



Affidavit: Applicant Notification to Adjoining Property Owners/Occupants

State Form 49785 (R / 9-04)

Indiana Department of Environmental Management

To be completed by the Applicant:

_____, being first duly sworn upon oath, deposes and says:

1. I live in _____ County, state of _____, and being of sound mind and over twenty-one (21) years of age, I am competent to give this affidavit.

2. I hold the position of _____ for _____ (permit applicant's or facility's name).

3. By virtue of my position with _____ (permit applicant's name), I am authorized to make the representation contained in the affidavit on behalf of the facility.

4. I understand that the notice requirement of IC 13-15-8 applies to _____ (permit applicant's name or facility's name) for purposes of the accompanying permit application.)

5. As required by IC 13-15-8, the permit applicant will send written notice to adjoining landowners and/or occupants not more than ten (10) days after the submission of the accompanying application for

(briefly describe the type of permit application) filed on behalf of _____ (permit applicant's or facility's name).

Further Affiant Saith Not.

I affirm under penalty for perjury that the representation contained in this affidavit are true, to the best of my information and belief.

Signature of Affiant

Date

Printed Name

To be completed by a Notary Public:

STATE OF _____)
COUNTY OF _____)

and State, personally appeared _____, and being first sworn by me upon oath, says that the facts stated in the foregoing instrument are true. Signed and sealed this ____ day of _____, 20__.

Signed: _____ My Commission Expires: _____

Printed: _____ Resident of _____ State _____ County _____

Permitting Activities Subject to the Notice of Adjoining Property Owners/Occupants Requirements

The following is a list of some (but not necessarily all) of the IDEM-issued permits for which applicants also should notify adjoining property owners/occupants and complete the affidavit on page one (1) (on the reverse side of this page).

Air Permits:

Registrations
New Source Construction Permits
Prevention of Significant Deterioration or Emission Offsets
Minor or Significant Modifications (Construction) to Existing Sources
Construction of Sources of Hazardous Air Pollutants (HAPs)
Source Specific Operating Agreements (SSOA)
Relocations of Portable Sources
Minor Source Operating Permit (MSOP)
Federally Enforceable State Operating Permit (FESOP)
Title V Permits

Water Permits:

New NPDES Individual Permits
NPDES Permit Modifications which add limits for new pollutants or increase limits above existing permitted levels
Industrial Wastewater Pretreatment Permit
Storm Water Construction Rule 5
Industrial Storm Water Rule 6
New General Permits (Rules 7-12)
Industrial Wastewater Facility Construction
Municipal Wastewater Facility Construction (except sewers, see below)

Waste Permits:

New Solid Waste Processing or Disposal Facilities
Major or Minor Modifications to Existing Solid Waste Processing or Disposal Facilities
Land Application of Biosolids Permits
Wastewater Land Disposal Permits
Waste Tire Processing or Storage Facility Registration
Hazardous Waste Treatment/Storage/Disposal Facility; New Permit Class 2 or Class 3 Modification or Confined Feeding Approvals [Also see IC 13-18-10-2(b)]

The following permits are exempt from the requirement; a) any permit renewals, or b) permits for the construction, installation, or modification of 1) a sanitary sewer, 2) a storm sewer, 3) a public water supply, 4) a water main extension, or 5) any water or wastewater operator training approvals, reports or certifications, or 6) 401 Water Quality Certifications.

IC 13-15-8 requires permit applicants to comply with certain notification requirements when seeking to permitted activities on land that is undeveloped, or on land for which a valid existing permit has not been issued. Not more than ten (10) working days (not including Saturdays, Sundays, state holidays or days on which IDEM is closed during regular business hours) after submitting an application for an environmental permit issued by IDEM, the person that submitted the undertake application for the permit shall make a reasonable effort to provide notice:

- (1) to all owners of land that adjoins the land that is the subject of the permit application; or
- (2) if the owner of land that adjoins the land that is the subject of the permit application does not occupy the land, to all occupants of the land;

that the person submitted an application for a permit, or permits.

To be safe, reasonable efforts should be made to notify all owners and occupants of adjoining property. The notice must 1) be in writing, 2) include the date on which the application for the permit was submitted to the department, and 3) include a brief description of the subject of the application. Failure to adequately notify owners and occupants of the adjoining property could be grounds to appeal the permit to an environmental law judge. Such an appeal could result in the permit being held invalid.

Recommendations For Compliance With The Notice To Adjoining Property Owner/Occupant

Requirements To avoid such problems with the permit, and to ensure that adjoining property owners and occupants receive the notification to which they are entitled, it is recommended that applicants consider the following:

- I. Carefully document all the steps that you take to make a reasonable effort to provide notice to the owners and occupants of the adjoining land. Save any receipts or other proof of your efforts.
- II. Obtain the names and mailing addresses of the owners of the adjoining property from the tax assessor's office in the county where the property is located.
- III. Review the records at the county recorder's office to ensure that the adjoining properties have not been sold since the last tax bills were due.
- IV. Establish a record of mailing your notice by using certified mail or certificates of mailing when using the U.S. Mail service to contact property owners and occupants.
- V. Provide a second copy of the notification letter for each dwelling on the property which can be forwarded by the owner to the tenant who may be occupying their property.
- VI. Mail separately a second copy of each notification letter addressed "To the Occupant of" each property address for which there is any uncertainty regarding whether the occupant is also the owner.
- VII. If the adjoining property consists of more than one dwelling unit, mail a notice to each unit (while establishing some record of mailing) or go door-to-door distributing the notification and somehow document that delivery. You might consider obtaining signatures.

Note: Because the statute requires that permit applicants notify adjoining property owners and occupants "within ten (10) working days after submitting an application for a permit," a single facility that must obtain more than one new environmental permit must comply with the notice requirements each time a permit application is submitted. However, if multiple permit applications are submitted at or about the same time, a single notice listing all permits applied for in the previous ten (10) days will be sufficient notice for those permits. An original copy of this form must be submitted with each application.