

A vertical photograph of a waterfall cascading over dark rocks, with water splashing and creating white foam at the base. The image is positioned on the left side of the slide.

North Carolina NPDES Pesticide Permitting by DENR DWQ

October 25, 2012

Jeff Poupart
Point Source Branch
NC Division of Water Quality

A vertical image on the left side of the slide showing a waterfall cascading over dark rocks. The water is white and frothy as it falls. The background of the slide is a solid dark blue color.

NPDES Permits for Pesticides

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- NC issued General Permit NCG560000 on October 31 amended for minor corrections on December 13, 2011
 - 44 Certificates of Coverage issued to date 29 (66%) to Mosquito Agencies
 - Still waiting on congressional Action S3605 co sponsored by Kay Hagen referred to committee on 9/20/12

A photograph of a waterfall cascading over dark rocks, with water splashing and creating white foam. The image is positioned on the left side of the slide, partially overlapping the blue background.

Pesticide General Permit

- Issued for 5 years general permits all renewed at the same time, public notice required each time and EPA concurrence
- NC Permit Tries to parallel FIFRA requirements as much as possible
- Currently DWQ only inspecting on an as needed basis

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Activities Covered

- Mosquito and Other Flying Insect Pest Control
- Aquatic Weed and Algae Control
- Aquatic Animal Pest Control
- Forest Canopy Pest Control - aerial application
- Intrusive Vegetation Control - along roads, utility rights-of-way, canals or ditches

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Activities and Annual Thresholds

Mosquitoes and Other Flying Insect Pest Control

- 15,000 acres of treatment
- Adulticide applications only
- Multiple applications to the same area are added together

Aquatic Weed and Algae Control

- 1,000 acres of treatment or 200 linear miles at water's edge

A photograph of a waterfall cascading over rocks, with water splashing and creating white foam. The background is dark and rocky.

Activities and Annual Thresholds

Aquatic Animal Pest Control

- 200 acres of treatment or 200 linear miles at water's edge

Forest Canopy Pest Control

- 10,000 acres of Aerial treatment

Intrusive Vegetation Control

- 500 linear miles

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Thresholds

- If expect to exceed apply for permit
- If don't plan but do exceed threshold apply ten days before
- If pest emergency apply within 30 days

A vertical strip on the left side of the slide shows a close-up of a waterfall cascading over dark, wet rocks. The water is white and frothy from the fall. The rest of the slide has a solid dark blue background.

Thresholds

- If Annual Threshold is not exceeded, you are still covered by the permit meaning you are in compliance with court decision
- If Annual Threshold will be exceeded, the entity is responsible for a
 - Notice of Intent submittal to DWQ
 - Discharge Authorization Date is no earlier than 10 days after DWQ posts on the Internet receipt of your complete and accurate NOI

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Thresholds

- If Annual Threshold will be exceeded, the entity is responsible for
 - Developing a Pesticide Discharge Management Plan - complete by April 1, 2012
- (Not submitted to State)
- More recordkeeping
- \$100 annual fee set by Statute

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Whose Acres Count

- Control over decision to perform
you decide what and when
 - Your Acres
- Contracted to spray specific
chemical
 - Their acres

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Exemptions

- Agricultural irrigation return flow
- Agricultural and Silvicultural storm water runoff
- Agricultural (non-aquatic crops) and Silvicultural Applications
- Pesticide License in Demonstration & Research and work for a manufacturer, university or similar organization

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Difference w/ Waters of the US

- CWA Applies only to surface waters, rivers, lakes, estuaries, coastal waters, and wetlands. Generally, those waters include the following:
 - All interstate waters and Intrastate waters used in interstate and/or foreign commerce including Tributaries and adjacent Wetlands
 - Basically a connection to Navigable water
- Proposed Expansion of Jurisdictional Waters Under the Fed Clean Water Act point mute as State definition already more broad

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Waters of the State

- NC General Statute 143-212 (6)
- Waters means any stream, brook, swamp, lake, sound, tidal estuary, bay, creek, reservoir, waterway or other body or accumulation of water whether surface or underground, public or private natural or artificial, that is contained or flows through or borders upon any portion of the State....

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Does PGP Create Liability for All Pesticide Users?

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- True-The CWA authorizes 'citizen suits' against any pesticide user or decision maker for alleged PGP non-compliance (methods of application, recordkeeping, reporting, or for alleged adverse effects)
 - None related to pesticide permit in NC to date

Wednesday, September 26, 2012

Rep. Bob Gibbs blames the EPA for spread of West Nile virus

The new EPA pesticide permit may be duplicative, but the facts don't support the congressman's claim

by WKSU's **JEFF ST. CLAIR**



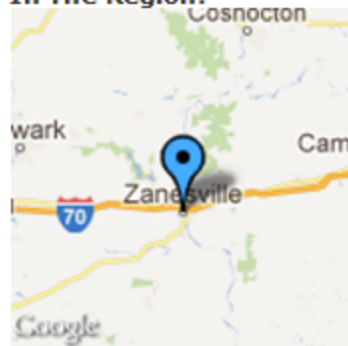
Morning Edition Host
Jeff St. Clair



Congressman Bob Gibbs (R-Zanesville) says bureaucratic regulations led to this year's outbreak of West Nile virus. He may be right that the new EPA permits aren't needed, but they haven't slowed spraying.

Courtesy of U.S. House of Rep.

In The Region:



This year has been the worst year in more than a decade for mosquito-borne diseases across the U.S. And Ohio Congressman Bob Gibbs blames the outbreak of West Nile virus on a new EPA rule.

But WKSU's Jeff St. Clair reports that weather, rather than red tape, is to blame.





Various factors led to high rate of West Nile virus in Franklin County, PA

- October 22, 2012|By JENNIFER FITCH
- WAYNESBORO, Pa. — Franklin County, Pa., experienced a high rate of West Nile virus this year, mirroring state and national trends.

"We had unprecedented numbers," said Raymond Eckhart, county coordinator.

With 69 total positives in mosquito samples, a dead bird and one human case, Franklin County is 18th highest among Pennsylvania's 67 counties for 2012.

Eckhart said scientists are still speculating why instances of West Nile virus were high this year. He said the mild winter in 2011-12 might have affected the habits of birds.

"The start of the (West Nile) season was early because of the early warm weather and the mild winter," Eckhart said.


Also, the county had a widespread outbreak of the "Asian tiger" mosquito that is active during the day, not just at dawn and dusk. He described that mosquito as having an "aggressive, persistent biting behavior" for mammals.

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EPA Begins Enforcing NPDES Permit Requirements for Pesticides

March 06, 2012

- EPA's phase-in of NPDES permit requirements for aquatic pesticide applications hit an important milestone last week, with the agency beginning enforcement of the requirements March 1. Pesticide applicators have been required to meet the stipulations of EPA's permit since October 31 of last year. However, EPA did not mandate certain reporting requirements until January of this year. Additionally, for the first 120 days the permit was active, EPA focused its attention on education and outreach, instead of enforcement.



No Means No: EPA Told Again Not to Regulate Through Guidance

August 16, 2012

By Jeff Kray

The U.S. District Court for the District of Columbia has ruled that U.S. EPA overstepped its authority under the Clean Water Act (CWA)[[1](#)] and the Surface Mining Control and Reclamation Act (SMCRA) and infringed on state authority under those statutes when it issued a "Final Guidance" for so-called mountain-top removal coal mining. *National Min. Ass'n v. Jackson (National Mining)*. [[2](#)] Specifically, the Final Guidance called out certain CWA permits for additional environmental review and to implement (among other things) acceptable "conductivity" levels for streams impacted by coal mining. The district court's recent decision follows a decision in October 2011 by the same judge, Reggie Walton, that EPA exceeded its statutory authority and violated the Administrative Procedure Act (APA) by relying on interpretive guidance - rather than a regulation - to modify the CWA permitting process for mining activity. See R. Prugh,

In another ruling on July 11, Judge Reggie B. Walton of the U.S. District Court for the District of Columbia rejected EPA attempts to regulate Appalachian surface coal mining based upon "final guidance" which had been falsely characterized as "non-binding". The court granted partial summary judgment in favor of the plaintiffs determining that in practice, EPA regional offices and state permitting authorities believed that the final guidance was binding. The court agreed with plaintiffs that EPA had overstepped the authority given to it by Congress under the Surface Mining Control and Reclamation Act (SMCRA) and the Clean Water Act (CWA).



Pesticide-Laden Runoff Kills Blue Crabs

09.25.2012

By Catherine Kozak

BATH -- Hilton Waters was picking through baskets of live blue crabs a few weeks ago, counting them as he culled out peelers to put in his shedding tanks. It was about 5:30 p.m. on a Friday, and he and his wife were leaving for a much-needed vacation the next day. But something looked wrong.

"We just noticed the crabs seemed to be acting funny," Waters said in a telephone interview on Friday, recounting the Aug. 10 incident.

By about 7 p.m., he said, some of the crabs in the shedding tanks were flipping end over end - something he had never seen before. Two hours later, most of the crabs were flipping continuously. At about 11 p.m., all 2,000 or so of the crabs in the tanks were on their backs, quivering. Then, during the night, their claws and, sometimes, entire legs were falling off.

By morning, Waters said, every crab was dead.

A lifelong waterman, Waters immediately suspected pesticide poisoning of the canal at the mouth of St. Clair's Creek, which empties into the Pamlico River at his operation between Bath and Belhaven. A neighboring farmer had ground sprayed his cotton fields with a pesticide the day before, and there had been a rain deluge of 1.5 inches that afternoon. The farm field drains into a ditch that drains into the canal, which supplies water for his tanks...

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Bath NC Crab Incident

- Determined that since the farmer had properly (but not wisely) applied pesticide not in violation of their rules
- Article 21A Oil Pollution and Hazardous substances Act has an exemption for agriculture and mosquito control
- DWQ did not enforce under loss of use under Best usage of waters

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Questions

Contact Jeff Poupart, DWQ, DENR at
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See HOT TOPICS: PESTICIDE
General Permit

[http://portal.ncdenr.org/web/wq/swp/ps/
npdes](http://portal.ncdenr.org/web/wq/swp/ps/npdes)