

GENERAL NPDES PERMIT FOR PESTICIDE APPLICATION POINT SOURCE DISCHARGES

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TOPICS TO BE DISCUSSED

- Background
- Scope
- Overview of General Permit
- Key Websites & Contact Information
- Frequently Asked Questions
- Questions



BACKGROUND

- November 27, 2006 USEPA issued a final rule to codify its interpretation of the CWA as not requiring an NPDES permit for application of pesticides to, over, and near waters of the U.S., if the applications are consistent with FIFRA requirements.
- Petitions for review of the final rule were filed in 11 Circuit Courts and on January 7, 2009, the 6th Circuit Court of Appeals ruled in *National Cotton Council, et al v. EPA* that NPDES permits are required for all biological and chemical pesticide application that leave a residue in water when such applications are made in, over, or near waters of the U.S.
- IEPA issued final permit on October 31, 2011.



GENERAL PERMIT SCOPE

- Discharges to waters of the U.S. from application of biological or chemical pesticides that leave a residue when the pesticide application is for one of the following use patterns:
 - Mosquito and Other Insect Pest Control
 - Weed and Algae Pest Control
 - Animal Pest Control
 - Forested Areas Pest Control
 - Other Pest Control Activities



GENERAL PERMIT OUTSIDE THE SCOPE

- Activities exempt from permitting under the Clean Water Act:
 - Irrigation Return Flow
 - Agricultural Stormwater Runoff
- Off target spray drift



GENERAL PERMIT DISCHARGES NOT AUTHORIZED

- Discharges of pesticides to surface waters that are impaired under the 303(d) list for that pesticide or its degradates.
- Discharges to Outstanding Resource Waters
 - Illinois currently does not have any streams designated as Outstanding Resource Waters.



OVERVIEW OF GENERAL PERMIT PERMIT CONTENTS

- Permit Coverage
- Notice of Intent (NOI)
- Endangered Species Coordination
- Effluent Limits
 - Technology Based
 - Water Quality Based
- Visual Monitoring
- Pesticide Discharge Management Plan (PDMP)
- Reporting
- Recordkeeping



OVERVIEW OF GENERAL PERMIT

WHO NEEDS A NPDES 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 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.
 - Application 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.



OVERVIEW OF GENERAL PERMIT

WHO IS AN OPERATOR?

- 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 hiring of a contract 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.



OVERVIEW OF GENERAL PERMIT

WHO HAS TO FILE AN NOTICE OF INTENT?

- NOIs are required for operators which discharge to waters of the U.S. resulting from the application of pesticides.
- **All** operators requiring permit coverage must file an NOI with the Agency.



OVERVIEW OF GENERAL PERMIT NOI REQUIREMENTS

- The NOI must be submitted electronically using the form provided on the Agency's website.
- The form will be posted on the Agency's website for 14-days.
- Unless notified by the Agency to submit additional information, operators who submit an NOI in accordance with the requirements of the permit will be automatically authorized to discharge under the terms and conditions of the permit 30-days after the date the NOI is received by the Agency.
- An updated NOI must be submitted to the Agency to add additional use patterns or treatment areas.
- *NOTE:* The Endangered Species Consultation does not have to be completed prior to submitting your NOI.



OVERVIEW OF GENERAL PERMIT ENDANGERED SPECIES CONSULTATION

- 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, for **ALL** permittees unless exempted below.
- The following applications are exempt from consultation unless there will be an adverse impact to a listed species or its essential habitat or to a Natural Area:
 - Annual, routine cultivation of existing agricultural lands; and maintenance of existing lawns, yards and ornamental plantings.
 - Microbial larvicide applied to catch basins and storm sewers.
- Consultation with IDNR must be completed prior to pesticides application.



OVERVIEW OF GENERAL PERMIT LEVEL 1 - TECHNOLOGY BASED EFFLUENT LIMITS

- **All** permittees must minimize the discharge of pesticides to waters of the U.S. through the use of Pest Management Measures. These include:
 - Using only the amount of pesticide and frequency of pesticide application necessary to control the target pest.
 - Maintain pesticide application equipment in proper operating condition.
 - Assess weather conditions in the treatment area to ensure application is consistent with all applicable federal and state requirements.



OVERVIEW OF GENERAL PERMIT LEVEL 2 - TECHNOLOGY BASED EFFLUENT LIMITS

- Applies to permittees which exceed one or more of the annual treatment area thresholds. This includes the following:
 - Identify/assess the pest problem
 - Assess pest management options
 - Follow appropriate procedures for pesticide use



OVERVIEW OF GENERAL PERMIT ANNUAL TREATMENT AREA THRESHOLDS

- The annual treatment area thresholds are total treatment areas in acres or miles of stream bank, 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

OVERVIEW OF GENERAL PERMIT ANNUAL TREATMENT AREA THRESHOLDS

- For calculating the annual treatment area, count each treatment area only once, regardless of the number of pesticide application activities when applying with the same pesticide product. For example, applying pesticides 3 times a year to the same 3,000 acre site using the same pesticide product, the annual treatment area should be counted as 3,000 acres. If a different pesticide product is applied to the same treatment area, these activities would be counted as separate treatment areas for each different pesticide product. For example, applying pesticides 3 times a year to the same 3,000 acre site using a different pesticide product each time the annual treatment area should be counted as 9,000 acres.
- For linear features (e.g., a canal or ditch) use the length of the linear feature whether treating in or adjacent to the feature. For example, when treating the bank on one side of a 10 mile long ditch, banks on both sides of the ditch, and/or water in the ditch, the total treatment area is 10 miles.

OVERVIEW OF GENERAL PERMIT WATER-QUALITY BASED EFFLUENT LIMITS

- The permit includes a narrative water-quality based effluent limitation applicable to **ALL** permittees covered under the permit.
- IEPA expects that compliance with FIFRA plus compliance with permit conditions will generally control discharges as necessary to meet applicable water quality standards.



OVERVIEW OF GENERAL PERMIT VISUAL MONITORING

- **All** permittees must, when considerations for safety and feasibility allow and while observing reentry periods for pesticides application, visually assess the area to and around where pesticides are applied for possible and observable adverse incidents, caused by application of pesticides, including the unanticipated death or distress of non-target organisms and disruption of wildlife habitat, recreational or municipal water use.
- This can be done during the pesticide application or during any post-application surveillance.



OVERVIEW OF GENERAL PERMIT PESTICIDE DISCHARGE MANAGEMENT PLAN

- Permittees which exceed one or more of the annual treatment area thresholds are required to prepare and submit a PDMP. This requirement does **NOT** apply to the following:
 - Any application made in response to a declared pest emergency situation.
 - Permittees who meet the definition of a small entity.
 - Permittees conducting pesticide application activities pursuant to the Vector Control Act (410 ILCS 95) which are funded by, conducted in accordance with, or under the supervision of the Illinois Department of Public Health or an associated municipal, county or regional department of public health or public health district.
- A **small entity** 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.



OVERVIEW OF GENERAL PERMIT PESTICIDE DISCHARGE MANAGEMENT PLAN

- The PDMP should document how the permittee will implement the effluent limitations, including the evaluation and selection of Pest Management Measures.
- Must be developed prior to the first pesticide application covered under the general permit.
- Kept up-to-date for duration of permit coverage, even if discharges subsequently fall below the applicable annual treatment area thresholds.
- Must be submitted electronically in Adobe Acrobat format.
- For the first year of the permit the PDMP must be submitted 90-days after the date of coverage under the general permit. After October 31, 2012, the PDMP and all supporting documents must be submitted with the NOI.



OVERVIEW OF GENERAL PERMIT REPORTING

○ Adverse Incident Reporting

- All permittees are required to report adverse incidents which will help IEPA to identify possible permit violations and where a permit modification or individual permit or modified permit may be needed to further protect water quality.

○ Annual Reporting

- Permittees which exceed one or more of the annual treatment area thresholds and **DO NOT** meet the definition of a small entity are required to submit annual reports documenting pesticide application activities for the previous year.
- Permittees conducting pesticide application activities pursuant to the Vector Control Act (410 ILCS 95) which are funded by, conducted in accordance with, or under the supervision of the Illinois Department of Public Health or an associated municipal, county or regional department of public health or public health district are **NOT** required to submit and Annual Report.



OVERVIEW OF GENERAL PERMIT LEVEL 1 - RECORDKEEPING

- **All** permittees are required to keep:
 - NOI
 - Agency Correspondence
 - Permit
 - Adverse Incident Reports
 - Spill, Leak, or Other Unpermitted Discharge Documentation
 - Corrective Action Documentation
 - Endangered Species Compliance
- Permittees conducting pesticide application activities pursuant to the Vector Control Act (410 ILCS 95) which are funded by, conducted in accordance with, or under the supervision of the Illinois Department of Public Health or an associated municipal, county or regional department of public health or public health district are **ONLY** required to perform Level 1 recordkeeping.

OVERVIEW OF GENERAL PERMIT LEVEL 2 - RECORDKEEPING

- Applies to permittees which exceed one or more of the annual treatment area thresholds and meet the definition of a small entity are required to keep:
 - Documentation of equipment calibration.
 - Evaluation Worksheet
- A detailed list is included in Section 7.2 of the permit.

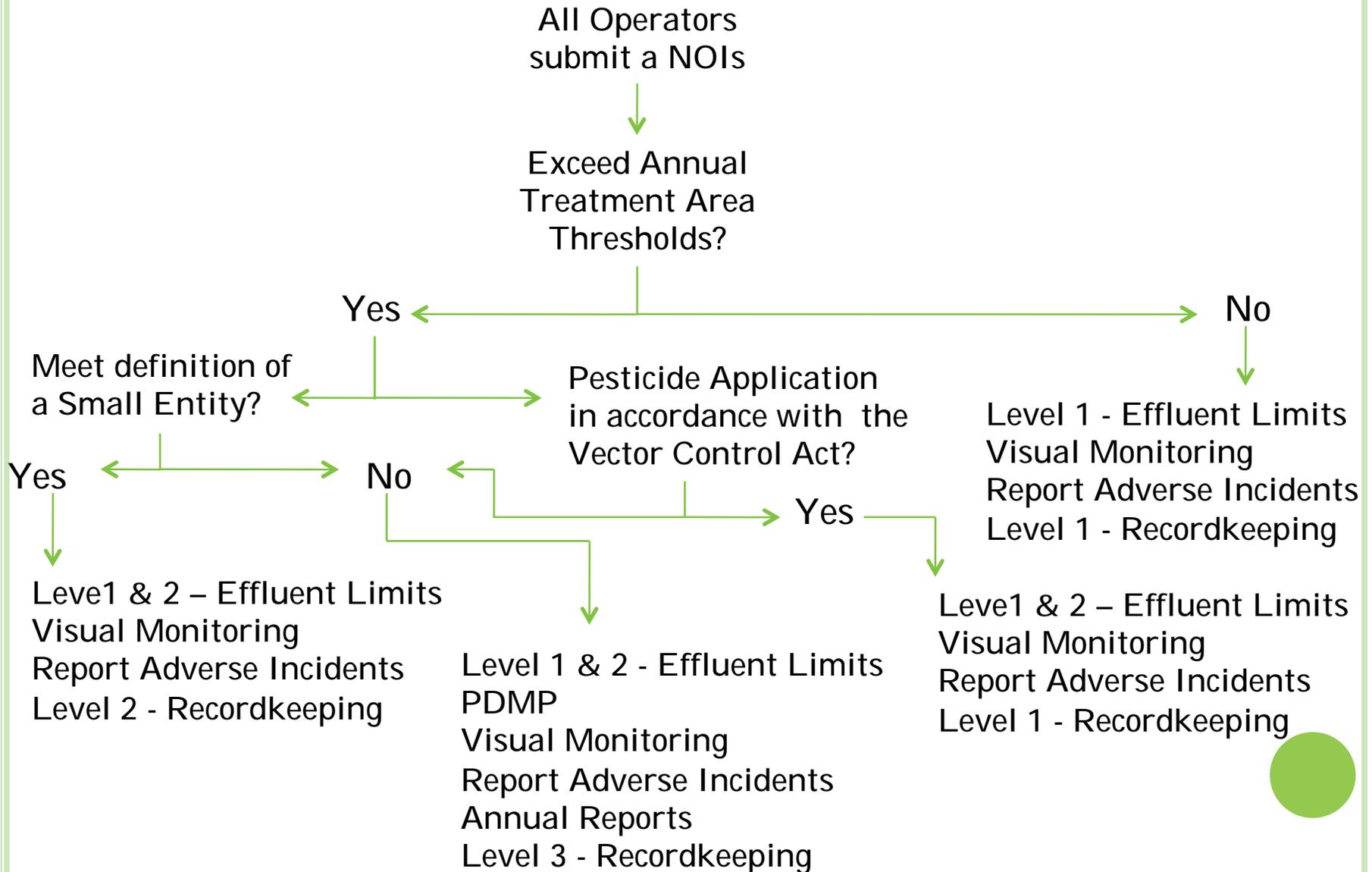


OVERVIEW OF GENERAL PERMIT LEVEL 3 - RECORDKEEPING

- Applies to permittees which exceed one or more of the annual treatment area thresholds and do not meet the definition of a small entity are required to keep:
 - PDMP
 - Annual Reports
 - Documentation of equipment calibration
- A detailed list is included in Section 7.3 of the permit.
- All records shall be kept by the permittee and accessed by the public through requests to IEPA in accordance with FOIA.



OVERVIEW OF GENERAL PERMIT



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
 - EcoCAT



FREQUENTLY ASKED QUESTIONS

- Having a aquatic or right of way category on your license does not mean you have to get a NDPES permit. If you intent to apply pesticides to or over waters of the U.S. or at waters edge, you will need to obtain a NPDES permit.
- Do you need a pesticide license in order to get a NPDES permit?



FREQUENTLY ASKED QUESTIONS

- When selling pesticides over the counter, are you required to tell the customer about the obligation to get a NPDES permit if they apply the product to or over waters of the U.S. or at waters edge?
- Do you need to keep a copy of the General NPDES permit on your person when applying pesticides to or over waters of the U.S. or at waters edge?



FREQUENTLY ASKED QUESTIONS

- If you apply pesticides to a pond you own, and the pond has an overflow structure that discharges into waters of the U.S., do you need a NPDES permit?
- Ponds that have no overflow outlet discharging into waters of the U.S. do **NOT** require a NPDES permit for pesticide application.



FREQUENTLY ASKED QUESTIONS

- If you are applying a agricultural herbicide to crops, but it is also labeled for aquatic use do you need a NPDES permit?
- If you apply that same product to treat a ditch, regardless of whether the ditch is wet or dry at the time of application, do you need a NPDES permit?



FREQUENTLY ASKED QUESTIONS

- If a farmer is applying pesticides to or over waters of the U.S. or at waters edge on their property, do they need a NPDES permit?
- Obtaining NPDES general permit coverage for pesticide application to waters of the U.S. provides protection from being sued under the Clean Water Act. If you believe you may have any circumstance where you will be applying pesticides to waters of the U.S., you should apply for coverage under the general permit.



QUESTIONS.....

