



## **National Pollutant Discharge Elimination System**

### **The Issue**

In 2009, the 6th Circuit Court of Appeals ruled that National Pollutant Discharge Elimination System (NPDES) permits are required for pesticide applications “to, over or near” waters of the U.S. for control of pests such as mosquitoes, forest canopy insects, algae, and invasive aquatic weeds and animals, such as the Zebra mussel. In response, the U.S. Environmental Protection Agency (EPA) released the final NPDES Pesticide General Permit (PGP) under the Clean Water Act (CWA) in October 2011. NPDES preempts the science-based ecological review of pesticides required under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and requires additional performance, recordkeeping and reporting requirements for as many as 5 million pesticide applications per year. EPA estimates that both regulators and pesticide users will spend tens of millions of dollars to implement, enforce and comply with the permit.

### **CropLife America’s (CLA) Outlook**

1. The NPDES permitting requirements are an example of duplicative regulation with no public value since the safety of the uses impacted have already been evaluated by EPA under FIFRA.
2. Compliance with this regulatory burden (monitoring and surveillance, planning, and recordkeeping) will have negative economic impacts on U.S. farmers and small businesses.
3. EPA’s evaluation under FIFRA is extensive with consideration of potential for movement away from the site of application and any necessary restrictions for protection of water quality. Pesticides registered for use under FIFRA do not pose a threat to human health or the environment when used as directed by the approved label.
4. Pesticides used and applied as permitted by the explicit FIFRA label are not pollutants. As such, they should not require NPDES permits.
5. Under the NPDES regulations, there are no additional environmental protections or human health benefits that are not currently provided under FIFRA compliance.

### **Talking Points**

- Public health and the environment are currently protected by FIFRA, the statute under which EPA effectively regulates pesticides.
- NPDES permitting under the CWA is duplicative of the current FIFRA requirements and does not provide an additional public health benefit.
- FIFRA contains rigorous water quality safeguards that are required for pesticide registration.
- Duplicative regulations increase costs significantly for U.S. farmers and pesticide applicators.