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EPA OKs Spraying Pesticides over Waters without Obtaining Special Permits

November 28, 2006 [McClatchy Newspapers](#) by Michael Doyle [Environment & Climate](#)

From CommonDreams.org

The Bush administration pleased farmers and frustrated environmentalists Monday by declaring that pesticides can be sprayed into and over waters without first obtaining special permits.

The heavily lobbied decision is supposed to settle a dispute that's roiled federal courts and divided state regulators. It's popular among those who spray pesticides for a living, but it worries those who fear poisoned waters will result.

"We need to act fast to stop mosquitoes when they are found," argued Jim Tassano, a pest-control operator in the California foothills town of Sonora. "Any delay results in adults emerging. It is far cheaper and much more effective to kill them as larvae ... (and) if a permit is required, the costs would skyrocket."

Tassano was one of hundreds to weigh in over the past three years as the Environmental Protection Agency mulled its options. His sentiments were shared by California's Merced and Tulare mosquito

control districts, the North Carolina Department of Agriculture and the Washington State Potato Commission.

"Requiring (federal) permitting would unnecessarily disrupt the effectiveness of (pest) control operations and adversely impact hundreds of business," the South Carolina Aquatic Plant Management Society warned.

The EPA decision gave the pest operators what they wanted. It also closely parsed the English language for what the all-important word "pollutant" means.

EPA officials concluded that a pesticide, when it's deliberately applied, isn't a "pollutant" under the terms of the 1972 Clean Water Act. Consequently, after considering nearly 700 public comments, officials ruled that federal "discharge" permits aren't necessary when using pesticides to control waterborne pests.

"It will just make things a little less messy," Fresno Mosquito and Vector Control District Manager David Farley said of the decision Monday. "It means we can continue to do what we have done for years, without additional permitting requirements."

The EPA also declared that permits aren't needed when using pesticides to control pests found over or near waterways, as in national forests. Any resulting damage is unfortunate but strictly collateral, officials maintained.

"Forest canopy insecticide applications can result in deposition to streams and other waters of the U.S., which are either not visible to the aerial applicator or not possible to avoid," the EPA stated.

Environmentalists, though, note that mosquito-killing chemicals can also poison shrimp, frogs and other aquatic innocents. The good intentions of mosquito-hunters shouldn't exempt the chemicals from permit requirements, these advocates believe.

"Pesticides are intended to kill living organisms, something that most would consider an adverse effect on the environment," noted Janette K. Brimmer, legal director for the Minnesota Center for Environmental Advocacy.

EPA officials note that lawmakers didn't specifically include pesticides in the list of items covered under the Clean Water Act. Lawmakers did specify, though, a litany of substances that include "chemical wastes, biological materials, radioactive materials ... and agricultural waste."

The quantity of pesticides applied directly to water is only a small percentage of the total used. In California, for instance, the pesticides applied for mosquito abatement last year amounted to less

than 4 percent of the state's total pesticide use.

When agencies in California's Central Valley were tamping down the West Nile Virus threat last summer, they typically were aerially spraying about one ounce of pesticide per acre. California officials hope that the new EPA decision could clear up some potential confusion over how such chemicals are regulated.

"The fact that we now have some clarification on this is a good thing," said Glenn Brank, a spokesman for the California Department of Pesticide Regulation.

The prior confusion stemmed in part from court decisions.

In 2001, the San Francisco-based 9th Circuit Court of Appeals ruled that a federal permit was required before herbicides could be applied on national forests in Oregon. Courts elsewhere, though, issued conflicting opinions, leading the EPA to try to clarify the muddle.

With environmentalists warning that the EPA's interpretation of the Clean Water Act is "unlawful," the possibility for future legal challenge remains.

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