

Notice of Public Hearing – April 10, 2003

Proposed NPDES Permit for Oregon Department of Agriculture



State of Oregon
Department of
Environmental
Quality

Notice issued: March 7, 2003

Hearing date: April 10, 2003
Informational meeting – 7 PM
Hearing start – 7:30 PM

Hearing location:

Waldport Senior Center
265 Alsea Highway
Waldport, Oregon

Written comments due: 5 p.m., Friday,
April 11, 2003

**Where can I get more information and
send comments?**

DEQ accepts comments by mail, fax and
e-mail:

Mailing address: Dottie Reynolds
Department of Environmental Quality
Western Region-Salem Office
750 Front Street NE, Suite 120
Salem, OR 97301-1039.

Phone: (503) 378-8240, ext. 238
or toll free in Oregon (800) 349-7677

Fax: (503) 373-7944

E-mail: reynolds.dottie@deq.state.or.us

(If there is a delay between servers, e-mails
may not be received before the deadline.
E-mails received after the deadline will not
be considered.)

How can I review documents?

You can review the draft permit and permit
application at:

Western Region-Salem Office

750 Front Street NE, Suite 120
Salem, OR 97301-1039
For a review appointment call:
(503) 378-8240.

What are DEQ's responsibilities?

The Oregon Department of
Environmental Quality (DEQ) is the
regulatory agency that helps protect
and preserve Oregon's environment.
DEQ is responsible for protecting
and enhancing Oregon's water and
air quality, for cleaning up spills
and releases of hazardous materials,
and for managing the proper
disposal of hazardous and solid
wastes. One way DEQ does this is
by requiring permits for certain
activities. The purpose of this notice
is to invite you to make oral
comments on this proposed permit
at a hearing. You also may
comment in writing.

Who is the applicant?

Oregon Department of Agriculture
635 Capitol St, NE
Salem, Oregon 97301

Where is the facility located?

The proposed gypsy moth
eradication project will be in and
around the Fisher (Five Rivers)
area, in Lincoln County, Oregon.

What is proposed? The permittee
proposes to apply a biopesticide,
Bacillus thuringiensis var. *kurstaki*
for the purpose of eradicating an
infestation of gypsy moths in Fisher
(Five Rivers) area. A small portion
of the Btk product will enter public
waters. DEQ proposes to issue a
National Pollutant Discharge

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Permit Writer :
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Elimination System (NPDES) wastewater discharge permit to regulate this small discharge to public waters.

Permit type: NPDES

Permit expiration: No more than five years from the date of issuance.

What are the special conditions of this permit?

The proposed permit includes two special conditions. ODA must have a contingency plan and report any spills or unplanned releases of the Btk product.

Compliance history:

This is a new permit, and so there is no compliance history.

Who is affected?

Property owners, residents and persons located downstream from the point of discharge.

What other DEQ permits are required?

None.

What legal requirements apply?

Under a recent Ninth Circuit Appeal Court ruling, the USDA Forest Service (Forest Service) is required to obtain an NPDES permit in order to combat the Douglas Fir Tussock Moth. Although the U.S. has sought further appellate review and although the U.S. does not concede or admit that a NPDES permit for the aerial spraying of pesticide is indeed required in light of the court's ruling and the fact that there are certain similarities between the spraying programs, the Forest Service believes it is prudent to obtain a NPDES permit for this eradication effort pending further rulings on this issue. This gypsy moth project is being funded by a grant from the Forest Service to ODA, thus, ODA has applied for an NPDES permit.

What discretionary decisions did DEQ use in deciding to issue the permit?

After evaluating the expected characteristics of the Btk product and the receiving streams, DEQ has set a mixing zone where the Btk product mixes with the streams. Management practices for the spray operation are specified. Public notice requirements are also included for the residents located in the area.

What happens next?

DEQ will review and consider all comments received during the comment period and during the public hearing. Following this review, DEQ may issue the permit as proposed or modified, or deny the permit.

Accessibility information

DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications & Outreach at (503) 229-5696 or toll free in Oregon at (800) 452-4011.

People with hearing impairments may call DEQ's TTY number (503) 378-3684.

Which of the facility's activities are not under DEQ's jurisdiction?

Application of Btk product on land is not covered by DEQ regulations.

What similar activities take place in the vicinity of the facility?

None.

What other facilities does this owner operate?

None that are covered by NPDES permits.

What are the known health effects or environmental impacts of the permitted substances stored, disposed of, discharged or emitted by the facility?

The product that will be applied is lethal to gypsy moth caterpillars, and may be lethal to other moth and butterfly caterpillars located in the spray area. No significant human health effects or effects on aquatic organisms are expected.

How are the permitted substances measured?

Schedule B of the NPDES permit requires the permittee to monitor and record details about the spraying operation and the public notification required by the permit. Analyses must be performed in accordance with federal regulations (40 CFR Part 136) unless otherwise specified in the permit.