

## **MARICOPA COUNTY VECTOR CONTROL CONFERENCE**

**April 5, 2011**

**Draft AZPDES**

**Pesticide General  
Permit**



- Clean Water Act (CWA) is the legislation by which waters of the United States are to be preserved and protected...
- National Pollution Discharge Elimination System (NPDES) is the permitting approach that authorizes the “discharge” of pollutants to waters of the U.S.

# Regulatory Review

- Discharges must meet permit requirements and may include numeric limitations and/or technology based limits to protect water quality and use.
- EPA incorporated an exclusion in federal rules that exempted the application of pesticides to waters for permitting requirements (40 CFR 122.3(h))



## Regulatory Review

- Arizona received primacy to administer the NPDES program in Arizona (except on Indian Country) in 2002.
- Administered by the Arizona Department of Environmental Quality (ADEQ)
- Arizona program = AZPDES

- EPA's pesticide exclusion was challenged in court (*National Cotton Council of America, et al., v. United States Environmental Protections Agency*).
- Sixth Circuit Court of Appeals ruled EPA did not have authority to exclude pesticides from permitting requirements.

## Regulatory Review

- Court established deadline of April 9, 2011 after which date pesticides applied to waters of the U.S. must have permit coverage.
- This date has since been extended until October 31, 2011.

- ADEQ worked with Arizona stakeholders to develop an AZPDES PGP based on EPA's draft PGP.
- Arizona PGP public notice published in Arizona Administrative Register on February 25, 2011.
- Comment period closed on March 29, 2011.

## What activities will be covered by the AZPDES PGP?

- Mosquito and other flying insects;
- Weed and algae control;
- Nuisance animal control;
- Forest canopy pest control; and
- Specific approvals.

## **How do I obtain permit coverage?**

- Many “operators” are automatically covered and do not have to notify ADEQ.
- Other “operators” must submit a Notice of Intent (NOI) form to ADEQ to obtain coverage.

## **NOI required for discharges to:**

- Waters designated as aquatic and wildlife;
- Effluent dependant waters that flow for 5 or more miles from source;
- Impaired waters and Outstanding Arizona Waters;
- Specific approvals; and
- Specifically required by ADEQ.

## Two types of permit coverage:

- **Single Source** – a discharge activity to one receiving water, but may be recurring throughout the permit term.
- **Areawide** – Discharges to 2 or more receiving waters and may be recurring throughout the permit term. However, separate NOIs are required for areawide discharges that cross a watershed, a political boundary, or both.

Operators must also prepare a Pesticide Discharge Management Plan (PDMP) if any of the follow thresholds will be exceeded:

***Mosquito and Other Flying Insect:***

In water – 6,400 acres

***Weed, Algae and Vegetation Control***

In water – 80 acres

Water's edge – 20 linear miles

## **Threshold cont'd...**

### ***Nuisance Animal Control:***

In water – 80 acres

### ***Water's edge – 20 linear miles***

Forest Canopy Control

In water – 6,400 acres

## **Threshold cont'd....**

### ***Discharges to Impaired or OAWs:***

In water – any amount

Water's edge – any amount

### ***Specific Approvals:***

In water – any amount

Water's edge – any amount

- The PDMP must be submitted to ADEQ if the proposed pesticide discharge activity is to an impaired water for the same pesticide or to an OAW.
- Must submit at least 32 days before the pesticide discharge activity occurs.

## Purpose of PDMP

Help operators ensure they have:

- taken steps to ID the pest problem;
- evaluated pest mgm't options; and
- appropriate control measures.

## PDMP Components

- Specify management team;
- Describe pest area and problem;
- Document control measures;
- Schedules and procedures for application rates and frequency, pest surveillance, environmental conditions, spill prevention/response, equipment maintenance, adverse incident response, and pesticide monitoring; and
- Other pertinent information.

Note: Where information required to be included in the PDMP already exists (e.g., IPM plan, spill prevention and response plan, etc.), the PDMP can incorporate those other documents/information.

## PDMP Modifications

PDMP to be updated in response to corrective actions (see section 6), when there is a change in type/quantity of pollutant discharged, or other pertinent information has changed.



## **PDMP Availability**

PDMP to be kept at the location identified in the NOI and be made available upon request to EPA; ADEQ; or other federal, state, or local agency with appropriate authority.

# Corrective Actions

What are corrective actions: Follow up actions taken to assess and rectify a problem.

Typically involves review and revision of control measures and pesticide application activities to ensure problems are eliminated and not repeated.

Note: CA requirements apply to all permittees, not just those subject to NOI.



## Corrective actions to be initiated when:

- An unauthorized release/discharge occurs;
- Control measures not sufficient to comply with water quality standards;
- Regulatory inspection determines non-numeric effluent limitations are not being met; and/or
- An “adverse incident” has occurred.

## CA Documentation/Reporting

- Not all CA has to be reported to ADEQ. Only adverse incident and reportable spills/leaks are to be reported to ADEQ.
- Other events are to be 'documented' within 5 days. Documentation to include information describing the event and response.
- Documentation to be retained on-site and made available at the request of an authorized agency/department.

## Recordkeeping and Reporting

- Operators are to keep certain records documenting activities.
- Operators that discharge to an impaired water or Outstanding Arizona Water (OAW) must submit annual report to ADEQ.

## R and R

Documentation required by other programs (e.g., FIFRA) can be used to satisfy PGP requirements, where applicable.

Minimum records requirements for all permittee:

- Maintain a copy of the permit;
- Adverse incident reports (including rationale for determining that reporting an AI is not required); and
- A copy of any CA documentation.

Note: Records to be kept at permittee's address.



# ADEQ Contact

## Where to Get More Information

Sign up for ADEQ Draft PGP ListServe at:

<http://www.azdeq.gov/subscribe.html>

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# Closing

**Questions?**