

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8  
1595 WYNKOOP STREET  
DENVER, COLORADO 80202-1129

AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. § 1251 *et seq.*; “the Act”), operators of wastewater treatment systems associated with drinking water production are authorized to discharge to waters of the United States within the following areas of Indian country, as defined in 18 U.S.C. Section 1151, within the following states:

**Colorado**

- (1) lands within the exterior boundaries of the following Indian reservations located within Colorado: the Southern Ute Indian Reservation and the Ute Mountain Ute Reservation;
- (2) any land held in trust by the United States for an Indian tribe; and
- (3) any other areas that are “Indian country” within the meaning of 18 U.S.C. Section 1151.

**Montana**

- (1) lands within the exterior boundaries of the following Indian reservations located within Montana: the Crow Indian Reservation, the Blackfeet Indian Reservation, the Flathead Reservation, the Fort Belknap Reservation, the Fort Peck Indian Reservation, the Rocky Boy’s Reservation, and the Northern Cheyenne Indian Reservation;
- (2) any land held in trust by the United States for an Indian tribe; and
- (3) any other areas that are “Indian country” within the meaning of 18 U.S.C. Section 1151.

**New Mexico**

- (1) lands within the exterior boundaries of the Ute Mountain Ute Reservation within New Mexico.

**North Dakota**

- (1) lands within the exterior boundaries of the following Indian reservations located within North Dakota: the Fort Berthold Indian Reservation, the Spirit Lake Reservation, the Standing Rock Sioux Reservation, and the Turtle Mountain Reservation;
- (2) any land held in trust by the United States for an Indian tribe; and
- (3) any other areas that are “Indian country” within the meaning of 18 U.S.C. Section 1151.

## South Dakota

- (1) lands within the exterior boundaries of the following Indian reservations located within South Dakota: the Cheyenne River Reservation, the Crow Creek Reservation, the Flandreau Indian Reservation, the Lower Brule Reservation, the Pine Ridge Reservation, the Rosebud Indian Reservation, the Standing Rock Reservation, and the Yankton Reservation (subject to federal court decisions removing lands from Indian country status within the Yankton Reservation);
- (2) any land held in trust by the United States for an Indian tribe; and
- (3) any other areas that are “Indian country” within the meaning of 18 U.S.C. Section 1151.

## Utah

- (1) lands within the exterior boundaries of the following Indian reservations located within Utah: the reservation lands of the Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes), the Skull Valley Indian Reservation, the Uintah and Ouray Reservation (subject to federal court decisions removing certain lands from Indian country status within the Uintah and Ouray Reservation), and the Washakie Reservation;
- (2) any land held in trust by the United States for an Indian tribe; and
- (3) any other areas that are “Indian country” within the meaning of 18 U.S.C. Section 1151.

Note that this permit does not apply to Indian country within the exterior boundaries of the Goshute Reservation and the Navajo Indian Reservation within Utah.

## Wyoming

- (1) lands within the exterior boundaries of the Wind River Indian Reservation (subject to *Wyoming v. EPA*, 875 F.3d 505 (10th Cir. 2017), *cert. denied*, 138 S. Ct. 2677 (2018));
- (2) any land held in trust by the United States for an Indian tribe; and
- (3) any other areas that are “Indian country” within the meaning of 18 U.S.C. Section 1151.

All discharges authorized pursuant to this permit must be in accordance with the effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective **July 20, 2019**.

This permit and the authorization to discharge shall expire at midnight, **June 30, 2024**.



Authorized Permitting Official  
Darcy O'Connor, Director  
Water Division

TABLE OF CONTENTS

1	COVERAGE UNDER THIS PERMIT.....	5
1.1	Introduction: .....	5
1.2	Permit Area:.....	5
1.3	Eligibility:.....	5
1.4	Authorization to Discharge: .....	6
1.5	Notice of Termination of Discharge.....	6
2	EFFLUENT LIMITATIONS .....	7
2.1	Description of Discharge Point(s): .....	7
2.2	Effluent Limitations.....	7
3	MONITORING REQUIREMENTS:.....	8
3.1	Continuous and Frequent Discharge .....	9
3.2	Intermittent Discharges .....	10
4	MONITORING, RECORDING AND REPORTING REQUIREMENTS.....	11
4.1	Representative Sampling:.....	11
4.2	Monitoring Procedures: .....	11
4.3	Penalties for Tampering: .....	11
4.4	Reporting of Monitoring Results:.....	11
4.5	Additional Monitoring by the Permittee: .....	12
4.6	Records Contents:.....	12
4.7	Retention of Records: .....	13
4.8	Twenty-Four Hour Notice of Noncompliance Reporting: .....	13
4.9	Other Noncompliance Reporting:.....	14
4.10	Inspection and Entry:.....	14
5	COMPLIANCE RESPONSIBILITIES.....	14
5.1	Duty to Comply: .....	14
5.2	Penalties for Violations of Permit Conditions:.....	14
5.3	Need to Halt or Reduce Activity not a Defense: .....	15
5.4	Duty to Mitigate: .....	15
5.5	Inspection Requirements: .....	16
5.6	Proper Operation and Maintenance: .....	17
5.7	Removed Substances: .....	18
5.8	Bypass of Treatment Facilities: .....	18
5.9	Upset Conditions: .....	18
6	GENERAL REQUIREMENTS .....	19

U.S. EPA, Region 8  
NPDES Drinking Water General Permit

6.1	Planned Changes: .....	19
6.2	Anticipated Noncompliance: .....	19
6.3	Permit Actions: .....	19
6.4	Renewal of Permit Coverage: .....	20
6.5	Duty to Reapply: .....	20
6.6	Duty to Provide Information: .....	20
6.7	Other Information: .....	20
6.8	Signatory Requirements: .....	20
6.9	Penalties for Falsification of Reports: .....	21
6.10	Availability of Reports: .....	21
6.11	Oil and Hazardous Substance Liability: .....	21
6.12	Property Rights: .....	22
6.13	Severability: .....	22
6.14	Transfers: .....	22
6.15	Permittees in Indian Country: .....	22
6.16	Reopener Provision: .....	22
APPENDIX A - Tribal Mailing Address .....		23
APPENDIX B – Complying with the Endangered Species Act .....		26
Assessing the Effects of Your Discharge and Discharge-Related Activities .....		27
Eligibility Criterion .....		27
Detailed Steps to Assist in the Determination of ESA Eligibility .....		29
APPENDIX C – Complying with the Historic Preservation Act .....		34
Historic Properties Screening Procedures: Steps for Assessing Eligibility .....		37
APPENDIX D - Notice of Intent Form and Instructions .....		41
APPENDIX E – Acronyms and Definitions .....		51

## 1 COVERAGE UNDER THIS PERMIT

### 1.1 Introduction:

The Drinking Water General Permit (Permit) is intended for the permitting of wastewater discharges associated with drinking water treatment facilities. Authorization for coverage under this Permit will be limited to facilities that treat water for domestic uses.

This permit contains two tables of effluent limitations. Primary effluent limits in the Table 1 (Section 2.2.1) apply to all permittees. Supplemental effluent limits in the Table 2 (Section 2.2.2) apply only if additional water quality-based effluent limitations are necessary to ensure compliance with applicable water quality standards. Those requirements will be specified in the written notice of authorization of coverage or subsequent letter from the EPA.

### 1.2 Permit Area:

The Permit will cover wastewater discharges located within the boundaries of the Indian reservations or otherwise in Indian country in the EPA Region 8. The coverage areas are specified on the signature page of this Permit.

### 1.3 Eligibility:

1.3.1 This Permit provides coverage for wastewater discharges associated with drinking water production for domestic uses.

#### 1.3.2 Limitations on Coverage:

Water treatment plants that use reverse osmosis or ion exchange are not eligible for coverage. Plants that treat source water containing naturally occurring radioactive pollutants above the Maximum Contaminant Level as defined in the Safe Drinking Water Act are not eligible for coverage under this Permit.

1.3.3 A wastewater discharge that has an individual permit may request to be covered by this Permit. Upon submittal of the necessary notice of intent information, revocation of the individual permit and receipt of written notification of coverage from the EPA, this Permit shall apply to the wastewater system.

#### 1.3.4 Threatened and Endangered Species and Critical Habitat Protection.

Coverage under this Permit is available only if the wastewater discharges and related activities will not adversely affect any species that are federally-listed as endangered or threatened (“listed”) under the Endangered Species Act (ESA) and will not result in the adverse modification or destruction of habitat that is federally-designated as “critical habitat” under the ESA. You must meet one of the six eligibility criteria and follow the procedures in Appendix B.

Nothing in this Permit authorizes take (as defined by the Endangered Species Act) for the purposes of a facility’s compliance with the Endangered Species Act.

### 1.3.5 Historic Properties Preservation.

Coverage under this Permit is available only if wastewater discharges and related activities meet one of four eligibility criteria, following the procedures in Appendix C.

### 1.4 Authorization to Discharge:

1.4.1 Eligible wastewater systems may be authorized to discharge under this Permit in the following three circumstances:

1.4.1.1 The owner or operator of a wastewater system has submitted a complete Notice of Intent (NOI) in accordance with the requirements of Appendix D and the operator receives a written notice of authorization from the EPA;

1.4.1.2 The owner or operator of a wastewater system has submitted a complete application for renewal of an individual permit issued by the EPA under the National Pollutant Discharge Elimination System (NPDES), for wastewater discharges to waters of the U.S., and the operator instead receives written notification of coverage under this Permit from the EPA; or

1.4.1.3 The EPA notifies the operator of a wastewater system that it is covered by this Permit, even if the operator has not submitted a notice of intent to be covered by the Permit.

1.4.2 The EPA may withhold notification of coverage and instead require submittal of an application for an individual NPDES permit based on a review of the NOI or other information.

1.4.3 As of December 21, 2020, all NOIs and applications submitted in compliance with this section must be submitted electronically by the discharger to the EPA or initial recipient in accordance with 40 CFR §122.28(b)(2). If the online NOI is not available on December 21, 2020, the NOI can continue to be submitted via hard copy until such time as the online option is available.

### 1.5 Notice of Termination of Discharge

1.5.1 In accordance with 40 C.F.R. § 122.64, the EPA may terminate coverage or deny a renewal of coverage under the DWGP, for the following reasons:

1.5.1.1 Noncompliance by the permittee with any condition of the permit;

1.5.1.2 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;

1.5.1.3 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

1.5.1.4 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 publicly owned treatment works).

- 1.5.2 The permittee may request termination of coverage under the DWGP in accordance with 40 C.F.R. §§ 122.64(c) and 124.5. The notification must be in writing and signed in accordance with the signatory requirements identified in 40 C.F.R. §122.22. The notification must include the date that the discharger ceased operation, and the permit number assigned by the EPA. In cases of temporary shutdowns, a plant should not submit a notice of termination, as this action results in the termination of NPDES coverage.
- 1.5.3 As of December 21, 2020, all Notice of Termination of Discharge submitted in compliance with this section must be submitted electronically by the permittee to the EPA in accordance with 40 CFR §122.64(c). If the online NOT is not available on December 21, 2020, the NOT can continue to be submitted via hard copy until such time as the online option is available.
- 1.5.4 Termination of permit coverage under the DWGP will become effective 30 days after the EPA sends written notification.

**2 EFFLUENT LIMITATIONS**

2.1 Description of Discharge Point(s):

The authorization to discharge provided under this Permit is limited to those outfalls specifically designated as discharge locations in the NOI and approved in the notification of coverage letter. Discharges at any location not authorized under an NPDES permit are a violation of the Clean Water Act and could subject the person(s) responsible for such discharge to penalties under Section 309 of the Act.

2.2 Effluent Limitations

Effluent limitations are developed to be as stringent as, or more stringent than, all tribal water quality standards in the EPA Region 8. The development of effluent limitations is discussed in the DWGP Fact Sheet section 5.3.

Effective immediately and lasting through the life of this Permit, the quality of effluent discharged by the facility shall, at a minimum, meet the limitations as set forth below:

2.2.1 Primary Effluent Limitations

Table 1 details the effluent limits ALL facilities must meet to comply with this Permit

Table 1 – Primary Effluent Limitations

<b>Pollutant</b>	<b>Daily Maximum</b>	<b>30-day average</b>
Total Suspended Solids, mg/L	45	30
The pH of the discharge shall not be less than 6.5 or greater than 9.0 at any time, Standard Units.		

Supplemental Effluent Limitations

Table 2 outlines supplemental effluent limits that may be required to ensure that a facility’s discharge complies with applicable water quality standards. The EPA Region 8 will review each NOI to determine if supplemental limitations are necessary, for each facility. The notification of coverage will identify which supplemental effluent limitations are effective.

Table 2 – Supplemental Effluent Limitations

<b>Pollutant</b>	<b>Daily Maximum</b>	<b>30-day average</b>
Total Residual Chlorine, µg/L	19	11
Aluminum, µg/L	750	87
Iron, µg/L	1000	N/A
Arsenic, µg/L	340	150
Arsenic (Drinking), µg/L <sup>1</sup>	10	N/A
E. coli, number/100ml	126	126
Fecal Coliform, number/100ml	400	200
Zinc, mg/L	120	N/A
pH (Ute Mountain Reservation): The pH of the discharge shall not be less than 6.6 or greater than 8.5 at any time, Standard Units <sup>2</sup>		
<ol style="list-style-type: none"> <li>1. The Drinking Arsenic Limit will be applied when the source water contains arsenic and the receiving water has a beneficial use for drinking water supply</li> <li>2. This pH limit will be applied for discharges on the Ute Mountain Reservation. This will apply when the receiving water has a designated use of Tribal Cultural and/or Drinking Water Source as defined in the Tribal WQS.</li> </ol>		

**3 MONITORING REQUIREMENTS:**

Effective immediately and lasting through the effective term of this Permit. Sampling and test procedures for pollutants listed in this part shall be in accordance with 40 C.F.R. Part 136, as required in 40 C.F.R. § 122.41(j). At a minimum, the following constituents shall be monitored at the frequency and with the type of measurement indicated; samples or measurements shall be representative of the volume and nature of the monitored discharge. If no discharge occurs during the entire monitoring period, it shall be stated in NetDMR on the copy of record that no discharge or overflow occurred.

### 3.1 Continuous and Frequent Discharge

Table 3 details the monitoring requirements for facilities continuously and frequently discharging wastewater. For the purpose of the DWGP, frequent dischargers are those facilities that discharge wastewater at least once per 30-day period.

Table 3 – Monitoring requirements for continuous and frequent discharge

Parameter	Units	Monitoring Frequency	Type of Sample
Outfall Flow	Gallons and Gallons per day	Daily <sup>1</sup>	Estimate/ Measurement
pH, Standard units	Standard Units	Weekly	Grab
TSS	mg/L	Weekly	Grab
Temperature	°C	Weekly	Grab
Metals <sup>2,3</sup>	µg/L	Annually	Grab
TTHMs <sup>4</sup>	µg/L	Bi-annually	Grab
Total Residual Chlorine <sup>5</sup>	µg/L	Daily	Grab
<i>E. coli</i> <sup>5</sup>	Number/100 mL	Quarterly	Grab
Fecal Coliform <sup>5</sup>	Number/100 mL	Monthly	Grab
Iron <sup>5</sup>	µg/L	Quarterly	Grab
Arsenic <sup>5</sup>	µg/L	Monthly	Grab
Aluminum <sup>5</sup>	µg/L	Monthly	Grab
Hardness <sup>6</sup>	mg/L as CaCO <sub>3</sub>	Annually <sup>6</sup>	Grab

1. Report monthly cumulative volume (gallons or millions of gallons) and maximum daily gallons per day (gpd)
2. Metals include: antimony, arsenic, beryllium, cadmium, total chromium, copper, lead, nickel, selenium, silver, thallium, and zinc. These parameters must be measured and reported as total recoverable.
3. The metals monitoring requirement must be conducted at each outfall annually if a discharge occurs.
4. Only required at plants where chlorine is expected to be in the wastewater discharge. Analysis for chloroform, chlorodibromomethane, dichlorobromomethane, and bromoform.
5. Monitoring for these constituents is only required when stated in the letter of authorization.
6. Must be monitored at the same time as metals

3.2 Intermittent Discharges

Table 4 details the monitoring requirements for facilities with an intermittent or seasonal discharge. For the purpose of the DWGP, intermittent dischargers are those facilities that discharge wastewater less than once per 30-day period.

Table 4 – Monitoring requirements for facilities with intermittent wastewater discharges.

Parameter	Units	Monitoring Frequency	Type of Sample
Outfall Flow	Gallons per day	Daily <sup>1,2</sup>	Estimate/ Measurement
pH, Standard units	Standard Units	Daily <sup>2</sup>	Grab
TSS	mg/L	Daily <sup>2</sup>	Grab
Metals <sup>3,4</sup>	µg/L	Annually	Grab
TTHMs <sup>5</sup>	µg/L	Annually	Grab
Total Residual Chlorine <sup>6</sup>	µg/L	Daily <sup>2</sup>	Grab
<i>E. coli</i> <sup>6</sup>	Number/100mL	Monthly	Grab
Fecal Coliform <sup>6</sup>	Number/100mL	Quarterly	Grab
Iron <sup>6</sup>	µg/L	Once per Discharge	Grab
Arsenic <sup>6</sup>	µg/L	Once per Discharge	Grab
Aluminum <sup>6</sup>	µg/L	Once per discharge	Grab
Hardness <sup>7</sup>	mg/L as CaCO <sub>3</sub>	Annually <sup>6</sup>	Grab

1. Report monthly discharge volume and maximum gallons per day (gpd)
2. Daily monitoring requirements are only to be taken when a discharge is conducted
3. Metals include: antimony, arsenic, beryllium, cadmium, total chromium, copper, lead, nickel, selenium, silver, thallium, and zinc. These parameters must be measured and reported as total recoverable.
4. If the plant has multiple discharge locations the metals monitoring requirement must be conducted at each outfall annually, if a discharge occurs.
5. Only required at plants where chlorine is expected to be in the wastewater discharge. Analysis for chloroform, chlorodibromomethane, dichlorobromomethane, and bromoform.
6. Monitoring for these constituents is only required when stated in the notification of coverage.
7. Hardness shall be sampled at the same time metal samples are collected.

#### 4 MONITORING, RECORDING AND REPORTING REQUIREMENTS

##### 4.1 Representative Sampling:

Samples taken in compliance with the monitoring requirements shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge.

##### 4.2 Monitoring Procedures:

Monitoring must be conducted according to test procedures approved under 40 C.F.R. Part 136. The Permittee must select a test procedure that is Sufficiently Sensitive (see definitions) for all monitoring conducted in accordance with this Permit.

##### 4.3 Penalties for Tampering:

The CWA provides that any person who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required under this Permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than two years, or by both. Second conviction is punishable by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or both.

##### 4.4 Reporting of Monitoring Results:

With the effective date of this Permit, the permittee must electronically submit discharge monitoring reports (DMRs) quarterly using NetDMR. Submissions must be made to the EPA Region 8 no later than the 28th of the month following the completed reporting period (See Table 5). The Permittee must sign and certify all electronic submissions in accordance with the requirements of section 6.8 of this Permit (“Signatory Requirements”). NetDMR is accessed from the internet at <https://netdmr.zendesk.com/home>.

Table 5 – DMR Due Dates

<b>Compliance Monitoring Period</b>	<b>Due Date</b>
January 1 - March 31	April 28
April 1 - June 30	July 28
July 1 - September 30	October 28
October 1 - December 31	January 28

4.4.1 All other reports required herein:

Shall be signed and certified in accordance with the Signatory Requirements (see section 6.8), and submitted to the EPA Region 8 Enforcement and Compliance Assurance Division Water Enforcement Branch:

original to:

U.S. EPA, Region 8  
(8ENF-W)  
Attention: DMR Coordinator  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

In addition, the permittee must submit a copy of all other reports required herein to the Tribe(s) at the address provided in Appendix A.

Prior to December 21, 2020, all other reports required herein (e.g., Parts 4.8 and 4.9), shall be signed and certified in accordance with the Signatory Requirements (see Part 6.8), and submitted to the EPA Region 8 Enforcement and Compliance Assurance Division Water Enforcement Branch and Tribe at the addresses given above. Effective no later than December 21, 2020, these reports shall be submitted electronically using “NeT”). If NeT is not available on December 21, 2020, the reports may continue to be submitted via hard copy until such time as the online option is available.

4.5 Additional Monitoring by the Permittee:

If the permittee monitors any pollutant more frequently than required by this Permit, using test procedures approved under 40 C.F.R. Part 136, or as specified in this Permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

4.6 Records Contents:

Records of monitoring information shall include:

- 4.6.1 The date, exact place, and time of sampling or measurements;
- 4.6.2 The initials or name(s) of the individual(s) who performed the sampling or measurements;
- 4.6.3 The date(s) analyses were performed;
- 4.6.4 The time(s) analyses were initiated;
- 4.6.5 The initials or name(s) of individual(s) who performed the analyses;
- 4.6.6 References and written procedures, when available, for the analytical techniques or methods used; and,
- 4.6.7 The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.

4.7 Retention of Records:

The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and recordings for continuous monitoring instrumentation, copies of all reports required by this Permit, and records of all data used to complete the for this Permit, for a period of at least three years from the date of the sample, measurement, report or application. Records of monitoring required by this Permit related to sludge use and disposal activities must be kept at least five years (or longer as required by 40 C.F.R. Part 503). This period may be extended by request of the EPA at any time. Data collected on site, data used to prepare the DMR, copies of DMRs, and a copy of this NPDES Permit must be maintained on site.

4.8 Twenty-Four Hour Notice of Noncompliance Reporting:

4.8.1 The Permittee shall report any noncompliance which may endanger health or the environment as soon as possible, but no later than twenty-four (24) hours from the time the Permittee first became aware of the circumstances. The report shall be made to the EPA, Region 8, Superfund & Emergency Management Division at (303) 293-1788 and the Tribe(s) (Appendix A).

4.8.2 The following occurrences of noncompliance shall be reported by telephone to the EPA, Region 8 Enforcement and Compliance Assurance Division Water Enforcement Branch NPDES Enforcement Section at (800) 227-8917 (8:00 a.m. - 4:30 p.m. Mountain Time), and the Tribe(s) (Appendix A) by the first workday following the day the Permittee became aware of the circumstances:

4.8.2.1 Any unanticipated bypass which exceeds any effluent limitation in the Permit (See section 5.8, Bypass of Treatment Facilities.);

4.8.2.2 Any upset which exceeds any effluent limitation in the Permit (See section 5.9, Upset Conditions); or,

4.8.2.3 Violation of a maximum daily discharge limitation for any of the pollutants listed in the Permit to be reported within 24 hours.

4.8.3 A written submission shall also be provided to the U.S. EPA, Office of Enforcement and Compliance Assurance Division Water Enforcement Branch NPDES Enforcement Section, and to the Tribe(s) (Appendix A) within five days of the time that the Permittee becomes aware of the circumstances. The written submission shall contain:

4.8.3.1 A description of the noncompliance and its cause;

4.8.3.2 The period of noncompliance, including dates and times;

4.8.3.3 The estimated time noncompliance is expected to continue if it has not been corrected; and,

4.8.3.4 Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

4.8.4 The EPA may waive the written report on a case-by-case basis for an occurrence of noncompliance listed under section 4.8.2 above, if the incident has been orally reported in accordance with the requirements of section 4.8.2.

4.8.5 Reports shall be submitted to the addresses in section 4.4, Reporting of Monitoring Results.

#### 4.9 Other Noncompliance Reporting:

Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for section 4.4.1 are submitted. The reports shall contain the information listed in section 4.8.3.

#### 4.10 Inspection and Entry:

The Permittee shall allow the Tribe(s) or the EPA, or 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:

- 4.10.1 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;
- 4.10.2 Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;
- 4.10.3 Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and,
- 4.10.4 Sample or monitor at reasonable times, for assuring Permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

### **5 COMPLIANCE RESPONSIBILITIES**

#### 5.1 Duty to Comply:

The Permittee must comply with all conditions of this Permit. Any failure to comply with the Permit may constitute a violation of the Act and may be grounds for enforcement action, including, but not limited to termination, revocation and reissuance, modification, or denial of a permit renewal application. The Permittee shall give the EPA advanced notice of any planned changes at the permitted Facility that will change any discharge from the facility, or of any activity that may result in failure to comply with Permit conditions.

#### 5.2 Penalties for Violations of Permit Conditions:

The Clean Water Act provides for specified civil and criminal monetary penalties for violations of its provisions. However, the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, requires the EPA to adjust the civil monetary penalties for inflation on a periodic basis. The EPA has adjusted its civil monetary penalties effective January 15, 2018 (83 Fed. Reg. 1190-1194). The civil and criminal penalties for violations of the Act are as follows:

- 5.2.1 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 Section 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$53,484 per day for each violation.

- 5.2.2 Any person who *negligently* violates Section 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 Section 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 for not more than one 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 for not more than two years, or both.
- 5.2.3 Any person who *knowingly* violates Section 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 Section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than three 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 for not more than six years, or both.
- 5.2.4 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 for not more than 15 years, or both. In the case of a 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 for not more than 30 years, or both. An organization, 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.
- 5.2.5 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 of such sections in a permit issued under Section 402 of this Act. Where an administrative enforcement action is brought for a Class I civil penalty, the assessed penalty may not exceed \$21,393 per violation, with a maximum amount not to exceed \$53,484. Where an administrative enforcement action is brought for a Class II civil penalty, the assessed penalty may not exceed \$21,393 per day for each day during which the violation continues, with the maximum amount not to exceed \$267,415.

5.3 Need to Halt or Reduce Activity not a Defense:

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

5.4 Duty to Mitigate:

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.

5.5 Inspection Requirements:

5.5.1 On at least a weekly basis, unless otherwise approved by the Permit issuing authority, the permittee shall inspect its wastewater treatment facility, at a minimum, for the following:

5.5.1.1 Determine if a discharge is occurring, has occurred since the previous inspection, and/or if a discharge is likely to occur before the next inspection. If a discharge has occurred or is likely to occur before the next inspection, perform the appropriate monitoring and reporting requirements of this Permit if not already done;

5.5.1.2 Check to see if there is any leakage through the dikes;

5.5.1.3 Check to see if there are any animal burrows in the dike;

5.5.1.4 Check to see if there has been any excessive erosion of the dikes;

5.5.1.5 Check to see if there are any rooted plants, including weeds growing in the water;

5.5.1.6 Check to see if vegetation growth on the dikes needs mowing; and,

5.5.1.7 Determine if proper operation and maintenance procedures are being undertaken at the wastewater treatment facility.

5.5.2 The Permittee shall maintain a log in either paper or electronic format recording information obtained during the inspection. At a minimum, the log shall include the following:

5.5.2.1 Date and time of the inspection;

5.5.2.2 Name of the inspector(s);

5.5.2.3 The facility's discharge status;

5.5.2.4 The flow rate of the discharge if occurring;

5.5.2.5 Identification of operational problems and/or maintenance problems;

5.5.2.6 Recommendations, as appropriate, to remedy identified problems;

5.5.2.7 A brief description of any actions taken with regard to problems identified; and,

5.5.2.8 Other information, as appropriate.

5.5.2.9 The permittee shall maintain log in either paper or electronic format in accordance with proper record-keeping procedures and shall make the log available for inspection, upon request, by authorized representatives of the U.S. Environmental Protection Agency or the applicable Tribe.

5.5.3 Problems identified during the inspection shall be addressed through proper operation and maintenance. (See Part 5.6 of this Permit.)

5.6 Proper Operation and Maintenance:

The Permittee shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this Permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up 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. However, the Permittee shall operate, at a minimum, one complete set of each main line unit treatment process whether this process is needed to achieve Permit effluent compliance.

- 5.6.1 The Permittee shall, as soon as reasonable and practicable, but no later than six (6) months after the effective date of this Permit, do the following as part of the operation and maintenance program for the wastewater treatment facility:
- 5.6.1.1 Have a current operations and maintenance (O & M) Manual(s) that describes the proper operational procedures and maintenance requirements of the wastewater treatment facility;
  - 5.6.1.2 Have the O & M Manual(s) readily available to the operator of the wastewater treatment facility and require that the operator become familiar with the manual(s) and any updates;
  - 5.6.1.3 Have a schedule(s) for routine operation and maintenance activities at the wastewater treatment facility; and,
  - 5.6.1.4 Require the operator to perform the routine operation and maintenance requirements in accordance with the schedule(s).
- 5.6.2 The Permittee shall maintain a log in either paper or electronic format containing a summary record of all operation and maintenance activities at the wastewater treatment facility. At a minimum, the log shall include the following information:
- 5.6.2.1 Date and time;
  - 5.6.2.2 Name and title of person(s) making the log entry;
  - 5.6.2.3 Name of the persons(s) performing the activity;
  - 5.6.2.4 A brief description of the activity; and,
  - 5.6.2.5 Other information, as appropriate.
- 5.6.3 The Permittee shall maintain the log in accordance with proper record-keeping procedures and shall make the log available for inspection, upon request, by authorized representatives of the U.S. Environmental Protection Agency or the Tribe(s) (Appendix A).

5.7 Removed Substances:

Collected screenings, grit, solids, sludge, or other pollutants removed in the course of treatment shall be disposed of consistent with all applicable Federal and Tribal regulations (e.g., 40 C.F.R. Part 257, 40 C.F.R. Part 258, 40 C.F.R. Part 503).

5.8 Bypass of Treatment Facilities:

5.8.1 Bypass not exceeding limitations: The Permittee may allow any bypass to occur, which does not cause effluent limitations to be exceeded, only if it is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of sections 5.8.2 and 5.8.3.

5.8.2 Notice

5.8.2.1 Anticipated bypass: If the Permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass to the U.S. EPA, Technical Enforcement Program, and to the Tribe(s).

5.8.2.2 Unanticipated bypass: The Permittee shall submit notice of an unanticipated bypass as required under section 2.8, Twenty-four Hour Noncompliance Reporting, to the U.S. EPA, Technical Enforcement Program, and to the Tribe(s).

5.8.3 Prohibition of bypass.

5.8.3.1 Bypass is prohibited, and the EPA may take enforcement action against a permittee for a bypass, unless:

5.8.3.1.1 The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

5.8.3.1.2 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 judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,

5.8.3.1.3 The Permittee submitted notices as required under section 5.8.2.

5.8.3.2 The EPA may approve an anticipated bypass, after considering its adverse effects, if the EPA determines that it will meet the three conditions listed above in section 5.8.3.1.

5.9 Upset Conditions:

5.9.1 Effect of an upset: An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of section 4.8.2 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 (i.e., Permittees will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with technology-based Permit effluent limitations).

- 5.9.2 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:
- 5.9.2.1 An upset occurred, and that the Permittee can identify the cause(s) of the upset;
  - 5.9.2.2 The permitted Facility was at the time being properly operated;
  - 5.9.2.3 The Permittee submitted notice of the upset as required under section 4.8, Twenty-four Hour Notice of Noncompliance Reporting; and,
  - 5.9.2.4 The Permittee complied with any remedial measures required under section 5.4, Duty to Mitigate.
- 5.9.3 Burden of proof. In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

## **6 GENERAL REQUIREMENTS**

### **6.1 Planned Changes:**

The Permittee shall give notice to the EPA as soon as possible of any planned physical alterations or additions to the permitted Facility. Notice is required only when:

- 6.1.1 The alteration or addition could significantly change the nature or increase the quantity of pollutant discharged. This notification applies to pollutants which are not subject to effluent limitations in the Permit; or,
- 6.1.2 There are any planned substantial changes to the existing sewage sludge facilities, the manner of its operation, or to current sewage sludge management practices of storage and disposal. The Permittee shall give the EPA notice of any planned changes at least 30 days prior to their implementation.
- 6.1.3 The alteration or addition to a permitted Facility may meet one of the criteria for determining whether a facility is a new source.

### **6.2 Anticipated Noncompliance:**

The Permittee shall give advance notice to the EPA of any planned changes in the permitted Facility or activity which may result in noncompliance with Permit requirements.

### **6.3 Permit Actions:**

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

6.4 Renewal of Permit Coverage:

In accordance with 40 C.F.R. § 122.46(a), NPDES permits shall be effective for a fixed term not to exceed five (5) years. Therefore, this DWGP will expire five years from the effective date of the final permit. If the DWGP is not reissued prior to the expiration date, permittees may be eligible for an administrative extension of coverage in accordance with 40 C.F.R. § 122.6. To obtain an administrative extension under section 122.6, a current permittee must submit a renewal NOI prior to the permit expiration date. The EPA cannot provide coverage under the DWGP to a permittee who submits an NOI after the permit expiration date.

Any permittee that submits an NOI prior to the expiration date and receives notice from the EPA that the NOI is deemed timely and complete will remain covered by this DWGP until the earlier of the following:

Authorization for coverage under reissuance or replacement of the DWGP in accordance with 40 CFR §122.28(b);

The permittee's submittal of a Notice of Termination in accordance with 40 CFR §122.64(c);

The issuance of an individual NPDES permit in accordance with 40 CFR §122.28(b)(3)(iv); or,

A formal permit decision by the EPA not to reissue the DWGP, at which time the Permittee must seek coverage under an alternative general or individual permit in accordance with 40 CFR §122.28(b).

6.5 Duty to Reapply:

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

6.6 Duty to Provide Information:

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

6.7 Other Information:

When the Permittee becomes aware that they failed to submit relevant facts in an NOI or submitted incorrect information in a permit application or any report to the EPA, it shall promptly submit such facts or information.

6.8 Signatory Requirements:

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

6.8.1 All permit applications shall be signed by either a principal executive officer or ranking elected official.

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

6.8.2.1 The authorization is made in writing by a person described above and submitted to the EPA; and,

6.8.2.2 The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

6.8.3 Changes to authorization: If an authorization under section 6.8.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of section 6.8.2 must be submitted to the EPA prior to or together with any reports, information, or applications to be signed by an authorized representative.

6.8.4 Certification: Any person signing a document under this section shall make the following certification:

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

6.9 Penalties for Falsification of Reports:

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

6.10 Availability of Reports:

Except for data determined to be confidential under 40 C.F.R. Part 2, Subpart B, all reports prepared in accordance with the terms of this Permit shall be available for public inspection at the offices of the EPA. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.

6.11 Oil and Hazardous Substance Liability:

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

6.12 Property Rights:

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

6.13 Severability:

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

6.14 Transfers:

This Permit may be automatically transferred to a new Permittee if:

- 6.14.1 The current Permittee notifies the EPA at least 30 days in advance of the proposed transfer date;
- 6.14.2 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,
- 6.14.3 The EPA does not notify the existing Permittee and the proposed new Permittee of his or her intent to modify, or revoke and reissue the Permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in section 6.14.2.

6.15 Permittees in Indian Country:

The EPA is issuing this Permit pursuant to the Agency's authority to implement the Clean Water Act NPDES program in Indian country, as defined at 18 U.S.C. § 1151.

6.16 Reopener Provision:

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

- 6.16.1 Water Quality Standards: The water quality standards of the receiving water(s) to which the Permittee discharges are modified in such a manner as to require different effluent limits than contained in this Permit.
- 6.16.2 Wasteload Allocation: A wasteload allocation is developed and approved by the Tribe(s) and/or the EPA for incorporation in this Permit.
- 6.16.3 Water Quality Management Plan: A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this Permit.

**APPENDIX A - Tribal Mailing Address**

U.S. EPA, Region 8  
 NPDES Drinking Water General Permit

<b>Tribe</b>	<b>Phone Number</b>	<b>Mailing Address</b>
Assiniboine & Sioux Tribes	(406) 457-5040	PO Box 1027 Poplar, MT 59255-1027
Blackfeet Tribe	406-338-7421	PO Box 850 Browning, MT 59417-0850
Cheyenne River Sioux Tribe	(605) 964-6558	PO Box 590 Eagle Butte, SD 57625-0590
Chippewa Cree Tribe	(406) 395-4225	PO Box 544, Rocky Boy Route Box Elder, MT 59521
Confederated Salish and Kootenai	(406) 657-2700 x7208	Tribes PO Box 278 Pablo, MT 59855
Crow Creek Sioux Tribe	(605) 245-2608	PO Box 50 Ft. Thompson, SD 57339-0050
Crow Tribe	(406) 426-0397	PO Box 159 Crow Agency, MT 59022-0400
Eastern Shoshone Tribe	(406) 335-3532	PO Box 538 Ft. Washakie, WY 82514-0538
Flandreau Santee Sioux Tribe	(605) 997-5123	PO Box 283 Flandreau, SD 57028-0283
Gros Ventre & Assiniboine Tribes	(406) 353-8429	656 Agency Main Street Harlem, MT 59526-9455
Lower Brule Sioux Tribe	(605) 473-0163	187 Oyate Circle Lower Brule, SD 57548-8500
Northern Arapaho Tribe	(307) 438-2163	PO Box 396 Ft. Washakie, WY 82514-0217
Northern Cheyenne Tribe	(406) 477-6508 x101	PO Box 128 Lame Deer, MT 59043-0128
Northwest Band of the Shoshone Nation	(208) 406-6774	707 North Main Street Brigham City, UT 84302
Oglala Sioux Tribe	(605)867-5236/5736/5476	PO Box 2070 Pine Ridge, SD 57770-2070
Paiute Indian Tribe of Utah	(435)586-1112 x102	440 North Paiute Drive Cedar City, UT 84721
Rosebud Sioux Tribe	(605) 747-2933	PO Box 430 Rosebud, SD 57570-0430
Sisseton-Wahpeton Oyate Tribe	(605) 698-8388	PO Box 509 Agency Village, SD 57262-0509
Skull Valley Band of Goshute Indians	(435) 882-4532	PO Box 448 Grantsville, UT 84029
Southern Ute Indian Tribe	(970) 563-2206	PO Box 737 Ignacio, CO 81137-0737

U.S. EPA, Region 8  
 NPDES Drinking Water General Permit

<b>Tribe</b>	<b>Phone Number</b>	<b>Mailing Address</b>
Spirit Lake Tribe	(701) 766-1259	PO Box 359 Ft. Totten, ND 58335-0357
Standing Rock Sioux Tribe	(701) 854-3823	PO Box D Ft. Yates, ND 58538-5516
Three Affiliated Tribes (MHA Nation)	(701) 627-4569	404 Frontage Road New Town, ND 58763-9404
Turtle Mountain Band of Chippewa	(701) 477-0407 x213	PO Box 900 Belcourt, ND 58316-0900
Ute Indian Tribe	(435) 725-4803	PO Box 70 Ft. Duchesne, UT 84026-0190
Ute Mountain Ute	(970) 564-5432	PO Box JJ Towaoc, CO 81334-0188
Yankton Sioux Tribe	(605) 384-5012	PO Box 1153 Wagner, SD 57380-1153

**APPENDIX B – Complying with the Endangered Species Act<sup>1</sup>**

---

<sup>1</sup> Procedure adopted from the EPA's 2015 Multi-Sector General Permit  
Page 26 of 57

## **Assessing the Effects of Your Discharge and Discharge-Related Activities**

Coverage under this Permit is available only if your wastewater discharge and related activities are determined to have “No Effect” or “May Effect, but not likely to adversely affect”. This determination can be obtained through an Endangered Species Act (ESA) consultation with the U.S. Fish and Wildlife Service (FWS) or an ESA Section 10 Permit. The determination is necessary to ensure permitted wastewater discharges and related activities are not likely to adversely affect any species that are federally-listed as endangered or threatened (“listed”) under the ESA. This also includes adversely affecting habitat that is federally-designated as “critical” under the ESA.

This appendix is intended to outline the process to assess the potential effects of wastewater discharges and related activities on listed species and their critical habitat, and determine which of the eligibility criterion, if any, you qualify under. In accordance with Part 5.7 of this Permit, you must keep documentation with your Permit to support your determination of eligibility under Part 1.3.5, including the process employed and results of the endangered species investigation.

If you are seeking coverage under the Drinking Water General Permit (DWGP), you must complete this analysis using any data collected when your site was fully active and discharging, even if you are now claiming that your site is not discharging. If no such data exist for your facility, you should utilize the best available information from any facility expected to discharge substantially similar effluents. You should contact the EPA if you need assistance in obtaining data from a facility with a substantially similar effluent.

When evaluating the potential effects of your activities, you must consider effects to listed species or critical habitats within the “action area.” Action area is defined as all areas affected directly or indirectly by the wastewater activities, and not merely the immediate area involved in these discharges and activities. This includes areas beyond the footprint of the facility that are likely to be affected by planned or unplanned lagoon discharges, and discharge-related activities.

### **Eligibility Criterion**

As required by Part 1.3.5, you must meet one or more of the following six criteria (A-F) to be eligible for coverage under the Permit for your wastewater discharge and discharge-related activities:

Criterion A. No federally-listed threatened or endangered species or their designated critical habitat are likely to occur in the “action area”.

Criterion B. Consultation between a Federal agency and the FWS under section 7 of the ESA has been concluded. Consultations can be either formal or informal and would have occurred only as a result of a separate federal action (e.g., during application for an individual wastewater discharge permit or the issuance of a wetlands dredge and fill permit).

The consultation must have addressed the effects of your facility’s wastewater discharges and related activities on federally-listed threatened or endangered species and federally-designated critical habitat, and must have resulted in either:

- i. a biological opinion finding no jeopardy to federally-listed species or destruction/adverse modification of federally-designated critical habitat; or

- ii. written concurrence from the Service(s) with a finding that the facility's wastewater discharges, and discharge-related are not likely to adversely affect federally-listed species or federally-designated critical habitat.

You must verify that the consultation remains valid, in accordance with 50 CFR § 402.15. If re-initiation of consultation is required, in order to be eligible under this Criterion you must conclude the reinitiated consultation and the result must be consistent with (i) or (ii) above. If eligible, you must keep documentation with your Permit, including the biological opinion (or PCTS tracking number) or concurrence letter.

Criterion C. Your activities are authorized through the issuance of a permit under section 10 of the ESA, and authorization addresses the effects of the wastewater discharges related activities on federally-listed species and federally-designated critical habitat. You must keep documentation with your Permit, including a copy of the FWS issued Permit.

Criterion D. Coordination between you and the FWS under Section 7 of the ESA has been concluded. The coordination must have addressed the effects of the facility's wastewater discharges and related activities on federally-listed threatened or endangered species and federally-designated critical habitat. The result of the coordination must be a written statement from the FWS concluding that your wastewater discharges and related activities are not likely to adversely affect federally-listed threatened or endangered species and federally-designated critical habitat. Any conditions or prerequisites deemed necessary to achieve consistency with the "not likely to adversely affect" determination become eligibility conditions for DWGP coverage, and Permit requirements under Part 1.3.5.

Criterion E. Federally-listed threatened or endangered species or their designated critical habitat(s) are likely to occur in or near your facility's "action area," and your wastewater discharges and related activities are not likely to adversely affect listed threatened or endangered species or critical habitat. To certify your eligibility under this criterion, you must follow the assessment procedures in this appendix. You must provide the following information with your completed NOI form:

- i. If you are an existing discharger: (1) a list of the federally-listed threatened or endangered species or their designated critical habitat that are likely to occur in the "action area"; (2) a list of the pollutant parameters for which you have ever exceeded an applicable effluent limitations, or for which you have ever been found to have caused or contributed to an exceedance of an applicable water quality standard or to have violated a tribal water quality requirement; and (3) your rationale supporting your determination that you meet Criterion E, including appropriate measures to be undertaken to avoid or eliminate the likelihood of adverse effects.
- ii. If you are a new discharger: (1) a list of the federally-listed threatened or endangered species or their designated critical habitat that are likely to occur in the "action area"; (2) a list of the potential pollutants in your discharge; and (3) your rationale supporting your determination that you meet Criterion E, including appropriate measures to be undertaken to avoid or eliminate the likelihood of adverse effects.

After evaluation of your determination, the EPA may require additional controls that you must implement to avoid or eliminate adverse effects on listed species and critical habitat from wastewater discharges and related activities.

Criterion F. The facility's wastewater discharges and related activities were already addressed in another operator's valid certification of eligibility for your "action area" and there is no reason to believe that federally-listed species or federally-designated critical habitat not considered in the prior certification may be present or located in the "action area".

To certify eligibility under this criterion there must be no lapse of NPDES permit coverage in the other operator's certification. By certifying eligibility under this criterion, you agree to comply with any measures or controls upon which the other operator's certification was based. You must comply with any applicable terms, conditions, or other requirements imposed under the other operator's valid certification of eligibility to ensure that your wastewater discharges and discharge-related activities are protective of listed species and/or critical habitat. If your certification is based on another operator's certification under Criterion E, that certification is valid only if you have documentation showing that the other operator had certified under Criterion E, and you provide the EPA with the relevant supporting information required of existing dischargers in Criterion E (above, under subparagraph (i)) in your NOI form. You must also keep any documentation with your Permit that supported the other operator's eligibility determination, as well as any terms and conditions imposed under the eligibility requirements that applied under the prior certification.

### **Detailed Steps to Assist in the Determination of ESA Eligibility**

You must follow the step-by-step instructions in this worksheet in order to determine your eligibility under the criteria described above.

**Step One:** *Determine if the Eligibility Requirements of Criterion B, C, or F can be met.*

You should first determine whether you are eligible under Criterion B, C, or F because of a previously completed ESA section 7 consultation, a previously issued ESA section 10 Permit, or because your activities were already addressed in another discharger's certification of eligibility. If your facility is not likely to be eligible under Criterion B, C, or F, you may proceed directly to Step 2.

#### Criterion B Eligibility Requirements

If consultation under ESA section 7 on a separate Federal action has been concluded, you may be eligible for coverage under Criterion B. In order to be eligible for coverage under Criterion B, you must confirm that all the following are true:

- Consultation between a Federal agency and the FWS under section 7 of the ESA has been concluded. The consultation may be either formal or informal, and would have occurred only as a result of a separate federal action. Consultation must have addressed the effects of your facility's wastewater discharge and related activities on all federally-listed threatened or endangered species and all federally-designated critical habitat in your action area. The result of this consultation must be either i) a biological opinion that concludes that the action in question is not likely to jeopardize the continued existence of listed species, nor the destruction or adverse modification of critical habitat; or ii) written

concurrence from the FWS with a finding that concludes your facility's wastewater discharge and related activities are not likely to adversely affect listed species or designated critical habitat.

- The consultation remains valid, in accordance with 50 C.F.R. § 402.16; or, if re-initiation is required you have concluded the reinitiated consultation and the result of the consultation is consistent with the statements above.

If all the above are true, you may select Criterion B on your NOI. If any of the above are not true, you may not select Criterion B and must proceed to Step 2.

#### Criterion C Eligibility Requirements

If your activities have been addressed through the issuance of a permit under section 10 of the ESA, and this authorization addresses the effects of your facility's wastewater discharges and related activities on all federally-listed threatened or endangered species and all federally-designated critical habitat, you may be eligible for coverage under Criterion C. In order to be eligible for coverage under Criterion C, you must confirm that the following is true:

- A permit has been issued under section 10 of the ESA. The Permit authorization specifically addresses the effects of your facility's wastewater discharges and related activities on all federally listed species and designated critical habitat in your action area.

If the above is true, you may select Criterion C on your NOI. If the above is not true, you may not select Criterion C and must proceed to Step 2.

#### Criterion F Eligibility Requirements

If your facility's wastewater discharges and related activities were already addressed in another operator's valid certification of eligibility, you may be eligible for coverage under Criterion F. In order to be eligible for coverage, you must confirm the following are true:

- You have confirmed that the other operator's certificate of eligibility accounted for your action area and that the eligibility determination was valid.
- There has been no lapse of NPDES permit coverage in the other operator's certification.
- Your facility will comply with all terms and conditions imposed under the other operator's valid certification of eligibility, and those terms and conditions are listed in your NOI and maintained with your Permit file.

If all the above are true, you may select Criterion F on your NOI. If any of the above are not true, you may not select Criterion F and must proceed to Step 2.

**Step Two:** *Determine if Listed Threatened or Endangered Species and Critical Habitat are Present in the Action Area.*

Next, you should determine whether federally-listed species are likely to occur in your action area. You can do this by obtaining a list of threatened and endangered species that are likely to occur in your general area, including the appropriate receiving water for your discharges. County-specific or sometimes township-

specific lists of federally threatened and endangered species are available from the local offices of FWS internet site. If there are listed species in your county or township, you must then determine, as best you are able, whether any of the species are likely to occur in your action area (use the Services or Tribal Heritage Centers, as necessary). General species information can be found at

[www.fws.gov/endangered](http://www.fws.gov/endangered)

You must also check to see if critical habitat has been designated and whether such areas overlap your action area. Critical habitat should be listed on the species list for your county or township available from the appropriate Service office. You can also find critical habitat designations at 50 C.F.R. §§ 17 and 226 and at <http://ecos.fws.gov/crithab/>.

#### Criterion A Eligibility Requirements

In order to be eligible for coverage under Criterion A, you must confirm the following are true:

- You have confirmed there to be no listed species and no critical habitat in your action area.

If the above is true, you may select Criterion A on your NOI.

If the above is not true, you may not select Criterion A. If there are listed species and if you determine or your local FWS, or Tribal Heritage Center indicates that these species could occur in the action area, you will need to evaluate whether your action area supports habitat(s) that are suitable for listed species or the constituent elements of critical habitat. Your evaluation may utilize one or more of the following approaches:

Gather information about the species and critical habitat that are likely to occur in your action area (<http://ecos.fws.gov/crithab/> or <http://www.fws.gov/endangered/>). Conduct a visual inspection of the action area to assess the potential presence of listed species and their habitats. Compare the size and types of habitats available in your action area and adjacent areas with the size and types of habitats used by listed species and constituent elements of critical habitat.

Reference an environmental assessment completed for the site under the National Environmental Policy Act (NEPA). Such assessments may indicate whether listed species and critical habitats are likely to occur in the action area.

Proceed to Step 3.

#### **Step Three:** *Determine if your Activities Are Not Likely to Adversely Affect Listed Threatened or Endangered Species or Designated Critical Habitat*

To receive DWGP coverage, you must analyze the effects of your activities, which may include not only your wastewater discharge, but also any construction, operation, and maintenance activities related to wastewater management. You must be able to conclude that your wastewater discharge and wastewater management related activities are not likely to adversely affect threatened or endangered species or designated critical habitat that are likely to occur in your action area. To arrive at this conclusion, you should be able to conclude that listed species and critical habitat are not likely to be exposed to the effects of your activities, or if they are exposed, they are not likely to respond to the effects, or if they do respond, the responses are not sufficient to reduce an individual's chances of surviving and reproducing or diminish the amount or suitability of constituent elements

of critical habitat. Construction, operation, and maintenance of facilities related to your wastewater discharge can potentially result in the following adverse effects:

- **Hydrological.** Wastewater discharges may adversely affect receiving waters from pollutant parameters such as temperature, salinity or pH. These effects will vary with the amount of wastewater discharged and the volume and condition of the receiving water. Where a wastewater discharge constitutes a minute portion of the total volume of the receiving water, adverse hydrological effects are less likely.
- **Habitat.** Outdoor activities, such as storage of materials and land disturbances associated with wastewater management-related activities, may adversely affect listed species, their habitat, and critical habitat.
- **Toxicity.** Pollutants in wastewater may have toxic effects on listed species and adversely affect critical habitat. Exceedances of effluent limitations, or tribal water quality requirements may be indicative of potential adverse effects on listed species or critical habitat.

The scope of effects to consider will vary with each site. If you are having difficulty determining whether your facility is likely to adversely affect listed species or critical habitat, or one of the Services has already raised concerns to you, you must contact the appropriate office of the FWS for assistance.

#### Criterion E Eligibility Requirements

- **If adverse effects to listed threatened or endangered species or their critical habitat are not likely, then you may select eligibility Criterion E on the NOI form.**

As part of certifying your compliance with Criterion E, you must submit information to support your findings. If you are an existing discharger, you are required to (1) identify any pollutant parameters for which you have ever exceeded effluent limitations, or have ever been found to have caused or contributed to an exceedance of an applicable water quality standard, or violated a tribal water quality requirement; (2) provide a list of the federally-listed threatened or endangered species or their designated critical habitat that are likely to occur in the action area; and (3) provide your rationale supporting your determination that you qualify under Criterion E. If you are a new discharger, you must provide the list of species or critical habitat and the technical evaluation (described in (2) and (3) above, respectively), and you must also include a list of the potential pollutants in your discharge.

- **If you cannot yet conclude your wastewater discharge is not likely to adversely affect listed species or critical habitat, or if you conclude that your wastewater discharge could potentially adversely affect listed species or critical habitat, you must follow Step Four.**

**Step Four:** *Determine if Measures Can Be Implemented to Avoid Adverse Effects or If Further Analysis Supports the Conclusion that Adverse Effects Are Not Likely.*

If you could not make a preliminary determination in Step 3 that adverse effects to listed species and/or critical habitat are not likely to occur, you can still receive coverage under Criterion E if appropriate measures are undertaken to avoid or eliminate the likelihood of adverse effects prior to applying for DWGP coverage. These

measures may be relatively simple, e.g., rerouting a wastewater discharge to bypass an area where species are located.

#### Criterion E Eligibility Requirements

- **If you can install and implement appropriate measures to avoid the likelihood of adverse effects, you may proceed to submitting your NOI for coverage under the DWGP.** The measures you adopt to avoid or eliminate adverse effects must be implemented.

As part of certifying your compliance with Criterion E, you must submit information to support your findings. If you are an existing discharger, you are first required to (1) identify any pollutant parameters for which you have ever exceeded an effluent limitations guideline, or have ever been found to have caused or contributed to an exceedance of an applicable water quality standard, or violated a Tribal water quality requirement; (2) provide a list of the federally-listed threatened or endangered species or their designated critical habitat that are likely to occur in the action area; and (3) provide your rationale supporting your determination that you qualify under Criterion E, including a description of measures you will implement to avoid or eliminate the likelihood of adverse effects. If you are a new discharger, you must provide the list of species or critical habitat and the technical evaluation (described in (2) and (3) above, respectively), and you must also include a list of the potential pollutants in your discharge.

- **If you cannot ascertain which measures to implement to avoid the likelihood of adverse effects, you must follow Step Five.**

#### **Step Five:** *Determine if the Eligibility Requirements of Criteria D Can Be Met.*

Where adverse effects are likely, and you are unable to avoid or eliminate the likelihood of adverse effects, you must contact the FWS. However, you may still be eligible for DWGP coverage if any likely adverse effects can be addressed through meeting Criteria D as follows:

You have coordinated your activities with the appropriate Service office (see Criterion D). In the absence of any other conditions set forth in Step Four, you may still be able to qualify for coverage under the DWGP if you coordinate with the FWS and the Service provides a letter or memorandum concluding that permitting your wastewater discharges under the DWGP is consistent with the “not likely to adversely affect” determination for the DWGP. If you adopt measures to avoid or eliminate adverse effects, per the Service’s requirements or recommendations, you must abide by those measures for the duration of your coverage under the DWGP.

You must comply with any terms and conditions imposed under the eligibility requirements to ensure that your wastewater discharges and discharge-related activities are protective of listed species and/or critical habitat. See Part 1.3.5 of the Permit. If the eligibility requirements cannot be met, and maintained, then you are not eligible for coverage under the DWGP. In these instances, you may consider applying to EPA for an individual Permit.

**APPENDIX C – Complying with the Historic Preservation Act**

### *Background*

Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to take into account the effects of their “undertakings” on historic properties. “Undertaking” is defined in the NHPA regulations as “a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license or approval.” 36 C.F.R. § 800.16(y). Historic properties include prehistoric or historic districts, sites, buildings, structures, or objects that are included in, or are eligible for inclusion in, the National Register of Historic Places; the term encompasses artifacts, records, and remains related to and located within such properties, and also includes properties meeting the National Register criteria that are of traditional religious and cultural importance to an Indian tribe. See 36 C.F.R. § 800.16(1).

EPA Region 8’s issuance of the Drinking Water General Permit (DWGP), is a federal undertaking subject to the NHPA. Individual applications for coverage under the general permit do not constitute separate undertakings, the screening criteria and certifications in this Appendix provide an appropriate site-specific means of addressing historic property issues in connection with EPA’s issuance of the permit. Applicants seeking coverage under the DWGP are thus required to make certain certifications regarding the potential effects of their wastewater discharge and related activities on historic properties.

You must meet one or more of the four criteria (A-D), which are also required under Part 1.3.6 in the permit, to be eligible for coverage under the DWGP. To help make your criterion selection, you must follow the historic properties screening procedures in this appendix, and then enter the criterion on your NOI. If you cannot meet any of the certification criteria relating to historic properties, you must apply for an individual permit.

At various times the NHPA regulations and this permit, as described in this Appendix, require communication with the Tribal Historic Preservation Officer (THPO) for the tribe on whose lands the facility is located. (“Tribal lands” is defined for this purpose at 36 C.F.R. § 800.16(x).) If the tribe in question does not have an appointed THPO, then these communications should be with the State Historic Preservation Officer (SHPO) *and* a representative designated by the tribe. In this Appendix, the term Historic Preservation Official (HPO) refers to whichever official(s) may be appropriate to involve under the circumstances.

### *Historic Properties Eligibility Criteria*

- Criterion A. There will be no new ground-disturbing activity on your site and no new discharges. Wastewater discharges and related activities do not have the potential to have an effect on historic properties.
- Criterion B. Wastewater discharges and related activities have the potential to have an effect on historic properties, but there are no historic properties within the area of potential effects (APE).
- Criterion C. Your wastewater discharges and related activities have the potential to have an effect on historic properties, and there are historic properties within the APE, and you have obtained and are in compliance with a written agreement with the HPO regarding measures to mitigate or prevent any adverse effects on historic properties, and you have either (1) obtained and are in compliance

with a written agreement that outlines all such measures, or (2) been unable to reach agreement on such measures; or

Criterion D. Your wastewater discharges and related activities have the potential to have an effect on historic properties, and there are historic properties within the APE; you have contacted EPA and the HPO, informing them in writing that you have the potential to have an effect on historic properties; and EPA has provided the additional measures, if any, required for you to be eligible for permit coverage.

If you have been unable to reach agreement with the HPO regarding appropriate measures to mitigate or prevent adverse effects, EPA may notify you of additional measures you must implement in order to be eligible for coverage under this permit.

### **Historic Properties Screening Procedures: Initial Considerations**

#### Activities with No Potential to Have an Effect on Historic Properties

A determination that a Federal undertaking has no potential to have an effect on historic properties fulfills an agency's obligations under the NHPA. The overwhelming majority of sources covered under this permit will be facilities seeking renewal of previous permit coverage. These existing dischargers should have already addressed NHPA issues in the DWGP as they were required to certify that they were either not affecting historic properties or they obtained written agreement from the applicable HPO regarding ways to avoid, minimize, or mitigate potential impacts. Both existing and new dischargers must follow the historic property screening procedures to determine their eligibility. EPA is not aware of any impacts on historic properties from activities covered under the DWGP or, for that matter, any need for a written agreement. Therefore, to the extent this permit authorizes renewal of prior coverage without relevant changes in operations, with documented prior compliance with NHPA requirements, it has no potential to have an effect on historic properties.

#### Activities with Potential to Have an Effect on Historic Properties

EPA believes this permit may have some potential to have an effect on historic properties where permittees construct or install wastewater control measures that involve ground disturbance of up to one acre of land to comply with this permit. (Ground disturbances of one acre or more require coverage under a different permit, the Construction General Permit.) Where you have to disturb the land through the construction or installation of control measures, there is a possibility that historic properties could be impacted. Therefore, if you are establishing new or altering existing control measures to manage your wastewater that will involve subsurface ground disturbance of up to one acre, you will need to ensure (1) that historic properties will not be impacted by your activities or (2) that you have consulted with the appropriate HPO regarding measures that would mitigate or prevent any adverse effects on historic properties.

#### Examples of Control Measures That Involve Ground Disturbance

EPA has reviewed typical control measures currently employed to determine which practices involve some level of earth disturbance. The types of control measures that are presumptively expected to cause subsurface ground disturbance include:

- Dikes
- Berms

- Catch Basins
- Ponds
- Ditches
- Trenches
- Culverts
- Land manipulation: contouring, sloping, and grading
- Channels
- Perimeter Drains
- Swales

EPA cautions dischargers that this list is non-inclusive. Other control measures that involve earth-disturbing activities not on this list must also be examined for the potential to affect historic properties.

#### *Contact information*

Addresses for State Historic Preservation Officers and Tribal Historic Preservation Officers may be found on the Advisory Council on Historic Preservation's website ([www.achp.gov/programs.html](http://www.achp.gov/programs.html)). In instances where a Tribe does not have a Tribal Historic Preservation Officer, you should contact the appropriate Tribal government office to obtain contact information for their designated representative.

#### **Historic Properties Screening Procedures: Steps for Assessing Eligibility**

You should follow the following process to assess and certify your compliance with historic property eligibility requirements under this permit (see Part 1.3.6). Note that after you submit your NOI, there is a 30-day waiting period during which the HPO may review your NOI and may request that EPA hold up authorization based on concerns about potential adverse impacts to historic properties. EPA will evaluate any such request and notify you if any additional measures to address adverse impacts to historic properties are necessary.

#### ***Step One: Are you an existing facility reapplying for certification under the DWGP?***

If you are an existing facility you should have already addressed NHPA issues. To gain coverage under an NPDES permit you were required to certify that you were either not affecting historic properties or had obtained written agreement from the relevant HPO regarding methods of addressing potential impacts. As long as you are not constructing or installing any new wastewater treatment facility modifications then you have met eligibility Criterion A.

If you are a new facility, or an existing facility without documented NHPA compliance, then proceed to Step Two.

#### ***Step Two: Are you constructing or installing a new wastewater treatment facility that requires ground disturbance of up to one acre?***

If your compliance with this permit will not involve any ground disturbance, then you may select eligibility Criterion A on your NOI form and you have no further obligations relating to historic properties. However, if at any time during the permit term you determine that ground disturbance is needed and you initially chose eligibility Criterion A, then you must follow the procedures in Steps Three through Five to ensure that your eligibility for continued authorization to discharge is maintained before any ground disturbance occurs.

If you are building or installing wastewater treatment facilities on your site that cause up to one acre of ground disturbance, or if you have no documentation of NHPA compliance for your facility, then proceed to Step Three.

**Step Three:** *Within your APE, determine whether (a) there is a property listed in, or eligible for listing in, the National Register of Historic Places; or (b) prior earth disturbances, surveys or other activity have revealed the existence of a historic property or provided evidence that a historic property may exist.*

Under this step you must consider the APE associated with your facility as described in (a) and (b) below. The APE includes each wastewater facility covered by the permit and any locations that may be physically affected (for instance, as a result of downstream scouring) by facility discharges. See 36 C.F.R. §§ 800.4(a)(1), 800.16(d).

(a) *Determine whether your APE includes any portion of a property listed in the National Register of Historic Places.* Listed properties can be identified by consulting the National Register of Historic Places website at [www.nps.gov/nr/](http://www.nps.gov/nr/). Note that this website may not be up to date, and that the connection between your APE and a listed historic property may not be obvious. For any questions regarding listings in the National Register of Historic Places you should contact your HPO.

If the result of your inquiry is yes then proceed to Step Five. If no, consider part (b).

b) *Determine whether any prior ground disturbance, survey of historic resources, or other activity has revealed the presence of historic properties or provided other evidence that a National Register-eligible historic property may exist within your APE.* Evidence that a National Register-eligible historic property may exist includes any artifacts, records or remains that may have been found indicating the presence of a potential historic property even if such evidence or property has not yet been evaluated for eligibility for listing in the National Register of Historic Places. Be aware that discovery of human remains may trigger separate requirements under state law or the federal Native American Graves Protection and Repatriation Act (NAGPRA), but any such requirements are not associated with DWGP permit eligibility.

If a prior ground disturbance, survey, or other activity has revealed the presence of historic properties or other evidence that a National Register-eligible historic property may exist within your APE, proceed to Step Five.

Alternatively, if you substitute or modify your activities to eliminate any ground disturbance, you may select eligibility Criterion A on your NOI form and you have no further obligations relating to historic properties.

If a prior ground disturbance, survey, or other activity has not conclusively revealed the existence of historic properties or other evidence that a National Register-eligible historic property may exist within your APE, or if there has been no prior earth disturbance, survey, or other activity with which to make this assessment, then proceed to Step Four.

**Step Four:** *In coordination with your HPO, or by retaining a qualified historical or archaeological consultant, determine whether any historic properties identified in Step Three may be within your APE.*

This step assumes that you are disturbing up to one acre of land in connection with this permit, and that the APE for your project does not include any site listed in the National Register of Historic Places, and that no prior earth disturbance, survey, or other activity has revealed the presence of historic properties or other evidence that

a National Register-eligible historic property may exist within your APE. In these circumstances, you must still determine, in coordination with the relevant HPO, whether any properties eligible for listing in the National Register of Historic Places exist within your APE.

You may contact the appropriate HPO to request their help in determining the presence of historic properties. Alternatively, you may opt to contact a qualified historical or archaeological consultant without first contacting the HPO. If the HPO indicates to you within 30 calendar days after your contact that they are unable to assist you, then you must engage the services of a qualified professional consultant. If the HPO does not respond within 30 days after your contact, you may assume there are no historic properties or National Register of Historic Places-eligible property within your APE, and you may certify your eligibility under Criterion B on your NOI form, and you have no further obligations relating to historic properties.

The HPO and/or a qualified professional consultant can assist your analysis and determination in many ways, including examining local records to determine whether historic artifacts have been found in nearby areas, conducting surveys of your APE, and performing limited surface and subsurface examinations. Your historic resource survey assistance provider and results must be documented and retained. If you determine there are no historic properties within your APE, you should inform the appropriate HPO of that finding in writing. If the HPO provides written concurrence or does not respond within 30 days after your contact, you may assume there are no historic properties or National Register of Historic Places-eligible property within your APE, and you may certify your eligibility under Criterion B on your NOI form, and you have no further obligations relating to historic properties.

If you determine that there are or may be historic properties within your APE, continue to Step Five.

Alternatively, if you substitute or modify your activities to eliminate any controls involving ground disturbance, you may select eligibility Criterion A on your NOI form and you have no further obligations relating to historic properties.

**Step Five:** *Contact the EPA and appropriate historic preservation authorities.*

This step assumes that you are constructing treatment facilities affecting up to one acre of land to control wastewater discharges associated with this permit, and that you have determined that there are or may be historic properties within your APE. In that case, you must contact the EPA and the relevant HPO in writing and request to discuss mitigation or prevention of any adverse effects. The letter should state that you are seeking coverage under this permit, that historic properties may be present within the APE. It should also describe your facility, the nature and location of subsurface disturbance activities that are contemplated, any known or suspected historic properties in the area, and any anticipated effects on such properties. The letter should state that if the HPO does not respond within 30 days of receiving your letter, you may submit your NOI without further consultation. EPA encourages applicants to contact the appropriate authorities as soon as possible in the event of a potential adverse effect to an historic property. Contact with all parties should be made as soon as possible, but in no event less than 30 days before you submit your NOI.

If you enter into, and comply with, a written agreement with the HPO regarding how to address any adverse impacts on historic properties, you have met eligibility Criterion C. In this case, you should retain a copy of the written agreement consistent with Part 4.7 of the DWGP. As noted above, the HPO may request that EPA delay authorization based on concerns about potential adverse impacts to historic properties. However, EPA would

generally accept any written agreement as addressing such concerns unless new information was brought to the Agency's attention that was not considered in your previous discussions with the HPO.

If you do not receive a response from your HPO within 30 days after making contact in this step, or if you consult with the HPO regarding adverse impacts to historic properties and measures to mitigate them but an agreement cannot be reached, EPA may require you to obtain coverage under an individual permit. Alternatively, EPA may determine what additional measures, if any, are required for you to become eligible for DWGP coverage. After you comply with any such additional measures you must document your compliance and retain that documentation. If no additional measures are required for you to become eligible for permit coverage, retain the written statement from EPA informing you of this. You may then select eligibility Criterion D on your NOI form and you have no further obligations regarding historic properties.

**APPENDIX D - Notice of Intent Form and Instructions**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
 1595 WYNKOOP STREET (8WP-CWW)  
 DENVER, COLORADO 80202-1129  
 NOTICE OF INTENT FOR THE 2019 DRINKING WATER GENERAL PERMIT

Submission of this Notice of Intent (NOI) constitutes notice that the operator identified in Section III of this form requests authorization to discharge pursuant to the NPDES Drinking Water General Permit (DWGP) permit number identified in Section II of this form. Submission of this NOI also constitutes notice that the operator identified in Section III of this form meets the eligibility requirements of Part 1.1 DWGP for the facility identified in Section IV of this form. Permit coverage is required prior to commencement of discharge. To obtain authorization, you must submit a complete and accurate NOI form. Discharges are not authorized if your NOI is incomplete or inaccurate or if you were never eligible for permit coverage. Refer to the instructions at the end of this form.

**I. Electronic Reporting and Paper NOI Form**

EPA has published the National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule, which will modernize Clean Water Act (CWA) reporting for municipalities, industries and other facilities. EPA signed the rule on September 24, 2015 and it was published in the Federal Register on October 22, 2015. The rule replaces most paper-based NPDES reporting requirements with electronic reporting.

Starting on December 21, 2020, regulated entities that currently submit certain other NPDES reports will begin submitting these reports electronically, instead of on paper. Reports covered in the second phase include Notices of Intent to discharge in compliance with an NPDES general permit. Note: EPA Region 8 will waive this regulatory requirement due to the unavailability of electronic reporting to cover the DWGP.

**II. Permit Information**

NPDES ID (EPA Use Only):

Previous NPDES Permit Number:

(e.g. SDG589123 or SD-0012345)

Public Water System Number:

(e.g. PWS ID 123456789)

**III. Operator Information**

Operator Last Name:

Operator First Name:

Title:

Mailing Address:

Street:

City:

State:

Zip:

U.S. EPA, Region 8  
NPDES Drinking Water General Permit

County:

Phone:

Extension:

 -  - 

E-mail:

NOI Preparer (Complete if NOI was prepared by someone other than the certifier):

Name:

Organization:

Phone:

Extension:

 -  - 

E-mail:

**IV. Facility Information**

Facility Name:

Facility Address:

Street/Location:

City:

State:

Zip:

County:

Drinking Water Treatment Plant - Latitude/Longitude (Use decimal degrees):

Latitude: .  N. Longitude: .  W.

Backwash Lagoon Outfall - Latitude/Longitude (Use decimal degrees):

Latitude: .  N. Longitude: .  W.



U.S. EPA, Region 8  
 NPDES Drinking Water General Permit

- Potassium permanganate
- Polymer coagulants

**Lime Softening Chemicals Used:**

Is lime softening used in the Drinking Water process?  Yes  No  
 If yes, note the type of chemical(s) utilized below.

- Hydrated lime (Ca(OH)<sup>2</sup>)
- Caustic soda/sodium hydroxide (NaOH)
- Quick lime (CaO)
- Sodium carbonate/soda ash (Na<sub>2</sub>CO<sub>3</sub>)

**Disinfection Chemicals Used:**

Are chemicals used for chlorination?  Yes  No (Please identify type below)

\_\_\_\_\_

**Wastewater Treatment and Disposal Operations:**

Please identify () below which wastewater treatment operations are performed at the water treatment plant. Treatment of wastewater refers to any activity designed to change the character or composition of liquid and solid wastewater streams from water treatment processes as needed to render it amenable to recycle/recovery, reduce its volume, or prepare it for transportation, storage, disposal, or discharge.

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> No treatment  | <input type="checkbox"/> Sludge Thickening             | <input type="checkbox"/> Aeration                 |
| <input type="checkbox"/> Drying  | <input type="checkbox"/> Mechanical dewatering         | <input type="checkbox"/> Hydrogen sulfide removal |
| <input type="checkbox"/> pH adjustment   | <input type="checkbox"/> Non-mechanical dewatering     | <input type="checkbox"/> Evaporation ponds        |
| <input type="checkbox"/> Equalization of wastewater prior to treatment or disposal | <input type="checkbox"/> Sedimentation tanks and ponds | <input type="checkbox"/> Dechlorination           |
| <input type="checkbox"/> Other (specify): _____                                    | <input type="checkbox"/> Stabilization Pond            |   |

Types of Wastewaters Disposed. Please check all that apply.

- Wastewater from water treatment operations including coagulation, filter backwashing operations, filter-to-waste, precipitative softening, iron and manganese removal, and slow sand and diatomaceous earth filtration. These include accumulated wastewater for batch discharge.
- Wastewater from presedimentation water treatment operations.
- Discharges from wastewater treatment including mechanical dewatering (e.g., thickener decant, centrate, and filtrate from belt or plate-and-frame presses) and non-mechanical dewatering (e.g., discharges from dewatering lagoons).
- Concentrate (brines) from ion exchange regeneration and salt water conversion, membrane reject water and spent backwash, activated alumina waste regenerate, and membrane cleaning fluid.
- Ion exchange resins, spent granular activated carbon (GAC), and spent filter media.
- Stormwater/rainfall infiltration.
- Other

**VII. Wastewater Discharge Information**

**Backwash Discharge:**

Please identify () below the method(s) of wastewater discharge at the water treatment plant. Please select all categories that apply.

- Direct discharge of treated and/or untreated wastewater. Do not select direct discharge if your plant only discharges non-contact stormwater to surface waters. Select direct discharge if your plant has a permit that regulates or monitors the discharge of treated and/or untreated wastewater to surface waters.





U.S. EPA, Region 8  
NPDES Drinking Water General Permit

Signature:

Date:

		/			/		
--	--	---	--	--	---	--	--

## Instructions for Completing EPA

### Notice of Intent for the 2017 NPDES Drinking Water General Permit

#### Who Must File an NOI Form?

Under the provisions of the Clean Water Act, as amended (33

U.S.C. 1251 et. seq.; the Act), federal law prohibits discharges to waters of the U.S. unless that discharge is covered under a National Pollutant Discharge Elimination System (NPDES) permit.

For coverage under the 2019 Drinking Water General Permit (DWGP), each person, firm, public organization, or any other entity that meets the following criteria must file a Notice of Intent form: (1) they have operational control over a drinking water treatment facility located within the EPA Region 8, (2) the operation of the drinking water may result in discharges of backwash waters to a water of the U.S.

If you have questions about whether you need coverage under this NPDES DWGP, or if you need information to determine whether EPA or your state agency is the permitting authority, contact your EPA Regional Office.

#### Completing the Form

Obtain and read a copy of the 2019 DWGP, viewable at <https://www.epa.gov/npdes-permits/region-8-drinking-water-general-permit>. To complete this form, type or print in the appropriate areas only. Please place each character within the provided boxes (abbreviate if necessary to stay within the number of characters allowed for each item).

#### Section I. Electronic Reporting and Paper NOI Form

With this permit issuance, electronic NOI application requirements are not in effect and a signed paper copy of the NOI must be submitted.

***Please submit the original document with signature in ink - do not send a photocopied signature.***

#### Section II. Permit Information

Please provide information on the current or previous NPDES permit coverage that your facility may have been covered under.

Also provide the Public Water System identification number (PWS ID) under which the drinking water facility is covered for distribution of treated drinking water.

#### Section III. Operator Information

Provide the legal name of the person that operates the facility described in this NOI.

Also provide the operators official title, operator's mailing address, county, telephone number, and e-mail address.

If the NOI was prepared by someone other than the certifier (for example, if the NOI was prepared by an Indian Health Service (IHS) contact), include the full name, organization, phone number, and email address of the NOI preparer.

#### Section IV. Facility Information

Enter the official or legal name and complete street address, including city, state, ZIP code, and county of the facility. If the facility lacks a street address, indicate the general location of the site (e.g., Intersection of State Highways 61 and 34). Complete site information must be provided for permit coverage to be granted.

Additionally, provide the latitude and longitude of your facility in decimal degrees format. The latitude and longitude of your facility can be determined in several different ways, including through the use of global positioning system (GPS) receivers, U.S. Geological Survey (U.S.G.S.) topographic or quadrangle maps, and web-based siting tools, among others.

For consistency, EPA requests that measurements be taken from the approximate center of the facility location and at the outfall location.

Indicate whether the project is in Indian country and provide the name of the Indian reservation associated with the area.

#### Section V. Water Treatment Plant History & Information

Provide information on the approximate number of water system users, the amount of water produced by the plant (in millions of gallons per day), the year the plant was build, and information on any upgrades to the facility.

#### Section VI. Treatment Information

Indicate the type of source water utilized by the drinking water facility. Also indicate if copper-based chemicals are utilized by the facility to control nuisance algal prior to treatment.

Indicate the various types of chemicals used in the drinking water processes. These include: flocculants; lime softening chemicals; chemicals used for disinfection; and any other chemicals used by the facility for the production of drinking water.

In addition to the known chemicals utilized in the treatment of drinking water, please note any known disinfection wastewater in the backwash or filter to backwash water; as well as the wastewater treatment and disposal practices.

#### Section VII. Discharge and Receiving Stream Information

Indicate the methods used to dispose of wastewater at the drinking water treatment plant. This includes information on: The type of discharge; direct, indirect, or zero discharge; the frequency of discharges; and the receiving stream for discharges. If the facility is considered a zero-discharge facility, indicate the disposal method for wastewater.

#### Section VIII. Endangered Species Information

Using the instructions in Appendix B, indicate under which criterion (i.e., A, B, C, D, E, or F) of the permit the applicant is eligible with regard to protection of ESA-listed endangered and threatened

**U.S. EPA, Region 8  
NPDES Drinking Water General Permit**

species and designated critical habitat. A description of the basis for the criterion selected must also be provided.

If criterion B is selected, provide the NPDES Number for the other operator who had previously certified their eligibility for the CGP under criterion A, C, D, E, or F. The Tracking Number was assigned when the operator received coverage under this permit, and is included in the notice of authorization.

If criterion C is selected, you must attach copies of your site map. See Part 7.2.4 of the permit for information about what is required to be in your site map. You must also specify the federally-listed species and/or federally-designated critical habitat that are located in the "action area" of the project, and provide the distance between the facility and any listed endangered species and/or their designated critical habitat.

If criterion D, E, or F is selected, attach copies of any communications between you and the U.S. Fish and Wildlife Service and National Marine Fisheries Service and identify the participating agencies and Field Offices/Regional Offices you worked with in establishing the basis for this NOI.

**Section IX. Historic Preservation**

Use the instructions in Appendix C to complete the questions on the NOI form regarding historic preservation.

**Section X. Certification Information**

The NOI must be signed by:

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 a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company, (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

**Submitting Your Form**

Submit your NOI form by mail to one of the following addresses:

**U.S. EPA Region 8  
(8WD-CWW)  
1595 Wynkoop Street  
Denver, Colorado 80202-1129**

**APPENDIX E – Acronyms and Definitions**

## ACRONYMS

BAT	Best Available Technology Economically Achievable
BCT	Best Conventional Pollutant Control Technology
BE	Biological Evaluation
BMPs	Best Management Practices
BOD	Biological Oxygen Demand
BPJ	Best Professional Judgment
BPT	Best Practicable Control Technology Currently Available
CFR	Code of Federal Regulations
cfs	Cubic feet per second
CV	Coefficient of Variation
CWA	Clean Water Act
DF	Dilution Factor
DMR	Discharge Monitoring Report
WGP	Domestic Water Treatment Facilities General Permit
EA	Environmental Assessment
EIS	Environmental Impact Statement
ELG	Effluent Limitation Guidelines
EPA	United States Environmental Protection Agency
ESA	Endangered Species Act
GPD	Gallons per Day
GPM	Gallons per Minute
ICIS	Integrated Compliance Information System
MDL	Maximum Daily Limit or Method Detection Limit
µg/L	Micrograms per Liter
mg/L	Milligrams per Liter
MGD	Million Gallons per Day
ML	Minimum Level
NOI	Notice of Intent
NPDES	National Pollutant Discharge Elimination System
O&M	Operation and Maintenance (of a treatment facility)
POC	Pollutant of Concern
QA/QC	Quality Assurance/Quality Control
SDWA	Safe Drinking Water Act
TAS	Treatment in a Manner Similar to a State (EPA-Tribal Government Process)
TBEL	Technology-Based Effluent Limitation
TMDL	Total Maximum Daily Load
TSS	Total Suspended Solids
US	United States
USC	United States Code
USFWS	United States Fish and Wildlife Service
WLA	Wasteload Allocation
WQBEL	Water Quality-Based Effluent Limitation
WQS	Water Quality Standards

## DEFINITIONS

The *7-day (and weekly) average*, other than for microbiological organisms (e.g., bacteria, viruses, etc.), is the arithmetic mean of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. Geometric means shall be calculated for microbiological organisms unless specified otherwise in the Permit. The 7-day and weekly averages are applicable only to those effluent characteristics for which there are 7-day average effluent limitations. The calendar week, which begins on Sunday and ends on Saturday, shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. Weekly averages shall be calculated for all calendar weeks with Saturdays in the month. If a calendar week overlaps two months (i.e., the Sunday is in one month and the Saturday in the following month), the weekly average calculated for that calendar week shall be included in the data for the month that contains the Saturday.

The *30-day (and monthly) average*, other than for microbiological organisms (e.g., bacteria, viruses, etc.), is the arithmetic average of all samples collected during a consecutive 30-day period or calendar month, whichever is applicable. Geometric means shall be calculated for microbiological organisms unless specified otherwise in the Permit. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.

*Administrator* means the Administrator of the United States Environmental Protection Agency, or an authorized representative [40 CFR 122.2].

*Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.

*CFR* means the Code of Federal Regulations, which is the official annual compilation of all regulations and rules promulgated during the previous year by the agencies of the United States government, combined with all the previously issued regulations and rules of those agencies that are still in effect.

*Conventional filtration treatment* means a series of processes including coagulation, flocculation, sedimentation, and filtration resulting in substantial particulate removal.

*Filtration Treatment* means a filtration process including slow sand filtration processes that utilizes filtration media and filters that separate suspended materials from water during the treatment train of a drinking water treatment plant.

*Conventional pollutant* means biochemical oxygen demand (BOD), total suspended solids (TSS), bacteria, oil and grease, and pH as defined in 40 CFR 401.16.

*Continuous Discharge* means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities [40 CFR 122.2].

*CWA* means the Clean Water Act in the United States Code (USC) (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, 33 USC 1251 et seq. [40 CFR 122.2].

*Daily discharge* means the “discharge of a pollutant” measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limits expressed as mass, "daily discharge" is calculated as the total mass of the pollutant discharged over

the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day [40 CFR 122.2].

*Designated Use* means those beneficial uses assigned to identified waters in Idaho Department of Environmental Quality Rules in the Idaho Administrative Procedures Act (IDAPA), IDAPA 58.01.02, "Water Quality Standards," Sections 110 through 160, whether or not the uses are being attained [IDAPA 58.01.02.010.24].

*Diatomaceous earth filtration* means a process resulting in substantial particulate removal in which (1) a precoat of diatomaceous earth filter media is deposited on a support membrane (septum), and (2) while the water is filtered by passing through the cake on the septum, additional filter media known as body feed is continuously added to the feed water to maintain the permeability of the filter cake.

*Direct filtration* means a series of processes including coagulation and filtration but excluding sedimentation resulting in substantial particulate removal.

*Discharge* when used without qualification means the "discharge of a pollutant."

*Discharge Monitoring Report (DMR)* means the EPA uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by Permittees [40 CFR 122.2].

*Discharge of a pollutant means:* 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 definition 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 owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any "indirect discharger" [40 CFR 122.2].

*Draft permit* means a document prepared under 40 CFR 124.6 indicating the EPA's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a "permit" [40 CFR 122.2].

*Effluent limitation* means any restriction imposed by the EPA on quantities, discharge rates, and concentrations of "pollutants" which are "discharged" from "point sources" into "waters of the United States," the waters of the "contiguous zone," or the ocean [40 CFR 122.2].

*Effluent limitations guidelines (ELG)* means a regulation published by the Administrator under section 304(b) of CWA to adopt or revise effluent limitations" [40 CFR 122.2].

*The EPA* means the Regional Administrator of the EPA Region 8 or an authorized representative thereof.

*Excluded Waters, or prohibited waters,* means water bodies not authorized as receiving waters to be covered under this general NPDES permit.

*Facility* means any NPDES point source or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.

*Filtration* means a process for removing particulate matter from water by passage through porous media. *Flocculation* means a process to enhance agglomeration or collection of smaller floc particles into larger, more easily settleable particles through gentle stirring by hydraulic or mechanical means.

*General permit* means an NPDES “permit” issued under 40 CFR 122.28 authorizing a category of discharges under the CWA within a geographical area [40 CFR 122.2].

*Grab sample* means a single water sample or measurement of water quality taken at a specific time.

*Hazardous Material* is defined in the IDAPA to mean a material or combination of materials which, when discharged in any quantity into state waters, presents a substantial present or potential hazard to human health, the public health, or the environment [IDAPA 58.01.02.010.46]. It is also defined at 40 CFR 122.2 to mean any substance designated in 40 CFR 116, pursuant to Section 311 of the CWA.

*Indian Country* as indicated by 18 USC §1151 means: (a) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and, (c) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

*Ion exchange treatment* means the use of ion exchange (a reversible process in which an ion in solution in contact with a crystal replaces an ion in the lattice of that crystal) for water softening or other water-treatment processes.

*Indian Tribe* means any Indian Tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian Reservation [40 CFR 122.2].

*Influent* means the water from upstream that enters the facility.

*Maximum* means the highest measured discharge or pollutant in a waste stream during the time period of interest.

*Maximum Daily Discharge limitation* means the highest allowable “daily discharge” [40 CFR 122.2].

*Membrane filtration* is a pressure or vacuum driven separation process in which particulate matter larger than 1 micro meter is rejected by an engineered barrier, primarily through a size-exclusion mechanism, and which has a measurable removal efficiency of a target organism that can be verified through the application of a direct integrity test. This definition includes the common membrane technologies of microfiltration, ultrafiltration, nanofiltration, and reverse osmosis. [40 CFR 141.2]. (Also, note that reverse osmosis units are not covered by this General Permit).

*Monthly Average Limit* means the average of “daily discharges” over a monitoring month, calculated as the sum of all “daily discharges” measured during a monitoring month divided by the number of “daily discharges” measured during that month [40 CFR 122.2].

*National Pollutant Discharge Elimination System (NPDES)* means 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 [40 CFR 122.2].

*Nonconventional Pollutants* means all pollutants that are not included in the list of conventional or toxic pollutants in 40 CFR 401. This includes pollutants such as total residual chlorine, ammonia, COD, nitrogen, and phosphorous.

*Notice of Intent (NOI)* means a request, or application, to be authorized to discharge under a general NPDES permit.

*Nuisance* means anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters of the State [IDAPA 58.01.02.010.67].

*Outstanding resource water* means a high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational significance, which has been designated by the legislature and subsequently listed in this chapter (of IDAPA 58.01.02). ORW designation constitutes an outstanding national or state resource that requires protection from point and nonpoint source activities that may lower water quality [IDAPA 58.01.02.010.72].

*Pollutant* means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials [except those regulated under the Atomic Energy Act of 1954, as amended (42 USC 2011 et seq.)], heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water [40 CFR 122.2].

*Product Water* means the water produced at a drinking water treatment plant for the intention of distribution for domestic and industrial uses.

*Quarterly monitoring* means monitoring during the quarters defined as: January to March; April to June; July to September; and, October to December.

*Slow sand filtration* means a process involving passage of raw water through a bed of sand at low velocity (generally less than 0.4 m/h) resulting in substantial particulate removal by physical and biological mechanisms.

*Sufficiently Sensitive* – An analytical chemical-specific test method is sufficiently sensitive when:

- The method minimum level (ML) is at or below the level of the effluent limit established in the permit for the measured pollutant or pollutant parameter; or
- The method has the lowest ML of the analytical methods approved under 40 C.F.R. Part 136 or required under 40 C.F.R. Chapter I, Subchapter N or O for the measured pollutant or pollutant parameter.

*Technology-based effluent limitation (TBEL)* means treatment requirements under Section 301(b) of the Clean Water Act that represent the minimum level of control that must be imposed in a permit issued under section 402 of the Clean Water Act. EPA is required to promulgate technology-based limitations and standards that reflect pollutant reductions that can be achieved by categories, or subcategories of industrial point sources using specific technologies that EPA identifies as meeting the statutorily prescribed level of control under the authority of CWA sections 301, 304, 306, 307, 308, 402, and 501 [33 USC § 1311, 1314, 1316, 1318, 1342, and 1361].

*Total Maximum Daily Load (TMDL)* means the sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for non-point sources, and natural background when allocating pollutant loading to a particular waterbody. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality [IDAPA 58.012.02.010.100].

*Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation [40 CFR 122.41(n)].

*Waters of the United States or waters of the U.S. means:*

- (a) All waters which are currently used, 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;
- (b) All interstate waters, including interstate “wetlands;”
- (c) 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:
  - (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes;
  - (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
  - (3) Which are used or could be used for industrial purposes by industries in interstate commerce;
- (d) All impoundments of waters otherwise defined as waters of the United States under this definition;
- (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition;
- (f) The territorial sea; and
- (g) “Wetlands” adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition [40 CFR 122.2].