



NPDES FAQ for Pesticide Applications

(The use of the word 'Permit' in the following refers to an NPDES General Use permit. 'Water/s' refer to the waters of the technical phrase "waters of the United States", which in this case is essentially all waters within the state's boundaries.)

- **Does this apply to me?** Only if you plan to apply personally or hire someone to apply for you a pesticide to, over, or near water's edge. It doesn't matter if you use general use or restricted use pesticides; any pesticide application over any amount of area needs NPDES permitting in accordance with the federal Clean Water Act.
- **If I don't apply pesticides in or on water or "near water's edge", do I need a permit?** If you apply products only to row crops and not to ditches, waterways, or other water sources, then you do NOT. The permit is ONLY for applications in, on, or "near" water. The rest is immaterial if you answer "no" to the question of "Do I apply in, on or "near water's edge?"

What happens if I don't get a permit when one is needed? You would be in violation of the Clean Water Act. If found guilty, fines can be steep, possibly reaching into the five figures per day.

- So, all **surface water** sources, including swimming pools? No, it's just tributary or "hydrologically connected" water, which means water must flow in and/or out. This includes farm ponds or retention ponds where water flows in and/or there's an overflow pipe. Borrow pits, such as those near interstates, are not included as they fill up by direct rainfall only. Swimming pools and backyard fish ponds for example are not included if they are self-contained.
- Does this apply to **private citizens or professional applicators**? Both. It applies to anyone who plans to apply a pesticide to, over, or at water's edge on either public or private land.
- What does **"at water's edge"** mean? There is no defined distance. ILEPA asks applicators to use their **best professional judgment**. If the pesticide is likely to get into the water, then a permit is required. If in doubt, you should get one so that you are covered.
- What are some **examples of applications** that would require a permit? Applications made directly to water for weed control in ponds, mosquito control, and nuisance animal control in water. Weed control applications made at water's edge also require a permit.
- Are **ditches with water** included? Yes, as well as waterways within fields that have water.
- Are **ditches that are dry** included? They "**could be.**" The location within the ditch may make a difference. The top of the ditch, which might not be near the "water's edge", would not necessitate a permit. However, applications to the bottom of the ditches that normally carry water would require the permit. It's not an exact science since ditches vary in height and width,

and **best professional judgment** comes into play. Also, if the ditch does not flow into other ditches, under roads or across property lines, there might not be a need for a permit. If the ditch is dry at the time of application, and the pesticide residue will break down before water movement, you probably don't need a permit. There is no hard and fast timeline as different pesticides have different breakdown rates. Read the label and become familiar with the product for accurate determination. However, ditches are a gray area that it might be better to be safe than sorry.

- **This sounds vague.** You're right; it's not black and white. Ultimately, you will have to use your **best professional judgment**. It's your responsibility to check forecasts and know your chemicals as well as know the topography of the land. If it looks like rain or rain is forecasted, don't apply in, on or "near" ditches or waterways if you don't have a permit.
- Is **off-target spray drift** included? No. This could be a violation under FIFRA however and subject to review by the IL Dept. of Agriculture.
- Are **field tiles** included? No, not if they are buried. This is groundwater.
- Is **irrigation water** included? No, it is exempt.
- Is **storm water runoff** included? No, it is exempt.
- **Who should apply** for the permit, the landowner or pesticide applicator? Either can apply; only one is needed.
- **How do I apply for a permit?** File an NOI (Notification of Intent) with IEPA; on-line filing is strongly recommended. An NOI is shorthand for Notification of Intent to Apply Pesticides, and in this case "in, on or near water's edge."
- Once I file an NOI, **how soon can I spray?** The complete and accurate NOI will then be posted on the Agency's web site for a period of 14 days. IEPA will mail a letter of coverage at the end of the 14 day posting. If you do not receive a letter AND if you are not notified by the Agency to submit additional information, you 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. Plan accordingly. 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.
- What if it's an **emergency** and I need to treat a pest NOW in order to prevent yield loss or damage? There are exceptions for emergencies, but you cannot declare them.
- Who declares an **emergency**? Only a government entity (federal, state department such as IDNR or IDA, or local municipality) can declare an emergency and it must be done publically within 10 days of identifying the need for pest control. Appropriate pesticide applications can be made immediately but an NOI must be submitted within 30 days. If thresholds are crossed, you will need to file an amended NOI.
- The NOI that I submit to IEPA is just between me and them, right? **Your information will be made public** in accordance with the Freedom of Information Act. IEPA will post NOIs on their

website, as well as any related records required by the permit. If these records contain propriety information let IEPA know and they will take steps to keep the information confidential.

- The NOI requires an **Endangered Species** consultation with IDNR. Do I need to get this before I apply? No, but you need to have it done before applying your pesticide.
- Is Endangered Species consultation required by everyone? No. There are exceptions including maintenance of existing lawns, yards and ornamental plantings; routine cultivation of existing agricultural lands; and microbial larvicide applied to catch basins and storm sewers. Other restrictions may apply.
- How do I consult for Endangered Species? Submit your treatment areas at: www.dnrecocat.state.il.us/ecopublic. This website is linked from IEPA's on-line NOI form.
- What about **impaired waters**? Before filing an NOI, you must check the 303(d) list on IEPA's website to ensure that your pesticide's active ingredient has not already impaired the body of water you plan to treat or spray next to. If it has already, a permit will not be issued. You will need to choose another product that is not on the list.
- What will a **permit cost**? Currently there is no fee for a permit. Any proposed fees would need to be approved by the state legislature. They will then be stated in 415 ILCS 5/12.5.
- If I have a pesticide applicator's license from the IL Department of Agriculture will this suffice? No. They are two different things handled and enforced by two different state agencies.
- Do I have to keep the permit with me when applying like my pesticide license? No. The permit must be kept, but it can be stored anywhere it can be accessed.
- **How long is the permit good for?** Five years, but must be renewed annually by submitting a new NOI each year for five years.
- Is the NOI the only paperwork I'll need to fill out? Maybe. **Additional reporting** may be required. Thresholds determine this as does qualifying as a small entity. If your total treated area is under the threshold, the NOI is the only form you need. But if your treated area is over the threshold, you are also required to use IPM, monitor the site, and submit a report called a Pesticide Discharge Management Plan (PDMP) in addition to the annual report.
- What is meant by **thresholds**? These are annual limits on the area that is treated with pesticides. The thresholds are 6,400 acres of treatment area (terrestrial, with application by ground or aerial), 80 acres of water, or 20 linear miles of treatment area (such as shorelines or ditches).
- If I treat the same area two or three times will I run into problems? Possibly. **Applications can be cumulative**. If you apply the same product several times, it counts as one application with no cumulative effect. For example, if you treat 70 acres of water with the same product three times, it still counts as 70 acres. However, if you treat the 70 acres three times with a different product each time, you are now at 210 acres, and will need to file additional paperwork with IEPA. Multiple active ingredient products (formulations containing two or more different

pesticides) would count as one application, singularly or if sprayed multiple times as long as the formulation does not change.

- So, what do I need to do if I intend to spray **more than the thresholds**? You'll need to file additional paperwork with IEPA. This includes a written PDMP (Pesticide Discharge Management Plan) which includes how discharges will be minimized and effluent limitations will be met, as well as written IPM and/or BMP (Best Management Practices) documentation. The PDMP must be filed electronically and are generally good for 5 years. Also, you will need to file an annual report summarizing your pesticide applications. (For details, refer to sections 5.0 and 7.0 of the General NPDES Permit ILG87)
- Are there exceptions to the rule when it comes to PDMP's and annual reports? Yes. If you meet the definition of a **small entity** as defined in Appendix A of the General NPDES Permit ILG87, you don't have to submit a PDMP or annual report. Also, a PDMP is not needed for any application made in response to a declared pest emergency situation or for activities pursuant to the Vector Control Act (410 ILCS 95).
- How often do I have to submit a **PDMP**? The PDMP gets submitted once every 5 years, but it must be kept up-to-date. Revised PDMP's must be submitted electronically to IEPA.
- Do I need to file my PDMP at the time of applying for my NOI? Not until October 31, 2012. Until then, you have 90 days upon receipt of the coverage letter from IEPA to file it, allowing some grace period until October 31.
- What if I spray above the thresholds but didn't state it on the NOI application because I thought I wouldn't spray that much? You will need to **modify your NOI** with IEPA and submit the required paperwork as stated above. This needs to be done ASAP when thresholds are exceeded.
- What are the **monitoring requirements**? You have to visually monitor the sites that you sprayed for adverse effects. This can be done during application or post-application . If you apply to more than one site on any given day and these applications were similar in nature, visual monitoring of only one of these sites would be acceptable. There is no precise monitoring definition. Again, this is "**best professional judgment.**"
- Does everyone have to file an **annual report**? No, only those who exceed the thresholds and do not meet the definition of a small entity.
- What is meant by **small entity**? As defined in the NOI, a small entity is "any (1) public entity that serves a population of 10,000 or less, (2) a person(s) applying pesticides on private property where they or any member of their immediate family reside or property that they own or lease, or (3) a private enterprise that does not exceed the Small Business Administration size standard as identified at: <http://www.sba.gov/category/navigation-structure/contracting/contracting-officials/eligibility-size-standards>.
- What must be included in the annual report? The annual report is documentation of pesticide spray activity for the yearly period including location of applications, pesticides used, acreage covered, and any adverse effects due to application. This includes all pesticides used whether general-use or restricted. This report is due to IEPA February 15.

- What should I put down for the area that I will be applying pesticides to? We recommend you OVER estimate this area so you don't have to modify the NOI later. However, **thresholds should be considered carefully** if you are not exempt from additional reporting requirements. For example, a highway department may find it best to report their entire county rather than a few areas. Then they are covered wherever they find they need to spray. If they meet the small entity requirements, then much of the additional reporting is not required should the threshold be exceeded.
- What if the threshold isn't crossed the first two years, but the 3rd year of permit coverage the threshold is crossed? For the remainder of the permit (years 3-5), you will be subject to the requirements for an exceeded threshold even if the threshold is NOT crossed in years 4 and 5.
- **When should I file an NOI?** It is recommended that you file as soon as possible to prevent delays. The process can take 30 days.
- Why is permitting needed now? Permitting is required because of a decision by the U.S. 6th Circuit Court of Appeal in response to a lawsuit against the US-EPA.
- **Where can I apply for a permit or learn more?**
<http://www.epa.state.il.us/water/permits/pesticide/index.html>

More questions? Please contact us!

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For questions that relate directly to the permitting process, we recommend you contact the IEPA Division of Water Pollution Control Permit Section directly at (217) 782-0610.

<http://www.epa.state.il.us/water/permits/pesticide/index.html>