

**Official Draft Public Notice Version December 12, 2021**

**The findings, determinations, and assertions contained in this document are not final and subject to change following the public comment period.**

General Permit No. UTG170000  
Pesticide Permit

STATE OF UTAH  
DIVISION OF WATER QUALITY  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
SALT LAKE CITY, UTAH

AUTHORIZATION TO DISCHARGE UNDER THE  
UTAH POLLUTANT DISCHARGE ELIMINATION SYSTEM (UPDES)

**PESTICIDE GENERAL PERMIT (PGP) FOR DISCHARGES TO  
WATERS TO THE STATE OF UTAH  
FROM THE APPLICATION OF PESTICIDES**

In compliance with provisions of the *Utah Water Quality Act, Title 19, Chapter 5, Utah Code Annotated (UCA) 1953, as amended (Act)*,

is hereby authorized to discharge pesticides to surface waters of the state as identified in the notice of intent (NOI), issued coverage number **UTG170000**, under this general permit to receiving waters named:

**SURFACE WATERS OF THE STATE**

in accordance with effluent limitations, monitoring requirements and other conditions set forth herein.

**This permit shall become effective on **January**, 2022.**

**This permit and the authorization to discharge shall expire at midnight **January**, 2026.**

**Signed **this** day of **January, 2022.****

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Erica Gaddis, PhD  
Director

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PND DRAFT

**I. COVERAGE, EFFLUENT LIMITATIONS, AND PRACTICES REQUIREMENTS**

A. Coverage Under the General Permit.

1. This permit covers any qualified operator (as defined in Part V.) that meets the eligibility requirements identified in Part I.C.1 and Part I.D.1, and if so required, submits a notice of intent (NOI) in accordance with Part I.A. and D. An operator, generally includes both: (1) the entity with control over the financing for, or the decision to perform pesticide applications, including the ability to modify those decisions, that results in a discharge to waters of the state, and (2) the entity with day-to-day operational control of, or who performs activities (e.g., the application of pesticides) that are necessary to ensure compliance with the permit (e.g., they are authorized to direct workers to carry out activities required by the permit or perform such activities themselves). As such, more than one operator may be responsible for compliance with this permit for any single discharge from the application of pesticides.
2. The permittee is authorized to discharge under compliance to the terms and conditions of this permit.
3. Submission Deadlines of NOIs.
  - a. Operators must submit the NOI for the Pesticide General Permit no later than **October 1, 2021**, for continued coverage under this permit.
  - b. Submission of NOIs for permit coverage after this permit is issued must follow the deadlines in Table 2 and Table 3 below.
  - c. Operators must prepare and submit NOIs using EPA's NPDES eReporting Tool (NeT) unless NeT is otherwise unavailable, or the operator has obtained a waiver from the requirement to use NeT. At a time yet to be determined, NOIs will need to be submitted electronically.
4. The NOI form is in Appendix A and on the Water Quality website at: <https://deq.utah.gov/water-quality/updes-permitting-program#general>. The NOI must be submitted to:

Utah Department of Environmental Quality  
Division of Water Quality  
PO Box 144870  
Salt Lake City, UT 84114-4870

If hand delivered, the physical address is:  
Utah Department of Environmental Quality  
Division of Water Quality  
195 North 1950 West (MASOB)  
Salt Lake City, UT 84114-4870

Electronic Portal:  
<https://deq.utah.gov/water-quality/water-quality-electronic-submissions>

**B. Requiring an Individual Permit or Other UPDES Permit.**

1. The Director of the Division of Water Quality may require any person requiring this permit to apply for an individual UPDES permit only if the owner or operator has been notified in writing that an individual permit application is required. This notification shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for the discharger to file the application, and a statement that on the effective date of the individual UPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate. Applications for an individual permit shall be submitted to the address of the Division of Water Quality (DWQ) shown below.

Mailing Address:  
Department of Environmental Quality  
Division of Water Quality  
PO Box 144870  
Salt Lake City, Utah 84114-4870

2. The Director may grant additional time to submit the application upon receipt of a written request of the applicant. If an owner or operator fails to submit in a timely manner an individual UPDES permit application as required by the Director, then the applicability of this permit to the individual UPDES permittee is automatically terminated on the day specified for application submittal.
3. Any discharger authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. In such cases, the permittee shall submit an individual application in accordance with the requirements of Utah Administrative Code (UAC) R317-8-2.5(1)(c)2, with reasons supporting the request, to the Director at the address for the Division of Water Quality in the NOI. The request may be granted by issuance of any individual permit or an alternative general permit if the reasons cited by the permittee are adequate to support the request.
4. When an individual UPDES permit is issued to an operator otherwise subject to this permit, or the operator is authorized for coverage under an alternative

UPDES general permit, the applicability of this permit to the individual UPDES permittee is automatically terminated on the effective date of the individual permit or the date of approval for coverage under the alternative general permit, whichever the case may be. When an individual permit is denied to an operator otherwise subject to this permit, or the operator is denied for coverage under an alternative general permit, the applicability of this permit to the individual permittee is automatically terminated on the date of such denial, unless otherwise specified by the Director.

C. Eligibility

1. **Activities Covered.** Except for discharges on Indian Lands, this permit is available to all operators in all operator groups who discharge to surface waters of the state from the application of (1) biological pesticides or (2) chemical pesticides (hereinafter collectively “pesticides”), when pesticide application leaves a residue. For operators in Group 5 under Activity E. (Algae, Cyanobacteria, Pathogen, and Nutrient Abatement), treatments with biological agents and chemicals (as defined) that leave a residue to surface waters of the state are also covered under this permit, if the products are approved by the Director upon review of the product. Approved activities under this permit include the following pesticide use patterns:
  - a. **Mosquito and Other Insect Pests Control** – to control public health/nuisance and other insect pests that may be present in or above standing or flowing surface water. Public health/nuisance and other insect pests in this use category include, but are not limited to, mosquitoes, black flies, and other insect vectors for disease.
  - b. **Weed and Plant Control** – to control invasive or other nuisance weeds and plants in water and at water's edge, including irrigation ditches and/or irrigation canals, if surface waters of the state.
  - 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, carp, lampreys, and mollusks.
  - d. **Forest Canopy Pest Control** – application of a pesticide to 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. **Algae, Cyanobacteria, Pathogen Control, and Nutrient Abatement** - to control algae, cyanobacteria, and pathogens with pesticides, biological agents, and chemicals, as defined in Part V. This activity includes, but is not limited to, control of algal blooms, harmful algal blooms, algae toxins,

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or pathogens. This activity also includes applications of pesticides, biological agents, and chemicals for nutrient inactivation and nutrient sequestration in water.

2. Treatment Activities Restricted Under This Permit.

- a. Only treatments under the pest control activities above (C.1.a-e), are eligible coverage under this permit. Any pesticide research and development project must be one of the covered activities above. Any research and development project with applications to surface waters of the state that is not covered by one of the five activities in Part 1.C. may require another UPDES permit.
- b. For Group 5 operators under Activity E with the application of pesticides, chemicals, or biological agents, that are not EPA approved and registered pesticides is prohibited, unless on a case-by-case basis, the pesticide, chemical, or biological agent is approved by the Director for use in Utah Lake. To be covered under this permit, both the un-registered product and the treatment area must be approved by the Director. Operators that plan to apply pesticides, chemicals, or biological agents to Utah Lake that are not approved by EPA or the Director, may be required to obtain an individual Pesticide Permit or other UPDES permit.
- c. Treatments of unregistered pesticides, chemicals, or biological agents to surface waters of the state is prohibited under this permit except for treatments according to paragraph b. above.

D. Authorization to Discharge Under This Permit

1. Operators Required to Submit a Notice of Intent (NOI). Operators within the following operator groups below with the pesticide use patterns in Part I.C. are required to submit a NOI to obtain coverage under this general permit for discharges to surface waters of the state resulting from the application of pesticides:
  - a. Operator Group 1 - Operators Involved in Discharges to Category 1 Surface Waters of the State. All operators involved in the discharge of pesticides in or near surface waters of state, which have been determined by the Water Quality Board to be Category 1 Waters (known as Tier 3 Waters in the federal pesticide permit), must submit a NOI which details each area where a discharge is to occur. Only pesticide applications which are made to restore or maintain water quality or to protect public health or the environment would be covered under this permit for discharges on or near Category 1 surface waters of the state. DWQ shall make these decisions on a case-by-case basis to determine, if in fact these treatments are needed. Projects covered under this permit are allowed in Category 1 Waters

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because pollution will be temporary and limited, and result only during the actual activity; and best management practices will be employed to minimize pollution effects. The NOI and any supporting information is to be submitted on a timeline as directed by the Director.

- b. Operator Group 2 - All Government or Quasi-Government Agencies or Special Service Districts. All government agencies (federal, state, county, municipal, or local agencies and special service districts) who discharge pesticides under the conditions described above, must submit a NOI describing each treatment area where a discharge is to occur regardless of the size of the treatment area. Existing permittees should have submitted their NOIs prior to October 1, 2021 for coverage under this permit. New Group 2 operators after this permit is issued, must submit NOIs according to deadlines shown in Table 2 below.
- c. Operator Group 3 - Other Operators (non-government and non-quasi-government). Operators, such as private aerial applicator companies, hunting clubs, water supply or canal companies and other operators whose discharges exceed the thresholds detailed in Table 1 below, must apply for a NOI to obtain coverage under this permit. Submission for the NOI must follow the deadlines detailed in Table 3 below.
- d. Operator Group 4 - Operators Involved in a “Declared Pest Emergency Situation”. All operators that otherwise aren’t required to submit a NOI, but become involved in a declared pest emergency situation, and will exceed any of the treatment thresholds in Table 1 below, may discharge as required by the emergency but are required to submit a NOI within 30 days of the commencement of the discharge. A declared pest emergency situation is 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. Please see Table 3 below for NOI deadlines for Group 4. This public declaration may be based one or more of the following:
  - 1) significant risk to human health;
  - 2) significant economic loss;
  - 3) significant risk to endangered species, threatened species, beneficial organisms, or the environment.
- e. Operator Group 5 – All Operators that Apply Pesticides, Biological Agents, or Chemicals to Utah Lake to treat algae, cyanobacteria, pathogens, or nutrients (Activity E). All operators that apply in Operator Group 5 must submit a NOI for permit coverage. Operators must submit NOIs, including, but not limited to, operators that are government, quasi-government



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agencies, special service districts, companies, corporations, and private entities that have activities covered in Part I.C.1. Regardless of the size of the treatment area or amount of product applied, all Group 5 operators that leave a residue from applications must obtain this permit. New Group 5 operators after this permit is issued must submit NOIs according to Table 2 below.

2. NOI Thresholds.
  - a. Operator Group 1, Category 1 and Tier 3 Applications. The Division of Water Quality will determine when a NOI is due and whether a NOI is accepted for permitting.
  - b. Operator Group 2, Government and Quasi-government. Any pesticide treatment and treatment of any size requires submission of a NOI. Operators in Group 2 with declared pest emergency situation must submit a NOI regardless of the treatment area size if a NOI has not been previously submitted by the operator to DWQ.
  - c. Operator Group 5, with Utah Lake Applications under Activity E. Pesticide, chemical, or biological agent applications of any size requires submission of a NOI.
  - d. Operator Groups 3 and 4, Declared Pest Emergency Situations. Table 1 below details the annual thresholds above which the operators in Operator Groups 3 and 4 must submit a NOI. The thresholds are based upon the total annual application area (total area that pesticide is applied to) or the total length of stream or canal bank that will be treated annually.

**Table 1: NOI Thresholds for Operator Groups 3 and 4**

<b>Pesticide Use</b>	<b>Annual Threshold</b>
1. Mosquitoes and Other Insect Pests	6,400 acres of treatment area
2. Weed, and Plant Control:	
In Water	80 acres of treatment area <sup>1</sup>
At Water's Edge	20 linear miles of treatment area at water's edge
3. Nuisance Animal Control:	
In Water	80 acres of treatment area <sup>1</sup>
4. Forest Canopy Pest Control:	6,400 acres of treatment area
5. Algae, Cyanobacteria, Pathogens, or Nutrient Abatement	
In Water	80 acres of treatment area <sup>1</sup>
At Water's Edge	20 linear miles of treatment area at water's edge

Calculations should include the area of the applications made to: (1) surface waters of the state and (2) conveyances with a hydrologic surface connection to surface waters of the state at the time of pesticide application. For calculating annual treatment area totals, count each pesticide application activity as a separate activity. For example, applying pesticides twice a year to a ten-acre site should be counted as twenty acres of treatment area.

3. Limitations on coverage

- a. Discharges to Water Quality Impaired Waters. This permit does not provide coverage for any discharges from a pesticide application to surface waters of the state if the water is identified as impaired by that pesticide or its degrades. For purposes of this permit, impaired waters are those that have been identified pursuant to Section 303(d) of the CWA as not meeting applicable state water quality standards. Impaired waters for the purposes of this permit include both waters with DWQ approved or EPA-established total maximum daily loads (TMDLs) and waters for which DWQ has not yet approved or established a TMDL.
- b. Discharges Currently or Previously Covered by another Permit. Operators are not eligible for coverage under this permit if any of the following circumstances apply:
  - 1) The discharges are covered by another NPDES permit, or
  - 2) The discharges were included in a permit that within the last five years has been or is in the process of being denied, terminated, or revoked by the DWQ (this does not apply to the routine reissuance of permits every five years).

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4. Previously Permitted Operators Discharge Authorization Date (continuation of coverage). You are authorized to discharge under this permit, on and after the permit's effective date, however a NOI must have been submitted before October 1, 2021 for this permit.
5. NOI Deadlines for Newly Permitted Operators after Permit Issuance. In the event that a discharge occurs prior to submitting a NOI, operators must comply with all other requirements of this permit immediately and could be subject to enforcement action by DWQ.

**Table 2. NOI Deadlines for New Operators in Groups 2 and 5**

<b>Category</b>	<b>NOI Submittal Deadline</b>	<b>Discharge Authorization Date</b>
Group 2 and 5 operators who know or should have reasonably known that they would discharge.	At least 10 days prior to commencement of discharge.	No earlier than 10 days after a complete and accurate NOI is submitted to DWQ.
Group 2 and 5 operators who do not know or would not reasonably know that they would discharge.	At least 10 days prior to commencement of discharge.	No earlier than 10 days after a complete and accurate NOI is submitted to DWQ.
Operators in Groups 2 and 5 commencing discharge in response to a declared pest emergency situation.	No later than 30 days after commencement of discharge.	Immediately, for activities conducted in response to declared pest emergency situation.

**Table 3. NOI Deadlines for New Operators in Groups 3 and 4**

<b>Category</b>	<b>NOI Submittal Deadline</b>	<b>Discharge Authorization Date</b>
Group 3 operators who know or should have reasonably known that they would exceed an annual treatment area threshold.	At least 10 days prior to exceeding an annual threshold.	No earlier than 10 days after a complete and accurate NOI is submitted to DWQ.
Group 3 operators who do not know or would not reasonably know that they would exceed an annual treatment threshold.	At least 10 days prior to exceeding an annual threshold.	No earlier than 10 days after a complete and accurate NOI is submitted to DWQ.
Group 3 and 4 operators commencing discharge in response to a declared pest emergency that will exceed an annual treatment area	No later than 30 days after commencement of discharge.	Immediately, for activities conducted in response to declared pest emergency situation.

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threshold identified in Table 1 for that year.		
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6. For operator group 3, timing for NOI submittal is based on when an operator is aware or reasonably should be aware through consideration of past experience, planned activities, planning, and other analyses, that it will exceed an annual treatment area threshold during the calendar year, not at the time when the threshold is actually exceeded.
7. Based on a review of a NOI or other information, DWQ may delay authorization for further review, or may determine that additional technology-based and/or water quality-based effluent limitations are necessary, or may deny coverage under this permit and require submission of an application for an individual NPDES permit, as detailed in Part I.B.
8. Extension of Permit Coverage. If a new Pesticide General Permit is not issued prior to the expiration date of this permit, coverage will be administratively continued in accordance with R317-8-3.1.4.d and remain in force and effect. If operators were authorized to discharge under this permit prior to the expiration date, any discharges authorized under this permit will automatically remain covered by this permit until the earliest of:
  - a. Authorization for coverage under a reissued permit or a replacement of this permit following timely and appropriate submittal of a complete NOI requesting authorization to discharge under the new permit and compliance with the requirements of the NOI;
  - b. The submittal and processing of Notice of Terminations (NOT) consistent with I.D.9;
  - c. The issuance or denial of an individual permit for a discharge resulting from application of a pesticide that would otherwise be covered under this permit;
  - d. A formal permit decision by DWQ not to reissue this general permit, at which time DWQ will identify a reasonable time period for covered dischargers to seek coverage under an alternative general permit or an individual permit. Coverage under this permit will cease when coverage under another permit is granted/authorized; or
  - e. DWQ has informed the operator that it's no longer covered under this permit or no longer needs permit coverage.

9. Terminating Coverage

Submitting a Notice of Termination (NOT). To terminate permit coverage an operator must submit a complete and accurate NOT. A NOT can be found in

Appendix B or on DWQ's website at:

<https://deq.utah.gov/water-quality/updes-permitting-program#general-pesticides>

The authorization to discharge under this permit terminates at midnight, ten days after the postmarked date that the NOT is mailed to DWQ. If an operator submits a NOT without meeting one or more of the conditions identified in Part I.D.9, then the NOT is not accepted. Operators are responsible for complying with the terms of this permit until the permit is terminated.

- a. When to Submit a Notice of Termination. An operator must submit a NOT within 30 days after one or more of the following conditions have been met:
  - 1) A new operator has taken over responsibility of the pest control activities covered under an existing NOI;
  - 2) The operator has ceased all discharges from the application of pesticides covered by this permit and does not expect to discharge during the remainder of the permit term;
  - 3) The operator has obtained coverage under an individual permit or an alternative general permit for all discharges required to be covered by an NPDES permit, unless the operator has obtained coverage consistent with Part I.B, in which case coverage under this permit will terminate automatically.
  - 4) The operator no longer has applications that exceed its respective permit threshold treatment area.
- b. Operators covered under this permit that are not required to submit an NOI are terminated from permit coverage when they no longer have a discharge from the application of pesticides or their discharges are covered under an UPDES individual permit or alternative UPDES general permit.

E. Annual Permit Fee

An annual fee is due around August each year. The fee is subject to change year to year upon approval of the Utah Department of Environmental Quality (UDEQ) and the Utah Legislature. Invoices will be mailed or emailed to operators each summer with a fee payment due date.

F. Technology-Based Effluent Limitations

To meet the effluent limitations all operators must implement site-specific control measures that optimize discharges of pesticides, biological agents, or chemicals to surface waters of the state.

1. Minimize Discharges to surface waters. All operators, regardless of whether or not required to submit an NOI, must minimize the discharge of pollutants resulting from the application of pesticides, biological agents, or chemicals.

All operators must also do the following:

- a. Use the lowest effective amount of product per application and optimum frequency of applications necessary to control the target pest, consistent with reducing the potential for development of pest resistance;
- b. Perform regular maintenance activities to reduce leaks, spills, or other unintended discharges of pesticides associated with the application of pesticides covered under this permit;
- c. Maintain treatment and application equipment in proper operating condition by adhering to any manufacturer's conditions and industry practices, and by calibrating, cleaning, and repairing such equipment on a regular basis to ensure effective application and pest control. Operators must ensure that the equipment's rate of pesticide, biological agent, or chemical application is calibrated to deliver the precise quantity of product needed to achieve greatest efficacy against the target pest;
- d. Comply with Narrative Water Quality Standard (R317-2-7.2). "It shall be unlawful, and a violation of this permit, for the permittee to discharge or place any waste or other substance in such a way as will be or may become offensive such as unnatural deposits, floating debris, oil, scum or other nuisances such as color, odor or taste, or cause conditions which produce undesirable life or which produce objectionable tastes in aquatic edible organisms; or result in concentrations or combinations of substances which produce undesirable physiological responses in desirable resident fish, or other desirable aquatic life, or undesirable human health effects, as determined by bioassay or other tests performed in accordance with standard procedures; or determined by biological criteria in Subsection R317-2-7.3.";
- e. Comply with any applicable Numeric Water Quality in (R317-2-14 and R317-2-6);
- f. Follow FIFRA application rates and other label instructions when applying pesticides or other EPA-approved products for control of target species.

- g. Follow guidance provided by the Director, when biological agents, or chemicals not approved by EPA are applied. These products must be approved by the Director prior to use in Utah Lake. These Director-approved products can only be applied to Utah lake by Group 5 operators.
- h. Protect threatened and endangered species and their habit, including, but not limited to, the June Sucker (*Chasmistes liorus*).

**G. Integrated Pest Management (IPM) Practices**

IPMs are applicable to any entity that is required to submit an NOI, including any pesticide applicator hired by such entity or any other employee, contractor, subcontractor or other agent must use integrated pest management practices.

Measures required to meet the effluent limits for each use category:

- 1. Mosquito and Other Insect Pest Control. This activity controls public health/nuisance and other 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 insect pests in this use category include but are not limited to mosquitoes and black flies.
  - a. Identify the Problem. Prior to the first pesticide application covered under this permit that will result in a discharge to surface waters of the state, and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, operators must do the following for each pest management area, as defined in Part V.
    - 1) Establish densities for larval and adult mosquito or insect pest populations to serve as action threshold(s) for implementing pest management strategies;
    - 2) Identify target mosquito or insect pest species to develop species-specific pest management strategies based on developmental and behavioral considerations for each specie;
    - 3) Identify known breeding sites for source reduction, larval control program, and habitat management;
    - 4) Analyze existing surveillance data to identify new or unidentified sources of mosquito or insect pest problems as well as sites that have recurring pest problems;
    - 5) In the event there are no data for your pest management area in the past year, document why current data are not available and the data used to meet permit conditions.
  - b. Pest Management Options. Prior to the first pesticide application covered under this permit that will result in a discharge to surface waters of the state,

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and at least once each calendar year thereafter prior to the first pesticide application for that calendar year, operators must select and implement for each pest management area, efficient and effective means of pest management that minimize discharges resulting from application of pesticides. In developing these pest management strategies, operators must evaluate the following management options, considering impact to water quality, impact to non-target organisms, pest resistance, feasibility, and cost effectiveness:

- 1) No action
  - 2) Prevention
  - 3) Mechanical or physical methods
  - 4) Cultural methods
  - 5) Biological control agents
  - 6) Pesticides
- c. Pesticide Use. If a pesticide is selected to manage mosquitoes or insect pests and application of the pesticide will result in a discharge to surface waters of the state, operators must:
- 1) Conduct larval and/or adult surveillance prior to each pesticide application to assess the pest management area and to determine when action threshold(s) are met that necessitate the need for pest management;
  - 2) Assess 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;
  - 3) Reduce the impact on the environment and on non-target organisms by applying the pesticide only when the action threshold has been met;
  - 4) In situations or locations where practicable and feasible for efficacious control, use larvicides as a preferred pesticide for mosquito or insect pest control when larval action thresholds have been met;
  - 5) In situations or locations where larvicide use is not practicable or feasible for efficacious control, use adulticides for mosquito or insect pest control when adult action thresholds have been met.
2. Weed and Plant Control. This activity controls invasive or other nuisance weeds and plants, in water and at water's edge, which may include irrigation ditches and/or irrigation canals.
- a. Identify the Problem. Prior to the first pesticide application covered under this permit that will result in a discharge to surface waters of the state, and at least once each calendar year thereafter prior to the first pesticide



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application for that calendar year, operators must do the following for each pest management area.

- 1) Identify areas with weed or plant problems and characterize the extent of the problems, including, for example, water use goals not attained (e.g. wildlife habitat, fisheries, vegetation, and recreation);
  - 2) Identify target species;
  - 3) Identify possible factors causing or contributing to the weed or plant problem (e.g., nutrients, invasive species, etc.);
  - 4) Establish past or present weed densities to serve as action threshold(s) for implementing pest management strategies;
  - 5) In the event there are no data for your pest management area in the past year, document why current data are not available and the data used to meet permit conditions.
- b. Pest Management Options. Prior to the first pesticide application covered under this permit that will result in a discharge to surface waters of the state, and at least once each calendar year thereafter prior to the first treatment for that calendar year, operators must select and implement for each pest management area, efficient and effective means of pest management that minimize discharges resulting from application of pesticides. In developing these pest management strategies, operators must evaluate the following management options, considering impact to water quality, impact to non-target organisms, pest resistance, feasibility, and cost effectiveness:
- 1) No action
  - 2) Prevention
  - 3) Mechanical or physical methods
  - 4) Cultural methods
  - 5) Biological control agents
  - 6) Pesticides
- c. Pesticide Use. If a pesticide is selected to manage weeds and application of the pesticide will result in a discharge to surface waters of the state, operators must:
- 1) Conduct surveillance prior to each pesticide application to assess the pest management area and to determine when the action threshold is met that necessitates the need for pest management;
  - 2) Reduce the impact on the environment and non-target organisms by applying the pesticide only when the action threshold has been met.

3. Nuisance Animal Control. This activity controls 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.
  - a. Identify the Problem. Prior to the first pesticide application covered under this permit that will result in a discharge to surface waters of the state, and at least once each calendar year thereafter prior to the first pesticide application for that year, operators must do the following for each pest management area.
    - 1) Identify areas with nuisance animal problems and characterize the extent of the problems, including, for example, water use goals not attained (e.g. wildlife habitat, fisheries, vegetation, and recreation);
    - 2) Identify target nuisance animal species;
    - 3) Identify possible factors causing or contributing to the problem (e.g. invasive species);
    - 4) Establish past or present nuisance animal densities to serve as action threshold(s) for implementing pest management strategies;
    - 5) In the event there are no data for the pest management area in the past year, documentation requirements regarding why current data are not available and the data used to meet the permit conditions.
  - b. Pest Management Options. Prior to the first pesticide application covered under this permit that will result in a discharge to surface waters of the state, and at least once each year thereafter prior to the first pesticide application during that calendar year, operators must select and implement for each pest management area, efficient and effective means of pest management that minimize discharges resulting from application of pesticides to control nuisance animals. In developing these pest management strategies, operators must evaluate the following management options, considering impact to water quality, impact to non-target organisms, pest resistance, feasibility, and cost effectiveness:
    - 1) No action.
    - 2) Prevention
    - 3) Mechanical or physical methods
    - 4) Biological control agents
    - 5) Pesticides
  - c. Pesticide Use. If a pesticide is selected to manage nuisance animals and application of the pesticide will result in a discharge to surface waters of the state, operators must:

- 1) Conduct surveillance prior to each application to assess the pest management area and to determine when the action threshold is met that necessitates the need for pest management;
  - 2) Reduce the impact on the environment and non-target organisms by evaluating site restrictions, application timing, and application method in addition to applying the pesticide only when the action threshold has been met.
4. Forest Canopy Pest Control. This activity applies pesticides to forest canopies to control the population of 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.

- a. Identify the Problem. Prior to the first pesticide application covered under this permit that will result in a discharge to surface waters of the state, and at least once each year thereafter prior to the first pesticide application in that year, operators must do the following for each pest management area, as defined in Part V.
  - 1) Establish target pest densities to serve as action threshold(s) for implementing pest management strategies;
  - 2) Identify target species to develop a species-specific pest management strategy based on developmental and behavioral considerations for each species;
  - 3) Identify current distribution of the target pest and assess potential distribution in the absence of control measures;
  - 4) In the event there are no data for the pest management area in the past year, document why current data are not available and the data that was used to meet the permit conditions.
- b. Pest Management Options. Prior to the first pesticide application covered under this permit that will result in a discharge to surface waters of the state, and at least once each year thereafter prior to the first pesticide application for that year, operators must select and implement for each pest management area, efficient and effective means of pest management that minimize discharges resulting from application of pesticides. In developing these pest management strategies, operators must evaluate the following management options, considering impact to water quality, impact to non-target organisms, pest resistance, feasibility, and cost effectiveness:
  - 1) No action
  - 2) Prevention
  - 3) Mechanical/physical methods
  - 4) Cultural methods

- 5) Biological control agents
  - 6) Pesticides
- c. Pesticide Use. If a pesticide is selected to manage forestry pests and application of the pesticide will result in a discharge to surface waters of the state, operators must:
- 1) Conduct surveillance prior to each application to assess the pest management area and to determine when the pest action threshold is met that necessitates the need for pest management;
  - 2) Assess environmental conditions (e.g. temperature, precipitation, and wind speed) in the treatment area to identify conditions that support target pest development and are conducive for treatment activities;
  - 3) Reduce the impact on the environment and non-target organisms by evaluating the restrictions, application timing, and application methods in addition to applying the pesticide only when the action thresholds have been met;
  - 4) Evaluate using pesticides against the most susceptible developmental stage.
5. Algae, Cyanobacteria, Pathogen Control, and Nutrient Abatement. This activity controls invasive, nuisance, or harmful algae, cyanobacteria, pathogens in water and at water's edge, which may include irrigation ditches and/or irrigation canals. This activity also controls nutrients to make them unavailable to plants, algae, and cyanobacteria in Utah Lake.
- a. Identify the Problem. Prior to the first pesticide, biological agent, or chemical application covered under this permit that will result in a discharge to surface waters of the state, and at least once each calendar year thereafter prior to the first application for that calendar year operators must do the following for each pest management area.
- 1) Identify areas with algae, cyanobacteria, pathogen, or nutrient problems and characterize the extent of the problems, including, for example, water use goals not attained (e.g. wildlife habitat, fisheries, vegetation, and recreation);
  - 2) Identify target species;
  - 3) Identify possible factors causing or contributing to the problem (e.g., nutrients, invasive species, etc.);
  - 4) Establish past or present target species densities to serve as action threshold(s) for implementing pest management strategies;
  - 5) In the event there are no data for your pest management area in the past year, document why current data are not available and the data used to meet permit conditions.

- b. **Pest Management Options.** Prior to the first treatment covered under this permit that will result in a discharge to surface waters of the state, and at least once each calendar year thereafter prior to the first treatment for that calendar year, operators must select and implement for each pest management area, efficient and effective means of pest management that minimize discharges resulting from application of pesticides, biological agents, or chemicals to control target species. In developing these pest management strategies, operators must evaluate the

following management options, considering impact to water quality, impact to non-target organisms, pest resistance, feasibility, and cost effectiveness:

- 1) No action
- 2) Prevention
- 3) Mechanical or physical methods
- 4) Cultural methods
- 5) Biological control agents
- 6) Pesticides
- 7) Chemicals
- 8) Biological agents

- c. **Product Use.** If a pesticide, biological agent, or chemical is selected to manage a pest will result in a discharge to surface waters of the state, operators must:

- 1) Conduct surveillance prior to each treatment to assess the pest management area and to determine when the action threshold is met that necessitates the need for pest management;
- 2) Reduce the impact on the environment and non-target organisms by applying the pesticide, biological agent, or chemical only when the action threshold has been met.

**H. Water Quality Based Effluent Limitations and Corrective Actions**

Discharge must be controlled as necessary to meet applicable numeric and narrative state water quality standards. If at any time operators become aware, or DWQ determines, that a discharge violates applicable water quality standards, operators must take corrective action as required in Part III.D.

**I. Pesticide Discharge Management Plan Requirements**

This part applies to any operator required to submit an NOI. Some sections of the pesticide discharge management plan (PDMP) will require input from the pesticide applicator. If operators are required to submit an NOI, they must prepare a PDMP for the pest management area. Operators must develop and retain a PDMP consistent with their respective NOI deadline in Part I.D. above.

The PDMP documents how operators will implement the effluent limitations of the permit, including the evaluation and selection of control measures to meet those effluent limitations and minimize discharges. In the PDMP, operators may incorporate by reference any procedures or plans in other documents needed to meet the requirements of this permit. If operators rely upon other documents to describe how they will comply with the effluent limitations in this permit, such as a pre-existing integrated pest management (IPM) plan, operators must attach to the PDMP a copy of any portions of any documents that are used to document the implementation of the effluent limitations. All operators must implement control measures to satisfy the effluent limitations. The control measures implemented must be documented and the documentation must be kept up-to-date.

1. Contents of a Pesticide Discharge Management Plan

The PDMP must include the following elements:

- a. PDMP Team. Operators must identify all the persons by name that compose the team as well as each person's individual responsibilities, including:
  - 1) Person(s) responsible for managing pests in relation to the pest management area;
  - 2) Person(s) responsible for developing and revising the PDMP;
  - 3) Person(s) responsible for developing, revising, and implementing corrective actions and other effluent limitation requirements; and
  - 4) Person(s) responsible for pesticide applications. If the pesticide applicator is unknown at the time of plan development, indicate whether or not a for-hire applicator will be used and when the operator anticipates that an applicator will be identified. Identification of team members must include any written agreement(s) between the operator and any other operator(s), such as a for-hire pesticide applicator, that specify the division of responsibilities between operators as necessary to comply with the provisions of this permit.

2. Pest Management Area Description. Operators must document the following:

- a. Pest Problem Description. Document a description of the pest problem at the pest management area, including identification of the target pest(s), source of the pest problem, and source of data used to identify the problem in Parts I.G.1-5.
- b. Action Thresholds. Describe the action thresholds for the pest management area, including a description of how they were determined.
- c. General Location Map. In the plan, include a general location map (e.g., USGS quadrangle map, a portion of a city or county map, or other map) that

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identifies the geographic boundaries of the area to which the plan applies and location of the surface waters of the state;

- d. Water Quality Standards. Document the water quality standards applicable to waters to which there may be a discharge, including the list of pesticide(s) or any degradates for which the water is impaired.
3. Control Measure Description. Operators must document their evaluation of control measures for the pest management area. Operators must document the control measures to implement to comply with the effluent limitations. Include in the description the active ingredient(s) evaluated.
  4. Schedules and Procedures. Operators must document the following schedules and procedures in the PDMP:
    - a. Pertaining to Control Measures Used to Comply with the Effluent Limitations in Part I.F. The following must be documented in your PDMP:
      - 1) Application Rate and Frequency. Procedures for determining the lowest effective amount of pesticide product per application and the optimum frequency of pesticide applications necessary to control the target pest, consistent with reducing the potential for development of pest resistance;
      - 2) Spill Prevention. Procedures and schedule of maintenance activities for preventing spills and leaks of pesticides associated with the application of pesticides covered under this permit;
      - 3) Pesticide Application Equipment. Schedules and procedures for maintaining the pesticide application equipment in proper operating condition, including calibrating, cleaning, and repairing the equipment.
      - 4) Pest Surveillance. Procedures and methods for conducting pre-application pest surveillance;
      - 5) Assessing Environmental Conditions. Procedures and methods for assessing environmental conditions in the treatment area.
    - b. Pertaining to Other Actions Necessary to Minimize Discharges. The following must be documented in the PDMP:
      - 1) Spill Response Procedures – At a minimum, operators must have:
        - 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. If possible, one of these individuals should be a member of your PDMP team.

- b) Procedures for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies.
- 2) Incident Response Procedures – At a minimum, operators must have:
  - a) Procedures for responding to any incident resulting from pesticide, biological agents, or chemical applications;
  - b) Procedures for notification of the incident, both internal to your 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) Pesticide Monitoring Schedules and Procedures – Operators must document procedures for monitoring including:
  - a) The process for determining the location of any monitoring;
  - b) A schedule for monitoring;
  - c) The person (or position) responsible for conducting monitoring;
  - d) Procedures for documenting any observed impacts to non-target organisms resulting from pesticide discharge.
- 5. Signature Requirements. Operators must sign, date and certify the PDMP in accordance with Part IV.D.

J. Pesticide Discharge Management Plan Modifications

Operators must modify their PDMP whenever necessary to address any of the triggering conditions for corrective action in Part III.D or when a change in pest control activities significantly changes the type or quantity of pollutants discharged. Changes to the PDMP must be made before the next pesticide application that results in a discharge, if practicable, or if not, within 90 days thereafter. The revised PDMP must be signed and dated in accordance with Part IV.D. Operators must review the PDMP 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 area.

K. Pesticide Discharge Management Plan Availability

Operators must retain a copy of the current PDMP, along with all supporting maps and documents, at the address provided in the NOI. The PDMP and all supporting documents must be readily available, upon request, and copies of any of these documents provided, upon request to DWQ.



## II. MONITORING, NOTIFICATION, REPORTING, AND RECORDKEEPING REQUIREMENTS

### A. Application Site and Treatment Monitoring

1. **Monitoring Requirements for All Pesticide Applicators.** All operators must monitor the amount of pesticide applied to ensure that the lowest amount of pesticide is used to effectively control the pest, consistent with reducing the potential for development of pest resistance. Operators must also monitor the pesticide application activities to ensure they are performing regular maintenance activities and to ensure that application equipment is in proper operating condition to reduce the potential for leaks, spills, or other unintended discharge of pesticides to surface waters of the state. Additionally, operators must monitor pesticide application activities to ensure that the application equipment is in proper operating condition by adhering to any manufacturer's conditions and industry practices, and by calibrating, cleaning, and repairing equipment on a regular basis.
2. **Visual Monitoring Requirements for all Operators.** All operators covered under this permit must conduct spot checks in the area to and around where pesticides are applied for possible and observable adverse incidents, as defined in Part V, caused by application of pesticides, including but not limited to the unanticipated death or distress of non-target organisms and disruption of wildlife habitat, recreational or municipal water use. Visual assessments of the application site must be performed:
  - a. During any post-application surveillance or efficacy check that is conducted, if surveillance or an efficacy check is conducted.
  - b. During any pesticide application, when considerations for safety and feasibility allow.
3. **Monitoring Requirements of Operator Group 5.** Operators are required to monitor treatments per Tables 4, 5, and 6 as applicable for the product's constituents, below for applications to Utah Lake.

**Table 4. Monitoring Requirements for Group 5**

<b>Parameter</b>	<b>Limit</b>
pH, standard units, (for Aluminum Applications)	<b>6.5-9.0</b>
Total Hardness, mg/L, (for Copper Applications)	<b>N/A</b>

**Table 5. Group 5 Effluent Limits for Metals**

<b>A. Aluminum (Al), Total Recoverable (Chronic Criteria), for Products with Al</b>	
	<b>Aluminum Limit</b>
Aluminum	<b>750 ug/L</b>
<i>The effluent limit is 750 micrograms per liter for the chronic criteria when pH is equal to or greater than 7.0 and hardness is equal to or greater than 50 milligrams per liter.</i>	
<b>B. Copper (Cu), Dissolved, for Products with Cu Ingredients</b>	
Hardness Range, mg/L	Copper Limit, ug/L
0-24	<b>0.2</b>
25-49	<b>2.9</b>
50-74	<b>5.2</b>
75-99	<b>7.3</b>
100-124	<b>9.3</b>
125-149	<b>11.3</b>
150-174	<b>13.2</b>
175-199	<b>15.0</b>
200-224	<b>16.9</b>
225-249	<b>18.7</b>
250-274	<b>20.4</b>
275-299	<b>22.1</b>
300-324	<b>23.9</b>
325-349	<b>25.5</b>
350-374	<b>27.2</b>
375-399	<b>28.9</b>
400>400	<b>30.5</b>

**Table 6. Monitoring Frequency for Group 5 Operators**

Parameter	Monitoring Frequency
pH, (for Al)	Just prior to treatment, 4 hours following treatment.
Total Hardness, (for Cu)	Bi-annually.
Copper	Within 24 hours prior to treatment, 4 days following treatment, monthly for two months following the last treatment.
Aluminum	Within 24 hours prior to treatment, 4 days following treatment, monthly for two months following the last treatment.

**B. Group 5 Monitoring Notification Requirement**

- Group 5 operators are required to notify DWQ of a pending treatment five or more days prior to each treatment. Please see Appendix E or <https://deq.utah.gov/water-quality/updes-permitting-program#general-pesticides> for the treatment notification form to be submitted.

C. Monitoring Report Requirements of Group 5

1. Operators must submit monitoring reports to DWQ for every month that products are applied to Utah Lake. Monthly reports must be submitted to DWQ by the 20<sup>th</sup> of the month for the previous month of monitoring. Please see Appendix F or <https://deq.utah.gov/water-quality/updes-permitting-program#general-pesticides> for the monitoring report form.

D. Record Keeping and Reporting Requirements for All Operators

1. All operators must keep written records as required in this permit. These records must be accurate and complete and sufficient to demonstrate compliance with the conditions of this permit. Operators can rely on records and documents developed for other obligations, such as requirements under FIFRA, and state or local pesticide programs, provided all requirements of this permit are satisfied.
2. DWQ recommends that all operators covered under this permit keep records of acres or linear miles treated for all applicable use patterns covered under this general permit. The records should be kept up-to-date to help determine the annual treatment area during the year.
3. All operators must keep the following records, as applicable:
  - a. A copy of this permit.
  - b. A copy of any adverse incident reports.
  - c. Rationale for any determination that reporting of an identified adverse incident is not required consistent with allowances.
  - d. A copy of any corrective action documentation.
  - e. A copy of any spill or leak or other unpermitted discharge documentation.
  - f. Copies of the annual reports.
  - g. Treatment notification forms (Group 5).
  - h. Monitoring reports.
4. This part applies to any entity required to submit an NOI and to any pesticide applicator hired by such entity to perform activities covered under this permit. Records listed below are required to be kept at the address provided on the NOI. Records of equipment maintenance and calibration are to be maintained only by the entity performing the pest application activity (on behalf of self or client).

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- a. A copy of the NOI submitted to DWQ, any correspondence exchanged between the operator and DWQ specific to coverage under this permit, and a copy of the assigned permit number;
  - b. The date on which the operator knew or reasonably should have known that they would exceed an annual treatment area threshold during any year, as identified in Table 1;
  - c. Surveillance method(s) used, date(s) of surveillance activities, and findings of surveillance;
  - d. Target pest(s);
  - e. Pest density prior to pesticide application;
  - f. Company name and contact information for pesticide applicator;
  - g. Pesticide application date(s);
  - h. Description of treatment area, including location and size (acres or linear feet) of treatment area and identification of any waters, either by name or by location, to which pesticides are discharged;
  - i. Name of each pesticide product used, including the registration numbers;
  - j. Quantity of pesticide applied (and specify if quantities are for the pesticide product as packaged or as formulated and applied);
  - k. Concentration (%) of active ingredient in formulation;
  - l. For pesticide applications directly to waters, the effective concentration of active ingredient required for control;
  - m. Any unusual or unexpected effects on non-target organisms;
  - n. Documentation of any equipment cleaning, calibration, and repair (to be kept by pesticide application equipment operator);
  - o. A copy of the PDMP, including any modifications made to the PDMP during the term of this permit;
  - p. Records of whether or not visual monitoring was conducted during pesticide application and/or post application and if not, why not, and whether monitoring identified any possible or observable adverse incidents caused by application of pesticides.
5. All required records must be completed as soon as possible but no later than 14 days following completion of a record keeping event. Operators must retain any records required under this permit for at least five years after the record was collected. Operators must make available to DWQ, including an authorized representative of DWQ, all records kept under this permit upon request and provide copies of such records, upon request.
6. Twenty-four hour reporting.
- a. In addition to adverse incident and spill reporting requirements in Part III. G. and H. respectively, operators must report any noncompliance which may endanger health or the environment. Any information must be provided verbally within 24 hours from the time the operator becomes aware of the circumstances. A written report must also be provided

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within five days of the time the operator becomes aware of the circumstances. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The incident report can be found in Appendix D or on DWQ’s website: <https://deq.utah.gov/water-quality/updes-permitting-program#general-pesticides>.

- b. For purposes of this permit, operators must submit a 24-hour report under this section for any upset, as outlined in Part III.L that exceeds any effluent limitation in the permit.
- c. DWQ may waive the written report on a case-by-case basis for reports if the verbal report has been received within 24 hours.

7. Annual Reporting.

- a. All large size applicators and all Group 5 operators must submit an annual report to DWQ by August 15<sup>th</sup> each year for the previous fiscal year (July 1<sup>st</sup> -June 30<sup>th</sup>). Table 7 below shows the application threshold areas for a large applicator. Group 5 operators must submit the annual report regardless of the size of their treatment area.

**Table 7: Large Applicator Thresholds**

<b>Target</b>	<b>Treatment Area or Miles</b>
Insects and other Pests	75,000 acres or more
Weed, Algae, and Cyanobacteria	300 miles or more 300 acres or more
Nuisance Animals	300 miles or more 300 acres or more
Canopy Spraying	100,000 acres or more

- b. Operators, of any size, that has an adverse incident during the year must submit an annual report to the DWQ no later than August 15<sup>th</sup>. Please see Appendix C or DWQ’s website for the Annual Report form: <https://deq.utah.gov/water-quality/updes-permitting-program#general-pesticides>.
- c. The annual report must contain the following information:
  - 1) Operator’s name; (agency, district, company, person, etc.)
  - 2) Permit number;
  - 3) Contact person name, title, and phone number;

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- 4) A summary report of all adverse incidents that occurred during the previous fiscal year;
- 5) Treatment area information;
  - i. Description of treatment area, including location and size (acres or linear feet) of treatment area and identification of any waters of the state, either by name or location, to which pesticides(s) are discharged.
  - ii. Pesticide use pattern(s).
  - iii. Company name(s) and contact information for pesticide applicator(s), if different from the decision-maker.
  - iv. Total amount of each pesticide product applied for the reporting year by the EPA registration number(s) and by application method (e.g. aerial by aircraft, spray from a vehicle, etc.).
  - v. Whether this pest control activity was addressed in the PDMP prior to pesticide application.
  - vi. If applicable, an annual report of any adverse incidents as a result of these treatment(s).
- 6) A summary of any corrective actions, including spill responses, in response to adverse incidents, and the rationale for such actions.
- d. In the future, annual reports will be required to be submitted electronically to DWQ. Operators will be notified when reports must be submitted electronically.
8. Other Noncompliance. Operators must report all instances of noncompliance not reported under Part II.D, at the time any applicable reports are asked to be submitted. The reports must contain the information listed in Part II.D.

E. Inspection and Entry

Operators must allow inspection by DWQ or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

1. Enter the premises where a regulated activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
  - a. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit;

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- b. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

F. Monitoring and Records

1. Operators must retain records of all reports required by this permit, and records of all data used to complete the NOI for this permit, for a period of at least five years.
2. Samples and measurements taken for the purpose of monitoring must be representative of the volume and nature of the monitored activity.
3. Operators must retain required records of all monitoring information, including all calibration and maintenance records for a period of at least five years.
4. Records of monitoring information must include:
  - a. The date, exact place, and time of sampling or measurements;
  - b. The individual(s) who performed the sampling or measurements;
  - c. The date(s) analyses were performed;
  - d. The individual(s) who performed the analyses;
  - e. The analytical techniques or methods used;
  - f. The results of such analyses.
5. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been approved by DWQ.
6. The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

### III. COMPLIANCE RESPONSIBILITIES

A. Duty to Comply

The operator must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The operator shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

B. Penalties for Violations of Permit Conditions

The Act provides that any person who violates a permit condition implementing provisions of the Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person guilty of a third-degree felony who knowingly violates permit conditions of the Act may be subject to a fine not exceeding \$50,000 per day of violation. Except as provided at Part III.G, Adverse Incident Documentation and Reporting, Part III.L Upset Conditions, nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.

C. Need to Halt or Reduce Activity not a Defense

It shall not be a defense for an operator in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. Corrective Action

If any of the following situations occur, operators must review and, as necessary, revise the evaluation and selection of the control measures to ensure that the situation is eliminated and will not be repeated in the future:

1. An unauthorized release or discharge associated with the application of pesticides (e.g., spill, leak, or discharge not authorized by this or another UPDES permit) occurs;
2. Operators become aware, or DWQ concludes, that the control measures are not adequate/sufficient for the discharge to meet applicable water quality standards;
3. Any monitoring activities indicate that the operator failed to:
  - a. Use the lowest amount of pesticide produce per application and optimum frequency of pesticide applications necessary to control the target pest, consistent with reducing the potential for development of pest resistance;
  - b. Perform regular maintenance activities to reduce leaks, spills, or other unintended discharges of pesticides associated with the application of pesticides covered under this permit; or



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- c. Maintain pesticide application equipment in proper operating condition by adhering to any manufacturer's conditions and industry practices, and by calibrating, cleaning, and repairing such equipment on a regular basis to ensure effective pesticide application and pest control. Operators must ensure that the equipment's rate of pesticide application is calibrated to deliver the precise minimum quantity of pesticide needed to achieve greatest efficacy against the target pest.
  4. An inspection or evaluation of the permitted activities by DWQ reveals that modifications to the control measures are necessary to meet the non-numeric effluent limits in this permit, or
  5. Operators observe, for example, during visual monitoring that is required in Part II.A. or are otherwise made aware of an adverse incident, as defined in Part V.
- E. Corrective Action Deadlines  
If operators determine that changes to the control measures are necessary to eliminate any situation identified in Part III.D, such changes must be made before the next pesticide application that results in a discharge if practicable, or if not, as soon as possible thereafter.
- F. Effect of Corrective Action  
The occurrence of a situation identified in Part III.D may constitute a violation of the permit. Correcting the situation according to Part III.A does not absolve the operator of liability for any original violation. However, failure to comply with Part III.D constitutes an additional permit violation. DWQ will consider the appropriateness and promptness of corrective action in determining enforcement responses to permit violations. DWQ or a court may impose additional requirements and schedules of compliance, including requirements to submit additional information concerning the condition(s) triggering corrective action or schedules and requirements more stringent than specified in this permit. Those requirements and schedules will supersede those of Part III.D, if such requirements conflict.
- G. Adverse Incident Documentation and Reporting
1. Twenty-Four (24) Hour Adverse Incident Notification.

If operators observe or are otherwise made aware of an adverse incident, that may have resulted from a discharge from their pesticide application, the operator must immediately notify the DWQ Incident Reporting line at (801) 536-4300, or 24-hour answering service (801) 536-4123. This notification must be made by telephone within 24 hours of becoming aware of the adverse incident and must include at least the following information:

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- a. The caller's name and telephone number;
  - b. Operator name and mailing address;
  - c. The UPDES permit number;
  - d. The name and telephone number of a contact person, if different than the person providing the 24-hour notice;
  - e. How and when the operator became aware of the adverse incident;
  - f. Description of the location of the adverse incident and the species affected;
  - g. Description of the adverse incident identified and the DWQ pesticide registration number for each product the operator applied in the area of the adverse incident; and
  - h. Description of any steps the operator has taken or will take to correct, repair, remedy, cleanup, or otherwise address any adverse effects.
2. If an operator is unable to notify DWQ within 24 hours, the operator must do so as soon as possible and also provide your rationale for why the operator was unable 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.

3. Reporting of adverse incidents is not required under this permit in the following situations:
- a. An operator is aware of facts that clearly establish that the adverse incident was not related to toxic effects or exposure from the pesticide application.
  - b. An operator has been notified in writing by DWQ that the reporting requirement has been waived for this incident or category of incidents.
  - c. An operator receives information of an adverse incident but that information is clearly erroneous.
  - d. An adverse incident occurs to pests that are similar in kind to pests identified as potential targets on the FIFRA label.
4. Five (5) Day Adverse Incident Written Report. Within five days of a reportable adverse incident pursuant to Part III.G.1, operators must provide a written report of the adverse incident to DWQ. The adverse incident report must include at least the following information:
- a. Information required to be provided in Part III.G.;
  - b. Date and time the operator contacted DWQ notifying the agency of the adverse incident and who the operator spoke with at DWQ and any instructions you received from DWQ;

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- 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 individual and approximate size of dead or distressed organisms;
- e. Magnitude and scope of the affected area (e.g. acres, area, or total stream distance affected);
- f. Pesticide application rate, intended use site (e.g., banks, above, or direct to water), method of application, and name of pesticide product, description of pesticide ingredients, and EPA registration number;
- g. Description of the habitat and the circumstances under which the adverse incident occurred (including any available ambient water data for pesticides applied);
- h. If laboratory tests were performed, indicate what test(s) were performed, and when, and provide a summary of the test results within 5 days after they become available;
- i. If applicable, explain why the operator believes the adverse incident could not have been caused by exposure to the pesticide;
- j. Actions to be taken to prevent recurrence of adverse incidents;
- k. Signed and dated in accordance with Part IV.D.

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

**H. Reportable Spills and Leaks**

1. The operator shall verbally report any noncompliance including transportation accidents, and spills which may seriously endanger public health or the environment, as soon as possible, but no later than twenty-four (24) hours from the time the operator first became aware of circumstances. The report shall be made to the Division of Water Quality, (801) 536-4300, or 24-hour answering service (801) 536-4123.
2. As needed, the operator must immediately contact the appropriate local emergency response departments and agencies for threats to human health or the environment.

**I. Other Corrective Action Documentation**

For situations identified in III.D., other than for adverse incidents (addressed in Part III.G.1, or reportable spills or leaks (addressed in Part III.H.)), operators must document the situation triggering corrective action and your planned corrective action within five (5) days you become aware of that situation and retain a copy of this documentation. This documentation must include the following information:

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1. Identification of the condition triggering the need for corrective action review, including any ambient water quality monitoring that assisted in determining that discharges did not meet water quality standards;
2. Brief description of the situation;
3. Date the problem was identified;
4. Brief description of how the problem was identified and how the operator learned of the situation and date the operator learned of the situation;
5. Summary of corrective action taken or to be taken including date initiated and date completed or expected to be completed;
6. Any measures to prevent reoccurrence of such an incident, including notice of whether PDMP modifications are required as a result of the incident.

J. Duty to Mitigate

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

K. Proper Operation and Maintenance

Operators must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used 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 backup or auxiliary facilities or similar systems which are installed when the operation is necessary to achieve compliance with the conditions of this permit.

L. Upset Conditions

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of paragraph 2 of this section are met. Director administrative determination regarding a claim of upset cannot be judiciously challenged by the operator until such time as an action is initiated for noncompliance.
2. Conditions necessary for a demonstration of upset. An operator who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - a. An upset occurred and that the operator can identify the cause(s) of the upset;
  - b. The permitted facility was at the time being properly operated;

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- c. The operator submitted notice of the upset as required under Part III.L, Twenty-four Hour Notice of Noncompliance Reporting; and,
  - d. The operator complied with any remedial measures required under Part III.J, Duty to Mitigate.
3. Burden of proof. In any enforcement proceeding, the operator seeking to establish the occurrence of an upset has the burden of proof.

PND DRAFT

#### **IV. GENERAL UPDES AND CWA PERMIT REQUIREMENTS**

A. Permit Actions

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

B. Duty to Reapply

If operators wish to continue an activity regulated by this permit after the expiration date of this permit, operators must apply for and obtain authorization as required by the new permit once DWQ issues it.

C. Duty to Provide Information

Operators must furnish to DWQ within a reasonable time, any information which DWQ may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. Operators must also furnish to DWQ or an authorized representative upon request, copies of records required to be kept by this permit.

Where the operator becomes aware that they failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, the operator must promptly submit such facts or information.

D. Signatory Requirements

1. All applications, including NOIs, must be signed as follows:

- a. For a corporation: By a responsible corporate officer. For the purpose of this subsection, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated activity including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

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- b. For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or
  - c. For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official or a designee. For purposes of this subsection, a principal executive officer of a federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit or the agency.
2. The PDMP, including changes to the PDMP to document any corrective actions taken as required by Part III.I., and all reports submitted to DWQ, must 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:
- a. The authorization is made in writing by an authorized person.
  - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated activity such as the position of 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); and
  - c. The signed and dated written authorization is included in the PDMP. A copy must be submitted to DWQ, if requested.
3. All other changes to the PDMP, and other compliance documentation required under this permit, must be signed and dated by the person preparing the change or documentation.
- a. Changes to Authorization. If an authorization under IV.D.1;
  - b. The authorized person is no longer pertinent because the application activities have been purchased by a different entity, a new NOI satisfying the requirements of IV.D.1, must be submitted to DWQ. However, if the only change that is occurring is a change in contact information or a change in the operator's address, the operator need only make a modification to the existing NOI submitted for authorization.
  - c. Any person signing documents in accordance with Part IV.D.1. above must include the following certification:

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

4. The CWA 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 non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

**E. Reporting Requirements**

1. Anticipated noncompliance. Operators must give advance notice to the DWQ of any planned changes in the permitted activity which may result in noncompliance with permit requirements.
2. Transfers. This permit is not transferable to any person except after notice to DWQ. Where an operator wants to transfer coverage under the permit to a new operator, the original permittee (the first operator) must submit a NOT pursuant to Part I.D.9. The new operator must submit a NOI in accordance with Part I.A. See also requirements in, Part IV.I.
3. Pesticide Monitoring Reports. This permit does not require operators to report monitoring results on a routine basis, except Group 5 operators; however, DWQ may, pursuant to Part II.B, require certain operators to monitor and report the results.
  - a. When required, monitoring data must be submitted to DWQ using NetDMR once NetDMR is set up to receive DMRs for this permit Contact DWQ, at (801) 536-4300, to obtain instructions for NetDMR.
  - b. If operators monitor any pollutant more frequently than required using test procedures approved under 40 CFR Part 136 or as otherwise specified by DWQ, the results of this monitoring must be included in the calculation and reporting of the data submitted to DWQ.
  - c. Calculations for all limitations which require averaging of measurements must use an arithmetic mean unless otherwise specified by DWQ.



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4. Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit must be submitted no later than 14 days following each schedule date.

F. Other Laws and Regulations

Operators must comply with all other applicable federal, state, and local laws and regulations that pertain to the application of pesticide. For example, operators must comply with requirements of FIFRA and FIFRA pesticide labels.

G. Property Rights

This permit does not convey any property rights of any sort, or any exclusive privileges.

H. Severability

Invalidation of a portion of this permit does not render the whole permit invalid. DWQ's intent is that the permit will remain in effect to the extent possible; in the event that any part of this permit is invalidated, the remaining parts of the permit will remain in effect unless DWQ issues a written statement otherwise.

## **V. DEFINITIONS, ABBREVIATIONS, AND ACRONYMS**

### **A. Definitions**

1. "Act" means the "Utah Water Quality Act".
2. "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.
3. "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).
4. "Adverse Incident" – means an incident that you have observed upon inspection or of which you otherwise become aware, in which:
  - a. A person or non-target organism may have been exposed to a pesticide residue, and
  - b. 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 State 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:

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

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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 state that are temporally and spatially related to exposure to a pesticide residue (e.g., vomiting, lethargy).

5. "Best Management Practices" (BMPs) – means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also treatment requirements, operating procedures, practices to control plant site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage.
6. “Biological Agents” – only for Group 5 operators with the control activities in Part I.C.1.(e), means fungi, bacteria, viruses, microbes, algae, plants or plant material, hormones, enzymes, genetically modified or irradiated organisms, or living organisms, other than biological control agents, used to control or minimize a targeted pest or water parameter that are not EPA-registered pesticides.
7. "Biological Control Agents" – these are organisms that can be introduced to your sites, such as herbivores, predators, parasites, and hyperparasites. (Source: US FWS IPM Guidance, 2004).
8. "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 dessicant, 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).
9. “Chemical” – only for Group 5 operators with the control activities in Part I.C.1.(e), means oxidizers, metals, gases, elements, inorganic compounds, salts, alkaline compounds, bases, acids, organic compounds, plant derivatives, surfactants, buffers, and enzymes that are not EPA-registered pesticides used to control or minimize a targeted pest or water parameter problem.

10. "Chemical Pesticides" – all pesticides not otherwise classified as biological pesticides.
11. "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 state to comply with the effluent limitations in Parts 2 and 3 of this permit.
- 6.
12. Category 1 Waters – waters which have been determined by the Board to be of exceptional recreational or ecological significance or have been determined to be a state or national resource requiring protection, shall be maintained at existing high quality through designation, by the Board after public hearing, as Category 1 Waters. New point source discharges of wastewater, treated or otherwise, are prohibited in such segments after the effective date of designation. Protection of such segments from pathogens in diffuse, underground sources is covered in R317-5 and R317-7 and the Regulations for Individual Wastewater Disposal Systems (R317-501 through R317-515). Other diffuse sources (nonpoint sources) of wastes shall be controlled to the extent feasible through implementation of best management practices or regulatory programs. Projects such as, but not limited to, construction of dams or roads will be considered where pollution will result only during the actual construction activity, and where best management practices will be employed to minimize pollution effects. Waters of the state designated as Category 1 Waters are listed in R317-2-12.1.
13. "Cultural Methods" - manipulation of the habitat to increase pest mortality by making the habitat less suitable to the pest.
14. "Declared Pest Emergency Situation" – 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:
  - a. Significant risk to human health;
  - b. Significant economic loss; or
  - c. Significant risk to:
    - 1) Endangered species,
    - 2) Threatened species,
    - 3) Beneficial organisms, or
    - 4) The environment.
15. "Director" – means the Director of the Division of Water Quality.

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16. "Discharge" means the addition of any pollutant to any waters of the state (UCA 19-5-102(7)).
17. "Facility or Activity" – any NPDES “point source” (including land or appurtenances thereto) that is subject to regulation under the NPDES program (40 CFR 122.2).
18. "Impaired Water" (or “Water Quality Impaired Water” or “Water Quality Limited Segment”) – A water is impaired for purposes of this permit if it has been identified by DWQ pursuant to Section 303(d) of the Clean Water Act as not meeting state 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.
19. "Indian Lands" – (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; (b) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. This definition includes all land held in trust for an Indian tribe (18 U.S.C. 1151; 40 CFR 122.2).
20. "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).
21. "Integrated Pest Management" – is an effective and environmentally sensitive approach to pest management that relies on a combination of common-sense practices. IPM uses current, comprehensive information on the life cycles of pests and their interaction with the environment. This information, in combination with available pest control methods, is used to manage pest damage by the most economical means, and with the least possible hazard to people, property, and the environment.
22. "Mechanical/Physical Methods" - mechanical tools or physical alterations of the environment, for pest prevention or removal.

23. "Minimize" - to reduce and/or eliminate pesticide discharges to waters of the State through the use of "control measures" to the extent technologically available and economically practicable and achievable.
24. "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 treatment area that are not the target of the pesticide.
25. "North American Industry Classification System (NAICS)" – developed under the direction and guidance of the U.S. Office of Management and Budget (OMB) as the standard for use by federal statistical agencies in classifying business establishments for the collection, tabulation, presentation, and analysis of statistical data describing the U.S. economy. NAICS is scheduled to be reviewed every 5 years for potential revisions with the most recent version being completed in 2007. Under NAICS, an establishment is generally a single physical location where business is conducted or where services or industrial operations are performed (e.g., factory, mine, farm, warehouse, etc.). An enterprise, on the other hand, may consist of more than one location performing the same or different types of economic activities. Each establishment of that enterprise is assigned a NAICS code based on its own primary business activity. Ideally, the primary business activity of an establishment is determined by relative share of production costs and/or capital investment. In practice, other variables, such as revenue, value of shipments, or employment, are used as proxies. For this permit, the U.S. Environmental Protection Agency uses revenue or value of shipments to determine an establishment's primary business activity.
26. "Operator " – means any entity involved in the application of a pesticide that results in a discharge to surface waters of the State that meets either or both of the following two criteria:
  - a. The entity has control over the financing for, or the decision to perform pesticide applications that result in discharges, including the ability to modify those decisions; or
  - b. The entity has day-to-day control of or performs activities that are necessary to ensure compliance with the permit (e.g., they are authorized to direct workers to carry out activities required by the permit or perform such activities themselves).
27. "Person" – an individual, association, partnership, corporation, municipality, state or federal agency, or an agent or employee thereof.

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28. "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;
  - 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 FFDC A sec. 201(g)(1)) and cosmetics (as defined in FFDC A sec. 201(i)).
29. "Pest Management Area" – the area of land, including any water, for which the operator conducts pest management activities covered by this permit.
30. "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).

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Note: drugs used to control diseases of humans or animals (such as livestock and pets) are not considered pesticides; such drugs are regulated by the Food and Drug Administration. Fertilizers, nutrients, and other substances used to promote plant

survival and health are not considered plant growth regulators and thus are not pesticides. Biological control agents, except for certain microorganisms, are exempted from regulation under FIFRA. (Biological control agents include beneficial predators such as birds or ladybugs that eat insect pests, parasitic wasps, fish, etc.).

This permit uses the term “pesticide” when referring to the “pesticide, as applied.” When referring to the chemical in the pesticide product with pesticidal qualities, the permit uses the term “active ingredient.”

31. "Pesticide Product" – a pesticide in the particular form (including composition, packaging, and labeling) in which the pesticide is, or is intended to be, distributed or sold. The term includes any physical apparatus used to deliver or apply the pesticide if distributed or sold with the pesticide.
32. "Pesticide Research and Development" – Activities undertaken on a systematic basis to gain new knowledge (research) and/or the application of research findings or other scientific knowledge for the creation of new or significantly improved products or processes (experimental development). These types of activities are generally categorized under the four-digit code of 5417 under the 2007 NAICS.
33. "Pesticide Residue" – includes that portion of a pesticide application that is discharged from a point source to surface waters of the state and no longer provides pesticidal benefits. Pesticide residue also includes the pesticide or its degrades that persist in the environment, whether it binds or doesn't bind, or reacts or doesn't react, with; soil, sediment, suspended solids, water constituents, non-target organisms, chemicals, or the active ingredients or degrades of other pesticides.
34. "Point source" – means 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, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.
35. "Pollutant" – dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. For purposes of this definition, a “biological pesticide” is considered a “biological material,” and any



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“pesticide residue” resulting from use of a “chemical pesticide” is considered a “chemical waste” (excerpted from 40 CFR 122.2).

36. "Surface waters of the State" means waterbodies, waterways, streams, lakes or rivers, etc. that are waters of the state that contain standing or flowing water at the time of pesticide application.
37. "Target Pest" – the organism toward which pest control measures are being directed.
38. "Total Maximum Daily Loads (TMDLs)" – A TMDL is a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources (See section 303(d) of the Clean Water Act and 40 CFR 130.2 and 130.7).
39. "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.”
40. "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 ten miles of treatment area. Treating five miles of shoreline would equal a five-mile treatment area.
41. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
42. "Water Quality Impaired" See ‘Impaired Water’.
43. "Water Quality Standards" means the water quality standards in U.A.C. R317-2.

44. "Wetlands" - means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under

normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

45. Abbreviations and Acronyms

BAT – Best Available Technology Economically Achievable

BMP – Best Management Practice

BPT – Best Practicable Control Technology Currently Available

CWA – Clean Water Act (or the Federal Water Pollution Control Act, 33 U.S.C. §1251 *et seq*)

DWQ – Division of Water Quality

EPA - United States Environmental Protection Agency

FIFRA – Federal Insecticide, Fungicide, and Rodenticide Act, 7 USC 136 *et seq*.

FWS – U. S. Fish and Wildlife Service

IPM – Integrated Pest Management

NAICS – North American Industry Classification System

NOI – Notice of Intent

NOT – Notice of Termination

NPDES – National Pollutant Discharge Elimination System

PDMP – Pesticide Discharge Management Plan

TMDL – Total Maximum Daily Load

UCA – Utah Code Annotated

UPDES – Utah Pollutant Discharge Elimination System

**APPENDIX A**

PV DRAFT

**APPENDIX B**

PV DRAFT

APPENDIX C

PV DRAFT

**APPENDIX D**

PV DRAFT

**APPENDIX E**

PV DRAFT

**APPENDIX F**

PV DRAFT