

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105**

**AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

**NPDES PERMIT NO. NNG990001**

In compliance with the provisions of the Clean Water Act (“CWA”) (Public Law 92-500, as amended, 33 U.S.C. 1251 et seq.), discharges to waters of the United States in the Navajo Nation are authorized in accordance with this general National Pollutant Discharge Elimination System (“NPDES”) permit.

Discharges shall be in accordance with effluent limitations, monitoring and reporting requirements, and other conditions set forth in Parts I. through III. herein. The discharge of pollutants not specifically set forth in this permit is not authorized.

This permit shall become effective on the first day of the month that begins at least 45 days after the final issuance of this general permit. This permit and authorization to discharge shall expire at midnight, the day before five years from the effective date of the permit.

This permit was issued on:	03/23/18
This permit shall become effective on:	05/01/18
This permit shall expire at midnight on:	04/30/23

Signed this 23rd day of March, 2018, for the Regional Administrator

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Tomás Torres, Director  
Water Division  
U.S. EPA, Region 9

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## I. COVERAGE UNDER THIS GENERAL PERMIT

### 1. ELIGIBILITY

**A. Eligible Discharges.** “Low threat” discharges to waters of the United States within the Navajo Nation are eligible for coverage under this Low Threat General Permit (LTGP or “General Permit”). An applicant may seek coverage under this General Permit if the applicant plans to discharge wastewater that is clean or relatively pollutant free and below a specified volume and for a limited time period, thus posing little or no threat to the quality of waters of the United States.

To qualify for coverage under this General Permit, the permittee must submit a complete Notice of Intent (NOI) letter and develop and implement Best Management Practices (BMPs) and record them in a BMP Plan (BMPP). Authorized discharges shall meet all requirements specified in this General Permit and the BMPP to ensure that the wastewater discharged is low threat with respect to surface water and the surrounding area.

Low threat discharges under the LTGP may include, but are not limited to, the following discharge activities:

- Potable water supply system discharges:
  - discharges associated with fire hydrant flushes/testing
  - discharges associated with system operation and maintenance activities (wells, pipelines, tanks, reservoirs)
  - discharges from potable water filter backwash operations
  - discharges associated with system repair
  - discharges from cleaning or flushing of water supply wells, pipelines, tanks and reservoirs
  - discharges from hydrostatic testing of pipelines, tanks, and reservoirs
  - discharges resulting from initial system startup and routine startup
  - discharges resulting from sampling of influent flow, pressure releases, etc.
- Hydrostatic testing of newly constructed and never before used pipelines, tanks, and reservoirs used for purposes other than pertaining to a potable water system
- Groundwater discharges (not for remediation)
  - Pump/well testing
  - Well development water
  - Dewatering discharges
- Other discharges that meet the definition of “low threat” as determined by EPA.

Discharges that EPA does **not** consider low threat for the purposes of this General Permit include:

- Discharges containing domestic wastewater
- Discharges from non-potable water filter backwash operations;
- Discharges near or adjacent to hazardous waste sites, soil or groundwater remediation sites, or where discharge activities may encounter polluting constituents in groundwater that are naturally occurring in these waters
- Discharge from mining activities
- Discharges from leaking chemical and fuel tanks
- Discharges of industrial waste
- Discharges that would require extensive biological or chemical treatment in order to meet effluent limits or relevant water quality standards
- Discharges of non-contact cooling water
- Ongoing discharges from the operation of permanent domestic or industrial water or wastewater treatments plants or industrial processes
- Discharges that are uncharacterized or insufficiently characterized to establish suitability for coverage as “low threat”
- Discharges containing additives associated with water treatment or industrial use (other than chlorine for potable water use)
- Discharges of groundwater, surface water, or potable water associated with the ongoing testing of pipes, tanks or vessels that have been used to store or transport petroleum, natural gas, or any substance other than potable water
- Discharge of accidental or unplanned releases from any source
- Discharge of wastewater with pollutants of concern other than those for which effluent limits are specified in this LTGP
- Any discharge to an outstanding national resource water (ONRW)
- Any other discharges that do not meet the definition of “low threat” as determined by the Regional Administrator pursuant to this LTGP

## **B. Limitations on Coverage**

1. **Water Quality Impaired Waters.** Discharge to an “impaired” water is not eligible for coverage under the LTGP if the wastewater discharge contains a pollutant in a measureable amount for which the water is identified as impaired. Impaired waters, for the purposes of this General Permit, include both waters with EPA-approved or EPA-established total maximum daily loads (TMDLs) and waters for which EPA has not yet approved or established a TMDL. Discharges that are not in conformance with an approved TMDL are not authorized under this General Permit. (See Attachment B for the definition of “impaired.”)
2. **Outstanding Natural Resource Waters.** Discharges to Outstanding Natural Resource Waters (designated by a State or Tribe as Tier 3 for anti-degradation purposes) are not eligible for coverage under the LTGP (see list of Tier 3 waters in geographic areas

covered under this General Permit on EPA's website at <http://cfpub.epa.gov/npdes/stormwater/antideg.cfm>).

3. **Endangered and Threatened Species and Critical Habitat Protection.** Discharges that will adversely affect any species that are federally-listed as endangered or threatened ("listed") under the Endangered Species Act (ESA) or will result in the adverse modification or destruction of habitat that is federally-designated as "critical habitat" under the ESA are not eligible for coverage under the LTGP. Attachment C describes the procedure for applicants to demonstrate that the discharge is eligible for coverage under the LTGP with respect to endangered and threatened species and critical habitat protection. In order to be eligible, the applicant must certify that the discharge meets one of five eligibility criteria (A-E) specified in Attachment C

If the discharge covered under this General Permit is authorized based on an agreement with the permittee to comply with certain measures or prerequisite actions, or implement certain terms and conditions to meet eligibility requirements specified in Attachment C, the permittee must comply with all such agreed-upon requirements to maintain eligibility under this General Permit.

4. **Historic Properties Preservation.** Discharges that do not comply with applicable state, tribal and local laws concerning the protection of historic properties and places are not eligible for coverage under the LTGP. Attachment D describes the procedure for applicants to demonstrate that the discharge is eligible for coverage under this General Permit with respect to preservation of historic properties. In order to be eligible, the applicant must certify that the discharge meets one of four eligibility criteria (A-D) specified in Attachment D.

If the discharge covered under this General Permit is authorized based on an agreement with the permittee to comply with certain measures or prerequisite actions, or to implement certain terms and conditions to meet eligibility requirements specified in Attachment D, the permittee must comply with all such agreed-upon requirements to maintain eligibility under this General Permit.

5. **Discharges to waters near tribal boundaries.** The LTGP does not authorize the discharge of pollutants to receiving waters at a location less than five hundred (500) yards upstream from a Tribal, State, or International boundary.
6. **Discharges currently or previously covered by another permit.** If any of the following circumstances apply to the proposed discharge, it is not eligible for coverage under the LTGP:
  - a. The discharges are covered by another NPDES permit, or
  - b. The discharges were included in a permit that within the last five years has been or is in the process of being denied, terminated for cause, or revoked by EPA (this does not apply to permits voluntarily terminated or the routine reissuance of permits every five years).

7. **Discharges subject to effluent limitations guidelines.** Discharges from any source for which effluent limitation guidelines (ELGs) have been adopted per CWA Section 304(b) are not eligible for coverage under the LTGP.
8. **Discharges mixed with low threat wastewater.** Discharges of low threat wastewater that are mixed with other wastewater (e.g., storm water, domestic wastewater, or industrial process wastewater) prior to contacting receiving water are not eligible for coverage under the LTGP (unless that wastewater is already covered under an NPDES permit);
9. **Discharges that the Director determines to require coverage under an individual permit.** The Director may require any discharger requesting coverage under the LTGP to apply for and obtain an individual NPDES permit in accordance with 40 C.F.R. 122.28(b)(3). In this case, the permittee will be notified in writing that an individual permit is required and be given a brief explanation of the reasons for the decision. When an individual permit is issued to an operator otherwise subject to the General Permit, the applicability of the General Permit is automatically terminated on the effective date of the individual permit. Individual permits may be appropriate if:
  - The discharge(s) is a significant contributor of pollution;
  - The discharger is not in compliance with the conditions of this permit;
  - A change has occurred in the availability of the demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
  - The point source(s) previously covered by this permit:
    - (1) no longer involves the same or substantially similar types of operations;
    - (2) no longer discharges the same types of waste;
    - (3) no longer requires the same effluent limitations or operating conditions;
    - (4) no longer requires the same or similar monitoring; or
    - (5) in the opinion of the Director, is more appropriately controlled under an individual permit rather than under the general permit.

### C. Permit Area

The LTGP is applicable to low threat discharges to all waters of the United States for which EPA Region 9 is the permitting authority within the Navajo Nation, including Navajo Reservation lands in New Mexico and Utah. See Attachment E for a map of Navajo Nation lands which this permit covers.

## 2. OBTAINING COVERAGE

To obtain authorization and coverage under this permit, an applicant must:

- A. Be located in the Navajo Nation or be discharging to a receiving water located in the Navajo Nation as described in Attachment E, where EPA is the permitting authority

- B. Meet the eligibility requirements identified in Part I, including requirements related to endangered and threatened species (Attachment C) and preservation of historic properties (Attachment D)
- C. Submit a complete and accurate Notice of Intent (NOI) letter at least fourteen (14) to thirty (30) days before the expected start of discharge or the date when the permittee wants authorization to begin depending on the discharge category (See Table 1. Below). The specific requirements for the NOI letter are described in Part II of this permit.

<b>Table 1: NOI Submittal Deadlines/Discharge Authorization Dates</b>		
<b>Category</b>	<b>NOI Submission Deadline</b>	<b>Discharge Authorization Date</b>
<u>Category I:</u> - Discharges of 0.10 MGD or less from a single outfall, AND - 30 days or less	As soon as possible but 14 days before commencing planned discharge	14 days after receipt of the application from EPA, unless EPA contacts the applicant to deny coverage or request additional information.
<u>Category II.a.:</u> - Discharges of 0.50 MGD or less from a single or multiple outfalls, AND - 30 days or less.	A minimum of 30days prior to commencing planned discharge	30 days after receipt of the application from EPA, unless EPA contacts the applicant to deny coverage or request additional information.
<u>Category II.b.:</u> - Discharges of 0.05 MGD or less from a single or multiple outfalls, AND - 30 days or more.	A minimum of 30days prior to commencing planned discharge	30 days after receipt of the application from EPA, unless EPA contacts the applicant to deny coverage or request additional information.

- D. Prepare a BMP plan (BMPP). The NOI letter and BMPP requirements are detailed in Part II. The NOI letter requires that the applicant certify that the discharge meets screening criteria; depending on the discharge activity, the NOI letter may also require additional data submittal.
- E. Submit, upon request, any additional information that EPA finds necessary to determine that the discharge meets the criteria for coverage under this General Permit, and conduct any additional monitoring required by EPA to make such determination, or both.
- F. If EPA notifies an applicant that a discharge is ineligible for coverage under this General Permit, the person shall obtain an individual permit (or alternative general permit, if available) before discharging to a water of the U.S., Any discharge that occurs without obtaining such coverage is unauthorized.

### **3. TERMINATING COVERAGE**

#### **A. Submitting a Notice of Termination.**

To terminate permit coverage under the LTGP, an operator must submit a complete and accurate Notice of Termination (NOT) letter. Information required to be included in a NOT letter is provided in Part II of this General Permit; Authorization to discharge under this General Permit terminates at midnight of the day that a complete NOT letter is processed and the permittee seeking termination is notified. Notice of Termination will also be duly posted on EPA Region 9's NPDES Permits webpage.

#### **B. When to Submit a Notice of Termination**

For Category I. and II.a. facilities there is no need to submit a NOT letter. Coverage under the permit expires automatically 31 days after commencement of discharge.

For Category II.b. facilities an operator must submit a NOT letter within 30 days after one or more of the following conditions have been met.

- a. A new operator has taken over responsibility of discharge activities covered under an existing NOI and intends to seek a new NOI;
- b. All discharge activities covered by the permit have ceased and no additional discharge during the remainder of the permit term is anticipated; or
- c. Coverage was obtained under an individual permit or an alternative general permit for all discharges required to be covered by an NPDES permit.



## II. REQUIREMENTS FOR COVERAGE

### 1. THE NOTICE OF INTENT

#### A. Contents of the Notice of Intent.

The Notice of Intent to be authorized to discharge under the provisions of this permit shall be completed and submitted by the applicant. The NOI must include the information listed below:

##### 1. Facility Information

- a. Facility's official or legal name. Do not use a colloquial name.
- b. Legal name, mailing address, and phone number of the owner(s) of the facility.
- c. Legal name, mailing address, and phone number of the organization(s) or entit(y/ies) that operate(s) the facility, if different from owner.
- d. Name, mailing address, and phone number and email address of the contact person for the facility. The contact person must be thoroughly familiar with the operation of the facility and with the facts reported in the application. The contact person or a designated alternate must be reachable.
- e. Facility location. Include an area map identifying the location of the facility. This map should have a scale of resolution of at least 1:24,000 (If USGS map is used, provide title and catalog number.
- f. The permit numbers and the status of any individual or general environmental permits currently or previously held by the applicant, which are directly associated with the discharge.
- g. The name, mailing address, and telephone number of the contractor and description of the contractor's responsibilities if a contractor is responsible for any operational or maintenance aspects of the facility.

##### 2. General Discharge Information

- a. The discharge facility location by section (to nearest quarter section) township, and range (e.g., NW ¼ sec.5, T.33 N., R.9 W.); and, if applicable, the full street address, including city, county, state and zip code.
- b. A topographic map or maps of the area extending at least to one mile beyond the property boundaries of the facility (or discharge location if not associated with a facility) which clearly show the following (if applicable): The legal boundaries of the facility; The location and serial number of each existing and proposed intake and discharge structure; All hazardous waste management facilities; all springs and surface water bodies within 1 mile of the discharge location, and all drinking water wells within ¼ mile of the discharge location which are identified in the public record or otherwise known to the applicant. On each map, include the map scale, a meridian arrow showing north, and latitude and longitude at the nearest whole second. For rivers, show the direction of the current; and in tidal waters, show the directions of the ebb and flow tides. A photocopy of the appropriate portion of a USGS topographic map(s) may be used, with the relevant features/locations marked on the map.

- c. A statement as to whether the site or discharge is designated under CERCLA or similar state or tribal law, on the National Priorities List under CERCLA or similar state or tribal law, or whether it is a RCRA corrective action site, or a state Leaking Underground Storage Tank (LUST) site;
  - d. For groundwater discharges, a certification that the groundwater discharge is not related to groundwater remediation and/or the groundwater well is not located within ½ mile of a known groundwater cleanup project;
  - e. A statement as to whether the discharge location is on State Lands or other areas for which EPA does not have permitting authority and whether the discharge will reach waters of a state. If the discharge is likely to do so, a statement that the appropriate state agency has been informed<sup>1</sup>
  - f. A list of any other NPDES permits held by the applicant/facility.
  - g. Name of the waterway that will receive the discharge. If the name of the waterway is unknown, give the name of the first named downstream waterway (stream or lake) (e.g., unnamed tributary of Running Creek).
  - h. A statement as to whether the discharge location is likely to discharge into the Colorado River Basin and that the discharge is consistent with the Colorado River Salinity Review Forum policies.<sup>2</sup>
  - i. The latitude and longitude of each of the point(s) of discharge;
3. Specify which of the following categories of requirements that you wish to be authorized for coverage under this permit. (See Part I.3 for definition):
- Category I: Single source or single event discharge from a single discharge location with discharge volume of 0.1 MGD or less for a discharge period of 30 days or less
- Category II.a.: Single source or single event discharge from a single discharge location with discharge volume of 0.5 MGD or less for a discharge period of 30 days or less
- Category II.b.: Discharges with more than one discharge event from one or more discharge locations with discharge volume of 0.05 MGD or less for a discharge period of 30 days or more.
4. Description of the proposed discharge.
- a. Projected dates:
    - 1) Beginning Discharge Date
    - 2) End Discharge Date

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<sup>1</sup> For New Mexico please contact: Program Manager, Surface Water Quality Bureau, New Mexico Environment Department, Box 5469, 1190 Saint Francis Drive, Santa Fe, NM 87502-5469

<sup>2</sup> Information about this can be obtained at: <http://www.coloradoriversalinity.org/>

- b. The purpose of the discharge activities and type of discharge;
  - c. The name of the receiving stream or waterbody downgradient from the discharge location and the approximate distance from the discharge location to the waterbody. Include all waterbodies the discharge may reasonably be expected to reach under conditions expected to be present during the discharge;
  - d. If the surface water receiving the discharge is an ephemeral water, the name of the closest perennial or intermittent water and the approximate distance from the discharge point to the perennial or intermittent water;
  - e. The estimated average and maximum daily flow rates and the controlled, target flow rate that will be specified in the BMPP;
  - f. The approximate frequency and duration of the discharge(s);
  - g. Summary of the BMPs that will be recorded in the BMPP. See Part II.2 for more information on BMP and BMPP requirements.
  - h. The estimated temperature of the discharge;
  - i. The estimated total volume to be discharged;
  - j. Any known or suspected constituent(s) of concern in the discharge.
5. A description of the proposed treatment system(s) or process(es) (if applicable);
- a. Identification of any added chemicals or solvents used, including chlorine;
  - b. Description of dechlorination mechanisms that will be used (if applicable) to meet effluent limits. If chemical dechlorination is used to remove chlorine, the discharge shall be aerated prior to discharge to surface waters;
  - c. Description of any other treatment that will be used.
6. Data Requirements
- a. Report results of any monitoring of discharges that occurred during the past three (3) years. Include the dates and location of any samples that were taken.
  - b. Discharges to TMDL, 303(d) listed water bodies must include results to verify that the discharge will not contribute to the impairment.
  - c. Applications for potable water discharges require certification that the potable water complies with Maximum Contaminant Levels (MCLs) for drinking water listed in Attachment F. Authorization will not be granted if the potable water supply contains constituents above the MCLs
  - d. The applicant must certify that the discharge complies with the following screening levels and narrative requirements:

Parameter	Units	Screening Value	Notes
Total Residual Chlorine	µg/L	11 (4-day average) 19 (1-hour average)	(1)
pH	S.U.	within the range 6.0 to 9.0	(2)
Turbidity	mg/L	50	(2)
Electrical conductivity @ 25°C	µmhos/cm	Monitor and report	(2)
Dissolved Oxygen	mg/L	No less than 5	(2)
Constituents with MCLs	--	The discharge meets MCLs for all constituents	(2)
Constituents of Concern (COCs) and water treatment additives	--	The discharge has no known COCs and does not contain additives apart from chlorine.	(2)
Color Odor	--	not objectionable	(3)
Floating solids Settled solids Suspended solids Foam Other indicators of pollution	--	no pollutants present to settle to form objectionable deposits; float as debris, scum, oil, or other matter forming nuisances	(3)
Oil sheen		absent	(3)
Total Suspended Solids	mg/L	30 (30-day average) 45(7-day average)	(2)

1. For chlorinated discharges. If the discharge does not meet the chlorine limit, the NOI must provide the method of dechlorination that will be used to meet the limit.
  2. Based on data collected by applicant or on behalf of applicant within 180 days prior to the submittal of the NOI.
  3. Based on visual inspection.
- e. In addition to the screening requirements for Category I dischargers as indicated in d. above, Category II dischargers must conduct a priority pollutant scan to determine if there is reasonable potential for discharge of pollutants considered to be of principal importance for control under the CWA; a list of these pollutants is provided as Appendix A to 40 CFR Part 423.
7. For any discharge sample analyses included in the NOI which was performed by a contract laboratory or consulting firm on behalf the applicant, list each pollutant analyzed and give the name, mailing address, and telephone number of the contract laboratory or consulting firm doing the analysis;
  8. The name of the owner/operator of the conveyance if the proposed discharge is to or has the potential to reach a public or privately owned storm sewer, drainage system, canal, or other conveyance;
  9. If applicable, provide the name and actual (or, if unavailable, estimated) population for each municipality, quasi-municipality, or unincorporated area served.
  10. Determination of eligibility for coverage based on the potential for the discharge to adversely affect any species that are federally-listed as endangered or threatened ("listed") under the Endangered Species Act (ESA) and/or to result in the adverse modification or destruction of

habitat that is federally-designated as “critical habitat.” The determination of eligibility is made following the procedures in Attachment C.

11. Determination of eligibility for coverage regarding the potential for the proposed action by the applicant to affect properties listed, or eligible for listing, on the National Register of Historic Places (Buildings, archaeological sites, National Historic Landmarks; objects of significance to a Tribe including graves, funerary objects, and traditional cultural properties). The determination of eligibility is made following the procedures specified in Attachment D.

#### **A. NOI Signature.**

The Notice of Intent must be submitted by the organization or entity that has the legal responsibility for operating the facility, and pursuant to regulations the person signing the Notice of Intent 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.*

#### **B. Submittal Information.**

The completed NOI letter and any supporting documents must be submitted to the following address:

NPDES Permits Section (WTR-2-3)  
Water Division  
U.S. EPA, Region 9  
75 Hawthorne St.  
San Francisco, CA 94105

A copy of the completed NOI letter shall be submitted to Navajo Nation Environmental Protection Agency at the following address:

Water Quality, NPDES Program  
P.O. Box 339  
Window Rock, AZ 86515

## **2. THE BEST MANAGEMENT PRACTICES PLAN (BMPP)**

Appropriate BMPs shall be employed at all times. The discharger shall develop BMPs and document them in a BMPP.

The BMPP:

- shall be completed before or concurrently with submittal of the NOI to EPA;
- shall be signed by the owner, operator, or other responsible individual(s);

- shall be made available to EPA upon request and shall be modified if EPA's review identifies insufficiencies;
- shall be kept at the discharge location;
- shall not be modified unless the changes will result in equivalent or greater effectiveness in minimizing pollutants in the discharge;
- shall be amended if existing BMPs are found ineffective, or whenever conditions change such that discharge of constituent of concern COCs and/or the potential for erosion, scour, or sedimentation increase; and
- shall be updated to identify any changes to the responsible individual(s).

Implementation of the BMPs in the BMPP is an enforceable condition of the permit. If appropriate BMPs are not employed, the discharge is in violation of this permit.

#### **A. BMPP for All Discharges.**

The BMPP for all eligible discharges shall include the following elements.

1. The Physical Site Evaluation. The permittee shall identify the potential impacts to the environment from the proposed discharge and identify appropriate practices to prevent impacts, including:
  - Identification of pollutant sources and pollutant(s) that could potentially be released during discharge;
  - Evaluation of physical site characteristics; and
  - Sampling the potentially affected surface water prior to discharge.
2. Good Housekeeping and Equipment Maintenance. The permittee shall outline the good housekeeping strategies that will be implemented at the discharge location, such as
  - Clearing the flow path of all loose debris, surface contaminants and/or hazardous materials that could be carried into surface water during discharge
  - Maintaining native vegetation
3. Description of Erosion and Sediment Controls. The permittee shall describe the controls that will be designed and implemented to minimize erosion, scour, sedimentation, or other effects directly to the affected surface water or in the surrounding area due to discharge. At a minimum, this section shall include BMPs to address:
  - a. Stabilization of exposed areas and containment of runoff. Structural and/or non-structural control measures can be used to minimize onsite erosion and sedimentation and the resulting discharge of pollutants.
  - b. Flow minimization. The discharger shall manage flow of the discharge at the lowest possible flow rate or develop a target flow rate (e.g., 250 gpm or less) to

avoid potential impacts on aquatic life and habitat and to reduce erosion and stream scour. Flow velocity dissipation devices shall be placed at discharge locations and within outfall channels where necessary (e.g., hydrostatic test discharge) to reduce erosion and/or settle out pollutants.

The permittee may consider use of the following erosion and sediment controls:

- plastic sheeting or other material to minimize sedimentation during discharge;
- filter bag with geo-textile to control sediment load;
- dewatering pit to control sediment and velocity;
- settling out sediment before it reaches the storm drain;
- straw bale check dam to slow debris flow;
- splash pads, silt fences, and vegetated buffer zones to prevent erosion;
- split discharges to control volume and velocity; and
- filtration devices (such as hay bales or filter socks) to minimize or eliminate suspended solids prior to discharge.
- velocity dissipation devices (blow-off valve, fire hydrant, or other flow regulatory equipment) to prevent and minimize erosion, stream scouring, increases in turbidity, and any other potential damage to receiving waters.
- drainway protection
- storm drain inlet protection

4. Description of Treatment and Effluent Quality Controls. In the BMPP, the permittee shall:
- a. Describe the treatment measures that will be used to remove pollutants other than chlorine prior to discharge.
  - b. Describe the dechlorination measures that will be implemented and the method that will be used to verify complete dechlorination to ensure compliance with the effluent limits in this General Permit *if applicable to the discharge*. If chemical dechlorination is used to remove chlorine, the discharge shall be aerated prior to discharge to surface waters. If necessary, the water to be discharged shall be directed through hay bales, over grassy areas or rip rap, and/or otherwise sufficiently aerated, bypassing storm sewer inlets as necessary, to dissipate the chlorine prior to discharging to a storm sewer or the receiving water body. The discharger shall confirm that there is no detectable level of chlorine in the water prior to discharge. Dechlorination methods include:
    - induced dissipation
    - natural dissipation
    - chemical reduction
    - seepage discharge
  - c. Describe the measures that will be used to prevent downstream flooding, nuisance conditions, or other potential environmental adverse effects.

- d. Describe the other BMPs that will be used to control the effluent quality. At a minimum, the permittee shall include BMPs to minimize the amount of suspended solids or turbidity in the discharge.
5. Site Restoration. The permittee shall describe the practices to clear or restore the site after discharge, such as
  - cleaning up the flow path
  - cleaning up and remove debris and materials
6. Emergency Preparation. The permittee shall describe the response/emergency procedures. The description will include plans to minimize the duration of discharge during system failures (line breaks, leaks, or overflows).
7. Personnel and Training. The BMPP shall include
  - a. contact information (including telephone numbers) for individual(s) responsible for on-site monitoring, observation sampling, maintenance/inspection, reporting, and/or compliance;
  - b. provisions for training of personnel to implement, manage, maintain and remove BMPs upon completion; and
  - c. The BMPP shall be signed by the owner or operator.

## **B. BMPP for Hydrostatic Test Discharges.**

The BMPP for discharges associated with hydrostatic testing shall include the following elements in addition to the elements included in “A.”

1. Good Housekeeping and Equipment Maintenance. The permittee shall amend the section in “A” to include a description of the engineering, good housekeeping, and management practices that will be used to prevent contamination of the hydrostatic test water by fuels, lubricants, or waste materials on site.
2. Withdrawal Controls. The permittee shall design and implement preventative measures to minimize surface water withdrawal effects (including impingement and entrainment) and erosion if surface water will be used as the source of hydrostatic test water.
  - a. General Withdrawal Controls. The BMPP shall include a description of the measures that will be implemented. Sample practices:
    - Discharge of hydrostatic test water to a vegetated, upland area
    - Discharge of hydrostatic test water to an appropriate dewatering structure (e.g., geotextile filter bags, hay bale structures lined with geotextile fabric)



- Monitoring of all aspects of testing activities for environmental impacts such that the outflow/inflow rates can be adjusted if necessary
  - Returning the discharge to the same water body from which it was withdrawn and preventing discharge from reaching other water bodies.
  - Monitoring water withdrawal rates to avoid significant impacts to downstream water users, resources and streamflow.
- b. Impingement and Entrainment Controls. The permittee shall describe the mechanisms that will be used to prevent impingement and entrainment effects for surface water withdrawal. Sample practices include
- Use of screening around the intake hoses;
  - Placement of intake hoses in the lowest impact withdrawal location, avoiding backwater areas, slow flow areas, and the mouths of tributary streams;
  - Avoid appropriating in known spawning areas or during the spawning season; and
  - The manufacture, transportation, and storage of the vessels be done in such a way that prevents debris and toxic materials from being deposited within the tanks where it may later be entrained in the hydrostatic test water and released to surface water.

### **III. CONTROL MEASURES AND EFFLUENT LIMITATIONS**

#### **1. SOURCE CONTROL MEASURES**

Best Management Practices (BMP) appropriate to the type of discharge shall be employed at all times and must be recorded in a BMPP per the requirements in this General Permit.

#### **2. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

##### **A. Numeric Limitations and Monitoring Requirements for all Low-threat Discharges.**

The limits and monitoring requirements in Table 2 apply to low-threat discharges as indicated.

The permittee shall report exceedances of any limits for each parameter regardless of monitoring frequency. For example, monthly, weekly, and/or daily limits shall be met even when only monitoring once per month. The permittee may monitor more frequently than required for any parameter.

<b>Table 2. Effluent Limitations and Monitoring Requirements for all Low-threat Discharge Activities.</b>						
Parameter	Units	Daily Max /Min Limitations	Monthly Average Limitations <sup>1</sup>	Sample Type <sup>2,3</sup>	Monitoring Frequency	Notes
<b>ALL DISCHARGES</b>						
Flow	mgd	Report (MGD)	Report (MGD)	Metered or Calculated	Continuous	(4), (5) (6)
pH	SU	must remain within 6.0 and 9.0		discrete	1/discharge, verify before initiating discharge	(5)
Total Suspended Solids	mg/L	30	10		(7)	
Oil and Grease		(8)		Discrete	(7)	
Turbidity	NTUs	50	10	Discrete	(7)	
<b>GROUNDWATER DISCHARGES</b>						
Electrical Conductivity @ 25 °C	µmhos/cm	(9)	--	Discrete	1/discharge event, monitor only	(5)
<b>POTABLE WATER DISCHARGES</b>						
Total Residual Chlorine	µg/L	19	11		(7)	(5), (10)
<ol style="list-style-type: none"> <li>1. Average monthly limit applies to Category II discharges, regardless of whether the duration of discharge reaches 30 days. The permittee shall report exceedances of any limits for each parameter regardless of monitoring frequency. For example, monthly limits shall be met even when only monitoring once per month. The permittee may monitor more frequently than required for any parameter.</li> <li>2. Samples must be collected at a point immediately following discharge and prior to commingling with storm water, wastewater, or other flows. For Category I discharges that extend beyond one hour duration, a second sample shall be collected from the last 10% of the effluent. The Discharger must confirm that the effluent limit is met before discharge for field-tested parameters.</li> <li>3. For hydrostatic testing, grab samples shall be taken of the hydrostatic test water being discharged as it leaves the equipment, piping, or vessels being tested at the beginning and at the end of the discharge and two times during the discharge at evenly spaced time intervals. Each grab sample shall be tested individually, and the highest result reported.</li> <li>4. The flow must be below the threshold established for each particular Category of discharger as described in Part II. A of the permit</li> </ol>						

5. Field-testing is permitted, using suitable methods, for flow, pH, total residual chlorine, and electrical conductivity. The permittee shall cease discharge if any of the field-tested parameters exceeds the effluent limitation.
6. Monitor and report only, no numeric effluent limitation. Where no numeric limit is listed, the narrative standards in Part III.2.B of this permit still apply. The permittee must implement BMPs to control the discharge of these constituents, as appropriate, when they are known or suspected to be present in the discharge
7. Once/discharge for Category I. and II.a. ; Once/month for Category II.b.
8. Oils, greases, waxes, floating material shall not create a nuisance or adversely affect beneficial uses.
9. Total Dissolved Solids may be measured indirectly by measuring electrical conductivity. Only monitoring and reporting required.
10. The dechlorination method must be disclosed in the NOI.

## **B. Narrative Standards**

1. There shall be no discharge of pollutants to the receiving water that will
  - a. Settle to form objectionable deposits; float as debris, scum, oil, or other matter forming nuisances;
  - b. Produce objectionable color, odor, taste, or turbidity;
  - c. Cause injury to, or be toxic to, or produce adverse physiological responses in humans, animals, or plants; or
  - d. Produce undesirable or nuisance aquatic life
2. Toxic substances shall not be discharged at levels that will bioaccumulate in aquatic resources to levels which are harmful to aquatic life, wildlife, and human health.
3. The discharge shall be free from substances, conditions or combinations that produce visible turbidity, settle to form deposits or otherwise adversely affect aquatic life.
4. The discharge shall be free from substances, conditions or combinations that induce the growth of undesirable aquatic life.
5. The discharge shall not change the color of the surface water from natural background levels of color.
6. The discharge shall not cause or result in erosion to the area of the discharge or the surrounding stream banks. Adequate dewatering structures and velocity dissipation devices should be used when necessary to prevent and minimize erosion, stream scouring, and increases in turbidity.
7. The discharge shall not create nuisance conditions such as vector problems or localized flooding that cannot be mitigated through the implementation of BMPs.
8. The discharge shall not cause or create downstream flooding conditions.
9. The discharger shall not use dilution of effluent as a form of treatment, or as a means of complying with concentration-based effluent limitations.
10. The discharge shall not violate any applicable water quality standard.
11. The discharge shall be controlled as necessary to minimize discharge effects, meet effluent limitations in this General Permit, and meet any applicable water quality standard.

### C. Visual Inspection Report

The Permittee shall conduct a visual inspection and record observations on the following parameters before initiating discharge. The Permittee shall ensure that the results are consistent with narrative requirements in this General Permit before proceeding with discharge:

- Color;
- Odor;
- Floating solids;
- Settled solids;
- Suspended solids;
- Foam;
- Oil sheen; and
- Other obvious indicators of pollution

Any unusual characteristics or significant change shall be noted that may indicate the presence of pollutants not previously identified or anticipated, such as:

- Oil sheens;
- Chemical or petroleum odors;
- Septic odors;
- Unusual colors;
- Significantly increased turbidity; and
- Excessive foaming.

For Category II.a. discharges, the Permittee shall conduct follow-up visual inspections weekly for any single discharge source that continues for longer than 7 days.

For Category II.b. discharges, the Permittee shall conduct follow-up visual inspections monthly for all discharges.

If any of the observations required above result in inconsistency with narrative or other applicable requirements of the LTGP, the Permittee must **cease discharge and apply for an individual permit.**

The Permittee shall keep the report on file and shall make the reports available to EPA upon request.

**D. Certification of Compliance with Maximum Contaminant Levels.**

Permittees that are authorized to discharge under Category II shall provide annual certification of compliance with federal Maximum Contaminant Levels (MCLs) to demonstrate that the discharge is potable water quality. Federal MCLs are listed in Attachment F.

**ATTACHMENTS**

- A. Standard Conditions**
- B. Definitions/Terms**
- C. ESA Evaluation Procedures**
- D. NHPA Evaluation Procedures**
- E. Map of Navajo Nation lands covered by this LTGP**
- F. Federal MCLs**

## ATTACHMENT A: STANDARD PERMIT CONDITIONS

### A. *All NPDES Permits*

In accordance with 40 CFR 122.41, the following conditions apply to all NPDES permits and are expressly incorporated into this permit.

a. Duty to comply; at 40 CFR 122.41(a).

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

- (1) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use or disposal established under 405(d) of the CWA within the time provided in the regulations that established these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.
- (2) The CWA provides that any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$25,000 per day for each violation. The CWA provides that any person who *negligently* violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both. Any person who *knowingly* violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. In the case of second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, such as defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.

(3) Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed \$10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$25,000. Penalties for Class II violations are not to exceed \$10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$125,000.

b. Duty to reapply; at 40 CFR 122.41(b).

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

c. Need to halt or reduce activity not a defense; at 40 CFR 122.41(c).

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; at 40 CFR 122.41(d).

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

e. Proper operation and maintenance; at 40 CFR 122.41(e).

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

f. Permit actions; at 40 CFR 122.41(f).

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.

g. Property rights; at 40 CFR 122.41(g).

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

h. Duty to provide information; at 40 CFR 122.41(h).

The permittee shall furnish to the Director, within a reasonable time, any information which the Director 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 Director upon request, copies of records required to be kept by this permit.

i. Inspection and entry; at 40 CFR 122.41(i).

The permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon 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 purposes of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location.

j. Monitoring and records; at 40 CFR 122.41(j).

- (1) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- (2) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR part 503), 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 all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample measurement, report or application. This period may be extended by request of the Director at any time.
- (3) Records of monitoring information shall include:
  - (i) The date, exact place, and time of sampling or measurements;
  - (ii) The individual(s) who performed the sampling or measurements;
  - (iii) The date(s) analyses were performed
  - (iv) The individuals(s) who performed the analyses;
  - (v) The analytical techniques or methods used; and
  - (vi) The results of such analyses.
- (4) Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless

otherwise specified in 40 CFR part 503, unless other test procedures have been specified in the permit.

- (5) The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

k. Signatory requirement; at 40 CFR 122.41(k).

- (1) All applications, reports, or information submitted to the Director shall be signed and certified. (See 40 CFR 122.22.)
- (2) The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

l. Reporting requirements; at 40 CFR 122.41(l).

- (1) Planned changes. The permittee shall give notice to the Director as soon as possible of any planned physical alternations or additions to the permitted facility. Notice is required only when:
  - (i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or
  - (ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR 122.42(a)(1).
  - (iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;
- (2) Anticipated noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- (3) Transfers. This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary

under the CWA. (See 40 CFR 122.61; in some cases, modification or revocation and reissuance is mandatory.)

- (4) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
  - (i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices. As of December 21, 2016 all reports and forms submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to part 3), 40 CFR 122.22, and 40 CFR 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of part 127, permittees may be required to report electronically if specified by a particular permit or if required to do so by state law..
  - (ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or, in the case of sludge use or disposal, approved under 40 CFR part 503, or as specified in the permit, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director.
  - (iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.
- (5) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- (6) Twenty-four hour reporting.
  - (i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A report shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The report shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times), and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. For noncompliance events related to combined sewer overflows, sanitary sewer overflows, or bypass events, these reports must include the data described above (with the exception of time of discovery) as well as the type of event (combined sewer overflows, sanitary sewer overflows, or bypass events), type of sewer overflow structure (*e.g.*, manhole, combine sewer overflow outfall), discharge volumes untreated by the treatment works treating domestic sewage, types of human health and environmental impacts of the sewer overflow event, and whether the noncompliance was related to wet weather. As of December 21, 2020 all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR part

3 (including, in all cases, subpart D to part 3), 40 CFR 122.22, and 40 CFR 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of part 127, permittees may be required to electronically submit reports related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section by a particular permit or if required to do so by state law. The Director may also require permittees to electronically submit reports not related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section.

(ii) The following shall be included as information which must be reported within 24 hours under this paragraph.

(A) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See 40 CFR 122.41(g).)

(B) Any upset which exceeds any effluent limitation in the permit.

(C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours. (See 40 CFR 122.44(g).)

(iii) The Director may waive the written report on a case-by-case basis for reports under 40 CFR 122.41(l)(6)(ii) of this section if the oral report has been received within 24 hours.

(7) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (l)(4), (5), and (6) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (l)(6). For noncompliance events related to combined sewer overflows, sanitary sewer overflows, or bypass events, these reports shall contain the information described in paragraph (l)(6) and the applicable required data in appendix A to 40 CFR part 127. As of December 21, 2020 all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR part 3(including, in all cases, subpart D to part 3), § 122.22, and 40 CFR part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of part 127, permittees may be required to electronically submit reports related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section by a particular permit or if required to do so by state law. The Director may also require permittees to electronically submit reports not related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section.

(8) Other information. Where 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 in any report to the Director, it shall promptly submit such facts or information.

(9) Identification of the initial recipient for NPDES electronic reporting data. The owner, operator, or the duly authorized representative of an NPDES-regulated entity is required to electronically submit the required NPDES information (as specified in appendix A to 40

CFR 127) to the appropriate initial recipient, as determined by EPA, and as defined in 40 CFR 127.2(b) of this chapter. EPA will identify and publish the list of initial recipients on its Web site and in the Federal Register, by state and by NPDES data group [see § 127.2(c) of this chapter]. EPA will update and maintain this listing.

m. Bypass; at 40 CFR 122.41(m).

(1) Definitions.

(i) “Bypass” means the intentional diversion of waste streams from any portion of a treatment facility.

(ii) “Severe property damage” means substantial physical damage to property, damage to the 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) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 40 CFR 122.41(m)(3) and (m)(4) of this section.

(3) Notice.

(i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass. As of December 21, 2020 all notices submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to part 3), § 122.22, and 40 CFR part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of part 127, permittees may be required to report electronically if specified by a particular permit or if required to do so by state law.

(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph (1)(6) of this section (24-hour notice). As of December 21, 2020 all notices submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to part 3), 40 CFR 122.22, and 40 CFR 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of part 127, permittees may be required to report electronically if specified by a particular permit or if required to do so by state law.

(4) Prohibition of bypass.

(i) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(C) The permittee submitted notices as required under paragraph (m)(3) of this section.

(ii) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph (m)(4)(i) of this section.

n. Upset; at 40 CFR 122.41(n).

(1) Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

(2) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (n)(3) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(3) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and that the permittee can identify the cause(s) of the upset;

(ii) The permitted facility was at the time being properly operated; and

(iii) The permittee submitted notice of the upset as required in paragraph (l)(6)(ii)(B) of this section (24 hour notice).

(iv) The permittee complied with any remedial measures required under paragraph (d) of this section.

(4) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

**B. *Specific Categories of NPDES Permits***

In accordance with 40 CFR 122.42, the following conditions, in addition to those set forth at 40 CFR 122.41, apply to all NPDES permits within the category specified below and are expressly incorporated into this permit.

- a. Existing manufacturing, commercial, mining, and silvicultural dischargers; at 40 CFR 122.42 (a).

All existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Director as soon as they know or have 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”:

- (i) One hundred micrograms per liter (100 µg/l);
- (ii) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
- (iii) 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
- (iv) The level established by the Director 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”:

- (i) Five hundred micrograms per liter (500 µg/l);
- (ii) One milligram per liter (1 mg/l) for antimony;
- (iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7).
- (iv) The level established by the Director in accordance with 40 CFR 122.44(f).

- b. Publicly owned treatment works; at 40 CFR 122.42(b).

All POTWs must provide adequate notice to the Director of the following:

- (1) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 and 306 of the CWA if it were directly discharging those pollutants; and
- (2) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.

- (3) For purposes of this paragraph, adequate notice shall include information on (i) the quality and quantity of effluent introduced into the POTW, and (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

The following condition has been established by EPA Region 9 to enforce applicable requirements of the Resource Conservation and Recovery Act:

- (1) Publicly owned treatment works may not receive hazardous waste by truck, rail, or dedicated pipe except as provided under 40 CFR 270. Hazardous wastes are defined at 40 CFR 261 and include any mixture containing any waste listed under 40 CFR 261.31 through 261-33. The Domestic Sewage Exclusion (40 CFR 261.4) applies only to wastes mixed with domestic sewage in a sewer leading to a publicly owned treatment works and not to mixtures of hazardous wastes and sewage or septage delivered to the treatment plant by truck.

c. Municipal Separate Storm Sewer Systems; at 40 CFR 122.42(c).

The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the Director under 40 CFR 122.26(a)(1)(v) must submit an annual report by the anniversary of the date of the issuance of the permit for such system. The report shall include:

- (1) The status of implementing the components of the storm water management program that are established as permit conditions;
- (2) Proposed changes to the storm water management programs that are established as permit conditions. Such proposed changes shall be consistent with 40 CFR 122.26(d)(2)(iii); and
- (3) Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under 40 CFR 122.26(d)(2)(iv) and (d)(2)(v);
- (4) A summary of the data, including monitoring data, that is accumulated throughout the reporting year;
- (5) Annual expenditures and budget for year following each annual report;
- (6) A summary describing the number and nature of enforcement actions, inspections, and public education programs;
- (7) Identification of water quality improvements or degradation.

d. Storm Water Discharges; at 40 CFR 122.42(d).

The initial permits for discharges composed entirely of storm water issued pursuant to 40 CFR 122.26(e)(7) shall require compliance with the conditions of the permit as expeditiously as practicable, but in no event later than three years after the issuance of the permit.

e. Privately Owned Treatment Works; at 40 CFR 122.44(m).

For a privately owned treatment works, any conditions expressly applicable to any user, as a limited co-permittee, that may be necessary in the permit issued to the treatment works to



ensure compliance with applicable requirements under this part. Alternatively, the Director may issue separate permits to the treatment works and to its users, or may require a separate permit application from any user. The Director's decision to issue a permit with no conditions applicable to any user, to impose conditions on one or more users, to issue separate permits, or to require separate applications, and the basis for that decision, shall be stated in the fact sheet for the draft permit for the treatment works.

The following conditions are established to enforce applicable requirements of the Resource Conservation and Recovery Act and 40 CFR 122.44(m). Privately owned treatment works are defined at 40 CFR 122.2. "Privately owned treatment works" means any device or system which is (a) used to treat wastes from any facility whose operator is not the operator of the treatment works and (b) not a POTW, as defined at 40 CFR 403.3.

- (1) Materials authorized to be disposed of into the privately owned treatment works and collection system are typical of domestic sewage. Unauthorized materials are hazardous waste (as defined at 40 CFR 261), motor oil, gasoline, paints, varnishes, solvents, pesticides, fertilizers, industrial wastes, or other materials not generally associated with toilet flushing or personal hygiene, laundry, or food preparation, unless specifically listed under "Authorized Non-domestic Sewer Dischargers" elsewhere in this permit.
- (2) It is the permittee's responsibility to inform users of the privately owned treatment works and collection system of the prohibition against unauthorized materials and to ensure compliance with the prohibition. The permittee must have the authority and capacity to sample all discharges to the collection system, including any from septic haulers or other unsewered dischargers, and shall take and analyze such samples for conventional, toxic, or hazardous pollutants when instructed by the permitting authority or by an EPA, State, or Tribal inspector. The permittee must provide adequate security to prevent unauthorized discharges to the collection system.
- (3) Should a user of the privately owned treatment works desire authorization to discharge non-domestic wastes, the permittee shall submit a request for permit modification and an application, pursuant to 40 CFR 122.44(m), describing the proposed discharge. The application shall, to the extent possible, be submitted using EPA Forms 1 and 2C, unless another format is requested by the permitting authority. If the privately owned treatment works or collection system user is different from the permittee, and the permittee agrees to allow the non-domestic discharge, the user shall submit the application and the permittee shall submit the permit modification upon request. The application and request for modification shall be submitted at least six months before authorization to discharge non-domestic wastes to the privately owned treatment works or collection system is desired.

### ***C. Standard Conditions Established by EPA Region 9 for All NPDES Permits***

1. Duty to reapply; at 40 CFR 122.21(d).
  - a. Any POTW with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Director. (The Director shall not grant permission for applications to be submitted later than the expiration date of the existing permit.)

- b. All other permittees with currently effective permits shall submit a new application 180 days before the existing permit expires, except that:
    - (1) the Regional Administrator may grant permission to submit an application later than the deadline for submission otherwise applicable, but no later than the permit expiration date.
2. Signatories to permit applications and reports; at 40 CFR 122.22.
- a. Applications. All permit applications shall be signed as follows:
    - (1) For a corporation. By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Note: EPA does not require specific assignments or delegations of authority to responsible corporate officers identified in 40 CFR 122.22(a)(1)(i). The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under 40 CFR 122.22(a)(1)(ii) rather than to specific individuals.

    - (2) For a partnership or sole proprietorship. By a general partner or the proprietor, respectively; or
    - (3) For a municipality, State, Federal, or other public agency. By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
  - b. All reports required by permits, and other information requested by the Director shall be signed by a person described in paragraph (a) of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:
    - (1) The authorization is made in writing by a person described in paragraph (a) of this section;
    - (2) The authorization specifies 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 well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters of the

company, (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) and,

- (3) The written authorization is submitted to the Director.
- c. Changes to authorization. If an authorization under paragraph (b) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (b) of this section must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.
- d. Certification. Any person signing a document under paragraph (a) or (b) of 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.”

3. Reopener Clause; at 40 CFR 122.44(c).

For any permit issued to a treatment works treating domestic sewage (including “sludge-only facilities”), the Director shall include a reopener clause to incorporate any applicable standard for sewage sludge use or disposal promulgated under section 405(d) of the CWA. The Director may promptly modify or revoke and reissue any permit containing the reopener clause required by this paragraph if the standard for sewage sludge use or disposal is more stringent than any requirements for sludge use or disposal in the permit, or controls a pollutant or practice not limited in the permit.

4. Transfer of permits; at 40 CFR 122.61.

- a. Transfers by modification. Except as provided in paragraph (b) of this section, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under 40 CFR 122.62(b)(2)), or a minor modification made (under 40 CFR 122.63(d)), to identify the new permittee and incorporate such other requirements as may be necessary under CWA.
- b. Automatic transfers. As an alternative to transfers under paragraph (a) of this section, any NPDES permit may be automatically transferred to a new permittee if:
  - (1) The current permittee notifies the Director at least 30 days in advance of the proposed transfer date in paragraph (b)(2) of this section;
  - (2) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
  - (3) The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify or revoke and reissue the permit. A modification under this

subparagraph may also be a minor modification under 40 CFR 122.63. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph (b)(2) of this section.

5. Minor modifications of permits; at 40 CFR 122.63.

Upon the consent of the permittee, the Director may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section, without following the procedures of 40 CFR 124. Any permit modification not processed as a minor modification under this section must be made for cause and with 40 CFR 124 draft permit and public notice as required in 40 CFR 122.62. Minor modifications may only:

- a. Correct typographical errors;
- b. Require more frequent monitoring or reporting by the permittee;
- c. Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; or
- d. Allow for a change in ownership or operational control of a facility where the Director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Director.
- e. (1) Change the construction schedule for a discharger which is a new source. No such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge under 40 CFR 122.29.  
  
(2) Delete a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits.
- f. [Reserved]
- g. Incorporate conditions of a POTW pretreatment program that has been approved in accordance with the procedures in 40 CFR 403.11 (or a modification thereto that has been approved in accordance with the procedures in 40 CFR 403.18) as enforceable conditions of the POTW's permits.

6. Termination of permits; at 40 CFR 122.64.

- a. The following are causes for terminating a permit during its term, or for denying a permit renewal application:
  - (1) Noncompliance by the permittee with any conditions of the permit;
  - (2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

- (3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
  - (4) A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit (for example, plant closure or termination of discharge by connection to a POTW).
- b. The Director shall follow the applicable procedures in 40 CFR 124 or 40 CFR 122.22, as appropriate (or State procedures equivalent to 40 CFR 124) in terminating any NPDES permit under this section, except that if the entire discharge is permanently terminated by elimination of the flow or by connection to a POTW (but not by land application or disposal into a well), the Director may terminate the permit by notice to the permittee. Termination by notice shall be effective 30 days after notice is sent, unless the permittee objects within that time. If the permittee objects during that period, the Director shall follow 40 CFR 124 or applicable State procedures for termination. Expedited permit termination procedures are not available to permittees that are subject to pending State and/or Federal enforcement actions including citizen suits brought under State or Federal law. If requesting expedited permit termination procedures, a permittee must certify that it is not subject to any pending State or Federal enforcement actions including citizen suits brought under State or Federal law. State-authorized NPDES programs are not required to use part 22 of this chapter's procedures for NPDES permit terminations.

7. Availability of Reports; pursuant to CWA section 308

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

8. Removed Substances; pursuant to CWA section 301

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials entering waters of the U.S.

9. Severability; pursuant to CWA section 512

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 remainder of this permit, shall not be affected thereby.

10. Civil and Criminal Liability; pursuant to CWA section 309

Except as provided in permit conditions on "Bypass" and "Upset", nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

11. Oil and Hazardous Substances Liability; pursuant to CWA section 311

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.

12. State, Tribe, or Territory Law; pursuant to CWA section 510

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the operator from any responsibilities, liabilities, or penalties established pursuant to any applicable State, Tribe, or Territory law or regulation under authorities preserved by CWA section 510.

## **ATTACHMENT B. DEFINITIONS & ACRONYMS**

**“Antidegradation Policy”** - the water quality standards regulation that requires States and Tribes to establish a three-tiered antidegradation program:

1. Tier 1 maintains and protects existing uses and water quality conditions necessary to support such uses. An existing use can be established by demonstrating that fishing, swimming, or other uses have actually occurred since November 28, 1975, or that the water quality is suitable to allow such uses to occur. Where an existing use is established, it must be protected even if it is not listed in the water quality standards as a designated use. Tier 1 requirements are applicable to all surface waters.

2. Tier 2 maintains and protects "high quality" waters -- water bodies where existing conditions are better than necessary to support CWA § 101(a)(2) "fishable/swimmable" uses. Water quality can be lowered in such waters. However, State and Tribal Tier 2 programs identify procedures that must be followed and questions that must be answered before a reduction in water quality can be allowed. In no case may water quality be lowered to a level which would interfere with existing or designated uses.

3. Tier 3 maintains and protects water quality in outstanding national resource waters (ONRWs). Except for certain temporary changes, water quality cannot be lowered in such waters. ONRWs generally include the highest quality waters of the United States. However, the ONRW classification also offers special protection for waters of exceptional ecological significance, i.e., those which are important, unique, or sensitive ecologically. Decisions regarding which water bodies qualify to be ONRWs are made by States and authorized Indian Tribes.

**“Best Management Practices” (BMPs)** – Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of “Waters of the United States” (see below). BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

**“Best Management Practices Plan” (BMPP)** – A document that compiles the BMPs that a facility intends to implement. The specific requirements of the BMPP are outlined in the permit itself.

**“Best Professional Judgment” (BPJ)** - The method used by permit writers to develop tech NPDES permit conditions on a case-by-case basis using all reasonable available and relevant data.

**“Critical Habitat”** - as defined in the Endangered Species Act at 16 U.S.C. 1531 for a threatened or endangered species, (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of the Endangered Species Act, on which are found those physical or biological features essential to the conservation of the species and which may require special management considerations or

protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of the Endangered Species Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

**“CWA”** - the Clean Water Act or the Federal Water Pollution Control Act, 33 U.S.C. section 1251 et seq.

**“Dewatering”** - the act of draining rainwater and/or groundwater from building foundations, vaults, and trenches.

**“Discharge”** - when used without qualification means the “discharge of a pollutant.”

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

**“Discharge Point”** - for the purposes of this permit, the location where collected and concentrated wastewater water flows are discharged.

**“Discharge to an Impaired Water”** - for the purposes of this permit, a discharge to an impaired water occurs if the first named water of the U.S. to which you discharge is identified by a State, Tribe, or EPA pursuant to Section 303(d) of the Clean Water Act as not meeting an applicable water quality standard, or is included in an EPA-approved or established total maximum daily load (TMDL). For discharges that enter a storm sewer system prior to discharge, the water of the U.S. to which you discharge is the first named water of the U.S. that receives the stormwater discharge from the storm sewer system.

**“Effluent Limitations Guideline” (ELG)** - defined in 40 CFR § 122.2 as a regulation published by the Administrator under section 304(b) of CWA to adopt or revise effluent limitations.

**“Electronic Notice of Intent” (e-NOI)** - EPA’s online system for submitting electronic Construction General Permit forms.

**“Endangered Species”** - defined in the Endangered Species Act at 16 U.S.C. 1531 as any species which is in danger of extinction throughout all or a significant portion of its range other than a species of the Class Insecta determined by the Secretary to constitute a pest whose protection under the provisions of this Act would present an overwhelming and overriding risk to man.

**“Existing permitted discharger”** - a construction project that is not a new source, because construction activities commenced prior to February 1, 2010, and that received prior coverage



for its construction discharges under an effective NPDES permit, such as the 2003 CGP or 2008 CGP.

**“Existing unpermitted discharger”** - a construction project that is not a new source, because construction activities commenced prior to February 1, 2010, but has never received coverage for its construction discharges under an effective NPDES permit.

**“Federal Facility”** - any buildings, installations, structures, land, public works, equipment, aircraft, vessels, and other vehicles and property, owned by, or constructed or manufactured for the purpose of leasing to, the Federal government.

**“Hazardous Waste”** - for the purposes of this permit, any liquid, solid, or contained gas that contain properties that are dangerous or potentially harmful to human health or the environment. See also 40 CFR §261.2.

**“Historic Property”** - defined in the “Protection of Historic Properties Regulations” at 36 CFR § 800.16 as any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria.

**“Hydrostatic Test Water”**- Water used to test the integrity of pipes, valves, containers, boilers, conduits, etc. under defined pressure conditions to detect leaks.

**“Impaired Water” (or “Water Quality Impaired Water” or “Water Quality Limited Segment”)** - for purposes of this permit, waters identified by a State, Tribe, or EPA pursuant to Section 303(d) of the Clean Water Act as not meeting applicable State water quality standards (these waters are called “water quality limited segments” under 40 CFR 30.2(j)). Impaired waters include both waters with approved or established TMDLs, and those for which a TMDL has not yet been approved or established.

**“Indian Country”** - defined at 40 CFR §122.2 as:

1. All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;
2. All dependent Indian communities with the borders of the United States whether within the originally or subsequently acquired territory thereof, and whether within or without the limits of a state; and
3. All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-ways running through the same.

**“Low Threat Discharger”**- is an entity that discharges water that is clean or relatively pollutant free and which is discharged for a such a limited time period and/or in such limited quantities,

that it presents no or minimal threat to water quality for the environment and/or human health when managed properly.

**“National Pollutant Discharge Elimination System (NPDES)”** - defined at 40 CFR §122.2 as the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of CWA. The term includes an ‘approved program.’

**“Nephelometer”** - refer to **“Turbidimeter”**.

**“New operator of a new source or existing permitted discharger”** - an operator that replaces an existing operator on a construction project through transfer of ownership and/or operation.

**“New Source”** - for the purpose of this permit, a construction project that commenced construction activities after February 1, 2010, and that requires NPDES permit coverage for its construction discharges under Part 1.2.

**“Notice of Intent” (NOI)** - the form (electronic or paper) required for authorization of coverage under the Construction General Permit. **“Notice of Termination” (NOT)** - the form (electronic or paper) required for terminating coverage under the Construction General Permit.

**“NTU” (Nephelometric Turbidity Unit)** - an expression of the optical property that causes light to be scattered and absorbed rather than transmitted in a straight line through the water.

**“Outstanding Natural Resource Waters”** Are the highest quality “Waters of the United States” (see below) defined under the “Antidegradation Policy” (see above) defined at 40 CFR §131.12 which include waters of National and State parks and wildlife refuges and waters of exceptional recreational or ecological significance.

**“Perennial Stream”** - one which flows year-round during a typical year. Baseflow is maintained by groundwater discharge, as the stream channel is usually below the water table.

**“Permitting Authority”** - for the purposes of this permit, EPA, a Regional Administrator of EPA, or an authorized representative.

**“Point Source”** - any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

**“Pollutant”** - defined at 40 CFR §122.2. A partial listing from this definition includes: dredged spoil, solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial or municipal waste.

**“Potable Water”**- Water that has been treated to meet the minimum requirements for the safe consumption as drinking water for human beings.

**“Receiving Water”** - the “Water of the United States” as defined in 40 CFR §122.2 into which the regulated stormwater discharges.

**“Threatened and Endangered Species”** - defined in the Endangered Species Act at 16 U.S.C. 1531 as any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

**“Total Maximum Daily Load” or “TMDL”** - the sum of the individual wasteload allocations (WLAs) for point sources and load allocations (LAs) for nonpoint sources and natural background. If a receiving water has only one point source discharger, the TMDL is the sum of that point source WLA plus the LAs for any nonpoint sources of pollution and natural background sources, tributaries, or adjacent segments. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure.

**“Toxic Waste”** - see “Hazardous Waste.”

**“Turbidimeter”** - for the purposes of this permit, an instrument that measures the amount of light scattered at right angles to an incident light beam by particles present in a stormwater sample.

**“Turbidity”** - a condition of water quality characterized by the presence of suspended solids and/or organic material.

**“Water-Dependent Uses”** - structures or facilities that require the proximity of structures to be directly adjacent to a waterbody or wetland, such as a marina, pier, boat ramp, etc.

**“Waterfront Setback”** - for the purposes of this permit, a minimum distance that separates where construction and/or structures can be placed from waterbodies. A waterfront setback does not

**“Water Quality Standards”** - defined in 40 CFR § 131.3, and are provisions of State or Federal law which consist of a designated use or uses for the waters of the United States and water quality criteria for such waters based upon such uses. Water quality standards protect the public health or welfare, enhance the quality of water and serve the purposes of the Act.

**“Waters of the United States”** - defined at 40 CFR §122.2 as:

1. All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
2. All interstate waters, including interstate wetlands;
3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
  - a. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
  - b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce;or

- c. Which are used or could be used or could be used for industrial purposes by industries in interstate commerce;
4. All impoundments of waters otherwise defined as waters of the United States under this definition;
5. Tributaries of waters identified in paragraphs (1) through (4) of this definition;
6. The territorial sea; and
7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (1) through (6) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. Waters of the United States do not include prior converted cropland.

Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

**“Wetland”** - those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

## **ACRONYMS**

BMP – Best Management Practice

BMPP – Best Management Practice Plan

BPJ – Best Professional Judgment

CERCLA – Comprehensive Environmental Response, Compensation, and Liability Act

CFR - Code of Federal Regulations

COC – Constituents of Concern

CWA - Clean Water Act

ELG – Effluent Limitation Guideline

EPA - United States Environmental Protection Agency

ESA - Endangered Species Act

FWS - United States Fish and Wildlife Service

LTGP – Low Threat General Permit

MCL – Maximum Contaminant Level

MDL – Method Detection Level

MGD – Million Gallons per Day

NHPA - National Historic Preservation Act

NMFS - United States National Marine Fisheries Service

NOI - Notice of Intent

NOT - Notice of Termination

NPDES - National Pollutant Discharge Elimination System

NTU - Nephelometric Turbidity Units

POTW - Publicly Owned Treatment Works  
RCRA – Resource Conservation and Recovery Act  
SHPO - State Historic Preservation Officer  
TDS – Total Dissolved Solids  
THPO - Tribal Historic Preservation Officer  
TMDL - Total Maximum Daily Load  
TSS – Total Suspended Solids  
TRC – Total Residual Chlorine  
USGS - United States Geological Survey  
WLA – Waste Load Allocation  
WQBEL – Water Quality Based Effluent Limit  
WQS - Water Quality Standard

## ATTACHMENT C: ENDANGERED SPECIES ACT REQUIREMENTS

### Eligibility Criteria

You must certify in your NOI letter that you meet one of the eligibility criteria below. Regardless of the Criterion selected, you must provide documentation in your BMPP that is sufficient to support your determination that you satisfy the requirements of the particular Criterion.

You must comply with any applicable terms, conditions, or other requirements developed in the process of meeting the eligibility requirements of the criteria in this section to remain eligible for coverage under this permit. Documentation must be kept with your BMPP.

- Criterion A: No federally-listed threatened or endangered species or their designated critical habitat are found in, or likely to regularly use the receiving waters.
- Criterion B: The discharges were already addressed in another permittee's valid certification of eligibility for the same or similar activity under eligibility Criterion A, C, D, or E and there is no reason to believe that federally-listed threatened and endangered species or federally-designated critical habitat on considered in the prior certification may be effected by the permittee's current discharge. To certify eligibility under this criterion there must be no lapse of coverage in the other permittee's certification. By certifying eligibility under this criterion, you agree to comply with any effluent limitations or conditions upon which the other permittee's certification was based. If your certification is based on another permittee's certification under Criterion C, it is valid only if you have documentation showing that the other permittee had certified its eligibility under Criterion C, and you provide EPA with the relevant supporting documentation required of existing dischargers in Criterion C in your NOI letter.
- Criterion C: Federally-listed threatened or endangered species or their designated critical habitat are likely to occur in or near your site or facility's "action area," which includes the discharge point to the receiving water, and your site or facility's discharges are not likely to adversely affect listed threatened or endangered species or critical habitat.<sup>1</sup> To make this certification, you must document and include in your NOI letter: 1) a list of listed species and/or critical habitat located in the action area where your discharge(s) occur<sup>2</sup>; 2) the location of such species

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<sup>1</sup> The list of federally listed species can be obtained using the USFWS' online mapping tool, IPaC, which can be found at <http://ecos.fws.gov/ipac>. The IPaC tool generates a report, which includes a species list for the "action area" and provides the permittee with documentation for their criteria selection.

<sup>2</sup> The permittee should also contact the Navajo Nation Natural Heritage Program to obtain a list of tribally listed species for the "action area".

or critical habitat in relation to your action area; 3) a description of the habitat needs for listed species identified in the action area where the discharge(s) will occur; and 4) a narrative description of how it was determined that your discharge is not likely to adversely affect any listed species or critical habitat.

Criterion D: Consultation between a Federal Agency and the U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act (ESA) has been concluded. Consultations can be either formal or informal and must have addressed the effects of the site or facility's discharges on federally-listed threatened or endangered species and designated critical habitat. The result of this consultation must be one of the following:

- i. written concurrence that your site or facility's discharge(s) is not likely to adversely affect listed species or critical habitat;
- ii. a biological opinion that concludes that the action in question (taking into account the effect of your site or facility's discharges) is not likely to jeopardize the continued existence of listed species, nor result in the destruction or adverse modification of critical habitat; or
- iii. a biological opinion that concludes that the action is likely to jeopardize listed species or to result in the destruction or adverse modification of critical habitat, and any recommended reasonable and prudent alternatives or reasonable and prudent measures are being implemented.

You must include copies of the correspondence between yourself and the Service in your BMPP and with your NOI letter.

Criterion E: Your activities are authorized through the issuance of a permit under section 10 of the ESA, and this authorization addresses the effects of the site's discharges on federally-listed species and federally-designated critical habitat.

You must include copies of the correspondence between yourself and the Service in your BMPP and with your NOI letter.

## **ATTACHMENT D: NATIONAL HISTORIC PRESERVATION ACT REQUIREMENTS**

### Eligibility Criteria

You must certify on your NOI that you meet one of the eligibility criteria below. <sup>1</sup>

- Criterion A Your low threat discharges do not have the potential to have an effect on historic properties; or
- Criterion B Your low threat discharges or discharge related activities will not affect historic properties; or
- Criterion C Your low threat discharges have the potential to have an effect on historic properties, and you have consulted with the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Office (THPO), or other tribal representative regarding measures to mitigate or prevent any adverse effects on historic properties, and you have obtained and are in compliance with a written agreement that outlines all such measures; or
- Criterion D You have contacted the SHPO, THPO, or other tribal representative and EPA in writing informing them that you have the potential to have an effect on historic properties and you did not receive a response from the SHPO, THPO, or other tribal representative within 30 days of receiving your letter.

If you have been unable to reach agreement with a SHPO, THPO, or other tribal representative regarding appropriate measures to mitigate or prevent adverse effects, you must notify EPA's Regional Office NHPA contact prior to submitting your NOI letter. EPA will notify you of any additional measure you must implement in order to be eligible for coverage under this permit.

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<sup>1</sup> These eligibility criteria are draft, and subject to change and EPA continues its consultation with the appropriate Agencies in regards to the National Historic Preservation Act requirements. The eligibility criteria are modeled after the criteria used in EPA's construction general permit (CGP) for discharges associated with construction activities.





**ATTACHMENT F: FEDERAL MCLS**

National Primary Drinking Water Regulations can be found on EPA's website at the following URL:

[https://www.epa.gov/sites/production/files/2016-06/documents/npwdr\\_complete\\_table.pdf](https://www.epa.gov/sites/production/files/2016-06/documents/npwdr_complete_table.pdf)