NRDC
SAN FRANCISCO BAYKEEPER®

JUNE 2017
FS: 17-06-B

FACT SHEET

KEEPING OUR WATERS SAFE:
THE 115TH CONGRESS MUST NOT STRIP THE EPA'S DUTY TO PROTECT OUR WATERS FROM PESTICIDES

Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Environmental Protection Agency (EPA) registers pesticides that can be sold and used in the United States. When the EPA approves a pesticide under FIFRA, however, it merely concludes that its use "will not generally cause unreasonable adverse effects on the environment." As the growing evidence of pesticide-contaminated waters shows, FIFRA and its labeling requirements are insufficient to protect many waters across the country. Only the Clean Water Act specifically aims to restore the most polluted waters or protect pristine waters from contamination. Permits granted under the Clean Water Act can prevent pollutants from being discharged into our waterways to maintain and improve water quality for fishing, swimming, and other uses.

Despite this, special interest efforts—pushed by the chemical companies—are underway in Congress to undermine the Clean Water Act by exempting pesticide applications from the protections and safeguards of water quality monitoring and permits. Under the industry groups' proposal, discharges of registered pesticides would evade Clean Water Act permitting.

POLLUTED U.S. WATERWAYS RISK WATER QUALITY AND PUBLIC HEALTH

Almost 2,000 waterways in the United States are known to be impaired because of pesticide pollution—and many more may be polluted but are not sampled.[1] In a nationwide survey, the U.S. Geological Survey found pesticides (or their byproducts) in every stream they sampled.[2] In California, pesticide pollution is responsible for almost 25 percent of the state's waters being designated as unfit for drinking, swimming, and fishing under the Clean Water Act.

Pesticides discharged into our waterways can kill or cause severe reproductive and developmental harm and cancer in fish and amphibians. The toxins can also move up the food chain, potentially accumulating in people who eat fish, and can contaminate our drinking water supplies. Since the 1960s, the spraying of the pesticide carbaryl to control populations of burrowing shrimp in Washington's Willapa Bay and Grays Harbor has killed millions of fish and crab, including endangered Chinook salmon.[3] In 1996, the Talent Irrigation District, which discharged an herbicide into irrigation canals to kill aquatic weeds, ended up killing 92,000 juvenile steelhead salmon when the pesticide flowed from the canals into an adjacent, pristine creek.[4]

THE CLEAN WATER ACT: THE BEST TOOL TO PROTECT WATER QUALITY AND FISH, WILDLIFE, AND HUMAN HEALTH FROM PESTICIDE CONTAMINATION

One way the CWA protects the nation's waters is through permits granted under the National Pollutant Discharge Elimination System (NPDES). The system currently serves as the mechanism for regulating millions of discharges of pollutants into the nation's waters every day. NPDES permits place limits on the amount and type of pollutants that can be discharged into waterbodies, taking into consideration factors such as whether the waterbody is used by people for fishing and swimming and whether significant fish species rely on the waters. FIFRA only considers nationwide assessments and requires no local assessments for waterbodies (See table for a list of differences). FIFRA registration is not a substitute for water-specific permits.

For more information, please contact:
Mae Wu
(202) 289-2409
mwu@nrdc.org
https://www.nrdc.org/experts/mae-wu

www.nrdc.org/policy
www.facebook.com/nrdc.org
www.twitter.com/NRDC

THE IMPORTANCE OF WATER PERMITS

Industry groups oppose the Clean Water Act permitting when pesticides are discharged into U.S. waters; they claim that such a permit is duplicative of FIFRA registration or burdensome. These claims are false.

The EPA's general NPDES pesticide permits provide timely and efficient coverage and simplify the permitting process while protecting public health and water quality. A general permit, as opposed to an individual permit, applies to multiple dischargers located together in a geographic area or with a common type of discharge. Rather than having each individual discharger obtain a permit, a general permit makes it easy to apply for a permit prior to applying pesticides on a given waterbody. The EPA's general pesticide permit requires pesticide applicators to analyze safer alternatives to pesticide use, to monitor for environmental impacts post-application, and to ensure public safety and create consistency for the regulated community.

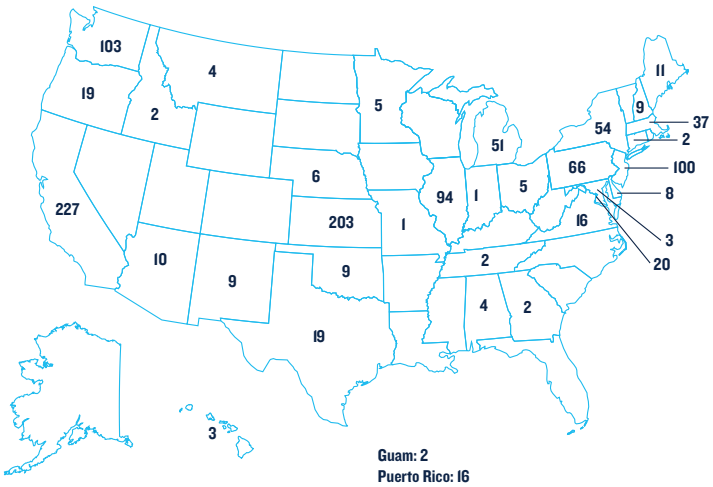
GENERAL PESTICIDE PERMITS WILL NOT AFFECT AGRICULTURAL PRACTICES

Existing agricultural exemptions in the Clean Water Act remain intact under the EPA's general permit. Farmers are not required to obtain permits for irrigation return flows and agricultural stormwater runoff, even when they contain pesticides.

To protect and restore our nation's waters and prevent further pollution to one of our country's most precious resources, Congress must not take away safeguards in the Clean Water Act for applications of pesticides into our waters.

Number of Known Pesticide-Impaired Waterbodies

Note: This map is based on limited water quality monitoring data by the EPA. Other national and local agencies, such as the U.S. Geological Survey (USGS), have found pesticide contamination in a number of additional creeks including ones in Florida, South Carolina, Mississippi, Texas, Louisiana, and Wisconsin.



Source: Water Quality Assessment and Total Maximum Daily Loads Information, https://ofmypub.epa.gov/waters10/attains_index.home, last visited June 9, 2017.

DIFFERENCES BETWEEN FIFRA AND THE CLEAN WATER ACT

FIFRA	CLEAN WATER ACT
Weighs costs and benefits nationally, without regard to local pesticide impacts, so that non-environmental considerations can trump local water protection concerns.	Establishes more localized protections by state—not federal—experts at a level safe for human health and fish populations.
Does not regulate pesticide applications on a waterbody-specific basis because product labels must be generalized for the whole nation.	Focuses on the specific needs and beneficial uses of local waterbodies.
Ignores that pesticides are likely to be mixed with other chemicals—including other pesticides—once they are released into the environment.	Accounts for real-world circumstances of pesticide applications.
No requirement to report on particular pesticide uses or any post-use monitoring to determine whether untoward environmental impacts have occurred.	Requires dischargers to provide information to ensure pesticide applications do not cause violations of applicable standards.
Little to no statutory enforcement because it is nearly impossible to ensure that every application complies with the labeling requirement. Enforcement is left to the states, which are generally inadequately staffed to provide much field enforcement.[5]	Allows enforcement by waterway users and those harmed by pesticide pollution, which supplements the efforts of under-funded governmental agencies.

[1] U.S. Environmental Protection Agency. *Causes of Impairment for 303(d) Listed Waters Table*, http://iaspub.epa.gov/waters10/attains_nation_cy.control?p_report_type=T#causes_303d, (last accessed on June 9, 2017).

[2] Gillion, RJ et al. "The Quality of Our Nation's Waters: Pesticides in the Nation's Streams and Ground Water, 1992-2001." U.S. Geological Survey. Circular 1291. 2006.

[3] U.S. National Marine Fisheries Service ("NMFS"), *ESA Section 7 Consultation Biological Opinion re: EPA Registration of Pesticides Containing Carbaryl, Carbofuran, and Methomyl*, April 20, 2009. 373-79, http://www.nmfs.noaa.gov/pr/pdfs/carbamate.pdf, (last accessed on March 21, 2011).

[4] The Talent Irrigation District now uses no pesticides, but rather much safer mechanical means of weed removal.

[5] Donald W. Stever, 1 Law of Chemical Regulation and Hazardous Waste § 3:75 (2003 ed.), at 3-111.