

NOTICE – KDHE DELAYS ISSUANCE OF THE KANSAS NPDES PESTICIDE GENERAL PERMIT UNTIL NOVEMBER 1, 2011

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On March 28, 2011, the Sixth Circuit Court of Appeals granted the U.S. Environmental Protection Agency's (EPA's) request for an extension to allow more time for pesticide operators to obtain permits for pesticide discharges to Waters of the United States. The Court's decision extends the deadline for when permits will be required from April 9, 2011 to November 1, 2011. The Kansas Department of Health and Environment (KDHE) intends to delay issuance of the Kansas National Pollutant Discharge Elimination System (NPDES) Pesticide General Permit (PGP) so the permit's effective date will be November 1, 2011. On and after November 1, 2011, operators discharging pesticides to, over, or near a Water of the U.S. where the pesticide is applied directly to the water or where a portion of the pesticide will unavoidably be deposited to the water in targeting pests will either be automatically authorized for coverage under the Kansas NPDES PGP or will need to have submitted an application, referred to as a Notice of Intent (NOI), and have received formal written authorization for the discharge, as appropriate.

On March 31, 2011, in the U.S. Congress, H.R. 872 was passed out of the House. H.R. 872 is a bill drafted to exempt from the NPDES permitting process discharges resulting from the application of pesticides to, over, or near a Water of the U.S. where the pesticide is authorized for sale, distribution, or use under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) when the pesticide is used for its intended purpose and the use complies with the pesticide label requirements. If H.R. 872 or a similar bill exempting NPDES permitting becomes law, KDHE will not require the issuance of an NPDES permit for discharges of pesticides to, over, or near a Water of the U.S. where the pesticide is applied directly to the water or where a portion of the pesticide will unavoidably be deposited to the water in targeting pests. If H.R. 872 or a similar bill becomes law prior to November 1, 2011, KDHE will not issue the Kansas PGP. If H.R. 872 or a similar bill becomes law after November 1, 2011, KDHE will terminate the Kansas PGP and notify those operators who filed an NOI and subsequently were authorized coverage under the Kansas PGP, of the termination.

Information regarding the Kansas NPDES Pesticide General Permit and its status, the EPA NPDES pesticide permitting program, and the status of H.R. 872 or similar Congressional bills can be found at KDHE's website at:

<http://www.kdheks.gov/indust/npdes.htm>