

**MARYLAND DEPARTMENT OF THE ENVIRONMENT
WATER MANAGEMENT ADMINISTRATION**

NOTICE OF FINAL DETERMINATION

General Permit for Discharges from the Application of Pesticides

The Department is proposing to issue **General Discharge Permit No. 11PE (federal NPDES Permit No. MDG87)** for discharges to waters of the State from the application of (1) biological pesticides or (2) chemical pesticides that leave a residue (hereinafter collectively “pesticides”), when the pesticide application is for one of the following pesticide use patterns: mosquito and other flying insect pest control; aquatic weed and algae control; aquatic nuisance animal control; and forest canopy pest control. This general permit is for operators that apply pesticides in or near water. The permit regulates discharges from pesticides applied directly to surface waters to control pests, or applied to control pests that are present in or over, including near, surface waters.

The permit establishes narrative technology-based limitations based on minimizing excess pesticides and implementing integrated pest management practices; establishes narrative water quality based limitations; establishes narrative monitoring requirements, including visual monitoring; and requires development of a pesticide management plan, if operating over a certain threshold. Operators are also required to comply with reporting and record keeping requirements beginning no later than three months after the permit effective date.

The general permit is needed to comply with court-ordered requirements for the federal Environmental Protection Agency (EPA) and states to issue national pollutant discharge elimination system (NPDES) permits for both chemical pesticide applications that leave a residue or excess in water and all biological pesticide applications that are made in or over, including near, waters of the United States. EPA has proposed a draft NPDES pesticides general permit to be issued by EPA in states and areas where EPA is the NPDES permitting authority and for use as guidance by Maryland and other states delegated by EPA to issue NPDES permits. Maryland’s proposed permit closely follows EPA’s proposed pesticide general permit. However, Maryland has made some adjustments to the EPA proposed general permit which allow for transition to the new requirements and provide clarifications for use of the permit in Maryland.

The Department published a tentative permit determination in the Maryland Register on January 3, 2011 and in newspapers across the State during the first two weeks of January regarding the proposed draft permit. The Department held a public hearing concerning the tentative determination on February 8, 2010 at MDE. After considering all comments received, and considering discussions with USEPA regarding public comments on the EPA draft permit, the Department has made a final determination to issue the permit with the following changes to the tentative determination:

- 1) Scope/Eligibility: In Part I. B.4, changed scope of forest canopy spraying to include ground applications. Removed the word “aquatic” from weed and animal control use patterns, and add pathogen control.
- 2) Thresholds for Pesticide Management Plan: In Part I. H, clarified that for flying insect and forest canopy control, each application counts toward the total. But for animal and weed control, each area shall be counted once only. For animal and weed control,

change the threshold from 20 acres to 80 acres. For linear waterways larger than ditches, each side counts separately.

- 3) Part III.A.2: Removed the term “integrated pest management” and substituted with “pest management measures that minimize pesticide discharges to State waters.”
- 4) Part III.F.2: Adverse incident reports are due within 30 days rather than five days.
- 5) The permit effective date will correspond to the date required by the federal court for EPA’s permit, which at the time of this writing is October 31, 2011.

Nonsubstantive changes to the text have also been made to address typographical errors or to clarify the requirements of the permit. All other proposed terms and conditions of the tentative permit determination remain unchanged.

Any person adversely affected by this final determination may file a petition for judicial review. Petitions for judicial review of a final determination or permit decision subject to judicial review must be filed in accordance with §1-605 of the Environment Article no later than May 9, 2011 (30 days following publication by the Department of this notice of final determination in the Maryland Register), and must be filed in a circuit court in Maryland. Petitions for judicial review must conform to the applicable Maryland Rules of Civil Procedure. Failure to file a petition for judicial review by May 9, 2011 will constitute a waiver of any right to a judicial review of this final determination.

To view and print the final permit, go to the Department’s website address at www.mde.state.md.us/waterpermits/Pages/forms.aspx and select “Discharges from the Application of Pesticides” under Industrial General Discharge Permits.

Any questions regarding this final determination, and permit, should be directed to Edward Gertler at the Maryland Department of the Environment, Water Management Administration, at edward.gertler@maryland.gov by telephone at 410-537-3323 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. Persons seeking to review the final permit and associated file may do so by contacting Mr. Gertler to make an appointment. Copies of documents may be obtained at a cost of \$0.36 per page.