticide in these circumstances were effectively regulated under the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA") that requires EPA to consider potential impacts on aquatic organisms or water quality in registering a pesticide.

Q: Can the application of a pesticide over, into or near waters of the US which may be dry at the time of application trigger a need for an NPDES permit?

A: Yes. EPA has recognized that, assuming a product is used in accordance with its FIFRA label, the application of a pesticide to dry land which may be classified as waters of the US at the time of application, such as weed control in dry washes or ephemeral streams on forest or range lands, may trigger the NPDES permit requirements.

Q: Do the NPDES PGP requirements impose a financial burden on users, such as mosquito control districts in carrying out their public health mission or operators of irrigation canals for natural resource purposes?

A: Yes. For example, in the case of 62 mosquito control districts, in California alone, they have estimated that they spend approximately \$750,000 per year in compliance costs. That may seem like a small amount of money, but many of the districts involved operate on very small, tight budgets. Every dollar spent in monitoring, report writing or other NPDES requirement impacts the funds a district has available to address its basic mission of protecting public health.

Q: Have any mosquito control districts received any substantive feedback from the EPA or the States regarding the annual reports that need to be filed under the NPDES PGP.

A: No. However, the districts have been told informally by various state regulators that the reports received are never read but simply filed in a file cabinet. The states believe they have more productive activities to focus on.

Q: Does the NPDES PGP affect the application of a particular pesticide?

A: No. The application of a pesticide is governed by its label directions pursuant to FIFRA.

Q: Have mosquito districts been sued for allegations concerning NPDES PGP program requirements?

A: Yes. The most recent ongoing case involves a mosquito control district in northern Ohio. To date it has spent more than \$40,000 in legal fees in responding to allegations involving its operations under its NPDES PGP, and that is before there is even a trial. Their lawyer has

advised that their legal fees may exceed \$100,000 before the matter is concluded. The allegations involved a citizen's interpretation of the NPDES PGP requirements and related administrative matters.

Q. If the NPDES PGP requirements were eliminated would potential pesticide impacts on water quality and aquatic organisms be unregulated?

A: No. As EPA has previously testified before Congress, these impacts are fully addressed by EPA in the registration of a pesticide under FIFRA.