



REDUCING REGULATORY BURDENS ACT

ISSUE: The requirement for duplicative permits under the Clean Water Act offer no environmental or public health protections, but instead add tremendous cost and bureaucracy that only serve to endanger public health. Enactment of the Reducing Regulatory Burdens Act of 2023 will undoubtedly improve public health protections in the United States.

The American Mosquito Control Association (AMCA) strongly supported the Reducing Regulatory Burdens Act of 2023 (introduced in the 118th Congress) and urged quick consideration in Congress. This legislation would eliminate costly, duplicative, and unnecessary Clean Water Act National Pollutant Discharge Elimination System (NPDES) permit requirements which impact our member's ability to adequately control mosquitoes. When the Clean Water Act (CWA) was originally passed, Congress intended that National Pollutant Discharge and Elimination System (NPDES) permits would be required for point-source pollutants like municipal sewage or industrial byproduct runoff. They are now required for pesticide applicators who make applications of products to, over or near water in accordance with EPA registered Directions for Use.

This new requirement of NPDES permits for pesticides are the result of judicial activism and overreach in *National Cotton Council, et al. v. EPA*, 553 F.3d 927 (6th Cir. 2009), which overturned existing U.S. Environmental Protection Agency (EPA) policy. The ruling came despite EPA's opposition and argument that pesticides applied in accordance with FIFRA are exempt from the CWA's permitting requirements because they do not provide any additional environmental protection.

EPA is now regulating the same pesticide application under two departments (Office of Pesticide Programs and Office of Water) and two federal laws (CWA and FIFRA). These resources could be better spent responding to point source discharges that pose a risk to clean water. Pesticides should be regulated under FIFRA as Congress intended.

NPDES pesticide general permits (PGPs) do not add any additional environmental benefits over those included on the pesticide product label, but they add significant costs and paperwork requirements which make it more expensive to protect people from mosquitoes that can vector the Zika Virus, West Nile Virus, Dengue Fever, and other viruses. As you are aware, the robust regulatory program administered cooperatively by the EPA and State lead agencies includes extensive requirements for registrants to conduct comprehensive scientific studies, and for the EPA and State lead agencies to base final determinations on science-based risk assessment to ensure that the products do not cause adverse effects to the people and the environment.



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This review process culminates in the development of a legally binding product label that includes strict use instructions, along with first aid, storage and disposal and other information. Pesticides that are approved for use in, over or near water, require additional studies to ensure that the products are safe for aquatic use. Requirements related to environmental concerns derive from the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) which is the principal statute.

While the NPDES permit process amounts to an administrative nightmare, it does not add to or in any way improve the scientific review and approval process EPA and State lead agencies administer under FIFRA. The failure to obtain or comply with the permit can subject mosquito control programs to costly litigation, including those instituted under the citizen suit provisions of the CWA, which can result in CWA penalties of up to \$37,500 per day.

NEEDED ACTION:

The American Mosquito Control Association (AMCA) urges the reintroduction and passage of the “Reducing Regulatory Burdens Act.” This legislation would eliminate costly, duplicative, and unnecessary Clean Water Act National Pollutant Discharge Elimination System (NPDES) permit requirements which impact our member’s ability to adequately control mosquitoes.
