



PESTICIDE NPDES PERMIT – DO YOU NEED ONE?

Darin LeCrone & Leslie Lowry
Illinois Environmental Protection Agency

WHO NEEDS AN NPDES PESTICIDE GENERAL PERMIT?

- The General NPDES permit applies to “operators” who apply pesticides **to** or **over** waters of the U.S. or at **waters edge**.
 - Pesticide applications directly to or over waters of the U.S.
 - Applications of pesticides at waters edge if such waters are waters of the U.S. **only if** the pesticide or its residual will enter waters of the U.S.
 - Applications of pesticides to a conduit or tributary to waters of the U.S. **only if** the pesticide or its residual will enter waters of the U.S.



WILL THE AGENCY ISSUE A PERMIT IF THE APPLICATION IS IN VIOLATION OF FIFRA?

- The requirements of FIFRA are separate from the requirements of the Clean Water Act. Coverage under the Pesticide General NPDES Permit does not legitimize or otherwise authorize the application of a pesticide in such a manner which is not consistent with FIFRA.



IF I APPLY AN AQUATIC USE PESTICIDE TO WATER, DO I NEED A PERMIT?

- Yes, all pesticide applications **to** or **over** waters of the U.S. need NPDES permit coverage.



IF I APPLY A PESTICIDE LABELED FOR USE IN WATER TO A ROADSIDE DITCH, DO I HAVE TO HAVE A PERMIT?

- **If** the ditch is a water of the U.S. or is a tributary to waters of the U.S., **and** the pesticide or its residual will enter waters of the U.S., then **Yes**.



DO I NEED A PERMIT IF I APPLY A PESTICIDE TO A POND, WHETHER OR NOT THE WATER FROM THE POND IS CONNECTED TO ANOTHER WATER?

- If the pond has an overflow structure that would discharge to waters of the U.S. you **WILL** need NPDES permit coverage, if applying pesticides to the pond.
- Ponds that have no overflow outlet discharging into waters of the U.S. do **NOT** require a NPDES permit for pesticide application.



ARE THERE EXEMPT ACTIVITIES?

- Yes, the following are activities which are exempt from the requirement to obtain a NPDES permit.
 - Activities exempt from NPDES permitting under the Clean Water Act:
 - Irrigation Return Flow
 - Agricultural Stormwater Runoff
 - Off target spray drift



WHO SHOULD APPLY FOR THE PERMIT?

- Either the person who is making the decision to perform pesticide application such as the land owner **OR** the pesticide applicator.



DO BOTH THE APPLICATOR AND THE LANDOWNER HAVE TO APPLY FOR A PERMIT? HOW DO YOU DECIDE WHO HAS TO APPLY FOR A PERMIT?

- The permit defines operator as any person(s) associated with the application of a pesticide that results in a discharge to waters of the U.S. that meets either or both of the following two criteria:
 - a. The person(s) with control over the selection of the pesticide applicator, or making the decision to perform pesticide applications, including the ability to modify those decisions, **or**
 - b. The person(s) who performs the application of pesticides or who has day-to-day control of the pesticide application.
- If the operator under part (a) of the definition is different than the operator actually performing the application of pesticides, **ONLY ONE** of the two is required to obtain coverage under this permit.



WHAT IS AN NOI?

- NOI stands for Notice of Intent, and is utilized to obtain coverage under the General Permit for Pesticide Application Point Source Discharges.
- This NOI form serves as your permit application for coverage under the general NPDES permit.



HOW DO YOU APPLY FOR THE PERMIT?

- To obtain coverage under the General NPDES permit, the “operator” must file a Notice of Intent (NOI) with the Agency.



HOW LONG DOES IT TAKE TO GET A PERMIT?

- The NOI is due at least 14 days prior to making the pesticide application. You could have to wait as much as 30 days to apply your pesticide. If you receive a coverage letter, you can apply sooner.
- If you do not receive a letter **AND** you are not notified by the Agency to submit additional information, you will be automatically covered under the terms and conditions of the permit 30 days after the date the NOI is received by the Agency.



WHAT HAPPENS IF, AFTER A CERTAIN LENGTH OF TIME, I DO NOT HAVE MY PERMIT AND I NEED TO BEGIN APPLICATION?

- 30-days after the Agency receives your NOI you are automatically covered under the General Permit, unless you receive a letter stating your NOI was incomplete.
- It should be noted that the location of the treatment areas must be submitted to the Illinois Department of Natural Resources (IDNR) EcoCAT website to determine if protected natural resources are in the vicinity, www.dnrecocat.state.il.us/ecopublic. Consultation with the Department is required under the Illinois Endangered Species Protection Act, 520 ILCS 10/11(b) and the Illinois Natural Areas Preservation Act, 525 ILCS 30/17.



WHAT IS THE TIMEFRAME FOR THE ISSUE?

- The General Permit was issued on October 31, 2011 and expires on October 30, 2016. After October 31, 2011 all pesticides applied to, over, or near waters of the U.S. now need NPDES permit coverage.



LIMITATIONS AND RECORDKEEPING REQUIREMENTS

- Different levels of recordkeeping, reporting, and best management practices as well as the Pesticide Discharge Management Plan development are required based on three factors.
 - Do you exceed the annual treatment area thresholds?
 - Are you a small entity?
 - Are you conducting pesticide activities in accordance with the Vector Control Act?



WHAT ARE THE ANNUAL TREATMENT AREA THRESHOLDS AND HOW ARE THEY USED IN THE PROCESS?

- The permitted annual treatment area thresholds are total treatment areas in acres or miles of stream banks which are used to determine some of the recordkeeping and reporting requirements of the permit.

Section	Pesticide Use	Annual Threshold
2.2.1	Mosquitoes and Other Insect Pest Control	
	- Adult Mosquito and Other Insect Pests	6,400 acres of treatment area
	- Mosquito and Other Insect Aquatic Larviciding	80 acres of treatment area
2.2.2	Weed and Algae Pest Control	
	- In Water	80 acres of treatment area
	- At Water's Edge	20 linear miles of treatment area
2.2.3	Animal Pest Control	
	- In Water	80 acres of treatment area
	- At Water's Edge	20 linear miles of treatment area
2.2.4	Forested Area Pest Control	6,400 acres of treatment area
2.2.5	Other Pest Control Activities	
	- Ground or Aerial	6,400 acres of treatment area
	- In Water	80 acres of treatment area
	- At Water's Edge	20 linear miles of treatment area

WHAT IS A SMALL ENTITY AND HOW DOES THIS PERTAIN TO THE PERMIT?

- The permit uses the term **small entity** which is defined as any public entity that serves a population of 10,000 or less, a person(s) applying pesticides on property where they or any member of their immediate family reside or property that they own or lease, or a private enterprise that does not exceed the Small Business Administration size standard as identified at 13 CFR 121.201.
- Certain requirements of the permit (more detailed recordkeeping, annual reporting, and PDMP) are not required if the operator (permittee) meets the definition of a small entity.



KEY WEBSITES & CONTACT INFORMATION

- IEPA Pesticide Website
 - www.epa.state.il.us/water/permits/pesticide/index.html
 - General NPDES Permit
 - Forms
 - 303(d) impaired waters
 - Posted NOIs
- Contact Information
 - Division of Water Pollution Control
 - Permit Section
 - (217) 782-0610
- USEPA Website
 - www.epa.gov/npdes/pesticides
 - USEPA's Permit
 - All federal documents
 - Additional background information
- IDNR
 - www.dnrecocat.state.il.us/ecopublic
 - www.dnr.illinois.gov



QUESTIONS.....

