



Indiana Department of Environmental Management

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Michael R. Pence
Governor

Carol S. Comer
Commissioner

October 27, 2016

Dear Interested Party:

Re: Final NPDES General Permit Renewal
NPDES Permit No. ING870000
Pesticide General Permit
Statewide, all 92 Indiana Counties

The Office of Water Quality has issued the renewal of the Indiana NPDES Pesticide General Permit ING870000, which was originally issued in October, 2011. Enclosed is a copy of the final NPDES General Permit, the permit fact sheet, and the public notice information. Our agency did not receive any comments during the official public notice comment period which extended from August 24, 2016 through September 26, 2016. No changes were made to the final permit from the draft permit. Additionally there are no significant changes compared to the 2011 NPDES General Permit.

Pursuant to IC 13-15-5-1 and 327 IAC 5-3-12(d)(2), IDEM published a general notice in several of the Indiana newspapers with the largest general circulation within the state of Indiana and also on IDEM's web site at <http://www.in.gov/idem/6777.htm>. Copies of the final permit documents are also posted on IDEM's web site at <http://www.in.gov/idem/cleanwater/2480.htm>.

Any appeal must be filed under procedures outlined in IC 13-15-6, IC 4-21.5, and the enclosed Public Notice. The appeal must be initiated by filing a petition for administrative review with the Office of Environmental Adjudication (OEA) within fifteen (15) days of the emailing of an electronic copy of this letter or within eighteen (18) days of the mailing of this letter by filing at the following address:

Office of Environmental Adjudication
Indiana Government Center North
100 North Senate Avenue, Room 501
Indianapolis, IN 46204

Please send a copy of any written appeal to me at the IDEM, Office of Water Quality, 100 North Senate Avenue, Indianapolis, Indiana 46204-2251.

The Office of Environmental Adjudication will provide parties who request review of this acceptance for coverage with notice of prehearing conferences, preliminary hearings, hearing, and stays or orders disposing of all proceedings. Nonparties may receive such notices without intervening and formally becoming parties in the proceeding by requesting copies of such notices from the Office of Environmental Adjudication.



A State that Works

Questions concerning this final general permit may be addressed to Mrs. Catherine Hess of my staff via email at chess@idem.IN.gov. You may also contact her by telephone at (317) 232-8704 or toll free within Indiana at (800) 451-6027 ext. 232-8704 during business hours of 8:15 a.m. to 4:45 p.m. Monday through Friday, excluding holidays.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Higginbotham", written in a cursive style.

Paul Higginbotham
Deputy Assistant Commissioner
Office of Water Quality

Enclosures

cc: All Indiana County Health Departments
Office of Indiana State Chemist
Indiana Department of Natural Resources
U.S. EPA, Region 5



National Pollutant Discharge Elimination System

Permit ING870000

GENERAL PERMIT FOR
PESTICIDE APPLICATIONS

Indiana Department of Environmental Management

100 North Senate Avenue
Indianapolis, Indiana 46204
(317) 232-8603
Toll Free (800) 451-6027
www.idem.IN.gov

In compliance with the provisions of the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 (33 U.S.C. 1251, et seq., the "Act"), Title 13 of the Indiana Code, Articles 5 and 15 of Title 327 of the Indiana Administrative Code, and regulations adopted by the Environmental Rules Board, the Indiana Department of Environmental Management (IDEM) is issuing this general permit to all persons who apply pesticides on or near surface waters of the State of Indiana.

This permit is issued on: **October 27, 2016**

This permit is effective on: **October 31, 2016**

This permit expires on: **October 30, 2021**

In accordance with IC 13-15-3-6, 40 CFR 122.6, and 123.25, the conditions of the permit remain fully effective and enforceable after the expiration date of the permit if the permittee has submitted a timely Notice of Intent form (NOI) for a new term of coverage and IDEM has not, through no fault of the person, issued a new permit on or before the expiration date of this permit.

A handwritten signature in black ink, appearing to read 'Paul H.', is written over a horizontal line. The signature is fluid and cursive.

Paul Higginbotham
Deputy Assistant Commissioner
Office of Water Quality

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
**PESTICIDE GENERAL PERMIT FOR POINT SOURCE DISCHARGES TO
WATERS OF THE STATE FROM THE APPLICATION OF PESTICIDES**
Permit Number ING870000 (2016-2021)

1.0 GENERAL

This document is a general permit that covers pesticide discharges to surface waters of the state resulting from the activities described below and in a person's NOI if one was submitted.

1.1 Permittees

If a person (as defined by IC 13-11-2-158) applies pesticides in a use pattern described in Column 1 of Table 1 (See Section 2.1 below), that person's pesticide discharges are automatically covered under this general permit as long as the person complies with all requirements of this permit. A person must comply with all conditions of this permit to maintain coverage for pesticide discharges under this permit.

1.2 Permit locations

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

1.3 Effective dates

Authorization to discharge under this general permit begins on October 31, 2016. Authorization to discharge under this general permit ends on the earlier of the following:

- (1) Midnight on October 30, 2021 unless the commissioner issues a new pesticide general permit to take effect on or after that date, in which case a person may continue to discharge under the new (successor) general permit as long as the person meets 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 5.15 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.

1.4 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
- 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 (Final)” issued in October, 2011.

2.0 EFFLUENT LIMITATIONS

2.1 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 a person applies pesticides in a use pattern listed in Table 1, then regardless of the size of the annual treatment area, the discharge of pesticides to waters of the state resulting from such activities is authorized under this general permit as long as the person complies with the terms and conditions of this general permit.

Table 1. Pesticide Uses Covered Under this General Permit

Pesticide Use	Annual Treatment Area Thresholds for Determining NOI Submittal Requirements
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 aduaticide 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 2-1.3-3(d) 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 application, regardless of the amount of area treated

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 2-1.3-3(d) 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.

2.2 Technology-based effluent limitations

When applying pesticides to or over waters of the state, a person 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).

2.3 Water quality based effluent limitations

The 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, a person 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 5-2-8 for standard conditions for NPDES permits.
- 327 IAC 5-2-22 for signatures.
- 327 IAC 2 for water quality standards.

3.0 MONITORING AND REPORTING REQUIREMENTS

3.1 General

When applying pesticides to or over waters of the state, a person 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 and 327 IAC 5-1-3(c) for inspection and entry.
- Section 311(b)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)(5)).

3.2 Spills, Leaks, or Other Unpermitted Discharge Notification

A person covered by this general permit 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 the person has knowledge of the release.

3.3 Adverse Incident Notification

3.3.1 Adverse Incidents to be Reported to IDEM

All persons covered by this general permit must monitor for, identify, and report adverse incidents. If a person covered by this general permit observes or are otherwise made aware of an adverse incident that may have resulted from a discharge from the pesticide application, the person must notify IDEM by telephone at **(888) 233-7745**:

- immediately for incidents which pose a significant danger to human health or the environment,
- as soon as possible but within two (2) hours of discovery for any adverse incidents resulting in death or acute injury or illness to animals or humans (see 327 IAC 2-6.1), and
- within 24 hours of the person becoming aware of the adverse incident for any other adverse incidents not listed above.

Such adverse incident reports to IDEM under Section 3.3.1 must include the following information:

- The caller's name and telephone number;
- Operator name and mailing address;
- If covered under a NOI, 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 the person 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 the person applied in the area of the adverse incident; and
- Description of any steps the person has taken or will take to correct, repair, remedy, clean up, or otherwise address any adverse effects.

3.3.2 Written Reports of Adverse Incidents to IDEM

Within five (5) days of reporting an adverse incident under Section 3.3.1, the person covered by this general permit 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 the person notified IDEM of the adverse incident, who the person spoke with, and any instructions the person 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 the person believes 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 5-2-22.
- The person must report adverse incidents even for those instances when the pesticide labeling states that adverse effects may occur.

Written reports shall be submitted to IDEM via email by sending to WWRReports@idem.IN.gov.

3.3.3 Adverse Incident Reporting For Federally-listed Threatened or Endangered Species

If a person becomes 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 the pesticide application, the person 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 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 the person 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 the person applied in the area of the adverse incident; and

- Description of any steps the person has taken or will take to alleviate the adverse impact to the species.

3.3.4 Adverse Incident Reporting For State-listed Rare, Threatened or Endangered Species

If a person becomes 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 the pesticide application, the person must immediately notify the Indiana Department of Natural Resources at **(317) 232-4200**. This notification must be made by telephone immediately upon becoming aware of the adverse incident and must include the information required in Section 3.3.3 above.

4.0 SPECIAL PERMIT CONDITIONS

4.1 Threatened and endangered species

When applying pesticides to or over waters of the state, the person 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.

4.2 Declared pest emergencies

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

5.0 STANDARD PERMIT CONDITIONS

5.1 Notice of intent (NOI)

If the person is listed in Table 3 and not listed in Table 4, the person must submit a NOI to the department by the date in the table. The person must submit the NOI on forms provided by the commissioner or electronically in the format specified by the commissioner. Additionally any person required to submit a NOI must comply with Section 5.2 of this permit.

Table 3. Who Must Submit a NOI

Entity	Submittal dates
A unit of federal or state government with pest control responsibility and that exceeds an annual treatment area threshold in Table 1.	At least 10 days prior to commencement of pesticide application(s).
A person that employs or contracts with other 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 person's general permit coverage; and which is not a small business as defined in IC 5-28-2-6.	At least 10 days prior to commencement of pesticide application(s).

A person who applies pesticides to outstanding state resource waters designated in 327 IAC 2-1.3-3(d)	At least ten (10) days before applying pesticides to outstanding state resource waters.
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Table 4. Who is Not Required to Submit a NOI

A person who is certified or licensed to apply pesticides by the Office of the Indiana State Chemist (OISC) or a person who has received a GN number issued by the OISC in any of the following categories: 2 – Forest Pest Management; 3B – Turf Management; 5 – Aquatic Pest Management; 6 – Industrial Weed Management; 7A - Industrial, Institutional, Structural, and Health-Related Pest Management; 8 – Mosquito Management; and 11 – Aerial Application. (A “GN number” is the OISC identifier number that is assigned to a “government or not-for-hire pesticide application operating location”.)
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.

The person must update the NOI 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 NOI.

5.2 Pesticide Discharge Management Plan

Any person who is required to submit a NOI, as set forth in Section 5.1 of this general permit, must also develop a Pesticide Discharge Management Plan by the date that the NOI is due. The Pesticide Discharge Management Plan must be in the form specified by the Office of the Indiana State Chemist. The Plan is not required to be submitted to IDEM or OISC for approval prior to its implementation. A copy of the PDMP shall be maintained by the person and shall be made available for agency (IDEM or OISC) review upon request.

5.3 Compliance with applicable federal and state laws and rules.

When applying pesticides to or over waters of the state, the person 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 5-2-8 for standard conditions for NPDES permits.
- 327 IAC 5-2-22 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 5-1-3(c) 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.

5.4 Need to Halt or Reduce Activity Not a Defense

Pursuant to 40 CFR 122.41(c), it shall not be a defense for a person 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.

5.5 Duty to Mitigate

Pursuant to 40 CFR 122.41(d), a person covered by this general permit 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.

5.6 Property Rights

Pursuant to 40 CFR 122.41(g), this permit does not convey any property rights of any sort, or any exclusive privileges.

5.7 Duty to Provide Information

Pursuant to 40 CFR 122.41(h), a person covered by this general permit 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. A person covered by this general permit must also furnish to the department or an authorized representative upon request, copies of records required to be kept by this permit.

5.8 Transfers

General permit coverage under this permit is not transferable to any person.

5.9 Inspections

As provided in 327 IAC 5-1-3(c), 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.

5.10 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.

5.11 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 5-2-20.

5.12 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 written notice that the person's general permit coverage will be revoked. Upon receipt of written notice of revocation from the commissioner, the person 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.

5.13 Obtaining an individual NPDES permit

The commissioner may require a person covered by this general permit to apply for and obtain an individual NPDES permit when any of the following occur:

- The discharge currently is, or potentially may be, a significant contributor of pollution.
- The person is not, or previously has 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 the person that coverage under the general permit coverage is being revoked.

If a person has general permit coverage and does 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 that person's existing general permit coverage is terminated. Any interested person may petition the commissioner to take action under this section.

5.14 Changes to the terms and conditions of this general permit

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.

5.15 Requesting termination of coverage

A permittee may request termination of coverage under this general permit when discharges of pesticides to surface waters of the State have ceased. In order to do so, the permittee shall complete and submit a Notice of Termination (NOT) to the department.

6.0 CONTACT INFORMATION

Indiana Department of Environmental Management (Catherine Hess)

Office of Water Quality – Permits Branch
100 North Senate Avenue, IGCN Room 1255
Indianapolis, IN 46204-2251
(317) 232-8704 or (800) 451-6027 (toll free within Indiana)
chess@idem.IN.gov

Office of Indiana State Chemist & Seed Commissioner (Dave Scott)

175 South University Street
West Lafayette, IN 47907-2063
(765) 494-1492
scottde@purdue.edu

Indiana Department of Natural Resources (Mark Reiter)

Division of Fish and Wildlife
402 West Washington Street, Room W273
Indianapolis, IN 46204
(317) 232-4102
mreiter@dnr.IN.gov

Indiana Department of Natural Resources (Phil Marshall)

Division of Entomology and Plant Pathology
402 West Washington Street, Room W290
Indianapolis, IN 46204
(317) 232-4189
pmarshall@dnr.IN.gov

NPDES PERMIT FACT SHEET
**PESTICIDE GENERAL PERMIT FOR POINT SOURCE DISCHARGES TO
WATERS OF THE STATE FROM THE APPLICATION OF PESTICIDES**
Draft Renewal of General Permit Number ING870000 (2016–2021)
August 22, 2016

GENERAL FACILITY INFORMATION

IDEM proposes to renew its NPDES general permit (ING870000) that covers discharges to surface waters of the state of Indiana resulting from the application of pesticides as described below. The existing permit was issued and became effective on October 31, 2011 with an expiration date of October 30, 2016.

Description of activities covered under this permit

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

- (1) 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.
- (2) 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.

Specific pesticide uses that are covered under this general permit include:

- (1) 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.
- (2) 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:
 - 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
 - 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.
- (3) 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.
- (4) 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.

- (5) Application of pesticides to outstanding state resource waters designated in 327 IAC 2-1.3-3(d) 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.

Description of activities that are not covered under this permit

Pesticide uses that are not covered under this general permit include:

- (1) Agricultural pesticide applications to the land or to terrestrial crops.
- (2) Agricultural stormwater runoff.
- (3) Pesticide applications or discharges that violate IC 15-16-4, IC 15-16-5, the rules of the Office of the Indiana State Chemist (OISC) at 355 IAC 4 or 355 IAC 5, the rules of the Indiana Pesticide Review Board (IPRB) at 357 IAC 1, or the pesticide product label.
- (4) Pesticide applications that result in the discharge of any pesticide to waters that have been designated as impaired for that pesticide or its degradates or as outstanding state resource waters designated in 327 IAC 2-1.3-3(d) except as otherwise provided, that violates a water quality standard established in 327 IAC 2, or within a pesticide setback established by the OISC or the IPRB or described in the product label.
- (5) Discharges that are currently covered by another NPDES permit.
- (6) 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.

Detailed description of the discharge location

Pesticide discharge locations exist throughout Indiana and include the following:

- (1) Aquatic weed and vegetation control. Indiana has numerous water bodies and waterways that frequently require pesticide use to control nuisance or invasive vegetation to maintain water and habitat quality, navigation, resource use, etc. These areas exist throughout Indiana.
- (2) Aquatic invasive species. Indiana Department of Natural Resources, the U.S. Fish & Wildlife Service and others control a variety of aquatic invasive species. The range and extent of these activities are documented in the "Indiana Aquatic Nuisance Species (ANS) Management Plan."
- (3) Mosquito control activities. Mosquito control is carried out at locations throughout Indiana.
- (4) Gypsy moth and other nuisance insect control in forests. Gypsy moth control activities are currently being conducted in northern Indiana under Indiana's Strategic Plan for Gypsy Moth Management.
- (5) Blue-green algae. Treatment of surface drinking water supplies for blue-green algae blooms by utilities or reservoir managers.

Type and quantity of wastes or pollutants discharged

Pollutants covered under this permit are pesticides used for control of nuisance pests in or over the water in quantities authorized by the OISC. Pesticides applied include those approved by and registered with the OISC under IC 15-16-4-61 for control of aquatic and terrestrial pests. A person covered by this general permit may only utilize pesticides which are currently registered with the OISC for aquatic use in Indiana, and

during the course of this permit the list of registered pesticides may change. The quantities of these pesticides used for aquatic application has not been specifically analyzed. In addition, it is not known how much of each pesticide becomes waste after it is applied. Using current monitoring and data measurement techniques, it is not possible to meaningfully quantify the amount discharged as a pollutant at this time.

SUMMARY RATIONALE OF PERMIT CONDITIONS

Division of authority under Indiana law

Under current Indiana law, the Indiana Department of Environmental Management (IDEM) is responsible for implementation of the Clean Water Act, and the OISC is charged with regulation of pesticide use. [IC 13-13-5-1(1), IC 15-16-4] As a result of this divided jurisdiction, the permit contains those conditions that are relevant to the Clean Water Act (CWA), and does not intrude on the statutory jurisdiction of the OISC.

Indiana pesticide rules equivalent to federal standards

The OISC has determined that Indiana law and the rules of the Indiana Pesticide Review Board and the OISC are equivalent to and as protective as the standards of the Environmental Protection Agency's final (2011) pesticide general permit (EPA PGP) pertaining to application of pesticides, and the draft (2016) renewal of the U.S. EPA pesticide general permit.

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
- 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 (Final)" issued in October 2011.

The term "Person" has the meaning set forth in IC 13-11-2-158:

(a) "Person", for purposes of:

- (1) IC 13-21;
- (2) air pollution control laws;
- (3) water pollution control laws; and
- (4) environmental management laws, except as provided in subsections (c), (d), (e), and (h);

means an individual, a partnership, a co-partnership, a firm, a company, a corporation, an association, a joint stock company, a trust, an estate, a municipal corporation, a city, a school city, a town, a school town, a school district, a school corporation, a county, any consolidated unit of government, political subdivision, state agency, a contractor, or any other legal entity.

Notices of intent

This permit will require the largest pesticide applicators to submit a notice of intent, unless they have been issued a GN number by the OISC. A "GN number" is the OISC identifier number that is assigned to a "government or not-for-hire pesticide application operating location". These operators would potentially include the following if they exceed a use pattern threshold or have a discharge to an outstanding state resource water:

- (1) The Indiana Department of Natural Resources (IDNR) which conducts aquatic pesticide applications with its employees, contracts for pesticide application by registered applicators, and permits application of aquatic pesticides to Indiana water bodies and waterways under Indiana law. IDNR also contracts for and supervises aerial pesticide application to control gypsy moth and other invasive species.
- (2) The Indiana Department of Transportation that uses its employees and contractors to apply pesticides to ditches and ditch banks to maintain public right-of-ways.
- (3) The U.S. Forest Service when it performs or contracts for pesticide application to control pests in national forests.
- (4) Utilities, railroads and other entities that apply pesticides to right-of-ways to control invasive or nuisance vegetation if they (A) exceed a use pattern threshold and (B) are not a small business as defined in Indiana law (IC 5-28-2-6).

Under 40 CFR 122.28(b)(2)(v), the commissioner has determined that submission of a notice of intent under this permit by pesticide applicators other than the pesticide applicators described above is unnecessary, but is not prohibited. Most pesticide applications that would exceed a threshold in the permit are (1) conducted by the state of Indiana or a federal agency using its employees or contractors or by large companies such as utilities and railroads, (2) are permitted by the state, or (3) are carried out by persons registered or certified by the OISC. All of these pesticide applications are a matter of public record. All pesticide application in the State of Indiana is regulated by the OISC. As a result of this determination, submission of a notice of intent by every pesticide applicator will not be required under this general permit. Notice of intents are

only required of those persons who meet the criteria of Tables 1, 2 & 3 and who are not exempted by Table 4.

Pesticide Discharge Management Plans

This permit will require only those persons who are required to submit a Notice of Intent to also develop a Pesticide Discharge Management Plan (PDMP). The form of the plan will be specified by the OISC since the PDMP consists of standards and procedures applicable to the planning and control of pesticide application and the OISC is the agency tasked by Indiana law with controlling the application of pesticides in Indiana. The Plan is not required to be submitted to IDEM or OISC for approval prior to its implementation. A copy of the PDMP shall be maintained by the person and shall be made available for agency (IDEM or OISC) review upon request.

Declared Pest Emergencies

Persons applying pesticides in response to a declared pest emergency situation under 40 CFR 166 will be authorized to discharge immediately for activities conducted in response to that declared pest emergency situation.

DETAILED RATIONALE OF PERMIT CONDITIONS

Permit conditions

Permittees will be required to comply with the following to maintain coverage under this permit. The permit contains all provisions of the EPA PGP relating to CWA implementation, including notification of spills, leaks and other unpermitted discharges and adverse incident notification, termination, revocation, requirement to obtain an individual NPDES permit, and provisions for changes to the terms and conditions of the general permit.

Technology-based effluent limitations

Permit conditions to comply with technology-based effluent limitations:

- (1) IC 15-16-4 covers pesticide approvals, registration of pesticides, handling, storage and disposal of pesticides.
- (2) IC 15-16-5 covers pesticide use and application, licensing, certification and registration of pesticide applicators, enforcement and violations.
- (3) 355 IAC 4 covers pesticide applicator certification and registration, supervision of applicators, site awareness and on-site supervision, liability coverage, record-keeping.
- (4) 355 IAC 5 covers storage and secondary containment of pesticides.
- (5) 357 IAC 1 covers violations and enforcement, use of pesticides in wellhead protection areas and near community public water supply system wells, community-wide mosquito abatement, pesticide drift, open burning of pesticide containers, use of pesticide service containers, use of pesticides at golf courses.
- (6) 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

Permit conditions to comply with applicable numeric and narrative state water quality standards and water quality based effluent limitations:

- (1) IC 14-22-9-10 and 312 IAC 9-10-3 cover aquatic pesticide applications under a permit issued by the Indiana Department of Natural Resources for control of aquatic vegetation.
- (2) 327 IAC 5-2-8 covers general standards and requirements for NPDES permits.
- (3) 327 IAC 2 covers numeric and narrative water quality standards in Indiana.

Monitoring and reporting requirements

This permit requires permittees to report spills under existing Indiana rules at 327 IAC 2-6.1. This permit also requires permittees to reports spills in accordance with section 311 of the Clean Water Act (33 U.S.C. 1321). Since the spill reporting provisions are matters of longstanding law and rule, they are not further restated in this permit. This permit also requires permittees to monitor for, identify and report adverse incidents. The language for this requirement was drawn from the proposed EPA PGP. Permit conditions to comply with state and federal reporting requirements are:

- (1) 327 IAC 2-6.1 for reporting of spills.
- (2) 40 CFR 110.6 and 40 CFR 117.21 for reporting of spills to the National Response Center.
- (3) IC 13-14-2-2 and 327 IAC 5-1-3(c) for inspection and entry.
- (4) Section 311(b)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)(5)).

Record-keeping

Record-keeping requirements are found at IC 15-16-5-59 and 355 IAC 4-4. The Office of the Indiana State Chemist (OISC) requires record-keeping for applicators of Restricted Use Products. Records are required for applications to schools, golf courses, and any termiticide applications.

1. Public health, nuisance & flying insect pests, life cycle – water

OISC has been in touch with the largest organized mosquito control programs in the state. They track and record their own pesticide use information (for both restricted use and general use pesticides), summarize it, and then include it as part of their annual report that they prepare for purposes other than NPDES permit compliance. They routinely supply OISC with copies of their annual report as an FYI. Smaller mosquito control programs keep pesticide use records for their own liability purposes. Keeping track of annual pesticide use for a smaller program is obviously much easier than it would be for a large program. Their pesticide use choices are usually more limited and the water bodies (and watersheds) near which they operate are much easier to identify. In addition, OISC has never conducted a mosquito pesticide application investigation for which the applicator (county, city or town) has not been able to provide use information to us. Bottom line, they all keep use records whether required or not.

2. Invasive or nuisance weeds, algae in water, water's edge

IDNR permits require record keeping of all pesticide products applied to water to control aquatic weeds.

Under FIFRA U.S. EPA performs a risk assessment when making a registration decision about the approved use of a pesticide. They also factor in whether a pesticide can be used without unreasonable adverse effects when determining whether certain uses should be classified as Restricted Use Pesticides. Unreasonable adverse effects to water are definitely one of the criteria used in determining RUP classification. For example, if a product like atrazine is a threat to water, then it gets classified as an RUP. As a result of EPA's diligence during the pesticide registration and re-registration processes, a requirement to keep application records is created with the RUP classification. In spite of this automatic record keeping requirement for pesticides that may be problematic when used around water, most aquatic pesticide applications are made by certified and licensed individuals who keep records for all pesticide applications. OISC has not conducted a pesticide use/misuse investigation for aquatic applications within the last 15 years for which the applicator has not been able to provide application records. They keep the records for personal liability purposes.

3. Invasive or nuisance animals in water, waters' edge DNR & FWS control of invasive animals

OISC has contacted IDNR-FWS to ensure that all of their applications for nuisance/invasive animals are performed by certified and licensed IDNR staff or certified and licensed contractors. The IDNR will do a risk assessment before determining to apply the pesticide. Many of the pesticides they use are Restricted Use Pesticides so records are mandated. Even for the general use pesticides the risk assessment will then dictate the pesticide choice, rates, locations, and timing. As a result, IDNR-FWS keeps a record of everything that they apply or that is applied by their contractor.

4. Forest canopy

OISC contacted the IDNR State Entomologist and determined that currently the only type of forest canopy pesticide application work being done in Indiana is Gypsy Moth control and occasionally some Forest Tent Caterpillar control work. These applications are made by air. Regardless of the pest, the work is contracted by IDNR to certified and licensed applicators (businesses). IDNR dictates in those contracts the specific pesticide to be used, the application rate, the application timing and the application location. IDNR also keeps as part of their application records the actual geo-located applicator flight patterns including spray nozzle on and off records. These records are a matter of public record.

Special requirements

This permit requires compliance with the Endangered Species Act and Indiana law concerning non-game endangered and threatened species at:

- (1) The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).
- (2) IC 14-22-34 for non-game endangered and threatened species.

This permit also makes special provisions for use of pesticides in declared pest emergency conditions under 40 CFR 166.

Requirements for document signatures are found in 327 IAC 5-2-22.

ADMINISTRATIVE REQUIREMENTS

Procedures for reaching a final decision on the general permit

This permit is based on the 2011 Indiana PGP and the draft 2016 EPA PGP. U.S. EPA is not proposing any changes to its 2011 PGP for its renewal of the federal PGP. As a delegated state, Indiana is required to develop a permit that is not less stringent than permits issued under the federal NPDES program. Conversely, IDEM is strongly discouraged from developing permit conditions that are substantively more stringent than the federal program. Therefore Indiana is not proposing any changes to its PGP, other than updating references and regulatory citations that have changed since 2011.

Public comment period beginning and ending dates

As provided in 40 CFR 124.10, this general permit shall be noticed for public comment. After the end of the 30-day comment period, the permit will be issued as a final administrative general permit, with any modifications requested by U.S. EPA Region 5 or resulting from public comments received during the public comment period.

Procedures for requesting a hearing

In addition to the requirements of 40 CFR 124.12, procedures for requesting a hearing are found in 327 IAC 5-3.

Other procedures for public participation

IDEM complies with the public participation requirements of 40 CFR 122 and 40 CFR 124. Other procedures for public participation are found in 327 IAC 5-3.

CONTACT FOR MORE INFORMATION

Please direct comments and questions about this fact sheet or the general permit to Catherine Hess at 317-232-8704 or chess@idem.IN.gov.

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
PUBLIC NOTICE OF FINAL GENERAL PERMIT FOR PESTICIDE APPLICATIONS
PUBLIC NOTICE NO: 2016 – 10 – PGP - F
DATE OF NOTICE: October 27, 2016

The Indiana Department of Environmental Management (IDEM) has issued the renewal of NPDES Pesticide General Permit Number ING870000. The purpose of this NPDES general permit is to establish requirements for point source discharges statewide from the application of pesticides on waters of the state of Indiana and land areas adjacent to waters of the state. These requirements are consistent with the U.S. Environmental Protection Agency (EPA) pesticide general permit requirements.

The following categories of pesticide discharges are covered under this general permit: Mosquitos and Other Flying Insect Pest Management; Aquatic Weed and Algae Control; Aquatic Nuisance Animal Control; Forest Canopy Pest Control; Ditch Bank or Conveyance Weed Control; Control of Aquatic Vegetation under a DNR Permit; and Aquatic Weed and Algae Control in Private Ponds.

The submission of a notice of intent and development of a Pesticide Discharge Management Plan under this general permit will only be required for certain persons who have pesticide applications that would exceed a threshold listed in the general permit. No substantial changes were made to the general permit compared to the original 2011 permit.

APPEAL PROCEDURES FOR FINAL PERMITS

The final NPDES general permit and related documents are posted on IDEM's web site at <http://www.in.gov/idem/cleanwater/2480.htm>. The final NPDES general permits are available for review at the IDEM Central Office, Indiana Government Center North, Room 1255, 100 N. Senate Avenue, Indianapolis, Indiana from 9:00 a.m. to 4:00 p.m., M - F, excluding state holidays (copies 10¢ per page). Copies of the final permit documents are also available at the local health departments and at IDEM's Regional Offices. The documents are also available via email request. See these sites for information concerning your rights and responsibilities: <http://www.IN.gov/idem/5474.htm> and <http://www.in.gov/idem/6900.htm>. Please tell others whom you think would be interested in this matter.

Appeal Procedure: Any person affected by the issuance of the Final Permit may appeal by filing a Petition for Administrative Review with the Office of Environmental Adjudication (OEA) within fifteen (15) days of the date of this Public Notice. Any appeal request must be filed in accordance with IC 4-21.5-3-7 and must include facts demonstrating that the party requesting appeal is the applicant; a person aggrieved or adversely affected or is otherwise entitled to review by law. The Petition for Administrative Review must be received by the OEA within 15 days of the date of this

Public Notice; either by U.S. Mail postmark or by private carrier with dated receipt. This Petition for Administrative Review represents a request for an Adjudicatory Hearing, therefore must:

1. state the name and address of the person making the request;
2. identify the interest of the person making the request;
3. identify any persons represented by the person making the request;
4. state specifically the reasons for the request;
5. state specifically the issues proposed for consideration at the hearing; and
6. identify the final permit terms and conditions which, in the judgment of the person making the request, would be appropriate to satisfy the requirements of the law governing this NPDES Permit.

If the person filing the Petition for Administrative Review desires any part of any final NPDES General Permit to be stayed pending the outcome of the appeal, a Petition for Stay must be included in the appeal request, identifying those parts to be stayed. Both Petitions shall be mailed or delivered to this address:

Environmental Law Judge
Office of Environmental Adjudication
IGC – North Building- Rm 501
100 N. Senate Avenue
Indianapolis, IN 46204

Please also send a copy of any permit appeal and stay request to IDEM.

Stay Time frame: If the Petition(s) is filed within fifteen (15) days of the date of this Public Notice, the effective date of any part of the permit, within the scope of the Petition for Stay is suspended for fifteen (15) days. The Permit will become effective again upon expiration of the fifteen (15) days, unless or until an Environmental Law Judge stays the permit action in whole or in part.

Hearing Notification: Pursuant to Indiana Code, when a written request is submitted, the OEA will provide the petitioner or any person wanting notification, with the Notice of pre-hearing conferences, preliminary hearings, hearing stays or orders disposing of the Petition for Administrative Review. Petition for Administrative Review must be filed in compliance with the procedures and time frames outlined above. Procedural or scheduling questions should be directed to the OEA at (317) 232-8591.

IDEM Contact Person: Mrs. Catherine Hess, Office of Water Quality /NPDES Permits Branch, IGCN Room 1255, 100 North Senate Avenue, Indianapolis, Indiana 46204-2251, at 317/232-8704 or chess@idem.IN.gov.