

New Jersey Department of Environmental Protection  
Division of Water Quality  
Bureau of Surface Water Permitting

**PUBLIC NOTICE**

Notice is hereby given that the New Jersey Department of Environmental Protection (NJDEP) proposes to issue the New Jersey Pollutant Discharge Elimination System (NJPDES) Discharge to Surface Water (DSW) Master General Permit, NJ0178217, in accordance with N.J.A.C. 7:14A-1 et seq., and by authority of the Water Pollution Control Act at N.J.S.A. 58:10A-1 et seq., to authorize the applications of biological and chemical pesticides in water when such applications are made in, over, or near surface waters of the State. This general permit will regulate the following pesticide applications: nuisance insect control (i.e. mosquito and fly control), aquatic pest control (i.e. weeds, algae), aquatic nuisance animal control, aerial treatment of forest canopy, and treatment for aquatic agricultural activities.

For the past 30 years, the United States Environmental Protection Agency (“US EPA”) has regulated the application of pesticides through the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”). FIFRA allows delegation of this regulation to the individual states and tribes. In New Jersey, this delegation is authorized to the NJDEP Pesticide Control Program. However, effective April 9, 2011, based on a ruling by the 6<sup>th</sup> Circuit Court of Appeals made on January 7, 2009 in National Cotton Council, et al v. EPA, all applications of biological and chemical pesticide applications that leave a residue in water when such applications are made in, over, and near surface waters of the State will require a NJPDES permit. This requirement is in addition to the Pesticide Control Program (PCP) permits and requirements. The NJPDES permit does not supersede and/or replace the PCP permits.

The NJDEP has determined that it is appropriate to focus on the largest applications of pesticides to waters of the State. This is consistent with the approach taken by USEPA in their 2010 NPDES Draft Pesticides General Permit (PGP). When determining the appropriate threshold values for submission of an application, the NJDEP gave weight to the volume of discharges and the estimated number of discharges to be covered by the permit, in accordance with N.J.A.C. 7:14A-6.13(d)7, and has relied on and is proposing to adopt the same threshold categories and values proposed by the USEPA in its 2010 draft PGP. Should USEPA revise the threshold categories and/or values in their final PGP, the NJDEP may modify this master general permit upon issuance of the final action to be consistent with the USEPA PGP.

A draft NJPDES Pesticide General Permit (PGP) has been prepared for this facility based on the administrative record filed at the NJDEP, 401 East State Street, Trenton, New Jersey 08625. Copies of the draft document are obtainable, for a nominal charge, and the administrative record is available for inspection by appointment only, Monday through Friday. If you are interested in scheduling an appointment or requesting specific information regarding the draft document, contact the Pesticide Team of the Bureau of Surface Water Permitting at (609) 292-4860. You can also find the draft PGP on the Department’s website at [http://www.nj.gov/dep/dwq/gp\\_surfacewater.htm](http://www.nj.gov/dep/dwq/gp_surfacewater.htm) under Surface Water General Permits.

Written comments on the draft document must be submitted to Pilar Patterson, Chief, or Attention: Comments on Public Notice NJ0178217, Bureau of Surface Water Permitting, P.O. Box 420, Mail Code 401 – 02B, Trenton, NJ 08625 by the close of the public comment period, which closes thirty calendar days after publication of this notice in the newspaper. All persons who believe that any condition of this draft document is inappropriate or that the Department's decision to issue this draft document is inappropriate, must raise all reasonable arguments and factual grounds supporting their position, including all supporting materials, during the public comment period.

The NJDEP will respond to all significant and timely comments upon issuance of the final document. Each person who has submitted written comments will receive notice of the Department’s permit decision.

Notice is further given that, in accordance with N.J.A.C. 7:14A-15.12, a non-adversarial public hearing has been scheduled on January 28, 2011 from 1:00 pm to 4:00 pm in the NJDEP Public Hearing Room to afford the public

an opportunity to be heard on this proposed action. The hearing shall be held before a Hearing Officer designated by the NJDEP. The applicant and other interested persons will have the opportunity to present and submit information on the proposed action. In accordance with N.J.A.C. 7:14A-15.10(c)2, any person may submit written comments during the comment period, which will close on February 3, 2011 or no sooner than thirty (30) days after the last newspaper publication, which ever occurs later.