



Agri-Business / Cropland. EPA's 2006 Final Rule on Aquatic Pesticides Vacated (Release 4/21/2009 12:00PM)

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On January 7th, 2009 the 6th Circuit Court of Appeals vacated EPA's November 2006 Aquatic Pesticide Rule. EPA's 2006 Aquatic Pesticide Rule allowed 2 exceptions as to when a Clean Water Act (CWA) permit was needed. The exceptions were:

- The application of pesticides directly to water in order to control pests.
- The application of pesticides to control pests that are present, over, or near water, where a portion of the pesticide will unavoidably be deposited to the water in order to target the pests.

EPA's 2006 Aquatic Pesticide rule confirmed that FIFRA (Federal Insecticide, Fungicide, & Rodenticide Act) already covers these circumstances and no further CWA permits should be needed. According to the January 7th, 2009 ruling, clean water permits (NPDES permits) will be required for all pesticide or biological applications to control pests directly to water, over water, or near water.

This decision takes effect 7 days after the deadline for rehearing (April 9th, 2009) expires or 7 days after a denial of any petition for rehearing. On April 9th, 2009 the Department of Justice filed a 24 month motion of stay to provide EPA enough time to provide structure to support this ruling. This would include time to develop and deliver a National Pollutant Discharge Elimination System (NPDES; <http://cfpub.epa.gov/npdes/>) permit for these applications, and to allow states time to develop permits, and time for outreach and education for applicators. This ruling will not take effect until the 6th Circuit Court of Appeals rules on this motion of stay.

***It is business as usual until all motions are considered, but this ruling would likely impact 365,000 applicators that perform 5.6 million pesticide applications annually. EPA will update NPDES ruling status online at <http://cfpub.epa.gov/npdes/>.*

FOR FURTHER INFORMATION CONTACT: For more information see the EPA Final Rule on Aquatic Pesticides website (http://cfpub.epa.gov/npdes/home.cfm?program_id=41). If you have further questions contact the MSU Pesticide Education Program office (Cecil Tharp, 406-994-5067, ctharp@montana.edu).