

# Understanding A New Pesticide Regulation

URBANA, ILL.

**O**n Oct. 31, 2011, a new federal regulation requiring a permit for certain pesticide applications went into effect. Why should you care?

Because it applies to anyone who might spray chemicals, according to Extension educators David Robson and Michelle Wiesbrook of University of Illinois Extension's Pesticide Safety Education Program (PSEP).

According to Robson, in October 2011, a federal appeals court ruled that pesticides are regulated under the Clean Water Act as well as the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). In practical terms, this means that anyone applying pesticides in or in the vicinity of flowing water could need to get a National Pollutant Discharge Elimination System (NPDES) permit to do so. The Illinois Environmental Protection Agency (IEPA) is the lead agency on the NPDES permit process.

"I guess I should emphasize 'could' because unfortunately, it is not always clear-cut," said Robson.

The requirement does not apply only to farmers. People with water on their property – streams, ponds, or lakes – that connects with the waters of the United States (that is, the waters of Illinois) are also bound by this requirement. They need a permit if they intend to apply pesticide to that water or to the edge of that water.

How far back does "the edge" go?

"The Illinois EPA advises you to use your best professional judgment," says Robson, but doing so is easier said than done. Much depends on the slope of the land and the weather. A permit probably is not needed if the pesticide is applied

to a dry ditch or waterway, and no rain, which could wash the application into the waters of the United States, is forecasted. "If you are using your best professional judgment," says Wiesbrook, "you are not going to make that application anyway."

"It's going to be unnerving for many pesticide users," said Robson. Applying pesticides without the permit can be a felony, carrying a fine of many thousands of dollars a day.

To cut through the legal jargon, Robson and Wiesbrook have written what they call a "common sense interpretation" of the NPDES permit requirements. They have also compiled some FAQs related to the requirement. Both documents are available on the PSEP website at [www.pesticidesafety.illinois.edu](http://www.pesticidesafety.illinois.edu).

Clearly, a person may not know in advance that a permit will be needed. Wiesbrook said, "You need to plan ahead and have a crystal ball, too." For example, algae could start to grow where it has never grown before. "The permit takes at least 14 and as much as 30 days to get," she explained. The alternative to waiting is to hire a company that has already obtained a permit for the area.

"And there are going to be companies out there," said Robson. "It's a great marketing opportunity."

Robson says that if you think you might need to apply a pesticide to or near water, it is a good idea to get a permit. The three-page Notice of Intent (NOI) form is available on the IEPA site at <http://www.epa.state.il.us/water/permits/pesticide/index.html>

Permits are free, although they have to be renewed every year, and they are good for five years. Δ



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