

# ARTICLE 15. NPDES GENERAL PERMITS AND SPECIFIC CATEGORY INDIVIDUAL PERMIT REQUIREMENTS

## Rule 1. General Provisions

### 327 IAC 15-1-1 Applicability

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3

Affected: IC 13-11-2; IC 13-18-3-15; IC 13-18-4

Sec. 1. (a) Except as provided in subsection (b), this article applies to a general permit that is either:

- (1) allowed through compliance with the applicable requirements in this article; or
- (2) issued administratively by the department.

(b) The provisions of this article do not apply to 327 IAC 15-16 unless expressly stated within that rule. *(Water Pollution Control Division; 327 IAC 15-1-1; filed Aug 31, 1992, 5:00 p.m.: 16 IR 15; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA; readopted filed May 18, 2021, 1:04 p.m.: 20210609-IR-327210118BFA; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA)*

### 327 IAC 15-1-2 Definitions

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3

Affected: IC 13-11-2; IC 13-18-3-15; IC 13-18-4

Sec. 2. In addition to the definitions contained in IC 13-11-2 and 327 IAC 5-1.5, the following definitions apply throughout this article:

- (1) "Existing discharge" means any point source discharge of process or stormwater that occurs either continuously or intermittently from a property at the time coverage under an individual NPDES permit or NPDES general permit is sought.
- (2) "General permit boundary" means an area that, based upon existing geographic or political boundaries, indicates the area where a facility affected by an applicable general permit or this article is located.
- (3) "Individual NPDES permit" means an NPDES permit that:
  - (A) is issued to one (1) facility; and
  - (B) contains requirements specific to that facility.
- (4) "Notice of intent" or "NOI" means a written notification that:
  - (A) indicates a person's intention to comply with the terms of a specified general permit rather than applying for an individual NPDES permit; and
  - (B) includes information as required under 327 IAC 15-3 and the applicable general permit.
- (5) "Stormwater" means water resulting from rain, melting or melted snow, hail, or sleet.

*(Water Pollution Control Division; 327 IAC 15-1-2; filed Aug 31, 1992, 5:00 p.m.: 16 IR 15; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA; readopted filed May 18, 2021, 1:04 p.m.: 20210609-IR-327210118BFA; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA)*

### 327 IAC 15-1-3 Request for data

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3

Affected: IC 13-11-2; IC 13-18-3-15; IC 13-18-4

Sec. 3. (a) In a general permit issued under this article, the commissioner may require a person who is subject to this article to:

- (1) establish and maintain records;
- (2) make reports;
- (3) install, use, and maintain monitoring equipment or methods (including, where appropriate, biomonitoring methods);
- (4) sample:
  - (A) effluents;

- (B) internal wastestreams, where appropriate; or
- (C) other material; and
- (5) provide other data, including, at a minimum:
  - (A) raw materials;
  - (B) catalysts;
  - (C) intermediate products;
  - (D) byproducts;
  - (E) production rates; and
  - (F) related process information;

at the locations, times, and in the manner that the commissioner may reasonably prescribe.

(b) Sampling of internal wastestreams under subsection (a)(4)(B) and the provision of other data under subsection (a)(5) are not required by the commissioner unless the data are:

- (1) reasonably expected to facilitate:
  - (A) the identification or quantification of pollutants that may be released to the environment from facilities operated by the person to whom the request is made; and
  - (B) the commissioner's identification or quantification of the pollutants that could not reasonably be made by the commissioner in the absence of the requested information; or

- (2) necessary to properly control wastewater treatment processes.

*(Water Pollution Control Division; 327 IAC 15-1-3; filed Aug 31, 1992, 5:00 p.m.: 16 IR 16; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA; readopted filed May 18, 2021, 1:04 p.m.: 20210609-IR-327210118BFA; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA)*

### **327 IAC 15-1-4 Enforcement (Repealed)**

Sec. 4. *(Repealed by Water Pollution Control Division; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA)*

## **Rule 2. Basic NPDES General Permit Rule Requirements**

### **327 IAC 15-2-1 Purpose and scope (Repealed)**

Sec. 1. *(Repealed by Water Pollution Control Division; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA)*

### **327 IAC 15-2-2 NPDES general permit requirements**

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3

Affected: IC 13-11-2; IC 13-18-4; IC 13-18-12-9

Sec. 2. (a) The commissioner may regulate the following discharges under an NPDES general permit, consistent with the federal NPDES permit program administered by the U.S. EPA:

- (1) Stormwater discharges associated with industrial activity, as defined in 40 CFR 122.26(b)(14) consistent with the EPA 2015 NPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity.
- (2) Stormwater discharges associated with construction activity consistent with the U.S. EPA 2017 NPDES General Permit for Discharges from Construction Activities.
- (3) Small municipal separate storm sewer system discharges consistent with U.S. EPA's general permit requirements for small municipal separate storm sewer systems (MS4s) in 40 CFR 122, Subpart B.
- (4) Discharges of pesticides to waters of the state consistent with U.S. EPA's NPDES Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States from the Application of Pesticides.
- (5) Discharges of treated sewage from on-site residential sewage discharging disposal systems within the Allen County on-site waste management district for which an operating permit has been issued pursuant to IC 13-18-12-9.
- (6) Discharges of wastewater from ground water petroleum remediation systems into surface waters of the state.

- (7) Discharges of wastewater from hydrostatic testing of commercial pipelines into surface waters of the state.
- (8) Once through noncontact cooling water into surface waters of the state.
- (9) Discharges of wastewater from petroleum products terminals into surface waters of the state.
- (10) Discharges of process wastewater and pit dewatering water from facilities involved in sand, gravel, dimension stone, or crushed stone operations into surface waters of the state.
- (11) Discharges from facilities engaged in the mining of coal, coal processing, and reclamation activities.
- (12) Categories or subcategories of discharges that:
  - (A) involve the same or substantially similar types of operations;
  - (B) discharge the same types of wastes;
  - (C) require the same effluent limitations, or operating conditions; and
  - (D) require the same or similar monitoring requirements.
- (b) The commissioner may determine that an individual permit must be obtained under section 9 of this rule.
- (c) Each general permit issued by the commissioner must meet the criteria for general permits in 40 CFR 122.28\*.
- (d) As provided in 40 CFR 122.28(b)(2)(v)\*, the commissioner may authorize a person to discharge under a general permit without submitting a notice of intent if the commissioner finds that a notice of intent would be inappropriate. However, this provision does not apply to discharges from:
  - (1) publicly owned treatment works;
  - (2) combined sewer overflows;
  - (3) municipal separate storm sewer systems;
  - (4) primary industrial facilities; and
  - (5) stormwater discharges associated with industrial activity.

\*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204. (*Water Pollution Control Division; 327 IAC 15-2-2; filed Aug 31, 1992, 5:00 p.m.: 16 IR 16; errata filed Sep 10, 1992, 12:00 p.m.: 16 IR 65; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA*)

### **327 IAC 15-2-2.3 Public notice and comment**

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3  
 Affected: IC 13-11-2; IC 13-18-3-15; IC 13-18-4

Sec. 2.3. The commissioner shall make draft general permits available for public comment for not less than thirty (30) days, consistent with Section 402 of the Clean Water Act (33 U.S.C. 1342). (*Water Pollution Control Division; 327 IAC 15-2-2.3; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA*)

### **327 IAC 15-2-3 Applicability requirements**

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3  
 Affected: IC 13-11-2; IC 13-18-3-15; IC 13-18-4

- Sec. 3. (a) A general permit may regulate all designated categories of discharges for which a general permit exists except:
- (1) as provided under section 6 or 9 of this rule or the applicable general permit; and
  - (2) discharges meeting the applicability requirements of a general permit that are already subject to individual NPDES permits prior to the effective date of a general permit.
- (b) Except under subsection (d), a person excluded from general permit regulation solely because the person has an existing individual NPDES permit may request:
- (1) to be regulated under a general permit; and
  - (2) that the individual NPDES permit be revoked or modified to remove the discharge from the existing permit.
- (c) Upon revocation or expiration of an individual NPDES permit described in subsection (b)(2), the general permit applies to the discharges regulated under this article.
- (d) The allowance to change from an individual NPDES permit to a general permit does not apply to municipal separate storm

sewer system permittees who were issued an individual NPDES permit before January 1, 2000.

(e) A person that holds an individual NPDES permit may have discharges regulated under an applicable general permit if the discharges are not addressed in the individual permit. (*Water Pollution Control Division; 327 IAC 15-2-3; filed Aug 31, 1992, 5:00 p.m.: 16 IR 17; filed Oct 27, 2003, 10:15 a.m.: 27 IR 830; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA; errata filed Dec 30, 2015, 12:37 p.m.: 20160113-IR-327150453ACA; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA*)

### **327 IAC 15-2-4 Administrative requirement for NPDES general permit rules (*Repealed*)**

Sec. 4. (*Repealed by Water Pollution Control Division; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA*)

### **327 IAC 15-2-5 Notice of intent**

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3

Affected: IC 13-11-2; IC 13-18-3-15; IC 13-18-4

Sec. 5. (a) Except as provided in 40 CFR 122.28(b)(2)(v)\*, a person seeking to obtain coverage under a general permit shall submit an NOI in accordance with the requirements of the applicable general permit.

(b) An NOI shall be submitted to the commissioner by the time specified in the applicable general permit.

\*This document is incorporated by reference. Copies may be obtained from the Government Publishing Office, [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Water Pollution Control Division; 327 IAC 15-2-5; filed Aug 31, 1992, 5:00 p.m.: 16 IR 17; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA*)

### **327 IAC 15-2-6 Exclusions**

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3

Affected: IC 13-11-2; IC 13-18-3-15; IC 13-18-4

Sec. 6. (a) Except as provided in subsection (b), an individual NPDES permit issued under 327 IAC 5 is required for a discharge:

(1) to a receiving stream identified as an:

(A) outstanding state resource water, as defined in IC 13-11-2-149.6; or

(B) outstanding national resource water, as defined in IC 13-11-2-149.5; or

(2) that would significantly lower the water quality as defined in 327 IAC 2-1.3-2(50) of a water downstream of the discharge.

(b) A discharge to an:

(1) outstanding national resource water, as defined in IC 13-11-2-149.5; or

(2) outstanding state resource water, as defined in IC 13-11-2-149.6;

that consists only of stormwater may be permitted under a general permit if the commissioner determines the discharge will not significantly lower the water quality as defined in 327 IAC 2-1.3-2(50) of a water downstream of that discharge. (*Water Pollution Control Division; 327 IAC 15-2-6; filed Aug 31, 1992, 5:00 p.m.: 16 IR 17; filed Jan 14, 1997, 12:00 p.m.: 20 IR 1476; filed Oct 27, 2003, 10:15 a.m.: 27 IR 830; filed May 29, 2012, 3:19 p.m.: 20120627-IR-327080764FRA; filed Nov 10, 2014, 1:51 p.m.: 20141210-IR-327130290FRA; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA*)

### **327 IAC 15-2-7 Effect of general permit rule (*Repealed*)**

Sec. 7. (*Repealed by Water Pollution Control Division; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA*)

### **327 IAC 15-2-8 Transferability of permit responsibility and coverage**

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3

Affected: IC 4-22-2; IC 13-11-2; IC 13-18-4

Sec. 8. (a) Unless otherwise stated in an applicable general permit or this article, responsibility for the NOI submission requirements and the applicable general permit may be transferred if the following occur:

- (1) The current permittee notifies the commissioner at least thirty (30) days in advance of the proposed transfer date in subdivision (2).
- (2) A written agreement containing a specific date for transfer of permit responsibility and coverage between the current permittee and the transferee is submitted to the commissioner, including acknowledgment that the:
  - (A) existing permittee is liable for violations up to the date of transfer; and
  - (B) transferee is liable for violations from the date of transfer and afterward.
- (3) The transferee certifies in writing to the commissioner the intent to operate the facility without making material and substantial:
  - (A) alterations; or
  - (B) additions;
 to the facility that would significantly change the nature or quantities of pollutants discharged.

(b) The commissioner may require that a new NOI be submitted rather than accepting the transfer of the NOI requirements. *(Water Pollution Control Division; 327 IAC 15-2-8; filed Aug 31, 1992, 5:00 p.m.: 16 IR 18; filed Oct 27, 2003, 10:15 a.m.: 27 IR 831; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA)*

### **327 IAC 15-2-9 Requirements for an individual permit**

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3

Affected: IC 4-21.5; IC 13-11-2; IC 13-18-3-15; IC 13-18-4

Sec. 9. (a) The commissioner may require a person either with an existing discharge subject to the requirements of an applicable general permit or this article or who is proposing a discharge that would otherwise be subject to the requirements of an applicable general permit or this article to apply for and obtain an individual NPDES permit if one (1) or more of the following occurs:

- (1) The applicable requirements contained in the applicable general permit or this article are not adequate to ensure compliance with:
  - (A) water quality standards under 327 IAC 2-1 or 327 IAC 2-1.5; or
  - (B) the provisions that implement water quality standards contained in 327 IAC 5.
- (2) The person is not in compliance with:
  - (A) the terms and conditions of the applicable general permit; or
  - (B) this article.
- (3) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants from the discharge.
- (4) Effluent limitation guidelines that are more stringent than the requirements in the general permit are subsequently promulgated for discharges regulated by the general permit.
- (5) A water quality management plan containing more stringent requirements applicable to the discharge or discharges regulated by the general permit is approved.
- (6) Circumstances have changed since the activity regulated under the applicable general permit or this article began so that:
  - (A) the discharge is no longer appropriately controlled under the general permit; or
  - (B) either a temporary or permanent:
    - (i) reduction; or
    - (ii) elimination;
 of the authorized discharge is necessary.
- (7) The receiving water of the discharge is identified as impaired for a pollutant proposed to be discharged and listed pursuant to Section 303(d) of the Clean Water Act (33 U.S.C. 1313(d))\*.
- (8) The commissioner has revoked the person's coverage under the general permit.

An interested person may petition the commissioner to take action under this subsection.

(b) If, under subsection (a), the commissioner requires an individual NPDES permit, pursuant to 327 IAC 5-3, the commissioner shall notify the person in writing that an individual NPDES permit application is required. This notice shall be issued

pursuant to IC 4-21.5 and shall also include the following:

- (1) A brief statement of the reasons for this decision.
- (2) An application form.
- (3) A statement setting a time for the person to file the application.
- (4) A statement that on the effective date of the individual NPDES permit, the general permit as it applies to the person shall no longer apply.

The commissioner may grant additional time upon request of the applicant for completion of the application.

(c) A person having financial responsibility or operational control for a:

- (1) facility;
- (2) project site; or
- (3) municipal separate storm sewer system area and the associated stormwater discharges;

that meets the applicability requirements of the general permit and is not covered by an existing individual NPDES permit, must submit an application under 40 CFR 122.26 and 327 IAC 5-3 if the operator seeks to cover the discharge under an individual permit.

\*Information about impaired waters under Section 303(d) of the Clean Water Act is available from the Indiana Department of Environmental Management, Office of Water Quality, Indiana Government Center North, 100 North Senate Avenue, Room N1255, Indianapolis, Indiana 46204 and at <https://www.in.gov/idem/nps/2647.htm>. (*Water Pollution Control Division; 327 IAC 15-2-9; filed Aug 31, 1992, 5:00 p.m.: 16 IR 18; errata filed Sep 10, 1992, 12:00 p.m.: 16 IR 65; errata, 16 IR 751; filed Jan 14, 1997, 12:00 p.m.: 20 IR 1476; filed Oct 27, 2003, 10:15 a.m.: 27 IR 831; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA*)

### **327 IAC 15-2-10 Prohibitions**

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3

Affected: IC 13-11-2; IC 13-18-3-15; IC 13-18-4

Sec. 10. No general permit shall be issued where the terms and conditions of the permit do not comply with the applicable guidelines and requirements of:

- (1) the Clean Water Act;
- (2) effective regulations promulgated under the Clean Water Act;
- (3) 327 IAC 2;
- (4) 327 IAC 5; or
- (5) this article.

(*Water Pollution Control Division; 327 IAC 15-2-10; filed Aug 31, 1992, 5:00 p.m.: 16 IR 18; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA*)

## **Rule 3. NOI Requirements**

### **327 IAC 15-3-1 Purpose (*Repealed*)**

Sec. 1. (*Repealed by Water Pollution Control Division; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA*)

### **327 IAC 15-3-2 Content requirements of an NOI**

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3

Affected: IC 13-11-2; IC 13-18-4

Sec. 2. The NOI shall include the following:

- (1) Name, mailing address, and location of the facility for which the notification is submitted.
- (2) Standard Industrial Classification (SIC) codes, as defined in 327 IAC 5, up to four (4) digits, that best represent the principal products or activities provided by the facility.
- (3) The person's name, address, telephone number, e-mail address (if available), ownership status, and status as federal, state, private, public, or other entity.

- (4) The latitude and longitude of the approximate center of the facility to the nearest fifteen (15) seconds, and, if the section, township, and range are provided, the nearest quarter section in which the facility is located.
- (5) The name of receiving water, or, if the discharge is to a municipal separate storm sewer, the name of the municipal operator of the storm sewer and the ultimate receiving water.
- (6) A description of how the facility complies with the applicability requirements of the applicable general permit.
- (7) Any additional NOI information required by the applicable general permit.
- (8) The NOI must be signed by a person meeting the signatory requirements in 327 IAC 15-4-3(g) and 327 IAC 15-4-3(h).

*(Water Pollution Control Division; 327 IAC 15-3-2; filed Aug 31, 1992, 5:00 p.m.: 16 IR 19; errata filed Sep 10, 1992, 12:00 p.m.: 16 IR 65; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Oct 27, 2003, 10:15 a.m.: 27 IR 832; filed Dec 18, 2003, 10:39 a.m.: 27 IR 1563; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA; errata filed Dec 30, 2015, 12:37 p.m.: 20160113-IR-327150453ACA; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA)*

### **327 IAC 15-3-3 Deadline for submittal of an NOI; additional requirements**

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3

Affected: IC 13-11-2; IC 13-18-4

Sec. 3. A person proposing a new discharge that will be subject to a general permit shall submit an NOI to the department along with additional information as required by the applicable general permit according to one (1) of the following:

- (1) On or before the submission deadline prescribed by the applicable general permit.
- (2) If no deadline is prescribed by the applicable general permit, submission must be at least one hundred eighty (180) days before the date when the discharge is to commence.
- (3) At a later date if it has been granted by the commissioner or is established in the applicable general permit.

*(Water Pollution Control Division; 327 IAC 15-3-3; filed Aug 31, 1992, 5:00 p.m.: 16 IR 19; errata filed Sep 10, 1992, 12:00 p.m.: 16 IR 65; errata, 16 IR 898; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Oct 27, 2003, 10:15 a.m.: 27 IR 832; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA; errata filed Dec 30, 2015, 12:37 p.m.: 20160113-IR-327150453ACA; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA)*

### **327 IAC 15-3-4 Procedures for exemption from an individual NPDES permit (Repealed)**

Sec. 4. *(Repealed by Water Pollution Control Division; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA)*

## **Rule 4. Standard Conditions for NPDES General Permit Rules**

### **327 IAC 15-4-1 General conditions**

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3

Affected: IC 13-11-2; IC 13-18-4; IC 13-18-11; IC 13-30-4-1; IC 13-30-10

Sec. 1. (a) A violation of this article constitutes a violation of the CWA and environmental management laws and is subject to enforcement under IC 13-30. A person who violates this article may be required to obtain an individual NPDES permit.

(b) In accordance with IC 13-30-4-1, a person who:

- (1) violates a rule or standard adopted by the board is subject to a civil penalty not to exceed twenty-five thousand dollars (\$25,000) per day of each violation; or
- (2) willfully or negligently violates:
  - (A) an applicable standard or limitation;
  - (B) an NPDES permit condition; or
  - (C) an NPDES filing requirement;

is subject to criminal penalties under IC 13-30-10.

If the conviction is for a violation committed after a first conviction of a person under this subsection, punishment must be a fine of

not more than fifty thousand dollars (\$50,000) per day of violation, or by imprisonment for not more than two (2) years, or both. Except as provided in applicable general permit conditions on bypassing under section 2(c) of this rule, and upsets under section 2(b)(3) of this rule, nothing in this article shall be construed to relieve a person in violation of it from civil or criminal penalties for noncompliance.

(c) A person in violation of this article shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from the person's noncompliance.

(d) The following conditions apply to a person subject to this article:

(1) Compliance with an applicable general permit does not:

(A) authorize:

- (i) injury to a person or private property;
- (ii) invasion of other private rights; or
- (iii) infringement of federal, state, or local:
  - (AA) laws; or
  - (BB) regulations; or

(B) preempt a duty to obtain state or local consent required by law for:

- (i) the discharge; or
- (ii) construction or operation of the facility from which the discharge is made.

(2) Nothing in this article shall be construed to relieve a person from responsibility, liability, or penalty that the person is or may be subject to under the CWA.

(3) The applicability of this article does not convey property rights or exclusive privileges.

(e) A person regulated by this article shall furnish to the commissioner, within a reasonable time, the information that the commissioner may request to determine whether cause exists for modifying, revoking and reapproving, or terminating the approval to discharge under this article or to determine compliance with this article. A person shall also furnish to the commissioner, upon request, copies of records required to be kept by this article.

(f) A person shall comply with effluent standards or prohibitions established under the CWA for toxic pollutants injurious to human health within the time provided in the regulations that establish those standards or prohibitions, even if the general permit has not yet been modified to incorporate the requirement. The commissioner shall modify the general permit to include the requirement.

(g) A person regulated by this article shall have all wastewater treatment facilities, if any, under the direct supervision of an operator certified by the commissioner as required under IC 13-18-11 and 327 IAC 8-12.

(h) The provisions of this article are severable and, if a provision of this article or the application of a provision of this article to a circumstance is held invalid, the application of the provision to other circumstances and the remainder of this article shall not be affected.

(i) A person regulated by this article shall allow the commissioner, or an authorized representative (including an authorized contractor or representative of another governmental agency acting as a representative on behalf of the commissioner), at reasonable times, and in a manner to minimize disruption of the business, upon the presentation of credentials and other documents as may be required by law, to:

- (1) enter upon the premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the applicable general permit or this article;
- (2) have access to and copy, at reasonable times, records that must be kept under the conditions of the applicable general permit or this article;
- (3) inspect, at reasonable times, facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the applicable general permit or this article; and
- (4) sample or monitor substances or parameters at locations and at reasonable times, for the purposes of ensuring compliance with the applicable general permit conditions or as otherwise authorized by the CWA.

(j) A person regulated by this article shall not:

- (1) construct;
- (2) install; or
- (3) modify;

a water pollution control facility without a valid construction permit issued by the department under 327 IAC 3-2.

(k) A person with a new discharge or facility to which a general permit applies must comply with the applicable requirements



of the applicable general permit and this article including the submittal of the appropriate NOI.

(1) The following standard permit conditions are applicable to a general permit:

- (1) Duty to comply according to 40 CFR 122.41(a)\*.
- (2) Duty to reapply according to 40 CFR 122.41(b)\*.
- (3) Need to halt or reduce activity not a defense according to 40 CFR 122.41(c)\*.
- (4) Duty to mitigate according to 40 CFR 122.41(d)\*.
- (5) Proper operation and maintenance according to 40 CFR 122.41(e)\*.
- (6) Permit actions according to 40 CFR 122.41(f)\*.
- (7) Property rights according to 40 CFR 122.41(g)\*.
- (8) Duty to provide information according to 40 CFR 122.41(h)\*.
- (9) Inspection and entry according to 40 CFR 122.41(i)\*.
- (10) Monitoring and records according to 40 CFR 122.41(j)\*.
- (11) Signatory requirements according to 40 CFR 122.41(k)\*.
- (12) Reporting requirements according to 40 CFR 122.41(l)\*.
- (13) Bypass reporting according to 40 CFR 122.41(m)\*.
- (14) Upset reporting according to 40 CFR 122.41(n)\*.
- (15) Additional reporting requirement for existing manufacturing, commercial, mining, and silvicultural dischargers according to 40 CFR 122.42(a)\*.

\*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204. (*Water Pollution Control Division; 327 IAC 15-4-1; filed Aug 31, 1992, 5:00 p.m.: 16 IR 19; errata filed Sep 10, 1992, 12:00 p.m.: 16 IR 65; errata, 16 IR 751; errata, 16 IR 898; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA; errata filed Dec 30, 2015, 12:37 p.m.: 20160113-IR-327150453ACA; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA*)

### **327 IAC 15-4-2 Management requirements**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3; IC 13-18-4

Affected: IC 13-18

Sec. 2. (a) A person regulated by an applicable general permit and this article shall, at all times:

- (1) maintain in good working order; and
- (2) efficiently operate;

facilities and systems (and related appurtenances) for collection and treatment that are installed or used by the person and that are necessary for achieving compliance with the terms and conditions of the applicable general permit and this article.

(b) The following definitions, with regard to bypass of treatment facilities and upsets, apply throughout the applicable general permit and this article:

- (1) "Bypass" means the intentional diversion of a wastestream from a portion of a treatment facility normally utilized for treatment of the wastestream.
- (2) "Severe property damage":
  - (A) means:
    - (i) substantial physical damage to property;
    - (ii) damage to the treatment facilities that would cause them to become inoperable; or
    - (iii) substantial and permanent loss of natural resources;that can reasonably be expected to occur in the absence of a bypass; and
  - (B) does not mean economic loss caused by delays in production.
- (3) "Upset", as used in this rule:
  - (A) means an exceptional incident in which there is unintentional and temporary noncompliance with an effluent limitation in the applicable general permit because of factors beyond the reasonable control of the responsible person; and
  - (B) does not include noncompliance to the extent caused by one (1) or more of the following:

- (i) Operational error.
- (ii) Improperly designed treatment facilities.
- (iii) Inadequate treatment facilities.
- (iv) Lack of preventive maintenance.
- (v) Careless or improper operation.

(c) A bypass is prohibited except as allowed under this subsection. The permittee may allow a bypass that does not exceed any effluent limitations contained in the general permit to occur but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the requirements of subsection (d)(1) through (d)(3).

(d) The commissioner may take enforcement action against a permittee for a prohibited bypass unless the following conditions are met:

- (1) Bypass is unavoidable to prevent loss of life, personal injury, or severe property damage.
- (2) There are no feasible alternatives to bypass, such as:
  - (A) the use of auxiliary treatment facilities;
  - (B) retention of untreated wastes; or
  - (C) maintenance during a normal period of equipment downtime.

This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass from occurring during normal periods of equipment downtime or preventive maintenance.

(3) The permittee submits notice of a bypass according to the following:

- (A) An unanticipated bypass must be reported to the commissioner within twenty-four (24) hours of becoming aware of the bypass. If this information is provided orally, a written submission also must be provided within five (5) days.
- (B) If the permittee knows in advance of the need for an anticipated bypass, this prior notification must be submitted for approval to the commissioner if possible, at least ten (10) days before the date of the bypass.

An anticipated bypass that meets the criteria under this subsection may be allowed under conditions determined to be necessary by the commissioner to minimize any adverse effects.

(e) An upset constitutes an affirmative defense to an action brought for noncompliance with effluent limitations if the requirements under subsection (b) are met.

(f) A permittee regulated under an applicable general permit or this article who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence, the following:

- (1) An upset occurred and the permittee can identify the cause or causes of the upset.
- (2) The permitted facility was, at the time, being properly operated.
- (3) The permittee complied with any remedial measures required under section 1(c) of this rule.
- (4) The permittee gave the commissioner the notice required under section 3(c)(1)(D) of this rule.

In an enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

(g) Solids, sludges, filter backwash, or other pollutants removed from or resulting from treatment or control of waters must be disposed of in:

- (1) a manner that prevents a pollutant from the material from entering navigable waters; and
- (2) compliance with all Indiana statutes and rules relative to the disposal of liquid or solid waste, or both.

*(Water Pollution Control Division; 327 IAC 15-4-2; filed Aug 31, 1992, 5:00 p.m.: 16 IR 21; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA)*

### 327 IAC 15-4-3 Reporting requirements

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3

Affected: IC 13-11-2; IC 13-18-4; IC 13-30

Sec. 3. (a) A change in the information submitted in the NOI must be reported as soon as practicable to the commissioner. A change that is reasonably expected to alter the characteristics of the discharge regulated under a general permit must be reported prior to the change. Following the change notice, the commissioner may request the person to submit an application for an individual NPDES permit.

(b) Monitoring results must be reported at the intervals and in the form specified in the applicable general permit and this

section.

(c) The following are requirements for twenty-four (24) hour reporting:

(1) A person regulated by a general permit shall orally report information to the office of water quality at (317) 232-8670 on the following types of noncompliance within twenty-four (24) hours from the time the person becomes aware of the noncompliance:

(A) An unanticipated bypass that exceeds an effluent limitation in the applicable general permit.

(B) Violation of a maximum daily discharge limitation for one (1) or more of the pollutants listed by the commissioner in the applicable general permit to be reported within twenty-four (24) hours.

(C) A noncompliance that may pose a danger to human health or the environment.

(D) An upset that exceeds an effluent limitation in the applicable general permit.

(2) A written submission must also be provided to the office of water quality within five (5) business days of the time the person becomes aware of the circumstances. The written submission must contain the following:

(A) A description of the noncompliance and its cause.

(B) The period of noncompliance, including exact dates and times, and, if the noncompliance has not been corrected, the anticipated duration.

(C) Steps taken or planned to reduce and eliminate the noncompliance and prevent its recurrence.

The commissioner may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(d) A person regulated under a general permit shall report an instance of noncompliance not reported under subsection (c) at the time the pertinent discharge monitoring report is submitted. The report must contain the information specified under subsection (c)(2).

(e) When a person becomes aware that a relevant fact was omitted, or incorrect information was submitted in an NOI, or in a report required to be submitted under an applicable general permit or this article, the person shall promptly submit the omitted fact or corrected information.

(f) Reports required by an applicable general permit or this article and other information requested by the commissioner must be signed by a person or by a duly authorized representative of that person according to the following:

(1) For a corporation, by a responsible corporate officer. As used in this section, "responsible corporate officer" means:

(A) a president, secretary, treasurer, a vice president of the corporation in charge of a principal business function, or a person who performs similar policy making or decision making functions for the corporation; or

(B) the manager of one (1) or more manufacturing, production, or operating facilities provided the manager:

(i) is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty to:

(AA) make major capital investment recommendations; and

(BB) initiate and direct other comprehensive measures to ensure long-term environmental compliance with environmental laws and regulations; and

(ii) can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements;

and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively.

(3) For a municipality, state, federal, or other public agency or political subdivision, by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a federal agency includes:

(A) the chief executive officer of the agency; or

(B) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (for example, Regional Administrators of U.S. EPA).

(4) Permit applicants who meet the criteria set forth in this subsection may also utilize agency-approved electronic application mechanisms instead of paper NPDES applications.

(g) A person is a duly authorized representative only if:

(1) the authorization is made in writing by a person described under subsection (f);

(2) the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated

facility or activity, such as the:

- (A) position of plant manager;
- (B) operator of a well or a well field; or
- (C) superintendent or position of equivalent responsibility;

so that a duly authorized representative may be either a named individual or any individual occupying a named position; and  
(3) the written authorization is submitted to the commissioner.

If an authorization under this subsection is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of this subsection must be submitted to the commissioner prior to or together with the reports, information, or applications to be signed by an authorized representative.

(h) A person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(i) Except for data determined to be confidential under confidentiality rules at 327 IAC 12.1, all reports prepared in accordance with the terms of the applicable general permit must be available for public inspection at the offices of the Indiana department of environmental management and the U.S. Environmental Protection Agency Regional Administrator. As required by the CWA, information contained in the NOI and effluent data is not considered confidential. (*Water Pollution Control Division; 327 IAC 15-4-3; filed Aug 31, 1992, 5:00 p.m.: 16 IR 21; errata filed Apr 10, 2006, 2:46 p.m.: 29 IR 2547; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA; errata filed Dec 30, 2015, 12:37 p.m.: 20160113-IR-327150453ACA; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA*)

## **Rule 5. Storm Water Run-Off Associated with Construction Activity**

### **327 IAC 15-5-1 Purpose (*Repealed*)**

Sec. 1. (*Repealed by Water Pollution Control Division; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA*)

### **327 IAC 15-5-2 Applicability of general permit rules (*Repealed*)**

Sec. 2. (*Repealed by Water Pollution Control Division; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA*)

### **327 IAC 15-5-3 General permit rule boundary (*Repealed*)**

Sec. 3. (*Repealed by Water Pollution Control Division; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA*)

### **327 IAC 15-5-4 Definitions (*Repealed*)**

Sec. 4. (*Repealed by Water Pollution Control Division; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA*)

### **327 IAC 15-5-5 NOI requirements (*Repealed*)**

Sec. 5. (*Repealed by Water Pollution Control Division; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA*)

### **327 IAC 15-5-6 Submittal of an NOI and construction plans (*Repealed*)**

Sec. 6. (*Repealed by Water Pollution Control Division; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA*)

**327 IAC 15-5-6.5 Requirements for construction plans *(Repealed)***

Sec. 6.5. *(Repealed by Water Pollution Control Division; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA)*

**327 IAC 15-5-7 General requirements for storm water quality control *(Repealed)***

Sec. 7. *(Repealed by Water Pollution Control Division; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA)*

**327 IAC 15-5-7.5 General requirements for individual building lots within a permitted project *(Repealed)***

Sec. 7.5. *(Repealed by Water Pollution Control Division; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA)*

**327 IAC 15-5-8 Project termination *(Repealed)***

Sec. 8. *(Repealed by Water Pollution Control Division; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA)*

**327 IAC 15-5-9 Standard conditions *(Repealed)***

Sec. 9. *(Repealed by Water Pollution Control Division; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA)*

**327 IAC 15-5-10 Inspection and enforcement *(Repealed)***

Sec. 10. *(Repealed by Water Pollution Control Division; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA)*

**327 IAC 15-5-11 Notification of completion *(Repealed)***

Sec. 11. *(Repealed by Water Pollution Control Division; filed Oct 27, 2003, 10:15 a.m.: 27 IR 863)*

**327 IAC 15-5-12 Duration of coverage *(Repealed)***

Sec. 12. *(Repealed by Water Pollution Control Division; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA)*

**Rule 6. Storm Water Discharges Exposed to Industrial Activity**

**327 IAC 15-6-1 Purpose**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-12-3-1; IC 13-18-1

Sec. 1. The purpose of this rule is to establish requirements for storm water discharges exposed to industrial activity that are composed entirely of storm water and allowable nonstorm water to protect the public health, existing water uses, and aquatic biota. *(Water Pollution Control Division; 327 IAC 15-6-1; filed Aug 31, 1992, 5:00 p.m.: 16 IR 26; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Oct 27, 2003, 10:15 a.m.: 27 IR 845; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA)*

**327 IAC 15-6-2 Applicability of the general permit rule for storm water discharges exposed to industrial activity**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 4-21.5; IC 13-12-3-1; IC 13-18-1

Sec. 2. (a) Except as provided in subsections (c) through (j), the requirements under this rule apply to all facilities that meet

the following requirements:

- (1) Are not prohibited from regulation under an NPDES general permit rule under 327 IAC 15-2-6.
- (2) Meet the NPDES general permit rule applicability requirements under 327 IAC 15-2-3.
- (3) Have not received a conditional no exposure exclusion from storm water permitting under section 12 of this rule.
- (4) Have a new or existing point source discharge composed entirely of storm water and the following allowable nonstorm water discharges exposed to industrial activity:
  - (A) Discharges from firefighting activities.
  - (B) Fire hydrant flushings.
  - (C) Potable water sources, including waterline flushings.
  - (D) Irrigation drainage.
  - (E) Landscape watering provided all pesticides, herbicides, and fertilizer have been applied in accordance with manufacturer's instructions.
  - (F) Routine external building washdown that does not use detergents.
  - (G) Pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred, unless all spilled material has been removed, and where detergents are not used.
  - (H) Uncontaminated ground water or spring water.
  - (I) Foundation or footing drains where flows are not contaminated with process materials, such as solvents.
  - (J) Uncontaminated air conditioning or compressor condensate.
  - (K) Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of the facility, but not intentional discharges from the cooling tower (for example, piped cooling tower blowdown or drains).
  - (L) Vehicle washwaters where uncontaminated water, without detergents or solvents, is utilized.
  - (M) Run-off from the use of dust suppressants approved for use by other program areas within the department.

Allowable nonstorm water discharges described under this subdivision may be allowed under this rule provided they have not been identified by the permittee or commissioner as a significant contributor of pollutants to a water of the state. If an allowable nonstorm water discharge is determined to be a significant contributor of pollutants to a water of the state an individual wastewater permit may be required for the discharge.

(5) Have industrial activities classified by one (1) or more of the following categories:

(A) Facilities classified under the following SIC codes:

- (i) 20 (food and kindred products).
- (ii) 21 (tobacco products).
- (iii) 22 (textile mill products).
- (iv) 23 (apparel and other textile products).
- (v) 24 (lumber and wood products).
- (vi) 25 (furniture and fixtures).
- (vii) 26 (paper and allied products).
- (viii) 27 (printing and publishing).
- (ix) 28 (chemicals and allied products).
- (x) 29 (petroleum and coal products).
- (xi) 30 (rubber and miscellaneous plastic products).
- (xii) 31 (leather and leather products).
- (xiii) 32 (stone, clay, and glass products).
- (xiv) 33 (primary metal industries).
- (xv) 34 (fabricated metal products).
- (xvi) 35 (industrial machinery and equipment).
- (xvii) 36 (electronic and other electric equipment).
- (xviii) 37 (transportation equipment).
- (xix) 38 (instruments and related products).
- (xx) 39 (miscellaneous manufacturing industries).

(B) Except for those facilities identified in subsection (e), mining operations classified under the following SIC codes:

- (i) 10 (metal mining).

- (ii) 13 (oil and gas extraction).
  - (iii) 14 (nonmetallic minerals, except fuels).
- (C) Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of the Resource Conservation and Recovery Act (RCRA), (42 U.S.C. 6921)\*\*.
- (D) Except for those facilities identified in subsection (f), landfills, land application sites, open dumps, and transfer stations that receive, or have received, industrial process wastes, as defined in rules of the board at 329 IAC 10-2-95, from any of the types of facilities described under this subdivision.
- (E) Facilities involved in the recycling of materials, including metal scrap yards, battery reclaimers, salvage yards, and automobile junkyards, including those classified under the following SIC codes:
  - (i) 5015 (motor vehicles parts, used).
  - (ii) 5093 (scrap and waste materials).
- (F) Steam electric power generating facilities except for those facilities identified in subsection (g).
- (G) Transportation facilities that have vehicle or aircraft maintenance (including vehicle or aircraft rehabilitation, mechanical repairs, painting, fueling, and lubrication), airport runway or aircraft deicing operations, or industrial equipment cleaning areas and are classified under the following SIC codes:
  - (i) 40 (railroad transportation).
  - (ii) 41 (local and interurban passenger transit).
  - (iii) 42 (trucking and warehousing).
  - (iv) 43 (United States Postal Service).
  - (v) 44 (water transportation).
  - (vi) 45 (transportation by air).
- (H) Except for those facilities identified in subsections (i) and (j), treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of one million (1,000,000) gallons per day or more, or that are required to have an approved pretreatment program under 40 CFR 403\*\*\*.
- (I) Distribution facilities limited to the portions of the facility that are involved in the material handling of agricultural chemicals (chemical fertilizers and pesticides) or are otherwise identified under this clause shall comply with the requirements of this rule if the following conditions are met:
  - (i) Have been notified by the department of a determination that the facility is subject to this rule because review of available information shows that:
    - (AA) the facility had a discharge of a pollutant; or
    - (BB) there is a likelihood of a discharge of a pollutant to waters of the state.

A facility that has been notified by the department according to this item that the facility is subject to this rule may exercise its right granted under IC 4-21.5.
- (ii) Are involved in the processing, transfer, or storage of agricultural chemicals (chemical fertilizers and pesticides), which meet any of the following storage capacity criteria:
  - (AA) Fluid bulk fertilizer in undivided quantities in excess of either two thousand five hundred (2,500) gallons for one (1) vessel or seven thousand five hundred (7,500) gallons total for multiple vessels (3 × 2,500 gallon vessels) at a facility.
  - (BB) Dry bulk fertilizer in undivided quantities exceeding twelve (12) tons.
  - (CC) Liquid pesticide in undivided quantities in excess of four hundred (400) gallons.
  - (DD) Dry pesticide in undivided quantities in excess of one hundred (100) pounds and that is in solid form prior to any application or mixing for application and includes formulations, such as dusts, wettable powders, dry flowable powders, and granules.
- (J) Facilities engaged in selling fuel or lubricating oils to the trucking industry, where the facility has on-site vehicle maintenance activities, serves as a truck stop or plaza, and are classified as SIC code 5541 (gasoline service stations). Truck stops and plazas that do not have vehicle maintenance activities and gasoline dispensing facilities, such as automotive service stations, convenience stores, and marinas, are not required to comply with this rule.
- (b) When a facility, meeting the applicability requirements of subsection (a), is owned by one (1) person but the regulated

industrial activity is conducted by another person, it is the duty of the person conducting the regulated industrial activity to apply for a permit under this rule.

(c) A facility classified in one (1) of the following subcategories of facilities that has storm water effluent guidelines for at least one (1) of its subcategories, in effect on February 12, 1992, shall apply for an individual NPDES storm water permit:

- (1) Cement manufacturing (40 CFR 411).
- (2) Feedlots (40 CFR 412).
- (3) Fertilizer manufacturing (40 CFR 418).
- (4) Petroleum refining (40 CFR 419).
- (5) Phosphate manufacturing (40 CFR 422).
- (6) Steam electric power generation (40 CFR 423).
- (7) Coal mining (40 CFR 434).
- (8) Mineral mining and processing (40 CFR 436).
- (9) Ore mining and dressing (40 CFR 440).
- (10) Asphalt (40 CFR 443).

(d) A facility subject to storm water effluent limitation guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Chapter I, Subchapter N\* shall apply for an individual NPDES storm water permit.

(e) A sand, gravel, or dimension stone facility classified under SIC code 14 is not subject to this rule if:

- (1) it is regulated under a general permit issued by the department; and
- (2) all the regulated facility's storm water discharges are addressed by the general permit issued by the department.

(f) A landfill is not subject to this rule if it has satisfied one (1) or more of the following conditions:

- (1) Has completed landfill closure approved by the department.
- (2) Is regulated under an individual municipal solid waste landfill permit that:
  - (A) is issued according to 329 IAC 10; and
  - (B) includes requirements for addressing the quality of storm water run-off.

(g) Steam electric power generating facilities that are involved in the processing, handling, or storage of coal and associated byproducts are not subject to this rule and must apply for an individual NPDES storm water permit.

(h) Transportation facilities identified by SIC code 5171 (petroleum bulk stations and terminals) are not subject to this rule and shall, if facility conditions meet the applicability requirements for a general permit issued by the department, obtain a "Wastewater Discharge Associated with Petroleum Products Terminals" general permit.

(i) Municipal treatment works are not subject to this rule if the treatment works meet the following conditions:

- (1) Treat domestic sewage or any other sewage sludge or wastewater.
- (2) Have a design flow equal to or greater than one million (1,000,000) gallons per day.
- (3) Are considered part of a municipality regulated under 327 IAC 15-13.
- (4) Are adequately covered under the requirements of 327 IAC 15-13-17.

(j) Farmland, domestic gardens, or land used for sludge management is not subject to this rule if the following conditions are met:

- (1) Sludge is beneficially reused.
- (2) The land is not physically located within:
  - (A) the confines of a municipal treatment works facility; or
  - (B) areas that are in compliance with Section 405 of the Clean Water Act (33 U.S.C. 1345)\*\*\*\*.

\*Copies of the Code of Federal Regulations (CFR) 40 CFR Chapter I, Subchapter N referenced in this section may be obtained from the Government Printing Office, Washington, D.C. 20402 or the Indiana Department of Environmental Management, Office of Water Quality, Indiana Government Center North, 100 North Senate Avenue, Room N1255, Indianapolis, Indiana 46204.

\*\*Copies of the Subtitle C of the Resource Conservation and Recovery Act (RCRA), (42 U.S.C. 6921) referenced in this section may be obtained from the Government Printing Office, Washington, D.C. 20402 or the Indiana Department of Environmental Management, Office of Water Quality, Indiana Government Center North, 100 North Senate Avenue, Room N1255, Indianapolis, Indiana 46204.

\*\*\*Copies of the Code of Federal Regulations (CFR) 40 CFR 403 referenced in this section may be obtained from the Government Printing Office, Washington, D.C. 20402 or the Indiana Department of Environmental Management, Office of Water Quality, Indiana Government Center North, 100 North Senate Avenue, Room N1255, Indianapolis, Indiana 46204.



\*\*\*\*Copies of Section 405 of the Clean Water Act (33 U.S.C. 1345) referenced in this section may be obtained from the Government Printing Office, Washington, D.C. 20402 or the Indiana Department of Environmental Management, Office of Water Quality, Indiana Government Center North, 100 North Senate Avenue, Room N1255, Indianapolis, Indiana 46204. (*Water Pollution Control Division; 327 IAC 15-6-2; filed Aug 31, 1992, 5:00 p.m.: 16 IR 26; errata, 16 IR 751; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Oct 27, 2003, 10:15 a.m.: 27 IR 845; errata filed Feb 4, 2004, 1:45 p.m.: 27 IR 2284; errata filed Feb 6, 2006, 11:15 a.m.: 29 IR 1938; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA*)

### 327 IAC 15-6-3 General permit rule boundary

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3; IC 13-18-4

Affected: IC 13-18

Sec. 3. Facilities existing within the boundaries of the state of Indiana affected by this rule are regulated under this rule. (*Water Pollution Control Division; 327 IAC 15-6-3; filed Aug 31, 1992, 5:00 p.m.: 16 IR 26; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA*)

### 327 IAC 15-6-4 Definitions

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-11-2; IC 13-12-3-1; IC 13-18-1

Sec. 4. In addition to the definitions contained in IC 13-11-2, 327 IAC 5, and 327 IAC 15-1-2, the following definitions apply throughout this rule:

(1) "Best management practices" or "BMPs" means any of the following measures to prevent or reduce the pollution of waters of the state:

- (A) Schedules of activities.
- (B) Prohibitions of practice.
- (C) Treatment requirements.
- (D) Operation and maintenance procedures.
- (E) Use of containment facilities.
- (F) Other management practices.

BMPs may be employed, for example, to control plant site run-off, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage, resulting from regulated industrial activities.

(2) "Concentration" means the mass of any given material present in a unit volume of liquid. Unless otherwise indicated under this rule, concentration values must be expressed in milligrams per liter.

(3) "Deicing operations" means the use of urea, glycol, or other deicing substances to remove ice from aircraft or runways.

(4) "Drainage" means the flow patterns of storm water run-off.

(5) "Drainage area" means the surface area draining storm water run-off.

(6) "Facility" means a parcel of land or site, together with all buildings, equipment, structures, and other stationary items that are:

- (A) located on a single site or on contiguous or adjacent sites; and
- (B) owned or operated by:
  - (i) the same person; or
  - (ii) any person that controls, is controlled by, or is under common control with the same person.

(7) "Good housekeeping" means maintaining a clean work environment to reduce or eliminate the potential mobilization of pollutants by storm water.

(8) "Impervious surface" means any surface that prevents storm water from readily infiltrating into the soils.

(9) "Injection well" means any hole that is deeper than it is wide and through which fluids can enter the ground water. Injection wells are regulated under 40 CFR 145 and 40 CFR 144.

- (10) "Material handling activity" means the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, byproduct, or waste product.
- (11) "Measurable storm event" means a precipitation event which results in a total measured precipitation accumulation equal to, or greater than, one-tenth (0.1) inch of rainfall.
- (12) "Municipal separate storm sewer system" or "MS4" means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains that is:
  - (A) owned or operated by a federal entity or state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over storm water, including special districts under state law, such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under Section 208 of the Clean Water Act (33 U.S.C. 1288)\* that discharges into waters of the state;
  - (B) designed or used for collecting or conveying storm water;
  - (C) not a combined sewer; and
  - (D) not part of a publicly owned treatment works (POTW) as defined in 40 CFR 122.2\*\*.
- (13) "No exposure" means a condition of a facility that exists when all industrial materials and activities are protected by a storm-resistant shelter to prevent exposure to precipitation or run-off.
- (14) "Nonstructural control measure" means the use of nonphysical best management practices to reduce or eliminate mobilization of pollutants by storm water (for example, sweeping, inspections, training, and preventative maintenance).
- (15) "Notice of termination letter" or "NOT letter" means a written notification indicating that facility has met the conditions to terminate its permit coverage under this rule.
- (16) "Outfall" means the point of discharge from a point source.
- (17) "Pervious surface" means a ground surface that readily allows storm water to infiltrate or percolate into the soils.
- (18) "Qualified professional" means an individual who is trained and experienced in storm water treatment techniques and related fields as may be demonstrated by state registration, professional certification, experience, or completion of coursework that enable the individual to make sound, professional judgments regarding storm water control or treatment and monitoring, pollutant fate and transport, and drainage planning.
- (19) "Qualified storm event" means a discharge resulting from a measurable storm event at least seventy-two (72) hours after the previous measurable storm event. The term does not include discharges of snowmelt.
- (20) "Risk identification" means a non-statistical assessment to determine the potential for storm water to be exposed to pollutants and the facility's subsequent need for additional protection practices and measures.
- (21) "Secondary containment structure" means a structure or a part of a structure that prevents or impedes a hazardous material that is released accidentally from entering surface water or ground water.
- (22) "Storm water discharge" means the release or flow of storm water from a point source, which enters a water of the state.
- (23) "Storm water discharge exposed to industrial activity" means storm water discharge that has been exposed to the manufacturing and processing activities, or raw materials or intermediate products storage areas at an industrial facility. For the categories of industries identified in section 2(a)(5) of this rule, the term includes the following:
  - (A) Storm water discharges from industrial plant yards.
  - (B) Immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or byproducts used or created by the facility.
  - (C) Material handling sites.
  - (D) Refuse sites.
  - (E) Sites used for the application or disposal of process wastewaters (as defined in 40 CFR 401).
  - (F) Sites used for the storage and maintenance of material handling equipment.
  - (G) Sites used for residual treatment, storage, or disposal.
  - (H) Shipping and receiving areas.
  - (I) Manufacturing buildings.
  - (J) Storage areas (including tank farms) for raw materials and intermediate and finished products.
  - (K) Areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water.
- (24) "Storm water pollution prevention plan" or "SWP3" means a written document that addresses storm water run-off

pollution prevention for a specific industrial facility.

(25) "Structural control measure" means a physical structure designed to reduce or eliminate the mobilization of pollutants by storm water, for example, detention structures, berming, and vegetated swales.

\*Copies of Section 208 of the Clean Water Act (33 U.S.C. 1288) referenced in this section may be obtained from the Government Printing Office, Washington, D.C. 20402 or the Indiana Department of Environmental Management, Office of Water Quality, Indiana Government Center North, 100 North Senate Avenue, Room N1255, Indianapolis, Indiana 46204.

\*\*Copies of the Code of Federal Regulations (CFR) 40 CFR 122.2 referenced in this section may be obtained from the Government Printing Office, Washington, D.C. 20402 or the Indiana Department of Environmental Management, Office of Water Quality, Indiana Government Center North, 100 North Senate Avenue, Room N1255, Indianapolis, Indiana 46204. (*Water Pollution Control Division; 327 IAC 15-6-4; filed Aug 31, 1992, 5:00 p.m.: 16 IR 27; errata filed Sep 10, 1992, 12:00 p.m.: 16 IR 65; errata, 16 IR 751; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Oct 27, 2003, 10:15 a.m.: 27 IR 848; errata filed Feb 4, 2004, 1:45 p.m.: 27 IR 2284; errata filed Feb 6, 2006, 11:15 a.m.: 29 IR 1938; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA*)

### **327 IAC 15-6-5 Additional NOI letter requirements**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-12-3-1; IC 13-18-1

Sec. 5. In addition to the NOI letter requirements under 327 IAC 15-3, the following information must be submitted with the NOI letter under this rule:

(1) Name of responsible corporate officer or written authorization for an alternate individual or position to act as the duly authorized representative for that individual, if appropriate, who will be responsible for all signatory responsibilities for the facility under 327 IAC 15-4-3(g).

(2) Name and contact information of the individual who can provide assistance with information pertaining to the facility's permit.

(3) A brief narrative description of the industrial processes performed at the facility.

(4) Identification of the number and location of each outfall where storm water exposed to industrial activity discharges to a water of the state, including a narrative description of the industrial activity associated with the drainage area of each identified outfall.

(5) Identification of substantially similar outfalls of storm water identified in subdivision (4) and the outfall to be monitored as representative of all such discharges. Include an explanation of the rationale used to identify why certain outfalls are similar.

(6) The identification of past and present NPDES permits, if applicable.

(7) The identification of the regulated MS4 entity receiving the storm water discharge, if applicable.

(8) Proof of publication of the following statement in the newspaper of largest circulation in the area of the discharge: "(Facility name, address, address of the location of the discharging facility, and the stream(s) receiving the discharge(s)) is submitting an NOI letter to notify the Indiana Department of Environmental Management of our intent to comply with the requirements under 327 IAC 15-6 to discharge storm water exposed to industrial activities."

(*Water Pollution Control Division; 327 IAC 15-6-5; filed Aug 31, 1992, 5:00 p.m.: 16 IR 28; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Oct 27, 2003, 10:15 a.m.: 27 IR 851; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA*)

### **327 IAC 15-6-6 Deadline for submittal of an NOI letter; additional information**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-12-3-1; IC 13-18-1

Sec. 6. All information required under 327 IAC 15-3 and section 5 of this rule shall be submitted to the commissioner in accordance with 327 IAC 15-3-3. For newly constructed industrial facilities, the NOI letter shall be submitted ninety (90) days prior to start up of industrial operations. For existing industrial facilities regulated by this rule, the NOI letter must be submitted in

accordance with 327 IAC 15-2-9. For existing industrial facilities that have not been regulated by this rule but now meet the applicability requirements of this rule, the NOI letter must be submitted within ninety (90) days of the effective date of this rule unless permission for a later date has been granted by the commissioner. (*Water Pollution Control Division; 327 IAC 15-6-6; filed Aug 31, 1992, 5:00 p.m.: 16 IR 28; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Oct 27, 2003, 10:15 a.m.: 27 IR 851; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA*)

### **327 IAC 15-6-7 General requirements for a storm water pollution prevention plan (SWP3)**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-12-3-1; IC 13-18-1

Sec. 7. (a) The person having financial responsibility or operational control for a facility regulated under this rule shall develop implement, update, and maintain a SWP3 that:

- (1) identifies potential sources of pollution that may reasonably be expected to affect the quality of storm water discharges exposed to industrial activity from the facility;
- (2) describes practices and measures to be used in reducing the potential for pollutants to be exposed to storm water;
- (3) assures compliance with the terms and conditions of this rule;
- (4) lists, by position title, the member or members of a facility storm water pollution prevention team, who will be responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision; and
- (5) clearly identifies the responsibilities of each storm water pollution prevention team member.

(b) The SWP3 must include a map and description of all areas of the facility that generate storm water discharges exposed to industrial activity and have a reasonable potential for storm water to be exposed to pollutants. At a minimum, the plan shall contain the following:

- (1) A copy of the complete NOI letter.
- (2) A soils map indicating the types of soils found on the facility property and showing the boundaries of the facility property outlined in a contrasting color. If a facility's property only has impervious surfaces, the soils map requirement can be omitted.
- (3) A graphical representation, such as aerial photographs or site layout maps, drawn to an appropriate scale, which contains a legend and compass coordinates, indicating, at a minimum, the following:
  - (A) All on-site storm water drainage and discharge conveyances, which may include pipes, ditches, swales, and erosion channels, related to a storm water discharge.
  - (B) Known adjacent property drainage and discharge conveyances, if directly associated with run-off from the facility.
  - (C) All on-site and known adjacent property waterbodies, including wetlands and springs.
  - (D) An outline of the drainage area for each storm water outfall.
  - (E) An outline of the facility property indicating directional flows, via arrows, of surface drainage patterns.
  - (F) An outline of impervious surfaces, which includes pavement and buildings, and an estimate of the impervious and pervious surface square footage for each drainage area placed in a map legend.
  - (G) On-site injection wells, as applicable.
  - (H) On-site wells used as potable water sources, as applicable.
  - (I) All existing structural control measures to reduce pollutants in storm water run-off.
  - (J) All existing and historical underground or aboveground storage tank locations, as applicable.
  - (K) All permanently designated plowed or dumped snow storage locations.
  - (L) All loading and unloading areas for solid and liquid bulk materials.
  - (M) All existing and historical outdoor storage areas for raw materials, intermediary products, final products, and waste materials.
  - (N) All existing or historical outdoor storage areas for fuels, processing equipment, and other containerized materials, for example, in drums and totes.
  - (O) Outdoor processing areas.
  - (P) Dust or particulate generating process areas.
  - (Q) Outdoor waste storage or disposal areas.

(R) Pesticide or herbicide application areas.

(S) Vehicular access roads.

The on-site mapping of items listed in clauses (J) through (S) is required only in those areas that generate storm water discharges exposed to industrial activity and have a reasonable potential for storm water exposure to pollutants. The mapping of historical locations is only required if the historical locations have a reasonable potential for storm water exposure to historical pollutants.

(4) An area map that indicates:

(A) the topographic relief or similar elevations to determine surface drainage patterns;

(B) the facility boundaries outlined in a contrasting color;

(C) all receiving waters; and

(D) all known drinking water wells;

and includes, at a minimum, the features in clauses (A), (C), and (D) within a one-fourth (1/4) mile radius beyond the property boundaries of the facility. This map must be to scale and include legend and compass coordinates.

(5) A narrative description of areas that generate storm water discharges exposed to industrial activity and have a reasonable potential for storm water exposure to pollutants, including descriptions for any existing or historical areas listed in subdivision (3)(J) through (3)(S), and any other areas thought to generate storm water discharges exposed to industrial activity and be a reasonable potential source of storm water exposure to pollutants. The narrative descriptions for each identified area must include the following:

(A) Type and typical quantity of materials present in the area.

(B) Methods of storage, including presence of any secondary containment measures.

(C) Any remedial actions undertaken in the area to eliminate pollutant sources or exposure of storm water to those sources. If a corrective action plan was developed, the type of remedial action and plan date shall be referenced.

(D) Any significant release or spill history dating back a period of three (3) years from the date of the initial NOI letter, in the identified area, for materials spilled outside of secondary containment structures and impervious surfaces in excess of their reportable quantity, including the following:

(i) The date and type of material released or spilled.

(ii) The estimated volume released or spilled.

(iii) A description of the remedial actions undertaken, including disposal or treatment.

Depending on the adequacy or completeness of the remedial actions, the spill history shall be used to determine additional pollutant sources that may be exposed to storm water. In subsequent permit terms, the history shall date back for a period of five (5) years from the date of the NOI letter.

(E) Where the chemicals or materials have the potential to be exposed to storm water discharges, the descriptions for each identified area must include a risk identification analysis of chemicals or materials stored or used within the area.

The analysis must include the following:

(i) Toxicity data of chemicals or materials used within the area, referencing appropriate material safety data sheet information locations.

(ii) The frequency and typical quantity of listed chemicals or materials to be stored within the area.

(iii) Potential ways in which storm water discharges may be exposed to listed chemicals and materials.

(iv) The likelihood of the listed chemicals and materials to come into contact with storm water.

(6) A narrative description of existing and planned management practices and measures to improve the quality of storm water run-off entering a water of the state. Descriptions must be created for existing or historical areas listed in subdivision (3)(J) through (3)(S) and any other areas thought to generate storm water discharges exposed to industrial activity and be a potential source of storm water exposure to pollutants. The description must include the following:

(A) Any existing or planned structural and nonstructural control practices and measures.

(B) Any treatment the storm water receives prior to leaving the facility property or entering a water of the state.

(C) The ultimate disposal of any solid or fluid wastes collected in structural control measures other than by discharge.

(7) If applicable, the specific control practices and measures for potential pollutant source areas must include the following:

(A) Identification of areas that, due to topography, activities, or other factors, have a high potential for significant soil erosion and identify and implement measures to limit erosion.

(B) A plan to cover, or otherwise reduce the potential for pollutants in storm water discharge from, deicing salt and sand

or other commercial or industrial material storage piles, except for exposure resulting from the addition or removal of materials from the pile. For piles that do not have the potential for polluting storm water run-off, the plan needs to provide the basis for determining no exposure potential. The plan must be included in the SWP3.

(C) Storage piles of sand and salt or other commercial or industrial materials must be stored in a manner to reduce the potential for polluted storm water run-off and in accordance with the plan required under clause (B).

(8) Information or other documentation required under subsection (d).

(9) The results of monitoring required in section 7.3 of this rule. The monitoring data must include completed field data sheets, chain-of-custody forms, and laboratory results. If the monitoring data is not placed into the facility's SWP3, the on-site location for storage of the information must be referenced in the SWP3. As two (2) or more sample monitoring events are completed, the laboratory results must be compared to indicate water quality improvements in the run-off from the facility. If the parameters and sample type are identical, historical storm water monitoring data at each discharge outfall identified in section 5(4) of this rule, or representative discharge outfall identified in section 5(5) of this rule, can be used in the comparison to provide data that is more reflective of initial water quality conditions.

(10) A mapped or narrative description of any such management practice or measure pursuant to subsection (c)(4) must be added to the SWP3.

(c) For areas of the facility that generate storm water discharges and have a reasonable potential for storm water exposure to pollutants, storm water exposure to pollutants must be minimized. To ensure this reduction, the following practices and measures must be planned and implemented:

(1) A written preventative maintenance program, including the following:

(A) Implementation of good housekeeping practices to ensure the facility will be operated in a clean and orderly manner and that pollutants will not have the potential to be exposed to storm water via vehicular tracking or other means.

(B) Maintenance of storm water management measures, for example, catch basins or the cleaning of oil or water separators. All maintenance must be documented and either contained in, or have the on-site record keeping location referenced in, the SWP3.

(C) Inspection and testing of facility equipment and systems that are in areas of the facility that generate storm water discharges and have a reasonable potential for storm water exposure to pollutants to ensure appropriate maintenance of such equipment and systems and to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters.

(D) At a minimum, quarterly inspections of the storm water management measures and storm water run-off conveyances. Inspections must be documented and either contained in, or have the on-site record keeping location referenced in, the SWP3.

(E) An employee training program to inform personnel at all levels of responsibility that have the potential to engage in industrial activities that impact storm water quality of the components and goals of the SWP3. Training must occur at a minimum annually and should address topics such as spill response, good housekeeping, and material management practices. All employee training sessions, including relevant storm water topics discussed and a roster of attendees, must be documented and either contained in, or have the on-site record keeping location referenced in, the SWP3.

(2) A written spill response program, including the following:

(A) Location, description, and quantity of all response materials and equipment.

(B) Response procedures for facility personnel to respond to a release.

(C) Contact information for reporting spills, both for facility staff and external emergency response entities.

(3) A written nonstorm water assessment, including the following:

(A) A certification letter stating that storm water discharges entering a water of the state have been evaluated for the presence of illicit discharges and nonstorm water contributions.

(B) Detergent or solvent-based washing of equipment or vehicles that would allow washwater additives to enter any storm drainage system or receiving water shall not be allowed at the facility.

(C) All interior maintenance area floor drains with the potential for maintenance fluids or other materials to enter storm sewers must be either sealed, connected to a sanitary sewer with prior authorization, or appropriately permitted under the NPDES wastewater program pursuant to 327 IAC 5. The sealing, sanitary sewer connecting, or permitting of drains under this clause must be documented in the written nonstorm water assessment program.

(D) The certification shall include a description of the method used, the date of any testing, and the on-site drainage

points that were directly observed during the test.

(4) If parameter reductions are not indicated in the comparison conducted under subsection (b)(9) and they cannot be attributed to laboratory error or significant variability in the rainfall events, the source of the pollutant parameter must be investigated and either eliminated or reduced via a management practice or measure to the extent technologically practicable and cost beneficial. A lack of reduction does not, in and of itself, constitute a violation of this permit. However, insufficient reductions may be used to identify facilities that would be more appropriately covered under an individual storm water NPDES permit. If parameter concentrations are at, or below, laboratory detection limitations, further reductions are not necessary.

(d) The SWP3 must meet the following general requirements:

(1) The plan shall be certified by a qualified professional.

(2) The plan must be retained at the facility and be available for review by a representative of the commissioner upon request or, in the case of a storm water discharge exposed to industrial activity that discharges through a regulated municipal separate storm sewer system conveyance, by the operator or operators of the regulated municipal system.

(3) The plan must be completed and implemented on or before three hundred sixty-five (365) days after submission of a timely-submitted initial NOI letter or the expiration date of the previous five (5) year permit term. The commissioner may grant an extension of this time frame based on a request by the person showing reasonable cause.

(4) The person having financial responsibility or operational control for a facility shall complete and submit to the commissioner a storm water pollution prevention plan certification checklist form within thirty (30) days of the plan completion date, but no later than three hundred sixty-five (365) days after the submission of a timely-submitted initial NOI letter or the expiration date of the previous five (5) year permit term. This checklist must also be signed by a qualified professional.

(5) A permittee regulated under this rule shall amend the plan by either of the following:

(A) Whenever there is a change in design, construction, operation, or maintenance at the facility, which may have a significant effect on the potential for the discharge of pollutants to surface waters of the state.

(B) Upon written notice by the commissioner that the SWP3 proves to be ineffective in controlling pollutants in storm water discharges exposed to industrial activity. Within sixty (60) days of such notification from the commissioner, the permittee shall make the required changes to the SWP3 and shall submit the amended plan to the commissioner for review.

(6) If a permittee has other written plans, required under applicable federal or state law, such as operation and maintenance, spill prevention control and countermeasures, or risk contingency plans, which fulfill certain requirements of a SWP3, these plans may be referenced, at the permittee's discretion, in the appropriate sections of the SWP3 to meet those section requirements.

(7) A permittee may combine the requirements of the SWP3 with another written plan if:

(A) the plan is retained at the facility and available for review;

(B) all the requirements of the SWP3 are contained within the plan; and

(C) a separate, labeled section is utilized in the plan for the SWP3 requirements.

*(Water Pollution Control Division; 327 IAC 15-6-7; filed Aug 31, 1992, 5:00 p.m.: 16 IR 28; errata filed Sep 10, 1992, 12:00 p.m.: 16 IR 65; errata, 16 IR 898; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Oct 27, 2003, 10:15 a.m.: 27 IR 851; errata filed Feb 4, 2004, 1:45 p.m.: 27 IR 2284; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-32707053BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA)*

### **327 IAC 15-6-7.3 Monitoring requirements**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-12-3-1; IC 13-18-1

Sec. 7.3. (a) Monitoring requirements shall be as follows:

(1) Each discharge outfall identified in section 5(4) of this rule, or representative discharge outfall identified in section 5(5) of this rule, composed entirely of storm water and allowable nonstorm water run-off, shall be monitored as follows:

Parameter	Units	Sample Type	Frequency
Oil and grease	mg/l	grab	Annual
CBOD <sub>5</sub> (Carbonaceous biochemical oxygen demand)	mg/l	grab	Annual

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NPDES GENERAL PERMITS AND SPECIFIC CATEGORY INDIVIDUAL PERMIT REQUIREMENTS

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COD (Chemical oxygen demand)	mg/l	grab	Annual
TSS (Total suspended solids)	mg/l	grab	Annual
TKN (Total Kjeldahl nitrogen)	mg/l	grab	Annual
Total phosphorous	mg/l	grab	Annual
pH	s.u.	grab	Annual
Nitrate plus nitrite nitrogen	mg/l	grab	Annual

(2) Each discharge outfall subject to subdivision (1) shall be monitored for any pollutant attributable to a facility's industrial activity that is reasonably expected to be present in the discharge, as well as for any other pollutant that has the potential to be present in a storm water discharge as requested by the commissioner.

(3) Within one (1) year of the original or renewal NOI letter submittal and prior to implementation of the SWP3, a permittee regulated under this rule shall sample and analyze the discharge from the outfall identified in the approved NOI letter. The monitoring data taken from this first year event shall be used by the permittee as an aid in developing and implementing the SWP3. Subsequent annual sampling data shall be used to verify the effectiveness of the SWP3 and will aid the permittee with revising the SWP3 and implementation of additional BMPs, as necessary.

(4) The commissioner may require a permittee to sample additional storm events beyond the required five (5) annual events upon finding reasonable cause. The commissioner shall notify the facility in writing that additional sampling is required.

(5) A grab sample must be collected during the first thirty (30) minutes of discharge at the storm water outfalls identified in the NOI letter or as soon thereafter as practicable.

(6) The pH measurement must be taken at the time the grab sample is collected and by using a pH meter that has been properly calibrated according to manufacturer's specifications and provides results displayed in numeric units. A color comparison analysis for pH is not acceptable.

(7) There shall be a minimum of three (3) months between reported sampling events.

(8) Samples must be taken at a point representative of the discharge but prior to entry into surface waters of the state or a municipal separate storm sewer conveyance unless an alternative location has been granted by the commissioner. For discharges that flow through on-site detention basins, samples shall be taken at a point representative of the discharge from the basin.

(9) All samples must be collected from a discharge resulting from a measurable storm event at least seventy-two (72) hours from the previous measurable storm event. Documentation of weather conditions that prevent sampling as described in this subsection must be provided to the commissioner.

(10) The analytical and sampling methods used must meet the requirements of 327 IAC 5-2-13(d)(1) and 327 IAC 5-2-13(d)(2) for quality assurance and quality control.

(11) Run-off events resulting from snow or ice melt should not be sampled and shall not be used to meet the minimum annual monitoring requirements.

(b) Reporting requirements shall be as follows:

(1) All samples must be reported as a value of concentration or loading.

(2) For each measurement or sample taken under this rule, the permittee shall record and submit the following information to the commissioner:

(A) The exact place, date, and time of the start of the discharge, the duration of the storm event sampled, a measurement of the rainfall in inches, and time of sampling.

(B) The duration between the storm event sampled and the end of the previous measurable storm event.

(C) The individual who performed the sampling or measurements.

(D) The dates the analyses were performed.

(E) The individual who performed the analyses.

(F) The analytical techniques or methods used.

(G) The results of all required analyses and measurements.

(H) A complete copy of the laboratory report, including chain-of-custody.

(3) All records and information resulting from the monitoring activities required under this rule, including all records of analyses performed and calibration and maintenance of instrumentation, must be retained for a minimum of either one (1) year following the date on an NOI letter, three (3) years following the expiration of the facility's permit, or longer if requested by



the commissioner. As applicable, the records for calibration and maintenance of instrumentation can be maintained at an off-site laboratory but must be available to the commissioner upon request. All calibration and maintenance records for on-site instruments, such as pH meters, used by a facility for compliance with this rule must be documented and either contained in, or have the on-site record keeping location referenced in, the SWP3.

(4) A permittee regulated under this rule shall submit sampling data results to the commissioner at the address specified in section 8.5 of this rule within thirty (30) days after laboratory analyses have been completed.

(5) A permittee regulated under this rule that has a discharge that enters a regulated municipal separate storm sewer conveyance shall also submit a copy of the sampling data results to the operator of the regulated municipal system conveyance upon request.

(6) If a permittee regulated under this rule monitors a pollutant more frequently than required under this rule, using analytical methods referenced in subsection (a)(10), the results of such monitoring must be reported as additional information in the annual report. Such increased frequency must also be indicated in the report.

*(Water Pollution Control Division; 327 IAC 15-6-7.3; filed Oct 27, 2003, 10:15 a.m.: 27 IR 857; errata filed Feb 4, 2004, 1:45 p.m.: 27 IR 2285; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA)*

### **327 IAC 15-6-7.5 Annual reports**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-12-3-1; IC 13-18-1

Sec. 7.5. A permittee regulated under this rule shall submit an annual report to the commissioner that contains the following information:

(1) Any changes to the original NOI letter.

(2) Any changes to the facility, the facility's operations or industrial activities.

(3) During the second through fifth years of permit coverage, a copy of the comparison of all sampling data results included in the facility's SWP3 and required under section 7(b)(9) of this rule.

(4) Any additional BMPs implemented, or corrective measures taken, as a result of sampling data results.

The annual report must contain information obtained during the previous year of regulation and be submitted initially no later than three hundred sixty-five (365) days from the initial NOI submittal date or the expiration date of the previous five (5) year permit term. Subsequent annual report submittals shall be provided no later than three hundred sixty-five (365) days from the previous report in years two (2) through five (5). *(Water Pollution Control Division; 327 IAC 15-6-7.5; filed Oct 27, 2003, 10:15 a.m.: 27 IR 858; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA)*

### **327 IAC 15-6-8 Standard conditions**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3; IC 13-18-4

Affected: IC 13-18

Sec. 8. In addition to the conditions set forth in this rule, the standard conditions for the NPDES general permit rule under 327 IAC 15-4 shall apply also to this rule. *(Water Pollution Control Division; 327 IAC 15-6-8; filed Aug 31, 1992, 5:00 p.m.: 16 IR 32; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA)*

### **327 IAC 15-6-8.5 Permit compliance schedule**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-12-3-1; IC 13-18-1

Sec. 8.5. The following compliance schedule must be followed:

## Permit Compliance Schedule

To apply for coverage	Submit a completed NOI letter
1st year of permit coverage	Submit results of sampling data Develop and implement the SWP3 Submit SWP3 certification checklist Submit annual report
2nd year of permit coverage	Submit results of sampling data Submit annual report
3rd year of permit coverage	Submit results of sampling data Submit annual report
4th year of permit coverage	Submit results of sampling data Submit annual report
5th year of permit coverage	Submit results of sampling data Submit annual report
90 days before permit expires	Resubmit a completed NOI letter
Permit renewals	Repeat annual sampling schedule Submit SWP3 certification checklist during the first year of renewal coverage only if substantial changes have been made on site or to the plan since its inception Submit annual reports

The compliance schedule begins from the date on the initial NOI letter submittal or the expiration date of the previous five (5) year permit term. All submittals to the commissioner must be sent to:

Indiana Department of Environmental Management  
Office of Water Quality  
100 North Senate Avenue, Room N1255  
Indianapolis, Indiana 46204.

*(Water Pollution Control Division; 327 IAC 15-6-8.5; filed Oct 27, 2003, 10:15 a.m.: 27 IR 859; errata filed Feb 6, 2006, 11:15 a.m.: 29 IR 1938; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA)*

**327 IAC 15-6-9 Inspection and enforcement**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-12-3-1; IC 13-14-10; IC 13-15-7; IC 13-18-1; IC 13-30

Sec. 9. (a) The commissioner or designated representative may inspect any facility regulated under this rule at any time. The storm water pollution prevention plan as required by section 7 of this rule and monitoring records as required by section 7.3 of this rule must be available on-site for review by the commissioner. The department or its designated representatives may make recommendations to the facility owner or its representative to install appropriate measures beyond those specified in the storm water pollution prevention plan to achieve compliance.

(b) The department shall investigate potential violations of this rule to determine which person may be responsible for the violation. The department shall, if appropriate, consider public records of ownership and other relevant information, which may include site inspections, storm water pollution prevention plans, notices of intent, contracts, and other information, related to the specific facts and circumstances of the potential violation.

(c) Any person causing or contributing to a violation of any provision of this rule shall be subject to enforcement and penalty as set forth under IC 13-14-10, IC 13-15-7, and IC 13-30. *(Water Pollution Control Division; 327 IAC 15-6-9; filed Aug 31, 1992, 5:00 p.m.: 16 IR 32; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Oct 27, 2003, 10:15 a.m.: 27 IR 859; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA)*

**327 IAC 15-6-10 Duration of coverage and renewal**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-12-3-1; IC 13-18-1

Sec. 10. A permit issued under this rule is valid for a period of five (5) years from the date that the commissioner receives an original NOI letter. To obtain renewal of coverage under this rule, the information required under 327 IAC 15-3 and section 5 of this rule must be submitted to the commissioner ninety (90) days prior to the expiration of coverage under this rule unless the commissioner determines that a later date is acceptable. Coverage under renewal NOI letters will begin on the date of expiration from the previous five (5) year permit. *(Water Pollution Control Division; 327 IAC 15-6-10; filed Oct 27, 2003, 10:15 a.m.: 27 IR 859; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA)*

**327 IAC 15-6-11 Termination of coverage; permit not transferable**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-12-3-1; IC 13-18-1

Sec. 11. (a) An NOT letter, on a form provided by the commissioner, must be submitted by a permittee regulated under this rule for any of the following:

- (1) Closure of the facility.
- (2) Transfer of ownership or operator.
- (3) No exposure of all facility industrial activities to storm water.
- (4) All storm water run-off from the facility flows into a combined sewer system.
- (5) Storm water does not have the potential to impact a water of the state.

(b) An NOT letter for closure of a facility or transfer of ownership or operator must be submitted within thirty (30) days of the date of closure or transfer.

(c) For transfers, the new owner or operator must submit a new NOI letter within sixty (60) days of the date of transfer.

(d) For a permittee to make a claim of termination based on no exposure to industrial activities, a complete "No Exposure Certification" completed in accordance with section 12 of this rule must be submitted with the NOT letter.

(e) For a permittee to make a claim of termination based on all storm water run-off flowing into a combined sewer system, a certification letter from the responsible party of the combined sewer system, on responsible party letterhead, must be submitted with the NOT letter.

(f) The completed NOT will be reviewed by the commissioner within sixty (60) days of the submittal date. The permit remains in effect during the review timeframe.

(g) Upon completion of review the commissioner may:

- (1) approve the NOT letter request;
- (2) deny the NOT request; or
- (3) request an on-site verification inspection.

(h) If the permittee does not receive a notification under subsection (g) within sixty (60) days of the NOT request submittal, the NOT request will be deemed approved.

(i) The commissioner may issue an NOT letter for any of the following occurrences:

- (1) Effluent standards and limitations are promulgated for discharges subject to this rule.
- (2) It is determined that a general permit is not adequate to protect water quality.

When a general permit is not adequate, an individual NPDES storm water permit will be issued. *(Water Pollution Control Division; 327 IAC 15-6-11; filed Oct 27, 2003, 10:15 a.m.: 27 IR 860; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA)*

**327 IAC 15-6-12 Conditional no exposure exclusion**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-11-2; IC 13-12-3-1; IC 13-18-1

Sec. 12. (a) In addition to the definitions contained in IC 13-11-2, 327 IAC 5, 327 IAC 15-1-2, and section 4 of this rule, the following definitions apply throughout this section:

- (1) "Adequately maintained vehicle" means a vehicle (truck, automobile, forklift, trailer, or other general purpose vehicle) found on facility property that is not industrial machinery and not leaking or otherwise a potential source of contaminants.
- (2) "Final product" means a product that is not used in producing other products and is built and intended for use outdoors, provided the final product has not deteriorated or has otherwise become a potential source of contaminants.
- (3) "Industrial materials and activities" means:
  - (A) material handling equipment or activities;
  - (B) industrial machinery;
  - (C) raw materials, intermediate products, byproducts, and final products; or
  - (D) waste products.

(4) "Intermediate product" means a product that is used in the composition of yet another product.

(5) "Material handling activity" means the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, byproduct, or waste product. The term does not include activities conducted on facility property separate from the facility's industrial activities, such as office buildings and accompanying parking lots, as long as the drainage from the excluded areas is not mixed with storm water drained from the included areas.

(6) "Sealed container" means a container that has been banded or otherwise secured, without operational taps or valves, provided the container is not deteriorated and does not leak.

(7) "Storm-resistant shelter" means a completely roofed and walled building or structure, as well as a structure with only a top cover but no side coverings, provided material under the structure is not otherwise subject to any run-on and subsequent run-off of storm water.

(b) A facility regulated under this rule may request an exclusion from permit coverage by:

- (1) submitting a complete "No Exposure Certification" form provided by the commissioner;
- (2) allowing the commissioner to inspect the facility to determine compliance with the "no exposure" conditions;
- (3) allowing the commissioner to make any "no exposure" inspection reports available to the public upon request; and
- (4) for facilities that discharge through a regulated MS4 conveyance, upon request, submitting a copy of the certification of "no exposure" to the MS4 operator, as well as allowing inspection and public reporting by the MS4 operator.

(c) New or existing facilities that were not previously required to obtain a permit under this rule, but are subject to it, must either obtain permit coverage in accordance with sections 5 and 6 of this rule or comply with the procedures in subsection (b).

(d) To determine if a facility can apply for the no exposure certification, the following must be considered:

- (1) A condition of no exposure exists at an industrial facility when all industrial materials and activities are protected by a storm-resistant shelter to prevent exposure to rain, snow, snowmelt, and run-off.
- (2) The conditional no exposure exclusion is available on a facility-wide basis only, not for individual outfalls, and a no exposure certification must be provided for each facility qualifying for the no exposure exclusion.
- (3) The no exposure certification requirement applies to all industrial facilities regulated under this rule, including light industrial facilities that were previously not required to submit documentation to be excluded from storm water permitting requirements.
- (4) A storm-resistant shelter is not required for the following industrial materials and activities:

(A) Drums, barrels, tanks, and similar containers that are tightly sealed, provided these containers are not deteriorated and do not leak.

(B) Adequately maintained vehicles used in material handling.

(C) Final products, except those products that would be mobilized in storm water discharges (for example, rock salt), products that may, when exposed to storm water, oxidize, deteriorate, leak, or otherwise be a potential source of contaminants, or final products that are in actuality intermediate products.

(5) Particulate matter emissions from roof stacks and vents that are otherwise regulated by, and in compliance with, the department's other environmental protection programs (for example, air quality control programs) and do not cause storm water contamination are considered not exposed. Particulate matter or visible deposits of residuals from roof stacks and vents not otherwise regulated (for example, under an air quality control program) and evident in storm water discharges are considered exposed. Likewise, visible "track out" (pollutants carried on the tires of vehicles) and windblown raw materials are considered exposed.

(6) General and industrial refuse and trash contained in covered, nonleaking containers are not considered exposed as long as the containers are completely covered and nothing can drain out holes in their bottoms or be lost in loading onto a garbage truck. General and industrial refuse and trash that are left uncovered, however, are considered exposed.

(7) Storm water run-off from separate office buildings and their associated parking lots do not need to be considered when determining no exposure at an industrial facility.

(8) Temporary covers may be used to shelter materials and activities until permanent enclosure can be achieved. The temporary sheltering of industrial materials and activities is only allowed during facility renovation or construction.

(9) Aboveground storage tanks (ASTs) are generally considered not exposed and may be exempt from the prohibition against adding or withdrawing materials to or from external containers. For an AST to be operational and qualify for no exposure:

- (A) it must be physically separated from, and not associated with, vehicle maintenance operations;
- (B) there must be no piping, pumps, or other equipment leaking contaminants that could contact storm water; and
- (C) it must be surrounded by some type of physical containment to prevent run-off in the event of a structural failure or leaking transfer valve.

(e) The no exposure certification must include the following information:

(1) The person's name, address, and phone number.

(2) The facility name and address, the county name, and the latitude and longitude where the facility is located.

(3) The certification must indicate that none of the following materials or activities are, or will be in the foreseeable future, exposed to precipitation:

- (A) Using, storing, or cleaning industrial machinery or equipment, and areas where residuals from using, storing, or cleaning industrial machinery or equipment remain and are exposed to storm water.
- (B) Materials or residuals on the ground or in storm water inlets from spills or leaks.
- (C) Materials or products from past industrial activity.
- (D) Material handling equipment (except adequately maintained vehicles).
- (E) Materials or products during loading and unloading or transporting activities.
- (F) Materials or products stored outdoors (except final products intended for outside use, for example, new cars, where exposure to storm water does not result in the discharge of pollutants).
- (G) Materials contained in open, deteriorated, or leaking storage drums, barrels, tanks, and similar containers.
- (H) Materials or products handled or stored on roads or railways owned or maintained by the facility.
- (I) Waste material (except waste in covered, nonleaking containers, for example, dumpsters).
- (J) Application or disposal of process wastewater (unless otherwise permitted).
- (K) Particulate matter or visible deposits of residuals from roof stacks or vents not otherwise regulated, that is, under an air quality control permit, and evident in the storm water outflow.

(4) All no exposure certifications must include the following certification statement and be signed in accordance with 327 IAC 15-4-3(g) and 327 IAC 15-4-3(h): "I certify under penalty of law that I have read and understand the eligibility requirements for claiming a condition of "no exposure" and obtaining an exclusion from NPDES storm water permitting; and that there are no discharges of storm water contaminated by exposure to industrial activities or materials from the industrial facility identified in this document (except as allowed under subsection (d)(4)). I understand that I am obligated to submit a no exposure certification form once every five (5) years to the department and, if requested, to the operator of the local regulated MS4 into which this facility discharges (where applicable). I understand that I must allow the department, or MS4 operator where the discharge is into the local regulated MS4, to perform inspections to confirm the condition of no exposure and to make such inspection reports publicly available upon request. I understand that I must obtain coverage under an NPDES permit prior to any point source discharge of storm water from the facility. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly involved in gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(f) Information contained in the "No Exposure Certification" form provided by the commissioner shall be used by the commissioner to determine whether a facility is eligible for the exclusion. Definitions of terms provided in these documents shall apply to the commissioner's interpretation of the no exposure exclusion.

(g) A facility excluded under this section shall meet the following requirements:

(1) A copy of the "No Exposure Certification" form must be retained on site at the facility for a period of five (5) years following the date that the commissioner received the original form in order for the no exposure exclusion to remain applicable.

(2) The "No Exposure Certification" form must be submitted once every five (5) years to the commissioner with updated information as necessary.

(3) The certification for no exposure is nontransferable. If a new operator or owner takes over a facility, the new operator shall immediately complete and submit a new certification form in order to claim the exclusion.

(4) If changes at a facility result in industrial activities or materials becoming exposed to storm water, the no exposure exclusion ceases to apply. The person with financial responsibility or operational control for the facility must submit an NOI letter in accordance with sections 5 and 6 of this rule at least two (2) days before the foreseen changes happen that cause the condition of exposure.

(5) If unforeseen events, such as spills, equipment malfunctions, or acts of nature, cause industrial activities or materials to become exposed to storm water, the no exposure exclusion may still apply provided notification is given to the commissioner within twenty-four (24) hours of facility personnel becoming aware of the exposure and corrective measures are taken to reestablish a condition of no exposure prior to the next storm water discharge event.

(h) If the commissioner finds that, during a compliance inspection or at a later time, the facility has a reasonable potential to cause a violation or nonattainment of a water quality standard or does not meet the conditions for the no exposure exclusion, the commissioner may, upon notifying the facility in writing, deny or revoke the exclusion and require the facility to obtain permit coverage within thirty (30) days of the date on the notification letter.

(i) Failure to maintain the condition of no exposure or obtain coverage under an NPDES permit may lead to the unauthorized discharge of pollutants to waters of the state. (*Water Pollution Control Division; 327 IAC 15-6-12; filed Oct 27, 2003, 10:15 a.m.: 27 IR 860; errata filed Feb 4, 2004, 1:45 p.m.: 27 IR 2285; errata filed Feb 6, 2006, 11:15 a.m.: 29 IR 1938; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA*)

## **Rule 7. Facilities Engaged in Mining of Coal, Coal Processing, and Reclamation Activities**

### **327 IAC 15-7-1 Purpose**

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3

Affected: IC 13-18-4

Sec. 1. The purpose of this rule is to regulate wastewater discharges from surface mining, underground mining, and reclamation projects which utilize sedimentation basin treatment for pit dewatering and surface run-off and to require best management practices for storm water run-off to protect the public health, existing water uses, and aquatic biota. (*Water Pollution Control Division; 327 IAC 15-7-1; filed May 25, 1994, 11:00 a.m.: 17 IR 2284; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA*)

### **327 IAC 15-7-2 Definitions**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3; IC 13-18-4

Affected: IC 13-18

Sec. 2. The following definitions apply throughout this rule:

(1) "1-year, 2-year, and 10-year, 24-hour precipitation event" means the maximum 24-hour precipitation event with a probable recurrence interval of once in one (1), two (2), and ten (10) years, respectively, as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.", May 1961, or equivalent regional or rainfall probability information developed therefrom.

(2) "4 × yearly sample frequency" means the performance of the associated monitoring once any time during each of the four (4) annual quarters:

(A) January-February-March;

- (B) April-May-June;
- (C) July-August-September; and
- (D) October-November-December.

- (3) "Acid or ferruginous mine drainage" means mine drainage which, before any treatment, either has a pH of less than six (6.0) or a total iron concentration equal to or greater than ten (10) milligrams per liter.
- (4) "Active mining area" means the area, on and beneath land, used or disturbed in activity related to the extraction, removal, or recovery of coal from its natural deposits. This term excludes coal preparation plants, coal preparation plant associated areas, and post mining areas.
- (5) "Alkaline mine drainage" means mine drainage which, before any treatment, has a pH equal to or greater than six (6.0) and a total iron concentration of less than ten (10) milligrams per liter.
- (6) "Bond release" means the time at which the appropriate regulatory authority returns a reclamation or performance bond based upon its determination that reclamation work (including, in the case of underground mines, mine sealing and abandonment procedures) has been satisfactorily completed.
- (7) "Coal preparation plant" means a facility where coal is subjected to cleaning, concentrating, or other processing or preparation in order to separate coal from its impurities and thereafter is loaded for transit to a consuming facility.
- (8) "Coal preparation plant associated areas" means the coal preparation plant yards, immediate access roads, coal refuse piles, and coal storage piles and facilities.
- (9) "Coal refuse disposal pile" means any coal refuse deposited on the earth and intended as a permanent disposal or long term storage (greater than one hundred eighty (180) days) of such material but does not include coal refuse deposited within the active mining area or coal refuse that is never removed from the active mining area.
- (10) "Concentration" means the mass of any given material present in a unit volume of liquid. Unless otherwise indicated in this rule, concentration values shall be expressed in milligrams per liter (mg/l).
- (11) "Controlled surface mine discharge" means any surface mine drainage that is pumped or siphoned from the active mining area.
- (12) "Dry weather base flow" means the normal base flow coming from an area or treatment facility which is not immediately affected by run-off caused by rainfall. This flow is a result of ground water interference or a build-up of rainwater over a long period of time. Alternate limitations apply when this dry weather flow increases due to a precipitation event and continues until the flow again returns to the dry weather rate.
- (13) "Mine drainage" means any drainage, and any water pumped or siphoned, from an active mining area or a post mining area.
- (14) "ml/l" means milliliters per liter.
- (15) "Post mining area" means either of the following:
  - (A) A reclamation area.
  - (B) The underground workings of an underground coal mine after the extraction, removal, or recovery of coal from its natural deposit has ceased and prior to bond release.
- (16) "Precipitation event" means a rainfall, snow melt, or ice melt which causes a discharge or an increase in the volume of a discharge.
- (17) "Reclamation area" means the surface area of a coal mine which has been returned to required contour and on which revegetation (specifically, seeding or planting) work has commenced.
- (18) "Settleable solids" means that matter measured by the volumetric method specified in 40 CFR 434.64, which is: Fill an Imhoff cone to the one (1) liter mark with a thoroughly mixed sample. Allow to settle undisturbed for forty-five (45) minutes. Gently stir along the inside surface of the cone with a stirring rod. Allow to settle undisturbed for fifteen (15) minutes longer. Record the volume of settled material in the cone as milliliters per liter (ml/l). Where a separation of settleable and floating materials occurs, do not include the floating material in the reading. The method detection limit for measuring settleable solids shall be four-tenths (0.4) ml/l.
- (19) "TSS" or "total suspended solids" means the mass of suspended matter in wastewater retained on a standard glass fiber filter after filtration of a well-mixed sample after drying for one (1) hour at one hundred three degrees Celsius (103°C).

*(Water Pollution Control Division; 327 IAC 15-7-2; filed May 25, 1994, 11:00 a.m.: 17 IR 2284; errata filed Jul 11, 1994, 3:00 p.m.: 17 IR 2657; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190614-IR-327130176BFA)*

20190710-IR-327190246BFA)

**327 IAC 15-7-3 Applicability**

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3

Affected: IC 13-11-2; IC 13-18-4

Sec. 3. This rule applies to all persons who:

(1) meet the NPDES general permit rule applicability requirements under 327 IAC 15-2-3; or

(2) have an existing point source discharge of wastewater controlled by a valid individual NPDES permit.

*(Water Pollution Control Division; 327 IAC 15-7-3; filed May 25, 1994, 11:00 a.m.: 17 IR 2285; filed Jan 14, 1997, 12:00 p.m.: 20 IR 1477; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA)*

**327 IAC 15-7-4 General permit rule boundary**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3; IC 13-18-4; IC 13-18-18

Affected: IC 13-18

Sec. 4. Facilities existing within the boundaries of Indiana affected by this rule are regulated under this rule. *(Water Pollution Control Division; 327 IAC 15-7-4; filed May 25, 1994, 11:00 a.m.: 17 IR 2285; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA)*

**327 IAC 15-7-5 NOI letter requirements under this rule**

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3

Affected: IC 13-18-4

Sec. 5. (a) In addition to the NOI letter requirements contained in 327 IAC 15-3, a person regulated under this rule must submit with the NOI letter requirements under this rule the following information:

(1) The discharge location of each outfall, including each outfall regulated under section 7(b)(6) of this rule and its associated receiving stream.

(2) An identifying outfall number. The numbering shall start at 001 for the first outfall, 002 for the second outfall, and continue in that manner until all outfalls are numbered. The sequential number assigned to any outfall identified under section 7(b)(6) of this rule shall be preceded by an "S".

(3) For each numbered outfall, identify the mine drainage status regulated under section 7(a)(1) through 7(a)(4) of this rule. For numbered outfalls regulated under section 7(b)(6) of this rule, identify the outfall as discharging storm water.

(4) The dry weather base flow value for each numbered outfall regulated under section 7(a)(1) through 7(a)(4) of this rule.

(5) A topographical map identifying the location of the coal mining operation, the receiving streams, and the location of each numbered outfall.

(b) The NOI letter must also include proof of publication of the following statement in a newspaper of largest circulation in the area of the discharge:

"(Your facility name, address, address of the location of the discharging facility, and the stream(s) receiving the discharge(s)) is submitting a Notice of Intent letter to notify the Indiana Department of Environmental Management of our intent to comply with the requirements under 327 IAC 15-7 to discharge wastewater associated with the mining of coal, coal processing, and/or reclamation activities. Any person aggrieved by this action may appeal in writing to the Environmental Law Judge of the Office of Environmental Adjudication for an adjudicatory hearing on the question of whether this facility should operate under this NPDES general permit rule. An appeal must be postmarked no later than fifteen (15) days from the date of this public notice. Such a written request for an adjudicatory hearing must:

(A) state the name and address of the person making the request;

(B) identify the interest of the person making the request;



- (C) identify any persons represented by the person making the request;
- (D) state with particularity the reasons for the request;
- (E) state with particularity the issues proposed for consideration at the hearing; and
- (F) state with particularity the reasons why the NPDES general permit rule should not be available to the discharger identified in this notice.

Any such request shall be mailed or delivered to:

Office of Environmental Adjudication  
Indiana Government Center-North  
100 North Senate Avenue, Room N501  
Indianapolis, Indiana 46204".

(c) Following submittal of an NOI letter to IDEM and publication in the newspaper by the person requesting coverage under subsection (b), IDEM shall do the following:

- (1) Review the NOI for applicability pursuant to section 3 of this rule and for compliance with the requirements of subsection (a).
- (2) List this facility, the NPDES general permit tracking number, and the information contained in this notice in a monthly publication to be distributed by IDEM to all persons who have asked to receive NPDES general permit rule notification. This monthly publication shall be issued by IDEM on the fifteenth day of every month and shall identify all facilities which met both the NOI and newspaper publication requirements in the preceding month. Requests to be placed on the NPDES general permit rule notification list shall be mailed or delivered to the address at 327 IAC 15-3-1. IDEM's monthly publication will also contain the following instructions:

"Any person aggrieved by this action may appeal in writing to the Environmental Law Judge of the Office of Environmental Adjudication for an adjudicatory hearing on the question of whether this facility should operate under this NPDES general permit rule. An appeal must be postmarked no later than fifteen (15) days from the publication date of this public notice. Such a written request for an adjudicatory hearing must:

- (A) state the name and address of the person making the request;
  - (B) identify the interest of the person making the request;
  - (C) identify any persons represented by the person making the request;
  - (D) state with particularity the reasons for the request;
  - (E) state with particularity the issues proposed for consideration at the hearing; and
  - (F) identify the NPDES general permit rule 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 general permit rule.
- If any person filing such objections desires any part of this NPDES general permit rule to be stayed pending the outcome of the appeal, a specific request for such must be included in the request identifying those parts of the rule to be stayed.

Any such request shall be mailed or delivered to:

Office of Environmental Adjudication  
Indiana Government Center-North  
100 North Senate Avenue, Room N501  
Indianapolis, Indiana 46204".

(d) An amended NOI letter containing the information required in 327 IAC 15-3 and subsection (a) shall be submitted for active or post mining areas and coal preparation plants and associated areas prior to initiating one (1) of the following events:

- (1) A point source discharge is added or deleted.
- (2) A change is made in mine drainage status to a point source discharge.
- (3) The point source discharge location is changed to a different receiving stream.
- (e) A copy of the NOI letter and the amended NOI letter required under this section shall also be sent to the following address:

Indiana Department of Natural Resources  
Division of Reclamation  
14619 West State Road 48  
Jasonville, Indiana 47438-7056

*(Water Pollution Control Division; 327 IAC 15-7-5; filed May 25, 1994, 11:00 a.m.; 17 IR 2285; errata filed Jul 11, 1994, 3:00*

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NPDES GENERAL PERMITS AND SPECIFIC CATEGORY INDIVIDUAL PERMIT REQUIREMENTS

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*p.m.: 17 IR 2657; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; errata filed Feb 6, 2006, 11:15 a.m.: 29 IR 1938; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA; errata filed Dec 30, 2015, 12:37 p.m.: 20160113-IR-327150453ACA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA)*

**327 IAC 15-7-6 Deadline for submittal of NOI letter; additional information**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3; IC 13-18-4; IC 13-18-18

Affected: IC 13-18

Sec. 6. (a) For any person operating under an existing individual NPDES permit, that regulates a wastewater discharge affected by this NPDES general permit rule, the information required under 327 IAC 15-3 shall be submitted to the commissioner any time between the effective date of the existing individual NPDES permit and one hundred eighty (180) days prior to the expiration date of the existing individual NPDES permit, unless the commissioner determines that a later date is acceptable. For any person operating under an individual NPDES permit that regulates a wastewater discharge affected by this NPDES general permit rule and that has expired and has been administratively extended, the information required under 327 IAC 15-3 shall be submitted to the commissioner within ninety (90) days of the effective date of this NPDES general permit rule, unless the commissioner determines that a later date is acceptable.

(b) For a person proposing a new discharge, the information required under 327 IAC 15-3 shall be submitted to the commissioner fifteen (15) days before the date on which the discharge is to commence as allowed in 327 IAC 15-3-3. *(Water Pollution Control Division; 327 IAC 15-7-6; filed May 25, 1994, 11:00 a.m.: 17 IR 2287; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA)*

**327 IAC 15-7-7 General conditions**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3; IC 13-18-4; IC 13-18-18

Affected: IC 13-18

Sec. 7. (a) A person regulated under this rule is authorized to discharge through the outfalls identified in the NOI letter in accordance with this rule. Such discharges shall be limited and monitored as follows:

(1) Discharges through outfalls identified as active mining areas, coal preparation plants, and/or coal preparation plant associated areas designated as new source undetermined mine drainage status shall be limited and monitored as follows:

Parameter	Daily Minimum	Daily Average	Daily Maximum	Units	Measurement Frequency	Sample Type
Flow	—	Report	Report	MGD	2XMonthly	Instantaneous
TSS	—	35	70	mg/l	2XMonthly	Grab
pH	6.0	—	9.0	s.u.	2XMonthly	Grab
Total iron	—	3.0	6.0	mg/l	2XMonthly	Grab
Influent pH	—	Report	Report	Std.	Monthly	Grab
Influent total iron	—	Report	Report	mg/l	Monthly	Grab

(2) Discharges through outfalls identified as active mining areas, coal preparation plants, and/or coal preparation plant associated areas designated as new source alkaline mine drainage status shall be limited and monitored as follows:

Parameter	Daily Minimum	Daily Average	Daily Maximum	Units	Measurement Frequency	Sample Type
Flow	—	Report	Report	MGD	2XMonthly	Instantaneous
TSS	—	35	70	mg/l	2XMonthly	Grab
pH	6.0	—	9.0	s.u.	2XMonthly	Grab
Total iron	—	3.0	6.0	mg/l	2XMonthly	Grab

(3) Discharges through outfalls identified as active mining areas, coal preparation plants, and/or coal preparation plant associated areas designated as new source acid mine drainage status shall be limited and monitored as follows:

Parameter	Daily Minimum	Daily Average	Daily Maximum	Units	Measurement Frequency	Sample Type
Flow	—	Report	Report	MGD	Weekly	Instantaneous
TSS	—	35	70	mg/l	Weekly	Grab

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NPDES GENERAL PERMITS AND SPECIFIC CATEGORY INDIVIDUAL PERMIT REQUIREMENTS

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pH	6.0	—	9.0	s.u.	Weekly	Grab
Total iron	—	3.0	6.0	mg/l	Weekly	Grab
Total manganese	—	2.0	4.0	mg/l	Weekly	Grab
Total aluminum	—	Report	Report	mg/l	Monthly	Grab
Total copper	—	Report	Report	mg/l	Monthly	Grab
Total zinc	—	Report	Report	mg/l	Monthly	Grab
Total nickel	—	Report	Report	mg/l	Monthly	Grab

(4) Discharges through outfalls identified as post mining areas shall be limited and monitored as follows:

Parameter	Daily Minimum	Daily Average	Daily Maximum	Units	Measurement Frequency	Sample Type
Flow	—	—	—	—	4XYearly	Instantaneous
Settleable solids	—	Report	0.5	ml/l	4XYearly	Grab
pH	6.0	—	9.0	s.u.	Once every reporting period	Grab

(b) A person regulated under this rule shall comply with the following additional discharge requirements:

(1) The pH of the water contained in any water pollution treatment/control facility cannot be adjusted by the use of anhydrous ammonia. The only approved water treatment additives for pH adjustment are:

- (A) sodium hydroxide;
- (B) hydrated lime;
- (C) calcined (unslaked or quick) lime;
- (D) soda ash;
- (E) lime;
- (F) sodium bicarbonate; or
- (G) other water treatment additive approved by the Indiana department of environmental management.

(2) The discharge shall not cause excessive foam in the receiving waters.

(3) The discharge shall be essentially free of floating and settleable solids.

(4) The discharge shall not contain oil or other substances in amounts sufficient to create a visible film or sheen on the receiving waters.

(5) The discharge shall be free of substances that are in amounts sufficient to be unsightly or deleterious or which produce color, odor, or other conditions in such a degree as to create a nuisance.

(6) For discharges of storm water run-off composed entirely of flows from conveyances used for collecting and conveying precipitation run-off which are contaminated by contact with overburden, coal product, coal byproduct, or coal waste located on the site and do not otherwise report to a NPDES discharge point regulated under this rule, the permittee shall use best management practices including, but not limited to, secondary sedimentation control structures such as rip rap, straw dikes, check dams, mulch, dugouts, or other measures that reduce overload flow velocity, reduce run-off volume, or trap sediment to control run-off from such areas. Compliance with this subdivision obviates the need to comply with 327 IAC 15-6.

(c) A person regulated under subsection (a)(1) through (a)(3) may choose to apply the following alternate effluent limitations to a discharge when the discharge flow rate exceeds the dry weather base flow based on the precipitation events identified as follows:

(1) If a precipitation event is less than or equal to the 10-year, 24-hour storm event, the following limitations may apply instead of the limitations listed in subsection (a):

(A) pH is limited to the range of six (6.0) to nine (9.0).

(B) Settleable solids are limited to a maximum concentration of five-tenths (0.5) ml/l.

(2) If a precipitation event is greater than the 10-year, 24-hour storm event, only pH is limited to the range of six (6.0) to nine (9.0).

These alternate limits are not applicable to discharges which occur during dry weather base flow.

(d) A person regulated under this rule shall comply with the following sampling requirements:

(1) When possible, grab samples shall be taken two (2) times per month with one (1) sample representative of the dry weather base flow and one (1) sample representative of a precipitation event. In the event that only one (1) discharge event or no discharge occurred during a monthly reporting period, the monthly discharge monitoring report shall so state.

(2) Samples taken in compliance with the monitoring requirements in this section shall be taken at a point representative of the discharge but prior to entry into waters of Indiana.

(3) The analytical and sampling methods used shall conform to the current version of 40 CFR 136 as referenced in 327 IAC 5-2-13(d)(1).

(4) Samples and measurements taken as required in this section shall be representative of the volume and nature of the monitored discharge.

(e) A person regulated under this rule shall comply with the following reporting requirements:

(1) Under subsection (c), for reporting purposes, a person regulated under this rule shall report on the monthly discharge monitoring report all analytical results and identify on an attachment to this report the analytical results that were reported under subsection (c) and state the duration and volume of the precipitation event. Failure to submit the necessary information with the monthly discharge monitoring report will disqualify the discharge from the alternate effluent limitations and may lead to a violation of this rule.

(2) For areas designated as new source undetermined mine drainage status, influent pH and influent total iron are to be monitored for a six (6) month period to determine whether they are present in significant quantities. At the end of this sampling period, a person regulated under this rule may request, in writing, to the permits section at the address listed in 327 IAC 15-3-1, a review of these requirements. Upon review and approval by the Indiana department of environmental management, monitoring for influent pH and influent iron may cease, if appropriate, without public notice or comment.

(3) For areas designated as new source acid mine drainage status, total aluminum, total copper, total zinc, and total nickel are to be monitored for one (1) year to determine whether they are present in significant quantities. At the end of this sampling period, a person regulated under this rule may request, in writing, to the permits section at the address listed in 327 IAC 15-3-1, a review of these requirements. Upon review and approval by the Indiana department of environmental management, monitoring for total aluminum, total copper, total zinc, and total nickel may cease, if appropriate, without public notice or comment.

(4) Monthly discharge monitoring reports shall be submitted to the data management section at the address listed in 327 IAC 15-3-1, containing results obtained during the previous month and shall be postmarked no later than the twenty-eighth day of the month following each completed monitoring period. During a month in which no discharge occurs, the person regulated under this rule shall submit the report stating that no discharge occurred.

(5) For each measurement or sample taken pursuant to the requirements of this rule, the facility shall record the following information:

(A) The exact place, date, and time of sampling.

(B) The person(s) who performed the sampling or measurements.

(C) The dates the analyses were performed.

(D) The person(s) who performed the analyses.

(E) The analytical techniques or methods used.

(F) The results of all required analyses.

(6) Monitoring of any pollutant at the location(s) identified in the NOI letter more frequently than required under this rule, using approved analytical methods, the results of such monitoring shall be included in the calculation and reporting of the values required in monthly discharge monitoring report. Such increased frequency shall also be indicated in this report.

(7) All records and information resulting from the monitoring activities required under this rule, including all records of analyses performed and calibration and maintenance of instrumentation, shall be retained for a minimum of three (3) years. When the original records are kept at another location, a copy of all such records shall be kept at the facility. The three (3) year period shall be extended:

(A) automatically during the course of any unresolved litigation regarding the discharge of pollutants by the facility or regarding promulgated effluent guidelines applicable to the facility; or

(B) when requested by the regional administrator or the Indiana department of environmental management.

*(Water Pollution Control Division; 327 IAC 15-7-7; filed May 25, 1994, 11:00 a.m.: 17 IR 2287; errata filed Jul 11, 1994, 3:00 p.m.: 17 IR 2657; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA)*

**327 IAC 15-7-8 Standard conditions**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3; IC 13-18-4; IC 13-18-18  
Affected: IC 13-18

Sec. 8. In addition to the conditions set forth in this rule, the standard conditions for the NPDES general permit rule under 327 IAC 15-4 shall apply also to this rule. (*Water Pollution Control Division; 327 IAC 15-7-8; filed May 25, 1994, 11:00 a.m.: 17 IR 2289; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA*)

**327 IAC 15-7-9 Inspection and enforcement**

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3  
Affected: IC 13-18-4; IC 13-30

Sec. 9. (a) In accordance with 327 IAC 5-1-3(c), the commissioner or a designated representative or both may inspect any facility regulated under this rule at any time.

(b) Any person violating any provision of this rule shall be subject to enforcement and penalties as set forth under IC 13-30 and 327 IAC 15-1-4. (*Water Pollution Control Division; 327 IAC 15-7-9; filed May 25, 1994, 11:00 a.m.: 17 IR 2289; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA; errata filed Dec 30, 2015, 12:37 p.m.: 20160113-IR-327150453ACA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA*)

**327 IAC 15-7-10 Duration of coverage**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3; IC 13-18-4; IC 13-18-18  
Affected: IC 13-18

Sec. 10. Coverage under this rule is granted by the commissioner for a period of five (5) years from the date coverage commences. To obtain renewal of coverage under this general permit rule, the information required under 327 IAC 15-3 shall be submitted to the commissioner within ninety (90) days of the termination of coverage under this NPDES general permit rule, unless the commissioner determines that a later date is acceptable. (*Water Pollution Control Division; 327 IAC 15-7-10; filed May 25, 1994, 11:00 a.m.: 17 IR 2289; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA; readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR-327190246BFA*)

**Rule 8. Facilities Discharging Noncontact Cooling Water (*Repealed*)**

(*Repealed by Water Pollution Control Division; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA*)

**Rule 9. Wastewater Discharge Associated with Petroleum Products Terminals (*Repealed*)**

(*Repealed by Water Pollution Control Division; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA*)

**Rule 10. Wastewater Discharge Associated with Ground Water Petroleum Remediation Systems (*Repealed*)**

(*Repealed by Water Pollution Control Division; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA*)

**Rule 11. Wastewater Discharge Associated with Hydrostatic Testing of Commercial Pipelines (*Repealed*)**

(*Repealed by Water Pollution Control Division; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA*)

**Rule 12. Facilities Engaged in Sand, Gravel, Dimension Stone, or Crushed Stone Operations (*Repealed*)**

(*Repealed by Water Pollution Control Division; filed Oct 9, 2015, 4:07 p.m.: 20151104-IR-327100659FRA*)

**Rule 13. Storm Water Run-Off Associated with Municipal Separate Storm Sewer System (*Repealed*)**  
(*Repealed by Water Pollution Control Division; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA*)

**Rule 14. On-Site Residential Sewage Discharging Disposal Systems within the Allen County On-Site (*Repealed*)**  
(*Repealed by Water Pollution Control Division; filed Nov 18, 2021, 11:08 a.m.: 20211215-IR-327180238FRA*)

**Rule 15. Concentrated Animal Feeding Operations (*Repealed*)**  
(*Repealed by Water Pollution Control Division; filed Feb 6, 2012, 2:50 p.m.: 20120307-IR-327090213FRA, eff Jul 1, 2012*)

**Rule 16. Concentrated Animal Feeding Operations (CAFOs)**

**327 IAC 15-16-1 Purpose and applicability**

Authority: IC 13-14-8; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14-12; IC 13-18-10; IC 13-30

Sec. 1. (a) This rule:

- (1) incorporates by reference federal National Pollutant Discharge Elimination System (NPDES) concentrated animal feeding operation (CAFO) regulations;
- (2) requires construction, operational, and land application standards for CAFOs; and
- (3) describes how to be removed from the CAFO permitting program.

(b) This rule applies to all of the following:

- (1) All CAFOs defined as CAFOs under 40 CFR 122.23(c)\* that discharge to waters of the state.
- (2) Animal feeding operations designated as CAFOs under 40 CFR 122.23(c)\* that discharge to waters of the state.
- (3) AFOs electing to be subject to this rule.
- (c) An owner/operator of a facility listed in subsection (b) must obtain permit coverage under this rule.

(d) The discharge of manure, litter, or process wastewater from a CAFO to waters of the state as a result of land application of manure, litter, or process wastewater by the CAFO to land application areas under the control of the CAFO owner/operator is a discharge subject to NPDES permit requirements under this rule, except where it is an agricultural storm water discharge.

\*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, IN 46204. (*Water Pollution Control Division; 327 IAC 15-16-1; filed Feb 6, 2012, 2:50 p.m.: 20120307-IR-327090213FRA, eff Jul 1, 2012; filed Jul 12, 2017, 8:47 a.m.: 20170809-IR-327160003FRA*)

**327 IAC 15-16-2 References to the Code of Federal Regulations**

Authority: IC 4-22-2-21; IC 13-14-8; IC 13-18-10-4

Affected: IC 4-22-9-5; IC 13-11-2; IC 13-18-10; IC 13-30

Sec. 2. (a) Unless otherwise indicated, any reference to the Code of Federal Regulations (CFR) in this article means the July 1, 2016, edition, except as provided in subsection (b).

(b) The following are exceptions to the incorporations by reference in subsection (a):

- (1) Delete "or proposes to discharge" wherever it occurs.
- (2) Delete 40 CFR 122.23(e)(2).
- (3) Delete 40 CFR 122.23(f) and substitute the following: Any CAFO that discharges must obtain permit coverage under paragraph (d)(1) of this section.

\*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, IN 46204. (*Water Pollution Control Division;*

327 IAC 15-16-2; filed Feb 6, 2012, 2:50 p.m.: 20120307-IR-327090213FRA, eff Jul 1, 2012; filed Jul 12, 2017, 8:47 a.m.: 20170809-IR-327160003FRA)

### **327 IAC 15-16-3 Conversion of federal terms**

Authority: IC 13-14-8-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14-12; IC 13-18; IC 13-30

Sec. 3. When used in 40 CFR, as incorporated by reference in this rule, substitute the following unless otherwise indicated:

- (1) "Administrator" means the commissioner of the Indiana department of environmental management.
- (2) "Agency" means the Indiana department of environmental management.
- (3) "Director" means the commissioner of the Indiana department of environmental management.
- (4) "Environmental protection agency" or "EPA" means the Indiana department of environmental management.
- (5) "State", "authorized state", "approved state", and "approved program" means Indiana.
- (6) "United States" means the state of Indiana.

(Water Pollution Control Division; 327 IAC 15-16-3; filed Feb 6, 2012, 2:50 p.m.: 20120307-IR-327090213FRA, eff Jul 1, 2012)

### **327 IAC 15-16-4 Definitions**

Authority: IC 13-14-8; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-18-10; IC 13-30

Sec. 4. In addition to the definitions in IC 13-11-2, 327 IAC 5-1.5, 327 IAC 19-2, and 40 CFR 122.23, the following definitions apply throughout this rule:

- (1) "Agricultural storm water discharge" means a precipitation related discharge from a land application area where the manure, litter, or process wastewater has been applied in accordance with this rule and site-specific nutrient management practices to ensure the agronomic utilization of the nutrients in the manure, litter, or process wastewater as provided in 33 U.S.C. 1362(14) and 40 CFR 122.23(e).
- (2) "Confined feeding operation approval" means a valid approval issued by the commissioner under 327 IAC 19.
- (3) "Manure storage area" means any area where manure is kept. The term includes the following areas:
  - (A) Lagoons.
  - (B) Runoff ponds.
  - (C) Storage sheds.
  - (D) Stockpiles.
  - (E) Under house or pit storage.
  - (F) Liquid impoundments.
  - (G) Static piles.
  - (H) Composting piles.
- (4) "One hundred (100) year, twenty-four (24) hour rainfall event" means a twenty-four (24) hour precipitation event with a probable recurrence interval of once in one hundred (100) years, as determined using National Oceanic and Atmospheric Administration (NOAA) Atlas 14, "Precipitation-Frequency Atlas of the United States, Volume 2 Version 3.0", revised 2006\*.
- (5) "Overflow" means the discharge of manure or process wastewater resulting from the filling of wastewater or manure storage structures beyond the point at which no more manure, process wastewater, or storm water can be contained by the structure.
- (6) "Setback" means a specified distance from surface waters or potential conduits to surface waters where manure, litter, and process wastewater may not be land applied. Examples of conduits or potential conduits include the following:
  - (A) Open tile line intake structures.
  - (B) Sinkholes.
  - (C) Agricultural well heads.
- (7) "Twenty-five (25) year, twenty-four (24) hour rainfall event" means a twenty-four (24) hour precipitation event with a probable recurrence interval of once in twenty-five (25) years, as determined using NOAA Atlas 14, "Precipitation-Frequency Atlas of the United States, Volume 2 Version 3.0", revised 2006\*.

\*Copies are available from the National Weather Service, Office of Hydrologic Development, 1325 East West Highway, Silver

Spring, MD 20910 or online at <http://www.nws.noaa.gov/oh/hdsc/currentpf.htm>. (*Water Pollution Control Division; 327 IAC 15-16-4; filed Feb 6, 2012, 2:50 p.m.: 20120307-IR-327090213FRA, eff Jul 1, 2012; filed Jul 12, 2017, 8:47 a.m.: 20170809-IR-327160003FRA*)

### **327 IAC 15-16-5 Application requirements**

Authority: IC 13-14-8; IC 13-18-10-4

Affected: IC 13-18-10-2; IC 13-18-20-11.5; IC 13-18-20-12; IC 13-30

Sec. 5. (a) The owner/operator of a CAFO must submit all of the following to the department:

(1) The application for an individual NPDES permit required by 40 CFR 122.21\* and 327 IAC 5-2-3 on forms provided by the department.

(2) The NPDES permit application fee of fifty dollars (\$50) required by IC 13-18-20-12. If this fee is not submitted, the permit application must be denied as provided in IC 13-18-20-12(b).

(3) The individual NPDES CAFO permit application fee of two hundred fifty dollars (\$250) required by IC 13-18-20-11.5.

(4) A list of potentially affected persons, which includes those described in IC 13-18-10-2 and landowners or occupants of land that adjoins the land that is the subject of the permit.

(b) In addition to the requirements in subsection (a), when expanding the CAFO to increase animal capacity or manure containment capacity, the owner/operator must:

(1) obtain a separate construction approval under 327 IAC 19 by submitting:

(A) an application in accordance with 327 IAC 19-7-1; and

(B) the fee of one hundred dollars (\$100) required by IC 13-18-10-2(a)(5); and

(2) comply with the public notice and comment requirements of 327 IAC 19-8-7.

The department shall incorporate the construction approval into the NPDES CAFO permit.

(c) The department shall process the application in accordance with 327 IAC 5-3.

\*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, IN 46204. (*Water Pollution Control Division; 327 IAC 15-16-5; filed Feb 6, 2012, 2:50 p.m.: 20120307-IR-327090213FRA, eff Jul 1, 2012; filed Jul 12, 2017, 8:47 a.m.: 20170809-IR-327160003FRA*)

### **327 IAC 15-16-6 Permit term and renewal**

Authority: IC 13-13-5-1; IC 13-15-1-2; IC 13-15-2-1

Affected: IC 13-18-10

Sec. 6. (a) A permit issued under this rule is effective for a period of five (5) years from the date the permit is issued by the department.

(b) To obtain renewal of coverage under this rule, the information required under 40 CFR 122.21\* shall be submitted to the department no later than one hundred eighty (180) days before the expiration of coverage under the permit.

(c) The permittee must submit an application in accordance with section 5 of this rule to renew a permit.

\*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, IN 46204. (*Water Pollution Control Division; 327 IAC 15-16-6; filed Feb 6, 2012, 2:50 p.m.: 20120307-IR-327090213FRA, eff Jul 1, 2012; filed Jul 12, 2017, 8:47 a.m.: 20170809-IR-327160003FRA*)

### **327 IAC 15-16-7 Performance standards and effluent limitations**

Authority: IC 13-14-8; IC 13-18-10-4

Affected: IC 13-14-12; IC 13-18-10; IC 13-30

Sec. 7. (a) All permitted CAFOs must comply with the requirements of 327 IAC 19-3-1.



(b) Animals in any confinement area must not have direct access to waters of the state.

(c) A discharge of process wastewater pollutants to waters of the state is prohibited, except as described in subsection (d).

(d) Whenever rainfall events cause an overflow of process wastewater from a facility designed, constructed, operated, and maintained to contain all process wastewater generated in addition to the runoff from a twenty-five (25) year, twenty-four (24) hour rainfall event for the location of the point source, process wastewater pollutants in the overflow may be discharged into waters, provided that the production area is operated in accordance with the requirements of 40 CFR 412.37(a)\* and 40 CFR 412.37(b)\*.

(e) Any discharges by operations permitted under this rule may not cause an exceedance of a water quality standard under 327 IAC 2.

(f) Permitted CAFOs must meet the following requirements and effluent limitations for the CAFO production areas as of the date of permit coverage:

(1) A discharge of manure, litter, or process wastewater pollutants to waters of the state is prohibited.

(2) Whenever rainfall events cause an overflow of process wastewater from a structure designed, constructed, operated, and maintained to contain all process wastewater including the direct precipitation and runoff from a twenty-five (25) year, twenty-four (24) hour rainfall event for the location of the point source, process wastewater pollutants in the overflow may be discharged into waters, provided that the production area is operated in accordance with the requirements of subdivisions (3) through (7).

(3) Conduct weekly visual inspections of all of the following:

(A) Storm water diversion devices.

(B) Runoff diversion devices.

(C) Devices channeling contaminated storm water to the process wastewater and manure storage structure.

(D) Manure, litter, and process wastewater impoundments, noting the level in open surface liquid impoundments as indicated by the depth marker.

(4) Conduct daily inspection of all water lines that may come in contact with or impact manure, litter, or process wastewater in and around the production area. Water lines include drinking water lines for livestock.

(5) Correct any deficiencies found in inspections as soon as possible.

(6) Do not dispose of mortalities in a liquid manure or process wastewater system. Mortalities must be handled to prevent the discharge of pollutants to surface water.

(7) Maintain, within the operating record required under section 11 of this rule, for a period of five (5) years from the date of creation, a complete copy of the following records:

(A) Records documenting self-inspections.

(B) Weekly records of the depth of manure and process wastewater in the open surface liquid impoundment, as indicated by the depth marker.

(C) Records of actions taken to correct deficiencies. Deficiencies not corrected within thirty (30) days of discovery must be accompanied by an explanation of the factors preventing immediate correction.

(D) Records of mortality management and practices.

(E) Records documenting the current design of any manure, litter, or process wastewater storage structures, including volume for solids accumulation, design treatment volume, total design volume, and approximate number of days of storage capacity.

(F) Records of the date, time, and estimated amount of any overflow.

(g) For the land upon which the CAFO applies manure, the records described in 327 IAC 19-14-3(f) must be maintained in the operating record for a period of five (5) years from the date of permit coverage.

\*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, IN 46204. (*Water Pollution Control Division; 327 IAC 15-16-7; filed Feb 6, 2012, 2:50 p.m.: 20120307-IR-327090213FRA, eff Jul 1, 2012; filed Jul 12, 2017, 8:47 a.m.: 20170809-IR-327160003FRA*)

### 327 IAC 15-16-8 Design, construction, and operational requirements

Authority: IC 13-14-8-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14-12; IC 13-18; IC 13-30

Sec. 8. All permitted CAFOs must comply with the requirements of the following:

- (1) 327 IAC 19-4.
- (2) 327 IAC 19-7-6.
- (3) 327 IAC 19-8-3(b).
- (4) 327 IAC 19-10.
- (5) 327 IAC 19-11-1(a).
- (6) 327 IAC 19-12, unless an alternative design or compliance approach has been approved by the commissioner under 327 IAC 19-5-1.
- (7) 327 IAC 19-13.

*(Water Pollution Control Division; 327 IAC 15-16-8; filed Feb 6, 2012, 2:50 p.m.: 20120307-IR-327090213FRA, eff Jul 1, 2012)*

### **327 IAC 15-16-9 Nutrient management requirements**

Authority: IC 13-13-5-1; IC 13-15-1-2; IC 13-15-2-1

Affected: IC 13-18-10

Sec. 9. (a) The owner/operator of a CAFO must conduct manure, litter, and process wastewater testing for nitrogen and phosphorus annually. Soil sampling and testing must be conducted at a minimum of once every three (3) years. An owner/operator may use the most recent data required under 327 IAC 19-7-5 to meet this requirement after the effective date of this rule.

(b) An owner/operator shall use the protocols listed in the Indiana NRCS Nutrient Management Conservation Practice Standard, Code 590: Nutrient Management, October 2013\* for sampling and testing of soil, manure, litter, and process wastewater.

(c) When developing the nutrient management plan required by 40 CFR 122.42(e)\*\*, the owner/operator shall follow:

- (1) the Indiana Comprehensive Nutrient Management Plan Criteria Practice Activity Code 102, August 2015\*;
- (2) the Purdue University Manure Management Planner\*\*\*; or
- (3) an equivalent program that meets all requirements of 40 CFR 122.42(e)\*\*.

(d) Manure application rates must be in accordance with 327 IAC 19-14-3.

(e) Except as otherwise provided under this section, application of manure, litter, and process wastewater must be in accordance with the setbacks in 327 IAC 19-14-6.

(f) Manure, litter, or process wastewater must be applied to the land in accordance with 327 IAC 19-14-4.

(g) Land application sites must be inspected to identify any field tile outlets under or immediately bordering the land application site in accordance with 327 IAC 19-14-6.

(h) Spray irrigation must be done in accordance with the requirements in 327 IAC 19-14-5.

(i) Marketing of manure must be done in accordance with the requirements of 327 IAC 19-14-7.

(j) In accordance with 40 CFR 122.42(e)\*\*, the department shall provide public notice of substantial changes to the nutrient management plan for seven (7) days after receipt of the changes. The owner/operator may not implement the changes until after:

- (1) closure of the comment period; and
- (2) notification of approval by the department.

\*This document is incorporated by reference. Copies may be obtained from the Indiana NRCS State Office, 6013 Lakeside Boulevard, Indianapolis, IN 46278, online at <http://www.in.nrcs.usda.gov/>, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, IN 46204.

\*\*This document is incorporated by reference. Copies may be obtained from Government Publishing Office, [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, IN 46204.

\*\*\*This program is available for use online at: <http://www.purdue.edu/agsoftware/mmp/>. *(Water Pollution Control Division; 327 IAC 15-16-9; filed Feb 6, 2012, 2:50 p.m.: 20120307-IR-327090213FRA, eff Jul 1, 2012; filed Jul 12, 2017, 8:47 a.m.: 20170809-IR-327160003FRA; errata filed Jul 31, 2017, 11:06 a.m.: 20170809-IR-327170349ACA)*

### **327 IAC 15-16-10 Annual report and general conditions**

Authority: IC 13-13-5-1; IC 13-15-1-2; IC 13-15-2-1

Affected: IC 13-18-10

Sec. 10. (a) Any person with a facility subject to this rule shall submit an annual report to the commissioner by February 15 of each year for the previous calendar year with the following information:

- (1) The requirements listed in 40 CFR 122.42(e)(4)\*.
- (2) Information specified under 327 IAC 15-4-2 and 327 IAC 15-4-3 for any instance of noncompliance. If a spill occurs, the spill must be reported to the department within two (2) hours of discovery, in accordance with 327 IAC 2-6.1-7.
- (b) All reports and information required to be submitted under this rule shall be signed and certified in accordance with 327 IAC 15-4-3(g).
- (c) It shall not be a defense in an enforcement action that an owner/operator would have had to halt or reduce the permitted activity in order to maintain compliance with the requirements of this rule.
- (d) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- (e) The owner/operator shall comply with the requirements of 327 IAC 5-2-14.
- (f) The owner/operator shall give notice to the commissioner as soon as possible of any planned physical alterations or additions to the permitted facility when the alterations or additions would cause the facility to become a new source under 40 CFR 122.29(b)\*.
- (g) The owner/operator shall give notice to the commissioner of any planned change in the permitted facility or activity that may result in noncompliance with the requirements of this rule.

\*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, IN 46204. (*Water Pollution Control Division; 327 IAC 15-16-10; filed Feb 6, 2012, 2:50 p.m.: 20120307-IR-327090213FRA, eff Jul 1, 2012; filed Jul 12, 2017, 8:47 a.m.: 20170809-IR-327160003FRA*)

### **327 IAC 15-16-11 Operating record**

Authority: IC 13-13-5-1; IC 13-15-1-2; IC 13-15-2-1

Affected: IC 13-18-10

Sec. 11. (a) The following information must be included, maintained, and updated in the operating record:

- (1) All valid permits, modifications, and notifications.
- (2) The current annual report information required under section 10 of this rule.
- (3) The current emergency spill response plan required under 327 IAC 19-13-4.
- (4) Marketing and distribution records for five (5) years under 327 IAC 19-14-7.
- (5) Updated calculation of minimum acreage required to meet land application requirements under this rule.
- (6) Maps required under 327 IAC 19-7-2.
- (7) Farmstead plan required under 327 IAC 19-7-3.
- (8) Records required under section 7 of this rule and 327 IAC 19-13-1(f).
- (9) The storm water records required under 327 IAC 19-11-1(a).
- (b) Access to a minimum number of acres for land application of manure, litter, or process wastewater must be maintained and documented in the operating record at all times based on the requirements in this rule:
  - (1) Any acreage identified as part of the minimum required acreage for the application of manure, litter, or process wastewater that is not owned by the owner or operator of the CAFO must be documented in the operating record by land use agreements signed by the property owners on whose property the manure, litter, or process wastewater will or may be applied. If the property is held under a lease or managed by someone other than the property owner, such person in responsible control of the property with authority to approve the land application of manure on the land may sign the land use agreement. The land use agreement shall specify the location of each parcel of land upon which manure may be applied and the available acreage on each parcel after calculation of setbacks.
  - (2) Copies of any written waivers related to reduction of the property line setback distances by adjoining property owners.
  - (3) The amount of minimum acreage required to be accessible for land application may be reduced based on the amount of manure that is marketed or distributed.

(*Water Pollution Control Division; 327 IAC 15-16-11; filed Feb 6, 2012, 2:50 p.m.: 20120307-IR-327090213FRA, eff Jul 1, 2012*)

**327 IAC 15-16-12 Decommissioning, ceasing operation, and transfer of ownership**

Authority: IC 13-14-8-1; IC 13-18-10-4

Affected: IC 13-11-2-40; IC 13-14-12; IC 13-18; IC 13-30

Sec. 12. (a) A CAFO that is decommissioning a manure storage area must do so in accordance with 327 IAC 19-15.

(b) A CAFO that is ceasing operation must do so in accordance with 327 IAC 19-16-3.

(c) Transfer of ownership of a CAFO must be done in accordance with 327 IAC 5-2-6(c). (*Water Pollution Control Division; 327 IAC 15-16-12; filed Feb 6, 2012, 2:50 p.m.: 20120307-IR-327090213FRA, eff Jul 1, 2012*)

**327 IAC 15-16-13 Transition to the confined feeding operation program in 327 IAC 19**

Authority: IC 13-14-8-1; IC 13-18-10-4

Affected: IC 13-11-2-40; IC 13-14-12; IC 13-18; IC 13-30

Sec. 13. (a) A CAFO that is no longer required to maintain an NPDES permit but meets the definition of a CFO as of the effective date of this rule must provide written notification to the commissioner of its transition into the CFO program under 327 IAC 19.

(b) Coverage under 327 IAC 19 commences on the effective date of 327 IAC 19 and remains in effect for the duration of time the NPDES permit would have been in effect but in no case longer than five (5) years.

(c) The department shall send a transition form to each CAFO NPDES permit holder prior to the effective date of this rule. The form shall indicate the current status of the permit holder and provide the date by which the permit holder must submit information to the department as to whether the permit holder is transitioning to the state CFO program or maintaining a CAFO NPDES permit.

(d) Facilities that do not submit the notification by the date required on the transition form must submit the full application for CFO approval required under 327 IAC 19-7.

(e) Any facility that holds a CAFO NPDES general permit prior to the effective date of the repeal of the CAFO NPDES general permit rules must elect to either transition to the state CFO program or submit an application for an individual CAFO NPDES permit. (*Water Pollution Control Division; 327 IAC 15-16-13; filed Feb 6, 2012, 2:50 p.m.: 20120307-IR-327090213FRA, eff Jul 1, 2012*)

\*