

**INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DRAFT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
PESTICIDE GENERAL PERMIT FOR POINT SOURCE DISCHARGES TO
WATERS OF THE STATE FROM THE APPLICATION OF PESTICIDES**

Permit Number ING870001 (2011–2016)

GENERAL

This document is a general permit that covers pesticide discharges to waters of the state resulting from the activities described below and in your notice of intent if one was submitted.

Permittees

If you apply pesticides in a use pattern described in Table 1, your pesticide discharges are covered under this general permit as long as you comply with all requirements of this permit. You must comply with all conditions of this permit to maintain coverage for your discharges under this permit.

Permit locations

This permit is effective for pesticide discharges throughout the state of Indiana.

Effective dates

Authorization to discharge under this general permit begins on April 9, 2011.

Authorization to discharge under this general permit ends on the earlier of the following:

- (1) Midnight on April 8, 2016 unless the commissioner issues a new pesticide general permit to take effect on or after that date, in which case you may continue to discharge under the new (successor) general permit as long as you meet the requirements of the new (successor) general permit.
- (2) A person who has obtained coverage under this general permit requests to be excluded from the general permit, and applies for and is granted an individual permit, in which case coverage under the general permit terminates at the time the individual permit takes effect.
- (3) A person who is covered under this general permit determines that such coverage is no longer required and submits a notice of termination under section 13 of this document, in which case authorization to discharge under this general permit terminates at midnight of the day that a complete notice of termination is processed and posted on the department's website
- (4) The commissioner revokes a person's coverage under the general permit for cause, in which case authorization to discharge under this general permit terminates on the date of the commissioner's written notice.

Definitions

The definitions in the following apply throughout this document:

- IC 13-11-2
- IC 15-16-4
- IC 15-16-5
- 327 IAC 2-1-9
- 327 IAC 2-1.5-2
- 327 IAC 2-6.1-4

- 327 IAC 5-1.5
- 327 IAC 15-1-2
- 355 IAC 4-0.5
- 357 IAC 1
- 7 U.S.C. 136
- 33 U.S.C.1321
- 40 CFR 122
- 40 CFR 130.2
- 40 CFR 152.3
- 40 CFR 166.3
- 40 CFR 174.3
- The U.S. Environmental Protection Agency “NPDES Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States from the Application of Pesticides (Draft)” that was noticed for public comment on June 4, 2010 at 75 FR 31775.

EFFLUENT LIMITATIONS

What discharges are covered under this general permit?

Pesticide discharges from the following applications of pesticides are covered under this general permit:

- The application of pesticides directly to water in order to control pests. Examples of such applications include applications to control mosquito larvae, aquatic weeds, or other pests that are present in water.
- The application of pesticides to control pests that are present over water, including near the water, where a portion of the pesticides will unavoidably be deposited to the water in order to target the pests effectively. Examples of such applications include when insecticides are aerially applied to a forest canopy where water may be present below the canopy, or when pesticides are applied over or near water for control of adult mosquitoes or other pests.

Table 1 describes the specific pesticide uses that are covered under this general permit. If you apply pesticides in a use pattern listed in Table 1, you are covered under this general permit as long as you comply with the terms and conditions of this general permit.

Table 1. Pesticide Uses Covered Under this General Permit

Pesticide Use	Annual Treatment Area Threshold
Control of public health or nuisance pests and other flying insect pests that develop or are present during a portion of their life cycle in or above standing or flowing water. Public health or nuisance pests in this use category include but not limited to mosquitoes and black flies.	6400 acres (cumulative for adulticide for the calendar year)
Control of invasive or other nuisance weeds and algae in water and at water's edge, including irrigation ditches and irrigation canals including but not limited to: (1) Treating weeds in a right-of-way or easement where to target the pests effectively a portion of the pesticide unavoidably will be applied over and deposited to water; and (2) Control of aquatic vegetation through chemical or biological means in waters of the state under a permit issued by the Department of Natural Resources under IC 14-22-9-10 and 312 IAC 9-10-3.	80 acres in water 20 linear miles of ditch or other linear feature or at water's edge
Control of invasive or other nuisance animals in water and at the water's edge. Aquatic nuisance animals in this use category include, but are not limited to fish, lampreys, and mollusks.	80 acres in water 20 linear miles of ditch or other linear feature or at water's edge
Aerial or ground application of a pesticide over a forest canopy to control the population of a pest species, for example, an insect or pathogen, where to target the pests effectively a portion of the pesticide unavoidably will be applied over and deposited to water.	6400 acres (cumulative for the calendar year)
Application of pesticides to outstanding state resource waters designated in 327 IAC 2-1-2, 327 IAC 2-1-11, or 327 IAC 2-1.5-19 to restore or maintain water quality or to protect public health or the environment where those discharges either do not degrade water quality or only degrade water quality on a short-term or temporary basis.	No annual treatment area threshold. Applies to any pesticide applications.

Table 2 lists pesticide uses that are not covered under this general permit.

Table 2. Pesticide Uses that ARE NOT Covered Under this General Permit

Agricultural pesticide application to the land or to terrestrial crops.
Agricultural stormwater runoff.
Pesticide application or discharge that violates IC 15-16-4, IC 15-16-5, the rules of the Indiana State Chemist at 355 IAC 4 or 355 IAC 5, the rules of the Indiana Pesticide Review Board at 357 IAC 1, or the pesticide product label.
Pesticide application that results in the discharge of any pesticide: (1) to waters that have been designated as: (A) impaired for that pesticide or its degradates; (B) outstanding state resource waters in 327 IAC 2-1-2, 327 IAC 2-1-11, or 327 IAC 2-1.5-19 except as provided in Table 1; (2) that violates a water quality standard established in 327 IAC 2; or (3) within a pesticide setback established by the Indiana State Chemist or the Indiana Pesticide Review Board or described in the product label.
Discharges that are currently covered by another NPDES permit.
Discharges included in a permit that within the last five (5) years has been or is in the process of being denied, terminated, or revoked by the department.

Technology-based effluent limitations

When applying pesticides to or over waters of the state, you must comply with all of the following:

- IC 15-16-4 for pesticide registration.
- IC 15-16-5 for pesticide use and application.
- 355 IAC 4 for pesticide use and application.
- 355 IAC 5 for storage and secondary containment of pesticides.
- 357 IAC 1 for use of pesticides.
- The pesticide product label required by Section 3 of the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §136a).

Water quality based effluent limitations

Your discharge must be controlled as necessary to meet applicable numeric and narrative state water quality standards in 327 IAC 2-1 and 327 IAC 2-1.5. When applying pesticides to or over waters of the state, you must comply with all of the following:

- 312 IAC 9-10-3 for pesticide applications under a permit issued by the Indiana Department of Natural Resources.
- 327 IAC 15-4 for NPDES general permits.
- 327 IAC 15-4-3(g) for signatures.
- 327 IAC 2 for water quality standards.

MONITORING AND REPORTING REQUIREMENTS

General

When applying pesticides to or over waters of the state, you must comply with all of the following:

- 327 IAC 2-6.1 for reporting of spills.
- 40 CFR 110.6 and 40 CFR 117.21 for reporting of spills to the National Response Center.
- IC 13-14-2-2 for inspection and entry.
- Section 311(b)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)(5)).

Spills, Leaks, or Other Unpermitted Discharge Notification

You must report all leaks, spills, or other releases of pesticides to:

- IDEM as required by 327 IAC 2-6.1 at **(888) 233-7745**, and
- for spills of a reportable quantity, the National Response Center (NRC) at **(800) 424-8802**,

as soon as you have knowledge of the release.

Adverse Incident Notification

If you observe or are otherwise made aware of an adverse incident that may have resulted from a discharge from your pesticide application, you must immediately notify IDEM by telephone at **(888) 233-7745** within 24 hours of you becoming aware of the adverse incident and you must include the following information:

- The caller's name and telephone number;
- Operator name and mailing address;
- If covered under a notice of intent, the NPDES tracking number;
- The name and telephone number of a contact person, if different than the person providing the 24-hour notice;
- How and when you became aware of the adverse incident;
- Description of the location of the adverse incident;
- Description of the adverse incident identified and the EPA pesticide registration number for each product you applied in the area of the adverse incident; and
- Description of any steps you have taken or will take to correct, repair, remedy, clean up, or otherwise address any adverse effects.

Within five (5) days of reporting an adverse incident, you must provide a written report of the adverse incident to the department which includes the following information:

- Information required to be provided above;
- Date and time you notified IDEM of the adverse incident, who you spoke with, and any instructions you received from IDEM;
- Location of incident, including the names of any waters affected and appearance of those waters (sheen, color, clarity, etc);
- A description of the circumstances of the adverse incident including species affected, estimated number of individual and approximate size of dead or distressed organisms;
- Magnitude and scope of the affected area (e.g. aquatic square area or total stream distance affected);
- Pesticide application rate, intended use site (e.g., banks, above, or direct to water), method of application, and name of pesticide product, description of pesticide ingredients, and EPA registration number;
- Description of the habitat and the circumstances under which the adverse incident occurred (including any available ambient water data for pesticides applied);
- If laboratory tests were performed, indicate what test(s) were performed, and when, and provide a summary of the test results within 5 days after they become available;
- If applicable, explain why you believe the adverse incident could not have been caused by exposure to the pesticide;
- Actions to be taken to prevent recurrence of adverse incidents; and
- Signed and dated in accordance with 327 IAC 15-4-3(g).
- You must report adverse incidents even for those instances when the pesticide labeling states that adverse effects may occur.

If you become aware of an adverse incident to a federally-listed threatened or endangered species or its federally-designated critical habitat, that may have resulted from a discharge from your pesticide application, you must immediately notify the National Marine Fisheries Service Northeast Regional Office (NMFS) at **978-281-9300** in the case of an anadromous or marine species, or the U.S. Fish and Wildlife Service (FWS) Indianapolis Law Enforcement Office at **317-346-7014** in the case of a terrestrial or freshwater species. This notification must be made by telephone immediately upon your becoming aware of the adverse incident and must include the following information:

- The caller's name and telephone number;
- Operator name and mailing address;
- The name of the affected species;
- How and when you became aware of the adverse incident;
- Description of the location of the adverse incident;
- Description of the adverse incident, including the EPA pesticide registration number for each product you applied in the area of the adverse incident; and
- Description of any steps you have taken or will take to alleviate the adverse impact to the species.

If you become aware of an adverse incident to a state-listed rare, threatened or endangered species or its critical habitat that may have resulted from a discharge from your pesticide application, you must immediately notify the Indiana Department of Natural Resources at **317-232-4200**. This notification must be made by telephone immediately upon your becoming aware of the adverse incident and must include the information required above.

SPECIAL PERMIT CONDITIONS

Threatened and endangered species

When applying pesticides to or over waters of the state, you must comply with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and IC 14-22-34 for non-game endangered and threatened species.

Declared pest emergencies

If you are applying pesticides in response to a declared pest emergency situation under 40 CFR 166, you are authorized to discharge immediately for activities conducted in response to that declared pest emergency situation. You must comply with 40 CFR 166 for use of pesticides in emergency conditions.

STANDARD PERMIT CONDITIONS

Notice of intent

If you are listed in Table 3 and not listed in Table 4, you must submit a notice of intent to the department by the date in the table. You must submit the notice of intent on forms provided by the commissioner or electronically in the format specified by the commissioner.

Table 3. Who Must Submit a Notice of Intent

Entity	Submittal dates
You are a unit of federal or state government with pest control responsibility and you exceed an annual treatment area threshold in Table 1.	November 7, 2011
You are an entity that employs or contracts with persons to apply pesticides in a use pattern listed in Table 1 for pesticide applications that: (1) exceed an annual treatment area threshold in Table 1; and (2) are not covered under another entity's general permit coverage; and you are not a small business as defined in IC 5-28-2-6.	November 7, 2011
You apply pesticides to outstanding state resource waters designated in 327 IAC 2-1-2, 327 2-1-11, or 327 IAC 2-1.5-19.	At least ten (10) days before applying pesticides to outstanding state resource waters.

Table 4. Who is Not Required to Submit a Notice of Intent

A person who is certified or licensed to apply pesticides by the Office of the Indiana State Chemist in any of the following categories: 2 – Forest Pest Management; 3B – Turf Management; 5 – Aquatic Pest Management; 6 – Industrial Weed Management; 8 – Mosquito Management; and 11 – Aerial Application.
A person who applies pesticides under a permit issued by the Indiana Department of Natural Resources under IC 14-22-9-10 and 312 IAC 9-10-3.
A person engaged in pesticide research and development activities.

You must update your notice of intent to include outstanding state resource waters no later than 10 days before application and additional treatment areas as they occur that were not included in the previous notice of intent.

Pesticide Discharge Management Plan

If you are required to submit a notice of intent, you must develop a Pesticide Discharge Management Plan by November 7, 2011. Your Pesticide Discharge Management Plan must be in the form specified by the Office of the Indiana State Chemist.

Compliance with applicable federal and state laws and rules.

When applying pesticides to or over waters of the state, you must comply with all of the following:

- IC 15-16-4 for pesticide registration.
- IC 15-16-5 for pesticide use and application.
- 355 IAC 4 for pesticide use and application.
- 355 IAC 5 for storage and secondary containment of pesticides.
- 357 IAC 1 for use of pesticides.
- The pesticide product label required by Section 3 of the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §136a).
- 312 IAC 9-10-3 for pesticide applications under a permit issued by the Indiana Department of Natural Resources.
- 327 IAC 15-4 for NPDES general permits.
- 327 IAC 15-4-3(g) for signatures.
- 327 IAC 2 for water quality standards.
- 327 IAC 2-6.1 for reporting of spills.
- 40 CFR 110.6 and 40 CFR 117.21 for reporting of spills to the National Response Center.
- IC 13-14-2-2 and 327 IAC 15-4-1(l) for inspection and entry.
- Section 311(b)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)(5)).
- The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).
- IC 14-22-34 for non-game endangered and threatened species.
- 40 CFR 166 for use of pesticides in emergency conditions.

Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for you in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

Duty to Mitigate

You must take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

Property Rights

This permit does not convey any property rights of any sort, or any exclusive privileges.

Duty to Provide Information

You must furnish to the department or an authorized representative, within a reasonable time, any information which the department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. You must also furnish to the department or an authorized representative upon request, copies of records required to be kept by this permit.

Transfers

This permit is not transferable to any person.

Inspections

As provided in 327 IAC 5-1-3(c) and 327 IAC 15-4-1(l), the commissioner or the commissioner's designated representative may inspect any facility, establishment, or pesticide management area covered under this general permit at any time.

Violations

Any permit noncompliance constitutes a violation of IC 13-30 and the Clean Water Act and is grounds for enforcement action, permit termination, revocation and reissuance, or modification, or for denial of a permit renewal.

Penalties

Indiana criminal penalties are described in IC 13-30-10. Indiana civil penalties are described in IC 13-30-4. Federal criminal, civil and administrative penalties are described in section 309 of the Federal Water Pollution Control Act (33 U.S.C. 1319). Any person violating any provision of this document shall be subject to enforcement and penalties as set forth under 327 IAC 15-1-4.

Revocation

The commissioner may revoke a person's coverage under this general permit during its term for cause including but not limited to violation of applicable laws, regulations or administrative documents. To revoke a person's coverage under this general permit, the commissioner will provide you written notice that your general permit coverage will be revoked. Upon receipt of written notice of revocation from the commissioner, you must submit an application for an individual permit no later than ninety (90) days after receiving the notice of revocation. Filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Obtaining an individual NPDES permit

The commissioner may require you to apply for and obtain an individual NPDES permit when any of the following apply to you:

- The discharge currently is, or potentially may be, a significant contributor of pollution.
- You are not, or previously have not been, in compliance with the conditions of this NPDES general permit.
- A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source.
- Effluent limitation guidelines are promulgated for point sources covered by the general permit.
- The water is identified as impaired by that pesticide or its degradates pursuant to section 303(d) of the Federal Water Pollution Control Act (33 U.S.C. 1313(d)).
- The commissioner has notified you that your coverage under the general permit is being revoked.

If you have general permit coverage and do not apply for an individual permit within ninety (90) days after receiving notification from the commissioner to submit such an application to the department, then your existing general permit coverage is terminated. Any interested person may petition the commissioner to take action under this section.

Changes to the terms and conditions of this general permit

This document contains the latest edition of the terms and conditions of this general permit, dated April 9, 2011. If IDEM determines that it is necessary to change the terms and conditions of this general permit, the permit will be reopened and the modification will be noticed for public comment. Any changes will be posted on the IDEM website for 30 days. The department will explain the process for making public comments on the changes in the posting. Following the public comment period, any comments submitted will be evaluated. The final changes to the terms and conditions, with any modifications resulting from the public comments, will be incorporated into the general permit and clearly marked.

CONTACT INFORMATION

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