

New NPDES Permit Requirements for Pesticide Application to Ponds and Lakes

Due to a new court ruling with regard to the National Pesticide Discharge Elimination System, changes have been made in the pesticide permitting requirements. The court stated that an NPDES permit is required when pesticides are applied to, over or near waters of the US. This ruling applies to all private water owners, with dammed ponds or lakes having outflow to waters of the State. If the pond owner intends to treat ponds with outflows for algae and/or aquatic vegetation, they must fill out and submit a Notice of Intent (NOI) to the Illinois Environmental Protection Agency to receive coverage under the General Pesticide NPDES Permit. The Notice of Intent form must be completed and submitted electronically to the IEPA at least 14 days prior to pesticide application, although paper forms will be accepted. The NOI will be posted on the Agency's website for 14 days. If the applicant does not receive a Notice of Incompleteness within 30 days from the date the IEPA received the NOI, the applicant can assume approval and may treat the area(s) requested on the NOI. If the permit coverage letter comes before the 30 day period, the applicant can apply pesticides as of the date on the letter. There is an annual Threshold Level of 80 acres. If **over 80 acres** of water is treated in one year, a Pesticide Discharge Management Plan (PDMP) is required **in addition to** the Notice of Intent. **Please note: borrow pits, strip mines and quarries do not need any permit at all if there is no overflow.**

The Notice of Intent form and directions for filling it out and, if necessary, instruction for filling out the PDMP can found at the IEPA web site below:

<https://epa.illinois.gov/content/dam/soi/en/web/epa/documents/epa-forms/water/wastewater/pesticide/noi.pdf>

As part of the Notice of Intent the pond owner must contact the Illinois Department of Natural Resources to check for Threatened and Endangered plant and animal species that may be in the application area (pond or lake). Go to the IDNR EcoCAT website (<https://dnr2.illinois.gov/EcoPublic/>) to determine the presence or absence of those species. If a T&E species is within the application area, the pond owner must go through the consultation process outlined on the website. The pond owner must keep a record of the IDNR approval notification but does not need to provide it to the IEPA. **If the waterbody is an artificial impoundment of less than 10 acres, it is exempt from Threatened and Endangered Species consultation.**

FAQ's

When is a NPDES permit needed?

Prior to any pesticide application made directly to, over or near waters of the state.

Who should obtain NPDES permit coverage?

The individual pond owner who will apply the herbicide. If the pond owner hires a contract applicator either the contract applicator or the pond owner could apply for NPDES coverage.

How do I apply for NPDES permit coverage?

File a Notice of Intent (NOI) with the IEPA. The form can be printed from the site listed above. Don't forget the 14 day public notice period and the information regarding the approval and notification process listed above, so plan ahead

What does the permit cost?

Currently there is no fee however fees may be introduced at a later date.

How long is the permit good for?

Five years from the date of issuance but not from the date of coverage.

Is anything else needed besides the permit?

An Adverse Incident Report is needed **if** there are any adverse impacts related to the application such as spills or accidental overdosing. The incident must be reported to the Illinois Emergency Management Agency immediately and the report must follow within 15 days.

A Pesticide Discharge Management Plan (PDMP) is required if the **annual threshold** of 80 acres is past and if you do not meet any of the additional exemptions within the permit. The threshold is determined not only by the size of the pond or lake but by the number of treatments. For example, if a 10 acre pond is treated 9 times with **different** herbicides within a one-year period, it would be counted as 90 treatment acres and the 80 acre threshold limit would have been passed. This would trigger the need for a PDMP. If treated with the **same** herbicide 9 times, the additional treatments would not count toward the threshold.

Additional things to remember

You are allowed to apply only a pesticide that is labeled for aquatic use.

The General NPDES permit only applies to pesticide applications that will be made directly to or over waters of the State or at water's edge.

Pesticide applications to dry ditches which discharge into waters of the State may also require General NPDES permit coverage.

You must file an updated NOI to modify your NPDES permit coverage to add additional use patterns or treatment areas at least 14 days prior to beginning the pesticide applications. The General NPDES permit coverage is good for 5 years from the issuance date on the permit.

Contact the IDNR for Threatened and Endangered Species to find out if consultation is required, **if the water body is 10 acres or over** and has an overflow into a water of the state. The IDNR EcoCAT website is listed above.

Contact your local IDNR District Fisheries Biologist for more information about the correct herbicide to use, when and how to apply, how much and where to purchase.