



Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Pesticide and Seed

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**Indiana Pesticide Applications and the
National Pollutant Discharge Elimination System (NPDES)**

1. How do the newly implemented NPDES permit requirements under the Clean Water Act impact pesticide applications in Indiana?

According to a 2009 U.S. Court ruling, any pesticide (herbicide, weed killer, insecticide, algaecide, mosquito adulticide or larvicide, molluskicide, disinfectant, etc.), applied in, over, or near U.S. waters that results in at least some pesticide residue entering that water is considered a point source discharge of a pollutant and requires NPDES permit coverage to remain in compliance with the Clean Water Act.

2. Do any pesticide applications near water not require an NPDES permit?

Yes, the Clean Water Act specifically exempts agricultural field storm water runoff from the permit requirement. So any pesticide residues carried by storm water from agricultural fields into lakes, ponds, streams, ditches, etc. do not require a permit.

3. So what does “near” water mean?

Unfortunately there is no federal or state definition of “near” for purposes of NPDES permit compliance. A good rule of thumb would be, with the exception of agricultural storm water runoff, any pesticide applications made near enough to result in drift or overspray getting into water should be considered “near.”

4. What type of NPDES permit is required in Indiana?

Indiana law provides that NPDES permits can either be individual (one site or one applicator or one application) or general. To facilitate numerous impacted applicators that routinely apply pesticides on many different sites, Indiana has developed a Pesticide General Permit (PGP). Coverage under the PGP will address most of a pesticide applicator's NPDES compliance needs in Indiana.

5. Which pesticide applications are covered by the Pesticide General Permit (PGP)?

Common pesticide application use patterns covered by the PGP include:

- a) Both larviciding and adulticiding for mosquitoes and black flies.
- b) Aquatic weed and algae control in water or at the water's edge, including Indiana Department of Natural Resources (IDNR) managed and permitted applications, and applications to private ponds.
- c) Weed control at water's edge in right-of-way or easement maintenance work.
- d) Nuisance and trash fish, lamprey, or mollusk (i.e. zebra mussel) control.

- e) Aerial or ground applications to forest canopies over water (i.e. Gypsy moth control).
- f) Pesticide applications in designated Outstanding State Resource Waters (OSRW) that do not degrade the water quality (see items #13 and #14 for details).

6. What types of pesticide applications are not covered by the PGP?

Pesticide applications or discharges not covered by the PGP include those applications:

- a) to agricultural land for terrestrial crops (*ag storm water runoff is exempt*);
- b) that violate the pesticide label use directions;
- c) that violate any Indiana pesticide laws or regulations;
- d) to waters designated as impaired for that pesticide active ingredient (note: there currently are no waters designated as impaired for the products in use today);
- e) to Outstanding State Resource Waters (OSRW) that degrade water quality (see items #13 and #14 for details);
- f) within a pesticide application setback area established by the Office of Indiana State Chemist or the Indiana Pesticide Review Board (note: there currently are no established setbacks in Indiana);
- g) that violate an Indiana Department of Environmental Management (IDEM) established water quality standard (note: use of currently registered pesticides according to label directions should not violate any current water quality standards); and
- h) covered by another (individual) NPDES permit.

7. If my business, organization, or agency makes any of the pesticide applications described in item # 5 how do we ensure we are covered by the PGP?

PGP coverage is automatic, and you are in compliance if you do all of the following:

- a) Keep your pesticide application license current. If you are a commercial for-hire firm with a pesticide business license or if you are a government agency/entity or a not-for-hire business that makes your own pesticide applications, make sure you keep all of your pesticide licenses and those of all your certified and licensed employees up to date and effective.
- b) Follow the pesticide label use directions and restrictions for the products you are using. Remember, the label is the law.
- c) Follow all of the Indiana pesticide laws and regulations for pesticide use (certification and licensing requirements, use and application restrictions, recordkeeping requirements, direct supervision requirements, storage requirements, disposal restrictions, etc.).

- d) Report any pesticide spills or leaks that may enter water immediately (as soon as you know about it) to the Indiana Department of Environmental Management (IDEM) at (888) 233-7745 and to the National Response Center (NRC) at (800) 424-8802. IDEM and NRC will advise you of any necessary follow-up reporting.
- e) Report any alleged adverse incidents in water (i.e. fish kills) that may be associated with any of your applications, spills, or leaks immediately to IDEM at (888) 233-7745. IDEM will advise you of any necessary follow-up reporting.
- f) Allow for entry and inspection of your operation by IDEM or OISC, as needed.

8. Are all applicators, businesses, & agencies eligible for coverage under the PGP?

No, only licensed entities making pesticide applications as part of the use patterns described in item #5 are covered by the PGP. Those applicators and businesses must have certification and licensing in categories 2 (forest pest management), 3b (turf management), 5 (aquatic pest management), 6 (industrial weed management), 7a (general pest management), 8 (mosquito management), or 11 (aerial application). Those licensing categories cover the impacted pesticide use patterns listed in item #5.

9. So, if we do all of the things listed in item # 5, does PGP coverage require that we file any paperwork like a *Notice of Intent (NOI)* or a *Pesticide Discharge Management Plan (PDMP)*?

No additional paperwork or filings with any agency is required if you have a pesticide license issued by the Office of Indiana State Chemist (OISC), and you comply with all of the PGP conditions listed in item # 5.

10. If my business, organization, or agency does not have the pesticide licensing described in item #8 can our pesticide applications still be covered by the PGP?

Yes, your pesticide applications can still be covered by the PGP, but you may also be required to file a *Notice of Intent (NOI)* with IDEM and may be required to develop, keep on file, and produce for an IDEM or OISC inspector, a copy of a *Pesticide Discharge Management Plan (PDMP)*. See item #11 for additional pesticide users who may be exempted from paperwork filing requirements.

11. Who all is not required to submit a *Notice of Intent (NOI)* for PGP coverage?

The following businesses, organizations, agencies, and individuals are not required to file an NOI with IDEM for PGP coverage:

- a) Those licensed pesticide users in the licensing categories described in item #8.
- b) Users operating under an Indiana Department of Natural Resources permit.
- c) Pesticide users applying pesticides as part of research and development.
- d) Mosquito adulticide users treating less than 6400 acres per calendar year.
- e) Forest canopy pesticide users treating less than 6400 acres per calendar year.

- f) Aquatic weed and nuisance aquatic animal pesticide users treating less than 80 acres of water per calendar year.
- g) Aquatic weed and right-of-way pesticide users treating less than 20 linear miles of drainage ditch or water edge per calendar year.

12. Who is required to submit an NOI to IDEM for PGP coverage?

Any business, organization, agency or individual that applies pesticides to, over, or near water and is not identified in item # 11 must file an NOI and develop a PDMP.

13. It seems that we need to treat pesticide applications in or near Outstanding State Resource Waters (OSRW) a little differently. Where can I find a listing of where those state waters are located?

A map illustrating the locations of Indiana's OSRW is available under the NPDES link on the OISC web site at www.isco.purdue.edu. In addition, following is a written description of those waters:

- The Blue River in Washington, Crawford, and Harrison Counties, from river mile 57.0 to river mile 11.5.
- The North Fork of Wildcat Creek in Carroll and Tippecanoe Counties, from river mile 43.11 to river mile 4.82.
- The South Fork of Wildcat Creek in Tippecanoe County, from river mile 10.21 to river mile 0.00.
- Cedar Creek in Allen and DeKalb counties, from river mile 13.7 to its confluence with the St. Joseph River.
- The Indiana portion of the open waters of Lake Michigan.
- All waters incorporated in the Indiana Dunes National Lakeshore.

14. If I do intend to apply pesticides in or near OSRW what should I do?

It is probably best that you first contact the IDEM NPDES Permits Branch, Catherine Hess at (317) 232-8704 or chess@idem.in.gov to discuss your plans. IDEM staff can walk you through any necessary permitting procedures to insure that you remain in compliance with the state clean water laws.

15. If I do need to file an NOI and develop and maintain a PDMP is there a form for developing my PDMP?

Yes, OISC has developed a model PDMP form that should assist you in developing your own PDMP. Fill out the form and keep it on file. This model PDMP form and details about filing an NOI can be found under the "NPDES" link on the OISC web site at www.isco.purdue.edu.

16. Does this PGP cover pesticide applications that I may make in other states?

No, this PGP is limited to your pesticide applications in Indiana or on federal lands located in Indiana. For details on pesticide NPDES permit requirements in other states you will need to contact the designated water agency for that state. That will most likely be the environmental agency for that state. It should be noted that while the purpose and intent of the permitting requirements in each state will be very similar, the actual requirements for compliance may be significantly different from one state to the next.

17. If I do not meet the requirements for PGP coverage in Indiana, do I have other options if I need to apply pesticides to or near Indiana waters?

Yes, if your pesticide applications are not covered by the PGP you are still eligible to apply for an individual NPDES permit. You should contact the IDEM Permits Branch, Catherine Hess at (317) 232-8704 or chess@idem.in.gov for details on obtaining an individual permit. Remember, any of your pesticide applications to or over Indiana waters must be covered by either the PGP or an individual permit to be in compliance with the requirements under the Clean Water Act.

18. What is the effective date for the pesticide NPDES permitting requirements?

The Indiana PGP became effective October 31, 2011 and will expire on October 30, 2016. So, as long as you comply with all of the terms of the permit during that time period, your pesticide applications will be covered.

19. If my business, organization, or employer does not apply pesticides to water but contracts others to do so for us, what are we required to do?

Assuming you are contracting only with properly licensed pesticide businesses as described in item #8, you are not required to do anything additional. However, if you or your employees or associates are not certified and licensed as pesticide applicators and you are not hiring a licensed business to apply the pesticides, you must comply with the NOI and PDMP requirements described in item #12.

20. Where can I get a copy of the actual IDEM PGP if I want to reference it myself?

Like most documents related to the PGP, copies are available under the “NPDES” link on the OISC web site at www.isco.purdue.edu.

21. I heard that the U.S. Congress is still working on potential changes to the Clean Water Act that would eliminate the current pesticide NPDES requirements discussed in this document. Is that true?

It is true that there are some in Congress that support and are discussing the elimination of this overlapping and seemingly duplicative set of requirements between federal pesticide law and federal clean water law. However, based on our experience to date, we believe that anticipating any Congressional action on this issue before next pesticide application season is probably not a wise approach. Therefore, both IDEM and OISC are

encouraging you take note of the described PGP requirements to insure continued compliance under both laws.

22. Who can I contact for additional details on NPDES permitting in Indiana?

After visiting the “NPDES” link at www.isco.purdue.edu , if you still have questions about the information in this document you may contact Dave Scott at OISC at (765) 494-1492 or scottde@purdue.edu or to Catherine Hess at IDEM at (317) 232-8704 or chess@idem.in.gov.