

NPDES Pesticide General Permit Stakeholder Meeting - December 20, 2011 Summary of Discussion

Bill Creal provided an overview of recent activities regarding the PGP, including:

- All legal challenges to overturn the Clean Water Act exemption are finished.
- EPA issued their final PFP on October 31, 2011. It is applicable in 6 states, some territories, and all Indian lands.
- DEQ will issue its permit (still proposed to be broken into four use categories) in mid-January of 2012 with training on its implementation planned for February 24, 2012, at the Lansing Community College West Campus.
- There will not be an additional public notice process for the general permit.

Jeff Fischer presented the changes EPA made to its final permit, as compared to the draft version released in June:

- The scope of the proposed permits and some identifying terms have changed. “Operator” is defined broadly and within two categories: applicator vs. decision-maker. The DEQ is considering switching “decision-maker” to “permittee” (thus making them responsible for applying for and obtaining coverage) and pesticide applicators will be “operators”.
- State and federal agencies that are specifically responsible for pest control must apply for coverage regardless of treatment thresholds.
- During the DEQ’s last stakeholder process, it was decided that people who actually apply the pesticide will be required to obtain coverage under the permit; that will most likely remain the case. The DEQ still won’t require lake associations or individual homeowners to obtain coverage.
- Permittees will no longer be required to estimate treatment threshold exceedances but rather will apply for coverage when and if the threshold is exceeded.
- An “operator” can be both the “permittee” and a “pesticide applicator”. Weblinks noted in the slides that covered this issue will be posted on the DEQ’s website.
- EPA’s general permit establishes “large” and “small” entities for purposes of the PDMP and reporting requirements.
 - Large entities will be required to implement “pest management measures” that were formerly referred to as “integrated pest management”. They will also develop a PDMP and submit an annual report. Records will need to be maintained for three years following the date of “noted activity”.
 - Small entities will have fewer requirements (e.g., no PDMP) and the DEQ will create a worksheet/checklist similar to what EPA has proposed.
- Treatment area thresholds have been revised in the mosquito and forest canopy permits. The threshold is now 6400 acres per year, up from 640 in the previous version. This threshold only applies to adulticiding activities. There is no annual treatment area threshold for larviciding. The treatment area is the area to which pesticides are applied and the pest management area encompasses all treatment areas.
- Calculations for treatment area thresholds have been revised in the aquatic weeds and aquatic animals permits. These treatment areas are no longer considered cumulatively. For example, treating 5 acres 5 times over a year is 5 acres of treated area. Previously, this example would have accounted for 25 acres toward the treatment area threshold.

- Identification of the “target species” has been replaced with identification of the “target pest”, and the phrasing regarding “optimum” pesticide amount has been replaced with “necessary” pesticide amount. These and other changes in terminology have resulted in the addition of several definitions in Part II of the permit.
- Regarding adverse incident reporting, any operator can provide notification of the event and the reporting deadline has been extended from 5 days to 30 days following the initial notification.
- Record-keeping changes include:
 - Permittee is no longer required to keep a copy of the permit on site.
 - Documentation of equipment management is not required but calibrations still need to be documented.
 - Documentation of visual monitoring will depend on the type of operator/decision-maker.
 - All requirements under Rules 636 and 638 are still in place.

Additional Information:

- The application format will be the same as what is currently in place for NPDES permits, but “Section 7” will be added to make the application category specific. Forms will be available online but it is uncertain at this time if they can be submitted electronically.
- The deadline with completion of the PDMP will be established within the application for coverage. Unlike EPA’s permit, changes to a PDMP will not trigger re-submittal of an application for coverage in Michigan.
- All certificates of coverage must be placed on public notice for two weeks on the DEQ website.
- Endangered species must be tracked through the Michigan Natural Features Inventory (MNFI). The responsible entity will fill out the MNFI form if special species are present in an area in which treatment is being performed. Information on how to access the MNFI will be provided on the DEQ website and in the permit.

NEXT STEPS:

- Jeff will re-send the link to the DEQ’s pesticide webpage.
- Solicit stakeholder input and accept comments regarding the changes, etc. Comments are due to the Water Resources Division by COB Friday, January 6, 2012.
- Supporting documentation (e.g., PDMP, worksheet for small entities, annual report, etc.) will be created. The reports that are currently used in the ANC program will most likely satisfy the Pesticide General Permit as well.
- Application training will be held on Friday, February 24, 2012, at the LCC West Campus. Participants will be able to register online; Jeff will check if the registration fees from 2011 have been refunded or if those who previously registered are automatically re-registered for this session.

Questions from the December 20th meeting:

1. If there are many treatment areas, is a general plan sufficient or will one plan be required for each area? (Refers to page 7 of Part I.) Can the plan apply to either the pest management area or the treatment area? Perhaps make it dependent on linear application area?

2. How do right-of-way applications fit into the threshold requirements? Are these areas SWOS? How can someone determine if a wetland is a SWOS? (We stated we would attempt to put together a tool to provide an explanation.)
3. Regarding a small entity with mosquito control activities in 18 counties – who gets the permit? Can the pesticide applicator obtain one general permit for all of the areas he treats? (This also brought up questions about changing the definitions of “applicator” and “decision-maker”. You want to replace “decision-maker” with “permittee”.)
4. Are “lake improvement boards” that have state statutory authority considered to be government entities?
5. What determinations need to be made by the applicators regarding non-target organisms?
6. What spills need to be reported?
7. There was concern that putting the treatment areas on public notices may result in safety issues if people were to come to the area and protest.
8. How do we address action thresholds?
9. A comment was made that several references to MDA need to be updated to DARD.
10. What documentation is required of large entities regarding quantity of area to which pesticides are applied? (Creal said NWI is acceptable.)
11. How are we going to handle adulticides now that adulticiding is in the permit and is the basis for the treatment threshold? Exclusion of adulticiding may give the appearance that the practice is prohibited.
12. It was stated that right-of-way utilities will most likely be covered under the nuisance plant permit, but some may be forest canopy.
13. We said we would work with DARD to develop a Q & A document and establish guidelines regarding certification of applicators.
14. It was requested that we include a definition of “adult surveillance” in the mosquito permit. The current definition apparently applies only to larval surveillance.
15. Can this permit be effective in April and still cover mosquito applications?