

**MONTANA DEPARTMENT OF  
ENVIRONMENTAL QUALITY**

**GENERAL PERMIT**

**For**

**PESTICIDE APPLICATION**

**Permit No.: MTG870000**

AUTHORIZATION TO DISCHARGE UNDER THE  
MONTANA POLLUTANT DISCHARGE ELIMINATION SYSTEM

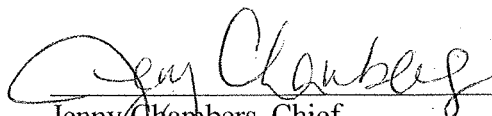
In compliance with Montana Water Quality Act, Title 75, Chapter 5, Montana Code Annotated (MCA), and the federal Water Pollution Control Act (the "Clean Water Act"), 33 U.S.C. 1251 *et. seq.*, applicants issued an authorization letter for this Pesticide General Permit, are permitted to discharge wastewater to state waters in accordance with effluent limitations, monitoring requirements and other conditions set forth herein.

A copy of this General Permit and a written authorization letter from the Department must be available on site at all times. The General Permit is not valid without a current authorization letter from the Department.

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

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

FOR THE MONTANA DEPARTMENT  
OF ENVIRONMENTAL QUALITY



Jenny Chambers, Chief  
Water Quality Bureau  
Permitting and Compliance Division

Issuance Date: April 9, 2011

## Table of Contents

<b>I.</b>	<b>COVERAGE UNDER THIS GENERAL PERMIT.....</b>	<b>4</b>
A.	COVERAGE AREA.....	4
B.	ACTIVITIES ELIGIBLE FOR COVERAGE UNDER THIS GENERAL PERMIT.....	4
C.	ACTIVITIES INELIGIBLE FOR COVERAGE THIS GENERAL PERMIT.....	4
D.	SOURCES SEEKING COVERAGE UNDER THE PGP.....	5
E.	TERMINATION OF PERMIT COVERAGE.....	6
F.	TRANSFER OF COVERAGE.....	6
<b>II.</b>	<b>EFFLUENT LIMITATIONS, MONITORING REQUIREMENTS &amp; OTHER CONDITIONS.7</b>	
A.	EFFLUENT LIMITATIONS.....	7
B.	TIER II SPECIAL CONDITION – PESTICIDE MANAGEMENT PLAN.....	7
C.	MONITORING REQUIREMENTS.....	10
D.	RECORDKEEPING REQUIREMENTS.....	11
E.	REPORTING REQUIREMENTS.....	12
F.	MIXING ZONE.....	14
G.	OBLIGATION TO OBTAIN OTHER PERMITS.....	14
<b>III.</b>	<b>STANDARD CONDITIONS.....</b>	<b>15</b>
A.	REPORTING REQUIREMENTS.....	15
B.	MONITORING AND RECORDING OF RESULTS.....	15
C.	ADDITIONAL MONITORING BY PERMITTEE.....	15
D.	RECORD RETENTION.....	15
E.	NONCOMPLIANCE NOTIFICATION.....	15
F.	INSPECTION AND ENTRY.....	15
<b>IV.</b>	<b>COMPLIANCE RESPONSIBILITIES.....</b>	<b>17</b>
A.	DUTY TO COMPLY.....	17
B.	PENALTIES FOR VIOLATIONS OF PERMIT CONDITIONS.....	17
C.	NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE.....	17
D.	DUTY TO MITIGATE.....	17
E.	TOXIC POLLUTANTS.....	17
F.	CHANGES IN DISCHARGE OF TOXIC SUBSTANCES.....	17
<b>V.</b>	<b>GENERAL REQUIREMENTS.....</b>	<b>19</b>
A.	PLANNED CHANGES.....	19
B.	ANTICIPATED NONCOMPLIANCE.....	19
C.	PERMIT ACTIONS.....	19
D.	DUTY TO REAPPLY.....	19
E.	DUTY TO PROVIDE INFORMATION.....	19
F.	OTHER INFORMATION.....	19
G.	SIGNATORY REQUIREMENTS.....	19
H.	PENALTIES FOR FALSIFICATION OF REPORTS.....	20
I.	AVAILABILITY OF REPORTS.....	21
J.	OIL AND HAZARDOUS SUBSTANCE LIABILITY.....	21
K.	PROPERTY OR WATER RIGHTS.....	21
L.	SEVERABILITY.....	21
M.	TRANSFERS.....	21

N. FEES ..... 21

**VI. DEFINITIONS.....23**

***APPENDIX A: NOTICE OF INTENT.....28***

I. COVERAGE UNDER THIS GENERAL PERMIT

A. Coverage Area

The Pesticide General Permit (PGP) applies to all areas of the State of Montana, except for within the boundaries of Indian Reservations.

B. Activities Eligible for Coverage under this General Permit

As of the permit's effective date, this permit is available to any owner or operator who discharges to state surface waters through the application of (1) biological pesticides or (2) chemical pesticides that leave a residue (collectively "pesticides") in state surface waters when the application is for one of the following pesticide use patterns provided below. The requirements of the PGP are separated into two categories:

- Tier I - Requirements for all owner/operators.
- Tier II – Additional requirements for owners/operators that apply pesticides to an area greater than the treatment area annual threshold identified below.

#	Pesticide Use Pattern	Treatment Area Annual Threshold <sup>1,2</sup>
1	Piscicides and Other Nuisance Animals (i.e. zebra mussels)	10 acres
2	Weeds and Algae	100 acres
3	Aerial Pest Control (i.e. Forest Canopy)	1000 acres
4.	<i>Mosquito and Other Flying Insect Pests</i>	
4a.	Larvae chemical control	100 acres
4b.	Chemical adulticide	1000 acres
4c.	Biological control	6,400 acres
5.	Research & Development	10 acres
6	Other not classified	1000 acres

1. Calculations should include the area of the applications made to: (1) state surface waters *that contain water at the time of pesticide application* and (2) conveyances with a hydrologic surface connection to state surface water *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.

2. Any pesticide discharge into waterbodies classified A-closed has a threshold of > 0 acres and is therefore subject to Tier II requirements.

C. Activities Ineligible for Coverage this General Permit.

The following activities are ineligible for coverage under the PGP:

1. A discharge of pesticides covered by another MPDES permit.
2. The pesticide is not labeled for use in water by the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA).

3. The discharge or application of Endosulfan or its metabolites in Hauser Lake, because the lake is listed as impaired for Endosulfan on Montana's list of impaired water bodies.

D. Sources seeking coverage under the PGP.

As of the effective date of this permit, an owner or operator seeking to obtain coverage under the PGP must submit a complete Notice of Intent (NOI) package, including a signed NOI Form (Appendix A) and the fee (includes both permit application fee and annual fee for first year as required under ARM 17.30.201) prior to discharging.

An owner/operator may choose to obtain coverage anywhere within the boundaries of one county ("single-county"), or within the boundaries of up to twenty contiguous counties ("multi-county"). The NOI package should request coverage for any pesticide use patterns that are the responsibility of the owner/operator in the covered area unless authorization will be obtained under a separate NOI.

An owner/operator must determine whether they annually apply pesticides to "under the threshold (Tier I)" or "over the threshold (Tier II)" acres of water area. As part of the NOI submittal, the owner/operator must indicate which of the following permit types they are requesting:

(A) Tier I - Under annual threshold:

- (1) Single-county
- (2) Multi-county

(B) Tier II - Over annual threshold

- (1) Single county
- (2) Multi-county

Completion of the NOI acknowledges compliance with the relevant parts of the PGP. For instance, for owner/operators over the annual threshold, this includes the requirement to develop and maintain a pesticide management plan as detailed in Part II.B.1. Submittal of the plan to the Department is not required. However, the plan must be completed and up-to-date, and must be available upon Department request.

The Department will issue a letter of acknowledgement to the owner/operator after receiving a complete NOI package submittal. Coverage under the PGP is renewable on a five-year basis. The owner/operator is required to pay the annual fee and comply with all relevant requirements contained in the PGP until they are required to renew or they request to terminate the permit.

Any pesticide application that has historically been authorized under the 308 program shall continue to be authorized under the 308 program until the PGP is effective. As long as the PGP is effective, the 308 Authorization permit shall no longer be an active program as stated by 75-5-308(3), MCA "The department may not authorize an exemption from water quality standards for an activity that requires a discharge permit under rules adopted by the board pursuant to 75-5-401."

E. Termination of Permit Coverage

Permit coverage remains in effect until the General Permit is renewed or the Department receives a complete Notice of Termination (NOT) form from the permittee that the point source discharge has been eliminated. The NOT must be signed and certified in accordance with the signatory requirements in Part V.G of this General Permit and all applicable fees must be paid. Failure to submit a NOT shall result in accrual of annual fees until this notice is received by the Department.

In addition to the ability to request a termination, the owner or operator of a facility covered under this General Permit may request to be excluded from coverage under this General Permit by applying for and obtaining an individual MPDES permit pursuant to Title 17, Chapter 30, Subchapter 13. If an individual MPDES permit is issued to the owner or operator of the facility, coverage under this General Permit is terminated on the effective date of the final MPDES permit.

F. Transfer of Coverage

The Department may transfer a pesticide authorization to a new owner or operator in accordance with Part V.M. of this General Permit.

## II. EFFLUENT LIMITATIONS, MONITORING REQUIREMENTS & OTHER CONDITIONS

### A. Effluent Limitations

#### 1. *Tier I: All Owner/Operators:*

Effective immediately and lasting for the duration of the permit, all owners/operators of pesticide applications that discharge into state surface water and who are subject to this General Permit must:

- a. Control the discharge as necessary to meet applicable numeric and narrative water quality standards by complying with this permit; and
- b. Apply pesticides within labeled rates and/or in accordance with pesticide use directions under FIFRA and other state pesticide requirements.

#### 2. *Tier II: Greater than Threshold Owner/Operators*

Every owner/operator who is above an annual treatment area threshold shall comply with the above Tier I effluent limits for "all owner/operators" as well as the following additional Tier II requirements:

- a. Ensure pesticide application equipment is maintained in proper operating condition by inspecting, cleaning and repairing such equipment on a regular basis.
- b. Ensure pesticide application equipment is calibrated in order to have effective pesticide application and pest control by adhering to any manufacturer's conditions and industry practices.

### B. Tier II Special Condition – Pesticide Management Plan

The Department has determined that the requirement to maintain a pesticide management plan is an appropriate treatment method for pesticide application discharges by Tier II "Greater than Threshold" Owner/Operators:

Tier II owners/operators must develop and maintain a written pesticide management plan. To the extent that an owner/operator follows an existing plan [i.e., weed control plan, mosquito control plan, or Integrated Pest Management Plan (IPM)] which already contains the following information, the owner/operator need only reference the existing plan. However, at a minimum, prior to the first pesticide application covered under the PGP and at least once per calendar year thereafter, each Tier II owner/operator must evaluate and update their plan(s) to include the following:

- a. Pesticide management team. The owner/operator must identify an individual or group of individuals (names or titles) that are a pest management "team" and clarify specific responsibilities. It must identify who is/are the decision-makers by organization name as well as either name or title of individuals. In addition, the team must identify whether an in-house or for-hire applicator will be the pesticide applicator, and clarify the recordkeeping and reporting responsibilities that will be required for such applicator. Individuals must be identified for developing and

revising the plan, reviewing and implementing control measures, and taking corrective action.

b. Description of the pest problem.

- *pest identification*— identification of each target pest(s) that are in or over state surface water;
- *general location map* – the map must identify the geographic boundaries of the entire area to which the plan applies, the approximate areas for the upcoming years' pest management area for each target pest, and the location of the state surface water(s) that will be impacted. Additionally, the map (or a separate description) should include any sensitive resources in the area. The map should be reviewed annually and updated if there are any changes; and
- *action thresholds* –the plan must include the level of pest prevalence (pest densities) or other trigger that will cause the owner/operator to initiate action to reduce the pest problem (see “action threshold” definition in Part VI). Include a description of how the action threshold was established, such as a reference to literature or policy. The action level might not always be a number; for instance, the pest may be an identified noxious weed and any incidence (>0) would trigger the action level, or the action threshold may currently be dictated by other factors.

c. Description of control measures.

The plan must include documentation on the evaluation and implementation of any pest management tools (no action, prevention, mechanical/physical methods, cultural methods, biological control agents, and pesticides) that could feasibly be taken to minimize pesticide discharge into state surface waters for the pesticide projects authorized by the NOI. The owner/operator should use best professional judgment as well as experience with any of the control measures previously used at the site(s) to reduce pesticide discharge to base their evaluation. The plan should consider impact to non-target organisms and cost effectiveness when evaluating and selecting the most efficient and effective means of pest management to minimize pesticide discharge to state surface waters.

d. Planning.

Every Tier II owner/operator is required to include responsibilities, planning and program information in their pesticide management plan. Various agreements for some or all of the following requirements may be needed between responsible parties (such as decision-makers and for-hire applicators) and are the responsibility of the owner/operator:

- *Pesticide application equipment preventative maintenance program* - the plan shall include the identification of who (name or title) is responsible for inspecting, cleaning, and repairing the application equipment prior to use, as well as the frequency of such PM. Reviewing this procedure annually, and updating as necessary, is considered documentation for compliance with the effluent limitation in Part II.a.2.a.

- *Pesticide application equipment calibration* – the plan shall include the identification of who (name or title) is responsible, the methods used, and how often the equipment will be calibrated. Records of calibration will be required to be kept in conformance with Part II.D.2.
- *Assessment of environmental conditions* - description of who will assess and make the decision whether environmental conditions are satisfactory for pesticide application, and what factors will be used (wind speed, expected rain, temperature, etc.). Compliance with this requirement can be satisfied by using other existing environmental assessment forms.
- *Pesticide application rate and frequency*- who will determine, and what is, the desired pesticide concentration and number of applications necessary to control each target pest. The application rate and frequency must meet pesticide label requirements.
- *Pre-application pest monitoring* – description of how the pest treatment area will be assessed before treatment to determine when the action threshold(s) are met and in what geographical area. The plan must include who (employer and name or title) will make the determination and what basis they will use.
- *Post-application monitoring* - description of the process for post-pesticide application monitoring, if any. Includes determining the location and timing of any visual monitoring during or after the pesticide application, who will conduct the monitoring, and procedures for documenting any observed impacts to non-target organisms. This is not required if it is not part of expected business practice or if conditions make it infeasible or dangerous.
- *Adverse incident response procedures*. The Tier II owner/operator must identify and document the course of action or response to any potential adverse incident that might be attributed to their pesticide application (see definition of adverse incident in Part VI.) in their plan. It must include the identification of responsibilities for complying with the notification requirements, including those in Part II.E.3. of this PGP.

The plan must include a list of the chain of command notification both internally and externally, contact agencies and phone numbers, identification and contact information for nearest emergency medical facility and nearest hazardous chemical responder (including police and fire department).

- *Spill prevention program* – The Tier II owner/operator must identify and document the course of action or response to any spills or releases that are part of the activities covered by this PGP in their plan.

The plan should also address any areas and activities that typically pose a high risk for spills during the preparation for and implementation of pesticide applications covered under this PGP. It should address appropriate material handling procedures, storage requirements, and containment or diversion equipment that will minimize the potential for spills, or in the event of a spill enable proper and timely response.

In addition, the plan must document procedures for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases. It must include documentation of the procedures for notification for appropriate facility personnel, emergency response agencies, and regulatory agencies. The response to any spills or leaks that occur while covered under this permit must be documented.

e. Plan Updates - Owners/operators must review and, as necessary, revise the plan at least once a year. In addition, the plan must be reviewed and, as necessary, revised whenever any of the following triggering conditions for corrective action occur:

- an unauthorized release or discharge;
- the permittee becomes aware, or the Department determines, that control measures are not stringent enough for the discharge to meet applicable water quality standards;
- an inspection or evaluation by a Department representative determines that modifications are necessary to meet the non-numeric effluent limits; or
- the permittee observes or is otherwise made aware (e.g., a third party notification) of an adverse incident for which symptoms are unusual or unexpected during the normal course of treatment.

The owner/operator must take follow-up actions to assess and correct problems including the above triggering conditions. They must ensure that corrective action be completed before the next pesticide application that results in a discharge, if practicable, or if not, as soon as practicable thereafter. The owner/operator must document what steps were taken to eliminate the problem.

C. Monitoring Requirements

The testing procedures set forth in Part 136, Title 40 of the Code of Federal Regulations do not apply to the following monitoring requirements.

1. *Tier I: All Owner/Operators:*

- a. All owners/operators must document the rationale for determining the type and amount of pesticide to be used. This is satisfied by having the pesticide label available.

2. *Tier II: Greater than Threshold Owner/Operators*

- a. All Tier II owners/operators must monitor their operation to ensure the integrity of application equipment by inspecting, cleaning, and repairing equipment on a regular basis, in accordance with their pesticide management plan.
- b. All Tier II owners/operators must monitor their operation to ensure the effectiveness of application by calibrating the pesticide equipment on a regular basis, in accordance with their pesticide management plan.
- c. All Tier II owners/operators must conduct appropriate visual monitoring to determine if any pesticide use practices may need to be revised, and to ensure that avoidable

adverse impacts to the environment do not occur, in accordance with their pesticide management plan.

D. Recordkeeping Requirements

All records required by this PGP must be prepared as soon as possible but no later than 14 days following completion of the associated activity. This may necessitate owners/operators that are decision-makers only make appropriate arrangements with contracted for-hire applicator(s). Copies of these documents must be available upon request, and must be maintained for a period of at least three years, or in the case of the PGP and NOI three years from the date the coverage under this permit expires or is terminated.

1. *Tier I: All Owner/Operators:*

All permittees must maintain the following records:

- A copy of the PGP (electronic access is sufficient); and
- A copy of the NOI submitted to the Department, any correspondence exchanged between you and the Department specific to coverage under this permit, and a copy of the Department acknowledgment letter assigning your permit tracking number.

2. *Tier II: Greater than Threshold Owner/Operators*

Tier II permittees must maintain the following records in addition to the Tier I records:

- A copy of your pesticide management plan, including any modifications made to the plan during the term of this permit. Other existing plans (such as IPM, Weed Control or Mosquito Control plans) can satisfy this requirement as long as all of the components for a pesticide management plan required in this PGP are met;
- Pesticide Application information. Copies of, or access to, the following required pesticide applicator records. (As some of this information may be available on another record, such as a MDA Form, it does not have to be duplicated.) The required information for any pesticide application with a discharge to surface waters includes:
  - Company name and contact information for pesticide applicator;
  - Dates of application;
  - Description of treatment area, including location (name of county - include center location of treatment area (lat/long));
  - Identification of any waters, either by name or by location, to which you discharged any pesticide(s);
  - Approximate size of treatment area (acres of water);
  - Trade name, Manufacturer, and EPA Registration Number of each pesticide product used; and

- Rate of pesticide applied (and specify if quantities are for the pesticide product as packaged or as formulated and applied).
- Copies of, or access to, equipment calibration records (required to be maintained by the entity performing the pest management activity on behalf of self or client); and
- Post-application monitoring - date(s) and time(s) of any monitoring that resulted in unusual or unexpected findings, and a description of the unusual or unexpected effects identified to non-target organisms.

E. Reporting Requirements

1. *Tier I: All Owner/Operators:*

All owner/operators are subject to the adverse incident reporting requirements in Section II.E.3.

2. *Tier II: Greater than Threshold Owner/Operators*

Tier II permittees are also required to submit annual reports that contain basic information on their pesticide discharges to state surface waters, on a form issued by the Department. The annual report is due by January 28<sup>th</sup> of each year. The annual report must include information for the previous calendar year, with the first annual report required to include activities for the portion of the calendar year after the effective date of the NOI. If the effective date of the NOI is after December 1, the owner/operator is not required to submit an annual report for that first partial year but must submit annual reports thereafter, with the first annual report submitted also including information from the first partial year.

The annual report is a summary of the pest control activities for each applicable use pattern. The annual report must contain the following information specific to each pest treatment area covered under the permit:

- a. Pesticide applicator(s) information;
- b. Approximate amount of each pesticide product applied to or over water for the reporting year including Manufacturer, Product Trade Name, and EPA registration number(s); and
- c. Identification of any waters to which you discharged any pesticide(s) and an estimate of the total water acreage treated

When a Tier II owner/operator terminates permit coverage, they must submit an annual report for the portion of the year up through the date of the termination. The annual report is due no later than 30 days after the termination date, or January 28<sup>th</sup> of the following year, whichever is earlier.

3. *Adverse Incident Reporting.*

Owner/operators must conduct appropriate visual post-application monitoring for possible adverse incidents that were brought to their attention by any means, including internal or external notification or, for Tier II owner/operators, in accordance with their

pesticide management plan. The Department expects each owner/ operators to use their best professional judgment in determining the extent to which non-target effects appear to be abnormal or indicative of an unforeseen problem associated with an application of pesticides.

Records of all visual inspections conducted at sites where an adverse incident is suspected, even for situations that do not require reporting to the Department, must be kept on site with the permittee. Observations must be noted unless they are deemed not to be aberrant.

Owners/operators are required to provide oral notice to the Department at (406) 444-3080 within 24 hours and then follow-up with a written report within five days of becoming aware of an adverse incident at the following address:

Montana Department of Environmental Quality  
Water Protection Bureau  
P.O. Box 200901  
Helena, Montana 59620-0901

In summary, every owner/operator is required to perform the following activities in response to any suspected adverse incident:

- Provide 24-hour notification, including the date of the finding, a general discussion of the incident and a review of the necessity to conduct corrective action.
- Document the verbal notification information, including the date, time, and person you notified and a description of any deviations from notification requirements based on nuances of the adverse incident.
- Provide a written report of the adverse incident within 5 days of discovering the adverse incident. The adverse incident report must include the following information:
  - Date, time, and person(s) (including Department(s)) to whom you orally reported the adverse incident;
  - Responsible Party information;
  - Location of incident, including the names of any waters affected and appearance of those waters (sheen, color, clarity, etc.);
  - Date, time, and duration of incident;
  - Pesticide involved (Trade name, manufacturer, and EPA Registration#), pesticide application rate, and method of application;
  - A description of the incident including types of plants and animals affected, and approximate quantity and size of dead or distressed organisms, as can be reasonably ascertained with a visual inspection;
  - Magnitude of the effect (e.g., estimate of the aquatic square area affected); and
  - Actions to be taken to prevent recurrence of the incident.

F. Mixing Zone

No mixing zone will be allowed because the water quality standards for pesticides apply throughout the receiving stream [ARM 17.30.507(b)].

G. Obligation to Obtain Other Permits

Authorization under the PGP does not waive obligations to obtain other permits that may be required (e.g., Department of Environmental Quality Storm Water authorization or the Montana Natural Streambed and Land Preservation Act (310) permit). In addition, authorizations do not waive the responsibility to comply with the federal Endangered Species Act.

Any pesticide applicator must ensure pesticide use is in conformance with the requirements of the Montana Pesticides Act. That act authorizes the Montana Department of Agriculture (MDA) to adopt rules incorporating regulations adopted by EPA under FIFRA, which generally prescribe methods of registration, application, and the sale or use of pesticides.

Authorization under the PGP replaces the requirement for a 308 Authorization [75-5-308, MCA].

### III. STANDARD CONDITIONS

#### A. Reporting Requirements

All monitoring data shall be reported on the supplied annual report forms and sent to the Department (see address below), postmarked no later than the 28th day of January following the reporting year.

Montana Department of Environmental Quality  
Water Protection Bureau  
ICIS Coordinator  
P.O. Box 200901  
Helena, Montana 59620-0901  
Phone: (406) 444-3080

#### B. Monitoring and Recording of Results

For monitoring requirements of this permit the permittee shall record visual observations as required. Monitoring must be conducted according to test procedures approved under Part 136 Title 40 of the Code of Federal Regulations, unless other test procedures have been specified in this permit.

#### C. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit the results of such monitoring shall be included in the monitoring report. Such increased frequency shall be indicated.

#### D. Record Retention

All records and information resulting from the monitoring activities required by this permit shall be retained for a minimum of three (3) years, or longer if requested by the Department.

#### E. Noncompliance Notification

If for any reason, the permittee does not comply with or will be unable to comply with any effluent limitation specified in this permit, the permittee shall notify as soon as possible by phone and provide the Department with the following information, in writing, within five (5) days of becoming aware of such condition:

1. A description of the discharge and cause of noncompliance; and
2. The period of noncompliance including exact dates and times, or if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate and prevent recurrence of the non-complying discharge.

#### F. Inspection and Entry

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

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and,
4. Sample, or monitor at reasonable times for the purpose of assuring permit compliance, any substances or parameters at any location.

#### IV. COMPLIANCE RESPONSIBILITIES

A. Duty to Comply

The permittee 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 permittee shall give the Department advance notice of any planned changes at the permitted facility or of an activity, which may result in permit noncompliance.

B. Penalties for Violations of Permit Conditions

The Montana Water Quality Act provides that any person who violates a permit condition of the Act is subject to civil or criminal penalties not to exceed \$25,000 per day of such violation. Any person who willfully or negligently violates permit conditions of the Act is subject to a fine of not more than \$50,000 per day of violation, or by imprisonment for not more than 2 years, or both.

C. Need to Halt or Reduce Activity not a Defense

It shall not be a defense for a permittee 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. Duty to Mitigate

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

E. Toxic Pollutants

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

F. Changes in Discharge of Toxic Substances

Notification shall be provided to the Department as soon as the permittee knows of, or has reason to believe:

1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - a. One hundred micrograms per liter (100  $\mu\text{g/l}$ );
  - b. Two hundred micrograms per liter (200  $\mu\text{g/l}$ ) for acrolein and acrylonitrile; five hundred micrograms per liter (500  $\mu\text{g/l}$ ) for 2,4-

- dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
- c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or,
  - d. The level established by the Department in accordance with 40 CFR 122.44(f).
2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
- a. Five hundred micrograms per liter (500  $\mu\text{g/l}$ );
  - b. One milligram per liter (1 mg/l) for antimony;
  - c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or,
  - d. The level established by the Department in accordance with 40 CFR 122.44(f).

V. GENERAL REQUIREMENTS

A. Planned Changes

The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when the alteration or addition could significantly change the nature or increase the quantity of pollutant discharged. This notification applies to pollutants, which are not subject to effluent limitations in the permit.

B. Anticipated Noncompliance

The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity, which may result in noncompliance with permit requirements.

C. Permit Actions

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

D. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of the permit, the permittee must apply for and obtain a new permit.

E. Duty to Provide Information

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

F. Other Information

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

G. Signatory Requirements

All applications, reports or information submitted to the Department shall be signed and certified.

1. All permit applications shall be signed as follows:
  - a. For a corporation: by a responsible corporate officer;

- b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively;
  - c. For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.
2. All reports required by the permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is considered a duly authorized representative only if:
- a. The authorization is made in writing by a person described above and submitted to the Department, and,
  - b. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
3. Changes to authorization. If an authorization under Part V.G.2 of this permit is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part V.G.2 of this permit must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.
4. Certification. Any person signing a document under this section shall make the following certification:

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

#### H. Penalties for Falsification of Reports

The Montana Water Quality Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$25,000 per violation, or by imprisonment for not more than six months per violation, or by both.

I. Availability of Reports

Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by the Clean Water Act, permit applications, permits and effluent data shall not be considered confidential.

J. Oil and Hazardous Substance Liability

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

K. Property or Water Rights

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

L. Severability

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

M. Transfers

Permit coverage is not transferable to any person except after notice is given to the Department and a transfer fee is paid. Notice of transfer must be completed on the form provided by the Department and must be received by the Department at least 30 days prior to the anticipated date of transfer. The form must be signed by both the existing owner/operator and the new owner/operator following the signatory requirements of Part V.G of this General Permit.

N. Fees

The permittee is required to submit payment of an annual fee as set forth in ARM 17.30.201. If the permittee fails to pay the annual fee within 90 days after the due date for payment, the Department may:

1. Impose an additional fee assessment plus interest computed at the rate established under ARM 17.30.201, or
2. Suspend the processing of the application for a permit or authorization or, if the nonpayment involves an annual permit fee, suspend the permit, certificate, license or other authorization for which the fee is required. The Department may lift the suspension at any time up to one year after the suspension occurs if the holder has paid all outstanding fees, including all penalties, assessments and interest imposed under this subsection.

O. Reopener Provisions

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

1. Water Quality Standards: The water quality standards of the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
2. TMDL or Wasteload Allocation: TMDL requirements or a wasteload allocation is developed and approved by the Department and/or EPA for incorporation in this permit.
3. Water Quality Management Plan: A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this permit.
4. Toxic Pollutants: A toxic standard or prohibition is established under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit.

## VI. DEFINITIONS

1. "**A-Closed**" waterbodies are the 15 waterbodies identified in ARM 17.30.607, .608, and .610, with specific water quality standards under ARM 17.30.621.
2. "**Act**" means the Montana Water Quality Act, Title 75, Chapter 5, MCA.
3. "**Action Threshold**" means 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.
4. "**Administrator**" means the administrator of the United States Environmental Protection Agency.
5. "**Adverse Incident**" means an incident that you have observed upon inspection or of which you otherwise become aware, in which:

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

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

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

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

6. "**Best management practices (BMPs)**" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of state waters. BMP's also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage[ ARM 17.30.1304(9)].
7. "**Biological Pesticide**" (also called biopesticides) - include microbial pesticides, biochemical pesticides including methoprene and other insect growth regulators, 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 desiccant, 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]
8. **"Calibration of Equipment"** means measurement of dispersal or output of application equipment and adjustment of such equipment to control the rate of dispersal, and droplet or particle size of a pesticide dispersed by equipment [ARM 4.10.1501(15)].
  9. **"Chemical Pesticides"** means all pesticides not otherwise classified as biological pesticides.
  10. **"Control measures"** are actions (including processes, procedures, schedules of activities, prohibitions on practices and other management practices), to prevent or reduce water pollution. Use of the term control measure is intended to describe the range of pollutant reduction practices that may be employed, whether they are structural, non-structural or procedural and includes BMPs as one of the components.
  11. **"Department"** means the Montana Department of Environmental Quality (MDEQ).
  12. **"Director"** means the Director of the Department of Environmental Quality and/or a designee.
  13. **"Direct Chemical Pesticide Application"** means any chemical residue from the application of chemical pesticides directly to state surface waters in order to control pests. For chemical or conventional pesticides applied directly to waters, it is the pesticide residue, including excess pesticide that is present outside of the treatment area or within the treatment area once the target pests have been controlled that is considered a pollutant under this permit.
  14. **"Discharge of a pollutant"** and "discharge of pollutants" each means any addition of any pollutant or combination of pollutants to state waters from any point source. This definition includes additions of pollutants into water of the state from: surface runoff which is collected or channelled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person which do not lead to a treatment works. [ARM 17.30.1304(16)].
  15. **"Drift or Spray Drift"** means movement of a pesticide during or immediately after application or use through air to a site other than the intended site of application or use [ARM 4.10.1501(38)].
  16. **"EPA"** means the United States Environmental Protection Agency.
  17. **"Federal Clean Water Act"** means the federal legislation at 33 USC 1251, et seq.

18. **"Integrated Pest Management (IPM)"** – 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 [EPA PGP]. IPM as defined in FIFRA, is a sustainable approach to managing pests by combining biological, cultural, physical, and chemical tools in a way that minimizes economic, health, and environmental risks (FIFRA, 7 U.S.C. 136r-1). IPM is not a single pest control method but, rather, a series of pest management evaluations, decisions and controls.
19. **"Mixing Zone"** is defined in 75-5-103, MCA and also means a limited area of a surface water body or a portion of an aquifer, where initial dilution of a discharge takes place and where water quality changes may occur and where certain water quality standards may be exceeded.
20. **"Multi-county,"** means the general permit authorizing pesticide application within the boundaries of more than one county as identified by the applicant. The application is restricted to identifying twenty (20) contiguous counties under any one multi-county permit;
21. **"Owner/operator"** means a person who owns, leases, operates, controls, or supervises a point source [75-5-103, MCA and ARM 17.30.1304(38)]. This could include:
- Entity with control over the financing or decision to perform pesticide applications, or
  - Entity with day-to-day control (pesticide applicators).
22. **"Pest"** means any organism under circumstances that make it deleterious to man or the environment, if it is:
- (a) Any vertebrate animal other than man;
  - (b) Any invertebrate animal, including but not limited to, any insect, other arthropod, nematode, or mollusk such as a slug and snail, but excluding any internal parasite of living man or other living animals;
  - (c) Any plant growing where not wanted, including any moss, alga, liverwort, or other plant of any higher order, and any plant part such as a root; or
  - (d) Any fungus, bacterium, virus, or other microorganism, except for those on or in living man or other living animals and those on or in processed food or processed animal feed, beverages, drugs (as defined in FFDC A sec. 201(g)(1)) and cosmetics (as defined in FFDC A sec. 201(i)).
23. **"Pest Management Area"** means the area of land, including any water, for which you are conducting pest management activities covered by this permit.
24. **"Pesticide"** means:
- (a) a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest;
  - (b) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; and
  - (c) 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 United States 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 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 is 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 that does not ordinarily penetrate the blood barrier or otherwise enter normally sterile areas of the body.

The term "pesticide" applies to insecticides, herbicides, fungicides, rodenticides, and various other substances to control pests. The definition encompasses all uses of pesticides authorized under FIFRA.

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

25. **"Point source"** means any discernible, confined, or discrete conveyance ... from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff [75-5-103(28), MCA and ARM 17.30.1304(41)].
26. **"Pollutant"** means ...chemical wastes, biological materials, ... and industrial, municipal, and agricultural wastes discharged into water [ARM 17.30.1304(42)].
27. **"Receiving stream"** means the river, stream, or creek, which receives the wastewater discharge from the construction activity.
28. **"Regional Administrator"** means the administrator of Region VIII of EPA, which has jurisdiction over federal water pollution control activities in the state of Montana.
29. **"Research and Development"** means 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).
30. **"Single-county,"** means the general permit authorizing pesticide application within the boundaries of one county.
31. **"State waters"** means a body of water, irrigation system, or drainage system, either surface or underground [75-5-103(33), MCA]. The term does not apply to:
  - (i) ponds or lagoons used solely for treating, transporting, or impounding pollutants; or
  - (ii) irrigation waters or land application disposal waters when the waters are used up within the irrigation or land application disposal system and the waters are not returned to state waters.
32. **"Surface waters"** means any waters on the earth's surface including, but not limited to, streams, lakes, ponds, and reservoirs; and irrigation and drainage systems discharging directly into a

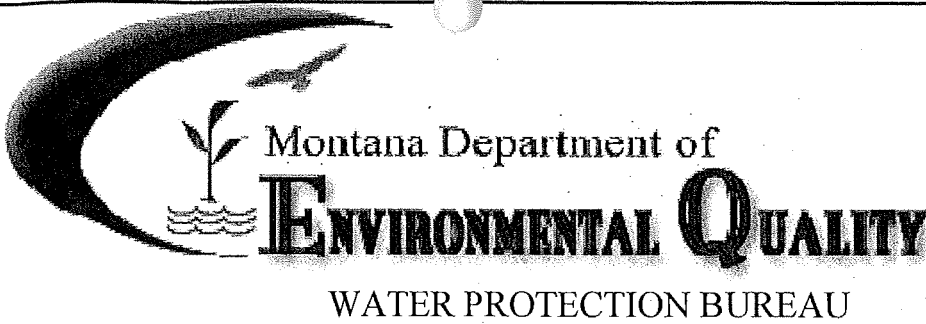
stream, lake, pond, reservoir, or other surface water. Waterbodies used solely for treating, transporting, or impounding pollutants shall not be considered surface water [ARM 17.30.602(33) and 17.30.702(23)].

33. **"TMDL"** means the total maximum daily load limitation of a parameter, representing the estimated assimilative capacity for a water body before other designated uses are adversely affected. Mathematically, it is the sum of wasteload allocations for point sources, load allocations for non-point and natural background sources, and a margin of safety.
34. **"Treatment Area"** means the area of any waters to which pesticides are being applied. Multiple treatment areas may be located within a single "pest management area."

The "treatment area" includes the entire area, over 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.

35. **"Unavoidable Discharge of Chemical Pesticides"** means the application of chemical pesticides to control pests that are present on or over surface water, including near such waters, where a portion of the pesticides will unavoidably be deposited into waters of the state. For any pesticide applied over water (e.g., adulticide mosquito control or aerial application of insecticides to a forest canopy where surface water may be present below the canopy), any pesticide or pesticide residue that is incidentally deposited in state surface waters is considered a pollutant since the intended purpose of the application is to target pests above the water but it was unavoidable that some of the application missed the pests and ended up in the water. However, the PGP does not include "spray drift" – the airborne movement of pesticide sprays away from the target application site into a water of the state – or application of pesticides to terrestrial agriculture crops where storm water may pick up residual. As non-point sources, spray drift and stormwater runoff are not covered by the PGP.
36. **"Visual monitoring"** means an examination of the area of treatment to ensure treatment was successful and to ascertain whether an adverse impact occurred.

*Appendix A: Notice of Intent*



Agency Use

NOI No.:

Date Rec'd

Amount Rec'd

Check No.

Rec'd By

FORM  
NOI

**Notice of Intent (NOI)  
Pesticide Application  
MTG870000**

The NOI form is to be completed by the owner or operator of pesticide activity to or over water that is eligible for coverage under the Montana Department of Environmental Quality's *Pesticide General Permit (PGP)*. **Please read the attached instructions before completing this form. Also see the instructions for the thresholds for completing the NOI-Tier II Supplement.** You must print or type legibly; forms that are not legible, not complete, or unsigned will be returned. You must maintain a copy of the completed NOI form for your records.

**Section A - NOI Status and Application Fee** (*Application fee must be included to be considered complete*)

**NEW PROJECT** - No prior NOI submitted. (*New Project Fee includes first annual fee.*)

**Less Than Threshold**

**Greater than Threshold**

NEW - Single-county: \$50.00

NEW - Single-county: \$500.00

NEW - Multi-counties: \$100.00

NEW - Multi-counties: \$1,200.00

**EXISTING**, NOI Number: M T G 8 7 \_ \_ \_ \_ \_

**Less Than Threshold**

**Greater than Threshold**

RENEWAL - Single-county: \$25.00

RENEWAL - Single-county: \$250.00

RENEWAL - Multi-counties: \$50.00

RENEWAL - Multi-counties: \$600.00

Resubmitted -\$500.00

Modification \$500.00

**Section B - Site (Pesticide Activity) Information** (*See instruction sheet*):

Site (Pesticide Activity) Name \_\_\_\_\_

Site Location (*T/R/S if no address*): \_\_\_\_\_

(*Centroid*): Latitude \_\_\_\_\_ Longitude \_\_\_\_\_

Nearest City or Town \_\_\_\_\_ Zip Code \_\_\_\_\_ County \_\_\_\_\_

Is any part of the site located on or within the boundaries of Indian Lands?  Yes  No

*\*NOTE: USEPA holds permitting authority for Indian lands in Montana. If all of this site is within the boundaries of an Indian Reservation, no NOI is required for the State of Montana and permitting must be pursued with the EPA, only.*

**Check one, below:**

NOI coverage under the PGP for pesticide application within a single county as described above.

NOI coverage for multiple counties (*Complete Section D for all additional counties*).

**Section C - Applicant (Owner/Operator) Information**

Agency Use

NOI No.:

Owner/Operator Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

City, State, and Zip Code \_\_\_\_\_

Applicant contact person (name, title) \_\_\_\_\_

Phone Number (\_\_\_\_\_) \_\_\_\_\_ E-mail (optional) \_\_\_\_\_

Applicant is: (Check all that apply - see definitions)  Owner  Operator

Status of Applicant (Check one)  Federal  State  Public  Private  Other (specify) \_\_\_\_\_

**Standard Industrial Classification (SIC) Codes**

(Provide the SIC code(s) which best reflects the industry activity for the owner/operator):

SIC Code	Description	SIC Code	Description
1		2	

**Section D - Additional Pesticide Activity Location Information** (only for applicants with multiple counties. Complete a line for each county requested)

	Location Name	Location - Closest City, Zip code	County	Application Area Latitude/Longitude (Centroid)
1	--- See Section B ---			
<i>Note: Only applicants requesting multiple counties complete the following, add additional pages as necessary:</i>				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				

Is any part of the site located on or within the boundaries of Indian Lands?  Yes  No

If yes list which counties: \_\_\_\_\_

**\*NOTE:** USEPA holds permitting authority for Indian lands in Montana. If all of this site is within the boundaries of an Indian Reservation, no NOI is required for the State of Montana and permitting must be pursued with the EPA, only.

**Notice of Intent (NOI) Tier II Supplement  
NOI Pesticide Application Supplement for Greater than Threshold  
MTG870000**

**Section E - Pesticide Activity Location Information # \_\_\_ of \_\_\_**

Agency Use

NOI No.:

*If you are a Tier II facility, please complete a separate Section E for each county covered under this NOI that you may discharge pesticides into surface waters of the state. Otherwise proceed to Section F.*

**County Name** \_\_\_\_\_

**Pesticide Use Patterns for this establishment** (complete information for all that apply):

Use Pattern	Estimated Annual Treatment Area (Acres)
<input type="checkbox"/> 1. Piscicide or Other Nuisance Animals	
<input type="checkbox"/> 2. Weeds and Algae	
<input type="checkbox"/> 3. Aerial Pest Control (ie., Forest Canopy)	
4. Mosquitoes and Other Flying Insects	
<input type="checkbox"/> 4a. Chemical Larval Control	
<input type="checkbox"/> 4b. Chemical Adulticide	
<input type="checkbox"/> 4c. Biological Control	
<input type="checkbox"/> 5. R&D – Describe:	
<input type="checkbox"/> 6. Other – Describe:	

*Attach a map (or maps) that delineate the potential area(s) of pesticide treatment.*

**Map of Extent of Each Activity Included?**  Yes, topographic map  Yes, satellite map  Yes, other: \_\_\_\_\_

**Receiving Surface Water(s):**

Within the location(s) identified above, identify which receiving surface waters you are requesting coverage for.

Coverage is requested for all waters within this county.

Coverage is requested only for the waters identified below.

Receiving Surface Water Name	Pesticide Use Pattern

Coverage is requested for all waters in the specified area EXCEPT for:

**Section F - CERTIFICATION FOR ALL OWNER/OPERATORS**

**Applicant Information:** This form must be completed, signed, and certified as follows:

- For a corporation, by a principal officer of at least the level of vice president;
- For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or
- For a municipality, state, federal, or other public facility, by either a principal executive officer or ranking elected official.

**All Applicants Must Complete the Following Certification:**

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information; including the possibility of fine and imprisonment for knowing violations. [75-5-633, MCA]

**A. Name (Type or Print)**

**B. Title (Type or Print)**

**C. Phone No.**

**D. Signature**

**E. Date Signed**

**Section E - Tier II Pesticide Activity Location Information**

Agency Use

**ADDITIONAL PAGE**

#      of     

NOI No.:

Please complete a separate Section E for each county covered under this NOI that you may discharge pesticides into surface waters of the state.

County Name \_\_\_\_\_

**Pesticide Use Patterns for this establishment (complete information for all that apply):**

Use Pattern	Estimated Annual Treatment Area (Acres)
<input type="checkbox"/> 1. Piscicide or Other Nuisance Animals	
<input type="checkbox"/> 2. Weeds and Algae	
<input type="checkbox"/> 3. Aerial Pest Control (ie., Forest Canopy)	
4. Mosquitoes and Other Flying Insects	
<input type="checkbox"/> 4a. Chemical Larval Control	
<input type="checkbox"/> 4b. Chemical Adulticide	
<input type="checkbox"/> 4c. Biological Control	
<input type="checkbox"/> 5. R&D – Describe:	
<input type="checkbox"/> 6. Other – Describe:	

Attach a map (or maps) that delineate the potential area(s) of pesticide treatment.

Map of Extent of Each Activity Included?  Yes, topographic map  Yes, satellite map

Yes, other: \_\_\_\_\_

**Receiving Surface Water(s):**

Within the location(s) identified above, identify which receiving surface waters you are requesting coverage for.

Coverage is requested for all waters within this county.

Coverage is requested only for the waters identified below.

Receiving Surface Water Name	Pesticide Use Pattern(s)

Coverage is requested for all waters in the specified area EXCEPT for:

## INSTRUCTIONS FOR

### Form NOI – Notice of Intent for Pesticide Application (MTG870000)

**IMPORTANT:**

As per the federal Sixth Circuit Court of Appeals decision of January 2009, the application of pesticides in or over surface water is a discharge of a pollutant from a point source which requires a surface water discharge permit. The Department of Environmental Quality permits discharges to state surface water under the Montana Pollutant Discharge Elimination System (MPDES) program.

ARM 17.30.1304(16) "*Discharge of a pollutant*" means any addition of any pollutant or combination of pollutants to state waters from any point source. This term does not include an addition of pollutants by any "indirect discharger," such as stormwater runoff or spray drift.

ARM 17.30.1304(41) "*Point source*" means any discernible, confined, or discrete conveyance ... from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

ARM 17.30.602(33) and ARM 17.30.702 (23) "*Surface waters*" are any water on the earth's surface including, but not limited to, streams, lakes, ponds, and reservoirs and irrigation drainage systems discharging directly into a stream, lake, pond, reservoir, or other water on the earth's surface. Water bodies used solely for treating, transporting, or impounding pollutants, such as wastewater treatment lagoons, are not considered surface water.

The Pesticide General Permit (PGP) is available to any owner or operator who discharges to state surface waters through the application of (1) biological pesticides or (2) chemical pesticides that leave a residue (collectively "pesticides") in state surface waters when the application is for one of the following pesticide use patterns provided below. The requirements of the PGP are separated into two categories:

- Tier I - Requirements for all owner/operators.
- Tier II – Additional requirements for owners/operators that apply pesticides to an area greater than the treatment area annual threshold identified below.

#	Pesticide Use Pattern	Treatment Area Annual Threshold <sup>1,2</sup>
1	Piscicides and Other Nuisance Animals (i.e. zebra mussels)	10 acres
2	Weeds and Algae	100 acres
3	Aerial Pest Control (i.e. Forest Canopy)	1000 acres
4.	<i>Mosquito and Other Flying Insect Pests</i>	
4a.	Larvae chemical control	100 acres
4b.	Chemical adulticide	1000 acres
4c.	Biological control	6,400 acres
5.	Research & Development	10 acres
6	Other not classified	1000 acres
<p>1. Calculations should include the area of the applications made to: (1) state surface waters <i>that contain water at the time of pesticide application</i> and (2) conveyances with a hydrologic surface connection to state surface water <i>at the time of pesticide application</i>. 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.</p> <p>2. Any pesticide discharge into waterbodies classified A-closed has a threshold of &gt; 0 acres and is therefore subject to Tier II requirements.</p>		

Calculations for determining annual pesticide application area should include all applications made to state surface waters. 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.

The Pesticide Notice of Intent Form (NOI form) is to be completed by the owner/operator of a pesticide activity to or over surface water that is eligible for coverage under the Department's *Pesticide General Permit (PGP)* as described above. The PGP and the owners/operators authorized under the PGP are on a five-year cycle for renewal, and the information must be adequate to include application areas for the life of the authorization –otherwise, a modification or additional NOI form will be required. PGP documents and related forms are available on the MDEQ website at: <http://www.deq.mt.gov> or from the Department at (406) 444-3080.

You must provide all of the information requested in the NOI form to be complete, including submittal of specified fees and completed certification by the appropriate signatory. Please type or print legibly; applications that are not legible or are not complete will be returned. Responses must be self-explanatory and must not refer exclusively to attached maps, plans, or documents. You must maintain a copy of the PGP and completed NOI Form for your records. Mail the completed NOI Form and fee to:

Montana Department of Environmental Quality  
Water Protection Bureau  
PO Box 200901  
Helena, MT 59620-0901

\*\*\*\*\*

### SPECIFIC ITEM INSTRUCTIONS

#### Section A – NOI Status and Application Fee

##### New Project

If this NOI is the first submitted for this project, it is considered a “new project”. Check the appropriate box, which is based on two independent decisions as follows:

1. First, decide if your pesticide water coverage area annual amount will be “Less than Threshold” (Tier I) or “Greater than Threshold” (Tier II) as shown in the above table; and
2. Then decide if you want coverage within the boundaries of a single county, or under multiple counties (up to 20 contiguous counties).

Since the permit coverage will be for a five year period (unless modified or terminated), you should ensure that the areas identified in the NOI are as broad as possible. The Department will assign a permit number when the NOI is submitted. The permit number is a 9-digit code beginning with ‘MTG87.’

##### Existing Project

Include the permit number that the Department assigned on any correspondence with the Department regarding this site. Indicate which of the permitting actions you are now requesting:

- If the Department has renewed the *Pesticide General Permit* (renewable on a 5-year basis), any owner/operator that wishes to continue coverage under this general permit must submit a NOI for renewal. Check whether it is (a) less than the threshold or greater than the threshold, and (b) for a single county or multiple counties.
- If the Department returned your NOI to you as deficient or incomplete, check Resubmitted.
- If there is a change in the facility or site information, check Modification.

Do not use this form to transfer permit coverage to a new owner or operator -- you must use Form PTN.

**Section B – Site (Pesticide Activity) Information:**

A site is the general area of pesticide application to water, within the confines of a single county. Identify the name of the site or what the pesticide activity project will be called (examples: the name of the county; the irrigation district; the watershed; or a water treatment plant's supply water). If the owner/operator wishes to obtain coverage for multiple counties, pick one county as the primary site under Section B and complete information about each additional site locations (i.e., counties) in Section D.

If the area to be treated is consistent year to year (for example, only in one specific lake) then the boundaries of the pesticide application can be the extent of coverage and the center location is for that body of water. If the area to be treated may vary (for example invasive species control), the center of the county should be identified as the site location.

The site location may be a physical mailing address, a description of how the site may be accessed, or the Township/Range/Section (T/R/S) of the center of the pesticide application area (PO boxes are not acceptable). Locational Sources include GPS, a USGS topographic map, and/or "Topofinder" from <http://nris.mt.gov/interactive.html>.

**Section C – Applicant (Owner/Operator) Information:**

Give the name, as it is legally referred to, of the person, business, public organization, or other entity that owns, operates, controls or supervises the site(s) described in Section B and Section D of this NOI form. **The permit will be issued to the entity identified in this section (Section C).** The owner or operator assumes all liability for discharges from the site and compliance with the terms and conditions of the General Permit. If the owner or operator is other than a person or government entity, it must be registered with the Montana Secretary of State's office.

Complete the contact information as requested. Give the name, title, work phone number, and email address (optional) of a person who is thoroughly familiar with the operation of the facility or site activity or project and with the facts reported in this form, and who can be contacted by the Department for additional information. Those facilities with periodic changes in the contact person may provide only the Title for the contact person position instead of a person's name.

List the primary and secondary four-digit Standard Industrial Classification (SIC) Code(s) that best describe the business of the owner/operator. Also, provide a brief description in the space provided. At least one SIC code must be provided. See attached table for common SIC codes. A complete list of SIC Codes (and conversions from the newer North American Industry Classification System (NAICS)) can be obtained from the Internet at <http://www.census.gov/epcd/www/naics.html>, in paper form from the document entitled "Standard Industrial Classification Manual", Office Management and Budget, 1987, or at <http://www.osha.gov/pls/imis/sicsearch.html>.

**Section D– Additional Pesticide Activity Location Information (only for applicants with pesticide activity within multiple counties)**

Section D must be completed by any owner/operator who is requesting authorization under the PGP for pesticide activity within more than one county. The multiple counties must all be contiguous (either located within a general area or a linear project). Indicate if any pesticide activity in this district will occur within the boundaries of an Indian Reservation (please note that the USEPA regulates these wastewater discharges).

## NOI TIER II Supplemental Information

### Section E - Pesticide Activity Location Information

Every Tier II owner/operator must complete a Section E for every county that needs authorization under the PGP. An identification number corresponding to the site locations listed in Section D should be assigned for each Section E. For example, if there were nine counties requested, the 3<sup>rd</sup> location listed in Section D should be identified as “#3 of 9” at the top of this form (in shading).

Identify the name of the county.

#### Pesticide Use Patterns for this Establishment:

Check the box for each use pattern that may apply to your operations within that county, and provide an estimate of the annual water treatment area (in acres) for each. **Note that the projection is an estimate of annual treatment area each year for the five-year permit cycle.** Also, please note that you need to count each pesticide application activity as a separate activity for the calculation. (For example, applying pesticides twice a year to a ten-acre site would be counted as twenty acres of treatment area.) Indicate the location of the pesticide application for each Pattern Use. You may use the center (centroid) location for that pesticide use pattern, or provide a beginning and end point.

A map (or maps) delineating the potential area(s) of pesticide discharge into water over the next five years is required. If work may occur within the entire county for one pattern use, outline the county. If the pesticide activity may occur only in discrete locations, outline those locations.

#### Receiving Surface Water:

**Every potential receiving surface water body for the next five years must be identified, as requested.** The owner/operator can request all waters within the county, all waters within the county except certain waters, or identify specific water bodies. **Please be aware that discharge to a waterbody that is not identified in the NOI is prohibited, and would require the owner/operator to submit a modification or a new NOI.**

### Section F - Certification

**For all owner/operators (both Tier I and Tier II).** The NOI form certification must be completed by a signatory for the owner/operator who is responsible for the authorization as identified under Section C. The requirement for a signatory is described in ARM 17.30.1323.

## Common Standard Industrial Classification (SIC) Codes for Pesticide Applicators

Category	SIC	NAICS	Examples
Agricultural parties – general agricultural interests, farmers/producers, forestry, and irrigation	01 - 08	111 Crop Production	Producers of crops mainly for food and fiber
	0811	113110 – Timber Tract Operations	The operation of timber tracks for the purposes of selling standing timber
	0831	113210 – Forest Nurseries Gathering of Forest Product	Growing trees for reforestation and/or gathering forest products
Public Health Parties (includes mosquito or other vector control districts and commercial applicators that service these)	4971	221310 – Water Supply for Irrigation	Operating irrigation systems
	9431	923120 – Administration of Public Health Programs	Government establishments
Resource Management Parties (includes state departments of fish and wildlife, pesticide regulation, environmental agencies, and universities)	9511	924110 – Administration of Air and Water Resource and Solid Waste Management Programs	Government establishments
Public Health Parties	9431	923120 – Administration of Public Health Programs	Government Establishments
	9512	924120 – Administration of Conservation Programs	Government Establishments
Utility Parties	41 - 49	221 – Utilities	Provide electric power, natural gas, steam supply, water supply, and sewage removal through a permanent infrastructure of lines, mains, and pipes.