

**Good news for many farm applicators across the state regarding NPDES Permits.  
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(available online; [http://www.noaaneews.noaa.gov/stories2008/20081118\\_pesticides.html](http://www.noaaneews.noaa.gov/stories2008/20081118_pesticides.html))

According to the January 7<sup>th</sup>, 2009 ruling by the 6<sup>th</sup> Circuit Court, 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 permit was designed to reduce discharges of pesticides to aquatic ecosystems. See the previous MSU Pesticide News story at <http://www.pesticides.montana.edu/News/Miscellaneous/agalertaquaticpesticidepermits.pdf>. This court mandate, which takes effect on April 9<sup>th</sup>, 2011, will impact some Montana pesticide applicators.

Farm applicators have been concerned over this court decision due to the use of the words 'near water' in this ruling. This seems to implicate many agricultural or rangeland applications near the waters edge. Many applicators asked, "Could this mean an extra permit for anyone managing noxious weeds along a stream bank or ditch canal"? It was up to the Montana Department of Environmental Quality to interpret the language of 'near water'. MT DEQ has been working hard to ensure this ruling doesn't implicate many applicators who are simply targeting terrestrial weeds near water.

**Who does this impact?** According to MT DEQ staff this permit will mainly impact applicators that apply pesticides over or within water. This includes: aquatic pest, aerial applications over forest canopies (with water sources), mosquito abatement, and aquatic weed applicators. DEQ has interpreted the word 'near water' to include pesticides which may drip into a state water body or run off as a consequence of over-application. In a nutshell, many farm/private applicators that are targeting noxious weeds near the waters edge are exempt. Weed districts, mosquito control districts, and commercial applicators in the category of aquatic pest control should pay special attention.

**What about spray drift?** Spray drift can, even on a relatively calm day (5 mph wind), move very small concentrations of pesticide from 5' – 20'. This could result in some small concentrations of pesticide to move off-target to a water source nearby. However, MT DEQ has stated repeatedly that this permit is not mandatory in situations where drift carries very small concentrations of pesticide to a water source. They are demanding permits only for applications directly over or within water. The definition, 'near water' applies when an applicator over-apply pesticides on brush hanging over the waters edge (drips into a water source) or as a direct result of over-application, which results in runoff.

**How much will it cost?** DEQ is still working on final costs associated with the program. It seems there may be 2 types of permits and costs associated. A minor use permit will be available for those that meet the definitions of to, over, or near water (see previous paragraph), but are under designated thresholds. This will be associated with minimal costs (approximately \$50). A major use permit will be available for those that meet the definitions of to, over, or near water, but are above designated thresholds. Costs may be around \$500 according to DEQ personnel. This should be finalized in upcoming months.

**What is the threshold?** DEQ is still working on designated thresholds. Estimates have varied in the last 12 months and will vary according to the type of pesticide you are using and the type of activity you are conducting.

The U.S. EPA is requesting an extension to allow more time for pesticide operators to obtain permits for pesticide discharges into U.S. waters. EPA is requesting that the deadline be extended from April 9<sup>th</sup>, 2011 to October 31<sup>st</sup>, 2011. During the period the court is considering the request, permits for pesticide applications will not be required under the Clean Water Act. This extension will allow sufficient time for EPA to engage in Endangered Species consultation and develop an electronic database to streamline requests. This extension will also allow states additional time to finish developing their state permits.

**FOR FURTHER INFORMATION CONTACT:** For more information contact the Department of Environmental Quality (Christine Weaver; [CWeaver@mt.gov](mailto:CWeaver@mt.gov)). See the EPA Final Rule on Aquatic Pesticides website (<http://cfpub.epa.gov/npdes/>). If you have further questions regarding this article contact the MSU Pesticide Education Program office (Cecil Tharp, 406-994-5067, [ctharp@montana.edu](mailto:ctharp@montana.edu)).



## Ask the Expert:

December 21<sup>st</sup>, 2010.

**Question:** What should I do if I suspect pesticide injury on my ornamental plants or garden?

**Answer.** If you suspect pesticide injury on plants upon your property you need to initially do an investigation of your own. First you need to determine if you could have injured your own plants with an application you have made. Keep in mind, pesticide injury symptoms can often be delayed for 1 season. A good example is an individual applying a broadleaf herbicide too close to their trees. If the application was made late in the season, trees may delay symptoms of pesticide poisoning until the following spring. If you did not apply pesticides recently you will still need to answer the following questions:

- Has anyone else applied pesticides in the area?
- Could this be a nutrient deficiency (Nitrogen, Phosphorus, and Potassium)?
- Could this be due to environmental conditions (drought, excessive water)?
- Have you used compost in the last 24 months?

If you cannot find a nutrient deficiency, associate the symptoms to a pesticide application or environmental conditions then it may be time to send your samples to the MSU Diagnostic Clinic. Contact your local MSU Extension Office for further information on using this program. The MSU Diagnostic Clinic can be used to evaluate your plants for other plant pathogens, insects as well as ascertain whether the symptoms may be due to pesticide injury. If the clinic finds that the symptoms may indeed be caused by pesticide injury then you may wish to contact the Montana Department of Agriculture (406)444-5400 to file a formal complaint and begin an investigation.

## Pest Management Toolkit

Musselshell County. April 20<sup>th</sup>, 2011. Lavina Weed Education Class. 3 private applicator credits. This class offers presentations in calibration, reading and understanding pesticide product labels, and weed identification.