



Maine Department of Environmental Protection

Permits for Application of Aquatic Pesticides to Control Vectors of West Nile Virus

March 1, 2004

The following policy applies to applications for mosquito control related to West Nile Virus when there has not been a public health emergency declared.

I. Treatments Not Requiring Permits from DEP but may require a license from the Board of Pesticides Control ***

1. With appropriate precautions to avoid water, ground or aerial applications according to the pesticide label instructions to kill adult mosquitoes.
2. Applications to Non-State waters. (dumpsters, tires, etc.) (NOTE: 38 M.R.S.A. Section 361-A.7 defines “Waters of the State” as: “any and all surface and subsurface waters that are contained within, flow through, or under or border upon this State or any portion of the State, including the marginal and high seas, except such waters as are confined and retained completely upon the property of one person and do not drain into or connect with any other waters of the State, but not excluding waters susceptible to use in interstate or foreign commerce, or whose use, degradation or destruction would affect interstate or foreign commerce”.)

II. Treatments Requiring Permits From DEP

(The permit process generally will take at least 90 days)

Application of any aquatic pesticide in, on, or over waters of the State or in such a way as to enter those waters for the purpose of inhibiting growth or controlling the existence of any plant or animal in those waters including mosquitoes requires a license from DEP. (See Chapter 514: Regulations Concerning the Use of Aquatic Pesticides). “Waters of the State” include rivers, streams, lakes, ponds, and wetlands.

Permit requirements include but are not limited to:

1. Prior to the use of aquatic pesticides for mosquito control related to West Nile Virus, there must be positive confirmation of, or evidence indicating high probability of, the occurrence of West Nile Virus in birds, mosquitoes, or mammals in the state of Maine.
2. The applicant must demonstrate that there is a significant need to control the mosquito species known or suspected of carrying West Nile Virus and that pesticides offer the only reasonable and effective means of control. The applicant must define the treatment area and indicate that it is of sufficient size to afford some measure of protection from West Nile Virus.

*** The Board of Pesticides Control requires commercial pesticide applicator licensing for any pesticide applications performed by government employees or done in areas open to the public.

3. The applicant or agent of the applicant must be licensed as a commercial applicator in the biting fly and other arthropod vectors subcategory by the Maine Board of Pesticides Control.
4. The applicant must provide the product name, EPA or Maine registration number, and a copy of the label of the pesticide to be applied.
5. The applicant must provide adequate protection for non-target species by:
 - Identifying the presence of the target species in the waters to be treated.
 - Indicating the specific waters to be treated.
 - Using target specific pesticides such as Bti.
 - Identifying any significant resources in the waters to be treated, including threatened and endangered species, and areas of ecological or recreational importance.
6. The applicant must describe specific application methodology including equipment used, rates of application, and dates of application.
7. The applicant must provide public notice of the proposed treatment and also comply with the Board of Pesticides Control notification regulations CMR 01-026 Chapters 28 and 51.

III. Prohibitions

1. Broad spectrum pesticides including, but not limited to, temephos and methoprene shall not be permitted for use in “Waters of the State”.
2. Applications of pesticides to Class GPA and Class AA waters will not be approved.
3. Individual homeowner applications for use of aquatic pesticides will not be approved.

IV. Contacts

1. For additional information concerning the regulation of aquatic pesticides:
<ftp://ftp.state.me.us/pub/sos/cec/rcn/apa/06/096/096c514.doc>
<ftp://ftp.state.me.us/pub/sos/cec/rcn/apa/01/026/026c041.doc>
2. For additional information concerning the definition of “Waters of the State”:
<http://janus.state.me.us/legis/statutes/38/title38sec361-A.html>
3. For additional information concerning permits for aquatic pesticide application:
Contact the Department of Environmental Protection at (207) 287-3901 or
<http://www.state.me.us/dep/blwq/stand.htm>
4. For additional information concerning pesticide applicator licensing and notification regulations:
Contact the Maine Board of Pesticides Control at (207) 287-2731 or
go to <http://www.thinkfirstspraylast.org>