

**Authorization to Discharge Under the
National Pollutant Discharge Elimination System (NPDES)
General NPDES Permit Number NEP100000
For Pesticides
Applications To, Over, or Near Waters of the State of Nebraska**

This *NPDES* general permit is issued in compliance with the provisions of the Federal Water Pollution Control Act (33 U.S.C. Secs. 1251 *et. seq.* as amended to date), the Nebraska Environmental Protection Act (Neb. Rev. Stat. Secs. 81-1501 *et. seq.* as amended to date), and the Rules and Regulations promulgated pursuant to these Acts. Application may be made under this general permit for authorization to discharge ***pesticides and their residuals to, over, or near, waters of the State of Nebraska. Owners, Operators, and Applicators*** issued a discharge authorization under this general permit are required to comply with the limits, requirements, prohibitions, and conditions set forth herein. Authorization under this general permit does not relieve ***Applicators or Permittees*** of other duties and responsibilities under the Nebraska Environmental Protection Act, as amended, or established by regulations promulgated pursuant thereto.

NPDES Permit Number: NEP100000

This permit shall become effective on **April 1, 2011**.

This permit and the authorization to discharge shall expire at midnight, **March 31, 2016**

Pursuant to a Delegation Memorandum dated January 12, 1999 and signed by the **Director**, the undersigned hereby executes this document on behalf of the **Director**.

Signed this _____ day of _____, _____

Patrick W. Rice
Assistant Director

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ATTACHMENTS

Attachment # 1 Pesticide Application Notice of Intent Form (PEST-NOI)

*Terms written in **BOLDFACE ITALICS** in this permit are defined in the Definitions section of Part V.*

PART I. COVERAGE UNDER THIS PERMIT

A. Introduction

This permit is required and shall apply to discharges of *pesticides* and their residuals to, over, or *near waters of the state*. These pesticide applications shall be subject to the specific terms and conditions in this permit. This permit also authorizes *pesticide* discharges from any other activity, as designated by the *Director*, where the designation is made based on the potential for an excursion of a water quality standard or for significant contribution of pollutants to *waters of the state*. The goal of this permit is to reduce or eliminate pollution from the discharges of *pesticides* to, over or *near waters of the state* by requiring implementation of best management practices to protect water quality.

B. Permit Area

This permit provides coverage for applications of *pesticides* to, over, or *near waters of the state* throughout the State of Nebraska excluding tribal land within the State of Nebraska. This permit does not cover terrestrial applications of pesticides that are not *near water* nor does it cover associated runoff from applications to agriculture land or irrigation return flow from cropland which are exempt in the Clean Water Act.

1. Waters of the State are divided into the following three groups for this permit.

a. Group III waters are:

- i.) State resource waters as listed in Nebraska Title 117. The Current Title 117 is located at www.deq.state.ne.us "Laws & Regulations".
- ii.) Listed as impaired on the current Nebraska Clean Water Act 303(d) list for any of the ingredients in the pesticide or residuals from the application of the pesticide. The current Nebraska Clean Water Act 303(d) list is available at www.deq.state.ne.us "Surface Water Monitoring and Assessment Programs", Integrated Reports.
- iii.) Waters where Threatened and Endangered Species (T&E) or critical habitats are present in the target area and there is not a standard procedure established that addresses the application of the pesticide in accordance with the endangered species recommendations by the Nebraska Game and Parks Commission (NGPC) in publication or on the NGPC web sites outdoornebraska.ne.gov/wildlife/programs/nongame/consultation.asp or NDEQ web site www.deq.state.ne.us.
- iv.) Application of pesticides to, over, or near water within 250 feet of the Group III waters (i), (ii), or (iii) identified above, where the application of pesticides is to a flowing or discharging waters that has a direct surface water connection, so the flowing or discharging waters flow directly into the Group III waters (i), (ii), or (iii).
- v.) Application of pesticides to, over, or near water within 250 feet of a surface water intake for public drinking water, where the application of pesticides is to surface water that has a direct surface water connection and contribution to the surface water supplying water to the intake for public drinking water.

b. Group II waters are:

- i.) Flowing or discharging waters in a conveyance similar to a ditch, creek, stream, canal, or a lake when the management authority or pesticide applicator is unable to suspend discharge for at least a minimum of 24 hours or a longer period if required on the pesticide label.
- ii.) Not **Group III** waters.

c. Group I waters (non-flowing) are:

- i.) An impoundment that is designed not to discharge.
- ii.) A stream, creek, lake, reservoir, canal or irrigation canal or other similar flowing or discharging water for which the management authority or pesticide applicator can manage the surface discharge for 24 hours from application, or a longer period if required by the label, to avoid downstream impacts by one of the following methods:
 1. The water level is below the discharge inlet sufficiently to prevent discharge.

2. Drawdown of the water level is done before application to prevent discharge.
 3. Discharge structures are closed before application to prevent discharge.
 4. Inflow is diverted before application to prevent discharge.
 5. Precipitation events that occur are not likely to result in a discharge.
- iii.) A wetland, bog, or marsh that does not surface discharge for at least 24 hours after application or a longer period if required on the pesticide label.
- iv.) Waters of the state where no water is present in the water body at the time of application and precipitation events that occur are not likely to result in a discharge from the water body for at least 24 hours after application or a longer period if required on the pesticide label.
- v.) Not **Group III** waters.

C. Eligibility

This general permit authorizes discharges of *pesticides* to, over, or *near waters of the state* for the purposes of pest control. If you do not meet the requirements that are a pre-condition to eligibility, the pesticide application constitutes an unpermitted discharge and a violation of NDEQ Title 119. To be eligible for this permit the permit applicant must:

1. Have control or management authority of the water body or bodies that pesticides are being discharged to treat or be delegated management authority, or have an agreement with such person who has control or management authority.
2. The permit applicant, or the permit applicant in conjunction with their pesticide applicator, must be able to properly evaluate the treatment options that optimize treatment of the pest and minimize impacts to the environment.
3. Be able to identify the water body and designated uses as assigned in NDEQ Title 117-Nebraska Surface Water Quality Standards.
4. Be able to identify Threatened and Endangered (T&E) species and their habitat listed by the Nebraska Game and Parks Commission or the U.S. Fish and Wildlife Service.
5. Be able to meet pesticide product label requirements.
6. An individual making any application to the Department where that individual would derive public benefit from the state must also submit with the application a completed United States Citizenship Attestation Form, in accordance with Neb. Rev. Stat. §§ 4-108 through 4-114. The form is available at the NDEQ web site. www.deq.state.ne.us.

D. Notice of Intent (NOI)

1. For Group III waters

- a. A NOI is required for all Group III waters, except:
- b. A NOI is not required for the application of pesticides to control flying insects or their larva including mosquitoes if the **Group III** waters are state resource waters See Part 1 B(1)(a)(i).

2. For Group II waters

- a. A NOI is not required.
- b. The requirements of this permit apply to the management authority and the pesticide applicator even when an NOI is not required to be submitted.

3. For Group I waters

- a. A NOI is not required.
- b. The requirements of this permit apply to the water body management authority and the pesticide applicator even when an NOI is not required to be submitted.

E. Best Management Practice (BMPs) Requirements

1. For all Group I, II and III waters:

- a. Prior to and during pesticide application the pesticide *applicator* must:

- i) Identify the target pests.
 - ii) Identify non-target plants and animals that could be impacted by the pesticide and limit the impact from the application of pesticides to these non-targets.
 - iii) Identify Threatened and Endangered (T&E) species and critical habitats listed by the Nebraska Game and Parks Commission (NGPC) or the U.S. Fish and Wildlife Service (U.S. FWS) and follow any requirements from NGPC or U.S. FWS. If the T&E was not identified prior to pesticide application reevaluate, Part 1 B(1)(a)(iii) and if a NOI or resubmitted NOI is required stop pesticide application until authorization is granted by the Department.
- b. The pesticide *applicator* must do the following immediately preceding and during pesticide application:
- i) Identify weather conditions that could impact the application of the pesticide.
 - ii) Stop application of pesticides when weather conditions will or do adversely impact the pesticide application.
- c. The permittee must do the following preceding pesticide application:
- i) Properly determine the volume of the receiving water and identify the chemical characteristics of the receiving water such as pH, temperature, or other necessary characteristics for calculating mixture and application doses as required by the label.
 - ii) Identify the proper timing for application of pesticides to optimize treatment.
- d. Application of pesticides shall be in accordance with all relevant requirements under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. §136 et seq., and the Nebraska Pesticide Act, Neb. Rev. Stat. §2-2622 et seq., relating to water quality including compliance with all label application directions, such as application rates, active ingredient concentrations and dilution requirements, buffer zones, application locations, intended targets, protecting threatened or endangered species, times of day, temperature or other application requirements, proper disposal of pesticide residues, and record keeping.
- e. Application equipment shall be appropriate for the application and properly maintained.
- i) Equipment shall be calibrated at least annually or more frequently if required by the pesticide label or manufacturer.
 - ii) All equipment shall be inspected prior to application and monitored during application for uneven spray, leaks, inoperative nozzles, or valves and, repairs shall be made and the equipment shall be recalibrated if necessary before the application continues or takes place.
- f. The permittee or the permittee in conjunction with their pesticide applicator shall conduct visual monitoring during pesticide application and conduct visual monitoring at least once between the end of the pesticide application and up to five (5) days following the application for:
- i) The occurrence or new knowledge of any spills, leaks, contamination, or incident at the target area that could impact water quality.
 - ii) Any adverse impact to non-target species or threatened and endangered species, human health, or the environment.
 - iii) Evidence indicating a possible violation of the effluent limitations and requirements listed in Effluent Limitations and Monitoring Requirements for Discharges.
 - iv) Evidence of oil or petroleum product contamination in the pesticide application (e.g., visible oil sheen).
 - v) Any physical characteristic in the pesticide application that could indicate the presence of a pollutant or pollutants not previously identified or anticipated.
- 2. Group II water additional requirements to section E. 1, the pesticide applicator must.**
- a. Apply pesticides to the upstream target area in a manner that lessens the likelihood that the effects of the pesticides will be compounded or that the pesticides will adversely impact the downstream segments of the target area.
 - b. Evaluate and apply pesticides in a manner to minimize impacts to waters adjacent to the target area.

3. **Group III water additional requirements to section E. 1 and E. 2, the permit applicant must.**
 - a. Submit a Pesticide Use Management Plan (PUMP) to the Department along with the NOI. The requirements of the PUMP are in section E.4.
4. **Pesticide Use Management Plan Requirements.** The PUMP must include the following:
 - a. A description of how all required BMPs in Section E will be implemented and documented.
 - b. Documentation of the calculations used to determine the volume of the receiving water for calculating mixture and application doses.
 - c. EPA Registration numbers and product names for all pesticides used.
 - d. For Group III waters in section Part 1 B (1)(a)(i), how the application of pesticides will impact, maintain or enhance state resource waters.
 - e. For Group III waters in section Part 1 B (1)(a)(ii), how the application of pesticides will impact current Clean Water Act 303(d) impaired waters for the pollutant of concern.
 - f. For Group III waters in section Part 1 B (1)(a)(iii), how the application of pesticides will impact threatened or endangered species or the critical habitats present. This requirement must include documentation of the threatened and endangered species consultation with the Nebraska Game and Parks Commission (see Section G).
 - g. For Group III waters in section Part 1 B (1)(a)(iv), identification of the Group III water Part 1 B (1)(a)(i), (ii), or (iii) adjacent to the target area.
 - h. For Group III waters in section Part 1 B (1)(a)(v), a copy of the notification letter to the controlling entity of the public drinking water intake.
 - i. A description of the alternative methods evaluated in lieu of or in conjunction with the pesticide for pest control, why the proposed method was selected, and how impacts will be minimized to the greatest extent possible.
 - j. A records management and retention plan that:
 - i) Identifies who will maintain records.
 - ii) Identifies where records will be maintained.
 - iii) Identifies what records will be maintained.
 - iv) Identifies contact information for requests for records.
 - v) Provides that records will be maintained at least three years from the date of pesticide application.

F. Limitations on Coverage

This permit does not authorize permit coverage for the following *pesticide* applications and may be the basis for denial or termination of permit authorization under this general permit:

1. *Pesticide* applications that have been covered under an individual NPDES permit or are required to obtain *coverage* under an alternative general permit in accordance with Part III.A.
2. *Pesticide* applications that the Director, prior to authorization under this permit, determines will cause, have the reasonable potential to cause, or contribute to an excursion above any applicable water quality or groundwater quality standards.
3. *Pesticide* applications within the limits of any tribal lands under the jurisdiction of the United States Government, dependent tribal communities within the borders of the United States, or other tribal allotments;
4. *Pesticide* applications or residuals that may adversely impact Threatened or Endangered species or critical habitat, as designated by Nebraska Game and Parks Commission (www.ngpc.state.ne.us) and (<http://outdoornebraska.ne.gov/>) or the U.S. Fish and Wildlife Service (www.fws.gov).
5. *Pesticide* applications that may adversely affect properties listed or eligible for listing in the National Register of Historic Places (www.nebraskahistory.org) or affecting known or discovered archeological sites; or
6. *Pesticide* applications that the Director determines would be more effectively regulated with an individual, a site specific, area specific, or a basin specific permit.

G. Period of Coverage

1. This permit is effective as of the issued date and is effective for five years.
2. Coverage shall commence at the time discharge authorization is granted or the applicant qualifies for the permit if an NOI is not required.

PART II. AUTHORIZATION FOR DISCHARGES OF PESTICIDES TO, OVER, OR NEAR WATER

A. Authorization

1. Eligible management authorities or their pesticide applicators applying pesticides to **Group I** or **Group II** waters as defined in Part 1 are not required to submit a NOI as long as they satisfy the requirements of this permit. Eligible applicators are defined by the requirements and limitations in Part I.
2. **Group III** waters require eligible permit applicants to apply for authorization to discharge under this general permit using the Notice of Intent procedures. The Notice of Intent shall be submitted using the NPDES PEST-NOI form. Discharges are not authorized if your PEST-NOI is incomplete, inaccurate, or if you are not eligible for permit coverage.

B. Authorization to Discharge Date

1. **Pesticide** applications to **Group I** and **Group II** waters are authorized when the requirements of this permit are satisfied.
2. **Group III** authorization
 - a. Applications of pesticides to Group III waters in Part I B(1)(a)(i) (ii) and (iii) are authorized to apply pesticides under the terms and conditions of this permit once the Department has published on the Department's web site that the NOI has been authorized under this general permit or notified the permit applicant that they are authorized.
 - b. Applications of pesticides to Group III waters in Part I B(1)(a)(iv) and (v) are authorized under the terms and conditions of this permit once a complete and accurate PEST-NOI has been received by the Department for 7 business days and the Department has not published on the its web site that automatic approval is Delayed or Denied.

C. Notice of Intent Form

You must use the **PEST-NOI** form provided in *Attachment 1* or a photocopy thereof or electronic **PEST-NOI** form that may become available during the term of this permit provided by NDEQ. You must provide the following information on or with the **PEST-NOI** form:

1. The certifying official's legal name, address, and phone number;
2. Reason for submittal of the Notice of Intent
3. The Trade name of the pesticide to be applied, the EPA registration number, the type of pesticide (such as herbicide, insecticide, fungicide or rodenticide), and the active ingredients if the active ingredients or any residuals are a 303(d) listed pollutant on a 303(d) listed waterbody.
4. Name of the receiving **water(s) of the state** or a map identifying the location of the water.
5. A list of any state or federally-listed threatened or endangered species or state or federally-designated critical habitat that is in the area to be covered by this permit.
6. Latitude and longitude at the midpoint of the application area.
7. A map showing the total application area which you are requesting permit coverage (e.g., USGS quadrangle map, a portion of a city or county map, or other map).
8. A certification statement signed and dated by a certifying official as defined in Part V.
9. United States Citizenship Attestation Form for any individual submitting an application or form that would derive public benefit from the state in accordance with Neb. Rev. Stat. §§ 4-108 through 4-114.
10. If the waters are state resource waters as listed in Title 117 information must be provided with the notice of intent as how this application of pesticides will maintain or enhance these waters.

11. If the waters are impaired on the current Nebraska Clean Water Act 303(d) list for any of the ingredients in the pesticide or residuals from the application of the pesticide information must be provided with the notice of intent as how this application of pesticides will impact these waters and why the application is necessary.
12. If Threatened or Endangered species or critical habitats are present in the target area information and specific requirements obtained from the Nebraska Game and Parks Commission must be submitted with the notice of intent.
13. When the application of pesticides is to, over, or near water within 250 feet of the Group III waters (i), (ii), or (iii) identified above, where the application of pesticides is to a flowing or discharging waters that has a direct surface water connection, so the flowing or discharging waters flow directly into the Group III waters (i), (ii), or (iii) submit information with the NOI identifying these waters.
14. When the application of pesticides to, over, or near water within 250 feet of a surface water intake for public drinking water, where the application of pesticides is to surface water that has a direct surface water connection and contribution to the surface water supplying water to the intake for public drinking water, submit a copy of the notification letter to the controlling entity of the public drinking water intake notifying them of the intended application.
15. A PUMP as per Part 1 E(4).

D. Submission Deadlines

1. To obtain **coverage** under this permit, you must submit a complete and accurate **PEST-NOI** and be authorized consistent with Part II.A. prior to commencement of application of **pesticides to, over, or near waters of the state**. The submittal of the **PEST-NOI** may be submitted up to 90 days before the proposed start of **pesticide** application but must be received by the Department no later than seven (7) days before intended application of the **pesticides to, over, or near waters of the state**.

E. Where to Submit

Original applications and forms (no photocopies or faxes) for NPDES General Permit NEP000000 shall be submitted to the following address:

Nebraska Department of Environmental Quality
Wastewater Section
Suite 400, The Atrium
1200 'N' Street
PO Box 98922
Lincoln Nebraska 68509-8922

F. Additional Requirements

The Department may request additional information from the permit applicant:

1. To facilitate the review of the **PEST-NOI**;
2. To finalize a determination related to the granting of a discharge authorization; or
3. To determine whether a site specific, area specific, or basin specific permit application may be required.

Other government agencies (e.g., US Army Corps of Engineers, Local City/County Government, or the local Natural Resources District) may have additional notification requirements. Submittal of the NPDES form **PEST-NOI** does not relieve the applicant of responsibility to comply with the requirements of other government agencies.

G. Permit Eligibility Related to Endangered Species

When state- or federally-listed endangered or threatened species or designated critical habitat may be in the application target area, the NOI must include:

1. Whether such species or critical habitat may be adversely affected by **pesticide** application or **pesticide** application-related activities from the project.

2. Any correspondence between you and the U.S. Fish and Wildlife Service (FWS), Nebraska Game and Parks Commission (NGPC), EPA, NDEQ or others related to your NOI regarding listed species and critical habitat, including any notification that delays your authorization to discharge under this permit.
3. A description of measures necessary to protect state- and federally-listed endangered or threatened species, or state and federally-designated critical habitat. The permit applicant must describe and the authorized permittee and their pesticide applicator must implement such measures to maintain eligibility for coverage under this permit.

H. Applicable State or Local Requirements

The application of pesticides and the implementation of BMPs must be consistent with all applicable federal, state, and local requirements, product label requirements, and threatened and endangered species requirements. Issuance of this permit does not relieve the certifying official and applicator from meeting the requirements due to effective changes, including any revisions to applicable federal, state, or local requirements.

I. Management Practices

All BMPs must be properly selected, installed, documented, and maintained in accordance with any relevant manufacturer specifications and good engineering practices. If periodic inspections or other information indicates a practice or control has been used inappropriately, or incorrectly, the permittee must replace or modify the practice or control for site situations as soon as practicable.

J. Monitoring

- a. The permittee or the permittee in conjunction with their pesticide applicator shall conduct visual monitoring during pesticide application and conduct visual monitoring at least once between the end of the pesticide application and up to five (5) days following the application for:
 - i) The occurrence or new knowledge of any spills, leaks, contamination, or other incident at the target area that could impact water quality.
 - ii) Any adverse impact to non-target species or threatened and endangered species, human health, or the environment.
 - iii) Evidence indicating a possible violation of the effluent limitations and requirements listed in Effluent Limitations and Monitoring Requirements for Discharges.
 - iv) Evidence of oil or petroleum product contamination in the pesticide application (e.g., visible oil sheen).
 - v) Any physical characteristic in the pesticide application that could indicate the presence of a pollutant or pollutants not previously identified or anticipated.

PART III. SPECIAL CONDITIONS, MANAGEMENT PRACTICES, AND OTHER LIMITATIONS

A. Requiring an Individual Permit or an Alternative General Permit

NDEQ may require you to apply for and obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition NDEQ to take action under this paragraph. If NDEQ requires you to apply for an individual NPDES permit or an alternative NPDES general permit, NDEQ will notify you in writing that a permit application is required. This notification will include a brief statement of the reasons for this decision and an application form. In addition, if you are an existing permittee covered under this general permit, the notice will set a deadline to file the application, and will include a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to you, coverage under this general permit will automatically terminate. Applications must be submitted to NDEQ. NDEQ may grant additional time to submit the application upon your request. If you are covered under this general permit and you fail to submit in a timely manner an individual NPDES permit application as required by NDEQ, then the applicability of this general permit to you is automatically terminated at the end of the day specified by NDEQ as the deadline for application submittal.

You may request to be excluded from the coverage of this general permit by applying for an individual permit. In such a case, you must submit an individual application in accordance with the requirements of NDEQ Title 119, with reasons supporting the request to NDEQ. The request may be granted by issuance of an individual permit or an alternative general permit if your reasons are adequate to support the request. When an individual NPDES permit is issued to you, who are otherwise subject to this permit, or you are authorized to discharge under an alternative NPDES general permit, the applicability of this general permit to you is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. If you, who are otherwise subject to this permit, are denied an individual NPDES permit or an alternative NPDES general permit, the applicability of this permit to you is automatically terminated on the date of such denial, unless otherwise specified by NDEQ.

B. Attainment of Water Quality Standards After Authorization

The permit applicant or the permit applicant in conjunction with the pesticide applicator must select, install, implement, and maintain BMPs at your application site that minimize pollutants from the application of pesticides as necessary to meet applicable water quality standards. At any time after authorization, NDEQ may determine that your application may cause, have reasonable potential to cause, or contribute to an excursion above any applicable water quality standard. If such a determination is made, NDEQ may require you to:

1. Develop or revise an existing Pesticide Use Management Plan (PUMP) describing the mitigation implemented to adequately address the identified water quality concerns;
2. Submit valid and verifiable data and information that are representative of ambient conditions and show that the receiving water is attaining water quality standards; or
3. Cease application activity and submit an individual permit application according to Part III.A.

All written responses required under this part must include a signed certification from the *certifying official*.

C. Discharges Affecting Threatened and Endangered Species

This permit does not replace or satisfy any review requirements for Threatened and Endangered Species (T&E) from new or expanded discharges that adversely impact or contribute to adverse impacts on a listed threatened and endangered species or adversely affect a designated critical habitat. The permit applicant or the permit applicant in conjunction with their pesticide applicator must conduct any required review and coordinate with appropriate agencies for any project with the potential of affecting threatened or endangered species, or their critical habitat.

D. Discharges Affecting Historical Places or Archeological Sites

This permit does not replace or satisfy any review requirements for Historic Places or Archeological Sites, from new or expanded discharges which adversely affect properties listed or eligible for listing in the National Register of Historic Places or affecting known or discovered Archeological Sites. The permit applicant or the permit applicant in conjunction with their pesticide applicator must be in compliance with National Historic Preservation Act and conduct all required review and coordination related to historic preservation, including significant anthropological sites and any burial sites, with the Nebraska Historic Preservation Officer. The permit applicant and the pesticide applicator must comply with all applicable state, and local laws concerning the protection of historic properties and places, your discharge authorization under this permit is contingent upon this compliance.

E. Activities and Discharges Subject to other Applicable Regulations

This permit does not replace or satisfy any other applicable regulatory requirements to which the applicant, permittee, and pesticide applicator is subject. The initiator of any controlled or regulated activity is the sole responsible party for obtaining authorization or permit coverage and for maintaining compliance with any applicable laws, regulations or rules that may apply to these activities.

F. Continuation of the Expired General Permit

If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedure Act and remain in force and effect. If you were granted permit coverage prior to the expiration date, you will automatically remain covered by the continued permit until reissuance or replacement of this permit, at which time you must comply with the conditions of Part II.

PART IV. STANDARD CONDITIONS AND REQUIREMENTS

These general conditions shall not preempt any more stringent requirements found elsewhere in this permit.

A. Other Conditions

1. Narrative Limits

Discharges authorized under this permit;

- a. Shall not be toxic to aquatic life in surface *waters of the state* except as allowed in Title 117, Chapter 2, Section 011 and 012;
- b. Shall not contain pollutants at concentrations or levels that produce objectionable films, colors, turbidity, deposits, or noxious odors in the receiving stream or waterway; and
- c. Shall not contain pollutants at concentrations or levels that cause the occurrence of undesirable or nuisance aquatic life in the receiving stream.

2. Inspection and Entry

The permittee shall allow the Director or his or her appointed representative, upon the presentation of his or her identification and at a reasonable time:

- a. To enter upon the permittee's premises where a regulated activity is located or conducted, or records are required to be kept under the terms and conditions of this permit;
- b. To have access to and copy any records required to be kept under the terms and conditions of this permit;
- c. To inspect any facilities, equipment (including monitoring and control), practices or operations regulated or required in this permit; and
- d. To sample or monitor any substances or parameters at any location.

3. Changes in Discharge

Any change in the type of pesticide applied or of the target species which will result in a new application method or a change in BMPs must be reported by the authorized permittee seven (7) calendar days prior to the pesticide application. Permit authorization may be modified or revoked and reissued as a result of this notification to maintain compliance with applicable state or federal regulations.

B. Compliance with Permit Terms and Conditions

Compliance with the terms and conditions of this permit does not relieve the permittee from any liability that may arise as a consequence of their discharges.

C. Prohibited Toxic Discharges

Discharges shall be free from toxic substances, which alone or in combination with other substances, create conditions unsuitable for aquatic life except as allowed in Title 117, Chapter 2, Section 011 and 012.

D. Prohibited Discharges that Cause Aesthetic Violations

Discharges shall not contain pollutants at concentrations or levels that produce objectionable films, foam, colors, turbidity or deposits, or noxious odors in the receiving stream or waterway.

E. Immediate Reporting Requirement

The permittees shall report to the Department within 24 hours and submit written documentation within 5 days upon becoming aware of any of the following:

1. Evidence indicating a possible violation of the effluent limitations and requirements listed in Effluent Limitations and Monitoring Requirements for Discharges.
2. Evidence of oil or petroleum product contamination in the pesticide application (e.g., visible oil sheen).
3. Any physical characteristic in the pesticide application that could indicate the presence of a pollutant or pollutants not previously identified or anticipated.
4. The occurrence or new knowledge of any spills, leaks, contamination, or other incident at the target area that could impact water quality.
5. Any adverse impact to non-target species or threatened and endangered species, human health, or the environment.
6. Written documentation must clearly describe the events causing the adverse impacts, the adverse impact, time, dates, mitigation measures taken, and the individuals and organizations involved with the application and any mitigation.

F. Additional Monitoring Requirements

The Department may require more frequent monitoring at any time.

G. Procedures for Modification or Revocation

If there is evidence indicating that the *pesticide* applications authorized by this permit cause, have the reasonable potential to cause or contribute to an excursion above any applicable water quality standard, the permittee may be required to obtain an individual permit in accordance with Part III.A of this permit, or the permit may be modified to include different limitations and/or requirements. Permit modification or revocation will be conducted according to Title 119, Chapter 24.

H. Timing of Permit Modification

NDEQ may elect to modify the permit prior to its expiration (rather than waiting for the new permit cycle) to comply with any new statutory or regulatory requirements, such as for effluent limitation guidelines that may be promulgated in the course of the current permit cycle.

I. Records

Records shall be retained by the permittee for a period of at least three (3) years from the date of any sample, measurement, report or application. This period may be extended by request of the Director at any time.

Required records include:

1. All calibration and maintenance records and all original recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit.
2. The name of the pesticide, targeted pests, pesticide label including any supplemental labeling relevant to the aquatic use of the pesticide. The EPA product registration number may be retained by the applicator in lieu of the actual label. The permit applicant or the permit applicant in conjunction with their pesticide applicator shall be responsible for obtaining a copy of the pesticide label in place at the time of the pesticide application.
3. The date, time, and location of the pesticide application and targeted area, pesticide application rate and the total amount of material applied, pesticide applicator's name and signature. Documentation of weather forecasts for the target area for the 24-hour period immediately following the intended pesticide application.
4. Monitoring observations for any testing and visual monitoring.

J. Signatory Requirements

1. All reports and permit applications required by this permit or submitted to maintain compliance with this permit shall be signed and certified as set forth in this section.
2. Permit applications shall be signed by a *certifying official* who meets the following criteria:
 - a. For a corporation: a responsible corporate officer;
 - b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

- c. For a municipality, state, federal or other public facility: by either a principal executive officer or ranking elected official, chief executive officer of the agency, or a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.
3. The discharge monitoring reports and other information may be signed by the *certifying official* or *authorized representative*.
4. Standard Conditions that Apply to All NPDES Permits: This permit is subject to all general conditions applicable to all NPDES permits. The General Conditions are promulgated under NDEQ's Title 119, Chapter 14.

PART V. DEFINITIONS (for the purposes of this permit)

A. Definitions

Applicator is the individual applying or discharging the pesticide.

Authorized Representative: Is an individual or position designated by the authorized permittee to submit reports, notifications, or other information requested by the Director on behalf of the permittee. The Authorized Representative's authorization must be made in writing by the permittee. The authorization specifies the individual or position who is duly authorized, and the authorization is submitted to the Director.

Best Management Practices (BMPs): Pesticide application, alternative control methods, and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of waters of the state, including, but not limited to, avoidance of impacts, no treatment, environmental controls, mechanical removal, biological control agent, biopesticide, and other management practices published by state or designated area-wide planning agencies.

Certifying official:

For a corporation:

A responsible corporate officer: For the purpose of this permit, a responsible corporate officer means:

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

The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager 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.

For a partnership or sole proprietorship:

A general partner or the proprietor.

For a municipality, State, Federal, or other public agency:

Either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer includes:

The chief executive officer of the agency, or

A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

Near waters of the state: The application of pesticides where the application migrates to waters of the State due only to the influence of gravity within 24 hours or less from application.

Pesticide: Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

Waters of the state: Waters within the jurisdiction of this state including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulation of water, surface and underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.

NOTICE of INTENT
for the
Pesticide General Permit

This Notice of Intent (NOI) is a request for coverage under the NPDES General Permit for Pesticides NEP100000 for application of pesticides to waters of the State of Nebraska. Complete this form and submit it along with any requested or supporting documents to the Department. The Department must receive the NOI request at least seven (7) working days before intended application. Authorization status will be posted on the Departments web site at www.deq.state.ne.us.

Owner or Management Authority

Company		
_____	_____	_____
First Name	Last Name	MI

Address (Line 1)		

Address (Line 2)		
_____	_____	_____
City	State	Zip
_____	_____	_____
Phone	Cell	e-mail

Reason for Submittal of NOI

Please check all that apply:

<input type="checkbox"/> State Resource Water A
<input type="checkbox"/> 303(d) listed ingredients or residuals
<input type="checkbox"/> Threatened and Endangered Species (T&E) or Critical Habitat
<input type="checkbox"/> Flowing stream confluence within 250 feet of state resource water, 303(d) listed water or T&E
<input type="checkbox"/> Public drinking water surface water intake contribution
<input type="checkbox"/> Other: _____

Pesticide Being Applied

	Pesticide Name	FIFRA Label No.	Type	Active Ingredient(s)
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____
7.	_____	_____	_____	_____
8.	_____	_____	_____	_____

Location of Target Area

Select one	Name	Multiple Targets in List	Map is required
<input type="checkbox"/> State Wide		<input type="checkbox"/> List Attached	<input type="checkbox"/> Map Attached
<input type="checkbox"/> State Park or Forest: _____	or	<input type="checkbox"/> List Attached	<input type="checkbox"/> Map Attached
<input type="checkbox"/> County or Counties: _____	or	<input type="checkbox"/> List Attached	<input type="checkbox"/> Map Attached
<input type="checkbox"/> Municipalities: _____	or	<input type="checkbox"/> List Attached	<input type="checkbox"/> Map Attached
<input type="checkbox"/> Lake: _____	Name	<input type="checkbox"/> Stream: _____	Name
GPS Location of Mid-Point: _____ degrees N/S		_____ degrees E/W	

Targeted Pests

Attach list if more than 12

1.	2.	3.	4.
5.	6.	7.	8.
9.	10.	11.	12.

Best Management Practices (BMP)

Select all that were considered as options to or in conjunction with the pesticide to reduce the amount of pesticide applied.

At least one must be selected.

No Treatment
 Environmental controls (oxygen, benthic barriers, shading, water level control, etc.)
 Mechanical Removal (hand pulling, weed rollers, mechanical harvesters, mowing, dredging, etc.)
 Biological Control Agent (grass carp, ladybugs, etc.)
 Biopesticide (larvicides)
 Other _____

Threatened and Endangered Species or Critical Habitat

No Threatened and Endangered Species or Critical Habitat

Letter of No Effect (enclose letter)
 Letter of No Effect based on conditions (enclose letter)
 Additional consultation required (enclose letter)

Certification and Signature

I have examined and am familiar with the information submitted on this pesticide general permit application. To the best of my knowledge the information supplied is true and accurate.

Signature of certifying official* Date

Printed Name Title

*For facilities subject to the terms and conditions of the General Pesticide Permit (NPDES Permit NEP100000), this form must be signed by the Certifying official as defined in Part V of the permit

Send original NOI (no photocopies or faxes) for **NPDES** General Permit NEP100000 to the following address:

Nebraska Department of Environmental Quality
Wastewater Section
 Suite 400, The Atrium
 1200 'N' Street
 PO Box 98922
 Lincoln Nebraska 68509-8922