



# CLEAN WATER ACT NPDES PERMIT IMPACTS ON MOSQUITO CONTROL PROGRAMS

**ISSUE:** Public Health Pesticides registered by the Environmental Protection Agency (EPA) under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) do not require additional regulatory oversight by National Pollutant Discharge Elimination System (NPDES) permits.

**Background:** Due to a 2009 court ruling, commencing October 31, 2011, the 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 the 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 already 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, the 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 to freshwater invertebrates, estuarine and marine organisms, fish early-life stages, fish life cycles, 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.

The EPA has broad powers to require additional information, and does so where necessary to ensure that it thoroughly understands a pesticide's risks. The EPA will only approve a registrant application when it is confident that, based on the data, there is reasonable certainty that 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 are more important than ever, especially with the emergence of the 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.

**CURRENT STATUS:** On February 7, 2019, Congressman Bob Gibbs (R-OH) introduced the REDTAPE Act, H.R. 890 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. The legislation was approved by the House of Representatives in the 115<sup>th</sup> Congress, and included in the House version of the Farm Bill, but not ultimately adopted by the Farm Bill Conference Committee.

---

**NEEDED ACTION:** Congress should pass the REDTAPE Act, or similar legislation clarifying that pesticides registered by the EPA under FIFRA *do not* require additional regulatory oversight under the Clean Water Act.

---