

THE STATE



OF WYOMING



Dave Freudenthal  
GOVERNOR

# Department of Environmental Quality

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**AUTHORIZATION TO DISCHARGE STORM WATER  
ASSOCIATED WITH  
SMALL CONSTRUCTION ACTIVITY  
UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)**

In compliance with the provisions of the Federal Water Pollution Control Act and the Wyoming Environmental Quality Act, facilities located within the State of Wyoming, except areas within the Wind River Indian Reservation where the state does not have jurisdiction, which are or may discharge storm water associated with small construction activities, are hereby authorized to discharge to surface waters of the State of Wyoming in accordance with the requirements of this permit.


This general NPDES permit WYR10-A000 is issued under the provisions of Wyoming Water Quality Rules and Regulations Chapters 2 and 18.

This permit shall become effective on the date it is signed by the Director of the Department of Environmental Quality.

This permit shall expire on February 29, 2008

  
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John F. Wagner  
Administrator of the Water Quality Division

Dec. 17, 2003  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
John V. Corra  
Director - Department of Environmental Quality

12/18/03  
\_\_\_\_\_  
Date



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## Part 1. Coverage under this Permit

### 1.1 Permit area

This permit covers all areas within the State of Wyoming except areas within the Wind River Indian Reservation where the State does not have jurisdiction.

### 1.2 Storm water discharges covered under this permit

1.2.1 This permit authorizes discharges, composed entirely of storm water, associated with new and existing “small construction activities.” To obtain coverage under this permit an operator must complete the requirements described in Part 4 of this permit.

1.2.2 This permit also authorizes storm water discharges from areas that are dedicated to producing earthen materials, such as soils, sand, and gravel, for use at a single small construction activity that is covered under this permit.

1.2.3 This permit also authorizes storm water discharges from asphalt batch plants and concrete batch plants that are dedicated to a single small construction activity that is covered under this permit.

1.2.3 This permit does not preempt or supersede the authority of local agencies to prohibit, restrict, or control discharges of storm water to storm drain systems or other water courses in their jurisdiction.

### 1.3 Storm water discharges not covered under this permit

The following storm water discharges are not provided coverage under this permit:

1.3.1 Storm water discharges from large construction activities and construction activities with individual NPDES permits that include storm water control requirements;

1.3.2 Storm water discharges from small construction activities covered under another industry or geographically specific general NPDES permit;

1.3.3 Storm water discharges that are commingled with wastewaters.

## Part 2. Definitions

2.1 “**Access Roads**” means private roads which are exclusively or primarily dedicated for use by the permittee.

2.2 “**Administrator**” means the administrator of the Water Quality Division, Wyoming Department of Environmental Quality.

- 2.3 **"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. Best Management Practices (BMPs) 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.
- 2.4 **"Bypass"** means the intentional diversion of waste streams from any portion of a treatment facility.
- 2.5 **"CWA"** means Clean Water Act or the Federal Water Pollution Control Act, 33 USC 1251, *et. seq.*
- 2.6 **"Department"** means the Department of Environmental Quality.
- 2.7 **"Finally Stabilized"** means that all soil disturbing activities at the site have been completed, and a uniform perennial vegetative cover with a density of 70% of the native background vegetative cover for the area has been established on all disturbed unpaved areas and areas not covered by permanent structures.
- 2.8 **"Operator"** is the company, individual, or organization that has day-to-day supervision and control of activities occurring at the construction site. This can be the owner, developer, the general contractor, or, in some cases, the agent of one of these parties. The operator is responsible for ensuring compliance with all conditions of the permit.
- 2.9 **"Severe Property Damage"** means substantial physical damage to property, damage to treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- 2.10 **"Spill Prevention Control and Countermeasure Plan (SPCC)"** is a federal requirement (40CFR112) for facilities that store specific amounts of petroleum products. The plan is not a state requirement, but can be referenced as part of the SWPPP when appropriate.
- 2.11 **"Storm Water"** means storm water runoff, snow melt runoff, and surface runoff and drainage.
- 2.12 **"Storm Water Discharge Associated with Large Construction Activity"** means the discharge of storm water from construction activities, including clearing, grading, and excavating, that result in land disturbance of five or more (not necessarily contiguous) acres of total land area. Large construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more.

- 2.13 **"Storm Water Discharge Associated with Small Construction Activity"** means the discharge of storm water from construction activities, including clearing, grading, and excavating, that result in land disturbance of equal to or greater than one acre and less than five (not necessarily contiguous) acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale, if the larger common plan will ultimately disturb equal to or greater than one and less than five acres.

*Note: Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.*

- 2.14 **"Surface Waters of the State"** means all permanent and intermittent defined drainages and lakes, reservoirs, and wetlands which are not manmade retention ponds used for the treatment of municipal, agricultural or industrial waste; and all other bodies of surface water, either public or private which are wholly or partially within the boundaries of the State.
- 2.15 **"SWPPP"** means Storm Water Pollution Prevention Plan.
- 2.16 **"Wyoming Surface Water Quality Standards"** refers to Wyoming Water Quality Rules and Regulations, Chapter 1 (surface water standards).

### **Part 3. Deadlines for Obtaining Authorization to Discharge**

#### 3.1 New construction

Discharges from sites where the commencement of construction occurs on or after March 10, 2003 must be authorized under this general permit or a separate Wyoming NPDES permit prior to beginning construction activities.

#### 3.2 Ongoing construction

Discharges from ongoing small construction projects that began prior to March 10, 2003, and that do not meet the condition of final stabilization as described in Part 2.7, must be authorized under this general permit or a separate Wyoming NPDES permit by March 10, 2003.

### **Part 4. Obtaining Authorization to Discharge**

Authorization to discharge storm water under this permit is achieved by completing the requirements of Part 4.1 or 4.2.

- 4.1 Permit authorization. Storm water discharges from small construction activities are authorized under this permit provided the operator:

- 4.1.1 Develops a SWPPP describing the measures to be implemented at the construction site that will eliminate or minimize pollutants from the project. The SWPPP requirements are explained in detail in Part 8 of this permit. The SWPPP must be developed and implemented, as applicable, prior to initiating land disturbing activities.
- 4.1.2 Conducts and documents self monitoring and inspections as described in Part 9.
- 4.1.3 The operator fulfills all applicable requirements of this permit.

## 4.2 Qualifying local programs

- 4.2.1 If a small construction activity is within the jurisdiction of a qualifying local program (QLP), as described in Parts 4.2.2 and 4.2.3, and is in compliance with the requirements of that program, then storm water discharges from that activity are also considered to be in compliance with this permit.
- 4.2.2 A Qualifying Local Program (QLP) is a municipal erosion and sediment control program addressing storm water discharges associated with small construction activities that has been approved by the Department. The Department will maintain a list of approved QLPs in Wyoming.
- 4.2.3 A QLP must:
  - 4.2.3.1 Require construction site operators to implement appropriate erosion and sediment control best management practices;
  - 4.2.3.2 Require construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;
  - 4.2.3.3 Require construction site operators to develop and implement a storm water pollution prevention plan (SWPPP). Those Best Management Practices (BMPs) or other control measures specified in the SWPPP shall ensure that the storm water discharges do not cause a violation of Wyoming Water Quality Standards. (A storm water pollution prevention plan, SWPPP, includes site descriptions, descriptions of appropriate control measures, copies of approved local requirements, maintenance procedures, inspection procedures, and identification of non-storm water discharges).; and
  - 4.2.3.4 Implement a procedure to review site plans that incorporates consideration of potential water quality impacts.



- 4.3 Additional local requirements. There may be additional, local requirements for storm water discharges. Check with local agencies to determine their requirements.

## **Part 5. Waiver from Permit Coverage**

The administrator waives the requirement to obtain authorization under this permit for storm water discharges associated with small construction activities provided the terms and conditions of this section are met.

### **5.1 Waiver applicability and coverage**

Operators of small construction activities qualify for a waiver from the requirements of this permit provided:

- 5.1.1 Calculation. The calculated rainfall erosivity “R factor” for the entire period of the construction project, from the initial land disturbance to “final stabilization,” is less than five. The project “R factor” must be determined by:

- 5.1.1.1 Using the simplified method for determining the “R Factor” as provided in Appendix A in this permit. Appendix A was developed using the most conservative assumptions for each county. Or
- 5.1.1.2 Alternatively, the project operator may calculate a site specific “R factor” using the U.S. Environmental Protection Agency guidance document, Fact Sheet 3.1: Storm Water Phase II Final Rule; Construction Rainfall Erosivity Waiver (document EPA 833-F-00-014). A link to this document will be provided on the Department’s web page at <http://deq.state.wy.us>. Paper copies may be obtained by contacting the Storm Water Coordinator at 307-777-7781.

This may be a useful option for longer duration projects located in areas of a county that have lower isoerodent values than the conservative values used to develop Appendix A.

### **5.1.2 Certification of waiver**

- 5.1.2.1 Operators using the simplified method of Appendix A must complete the waiver certification section of Appendix A. The certification must be signed in accordance with section 11.7 and it must be submitted to the administrator 5 days prior to commencing land disturbing activities.
- 5.1.2.2 Operators using the alternative calculation specified in Part 5.1.1.2 must complete the waiver certification found in Appendix

B. The certification must be signed in accordance with section 11.7 and it must be submitted to the administrator 5 days prior to commencing land disturbing activities.

- 5.1.3 This waiver is available on a project-wide basis only. It is not available for individual filings, phases, or other portions of a larger common plan of development or sale.
- 5.1.4 This waiver applies only to the requirements of this permit. It does not supersede or preempt the authority of other agencies to prohibit, restrict, or control discharges of storm water to storm drain systems or other water courses in their jurisdiction.
- 5.1.5 Non-construction activities. This waiver only applies to discharges of storm water from small construction activities. Storm water discharges from other industrial activities, including but not limited to, concrete and asphalt batch plants and sand and gravel mining, must be authorized under another NPDES storm water permit.
- 5.1.6 Non-storm water discharges (examples include, but are not limited to, construction site dewatering, wash waters, and hydrostatic test waters) cannot be authorized under this permit and are not waived from the requirement for authorization by this section. Non-storm water discharges must be covered under a different NPDES discharge permit.

## 5.2 Activities extending beyond the waiver period

If a construction activity extends beyond the certified waiver period for any reason, the operator must either:

- 5.2.1 Recalculate the rainfall erosivity R factor using the original start date and a new projected ending date and, if the R factor is still under 5, complete and sign a new waiver certification before the end of the original waiver period. The new certification must be submitted to the administrator five days before the end of the current certification.
- 5.2.2 Complete and implement the requirements for obtaining authorization under this permit as specified in Part 4 before the end of the certified waiver period.

## Part 6. Change of Operator

- 6.1 Document availability. When responsibility for storm water discharges for a small construction activity changes from one operator to another, the current permittee shall provide the new permittee with copies of all documents relevant to the implementation of the site SWPPP and compliance with this permit.

6.2 SWPPP compliance after transfer. The new operator must comply with all conditions in this permit and with all provisions of the existing SWPPP until such time as the existing SWPPP is amended or replaced by a new SWPPP. If the personnel responsible for implementing the SWPPP change, the changes must be made to the SWPPP within 30 days of transfer of operational control.

## **Part 7. Term of Authorization to Discharge**

The terms and conditions of this permit must be implemented until all the land surface disturbed within the covered project has been “finally stabilized” as defined in Part 2.7 of this permit. At that time, coverage under this permit will be considered terminated.

## **Part 8. Storm Water Pollution Prevention Plan**

### **8.1 Preparation**

Prior to initiation of land disturbing activities, an operator who seeks to obtain authorization under this permit shall prepare a "Storm Water Pollution Prevention Plan" (SWPPP) for the construction activity. The primary objective of the plan is to identify Best Management Practices (BMPs) which, when implemented, will minimize pollutants in storm water discharges from the construction site and meet the terms and conditions of this permit. Facilities must implement the provisions of their SWPPP as a condition of this permit.

Those Best Management Practices (BMPs) or other control measures specified in the SWPPP shall ensure that the storm water discharges do not cause a violation of Wyoming Water Quality Standards.

### **8.2 Content**

Each item in Part 8.2 must be addressed in the facility SWPPP. If a section is not applicable, a brief explanation of why it is not applicable must be included. At a minimum, the SWPPP shall include the following information:

#### **8.2.1 Site description**

- 8.2.1.1 A description of the nature of the construction activity.
- 8.2.1.2 The proposed sequence of major activities and a planned completion date.
- 8.2.1.3 An estimate of the total area of the site and an estimate of the area expected to undergo clearing, excavation or grading, including off-site borrow areas, access roads, and staging/storage areas.
- 8.2.1.4 A description of the existing vegetation at the site and an estimate of the percent of vegetative ground cover.

- 8.2.1.5 The location and description of any other potential pollution sources including, but not limited to vehicle fueling, storage of fertilizers, chemicals, or paint.
- 8.2.1.6 The name of the drainage or water body (surface water(s) of the state) that may receive a storm water discharge from the construction activity and the size, type, and location of any outfall. If the discharge is to a municipal separate storm sewer, indicate the name of the municipal owner of that system, the location of the storm sewer outfall, and the drainage or water body that will receive storm water discharges from the municipal outfall.

## 8.2.2 Site map

Each plan shall provide a site map or maps that indicate, at a minimum:

- 8.2.2.1 Construction site boundaries.
- 8.2.2.2 All areas of soil disturbance.
- 8.2.2.3 The location of surface waters of the state as defined in Part 2.14. of this permit and in Chapter 1 of the Wyoming Water Quality Rules and Regulations. These include springs, streams, wetlands, lakes and any defined drainages that could receive storm water discharge from the construction site (i.e.: surface waters of the state as defined in Chapter 1 of the Wyoming Water Quality Rules and Regulations).
- 8.2.2.4 Areas used for storage of building materials, soils, wastes, and areas used for concrete wash out.
- 8.2.2.5 Locations of proposed or existing storm water controls.
- 8.2.2.6 Site topography or storm water drainage patterns.

## 8.2.3 Best management practices (BMPs)

The plan shall include a narrative description of appropriate controls and measures that will be implemented before, during, and after construction.

The plan shall clearly describe the relationship between the phases of construction and the implementation and maintenance of controls and measures. For example, which controls will be implemented during each of the following stages of construction: clearing and grubbing necessary for perimeter controls, initiation of perimeter controls, remaining clearing and grubbing, road grading, storm drain installation, final grading, stabilization, and removal of control measures.

The description of controls shall address the following minimum components:

8.2.3.1 Erosion and sediment controls

8.2.3.1.1 Non-structural practices

A description of non-structural practices designed to preserve existing vegetation where practicable and revegetate cleared areas as soon as practicable after construction activity ceases. Non-structural practices may include temporary and permanent seeding, sod stabilization, mulching, vegetative filter or buffer strips, grassed waterways, erosion blankets, geotextiles, tree or shrub planting, and preservation of existing vegetation.

8.2.3.1.2 Structural practices

A description of structural site management practices which will minimize erosion and sediment transport. Structural practices may include straw bales, silt fences, earth dikes, drainage swales, sediment traps, subsurface drains, pipe slope drains, inlet protection, outlet protection, gabions, and temporary or permanent sediment basins.

8.2.3.2 Other controls

8.2.3.2.1 A description of methods to reduce sediment tracking onto public or private roads.

8.2.3.2.2 A description of methods for recovering sediments transported off the construction site.

8.2.3.2.3 A description of spill prevention and response procedures for areas where spills have the potential to occur. A Spill Prevention Control and Countermeasure (SPCC) plan for the site may be referenced to address this requirement. If referenced, a copy of the SPCC must be kept with the SWPPP.

8.2.3.2.4 If applicable, a description of methods for handling and disposing of contaminated soils.

8.2.3.3 Post-construction controls

A description of the post-construction controls that will be implemented after construction is complete and until final stabilization is achieved.

8.2.3.4 Inspection and maintenance

A description of procedures which will be used to inspect and maintain, in good and effective operating condition, the storm water controls identified in the SWPPP. Site inspections must be in accordance with Part 9 of this permit.

8.2.3.4 Signature

All SWPPPs must be signed in accordance with Part 11.7 of this permit.

8.3 Submittal

The administrator may request any SWPPP be submitted to the department for review.

8.4 Implementation

The SWPPP must be implemented prior to commencing construction activities that result in soil disturbance and throughout the duration of the construction activity and up until the site is finally stabilized.

8.5 Plan retention

8.5.1 The SWPPP shall be retained at the construction site except:

8.5.1.1 When the project may be shut down for the season or at the completion of construction or;

8.5.1.2 The construction the site does not have an on-site location to store the plan.

8.5.1.3 When kept off-site, the location of the SWPPP, along with a contact phone number shall be posted on site.

8.5.1.4 The SWPPP must be made readily available at the time of an on-site inspection by the administrator, the administrator's representative, or an authorized representative of EPA, or in the case of a facility which discharges through a municipal separate storm sewer, an authorized representative of the municipal operator of the separate storm sewer receiving the discharge, upon the presentation of credentials and other documents as may be required by law.

8.5.2 The permittee shall make the SWPPP available upon request to the administrator or agent thereof; any federal state or local agency; interested members of the public; local government officials; or to the operator of a

municipal separate storm sewer receiving discharges from the site. The permit does not require that free copies of the plan be provided to interested members of the public, only that they have access to view the document and copy it at their own expense. The copy of the SWPPP required to be kept onsite (or locally available) must be made available to the administrator, or authorized agent, for review at the time of an onsite inspection.

#### 8.6 Plan review

If the administrator elects to review the SWPPP and finds that it is deficient, the permittee shall modify the plan as directed and within the time specified by the administrator.

#### 8.7 Plan amendment

The permittee shall modify the plan whenever there is a change in design, construction, operation, or maintenance that changes the potential for the discharge of pollutants to waters of the state. The plan shall also be modified if the plan proves to be ineffective in eliminating or minimizing pollutants present in storm water. Amendments to the SWPPP must be retained on site and may be reviewed by the administrator as described below.

### **Part 9. Self Monitoring and Inspection Requirements**

#### 9.1 Inspections

9.1.1 *Active construction sites.* During construction, qualified personnel (provided by the permittee) shall inspect disturbed areas, control measures, and locations where vehicles enter or exit the site, at least once every 14 calendar days and within 24 hours of any precipitation and/or snow melt event which exceeds 0.5 inches.

9.1.2 *Inactive construction sites.* During seasonal shutdowns and during the period following completion of construction, but prior to return of the site to “finally stabilized” conditions and termination of coverage under this permit, qualified personnel (provided by the permittee) shall inspect the site at least once every month.

9.1.3 *The operator shall keep a record of inspections.*

9.1.3.1 Uncontrolled releases of mud or muddy water or measurable quantities of sediment found off site shall be recorded with a brief explanation as to the measures taken to prevent future releases as well as any measures taken to clean up the sediment that has left the site.

9.1.3.2 BMPs shall be assessed to determine if they are functioning properly or if they are in need of repair or maintenance. If the

report describes deficiencies in pollution control structures or procedures, such deficiencies shall be corrected immediately. A brief description of measures taken to correct deficiencies shall be recorded.

9.1.3.3 When an inspection does not identify any incidents of non-compliance, the report shall contain a certification that the site is in compliance with the SWPPP and this permit.

9.1.3.4 The date, time, and inspector identity shall also be recorded. This record shall be certified and signed in accordance with Part 11.7 the permit and made available to the administrator upon request.

9.1.4 *Severe weather exception.* If any inspection is not possible due to severe weather or other dangerous conditions, the inspection report must document why the inspection did not occur, and the inspection must be conducted as soon as conditions allow.

9.1.5 *Winter conditions.* Inspections, as described above in 9.1.1 and 9.1.2 will not be required where snow cover exists over the entire site for an extended period and melting conditions do not exist. This exemption is applicable *only* during the period where melting conditions do not exist. Regular inspections, as describe above, are required at all other times.

## 9.2 Retention of reports

Copies of the inspection reports shall be retained with the SWPPP. Copies of the reports shall be provided to the administrator upon request, and such reports shall be retained by the permittee for a minimum of three years.

## 9.3 Collection and submission of self monitoring information

Upon written notification from the administrator, the permittee shall collect and report storm water effluent and/or ambient water quality data of the type and at the frequency specified by the administrator.

## **Part 10. Additional Terms and Conditions**

10.1 Storm water discharges from construction sites shall not cause pollution, contamination, or degradation to waters of the state.

10.2 Water quality standards. The control measures specified in the SWPPP shall ensure that the storm water discharges from the facility do not cause a violation of state water quality standards as defined in Chapter 1 of the Wyoming Water Quality Rules and Regulations.



- 10.3 Visible or measurable erosion, associated with a construction activity, which leaves the construction site as a result of inadequate or ineffective SWPPP design or maintenance of BMPs is prohibited. Visible or measurable erosion is defined as:
- 10.3.1 Deposits of mud, dirt, sediment, or similar material exceeding one-half cubic foot volume in any area of 100 square feet or less on public or private roads, adjacent property, or into waters of the state by deliberate actions or as a result of water or wind erosion; or
  - 10.3.2 Evidence of concentrated flows of water over bare soils, turbid or sediment-laden flows, or evidence of on-site erosion on bare slopes, where runoff of water is not filtered, treated, or captured on the site using BMPs specified in the SWPPP; or
  - 10.3.3 Earth slides, mud flows, earth sloughing, or other earth movement which leaves the construction site.
- 10.4 Measurable quantities. If any measurable quantity of sediment leaves the construction site because of structural failure or inadequate design of the BMPs, the sediment shall be placed back on site or properly disposed of, as soon as is prudent. Under no conditions shall the sediment be washed into municipal storm sewers or surface waters of the state.
- 10.5 Concrete wash water shall not be discharged to waters of the state or to storm sewer systems.
- 10.6 Bulk storage for petroleum products and other chemicals shall have adequate protection so as to contain all spills and prevent any spilled materials from entering waters of the state or municipal storm sewer systems.
- 10.7 Non-storm water discharges. All discharges covered by this permit shall be composed entirely of storm water associated with construction activity (see definition in Part 2). Discharges which include material other than storm water associated with construction activity, must be in compliance with an NPDES permit (other than this permit) issued for the discharge.
- 10.8 Other agency requirements. All storm water discharges must comply with erosion control or other requirements, policies, or guidelines of other local, state, or federal agencies.
- 10.9 Sanitary sewage facilities (typically portable) will be operated in compliance with all applicable state and local waste disposal, sanitary sewer, or septic system regulations.

## **Part 11. Standard Permit Conditions**

### **11.1 Duty to comply**

The permittee must comply with all conditions of this permit, and is responsible for ensuring any subcontractors, employees or other persons associated with the construction activity comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the CWA and Wyoming Environmental Quality Act and may be grounds for enforcement action, permit termination, revocation, or modification, or for denial of a permit renewal application. The permittee shall give the administrator of the Water Quality Division advance notice of any planned changes at the permitted facility or of any activity which may result in permit noncompliance.

### **11.2 Penalties for violations of permit conditions**

Article 9 of the Wyoming Environmental Quality Act provides significant penalties for any person who violates a permit condition. Any person who violates any condition of this permit is subject to a civil penalty not to exceed \$10,000 per day of such violation, as well as other relief. Knowingly or willfully violating the permit may result in criminal penalties of up to \$25,000 per day of violation and/or imprisonment for up to one year. Criminal penalties for subsequent knowing or willful violations of the permit may be up to \$50,000 per day of violation and/or imprisonment for up to two years.

### **11.3 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.

### **11.4 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.

### **11.5 Duty to provide information**

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

11.6 Other information

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

11.7 Signatory requirements

11.7.1 All SWPPPS or reports required by the permit or any information requested by the administrator shall be signed and certified as follows:

11.7.1.1 For a corporation: by a principal executive officer of at least the level of vice president, or the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the overall operation of the facility from which the discharge originates.

11.7.1.2 For a partnership or sole proprietorship: by a general partner or the proprietor, respectively;

11.7.1.3 For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.

11.7.2 All reports required by the permit and other information requested by the administrator shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

11.7.2.1 The authorization is made in writing by a person described above and submitted to the administrator; and

11.7.2.2 The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position.

11.7.3 If an authorization under Part 11.7.2 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 11.7.2 must be submitted to the administrator prior to or together with any reports, information or applications to be signed by an authorized representative.

11.7.4 Any person signing documents required by this permit 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 gathered and evaluated 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."

11.8 Penalties for falsification of reports and monitoring systems

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

11.9 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 CWA.

According to Chapter 4 of the Wyoming Water Quality Rules and Regulations, any spill or other release of hazardous substances, fuels, oils or other petroleum product must be contained and cleaned up in a timely and diligent manner. Any spill or release of more than 25 gallons, or which results in a visible sheen on water, or a visible deposit on the bottom or shoreline of any water body, must be reported to the Water Quality Division of the Wyoming Department of Environmental Quality within 24 hours to the department's 24 hour telephone number (307-777-7781). Records of such spills or releases must be maintained for at least three years.

11.10 Property rights

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

11.11 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.

11.12 State laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state or federal law or regulation.

11.13 Facilities operation and maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee when necessary to achieve compliance with the conditions of the permit.

11.14 Monitoring and records

11.14.1 Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

11.14.2 The permittee shall retain records of all monitoring information including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of the reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample measurement, report, or application. This period may be extended by request of the administrator at any time.

11.14.3 Records of monitoring information shall include:

11.14.3.1 The date, exact place, and time of sampling or measurements;

11.14.3.2 The initials or name(s) of the individual(s) who performed the sampling or measurements;

11.14.3.3 The date(s) analyses were performed;

11.14.3.4 The time(s) analyses were initiated;

11.14.3.5 The initials or name(s) of the individual(s) who performed the analyses;

11.14.3.6 References and written procedures for the analytical techniques or methods used; and

11.14.3.7 The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.

11.14.4 Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

11.15 Availability of reports

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

11.16 Adverse impact

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

11.17 Bypass of treatment facilities

11.17.1 Bypass means the intentional diversion of storm water around any treatment facility.

11.17.2 Any bypass is prohibited except where unavoidable to prevent loss of life, personal injury, or severe property damage, and there were no feasible alternatives to the bypass.

11.17.2.1 Anticipated bypass

If the permittee knows in advance of the need for a bypass, he or she shall submit prior notice at least ten days before the date of the bypass; including an evaluation of the anticipated quality and effect of the bypass.

The administrator may approve an anticipated bypass, after considering its adverse effects, if the administrator determines that it will meet the conditions listed above.

#### 11.17.2.2 Unanticipated bypass

The permittee shall submit notice of an unanticipated bypass. Any information regarding the unanticipated bypass shall be provided orally within 24 hours from the time the permittee became aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the bypass and its cause; the period of the bypass, including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence.

#### 11.18 Upset conditions

- 11.18.1 Upset means an exceptional incident in which there is unintentional and temporary noncompliance with the conditions of this permit 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.
- 11.18.2 An upset constitutes an affirmative defense to an action brought for noncompliance with the conditions of this permit if the requirements of paragraph 11.18.3 are met.
- 11.18.3 A permittee who wishes to establish the affirmative defense of an upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:
- 11.18.3.1 An upset occurred and that the permittee can identify the specific cause(s) of the upset;
  - 11.18.3.2 The permitted facility was at the time being properly operated;
  - 11.18.3.3 The permittee provides any information regarding the upset orally within 24 hours from the time the permittee became aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the upset and its cause; the period of the upset, including exact dates and times, and if the upset has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence; and

11.18.3.4 The permittee complied with any remedial measures directed by the administrator.

11.18.4 In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

#### 11.19 Inspection and entry

The permittee shall allow the administrator, the administrator's representative, or an authorized representative of EPA, or in the case of a facility which discharges through a municipal separate storm sewer, an authorized representative of the municipal operator of the separate storm sewer receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to:

11.19.1 Enter upon the premises where the regulated facility or activity is located or conducted and where records must be kept under the conditions of this permit; and

11.19.2 Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit; and

11.19.3 Inspect, at reasonable times, any facilities or equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and

11.19.4 Sample or monitor, at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location.

#### 11.20 Permit actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by a 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.

#### 11.21 Reopener clause

For good cause the administrator may, at any time, require a permittee covered under this permit to obtain an individual permit, coverage under an alternative general permit, or this permit may be modified to include different limitations and/or requirements. Permit modification or revocation will be conducted according to Wyoming Water Quality Rules and Regulations, Chapter 2.



## 11.22 Civil and criminal liability

Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. As long as the conditions related to the provisions of "Bypass of Treatment Facilities" (Part 11.17), "Upset Conditions" (Part 11.18) are satisfied then they shall not be considered as noncompliance.

/pjb  
3-0087-doc

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## Appendix A

### Rainfall Erosivity Waiver “R Factor” Determination

#### Simplified Method

##### A.1 Rainfall Erosivity

Rainfall erosivity is a term that is used to describe the potential for soil to wash off disturbed, devegetated areas and into surface waters of the state during storms. The potential for erosion is based on many factors including soil type, slope, and the energy or force of precipitation expected during the period of surface disturbance. While it is impossible to predict the weather several months in advance of construction, for many areas of the country, there are definite optimal periods, such as a dry season when rain tends to fall less frequently and with less force.

Typically, rainfall erosivity is measured indirectly using the Revised Universal Soil Loss Equation (RUSLE) developed by the US Department of Agriculture (*Agricultural Handbook 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation (RUSLE)*, Chapter 2, pp. 21-64, USDA, January 1997) to help farmers control topsoil losses. The equation estimates erosivity values, also called “R factors,” which relate primarily to the average annual energy and intensity of rain events for specific rainfall distribution zones throughout the country. The USDA has collected annual R factor data for each rainfall distribution zone that reflects average precipitation patterns in each area. That data can then be used to determine if and when a “dry season” is likely to occur at any location. Lower R factors correspond to a lower probability of significant storm-induced erosion.

##### A.2 Rainfall Erosivity Waiver

Storm water regulations and Part 5 of this permit allow the state to waive coverage under this permit for small construction sites (at least one, but less than five acres of land disturbance) if the value of the R factor is less than 5 during the entire period of construction activity. The period of construction activity is considered to begin when land clearing is initiated and end when the site is finally stabilized in accordance with the definition in Part 2.7 of this permit.

**This waiver only affects the requirements of the Small Construction General Storm Water Permit. It does not relieve the operator of the following requirements:**

- The operator must comply with the requirements of other federal, state, or local agencies, such as meeting local storm water quality requirements.

- The operator must obtain separate authorization to discharge storm water from other industrial activities and materials, including but not limited to, asphalt and concrete batch plants and sand and gravel mining operations.
- The operator must obtain authorization under a non-storm water NPDES permit to discharge any process water, including but not limited to, construction site dewatering, washing activities, and discharges related to utility installation such as hydrostatic test water, super chlorinated water, and so on.

### A.3 Eligibility for Waiver

#### A.3.1 Who may apply?

**Operators of small construction activities where the project R factor is less than 5 for the duration of the project (through final stabilization)** may request a waiver from coverage under the small construction general permit (SCGP). Small construction means any clearing, grading, or excavation project which will disturb at least one, but less than five (not necessarily contiguous) surface acres. Small construction activity also includes the disturbance of less than one acre of total land area when that disturbance is part of a larger common plan of development or sale if the larger common plan will ultimately disturb at least one acre, but less than five acres.

#### A.3.2 What may be covered?

A separate Rainfall Erosivity Waiver application and worksheet must be provided for each construction project qualifying for the waiver. Additionally, this waiver is only available on a project-wide basis. It is not available for individual filings, phases, or other portions of a larger common plan of development or sale.

### A.4 Application for a waiver using the simplified R factor determination.

A small construction site operator must complete the worksheet and application in this appendix and submit the application to the Department five days prior to commencing land disturbing activities. By signing and submitting this application, the operator is certifying that the R factor for the duration of the project is less than 5 as determined using the simplified method.

### A.5 Alternative R factor determination

Alternatively, any small construction operator may calculate its own R factor using site-specific information found in the Environmental Protection Agency's Guidance, Storm Water Phase II Final Rule; Construction Rainfall Erosivity Waiver (EPA 833-

F-00-014, January 2001, Fact Sheet 3.1). This may be a useful option for longer duration projects located in portions of counties that have a lower isoerodent value than the conservative assumption used to develop Table 1. Use the worksheet and application in Appendix B for the alternative R factor calculation.

#### A.6 Activities extending beyond the waiver period

It is very important to provide an accurate estimate of the end date. If in doubt, assume a longer time. Underestimating the end date can result in a project R factor that is too low and may result in an inappropriate application for a waiver. The operator is responsible for determining the project R factor as accurately as possible.

If a construction activity extends beyond the certified waiver period for any reason, the operator must either:

- Recalculate the rainfall erosivity R factor using the original start date and a new projected ending date and, if the R factor is still under 5, complete and sign a new waiver application before the end of the original waiver period. The new application must be submitted to the Department five days before the end of the current certification. Or,
- Complete and implement the requirements for obtaining authorization under this permit as specified in Part 4 before the end of the certified waiver period.

The applicant is responsible for periodically assessing their project to assure that it still qualifies for the Rainfall Erosivity Waiver.

#### A.7 Best Management Practices

All construction sites in Wyoming must operate in such a manner that storm water discharges do not cause a violation of the state water quality standards (see Chapter 1 of the Wyoming Water Quality Rules and Regulations). Construction projects that qualify for the rainfall erosivity waiver are, therefore, still subject to state water quality standards. For this reason, the Department recommends that all construction site operators implement appropriate best management practices (BMPs) to control the transport of pollutants off site.

Instructions for completing waiver application and worksheet using the simplified method

- Item A.8.1 Provide all requested applicant information including a contact person. The contact should be familiar with the proposed construction project.
- Item A.8.2 Provide the location of the project as either section, township, and range OR a street address. Include the project county.
- Item A.8.3 Briefly describe the nature of the construction activity. Include information on the type of facility being constructed and the expected method of site “final stabilization” (for example: pavement, gravel, landscaping).
- Item A.8.4 Provide both the total area of the construction site and the area that will undergo disturbance. Include stockpile areas, areas with significant vehicle and equipment traffic, and storage areas.
- If the project is part of a larger plan of development or sale the disturbed area of the total plan should be noted. A “common plan of development or sale” is a site where multiple separate and distinct construction activities may be taking place at different times, but still under a single plan. This includes phased projects, projects with multiple filings or lots, and projects that are not contiguous, but are still under a single plan.
- Item A.8.5 Identify the nearest surface water of the state which could receive runoff from the construction project. Surface waters of the state are defined in Part 2.14 of this permit. The definition includes all defined drainages, even if they are usually dry. Lakes, wetlands, and even stock watering ponds are also included in the definition.
- Item A.8.6 If storm water from the construction project will discharge to a municipal storm sewer identify the municipality that owns the system and the surface water that will ultimately receive the discharge.
- Item A.9.1 **Start Date** is the day soil disturbing activities will begin. Soil disturbance includes grubbing, stockpiling, excavating, and grading activities.
- End Date** is the date the site is “finally stabilized.” Finally stabilized means that all disturbed areas have either been built on, paved over, or a uniform vegetative cover with a density of 70% of the native background vegetative cover has been established. Graveled surfaces may be considered finally stabilized provided a sufficient quantity of gravel is used to prevent sediment transport off site.
- Item A.9.2 Use Table 1 to determine the R factors at the beginning and end of the project for the county in which the project is located.

- Item A.9.3 Calculate the project R factor. If the project occurs in one calendar year use item A. If the project will occur in two calendar years (for example, from November 16<sup>th</sup> through February 11<sup>th</sup>), use item B. The project R factor must be less than five to qualify for the waiver.
- Item A.10 The waiver application and worksheet must be signed in accordance with Part 11.7 of the permit. Submit the application and worksheet to the Department at least five days prior to commencing land disturbing activities.

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A.8

**Application and Worksheet for the Rainfall Erosivity Waiver  
for Exclusion from Wyoming Small Construction Storm Water Permit  
(Less than Five Acres Land Disturbance)**

Please print or type. Application and worksheet must be complete.

A.8.1 Name and address of applicant

Company Name:	
Mailing Address:	
City, State, ZIP Code:	
Telephone:	Fax:
Contact Name:	
(If different from above) Telephone:	Fax:

A.8.2 Location of Construction Site:

Provide either a Section, Township, and Range or street address

Qtr/Qtr	Sec.	Twp.	Rng.
Street Address:			
County:			
Latitude/Longitude (optional):			

A.8.3 Briefly describe the project:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

A.8.4 Area of construction site (acres):

Estimated area to be disturbed (acres):

NOTE: If the disturbed area of the project or the total disturbance of a "larger plan of development of sale" will be five acres or more, the project does not qualify for this waiver. Complete and submit a Notice of Intent for Storm Water Discharges Associated with Large Construction Activities.

A.8.5 Name of the nearest defined drainage(s) which could receive runoff from the construction project, whether it contains water or not. Include bodies of water such as lakes and wetlands where applicable.

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A.8.6 Will storm water discharge from the project enter a municipal storm sewer? \_\_\_\_\_

What municipality? \_\_\_\_\_

To what water body does the storm sewer discharge? \_\_\_\_\_

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**A.9 Waiver Worksheet (Wyoming Simplified Method)**

Refer to the "Instruction" section of this document for additional information.

**A.9.1 Project information necessary to calculate the R factor:**

Start date of the construction project.	Start Date
End date of the construction project. This is the date the project site is "finally stabilized."	End Date
County project is located in.	County

**A.9.2. R factors at the start and end of the project.**

Starting R factor. From Table 1 pick the 15-day period that your start date falls within. Follow that column down until you reach the row with the county your project is in. Enter the part-year R factor found at that point to the right.	Starting R factor
Ending R factor. From Table 1 pick the 15-day period that your end date falls within. Follow that column down until you reach the row with the county your project is in. Enter the part-year R factor found at that point to the right.  If the project start and end dates fall within the same 15-day period, use the <i>next 15-day period</i> for the end date. For example, if a project will begin on June 1 <sup>st</sup> and end on June 10 <sup>th</sup> , use the "June 1-15" period for the start date and "June 16-30" for the end date.	Ending R factor

A.9.3. Project R factor.

If the project will begin and end within one calendar year complete item A. If the project will begin and end over two calendar years complete item B.

A.	<p><b>Project R factor calculation for projects completed in ONE calendar year.</b></p> <p>Subtract the starting R factor from the ending R factor and enter that result to the right.</p> $\frac{\text{Ending R factor}}{\quad} - \frac{\text{Starting R factor}}{\quad} =$	$\frac{\text{Project R factor}}{\quad}$
----	--	---

B.	<p><b>Project R factor calculation for projects that occur over TWO calendar years.</b></p> <p>Refer to table 1. Find the project county. In the column immediately to the right is the county's annual R factor. Enter that number below. Subtract the start R factor from the annual R factor and add the end R factor. Enter the result to the right.</p> $\frac{\text{Annual R factor}}{\quad} + \frac{\text{Ending R factor}}{\quad} - \frac{\text{Starting R factor}}{\quad} =$	$\frac{\text{Project R factor}}{\quad}$
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***The project R factor must be less than 5 to qualify for the rainfall erosivity waiver.***

A.10 Applicant Certifications.

I, the undersigned, certify that I have read and understand the requirements and conditions of the NPDES Small Construction Storm Water General Permit.

To the best of my knowledge, this construction activity qualifies for a rainfall erosivity waiver in accordance with the applicable requirements and conditions of this NPDES Small Construction Storm Water General Permit.

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.

_____	_____
Printed name of Person Signing	Title
_____	_____
Signature of Applicant	Date
	_____
	Telephone

Section 35-11-901 of Wyoming Statutes provides that:

"Any person who knowingly makes any false statement, representation, or certification in any application . . . shall, upon conviction, be fined not more than ten thousand dollars (\$10,000) per day for each violation or imprisoned for not more than one (1) year, or both."

Mail this application to:

NPDES Permits Section  
DEQ/WQD  
Herschler Bldg. - 4 W  
122 West 25th Street  
Cheyenne, WY 82002

\_\_\_\_\_

DEQ use only:

Waiver Number: \_\_\_\_\_

River Basin: \_\_\_\_\_

Stream Class: \_\_\_\_\_

HUC: \_\_\_\_\_

\_\_\_\_\_

Table A.1

Cummulative R Factors by County																									
County	Annual R Factor by County	Jan		Feb		Mar		Apr		May		Jun		Jul		Aug		Sep		Oct		Nov		Dec	
		1-15	16-31	1-15	16-29	1-15	16-31	1-15	16-30	1-15	16-31	1-15	16-30	1-15	16-31	1-15	16-31	1-15	16-30	1-15	16-31	1-15	16-30	1-15	12-31
		Albany	22	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.2	0.8	2.0	4.7	6.8	9.6	13.3	16.5	18.9	20.2	21.2	21.6	21.9	22.0	22.0
Big Horn	17	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.4	1.4	2.3	4.0	6.6	9.4	11.2	12.5	13.9	14.9	15.9	16.5	16.9	17.0	17.0	17.0	17.0
Campbell	32	0.0	0.0	0.0	0.0	0.0	0.1	0.3	1.0	2.8	6.0	11.5	15.9	19.3	22.5	24.6	26.9	28.4	30.0	30.9	31.7	32.0	32.0	32.0	32.0
Carbon	15	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.2	0.8	1.7	3.3	4.4	5.8	7.7	9.8	11.7	12.8	13.8	14.2	14.8	15.0	15.0	15.0	15.0
Converse	25	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.2	0.8	2.4	6.0	8.8	12.0	15.8	19.0	21.9	23.4	24.3	24.7	24.9	25.0	25.0	25.0	25.0
Crook	35	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.2	0.9	2.4	6.1	10.4	16.1	21.2	25.4	30.1	32.5	33.9	34.44	34.9	35.0	35.0	35.0	35.0
Fremont	13	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.3	0.9	1.9	3.5	4.8	6.1	7.6	8.8	9.6	10.3	11.3	12.0	12.7	13.0	13.0	13.0	13.0
Goshen	38	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.4	1.3	3.5	8.2	11.8	16.5	23.0	28.5	32.7	34.8	36.6	37.3	37.8	38.0	38.0	38.0	38.0
Hot Springs	13	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.3	1.1	1.8	3.1	5.0	7.2	8.6	9.6	10.6	11.4	12.2	12.6	12.9	13.0	13.0	13.0	13.0
Johnson	23	0.0	0.0	0.0	0.0	0.0	0.1	0.2	0.7	2.0	4.3	8.2	11.4	13.9	16.1	17.7	19.3	20.4	21.6	22.2	22.8	23.0	23.0	23.0	23.0
Laramie	48	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.5	1.7	4.4	10.3	14.9	20.9	29.0	36.0	41.3	44.0	46.2	47.1	47.7	48.0	48.0	48.0	48.0
Lincoln	10	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.5	1.3	2.6	3.2	3.9	5.2	6.7	7.6	8.1	8.8	9.3	9.8	10.0	10.0	10.0	10.0
Natrona	18	0.0	0.0	0.0	0.0	0.0	0.1	0.2	0.6	1.6	3.4	6.4	8.9	10.9	12.6	13.9	15.1	16.0	16.9	17.4	17.8	18.0	18.0	18.0	18.0
Niobrara	32	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.3	1.0	3.0	7.7	11.3	15.4	20.2	24.4	28.1	29.9	31.1	31.6	31.8	31.9	32.0	32.0	32.0
Park	12	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.3	1.0	1.6	2.9	4.7	6.6	7.9	8.8	9.8	10.5	11.3	11.6	11.9	12.0	12.0	12.0	12.0
Platte	33	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.3	1.2	3.0	7.1	10.2	14.4	19.9	24.8	28.4	30.2	31.7	32.4	32.8	33.0	33.0	33.0	33.0
Sheridan	23	0.0	0.0	0.0	0.0	0.0	0.1	0.2	0.7	2.0	4.3	8.2	11.4	13.9	16.1	17.7	19.3	20.4	21.6	22.2	22.8	23.0	23.0	23.0	23.0
Sublette	10	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.5	1.3	2.6	3.2	3.9	5.2	6.7	7.6	8.1	8.8	9.3	9.8	10.0	10.0	10.0	10.0
Sweetwater	10	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.5	1.1	2.2	3.0	3.8	5.1	6.5	7.8	8.6	9.2	9.5	9.9	10.0	10.0	10.0	10.0
Teton	11	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.3	0.9	2.2	3.0	3.9	4.9	5.1	7.7	8.9	9.8	10.3	10.8	11.0	11.0	11.0	11.0
Uinta	10	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.5	1.3	2.6	3.2	3.9	5.2	6.7	7.6	8.1	8.8	9.3	9.8	10.0	10.0	10.0	10.0
Washakie	17	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.4	1.4	2.3	4.0	6.6	9.4	11.2	12.5	13.9	14.9	15.9	16.5	16.9	17.0	17.0	17.0	17.0
Weston	35	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.3	1.0	3.3	8.5	12.4	16.8	22.1	26.6	30.7	32.7	34.0	34.5	34.8	34.9	35.0	35.0	35.0



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## Appendix B

### Rainfall Erosivity Waiver “R Factor” Determination

#### Alternative Calculation

This method of calculating the project R factor uses US Environmental Protection Agency (EPA) Storm Water Phase II Final Rule Fact Sheet 3.1; Construction Rainfall Erosivity Waiver, EPA 833-F-00-014. A copy of the fact sheet may be downloaded from the EPA website at <http://www.epa.gov/npdes/pubs/fact3-1.pdf> or the DEQ also provides a link to the EPA website from the Agency’s storm water web page. The Department’s web page is found at <http://deq.state.wy.us>. You may also request a paper copy by contacting the Storm Water Coordinator at 307-777-7781.

This alternative calculation may be useful for some longer duration projects located in an area of a county that has a lower isoerodent value than the conservative value used to develop Appendix A.

For information on eligibility for and application of the rainfall erosivity waiver see Part 5 of the permit and Appendix A, Parts A.1 through A.7.

#### Instructions for completing waiver application and worksheet using the simplified method

- Item B.1 Provide all requested applicant information including a contact person. The contact should be familiar with the proposed construction project.
- Item B.2 Provide the location of the project as either section, township, and range OR a street address. Include the project county.
- Item B.3 Briefly describe the nature of the construction activity. Include information on the type of facility being constructed and the expected method of site “final stabilization” (for example: pavement, gravel, landscaping).
- Item B.4 Provide both the total area of the construction site and the area that will undergo disturbance. Include stockpile areas, areas with significant vehicle and equipment traffic, and storage areas.

If the project is part of a larger plan of development or sale the disturbed area of the total plan should be noted. A “common plan or development of sale” is a site where multiple separate and distinct construction activities may be taking place at different times, but still under a single plan. This includes phased projects, projects with multiple filings or lots, and projects that are not contiguous, but are still under a single plan.

- Item B.5 Identify the nearest surface water of the state which could receive runoff from the construction project. Surface waters of the state are defined in Part 2.14 of this permit. The definition includes all defined drainages, even if they are usually dry. Lakes, wetlands, and even stock watering ponds are also included in the definition.



Item B.6 If storm water from the construction project will discharge to a municipal storm sewer identify the municipality that owns the system and the surface water that will ultimately receive the discharge.

Item B.7 Refer to EPA Fact Sheet 3.1 to complete items B.7.1 through B.7.4

**Note that the Project End Date** (B.7.2) is the date the site is “finally stabilized.” Finally stabilized means that all disturbed areas have either been built on, paved over, or a uniform vegetative cover with a density of 70% of the native background vegetative cover has been established. Graveled surfaces may be considered finally stabilized provided a sufficient quantity of gravel is used to prevent sediment transport off site.

Item B.8 The waiver application and worksheet must be signed in accordance with Part 11.7 of the permit. Submit the application and worksheet to the Department at least five days prior to commencing land disturbing activities.

**Application and Worksheet for the Rainfall Erosivity Waiver  
for Exclusion from Wyoming Small Construction Storm Water Permit  
(Less than Five Acres Land Disturbance)**

Please print or type. Application and worksheet must be complete.

**B.1 Name and address of applicant:**

Company Name:	
Mailing Address:	
City, State, ZIP Code:	
Telephone:	Fax:
Contact Name:	
(If different from above) Telephone:	Fax:

**B.2 Location of Construction Site:**

Provide either a Section, Township, and Range or street address

Qtr/Qtr	Sec.	Twp.	Rng.
Street Address:			
County:			
Latitude/Longitude (optional)			

**B.3 Briefly describe the project:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**B.4 Area of construction site (acres):** \_\_\_\_\_  
 Estimated area to be disturbed (acres): \_\_\_\_\_

If the disturbed area of the project or the total disturbance of a "larger plan of development of sale" will be five acres or more, the project does not qualify for this waiver. Complete and submit a Notice of Intent for Storm Water Discharges Associated with Large Construction Activities.

**B.5 Name of nearest defined drainage(s) which could receive runoff from the construction project, whether it contains water or not. Include bodies of water such as lakes and wetlands where applicable.**

B.6 Will storm water discharge from the project enter a municipal storm sewer? \_\_\_\_\_

What municipality? \_\_\_\_\_

To what water body does the storm sewer discharge? \_\_\_\_\_

B.7 Waiver Worksheet

To calculate the R factor, the applicant must refer to the figures and tables found in EPA Fact Sheet 3.1. Refer to the Fact Sheet for specific directions.

B.7.1 Erosivity Index (EI) Zone from Figure 1. Valid EI Zones in Wyoming are 48, 49, 50, 51, 52, 53, 54, 55, 56, and 57.

EI Zone from Figure 1	
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B.7.2 Determine the anticipated project start and end dates and, from Table 1, the EI values associated with those dates. ***The project end date is the date when the disturbed area is finally stabilized as defined in Part 2.7 of this permit.***

Project start date:		Starting EI value	
Project end date:		Ending EI value	

B.7.3 Determine the annual R factor (isoerodent value) from Figure 3. Interpolate values for sites that do not fall on an isoerodent contour. Valid Wyoming R factors range from 10 to 48.

Site annual R factor	
----------------------	--

B.7.4 Project R factor calculation.

If the project will begin and end within one calendar year complete item A. If the project will begin and end over two calendar years complete item B.

A.	<p><b>Project R factor calculation for projects in ONE calendar year.</b></p> <p>Subtract the starting EI from the ending EI to determine a part year EI and divide by 100. Multiply that result by the site annual R factor to determine the project R factor.</p>	
	$\left( \frac{\text{Ending EI} - \text{Starting EI}}{100} \right) * \text{Annual R factor} =$	<p>_____</p> <p>Project R factor</p>

B.	<p><b>Project R factor calculation for projects that occur over TWO calendar years.</b></p> <p>Subtract the starting EI from 100 and add the difference to the Ending EI. Divide the result by 100 and multiply that result by the site annual R factor to determine the project R factor.</p> <p>(100 - <u>                    </u> + <u>                    </u>)/100 * <u>                    </u> =</p> <p style="text-align: center;">Starting EI                      Ending EI                      Annual R factor</p>	<p>_____</p> <p>Project R factor</p>
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***The project R factor must be less than 5 to qualify for the rainfall erosivity waiver.***

B.8 Applicant Certifications.

I, the undersigned, certify that I have read and understand the requirements and conditions of the NPDES Small Construction Storm Water General Permit.

To the best of my knowledge, this construction activity qualifies for a rainfall erosivity waiver in accordance with the applicable requirements and conditions of this NPDES Small Construction Storm Water General Permit.

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.

_____		_____	
Printed name of Person Signing		Title	
_____		_____	_____
Signature of Applicant		Date	Telephone

Section 35-11-901 of Wyoming Statutes provides that:

"Any person who knowingly makes any false statement, representation, or certification in any application . . . shall, upon conviction, be fined not more than ten thousand dollars (\$10,000) per day for each violation or imprisoned for not more than one (1) year, or both."

Mail this application to:

NPDES  
Permits Section  
DEQ/WQD  
Herschler Bldg. - 4 W  
122 West 25th Street  
Cheyenne, WY 82002

\_\_\_\_\_

DEQ use only:

Waiver Number: \_\_\_\_\_

River Basin: \_\_\_\_\_

Stream Class: \_\_\_\_\_

HUC: \_\_\_\_\_

\_\_\_\_\_