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# GENERAL NPDES PERMIT FOR PESTICIDE APPLICATION POINT SOURCE DISCHARGES

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## TOPICS TO BE DISCUSSED

- Background
- Scope
- Overview of IEPA Draft Permit
- Summary
- 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 6<sup>th</sup> 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.
- June 8, 2009, the Court granted USEPA a two-year stay of the decision, until April 9, 2011, to provide USEPA and States time to develop and issue NPDES permits and provide outreach and education to the regulated community.



## BACKGROUND

- On June 2, 2010 USEPA public noticed their draft NPDES Pesticide General Permit for Point Source Discharges.
- IEPA provided comments on the draft permit on July 15, 2010.
- IEPA sent the draft permit to Region 5 for approval on August 17, 2010.
- IEPA public noticed the draft permit on November 11, 2010.
- USEPA intends to issue their final general permit by February 2011.
- IEPA intends is issue our final permit by March 2011.



# DRAFT GENERAL PERMIT SCOPE

- Discharge to waters of the State 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



# DRAFT GENERAL PERMIT OUTSIDE THE SCOPE

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



# DRAFT GENERAL PERMIT DISCHARGES NOT AUTHORIZED

- Discharges of pesticides to waterbodies 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 DRAFT GENERAL PERMIT PERMIT CONTENTS

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





# OVERVIEW OF DRAFT 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 State that meets either or both of the following two criteria:
  - The person(s) has control over the hiring of a contact applicator, or making the decision to perform pesticide applications, including the ability to modify those decisions, or
  - The person(s) who performs the application of pesticides or who has day-to-day control of the pesticide application.



# OVERVIEW OF DRAFT GENERAL PERMIT

## WHO HAS TO FILE AN NOI?

- NOIs will be required for operators which discharge to waters of the State resulting from the application of pesticides.
  - This includes any person(s), group, or entity with control over the hiring of a contact applicator, or making the decision to perform pesticide application, or performing the application of pesticides.
  - The Illinois draft permit requires all operators requiring permit coverage to file an NOI. This differs from the USEPA approach in that the requirement to file an NOI is not based on the annual treatment area thresholds.



# OVERVIEW OF DRAFT 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 the contrary, 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.



# OVERVIEW OF DRAFT GENERAL PERMIT LEVEL 1 - TECHNOLOGY BASED EFFLUENT LIMITS

- All permittees must minimize the discharge of pesticides to waters of the State 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 DRAFT 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 DRAFT GENERAL PERMIT ANNUAL TREATMENT AREA THRESHOLDS

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	
	- Ground or Aerial	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 DRAFT 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 DRAFT GENERAL PERMIT WATER-QUALITY BASED EFFLUENT LIMITS

- The draft permit includes a narrative water-quality based effluent limitation applicable to all permittees covered under the permit.
  - “All permittees must control discharges as necessary to meet applicable numeric and narrative State water quality standards, for any discharge authorized under this permit, with compliance required upon the beginning of such discharge. Discharges covered by this permit, alone or in combinations with other sources, shall not cause a violation of any applicable water quality standards outlined in 35 Ill. Adm. Code 302, in light of the provisions of 35 Ill. Adm. Code 302.210(g).”
- 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 DRAFT GENERAL PERMIT VISUAL MONITORING

- All permittees must visually assess the area to and around where pesticides are applied for possible and observable adverse incidents, caused by the application of pesticides.
  - During any post-application surveillance or efficacy checks, if surveillance or efficacy checks were conducted.
  - During any pesticide application, when considerations for safety and feasibility allow, while observing reentry periods for pesticides application.



# OVERVIEW OF DRAFT 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.



## OVERVIEW OF DRAFT 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.
- Developed prior to 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.
- For the first year of the permit the PDMP must be submitted 90-days after the date of coverage under this permit. After April 9, 2012, the PDMP and all supporting documents must be submitted with the NOI.



# OVERVIEW OF DRAFT 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.



# OVERVIEW OF DRAFT 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.
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# OVERVIEW OF DRAFT 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 (provided on the Agency's website)
- A detailed list will be included in Section 7.2 of the permit.



# OVERVIEW OF DRAFT 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 (provided on Agency's website)
  - Documentation of equipment calibration
- A detailed list will be 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.



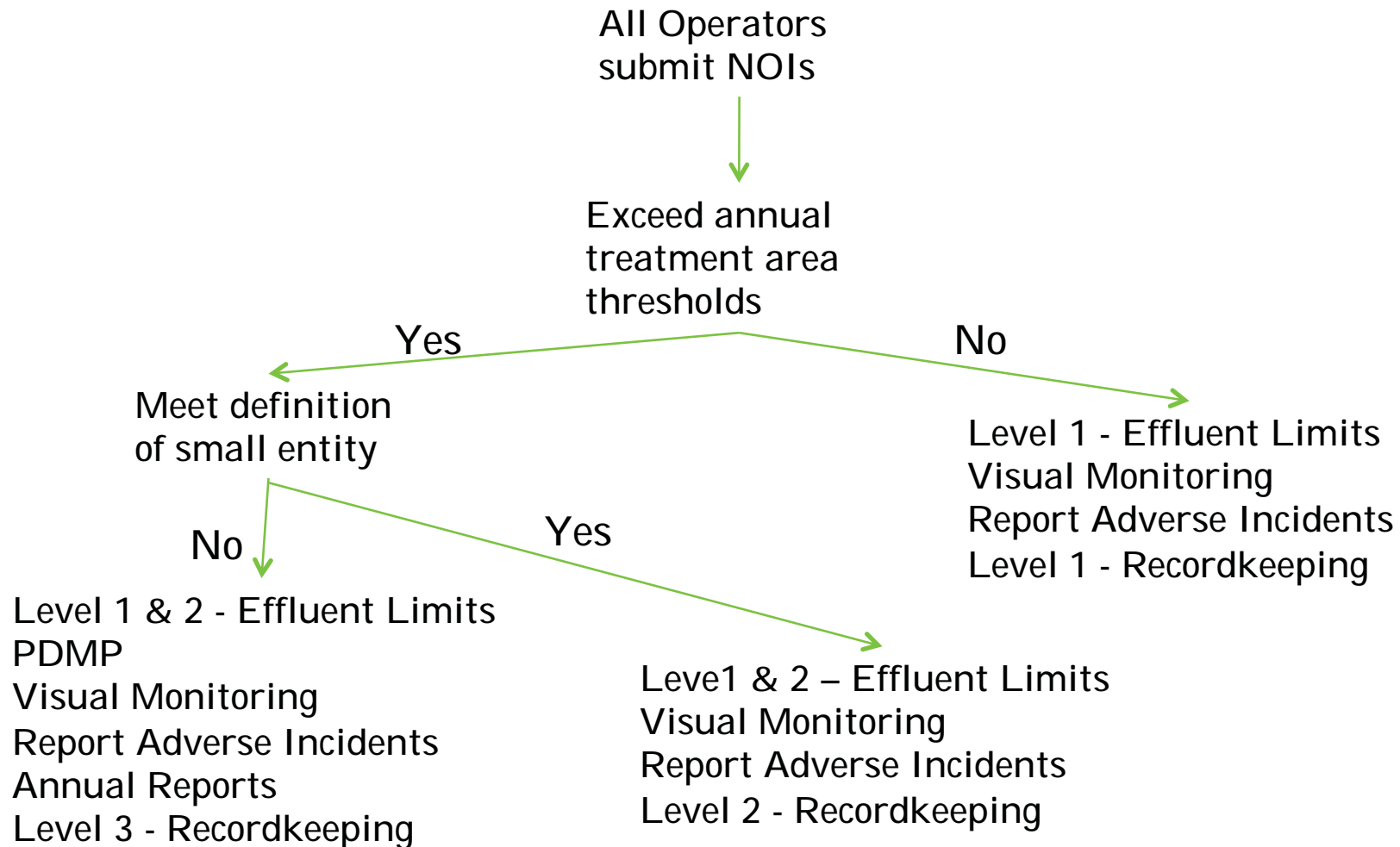
## OVERVIEW OF DRAFT GENERAL PERMIT ENDANGERED SPECIES CONSULTATION

- 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](http://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.
- The Agency is working with IDNR to exempt some activities from this requirement.





# OVERVIEW OF DRAFT GENERAL PERMIT



# DRAFT GENERAL PERMIT

## KEY WEBSITES & CONTACT INFORMATION

### ○ IEPA Websites

- Pesticide Webpage  
[www.epa.state.il.us/water/permits/pesticide.html](http://www.epa.state.il.us/water/permits/pesticide.html)
- Factsheet and Draft Permit  
[www.epa.state.il.us/public-notices/npdes-notices.html#pesticide-general-permit](http://www.epa.state.il.us/public-notices/npdes-notices.html#pesticide-general-permit)
- Notice of Intent (NOI), Notice of Termination (NOT), Evaluation Worksheet, & Annual Report  
[www.epa.state.il.us/water/permits/pesticide/forms.html](http://www.epa.state.il.us/water/permits/pesticide/forms.html)
- 303(d) impaired waters  
[www.epa.state.il.us/water/permits/pesticide/pest303d.html](http://www.epa.state.il.us/water/permits/pesticide/pest303d.html)

### ○ USEPA Website [www.epa.gov/npdes/pesticides](http://www.epa.gov/npdes/pesticides)

- All federal documents
- Additional background information

### ○ Contact Information

- [Leslie.Lowry@illinois.gov](mailto:Leslie.Lowry@illinois.gov)
- (217) 782-0610



# DRAFT GENERAL PERMIT SUMMARY

- Draft Permit to Region 5
  - August 17, 2010
  
- Public Notice of Draft Permit
  - November 11, 2010 – January 7, 2011
  
- Issuance of Final Permit
  - March 2011
  
- Outreach
  - November 2010 – Ongoing
  
- Permits Required
  - April 9, 2011



QUESTIONS.....

