

On December 30, 2010, the Department of Environmental Protection issued a draft New Jersey Pollutant Discharge Elimination System surface water master general permit that authorizes the applications of biological and chemical pesticides in, over, or near surface waters of the State. The issuance of this permit is necessary in order to comply with a 6th Circuit Court of Appeals ruling that requires NJPDES permits for the applications of biological and chemical pesticides that leave a residue in water when it is applied in, over, or near waters of the State starting April 9, 2011. Prior to this ruling, the USEPA has regulated the application of pesticides exclusively through the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). In New Jersey, FIFRA is being implemented by the NJDEP Pesticide Control Program, which issues aquatic pesticide permits and mosquito/fly control permits. This permit is in addition to the Pesticide Control Program permits and requirements and does not supersede any applicable federal, state, or local laws and regulations pertaining to your application of pesticides.

The NJDEP has determined that it is appropriate to focus on the largest applications of pesticides to waters of the State. This is consistent with the approach taken by the USEPA. Therefore, this permit is modeled after the US EPA 2010 draft National Pollutant Discharge Elimination System Pesticide

General Permit (NPDES PGP). However, on January 6, 2011, the USEPA held a conference call with 45 states and regional offices, and announced their intent to make significant changes to the EPA PGP upon adoption. The NPDES PGP is presently under review by the Office of Management and Budget and may undergo further changes based on the outcome of their review. The NJDEP was informed that a final EPA Permit may be issued by mid to late February 2011.

New Jersey regulations governing the NJPDES program prohibit significant changes to permit conditions between draft and final permit issuance in order to allow the public the opportunity to comment on any new requirements. The NJDEP would need to redraft the PGP in order to incorporate any significant changes. The revised draft would require a 30 day public comment period and an opportunity for a public hearing. Therefore, in order to address these last minute federal changes, while still complying with the April 9, 2011 deadline, the NJDEP intends on doing the following:

- Finalize the permit as currently proposed;
- Simultaneously stay the permit requirements that could potentially be revised;

- Issue a draft and final major modification to (or revoke and reissue) the permit incorporating the changes or

At this point in time, it is the Department's understanding that the permit aspects EPA may potentially revise include the scope of applicants required to obtain a permit. Based on this information, it is the Department's intent to stay the requirement for any applicator to submit a permit application prior to April 9th, 2011 and prior to any application of pesticide that is covered under this approval, until such time as New Jersey has in place an effective NJPDES permit. It is anticipated that a final, effective New Jersey permit would be issued within three to four months of EPA issuing a final effective permit.