

Fact Sheet
General Permit for Major Pesticide Discharges (PGP)

BACKGROUND:

For many years pesticide uses were regulated by the Environmental Protection Agency (EPA) under the statutory framework of the Federal Insecticide, Fungicide, and Rodenticide Act (**FIFRA**). EPA regulated the sale, distribution and use of pesticides in the United States (U.S.) with FIFRA labeling to assure that the use would not pose unreasonable risks to human health and the environment.

In the past 10 years several courts have addressed the question of whether the Clean Water Act (CWA) requires National Pollutant Discharge Elimination System (NPDES) permits for pesticide applications. After several different circuit court decisions on pesticide use over a number of years, EPA on November 27, 2006, issued a final rule clarifying that pesticide use did not require a NPDES permit when applying to or over, including near water, provided that the application of the pesticide is consistent with the FIFRA labeling and where a portion of the pesticide will unavoidably be deposited to the water to target pests.

On January 19, 2007, EPA received petitions for review of their final ruling concerning pesticide uses. Petitions were ultimately filed in all eleven circuit courts, with the National Cotton Council, et al. vs. EPA assigned to the Sixth Circuit Court of Appeals in Cincinnati, Ohio. The Court held that the CWA unambiguously includes biological and chemical pesticides that leave a residue within it's (the CWA) definition of "pollutant." The Court also found that the application of pesticides is considered a point source and thus required to be regulated under the NPDES program. On April 9, 2009 EPA requested a two year stay of the mandate to provide EPA time to develop general permits for pesticide use; this stay was granted by the court and the effective date was to be April 9, 2011. In the spring of 2011, EPA requested and received another extension to allow time for the U.S. Fish and Wildlife Service to review EPA's General Permit. The new effective date is October 31, 2011. EPA's permit was signed and effective on that date.

The Wyoming Department of Environmental Quality, Water Quality Division (DEQ/WQD) administers the NPDES program within the boundaries of the state (WYPDES program) except for on the Wind River Indian Reservation. This general permit is being established to meet the court ordered mandate for pesticide applications to "waters of the U.S." in Wyoming.

APPLICABILITY:

This general permit for major pesticide applications applies to pesticide applications that exceed the size thresholds established for the various pesticide use categories. This permit does not apply to pesticide applications on waters impaired for a specific pesticide or its degradates, however, the permit may be used for the application of other types of pesticides with different degradates than those listed in the impairment. The effluent limits established in this permit are based upon *Chapters 1, 2, and 4 of the Wyoming Water Quality Rules and Regulations*.

SUMMARY OF PERMIT CONDITIONS:

The general permit for pesticide discharges currently authorizes the discharge of both biological and chemical pesticides to "waters of the U.S." within Wyoming associated with: **Mosquito and Other Flying Insect Pest Control, Weed and Algae Control, Nuisance Animal Control, and Forest Canopy Pest Control. In addition, the permit contains an "Opt Into" Permitting (Opt-In) category to address pesticide use patterns not specifically addressed above.** Authorizations are granted based upon minimum thresholds for each of the above categories and are granted to applicators only. An applicator may be a for-hire applicator (see Appendix A for definition of applicator) or a property owner, land owner, or land decision maker who applies their own pesticides

The permit includes narrative conditions rather than numerical limits. All limits are based upon Best Management Practices (BMP) for pesticide use and reference the FIFRA label instructions. Site specific control measures are required, and the lowest effective pesticide amount must be utilized at each site. Maintenance, regular calibration, and cleaning of equipment are also required. Operating logs are to be kept current. A Pesticide Pollution Prevention Plan (P4) is also a requirement of this permit. Annual reporting is required under all general permit authorizations.

In order to obtain coverage under the general permit for major pesticide discharges, the applicant must complete and submit a “Notice of Intent to Discharge Pesticides” (NOI). The DEQ/WQD will review the NOI and determine if the proposed activity is eligible for coverage under this permit, or if the activity must be covered under an individual permit, or if it is covered under the minor pesticide discharge general permit. If the proposed activity is eligible for the coverage under this permit, the DEQ/WQD will provide written authorization that coverage has been granted. An NOI is required to be submitted by applicators that know, or reasonably should have known, that the planned application(s) would exceed one or more of the thresholds in Table 1 below. Applicators are required to meet the thresholds by individual annual contract, not in annual accumulation; however only one NOI must be submitted and records must be maintained for any future contracts that may exceed a threshold:

Table 1. Annual Treatment Area Thresholds		
PGP PART	Pesticide Use Pattern	Annual Threshold¹
Part I, Section 1.1.1 Part I, Section 3.4.2	Mosquitoes and Other Flying Insect Pests:	640 acres of treatment area (larvacide) 6400 acres of treatment area (adulticide)
Part I, Section 1.1.1 Part I, Section 3.4.2	In Water: Weeds and Algae At Waters Edge: Weeds and Algae	80 acres of treatment area ² 20 linear miles of treatment area at water’s edge ³
Part I, Section 1.1.1 Part I, Section 3.4.2	In Water: Nuisance Animals At Waters Edge: Nuisance Animals	80 acres of treatment area ² 20 linear miles of treatment area at water’s edge ³
Part I, Section 1.1.1 Part I, Section 3.4.2	Forest Canopy:	6400 acres of forest canopy
Part I, Section 1.1.1 Part I, Section 3.4.2	Opt-In: Any entity or individual not otherwise eligible or who have a use category not fitting in the four use patterns listed above may Opt-In to permitting for pesticides discharges.	There are no minimum thresholds; all are required to submit an NOI.

1. All pesticide discharges to Class 1 waters of the state are required to submit an NOI regardless of the size of the area. A list of Wyoming Class 1 waters is included in Appendix B.
2. Calculations should include the area of the applications made to: (1) “waters of U.S” within Wyoming, and (2) conveyances with a hydrologic surface connection to “waters of the U.S” within Wyoming at the time of pesticide application.

3. Calculations should include the length of the application made at water's edge adjacent to: (1) "waters of the U.S." within Wyoming and (2) conveyances with a hydrologic surface connection to a "water of the U.S." within Wyoming at the time of pesticide application.

A Notice of Termination (NOT), along with the annual report for the year of the NOT must be received by DEQ/WQD and a letter of acknowledgement accepting the NOT be sent to the permittee before the NOT is effective. Notice of Transfers and Acceptance's (NOTA) are also required to be received, with any current and outstanding annual reports and a letter of acknowledgement sent to both parties, before the new applicator is allowed to discharge pesticides to "waters of the U.S." within Wyoming.

PERMIT FEES:

All WYPDES general permit authorizations are subject to a permit fee of \$100 per year of coverage, as outlined in the Notice of Intent form.

The General Permit for Major Pesticide Discharges is scheduled to expire on **December 31, 2020**.

Jason Thomas, Permitting Supervisor
Water Quality Division
Department of Environmental Quality
Revised: July 10, 2015
Public Notice Draft Finalized: July 17, 2015

Michelle Hinz, Natural Resource Analyst
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Water Quality Division
Department of Environmental Quality
Revised: July 10, 2015.
Public Notice Draft Finalized: July 17, 2015

GENERAL PERMIT FOR MAJOR PESTICIDE DISCHARGES
AUTHORIZATION TO DISCHARGE UNDER THE
WYOMING POLLUTANT DISCHARGE ELIMINATION SYSTEM

WYG480000

In compliance with the provisions of the Federal Water Pollution Control Act, (hereinafter referred to as "the Act"), and the Wyoming Environmental Quality Act, pesticide applications within the state (except areas within the Wind River Indian Reservation), which discharge pesticides to, over, in water, or at water's edge of the "waters of the U.S." within Wyoming, in any of five use patterns:

1. Mosquito and Other Flying Insect Pest Control,
2. Weed and Algae Control,
3. Nuisance Animal Control,
4. Forest Canopy Pest Control, and the
5. Opt-In use patterns

that also exceed permit threshold limits, are hereby authorized to discharge to "waters of the U.S." within Wyoming in accordance with the requirements of this permit.

This WYPDES General Permit for Major Pesticide Discharges is issued under the provisions of *Wyoming Water Quality Rules and Regulations, Chapters 1, 2, and 4.*

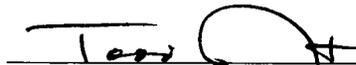
This permit shall become effective on the date of issuance below.

This permit and the authorization to discharge shall expire **December 31, 2020** at midnight.

Discharges are authorized under this permit only after submission of a Notice of Intent to discharge, and receipt of a Letter of Authorization from the Department of Environmental Quality/Water Quality Division.



Kevin Frederick, Administrator
Water Quality Division



Todd Parfitt, Director
Department of Environmental Quality

Date of Issuance 2/1/2016

PART I

1.0 COVERAGE UNDER THIS PERMIT.

This permit covers any pesticide applicator that meets the eligibility requirements identified in this section.

An “applicator” is the person who is responsible for the day to day control of, or performs activities that are necessary to ensure compliance with this permit, and meets the following criteria:

- (1) Performs pesticide applications which exceed thresholds established in this permit (Table 1 “Treatment Area Thresholds,” Part I, Section 1.2.2; Page 4); and
 - (a) Performs pesticides applications as either an owner/decision maker/resource manager of areas needing such treatment and acts as their own applicator, or directs their own people/employees to do such applications; or
 - (b) owns/operates a for-hire business, as identified by one of the three North American Industry Classification System (NAICS) codes listed below that applies pesticides at the request of others, or directs their own people/employees to do such applications:

115112	Agricultural Pest Control
115310	Forestry Pest Control
561710	Pest Control, Other than forestry and agriculture.

1.1 Eligibility

1.1.1 Activities Covered.

Under this general permit, applicators may be granted authorization to discharge to, over, in water, or at water’s edge of the “waters of the U.S.” within Wyoming from the application of:

- (1) biological pesticides, or
- (2) chemical pesticides,

either of which leave a residue (hereinafter collectively, “pesticides”), when the pesticide application is for any one, or more, of the following pesticide use patterns:

- a. Mosquito and Other Flying Insect Pest Control** – to control public health/nuisance and other flying insect pests that develop or are present during a portion of their life cycle in or above standing or flowing water. Public health/nuisance and other flying insect pests in this use category include but are not limited to, mosquitoes and black flies.
- b. Weed and Algae Control** – to control invasive or other nuisance weeds and algae in water and at water’s edge, including irrigation ditches¹ and/or irrigation canals¹.

¹ Laterals, canals, or ditches that do not drain or return water to “waters of the U.S.” within Wyoming are not included in this definition. Those that do not drain or return water to “waters of the U.S.” within Wyoming, are not generally considered to be jurisdictional under the Clean Water Act. Pesticide applications to canals and ditches that drain or return water into a “water of the U.S.” within Wyoming may require coverage under this permit. Pesticide applications that are performed “in-the-dry” need not be counted toward the thresholds.

- c. **Nuisance Animal Control** – to control invasive or other nuisance animals in water, and at water’s edge. Nuisance animals in this use category include, but are not limited to, fish, lampreys, and mollusks.
- d. **Forest Canopy Pest Control** – aerial application of a pesticide over a forest canopy to control the population of a pest species (e.g., insect or pathogen) where to target the pests effectively a portion of the pesticide unavoidably will be applied over and deposited to water.
- e. **Opt In Permitting** – A Pesticide applicator proposing a use pattern not fitting into any of the categories listed above (a-d) may choose to Opt-In to receive permit coverage for pesticide use.

1.1.2 Activities not Covered under this Permit

- a. **Discharges to Impaired Waters** – Applicators are not eligible for coverage under this permit for discharges from a pesticide application to “waters of the U.S.” within Wyoming, if the water is identified as impaired by that pesticide, or its degradates. For purposes of this permit, impaired waters are those that have been identified by the state pursuant to Section 303(d) of the Clean Water Act (CWA) as not meeting applicable state water quality standards. If the discharge would not be eligible under this permit because the water is listed as impaired for a specific pesticide, the applicator may still receive coverage by using a different pesticide with different degradates.
- b. **Coverage under a more specific permit** – An applicator will not be granted coverage under this permit for those facilities already covered under a more specific general permit and/or individual permit.
- c. **Violation of water quality standards** - Discharges that are determined to cause, or have reasonable potential to cause, or contribute to, violations of water quality standards or impairments of water quality, are not authorized under this permit.
- d. **Individual permit required** - If, after evaluation of the requested activity, it is found that this general permit is not applicable to the operation, the application will be processed as an application for an individual permit. The applicator will be notified of the DEQ/WQD decision to deny authorization under the general permit and require coverage under an individual permit. Additional information may be required.
- e. **FIFRA** – Pesticide applications that would otherwise be in violation of any requirement of FIFRA or not in conformance with the pesticide label instructions, are not authorized under this permit.

1.2 Authorization to Discharge under This Permit

1.2.1 How to Obtain Authorization

To obtain authorization under this permit, an applicator must:

- a. Meet the eligibility requirements identified in Part I, Section 1.1
- b. An applicator desiring to discharge pesticides under this permit must submit a complete and accurate NOI to Discharge Pesticides to the DEQ/WQD on a form provided by DEQ/WQD. The NOI must be submitted at least 30 days prior to the first anticipated date of a discharge.

- c. The NOI and any supplemental information shall be submitted to:
Wyoming Department of Environmental Quality
Water Quality Division - WYPDES Program
122 West 25th Street (4th Floor West)
Cheyenne, Wyoming 82002
- d. The administrator shall review each NOI and make a completeness determination within 30 days of receipt of the NOI. If the NOI is deemed incomplete, the applicant will be notified in writing describing the additional information needed within 45 days of receipt of the NOI.
- e. An NOI must be filed and authorization must be granted in writing under this permit prior to the start of pesticide discharge activities except in the event of a declared Public Health Emergency. (See Part I, Section 3.1.c. The definition of Public Health Emergency is also provided in Appendix A). An NOI must be filed and authorization granted within 90 days of a response to a Public Health Emergency for applicators that respond to a Public Health Emergency without an authorization already in hand.

1.2.2 Applicators Required to Submit an NOI.

The following applicators are required to submit an NOI to obtain coverage under this general permit for discharges to “waters of the U.S.” within Wyoming resulting from the application of pesticides:

- a. Performs pesticide applications for any of the use patterns described in Part I, Section 1.1.1 a-e, to any Class 1 water in the state, regardless of size, acreage, miles, or amounts. Current Class 1 waters, and their locations, are listed in Appendix B.
- b. Applicators that are either an owner/decision maker/resource manager of areas needing such treatment and are acting as their own applicator, or direct their own people/employees to do such applications; and know, or reasonably should have known, that those activities will exceed one or more of the treatment area thresholds listed in Table 1 (below) for any single treatment area described in Part 1.1.1 **a-e** of this permit.
- c. Applicators that own/operate a for-hire business, that has a NAICS code of 115112, 115310, or 561710, that applies pesticides at the request of others, or directs their own people/employees to do such applications; and know, or reasonably should have known, that those activities will exceed one or more of the treatment area thresholds listed in Table 1 (below) for any single treatment area(s) described in Part 1.1.1 **a-e** of this permit.
 - 1. The size thresholds expressed in Table 1 below are not an accumulation of all pesticide applications but refer to each individual treatment. An applicator must obtain coverage under this permit if any single application exceeds one or more of the thresholds. Multiple applications over the same area are not additive. A single applicator, however, should not break up their area of responsibility in order to avoid obtaining coverage under this permit. The applicator has to submit only one NOI, regardless of the number of individual treatment areas that exceed the threshold. However, the permit will require records to be maintained (Part I Sections 3.0 and 4.0 of the permit) for all treatment areas that exceed the thresholds.
- d. (Opt-In) Applicators of pesticides that do not meet or exceed thresholds from Table 1 (below) or who do not fit any of the standard use patterns listed in Section 1.1.1 **a-d**, but would still want to be covered under the pesticides general permit.

Table 1. Treatment Area Thresholds

PGP PART	Pesticide Use Pattern	Threshold¹
Part I, Section 1.1.1 Part I, Section 3.4.2	Mosquitoes and Other Flying Insect Pests	640 acres of treatment area (larvacide) 6400 acres of treatment area (adulticide)
Part I, Section 1.1.1 Part I, Section 3.4.2	In Water: Weeds and Algae At Waters Edge: Weeds and Algae	80 acres of treatment area ² 20 linear miles of treatment area at water's edge ³
Part I, Section 1.1.1 Part I, Section 3.4.2	In Water: Nuisance Animals At Waters Edge: Nuisance Animals	80 acres of treatment area ² 20 linear miles of treatment area at water's edge ³
Part I, Section 1.1.1 Part I, Section 3.4.2	Forest Canopy	6400 acres of forest canopy
Part I, Section 1.1.1 Part I, Section 3.4.2	Opt-In: Any entity or individual not otherwise eligible or who have a use category not fitting in the five use patterns listed above may Opt-In to permitting for pesticides discharges.	There are no minimum thresholds; all are required to submit an NOI.

¹All pesticide applications to Class 1 waters of the state are required to submit an NOI regardless of size of area.

²Calculations should include the area of the applications made to: (1) “waters of U.S” within Wyoming, and (2) conveyances with a hydrologic surface connection to “waters of the U.S” within Wyoming at the time of pesticide application.

³Calculations should include the length of the application made at water’s edge adjacent to: (1) “waters of the U.S.” within Wyoming and (2) conveyances with a hydrologic surface connection to a “water of the U.S.” within Wyoming at the time of pesticide application

In order to obtain coverage, those meeting the thresholds in Table 1, Treatment Area Thresholds (above), must submit a complete and accurate NOI to the administrator at least 30 days prior to the first discharge of pesticides.

1.2.3 Agreement to Comply

- a. Submission of the NOI to the administrator constitutes full agreement by the applicator to meet and comply with all requirements of this general permit.

1.2.4 Terminating Coverage

- a. **Notice of Transfer and Acceptance (NOTA).** When all responsibility for pest control activities changes from one applicator to another applicator, the current and future applicator shall submit a completed NOTA to DEQ/WQD. The certification must be signed by both parties in accordance with Part II, Section 1.6, and must be submitted within 14 days of the change in applicators, and before any pesticide application takes place by the new applicator at an application site. The transfer form is available from the administrator.

1. The current applicator must submit their final annual report for pesticide discharges for any part of the current calendar year with the NOTA.
2. The new applicator shall submit his/her first annual report by February 28 of the first year after the calendar year the NOTA was submitted.

b. Notice of Termination (NOT).

Applicators wishing to terminate coverage under this permit must submit a NOT identifying the applicator and the reason the permit coverage is no longer required. The NOT shall be signed in accordance with Part II, Section 1.6. The following conditions apply to all applicators who desire to terminate coverage:

1. Compliance with the conditions of this permit is required until an NOT has been submitted and a letter of acceptance of the NOT supplied to the applicator from the administrator; and
2. The final annual report for any pesticide discharges for any part of the current calendar year must be submitted with the NOT; and
3. In order to receive termination, the permittee must have ceased all discharges from the application of pesticides for which permit coverage was obtained, and the permittee does not expect to discharge during the remainder of the general permit term for any of the pesticides use patterns as identified in Part I, Section 1.1.1; or
4. The applicator obtained coverage under an individual permit or an alternative general permit, for all discharges required to be covered by a WYPDES permit.

1.2.5 Continuation of Coverage under a Renewed Permit

If this General Permit for Major Pesticides Discharges is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with 40 CFR 122.6 and remain in full force and effect. Any permittee authorized to discharge under this permit will automatically remain covered by the PGP until:

- a. A formal decision by the administrator of the DEQ/WQD not to reissue the PGP, at which time the administrator will identify a reasonable time period for covered discharges to seek coverage under an alternative general permit, or to seek coverage with an individual permit. Coverage under the PGP ceases when coverage under another permit is authorized and/or granted.

1.2.6 Duty to Reapply

If the permittee wishes to continue an activity regulated by the PGP after its expiration date, the permittee shall apply for and obtain reauthorization under the reissued (or new) PGP. The permit application (NOI) shall be submitted at least 180 days before the expiration date of the PGP. At the discretion of the administrator of the DEQ/WQD, the permittee may be periodically requested to reaffirm its eligibility to discharge under this PGP.

2.0 EFFLUENT LIMITATIONS

2.1 Technology-Based Effluent Limits.

To meet the effluent limitations in Part I, Section 2.1, the applicator must implement site-specific control measures that minimize discharges of pesticides to “waters of the U.S.” within Wyoming. The terms “minimize” and “control measures” are defined in Appendix A. All applicators must do the following:

- a. Use the lowest effective amount of pesticide product per application and optimum frequency of pesticide applications necessary to control the target pest, being consistent with the labeling instructions of the specific pesticide being applied, and with reducing the potential for development of pest resistance.
- b. Maintain pesticide application equipment in proper operating condition by adhering to any manufacturer conditions, and adherence to the FIFRA labeling instructions, and by calibrating, cleaning, and repairing such equipment on a regular basis to ensure effective pesticide application and pesticide control. The applicator shall ensure that the equipment's rate of pesticide application is calibrated to deliver the precise quantity of pesticide needed to achieve greatest efficacy against the target pest, and in accordance with the FIFRA labeling instructions.
- c. Assess the environmental conditions (e.g. temperature, precipitation, and wind speed) in the treatment area prior to each pesticide application to identify whether existing environmental conditions support development of pest populations and are suitable for control activities.

2.2 Water Quality-Based Effluent Limitations

- a. All discharges must be controlled as necessary to meet applicable numeric and narrative *State of Wyoming Water Quality Rules and Regulations*; and
- b. Corrective action must be taken at any time it becomes evident to the applicator or DEQ/WQD determines that a discharge is causing or contributing to an excursion of an applicable water quality standard.

Additional Permit Requirements

3.0 PESTICIDE POLLUTION PREVENTION PLAN (P4)

- 3.1** All applicators discharging pesticides under the authority of this general permit, must prepare a Pesticide Pollution Prevention Plan (P4). The P4 must be kept current and up-to-date throughout the calendar year. The plan does not have to be submitted unless the administrator of the DEQ/WQD requests a copy.

The purpose of the P4 is to ensure protection of surface waters that may be impacted by the pesticides management activities. The P4 contains two sections. The first section (Part I, Section 3.3.1) is comprised of protocols that can be used at all pest management areas to ensure the use of the lowest effective amount of a pesticide, maintenance of equipment, and procedures to reduce impact of pesticide application activities to the environment. The second section of the P4 is a summary of the site specific activities for each treatment area that exceeds the treatment area threshold (Part I, Section 3.3.2). The applicator must develop a P4 consistent with the deadlines outlined below:

- a. Applicators that know or should have reasonably known they will exceed any thresholds as described in Part I, Section 1.2.2, Table 1, shall have their P4 completed prior to the first pesticide application covered under this permit;
- b. Applicators that do not know, or would reasonably not know until after commencement of discharge, shall prepare their P4 prior to exceeding an pesticide use area threshold; and
- c. Applicators commencing discharge in response to a Public Health Emergency as defined in Appendix A, that will cause the applicator to exceed an pesticide use area threshold,

shall prepare their P4 no later than 90 days after responding to a declared pest emergency situation. An NOI must be filed and authorization granted within 90 days of a response to a Public Health Emergency for applicators that respond to a Public Health Emergency without an authorization already in hand.

- d. Applicators submitting an NOI during the calendar year 2016 shall have their P4 completed prior to December 31, 2016.

3.2 The P4 shall identify a specific individual or individuals within the facility organization that are responsible for developing the P4 and assisting with the implementation, maintenance, and revision. The P4 shall clearly identify the responsibility of the plan lead, either by name or job title.

3.2.1 P4 Modifications and Signature Requirements

- a. The applicator must modify the P4 whenever necessary to address any of the triggering conditions for corrective action or when a change in pest control activities significantly changes the type or quantity of pollutants discharged.
- b. The applicator must review the P4 at a minimum once per calendar year and whenever necessary to update the pest problem identified and pest management strategies evaluated for the pest management areas.
- c. The lead individual identified in (3.2) above must be the signatory of the P4.

3.3 Contents of P4

3.3.1 Actions and/or Policies to Minimize the Discharges of Pesticides at all Pest Management Areas

3.3.1.1 Spill Response Procedures.

- a. Procedures for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases. Employees who may cause, detect, or respond to a spill or leak must be trained in these procedures and have necessary spill response equipment available.
- b. Procedures for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies.

3.3.1.2 Adverse Incident Response Procedures.

- a. Procedures for responding to any incident resulting from pesticide applications;
- b. Procedures for notification of the incident, both internal to the applicator's agency/organization and external. Contact information for state/federal permitting agency, nearest emergency medical facility, and nearest hazardous chemical responder must be in locations that are readily accessible and available.

3.3.1.3 Pesticide Application Equipment

- a. Procedures for maintaining the pesticide application equipment in proper operating condition, including calibrating, cleaning, and repairing the equipment.

3.3.1.4 Application rate and frequency

- a. Procedures for determining the lowest effective amount of pesticide product per application and the optimum frequency of pesticide application necessary to control the target pest, being consistent with labeling instructions, and with the potential to reduce development of pest resistance.

3.3.1.5 Reduce Impact on Environment and Non-Target Organisms

- a. Procedures to identify when action threshold have been met that necessitate the use of pesticides.

3.3.2 Plan requirements for each Individual Pest Management Area that Exceeds Treatment Area Threshold

For each individual Pest Management Area, the following must be documented:

- a. A brief description of the pesticide use pattern(s) and pesticide application dates;
- b. Name of each pesticide product used including the EPA registration number;
- c. Description of the environmental conditions (e.g. temperature, precipitation, and wind speed) in the treatment area prior to each pesticide application which are suitable for control activities.
- d. Quantity of pesticide applied at each application location;
- e. For pesticide applications directly to “waters of the U.S.”, within Wyoming, the effective concentration of active ingredient required for control;
- f. Concentration (%) of active ingredients in the formulation (ideally, a copy of the MSDS sheets for each product used or a copy of the label of each product used would supply much of this information and could be kept on hand in lieu of hand-written documents);
- g. Documentation of any unusual or unexpected effects to non-target organisms;
- h. Documentation of any equipment calibration, cleaning, and repairs;
- i. Prior to the first pesticide application covered under this permit that will result in a discharge to “waters of the U.S.” in Wyoming, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, the applicator must do the following:
 - 1. Identify target species
 - 2. Identify factors contributing to the problem;
 - 3. Establish past or present densities of target species to serve as action thresholds;
 - 4. In the event there are no past data for the pest management area, list what data was used to determine action thresholds.
- j. Prior to the first pesticide application under this permit that will result in a discharge to “waters of the U.S.” in Wyoming, and at least once each calendar year thereafter prior to beginning pesticide applications that year; the applicator must select and implement, for each pest management area, efficient and effective means of pest management to minimize discharges resulting from the application of pesticides. In developing these pest management strategies, the applicator must evaluate the following management options, considering impact to water quality, impact to non-target organisms, pest resistance, feasibility, and cost effectiveness for the following areas:

1. No action
 2. Prevention
 3. Mechanical or physical methods,
 4. Biological Control Agents
 5. Pesticides
1. If pesticide use is selected to manage target pests, and applications of the pesticide will result in a discharge to “waters of the U.S.” within Wyoming, the applicator must:
 1. Conduct surveillance prior to each application to assess the pest management area and to determine when target pest action thresholds have been met;
 2. Assess environmental conditions (e.g. temperature, precipitation, and wind speed) in the treatment area to determine conditions that support pesticide use;
 3. Evaluate using pesticides against the most susceptible developmental stage of the target species.

4.0 MONITORING AND REPORTING

4.1 Monitoring Requirements for Pesticides Applicators.

The applicator must monitor the amount of pesticide applied to ensure that the applicator is using the lowest amount to effectively control the pest, being consistent with specific pesticide labeling instructions. The applicator must also monitor pesticide application activities to ensure that the application equipment is in proper operating condition by adhering to any manufacturer’s conditions, labeling instructions, and by calibrating, cleaning, and repairing equipment on a regular basis.

4.2 Visual Monitoring Requirements for Pesticide Applicators.

- a. During any pesticide application with discharges authorized under this permit, all applicators must, when considerations for safety and feasibility allow, visually assess the area to and around where pesticides are applied for possible and observable adverse incidents, as defined in Appendix A, caused by application of pesticides, including the unanticipated death or distress of non-target organisms and disruption of wildlife habitat, recreational or municipal water use.
- b. During any operator post-application surveillance of any pesticide application with discharges authorized under this permit, all operators must visually assess the area to and around where pesticides were applied for possible and observable adverse incidents, as defined in Appendix A, caused by application of pesticides, including the unanticipated death or distress of non-target organisms and disruption of wildlife habitat, recreational or municipal water use.

4.3 Recordkeeping and Annual Reporting

4.3.1 Records Retention

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original chart 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, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the administrator at any time. A copy of this WYPDES permit, and a copy of the signed authorization, must be maintained on site during the duration of activity at the permitted location. Additionally, the following list of documents generated to fulfill the permit limitations of this Pesticides General Permit, shall be maintained on site for the duration of this permit term:

- a. Copies of any adverse incident reports;
- b. Copies of any corrective actions taken;
- c. Copies of NOI's submitted to DEQ/WQD and any correspondence exchanged between the applicator/permittee and DEQ/WQD;
- d. Current, up-to-date copy of the P4.

4.3.2 Annual Reporting.

- a. Monitoring results obtained during the previous twelve month calendar year shall be summarized and reported as outlined below. Legible copies and all other reports required herein, shall be signed and certified in accordance with the Signatory Requirements (see Part II, Section 1.6), and submitted to the state water pollution control agency at the following address no later than February 28 of the following year. **All reporting periods are based upon the calendar year of January through December, or any part therein.** The reports must be received by the agency no later than the 28th day of February following the completed reporting period. The first report is due on **February 28, 2017**.

Wyoming Department of Environmental Quality
Water Quality Division
Herschler Building, 4 West
122 West 25th Street
Cheyenne, WY 82002
Telephone: (307) 777-7781

If no discharge (no pesticide applications within any of the use patterns identified in Part 1, Section 1.1.1 a-e) occurs during the reporting period, then "no discharge" shall be reported.

If the effective date of the authorization is December 1st or later the permittee is not required to submit an annual report for that first partial year, but must submit annual reports thereafter. The first submitted report shall include any information concerning any pesticide applications for that first partial year that the applicator held an authorization.

- b. Each annual report must contain the following information:
 1. Applicator's name, address, telephone number, and email address (if available);
 2. The WYPDES authorization number for the applicator's authorization;
 3. Contact person name, title, telephone number, and email address (if available) if different from number 1;
 4. Identification of all waters or other treatment areas, including size, either by name (owner name and address) or location, to which pesticides were discharged under any of the pesticide use patterns listed in Part 1, Section 1.1.1 that exceed thresholds; or if applying to class 1 waters of the state (a list of class 1 waters of the state are included in Appendix B).
 5. Total amount of each pesticide product applied for the reporting year by the EPA registration number(s) and by application method (e.g. aerially fixed wing, broadcast sprayer, etc.);
 7. Whether this pest control activity was addressed in the permittee P4 prior to pesticides application taking place;

8. If applicable, copies of all adverse incident reports associated with these treatment areas;
9. A description of any corrective action(s), including spill responses, resulting from pesticide application activities and the rationale for each action(s).

4.4 Adverse Incident Documentation and Reporting

4.4.1 Twenty-Four (24) Hour Adverse Incident Notification. If an applicator observes or are otherwise made aware of an adverse incident, as defined in Appendix A, that may have resulted from a discharge from pesticide application(s), the applicator must immediately notify DEQ/WQD. This notification must be made by telephone within 24 hours of the applicator becoming aware of the adverse incident and must include at least the following information:

- a. The caller's name and telephone number;
- b. Applicator name and mailing address;
- c. WYPDES authorization number (if applicable);
- d. How and when individual became aware of the adverse incident;
- e. Description of the location of the adverse incident;
- f. Description of the adverse incident identified and the EPA registration number for each product applied in the area of the adverse incident; and
- g. Description of any steps taken or will be taken to correct, repair, remedy, cleanup, or otherwise address any adverse effects.

If an individual is unable to notify DEQ/WQD within 24 hours, he/she must do so as soon as possible and also provide rationale as for why there was no ability to provide such notification within 24 hours. The adverse incident notification and reporting requirements are in addition to what the registrant is required to submit under FIFRA section 6(a)(2) and its implementing regulations at 40 CFR Part 159.

4.4.2 Five (5) Day Adverse Incident Written Report.

Within 5 days of a reportable adverse incident pursuant to Part I, Section 3.3.1.1, the applicator must provide a written report of the adverse incident to the DEQ/WQD office at the address listed in Part I, Section 4.3.2. The adverse incident report must include at least the following information:

- a. Information required in Part I, Section 4.4.1 (a-g above);
- b. Date and time the state was contacted of the adverse incident, whom was spoken to, and any instructions received;
- c. Location of incident, including the names of any waters affected and appearance of those waters (sheen, color, clarity, etc);
- d. A description of the circumstances of the adverse incident including species affected, estimated number of individuals, and approximate size of distressed or dead individuals;
- e. Pesticide application rate, intended use site (e.g. banks, above, or direct water application, etc.), method of application, and name of pesticide product, description of product ingredients, and EPA registration number;
- f. Description of the habitat and the circumstances under which the adverse incident occurred (including any available ambient water data for pesticides applied);
- g. Actions to be taken to prevent recurrence of the adverse incident
- h. Signed and dated in accordance with Part II, Section 1.6.

The applicator must report adverse incidents even for those instances when the pesticide labeling states that adverse incidents may occur.

4.5 Reportable Spills and Leaks. Reference *Chapter 4, Section 4, Wyoming Water Quality Rules and Regulations*

4.5.1 Spills, Leaks, or Other Unpermitted Discharge Notification.

A hazardous substance release in any amount which enters, or threatens to enter, waters of the state shall be reported, contained, removed, and disposed of in accordance with these regulations.

- a. Any person owning or having control over oil or a hazardous substance which, after release, enters, or threatens to enter, waters of the state shall:
 1. Immediately take appropriate action to stop and contain the release;
 2. Immediately notify DEQ/WQD of the type, quantity, and location of the release, and of the response, containment, and cleanup actions which have been taken or are proposed to be taken; and
 3. Immediately proceed to correct the cause of the release.
- b. The following releases are not required to be reported to DEQ/WQD provided the release does not physically enter waters of the state, and it is immediately contained, removed, and disposed of in accordance with departmental regulations:
 1. Ten barrels (420 gallons) or less of crude oil, petroleum condensate, produced water, or a combination thereof;
 2. Twenty-five (25) gallons or less of refined crude oil products, including but not limited to, gasoline, diesel motor fuel, aviation fuel, asphalt, road oil, kerosene, fuel oil, and derivatives of mineral, animal, or vegetable oils.
- c. In addition to the preceding reporting and/or notification requirements, spills or releases of substances listed in this section and in quantities specified therein, the permittee shall also contact the National Response Center (NRC), located in the Washington DC area, at 1-800-424-8802. If contacting the NRC is not possible, reports may be made to the Coast Guard or EPA predesignated On-Scene Coordinator (OSC). {40 CFR 110.6 (1996)}

4.5.2 Seven-Day Spill, Leak, or Other Unpermitted Discharge Documentation.

Within seven (7) days following a release, submit a complete written report to DEQ/WQD describing the reportable release and steps taken to prevent a recurrence.

4.5.3. Cleanup of Oil or Hazardous Substances.

Satisfactory cleanup of oil or hazardous substance releases shall proceed in a timely and diligent manner. Satisfactory cleanup of oil or hazardous substance release will be achieved when one, or both, of the following cleanup criteria have been met:

- a. Oil release shall not be present in, or threaten, waters of the state in amounts which would cause any one of the following conditions:
 1. Oil and grease content to exceed 10 mg/l;
 2. Visible deposits on the bottom or shoreline; or
 3. Damage or impairment of the normal growth, function, or reproduction of human, animal, plant, or aquatic life.
- b. Hazardous substances shall not be present in, or threaten, waters of the state in concentrations or combinations which, as determined by the administrator, would damage or impair the normal growth, function, or reproduction of human, animal, plant, or aquatic life, or impair the beneficial use of any waters of the state.

- c. Except in cases where extreme fire danger, or unique hazardous circumstances exist, physical removal of the released oil or hazardous substance may be required, as deemed necessary by the administrator.

Pesticides General Permit
PART II

1.0 MANAGEMENT REQUIREMENTS

1.1 Noncompliance Notification

- a. The permittee shall give advance notice of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- b. The permittee shall report any noncompliance which may endanger health or the environment as soon as possible, but no later than 24 hours from the time the permittee first became aware of the circumstances. The report shall be made to the Water Quality Division, Wyoming Department of Environmental Quality at (307) 777-7781.
- c. A written submission shall be provided within five (5) days of the time that the permittee becomes aware of a noncompliance circumstance as described in paragraph b. above.
- d. The written submission shall contain:
 1. A description of the noncompliance and its cause;
 2. The period of noncompliance, including exact dates and times;
 3. The estimated time noncompliance is expected to continue if it has not been corrected; and
 4. Steps taken or planned to reduce, eliminate and prevent re-occurrence of the non-compliance.
- e. The permittee shall report all instances of noncompliance that have not been specifically addressed in any part of this permit at the time the monitoring reports are due.

1.2 Facilities Operation

The permittee shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit. However, the permittee shall operate, as a minimum, one complete set of each main line unit treatment process whether or not this process is needed to achieve permit effluent compliance.

1.3 Adverse Impact

The permittee shall take all reasonable steps to minimize any adverse impact to “waters of the U.S.” in Wyoming, resulting from noncompliance with any effluent limitations specified in this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

1.4 Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the federal act and the Wyoming Environmental Quality Act and is grounds for enforcement action as defined in W.S. 35-11-901; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give the administrator of the DEQ/WQD advance notice of any planned changes at the permitted facility or of any activity which may result in permit noncompliance.

1.5 Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

1.6 Signatory Requirements

All applications, reports or information submitted to the administrator of the Water Quality Division shall be signed and certified.

- a. All permit applications shall be signed as follows:
 1. For a corporation: by a responsible corporate officer;
 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: by either a principal executive officer or ranking elected official.
- b. All reports required by the permit and other information requested by the administrator of the Water Quality Division shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 1. The authorization is made in writing by a person described above and submitted to the Administrator;
 2. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position.
- c. If an authorization under paragraph Part II, Section 1.6.b 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 paragraph Part II, Section 1.6.b must be submitted to the administrator of the DEQ/WQD prior to or together with any reports, information or applications to be signed by an authorized representative.
- d. Any 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 any information, including the possibility of fine and imprisonment for knowing violations."

2.0 RESPONSIBILITIES

2.1 Inspection and Entry

The permittee shall allow the administrator of the WQD or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

- a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;
- b. If requested, the permittee shall provide written certification from the surface landowner(s), if different than the permittee, that the administrator or the administrator's authorized agent has access to all physical locations associated with this permit including well heads, discharge points, reservoirs, monitoring locations, and any waters of the state;
- c. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- d. Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and
- e. Sample or monitor, at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the federal act, any substances or parameters at any location.

2.2 Availability of Reports

Except for data determined to be confidential under Section 308 of the federal act, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Wyoming Department of Environmental Quality and the regional administrator of the Environmental Protection Agency. As required by the federal act, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the federal act.

2.3 Toxic Pollutants.

The permittee shall comply with effluent standards or prohibitions established under Section 307 (a) of the federal act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

2.4 Changes in Toxic Substances.

Notification shall be provided to the administrator of the DEQ/WQD as soon as the permittee knows of, or has reason to believe:

- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 1. One hundred micrograms per liter (100 µg/l);
 2. Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl- 4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
 3. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21 (g) (7); or
 4. The level established by the director of the Environmental Protection Agency in accordance with 40 CFR 122.44 (f).
- b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

1. Five hundred micrograms per liter (500 µg/l);
2. One milligram per liter (1 mg/l) for antimony;
3. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21 (g) (7); or
4. The level established by the director of the Environmental Protection Agency in accordance with 40 CFR 122.44 (f).

2.5 Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

2.6 Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject under Section 311 of the federal act.

2.7 State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties established pursuant to any applicable state or federal law or regulation. In addition, issuance of this permit does not substitute for any other permits required under the Clean Water Act or any other federal, state, or local law.

2.8 Property Rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights nor any infringement of federal, state or local laws or regulations.

2.9 Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The application should be submitted at least 180 days before the expiration date of this permit.

2.10 Duty to Provide Information

The permittee shall furnish to the administrator of the DEQ/WQD, within a reasonable time, any information which the administrator may request to determine whether cause exists for modifying, revoking and reissuing or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the administrator, upon request, copies of records required by this permit to be kept.

2.11 Other Information

When the permittee becomes aware that it failed to submit any relevant facts in a permit application or submitted incorrect information in a permit application or any report to the administrator of the DEQ/WQD, it shall promptly submit such facts or information.

2.12 Permit Action

This permit may be modified, revoked, reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation, reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

**Pesticides General Permit
Part III**

1.0 Other Requirements

1.1 Flow Measurement

At the request of the administrator of the Water Quality Division, the permittee must be able to show proof of the accuracy of any flow measuring device used in obtaining data submitted in the monitoring report. The flow measuring device must indicate values of within plus or minus ten (10) percent of the actual flow being measured.

1.2 208(b) Plans

This permit may be modified, suspended or revoked to comply with the provisions of any 208(b) plan certified by the Governor of the State of Wyoming.

1.3 Reopener Provision

This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations (and compliance schedule, if necessary) or other appropriate requirements if one or more of the following events occurs:

- a. The state water quality standards of the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit;
- b. A total maximum daily load (TMDL) and/or watershed management plan is developed and approved by the state and/or the Environmental Protection Agency which specifies a wasteload allocation for incorporation in this permit;
- c. A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this permit;
- d. Downstream impairment is observed and the permitted facility is contributing to the impairment;
- e. The limits established by the permit no longer attain and/or maintain applicable water quality standards;
- f. The permit does not control or limit a pollutant that has the potential to cause or contribute to a violation of a state water quality standard;
- g. If new applicable effluent guidelines and/or standards have been promulgated and the standards are more stringent than the effluent limits established by the permit; and
- h. If an Interstate Memorandum of Cooperation exists, effluent limits may be incorporated into this permit or existing limits may be modified to ensure that the appropriate criteria, quality standards, and assimilative capacity are attained.

1.4 Permit Modification

After notice and opportunity for a hearing, this permit may be modified, suspended or revoked in whole or in part during its term for cause including, but not limited to, the following:

- a. Violation of any terms or conditions of this permit;
- b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge; or
- d. If necessary to comply with any applicable effluent standard or limitation issued or approved under Sections 301(b) (2) (C) and (D), 304 (b) (2) and 307 (a) (2) of the federal act, if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
2. Controls any pollutant not limited in the permit.

1.5 Toxicity Limitation - Reopener Provision

This permit may be reopened and modified (following proper administrative procedures) to include a new compliance date, additional or modified numerical limitations, a new or different compliance schedule, a change in the whole effluent protocol or any other conditions related to the control of toxicants if one or more of the following events occur:

- a. Toxicity was detected late in the life of the permit near or past the deadline for compliance;
- b. The TRE results indicate that compliance with the toxic limits will require an implementation schedule past the date for compliance and the permit issuing authority agrees with the conclusion;
- c. The TRE results indicate that the toxicant(s) represent pollutant(s) that may be controlled with specific numerical limits and the permit issuing authority agrees that numerical controls are the most appropriate course of action;
- d. Following the implementation of numerical controls on toxicants, the permit issuing authority agrees that a modified whole effluent protocol is necessary to compensate for those toxicants that are controlled numerically;
- e. The TRE reveals other unique conditions or characteristics which, in the opinion of the permit issuing authority, justify the incorporation of unanticipated special conditions in the permit.

1.6 Severability

The provisions of this permit are severable and if any provision of this permit, or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit, shall not be affected thereby.

1.7 Penalties for Falsification of Reports

The federal act provides that any person who knowingly makes any false statement, representation or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation or by imprisonment for not more than two years per violation or both.

APPENDIX A

Definitions, Abbreviations, and Acronyms

DEFINITIONS

Action Threshold – The point at which pest populations or environmental conditions can no longer be tolerated necessitating that pest control action be taken based on economic, human health, aesthetic, or other effects. Sighting a single pest does not always mean control is needed. Action thresholds help determine both the need for control actions and the proper timing of such actions.

Active Ingredient – any substance (or group of structurally similar substances if specified by the Agency) that will prevent, destroy, repel or mitigate any pest, or that functions as a plant regulator, desiccant, or defoliant within the meaning of FIFRA sec. 2(a). [40 CFR 152.3] Active ingredient also means a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for the production of such a pesticidal substance. [40 CFR 174.3]

Administrator - The Administrator of the Department of Environmental Quality, Water Quality Division or his authorized agent.

Adulticide – A chemical, usually an insecticide, which is targeted toward the adult stage of an insect.

Adverse Incident – means an incident that is observed upon inspection or otherwise discovered in which

- (1) A person or non-target organism has been exposed to a pesticide residue, and
- (2) The person or non-target organism suffered a toxic or adverse effect.

The phrase “toxic or adverse effects” includes effects that occur within waters of the U.S. on non-target plants, fish or wildlife that are unusual or unexpected (e.g., effects are to organisms not otherwise described on the pesticide product label or otherwise not expected to be present) as a result of exposure to a pesticide residue, and may include:

- Distressed or dead juvenile and small fishes
- Washed up or floating fish
- Fish swimming abnormally or erratically
- Fish lying lethargically at water surface or in shallow water
- Fish that are listless or nonresponsive to disturbance
- Stunting, wilting, or desiccation of non-target submerged or emergent aquatic plants
- Other dead or visibly distressed non-target aquatic organisms (amphibians, turtles, invertebrates, etc.)

The phrase, “toxic or adverse effects,” also includes any adverse effects to humans (e.g., skin rashes) or domesticated animals that occur either directly or indirectly from a discharge to waters of the U.S. that are temporally and spatially related to exposure to a pesticide residue (e.g., vomiting, lethargy).

Applicator – An “applicator” is the person who is responsible for the day to day control of, or performs activities that are necessary to ensure compliance with this permit, and meets the following criteria:

- (2) Performs pesticide applications which exceed thresholds established in this permit (Table 1 “Treatment Area Thresholds,” Part I, Section 1.2.2; Page 4); and

(a) Performs pesticides applications as either an owner/decision maker/resource manager of areas needing such treatment and acts as their own applicator, or directs their own people/employees to do such applications; or

(b) owns/operates a for-hire business, as identified by one of the three North American Industry Classification System (NAICS) codes listed below, that applies pesticides at the request of others, or directs their own people/employees to do such applications:

115112	Agricultural Pest Control
115310	Forestry Pest Control
561710	Pest Control, Other than forestry and agriculture.

Best Management Practices (BMPs) – means a practice or combination of practices that after problem assessment, examination of alternative practices, and in some cases public participation, are determined to be the most technologically and economically feasible means of managing, prevention, or reducing nonpoint source pollution. [Chapter 1, Wyoming Water Quality Rules and Regulations, section 2, vi].

Biological Control Agents – organisms such as herbivores, predators, parasites, and hyperparasites introduced to an area for pest control purposes.

Biological Pesticides (also called biopesticides) - include microbial pesticides, biochemical pesticides and plant-incorporated protectants (PIP).

Microbial pesticide means a microbial agent intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or dessiccant, that (1) is a eucaryotic microorganism including, but not limited to, protozoa, algae, and fungi; (2) is a procaryotic microorganism, including, but not limited to, Eubacteria and Archaeobacteria; or (3) is a parasitically replicating microscopic element, including but not limited to, viruses. [40 CFR 158.2100(b)]

Biochemical pesticide mean a pesticide that (1) is a naturally-occurring substance or structurally-similar and functionally identical to a naturally-occurring substance; (2) has a history of exposure to humans and the environment demonstrating minimal toxicity, or in the case of a synthetically-derived biochemical pesticides, is equivalent to a naturally-occurring substance that has such a history; and (3) Has a non-toxic mode of action to the target pest(s). [40 CFR 158.2000(a)(1)]

Plant-incorporated protectant means a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for production of such a pesticidal substance. It also includes any inert ingredient contained in the plant, or produce thereof. [40 CFR 174.3]

Chemical Pesticides – all pesticides not otherwise classified as biological pesticides.

Class 1 Waters – Outstanding Waters. Class 1 waters are those surface waters in which no further water quality degradation by point source discharges other than from dams will be allowed. Nonpoint sources of pollution shall be controlled through implementation of appropriate BMP's. Pursuant to Section 7 of Wyoming Water Quality Rules and Regulations, the water quality and physical and biological integrity which existed on the water at the time of designation will be maintained and protected.

Control Measure – refers to any BMP or other method used to meet the effluent limitations. Control measures must comply with manufacturer specifications, industry standards and recommended industry practices related to the application of pesticides, and relevant legal requirements. Additionally, control measures could include other actions that a prudent operator would implement to reduce and/or eliminate pesticide discharges to waters of the U.S. to comply with the effluent limitations in this permit.

Cultural Methods - manipulation of the habitat to increase pest mortality by making the habitat less suitable to the pest.

Discharge – means any addition of any pollution or wastes to any waters of the state. [WS-35-11-103(c)(vii)].

Discharge of a pollutant – any addition of any “pollutant” or combination of pollutants to “waters of the United States” from any “point source,” or any addition of any pollutant or combination of pollutants to the water of the “contiguous zone” or the ocean from any point source other than a vessel or other floating craft that is being used as a means of transportation. This includes additions of pollutants into waters of the U.S. from: surface runoff that is collected or channeled by man; discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. [excerpted from 40 CFR 122.2]

EPA Approved or Established Total Maximum Daily Loads (TMDLs) – “EPA Approved TMDLs” are those that are developed by a State and approved by EPA. “EPA Established TMDLs” are those that are issued by EPA.

Impaired Water– A water is impaired for purposes of this permit if it has been identified by a State, Territory, Tribe or EPA pursuant to Section 303(d) of the Clean Water Act as not meeting applicable State, Territorial, or Tribal water quality standards (these waters are called “water quality limited segments” under 40 CFR 130.2(j)). Impaired waters include both waters with approved or established TMDLs, and those for which a TMDL has not yet been approved or established.

Inert Ingredient - any substance (or group of structurally similar substances if designated by the Agency), other than an active ingredient, that is intentionally included in a pesticide product, [40 CFR 152.3] Inert ingredient also means any substance, such as a selectable marker, other than the active ingredient, where the substance is used to confirm or ensure the presence of the active ingredient, and includes the genetic material necessary for the production of the substance, provided that genetic material is intentionally introduced into a living plant in addition to the active ingredient. [40 CFR 174.3]

Larvicide – an insecticide that is specifically targeted against the larval life stage of an insect. .

Minimize - to reduce and/or eliminate pesticide discharges to waters of the U.S. through the use of “control measures” to the extent technologically available and economically practicable and achievable.

Non-target Organisms – includes the plant and animal hosts of the target species, the natural enemies of the target species living in the community, and other plants and animals, including vertebrates, living in or near the community that are not the target of the pesticide.

Opt Into Permitting (Opt-In) - Any entity or individual not otherwise eligible or who have a use category not fitting in the five use patterns listed above may Opt-In to permitting for pesticides discharges. Once opted into pesticides permitting, an applicator must comply with the provisions of the general permit until their authorization is terminated and all discharges have ceased; or transferred to another individual or firm.

Person – an individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, municipality or any other political subdivision of the state, or any interstate body or any other legal entity;

Pest – Consistent with 40 CFR 152.5, any organism under circumstances that make it deleterious to man or the environment, if it is:

(a) Any vertebrate animal other than man;

(b) Any invertebrate animal, including but not limited to, any insect, other arthropod, nematode, or mollusk such as a slug and snail, but excluding any internal parasite of living man or other living animals;

(c) Any plant growing where not wanted, including any moss, alga, liverwort, or other plant of any higher order, and any plant part such as a root; or

(d) Any fungus, bacterium, virus, or other microorganism, except for those on or in living man or other living animals and those on or in processed food or processed animal feed, beverages, drugs (as defined in FFDCa sec. 201(g)(1)) and cosmetics (as defined in FFDCa sec. 201(i)).

Pest Management Area – The area of land, including any water, for which the applicator is conducting pest management activities covered by this permit.

Pesticide – means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant, and (3) any nitrogen stabilizer, except that the term “pesticide” shall not include any article that is a “new animal drug” within the meaning of section 201(w) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(w)), that has been determined by the Secretary of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article, or that is an animal feed within the meaning of section 201(x) of such Act (21 U.S.C. 321(x)) bearing or containing a new animal drug. The term “pesticide” does not include liquid chemical sterilant products (including any sterilant or subordinate disinfectant claims on such products) for use on a critical or semi-critical device, as defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321). For purposes of the preceding sentence, the term “critical device” includes any device that introduced directly into the human body, either into or in contact with the bloodstream or normally sterile areas of the body and the term “semi-critical device” includes any device that contacts intact mucous membranes but which does not ordinarily penetrate the blood barrier or otherwise enter normally sterile areas of the body. [FIFRA Section 2(u)]

The term “pesticide” applies to insecticides, herbicides, fungicides, rodenticides, and various other substances used to control pests. The definition encompasses all uses of pesticides authorized under FIFRA including uses authorized under sections 3 (registration), 5 (experimental use permits), 18 (emergency exemptions), 24(c) (special local needs registrations), and 25(b) (exemptions from FIFRA).

(Pesticide) Degradate – generic term that includes breakdown products of a pesticide active ingredient resulting from biological processes (i.e., metabolites) and chemical processes (i.e., hydrolysis, photolysis, photo-oxidation).

Pesticide Pollution Prevention Plan (P4) – A document developed by a pesticide applicator that describes practices, BMPs, standard operating procedures and monitoring information to ensure protection of surface waters that may be impacted by the pesticides management activities. The P4 contains two sections. The first section (see 3.3.1 of the permit) is comprised of protocols that can be used at all pest management areas to ensure the use of the lowest effective amount of a pesticide, maintenance of equipment, and procedures to reduce impact of pesticide application activities to the environment.. The second section of the P4 is a summary of the site specific activities for each treatment area that exceeds the treatment area threshold.

Pesticide Residue – includes that portion of a pesticide application that is discharged from a point source to waters of the US and no longer provides pesticidal benefits. It also includes any degradates of the pesticide.

Point source – any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel, or other floating craft from which pollutants are or may be discharged. [WS 35-11-103 (a)(xi)].

Pollutant – dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.]) heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. It does not mean sewage from vessels; or water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the state and if the state determines that the injection or disposal will not result in the degradation of ground or surface water resources. [Chapter 2, Wyoming Water Quality Rules and Regulations, Section 3 (lxxv)].

Public Health Emergency – an event defined by a public declaration by a federal agency, state, or local government of a pest problem determined to require control through application of a pesticide beginning less than ten days after identification of the need for pest control. This public declaration may be based on:

- (1) Significant risk to human health;
- (2) Significant economic loss; or
- (3) Significant risk to:
 - (i) Endangered species;
 - (ii) Threatened species;
 - (iii) Beneficial organisms; or
 - (iv) The environment.

Surface Waters of the State – means all perennial, intermittent, and ephemeral defined drainages, lakes reservoirs, and wetlands which are not man-made retention ponds used for the treatment of municipal, agricultural, or industrial wastes; and all other bodies of surface water, either public or private which are wholly or partially within the boundaries of the state. Nothing in this definition is intended to expand the scope of the Environmental Quality Act, as limited in W.S. 35-11-1104. [Chapter 1, Wyoming Water Quality Rules and Regulations, section 2, 1].

Target Pest – the organism toward which pest control measures are being directed.

Treatment Area – The area of land including any waters, or the linear distance along water’s edge, to which pesticides are being applied. Multiple treatment areas may be located within a single “pest management area.” The “treatment area” includes the entire area, whether over land or water, where the pesticide application is intended to provide pesticidal benefits. In some instances, the treatment area will be larger than the area where pesticides are actually applied. For example, the treatment area for a stationary drip treatment into a canal should be calculated by multiplying the width of the canal by the length over which the pesticide is intended to control weeds. The treatment area for a lake or marine area is the water surface area where the application is intended to provide pesticidal benefits.

Treatment area calculations for pesticide applications that occur “at water’s edge”, where the discharge of pesticides directly to waters is unavoidable, are determined by the linear distance over which pesticides are applied. For example, treating both sides of a five mile long river, stream, or ditch is equal to five miles of treatment area; the sides are not additive. Treating five miles of shoreline or coast would equal a five mile treatment area.

Waters of the State - means all surface and groundwater, including waters associated with wetlands, within Wyoming. [WS 35-11-103(c)(vi)].

Waters of the U.S. - The term waters of the United States means:

1. All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
2. All interstate waters including interstate wetlands;
3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce including any such waters:
 - (i) Which are or could be used by interstate or foreign travelers for recreational or other purposes; or
 - (ii) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - (iii) Which are used or could be used for industrial purposes by industries in interstate commerce;
4. All impoundments of waters otherwise defined as waters of the United States under this definition;
5. Tributaries of waters identified in paragraphs (s)(1) through (4) of this section;
6. The territorial sea;
7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (s)(1) through (6) of this section; waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the United States.

Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area’s status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

Water Quality Standards – means the regulations as established by Wyoming Water Quality Rules and Regulations, Chapter 1 which describe the designated uses of surface waters of the state, the numeric and narrative criteria that are necessary to protect the uses of surface waters of the state, and an antidegradation provision which protects the natural water quality of surface waters of the state. [Chapter 2, Wyoming Water Quality Rules and Regulations, section 3(ci)].

ABBREVIATIONS AND ACRONYMS

BAT – Best Available Technology Economically Achievable
BMP – Best Management Practice
BPJ – Best Professional Judgment
BPT – Best Practicable Control Technology Currently Available
CFR – Code of Federal Regulations
CWA – Clean Water Act
DEQ – Wyoming Department of Environmental Quality
DEQ/WQD – Wyoming Department of Environmental Quality/Water Quality Division
Director – means the director of the DEQ
EPA – U. S. Environmental Protection Agency
FIFRA – Federal Insecticide, Fungicide, and Rodenticide Act, 7 USC 136 et seq.
NAICS – North American Industry Classification System
NOI – Notice of Intent to Discharge Pesticide
NOT – Notice of Termination
NOTA – Notice of Transfer and Acceptance
NPDES – National Pollutant Discharge Elimination System
NRC – National Response Center
OPT-IN – Option into permitting for pesticide discharges.
P4—Pesticide Pollution Prevention Plan
“the Act” – Federal Water Pollution Control Act
TMDL – Total Maximum Daily Load
WQD – Water Quality Division (of the Department of Environmental Quality)
WQS – Water Quality Standard
W.S. – Wyoming Statute
WYPDES – Wyoming Pollutant Discharge Elimination System

Appendix B
Class 1 Waters of the State

1. All surface waters located within the boundaries of national parks and congressionally designated wilderness areas as of January 1, 1999;
2. The main stem of the Snake River through its entire length above the U.S. Highway 22 Bridge (Wilson Bridge);
3. The main stem of the Green River, including the Green River Lakes from the mouth of the New Fork River upstream to the wilderness boundary;
4. The Main Stem of the Wind River from the Wedding of the Waters upstream to Boysen Dam;
5. The main stem of the North Platte River from the mouth of Sage Creek (approximately 15 stream miles downstream of Saratoga, Wyoming) upstream to the Colorado state line;
6. The main stem of the North Platte River from the headwaters of Pathfinder Reservoir upstream to Kortez Dam (Miracle Mile segment);
7. The main stem of the North Platte River from the Natrona County Road 309 bridge (Goose Egg bridge) upstream to Alcova Reservoir;
8. The main stem of Sand Creek above the U.S. Highway 14 bridge;
9. The main stem of the Middle Fork of the Powder River through its entire length above the mouth of Buffalo Creek;
10. The main stem of the Tongue River, the main stem of the North Fork of the Tongue River, and the main stem of the South Fork of the Tongue River above the U.S. Forest Service Boundary;
11. The main stem of the Sweetwater River above the mouth of Alkali Creek;
12. The main stem of the Encampment River from the northern U.S. Forest Service boundary upstream to the Colorado state line;
13. The main stem of the Clarks Fork River from the U.S. Forest Service boundary upstream to the Montana state line;
14. All waters within the Fish Creek (near Wilson, Wyoming) drainage;
15. The main stem of Granite Creek (tributary of the Hoback River) through its entire length;

16. Fremont Lake;
17. Wetlands adjacent to the above listed Class 1 waters.
18. National Parks and Wilderness Areas. All surface waters located within the boundaries of Yellowstone and Grand Teton National Parks and congressionally designated wilderness areas as of January 1, 1999 are Class 1 waters. Such Class 1 designation always takes precedence over the classification given in the listing. For example, Dinwoody Creek is shown as a Class 2 water; however, the upper portions are within a wilderness area and those portions are Class 1. The portion below the wilderness boundary is Class 2.