

**U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 8  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
FACT SHEET**

**GENERAL PERMIT  
FOR THE DISCHARGE OF WASTEWATER FROM POTABLE WATER  
TREATMENT PLANTS**

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## 1. Background Information

### 1.1. Clean Water Act Authority

Section 301(a) of the Clean Water Act (CWA), 33 USC §1311(a), provides that the discharge of pollutants to waters of the U.S. is unlawful except in accordance with terms and conditions of a National Pollutant Discharge Elimination System (NPDES) permit.

The EPA Region 8 is the NPDES permitting authority for discharges in Indian country, as defined in 18 U.S.C. § 1151, located within Region 8 states, and supports implementation of federal environmental laws consistent with the federal trust responsibility, the government-to-government relationship, and the EPA's 1984 Indian Policy.

NPDES permits issued by the EPA Region 8 are federal permits requiring certification under Section 401 of the CWA. As part of the certification process, each tribe with Treatment as a State (TAS) authority for Section 401 will be provided the opportunity to conduct a review of the Drinking Water General Permit (DWGP) before its final issuance and inform the EPA of the results of the review.

### 1.2. NPDES General Permit

An NPDES permit authorizes the discharge of pollutants into a receiving water under certain conditions. An NPDES General Permit covers multiple plants/sites/activities within a specific category for a specific period of time (not to exceed five years). A general permit is subject to a public comment period prior to issuance. Dischargers within the category then obtain coverage under the permit through submission of a Notice of Intent (NOI).

40 C.F.R. § 122.28(a) authorizes the EPA to issue general permits to categories of discharges under the following criteria set forth in 40 C.F.R. § 122.28(a)(1) and (a)(2)(ii)(A-E):

- Area: The general permit shall be written to cover one or more categories or subcategories of discharges or sludge use or disposal practices or plants, except those covered by individual permits, within a geographic area. The area should correspond to existing geographic or political boundaries such as:
  - City, county, or state political boundaries;
  - Any other appropriate division or combination of boundaries;
- Involve the same or substantially similar types of operations;
- Discharge the same types of waste;
- Require the same effluent limits or operating conditions;
- Require the same or similar monitoring, and

- In the opinion of the EPA, are more appropriately controlled under a general permit rather than an individual permit.

The facilities covered under this permit meet the above criteria as described below.

#### 1.2.1. Permit Number Formatting

The DWGP numbering scheme is in the format of SSDW#####, where:

SS is for the state abbreviation (CO, ND, MT, SD, UT, and WY),

DW indicates DWGP,

##### is a number assigned to a specific facility/operation covered under the permit.

#### 1.2.2. Geographic area

The EPA is issuing, pursuant to its authority under CWA Section 402, the DWGP for drinking water treatment plants discharging wastewater to waters of the U.S. located in Indian country within the EPA Region 8. The specific areas of coverage and corresponding permit numbering scheme within each of the Region 8 states are the following:

##### **Colorado – Permit numbers CODW#####**

- (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– Permit numbers MTDW#####**

- (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 – Permit numbers CODW#####**

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

Facilities in the Ute Mountain Ute Reservation within New Mexico will receive Colorado Permit numbers because the headquarters of the reservation is in Colorado.

**North Dakota – Permit numbers NDDW#####**

(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.

Facilities in the Standing Rock Sioux Reservation within South Dakota will receive North Dakota Permit numbers because the headquarters of the reservation is in North Dakota.

**South Dakota – Permit numbers SDDW#####**

(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, 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.

Facilities in the Standing Rock Sioux Reservation within South Dakota will receive North Dakota Permit numbers because the headquarters of the reservation is in North Dakota.

**Utah – Permit numbers UTDW#####**

(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 – Permit numbers WYDW#####**

(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.

#### 1.2.3. Source of Discharge Involves the Same or Substantially Similar Types of Operations

The DWGP applies to the discharge of wastewater from facilities for which the primary purpose is the treatment of source water for human consumption. The permit is being written specifically for drinking water treatment plants that, with some exceptions described in greater detail below, employ filtration to treat their source water. Discharges from other types of drinking water treatment systems not specifically listed or excluded in the DWGP that meet the other requirements of the DWGP may also be eligible for coverage upon approval by the EPA. Discharges from non-drinking water treatment operations are not eligible for coverage under the DWGP.

#### 1.2.4. Discharge the Same Types of Waste

The plants covered by this permit typically generate and discharge the same type of wastewater. These wastes often include filter backwash; filter-to-waste; thickener overflows (supernatant); decant water; and other miscellaneous waste streams.

The pollutants typically associated with these wastes include: total suspended solids (TSS) and pH. Characteristics of the source water and treatment process may cause uncommon pollutants such as total residual chlorine, chemical coagulants, *Escherichia coli* (*E. coli*), and arsenic to be concentrated in the wastewater. Effluent limitations and monitoring requirements are discussed in sections 5 and 6 respectively.

#### 1.2.5. Require the Same Effluent Limits or Operating Conditions

The DWGP proposes the same effluent limits, monitoring requirements and other operating conditions for all drinking water treatment plants. An individual plant covered under the DWGP will have the same effluent limitations that would be assigned under an individual NPDES permit.

#### 1.2.6. Require the Same or Similar Monitoring Requirements

The DWGP includes consistent monitoring requirements for all discharges. Some plants may have modified effluent limitations and monitoring requirements according to the nature of the source water and receiving water. (See Sections 5 and 6)

### 1.2.7. Appropriateness

The EPA has determined that a majority of the drinking water treatment plants located in Indian country within the geographic boundary of the EPA Region 8 rely on traditional filtration methods to treat their source water. Given the similarity in treatment facilities operations and waste streams, the EPA Region 8 has concluded that permits for these drinking water treatment plants will be relatively similar. As a result, they are more appropriately controlled under a general permit rather than under individual NPDES permits.

## 2. Eligibility of Plants

The DWGP applies to plants that produce potable water where the treatment of drinking water is the primary function of the plant.

For the purposes of the DWGP, the EPA Region 8 is considering drinking water treatment plants that fall into any of the following four (4) categories: conventional direct filtration (including slow sand filtration); membrane filtration; ion exchange, and potassium permanganate iron removal. As discussed in greater detail below, the EPA Region 8 has made the following eligibility decisions for these categories of plants:

Category of Plant	Eligibility	Exceptions to Eligibility
Conventional Direct Filtration	Eligible	Plants for which source water exceeds radioactivity MCL.
Membrane Filtration	Eligible	Plants that use reverse osmosis or nano-filtration, and plants for which source water exceeds the radioactivity MCL.
Ion Exchange	Not Eligible	NA
Potassium Permanganate Iron Removal	Not Eligible	NA

The basics of each treatment process is described in greater detail below

### 2.1. Drinking Water Treatment Plant Operations

#### 2.1.1. Conventional and Direct Filtration Treatment

A conventional treatment system passes raw water through a sedimentation tank to remove larger settleable solids, such as sand and large organic matter. After sedimentation, a coagulant or flocculant may be injected to improve solids removal. The water may then pass through another sedimentation basin and granular media filter or slow sand filter to remove additional pollutants. The filter removes solids that didn't settle in the sedimentation basin.

##### 2.1.1.1. Alum Coagulation

Alum coagulation is the addition of aluminum sulfate to the raw water to improve solids removal. The clarified water is decanted for continued treatment and distribution. Sludge generated is pumped to a holding plant for additional clarification. After additional settling in the holding plant, water is decanted for discharge, and the sludge is disposed of in an authorized manner.



#### 2.1.1.2. Polymer Coagulation/Flocculation

Polymer coagulation is similar in nature to alum coagulation. A variety of polymers are available to remove suspended solids from the raw water. The polymer is selected according to the solids characteristics of the raw water.

#### 2.1.1.3. Granular Media Filters

Granular media filters remove suspended solids by adsorption and straining. Single media beds or multimedia beds may be used. The most common dual media filters utilize ground anthracite and silica sand. A triple media filter utilizes anthracite, silica, and may also include very fine grain size garnet. Periodically the granular media filters must be backwashed to maintain efficiency in pollutant removal. Pollutants typical of filter backwash wastewater are representative of the discharges intended to be covered by the DWGP.

#### 2.1.1.4. Slow Sand Filtration

Slow sand filtration is a less commonly used drinking water treatment process. This is a process involving passage of raw water through a bed of sand at low velocity (generally less than 1.3 ft/hr) resulting in substantial particulate removal by physical and biological mechanisms. Operating a slow sand filter does not produce filter backwash wastewater. During routine maintenance the filter media is removed and replaced. Plants using slow sand filtration are eligible for coverage under the DWGP when other operations at the plant produce wastewater qualifying for coverage under the DWGP.

#### 2.1.2. Membrane Filtration

Membrane filtration uses semi-permeable membranes to separate pollutants from water. Water is forced across the membrane by a driving force (i.e., water pressure). Pollutants are filtered out and either become stuck to the membrane or concentrated in a reject solution. The type of substances removed will be dependent on the membrane type, pore size, water pressure, and characteristics of the raw water. Membrane filtration is classified into four categories (in order of decreasing pore size): Microfiltration (MF), Ultrafiltration (UF), Nanofiltration (NF) and Reverse Osmosis (RO).

Waste concentrate from membrane filtration is regularly discharged, and the membrane is flushed off with air and water. Periodically, the membrane is chemically washed with various chemical solutions in differing concentrations and orders dependent upon the pollutants to be removed from the membranes. The chemical rinse solution, and therefore the wastewater, can include caustic soda, citric acid, chlorine, sodium tripolyphosphate, surfactants, and sodium metabisulfite. The wastewater may have a higher pH due to the chemicals used. Discharges of this concentrate and cleaning wastes that meet the pH requirements of the DWGP may be discharged after treatment.

Occasionally membrane filters are shut down for extended periods of time and the membranes are placed in storage solutions. After the membranes are returned to service, a plant operator may elect to treat these storage solutions for inclusion in a plant's wastewater discharge. Such discharges would be required meet the requirements of the DWGP. In many situations, however,

filter backwash wastewater treatment methods are unable to remove the pollutants contained in the storage solutions, in which case a facility may elect to discharge the storage solutions to the sanitary sewer. The DWGP does not authorize, or regulate, discharges to the sanitary sewer. It is the operator's responsibility to ensure all local wastewater authority requirements are followed before discharging a membrane storage solution to a sanitary sewer.

Plants also occasionally use chlorine in the storage solution to control biological growth during extended periods of shutdown. The chlorine residual of the storage solution may be above 50 milligrams per liter (mg/l) free chlorine. This solution may be re-charged monthly with more chlorine, or the storage solution may be replaced, and the depleted solution discharged as wastewater. Under the DWGP, facilities with such discharges would be assigned supplemental total residual chlorine effluent limits and monitoring requirements (See Table 2 of the Permit).

#### 2.1.2.1. Microfiltration and Ultrafiltration

Plants conducting MF and UF are eligible to qualify for coverage under the DWGP. The DWGP defines MF and UF as filtration operations that have membranes that have a pore size of greater than .01 micrometers.

MF and UF remove pollutants and produce wastewater similar in composition to conventional media filters (EPA 820-R-11-003). The membrane pores can be small enough to separate bacteria and viruses from the product water. Dissolved solids such as salts and minerals are not removed by MF and UF. The EPA concludes that the waste stream from MF and UF processes are likely to have the same characteristics as wastewater produced by conventional filtration and qualifies for coverage by the DWGP

#### 2.1.2.2. Reverse Osmosis and Nanofiltration

Plants that use reverse osmosis (RO) and nanofiltration (NF) are **NOT** eligible for coverage under the DWGP. For the purposes of the DWGP, RO and NF are defined as filtration operations that have a membrane pore size of less than .01 micrometers.

RO and NF use higher pressure to force water across a permeable membrane with smaller pore sizes than other membrane systems. RO and NF have the potential to produce a liquid concentrate waste containing elevated levels of dissolved solids and other contaminants which do not qualify for coverage under the DWGP. The waste stream from RO and NF includes pollutants not found in conventional or low pressure membrane filtration processes. As a result, the EPA concludes that the waste stream from RO and NF processes are substantially different from other filtrations processes and do **NOT** qualify for coverage by the DWGP.

#### 2.1.3. Ion Exchange

Ion exchange processes are **NOT** eligible for coverage under the DWGP

Ion exchange removes pollutants with a resin exchanging undesirable ions for desirable ions. Demineralizers are ion exchange units that use acids, bases, or salts to regenerate the exchange resins. Sodium or potassium ion exchange units are used to "soften" hard water. Sodium chloride

or potassium chloride is used to regenerate the resins from these types of systems. The regeneration waste from these processes may require additional treatment or alternate disposal methods before discharge to receiving water, such as metered disposal to a domestic wastewater treatment system.

The pollutants of concern (POC) from ion exchange units may include: high pH wastewater, sodium hydroxide, sodium carbonate, and ammonia. The waste stream from ion exchange units includes elevated concentrations of pollutants not found in a conventional or membrane filtration domestic water treatment plant. As a result, the EPA has concluded that the waste stream from ion exchange processes are substantially different and are NOT covered by the DWGP.

#### 2.1.4. Potassium Permanganate Iron Removal

Plants that use potassium permanganate to remove dissolved pollutants are **NOT** eligible for coverage under the DWGP.

Potassium permanganate is added to source waters which contain high levels of dissolved iron, manganese and hydrogen sulfide. The dissolved pollutants are oxidized and form a precipitate which is easily filtered from the water. The sludge and filter backwash associated with this treatment includes a variety of pollutants in concentrations substantially different than wastes generated by conventional and membrane treatment methods. As a result, the EPA has concluded that the waste stream from processes are substantially different and are NOT covered by the DWGP.

### 2.2. Wastewaters Generated

The principle wastewaters produced in filtration water treatment plants include filter backwash, filter-to waste, thickener supernatant, and liquids from dewatering processes. Filter backwash and filter-to-waste are expected to comprise most of the wastewater discharged.

#### 2.2.1. Filter Backwash

Filter media is usually cleaned by flushing with water in the reverse direction to normal flow, with sufficient force to separate particles from the media. A typical backwashing operation lasts for 10 to 25 minutes with maximum flow rates of 15 to 20 gallons per minute (gpm) per square foot. High-water flow is used, generating a large volume of filter backwash water. Small plants may produce filter backwash sporadically; but larger plants with numerous filters may produce backwash continuously as filters are rotated for backwashing. Filter backwash can comprise 2 to 10 percent of the total plant production of finished water. The quality of spent filter backwash varies from plant to plant. Filter backwash may contain chlorine, if the plant backwashes with chlorinated water. Relative to raw water, spent backwash shows higher concentrations of *Giardia lamblia* and *Cryptosporidium*, dissolved organic carbon, zinc, total trihalomethanes (TTHMs), turbidity, total organic carbon and total suspended solids (TSS) (EPA 820-R-11-003). In addition, filter backwash may have higher concentrations of aluminum and iron (from aluminum and iron-based coagulants).

### 2.2.2. Filter-to-Waste

Filter-to-waste is the initial flow generated after backwashing. The filter-to-waste does not meet the drinking water quality criteria to be sent directly into the water distribution system. Filter-to-waste is expected to contain pollutants similar to filter backwash wastewater with lower concentrations. Filter to waste amounts to approximately 0.5 percent of the total amount of water filtered at a treatment plant.

### 2.2.3. Thickener Overflows (Supernatant)

Thickener supernatant results from gravity thickening of solids in sedimentation basins, backwash holding tanks, stabilization ponds, and other similar operations. After settling, the clarified or decant water that exits the unit is called thickener supernatant. Thickener supernatant may be recycled or discharged at a frequency that depends on the quantity of sludge produced. Microbial, inorganic, and organic contaminants that concentrate in the sludges can remain in the supernatant if sludge is not properly settled, treated, and/or removed.

### 2.2.4. Decant Water

Some filtration plants prepare waste solids for disposal by concentrating solids to remove excess water reducing the costs associated with sludge disposal. Such processes concentrate sludges as high as 50 percent solids content. Liquids from dewatering processes are produced from a stabilization pond or sludge drying bed as decant and underflow, or as filtrate or centrate from mechanical processes. Small, intermittent wastewater streams are produced by this dewatering process. These waste streams can contain elevated levels of total organic carbon, total trihalomethanes, as well as aluminum, iron, and manganese.

### 2.2.5. Miscellaneous Wastewaters

Miscellaneous waste sources may include, but are not limited to: overflow water, processed potable water, contact and noncontact cooling water, dehumidifier water, sump drainage water, disinfection of pipelines and tanks, hydraulic valve operator water and/or pump seal water.

## 3. Permit Coverage

The DWGP provides coverage for discharges of treated wastewater to waters of the U.S. from eligible drinking water treatment plants, as described in section 2 of this fact sheet.

### 3.1. Facilities Requiring an Individual NPDES Permit

In accordance with 40 C.F.R. §122.28(b)(3)(ii), EPA may require any owner or operator of a drinking water treatment facility authorized by the DWGP to apply for and obtain an individual NPDES permit. Cases where an individual NPDES permit may be required include the following:

- (A) The discharger is not in compliance with the conditions of the general NPDES permit;
- (B) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;

(C) Effluent limitation guidelines are promulgated for point sources covered by the general NPDES permit;

(D) A Water Quality Management plan (40 C.F.R. §130.6) containing requirements applicable to such point sources is approved;

(E) Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary;

(F) The discharge(s) is a significant contributor of pollutants. In making this determination, the EPA may consider the following factors:

(1) The location of the discharge with respect to waters of the United States;

(2) The size of the discharge;

(3) The quantity and nature of the pollutants discharged to waters of the United States; and

(4) Other relevant factors.

In accordance with federal regulations at 40 C.F.R. §122.28(b)(3)(iv), when an individual NPDES permit is issued to an owner or operator of a drinking water treatment facility otherwise subject to the DWGP, the applicability of the DWGP to the individual NPDES permittee is automatically terminated on the effective date of the individual permit.

### 3.2. Requesting an Individual NPDES Permit

In accordance with federal regulations at 40 C.F.R. §122.28(b)(3)(iii), any owner or operator of a drinking water treatment facility authorized by the DWGP may request to be excluded from coverage under the DWGP by applying for an individual NPDES permit. The details of this process for new and existing discharges are covered in Sections 3.2.1 and 3.2.2 below. In accordance with 40 C.F.R. §122.28(b)(3)(iv), when an individual NPDES permit is issued to an owner or operator of a drinking water treatment facility otherwise subject to the DWGP, the applicability of the DWGP to the individual NPDES permittee is automatically terminated on the effective date of the individual permit.

#### 3.2.1. New Discharges

The owner or operator of a new drinking water treatment facility eligible for coverage under the DWGP may request coverage instead under an individual permit by submitting the appropriate NPDES permit application forms to the EPA Region 8, with a justification supporting a request for an individual NPDES permit. Such application, as required by 40 C.F.R. § 122.21(c), must be submitted no later than 180 days prior to the date the facility commences discharge. The request for an individual NPDES permit will be reviewed and processed in accordance with federal regulations at 40 C.F.R. Part 124, once the application is deemed timely and complete. The request will be granted by the issuance of an individual NPDES permit if the reasons cited by the owner or operator are adequate to support the request.

### 3.2.2. Existing Discharges

In accordance with 40 CFR 122.28 (b)(3)(iii), any owner or operator of an existing drinking water facility currently authorized by the DWGP, or eligible to be authorized by the DWGP, may request to be excluded from the coverage by applying for an individual permit. The owner or operator shall submit an application under 40 C.F.R. § 122.21, with reasons supporting the request, to the EPA Region 8 no later than 90 days after the publication by EPA of the DWGP in the Federal Register. The request shall be processed under 40 CFR Part 124. The request shall be granted by issuing of an individual NPDES permit if the reasons cited by the owner or operator are adequate to support the request.

### 3.3. Pollutants Authorized by the DWGP

The DWGP will authorize discharges of specified pollutants in limited amounts to the waters of the U.S. Section 5 of this fact sheet contains a detailed discussion of the pollutants limited by the DWGP.

### 3.4. Pollutants Not Authorized by the DWGP

The DWGP does not authorize the discharge of any waste streams, including spills and other unintentional or non-routine discharges of pollutants, that are not part of the normal operation of the plant as disclosed in the permit application and/or NOI. In instances where discharges include chemicals other than the pollutants covered by the DWGP, the owner/operator will need to apply for an individual NPDES permit.

## 4. Notification Requirements

Dischargers seeking coverage under the DWGP must submit a Notice of Intent (NOI) to the EPA Region 8. In accordance with 40 C.F.R. § 122.28(b)(2)(i), a discharger who fails to submit a timely and complete NOI in accordance with the terms of a general permit is not authorized to discharge. A complete and timely NOI fulfills the requirements of a permit application for purposes of 40 C.F.R. §§ 122.6 and 122.21. The EPA may determine that submission of NPDES individual permit applications fulfill the NOI requirements.

### 4.1. Submitting a Notice of Intent (NOI) and Supporting Information

Any discharger seeking coverage under the DWGP must submit an NOI to the EPA Region 8. The “NPDES Drinking Water General Permit Notice of Intent Form” can be found in Appendix D of the DWGP.

The form can be filled out on the computer, printed, signed, and submitted to the EPA at the address given in Part 4.4.1 of the DWGP. The operator is required to send a copy of the complete NOI to the applicable tribal environmental office. See Appendix A of the DWGP for tribal contact information.

As of December 21, 2020, all NOIs submitted in compliance with this section must be submitted electronically by the discharger to the EPA in accordance with 40 CFR §122.28(b)(2).” If the

online NOI or application is not available on December 21, 2020, the NOI or application can continue to be submitted via hard copy until such time as the online option is available.

#### 4.2. Authorization to Discharge

The EPA will review the NOI and, upon approval, issue a written notice granting coverage under the DWGP to the discharger. The written notice will specify the authorization date to commence discharging under the DWGP.

#### 4.3. Notice of Termination of Discharge

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:

- Noncompliance by the permittee with any condition of the permit;
- 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;
- 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
- 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).

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.

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.

Termination of permit coverage under the DWGP will become effective 30 days after the EPA sends written notification.

### **5. Effluent Limitations**

Section 301(a) of the CWA, 33 USC § 1311(a), prohibits the discharge of pollutants to waters of the U.S. except in compliance with Section 402 of the CWA, 33 USC § 1342. Section 402 authorizes the EPA to issue NPDES permits authorizing discharges of pollutants, on the condition that such discharges comply with limitations and requirements imposed pursuant to CWA Sections 301, 302, 306, 307, 308, and 403, 33 USC §§ 1311, 1312, 1316, 1317, 1318, and 1343.

### 5.1. Technology-based Requirements

Section 301(b)(1)(A) of the CWA requires permits for point sources other than publicly owned treatment works (POTWs) to include limitations based on effluent limitation guidelines (ELGs) established by EPA pursuant to CWA § 304(b). In the absence of effluent guidelines for an industry, Section 402(a)(1)(B) of the CWA, and its implementing regulation at 40 C.F.R. Part 125, Subpart A, requires the permit writer to establish technology based effluent limitations using their best professional judgement (BPJ). Because the EPA has not issued an ELG for wastewater discharges from drinking water treatment facilities, the technology-based effluent limitations (TBELs) for the DWGP were developed using the best professional judgement process.

### 5.2. Water Quality Based Requirements

Section 301(b)(1)(C) of the CWA, and its implementing regulation at 40 C.F.R. § 122.44(d), requires permits to include limits for all pollutants or parameters which are or may be discharged at a level which will cause, or contribute, to an excursion above applicable water quality standards (WQSs). 40 C.F.R. § 122.44(d)(vii) requires that water quality based effluent limitations (WQBELs) must be stringent enough to ensure that water quality standards are met, and they must be consistent with any available waste load allocation under an EPA approved Total Maximum Daily Load (TMDL). In practice, this means that for pollutants with technology-based limits, the EPA must determine whether the technology-based limits will be protective of water quality standards and, if not, include any more stringent WQBELs necessary to protect the applicable standards.

In establishing supplemental WQBELs for this permit, the EPA examined and incorporated Tribal WQS, including Tribal narrative criteria. In the absence of applicable Tribal WQS, the EPA evaluated Tribal water quality requirements, EPA's CWA § 304(a) water quality criteria (WQC), and the assimilative capacity for the receiving stream when developing these effluent limitations.

### 5.3. Effluent Limitations for the DWGP

As summarized in Table 1 below, EPA has established two categories of effluent limitations for the DWGP. The first category consists of primary effluent limitations for pollutants expected to be present in discharges from all facilities eligible for coverage under the DWGP. The second category are supplemental effluent limitations which are required based on facility specific circumstances.

There are two pollutants considered primary effluent limitations, TSS and pH. All permittees must comply with these effluent limits (see Table 1 of the permit).

The second category, captured in Table 2 of the Permit, are the supplemental effluent limitations. There are seven pollutants included in Table 2: total residual chlorine (TRC), aluminum, iron, arsenic, *E. coli*, fecal coliform and zinc. Pollutants such as pathogens, arsenic, and other natural occurring pollutants have the potential to be present in the source water of drinking water treatment plants. The drinking water treatment process has been identified to have the potential to concentrate such pollutants through the filtration and backwash processes (EPA 820-R-11-003). To identify the pollutants present, the plant's historical discharge data as well as Consumer Confidence Report or Annual Water Quality report will be reviewed along with the NOI submittal. The information will



be used to assess the need for supplemental effluent limitations and monitoring requirements. If such limits are necessary, EPA will notify the permittee which, if any, of the supplemental limits will apply.

Table 1 – DWGP Effluent Limitations – Category and Type

Pollutant	Daily Maximum	30-day average	Category	Type
Aluminum, µg/L	750	87	Supplemental	WQBEL
Arsenic (Aquatic Life), µg/L	340	150	Supplemental	WQBEL
Arsenic (Human Health), µg/L	10	--	Supplemental	WQBEL
<i>E. coli</i> , number/100ml	126	126	Supplemental	WQBEL
Fecal Coliform, number/100ml*	400	200	Supplemental	WQBEL
Iron, µg/L	1000	N/A	Supplemental	WQBEL
Total Residual Chlorine, µg/L	19	11	Supplemental	WQBEL
Total Suspended Solids, mg/L	45	30	Primary	TBEL
Zinc, mg/L	120	N/A	Supplemental	WQBEL
The pH of the discharge shall not be less than 6.5 or greater than 9.0 at any time, Standard Units.			Primary	WQBEL
The pH of the discharge shall not be less than 6.6 or greater than 8.5 at any time, Standard Units (Ute Mountain Reservation)			Supplemental	WQBEL

Effluent limitations are effective at the wastewater outfall(s). No mixing zone will be considered when obtaining coverage under the DWGP. If a plant’s effluent requires consideration of mixing zones to meet instream WQS then an individual NPDES permit will be necessary.

An explanation of the basis for each effluent limitation, as well as certain excluded pollutants follows.

### 5.3.1. Total Suspended Solids (TSS)

For the discharges authorized by the DWGP, the EPA is establishing TSS effluent limits of 30 mg/L (average monthly limit) and 45 mg/L (maximum daily limit). The EPA is establishing these technology-based effluent limits in the permit to meet the requirements of best control technology/best available technology (BCT/BAT).

The EPA’s secondary treatment standards establish the minimum treatment requirements for publicly owned treatment works treating domestic sewage. The EPA Region 8 has determined that drinking water treatment facilities eligible for coverage under the DWGP have similar pollutants in their discharge and employ similar wastewater treatment processes to small POTWs. Thus, the EPA Region 8 used the secondary treatment standards as a starting point for establishing TSS limits for the DWGP, and adjusted them as necessary to reflect drinking water

plant operations. The secondary treatment standards, at 40 C.F.R. § 133.105(b), establish both 30-day average effluent limitation for TSS (30 mg/L) and a 7-day average effluent limitation for TSS (45 mg/L). A daily maximum was used instead of a 7-day average because DWGP wastewater plants are expected to use stabilization ponds discharging intermittently for 24 hours or less.

### 5.3.2. pH

The EPA has adopted the recommended water quality criteria of 6.5-9 pH to protect aquatic life. EPA National Recommended Water Quality Criteria for Aquatic Life, 2002 (EPA-822-R-02-047). As discussed above, certain chemicals used in drinking water treatment plants may result in increased pH in discharges. To ensure the protection of aquatic life, discharges must be maintained within a pH range from 6.5 to 9.0 as an end of pipe discharge limitation.

Plants on Ute Mountain Reservation will be reviewed to ensure Reasonable Potential does not exist for wastewater discharges to cause the receiving waters' pH to drop below 6.6 or exceed 8.5 standard units as established in the Tribe's WQS. If the EPA determines the DWGP will cause an exceedance of receiving waters' WQS, an individual permit must be issued.

### 5.3.3. Biological Oxygen Demand (BOD<sub>5</sub>)

A limit for BOD<sub>5</sub> was not developed. Wastewater associated with drinking water treatment operations has not been determined to have reasonable potential to exceed related WQS (as an example, related WQS would be dissolved oxygen). If a plant conducts operations or uses chemicals that are likely to cause an exceedance of a BOD related WQS, then the plant will be required to apply for an individual permit.

### 5.3.4. Total Residual Chlorine

Chlorine is used in various forms for disinfection of water. Many water treatment plants will generate wastewater and sludge from operations containing chlorinated water. According to information provided in the NOI, the permittee may be required to monitor for, and comply with effluent limits for chlorine.

The EPA is using the WQC for Aquatic Life to establish chlorine effluent limits: Acute 19 µg/L, Chronic 11 µg/L. These concentrations are used as the limits for daily maximum and 30-day average, respectively. Section 4.2 of the DWGP requires that sufficiently sensitive monitoring methods must be used. For total residual chlorine a sufficiently sensitive method will have a method minimum level (ML) of 5 µg/L. The ML represents the lowest concentration at which an analyte can be measured with a known level of confidence in wastewater discharges. The chlorine effluent limitation will be maintained at the end of pipe.

### 5.3.5. Aluminum

Aluminum based coagulants, such as alum and poly-aluminum chloride, are used to facilitate the removal of suspended solids from raw water sources through coagulation and clarification. Wastewater generated after coagulation/clarification processes has the potential for elevated levels of aluminum.

The National Recommended Water Quality Criteria, 2002 (EPA-822-R-02-047), recommends maximum concentrations of 87 µg/l and 750 µg/l as chronic and acute concentrations respectively for the protection of freshwater aquatic life. These concentrations are used as the limits for 30-day average and daily maximum, respectively.

This limit would be applied to plants which use the above-mentioned aluminum containing chemicals in the drinking water treatment process.

#### 5.3.6. Iron

Iron salts are the active ingredients in some coagulants. As noted in the Drinking Water Treatment Plant Residuals Management Technical Report (EPA 820-R-11-003), iron was listed as a pollutant of concern for certain drinking water treatment plants. The DWGP has established an effluent limitation and monitoring requirement for iron. This monitoring requirement is only applicable to plants that use iron-based coagulants in their treatment stream and is intended to assess whether the metal is present at levels of concern in the discharges from those plants. This is to ensure that plants do not replace one coagulant that contains a pollutant of concern (i.e., alum-based coagulant) with another coagulant that is a potential pollutant of concern (i.e., iron based coagulant). EPA has established a recommended water quality criterion for iron with an instream maximum concentration of 1000 µg/l chronic concentration for the protection of freshwater aquatic life. This concentration will be used to establish an end of pipe effluent limitation.

#### 5.3.7. Arsenic

The Drinking Water Treatment Plant Residuals Management Technical Report (EPA 820-R-11-003) listed arsenic as a pollutant of concern for certain drinking water treatment plants. Arsenic can be present at high levels in source water at many locations in the EPA Region 8. Most drinking water treatment plants removing arsenic must use processes that do not qualify for coverage under the DWGP (i.e. RO and ion exchange processes). The monitoring requirements and effluent limitations will be applied in the rare case that a drinking water treatment plant is able to remove source water arsenic with a DWGP covered process.

Multiple arsenic effluent limitations were developed and will be applied depending on the receiving water's designated use and status. The WQC, 2002 (EPA-822-R-02-047), recommends maximum concentrations of 150 µg/l and 340 µg/l as chronic and acute toxicity of freshwater aquatic life. Both the chronic and acute concentrations will be applied to qualifying facilities that treat source water containing arsenic. In situations where the receiving water is designated as a domestic water source, the arsenic effluent limit will be 10 µg/l. This is based on the EPA maximum contaminant level in drinking water. (EPA 815-F-00-016)

#### 5.3.8. Fecal Coliform and *E. coli*

Effluent limitations for Fecal coliform and *E. coli* are common in NPDES permits for plants treating domestic sewage. Wastewater associated with drinking water treatment plants is not identified as a significant source of these pollutants. The bacteriological effluent limitation is intended to be applied in situations where the receiving water will have beneficial uses impacted by these pollutants.

Fecal coliform and *E. coli* have the potential to be present in source water and may be concentrated during filtration. (EPA 820-R-11-003). In situations where a receiving water has been identified as being impaired for beneficial uses due to *E. coli* and/or fecal coliform exceedances, or if the Tribal government requests, the fecal coliform and *E. coli* limits and monitoring may be required.

The EPA has developed effluent limitations for *E. coli* of 126 Number/100mL for both daily maximum and 30-day average. The *E. coli* limit was developed by selecting the most stringent of the applicable Tribal water quality standards in the EPA Region 8. This limit will be protective of water quality across the region. EPA justifies adopting the more stringent *E. coli* standard because drinking water treatment plants should be able to easily meet this limit. This limit should not cause unnecessary burden to a water treatment plant's operation. If a plant is unable to meet this limit while meeting the requirements of the Safe Drinking Water Act, they may apply for an individual NPDES permit with effluent limitations developed according to local WQS.

The EPA has developed effluent limitations for fecal coliform of 200 number/100mL 30-day average and 400 Number/100mL daily maximum for the Fort Peck Indian Reservation and Flathead Reservation. These limits will only be applied to facilities on the mentioned reservations. This limitation is derived from the Tribal WQS. In the event that the tribal WQS are updated and the fecal coliform parameter is replaced or removed, the fecal coliform monitoring requirement and effluent limitation will no longer apply.

#### 5.3.9. Copper

Copper based chemicals can be used as an algicide in source water storage lagoons. The WQC, 2002 (EPA-822-R-02-047), recommends use of the biotic ligand model for the calculation of chronic and acute toxicity concentrations for the protection of freshwater aquatic life. Total recoverable copper is included in the required monitoring for all plants. If reasonable potential is determined to exist for an exceedance of applicable water quality standards for copper an individual permit will be required.

#### 5.3.10. Zinc

Zinc may be concentrated in the water treatment process (EPA 820-R-11-003). The WQC, 2002 (EPA-822-R-02-047), recommends maximum zinc concentrations of 120 µg/l as chronic and acute concentrations for the protection of freshwater aquatic life. This limit will be assigned to plants when the EPA determines reasonable potential for an exceedance of the WQC exists.

For plants located in the Ute Mountain Ute Indian reservation Reasonable Potential will be determined according to the equation provided in the Tribe's WQS. If Reasonable Potential exists, an individual permit may be required at discretion of the EPA.

#### 5.4. Anti-backsliding

Section 402(o)(2) of the Clean Water Act and federal regulations at 40 C.F.R. §122.44(l) generally prohibits the renewal, reissuance or modification of an existing NPDES permit that contains effluent limits, permit conditions or standards that are less stringent than those established in the

previous permit (i.e., anti-backsliding) but provides limited exceptions. Section 402(o)(1) of the CWA states that a permit may not be reissued with less stringent limits established based on Sections 301(b)(1)(C), 303(d) or 303(e) (i.e. WQBELs or limits established in accordance with Federal treatment standards) except in compliance with Section 303(d)(4). Section 402(o)(1) also prohibits backsliding on TBELs established using Best Professional Judgement (BPJ) as described in CWA Section 402(a)(1)(B).

Section 303(d)(4) of the CWA states that, for water bodies where the water quality meets or exceeds the level necessary to support the water body's designated uses, WQBELs may be revised if the revision is consistent with the Tribe's antidegradation policy and as long as the provisions of CWA 303(d)(4) are met.

This is the first issuance of the DWGP. The EPA compared the proposed effluent limitations in the DWGP to effluent limits established in individual permits for the drinking water treatment plants in Region 8. The effluent limitations in the DWGP are equal to or more stringent than limitations in existing individual permits. Backsliding of limitations will not occur when gaining coverage under the DWGP.

## **6. Monitoring and Reporting Requirements**

### **6.1. Basis for Effluent and Surface Water Monitoring**

Section 308 of the CWA and the Federal regulation found at 40 C.F.R. §122.44(i) require monitoring in permits to determine compliance with effluent limitations. Monitoring may also be required to gather effluent and surface water data to determine if additional effluent limitations are required and/or to monitor effluent impacts on receiving water quality.

The permittee is responsible for conducting the monitoring and for reporting results on discharge monitoring reports (DMRs) or on the application for renewal, as appropriate, to the EPA. Permittees must analyze water samples using Sufficiently Sensitive analytical methods approved by the EPA found at 40 C.F.R. § 136.3.

### **6.2. Monitoring Location(s)**

Discharges authorized by this permit must be monitored at each outfall identified in the NOI or permit application. If multiple outfalls are used, then the monitoring requirements apply to each outfall individually. All covered outfalls will be specified in the letter of authorization.

### **6.3. Monitoring Frequencies**

Monitoring frequencies are based on the nature of the pollutant, as well as a determination of the minimum sampling necessary to adequately represent the plant's performance.

### **6.4. Monitoring Requirements**

Monitoring of pollutants is required to be performed when a discharge is actively conducted. If no discharge has been conducted during the reporting period, then a value of "No Discharge" must be entered in the discharge monitoring report (DMR).

Table 2 details the monitoring requirements for plants continuously and frequently discharging wastewater. The DWGP defines frequent dischargers as those discharging wastewaters at least once per 30-day period.

Table 2 – Monitoring requirements for continuous and frequent discharge

Parameter	Units	Monitoring Frequency	Type of Sample
Outfall Flow	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 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

Table details the monitoring requirements for plants with an intermittent or seasonal discharge. If a plant discharges wastewater less than once every 30 days, then the discharge will be considered intermittent.

Table 3 – Monitoring requirements for plants 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.

#### 6.4.1. Metals

Metals have been included in the monitoring requirements to determine the extent of pollutant partitioning which results from the treatment process. The data will be used to determine the need for development of effluent limitations for the indicated metals.

#### 6.4.2. Total Trihalomethanes (TTHMs)

Trihalomethanes have been determined to be a carcinogen that is developed when chlorine is used for disinfection of water containing organic pollutants. The TTHM data will be used to determine whether future versions of the DWGP should develop TTHM effluent limitations.

#### 6.4.3. Temperature

Temperature measurements are only required for the plants discharging continuously because the wastewater's reduced residence time may not allow stabilization of temperature with ambient conditions.

#### 6.4.4. Hardness

Hardness monitoring is required for the calculation of metals toxicity. This information will be used to determine the need for metals effluent limits in re-issuance of the DWGP.

### 7. Reporting Requirements

#### 7.1. Reporting of Monitoring Results:

With the effective date of the DWGP, the permittee must electronically report DMR on a quarterly frequency using NetDMR. Electronic submissions by permittees must be submitted to the EPA Region 8 no later than the 28th of the month following the completed reporting period. The permittee must sign and certify all electronic submissions in accordance with the signatory

requirements of the DWGP. NetDMR is accessed from the internet at <https://netdmr.zendesk.com/home>.

In addition, the permittee must submit a copy of the DMR to the respective Tribe. Currently, the permittee may submit a copy to the Tribe(s) by one of three ways: 1. A paper copy may be mailed. 2. The email address for the Tribe(s) may be added to the electronic submittal through NetDMR, or 3. The permittee may provide the Tribe(s) with viewing rights through NetDMR.

## **8. Plant Inspection Requirements**

Inspection requirements apply to all plants covered under the DWGP. The records of inspections are to be retained on-site at the plant or at a nearby office for the plant.

Part 5.5 of the DWGP includes routine inspection requirements. These are included as a preventative measure and require that the wastewater treatment plant be inspected on at least a weekly basis unless otherwise specified by the EPA.

The objectives of the inspections include checking on the discharge status of the backwash stabilization pond; checking for specified items that will require corrective maintenance and determining if proper operation procedures are being undertaken (e.g., leakage through the dikes, animal burrows in the dike, excessive erosion of the dikes, rooted plants growing in the water, and the vegetation growth on the dikes need mowing).

If an inspection shows that a discharge has occurred or is likely to occur before the next inspection, the appropriate monitoring and reporting requirements are to be performed if not already done. The permittee shall maintain a log, either electronic or hardcopy recording all information obtained during the inspection.

## **9. Endangered Species Considerations**

The Endangered Species Act (ESA) of 1973 requires all Federal Agencies to ensure, in consultation with the U.S. Fish and Wildlife Service (FWS), that any Federal action carried out by the Agency is not likely to jeopardize the continued existence of any endangered species or threatened species (together, "listed" species), or result in the adverse modification or destruction of habitat of such species that is designated by the FWS as critical ("critical habitat"). See 16 U.S.C. § 1536(a)(2), 50 C.F.R. Part 402. When a Federal agency's action "may affect" a protected species, that agency is required to consult with the FWS, depending upon the endangered species, threatened species, or designated critical habitat that may be affected by the action (50 C.F.R. § 402.14(a)).

To evaluate how the DWGP may affect Endangered Species, the EPA is requiring the use of FWS criteria in Appendix B of the DWGP to evaluate potential impacts to threatened or endangered species and the designated critical habitat of such species by the discharges from wastewater systems covered under the DWGP. Applicants will provide the EPA with information relating to their eligibility under one or more of the FWS criteria in Appendix B, and the EPA will use this information to ensure that permitted discharges, will either have "no effect" or "may affect, but not likely to adversely affect" listed species or designated critical habitat. Where the FWS selection criteria are not supplied by an applicant seeking coverage under the DWGP, the EPA will withhold



its notification of coverage and instead notify the applicant that they must provide additional information or apply for an individual permit. Applying for an individual permit will not remove the requirement for compliance with ESA.

## **10. National Historic Preservation Act Requirements**

Regarding compliance with the National Historic Preservation Act (NHPA), based on previous permit information and pending construction activity, the EPA is not aware of any impacts or potential impacts to historic properties by the discharges from the drinking water treatment plants currently covered under an existing permit. No new ground disturbance is expected to occur because of the issuance of this permit, however, the EPA is requiring applicants to provide certification regarding any pending construction and will evaluate NHPA properties prior to authorization for coverage under the DWGP. Additionally, the EPA has included in the notice of intent form, the requirement for plants to notify the applicable Tribal Historic Preservation Officers (THPO), or designated Tribal officials, and State Historic Preservation Officers (SHPO) with information on the renewal of their coverage under this permit. If plants that do not meet the criteria above seek coverage under the DWGP, the EPA will withhold its notification of coverage under the DWGP and instead notify the plant that it must provide additional information or apply for an individual permit. NHPA information is provided in Appendix C of the permit.

## **11. 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, it may be eligible for an administrative extension of coverage in accordance with 40 C.F.R. §122.6 and will remain in effect. The EPA cannot provide coverage under the DWGP to a permittee who submits an NOI after the permit expiration date.

Any permittee granted coverage under the DWGP prior to the expiration date, or who 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:

- The permittee receives authorization for coverage under reissuance or replacement of the DWGP following timely and appropriate submittal of a complete NOI requesting authorization to discharge under the new permit and compliance with requirements of the new permit 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).

Permit and Statement of Basis drafted by:

Paul Garrison, EPA Region 8, 8WP-CWW, 303-312-6016

Technical review December, 2018

**ADDENDUM:**

**12. PUBLIC NOTICE AND RESPONSE TO COMMENTS**

The permit and statement of basis were public noticed in the Federal Register on April 17, 2019 with docket identification: EPA-R08-OW-2019-0219. The period for comment ended May 28, 2019. No comments were received.

**13. 401 Certification from Tribes with Treatment as a State**

The EPA sent a letter on May 7, 2019 to the Southern Ute Indian Tribe, Ute Mountain Ute Tribe, Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Blackfeet Tribe of the Blackfeet Indian Reservation, Confederated Salish and Kootenai Tribes of the Flathead Reservation, and the Northern Cheyenne Tribe. The Tribes were asked to make a written determination regarding certification under the CWA Section 401 for this Permit. In making this determination, the Tribes are certifying whether the Permit will comply with the EPA approved Tribal water quality standards. The EPA may not issue a permit authorizing discharges into the waters of the U.S. until granted certification under CWA Section 401 or the Tribes have waived the right to certify (33 U.S.C. § 1341(a)(1); 40 CFR § 124.53(a)). On May 20, 2019 the EPA received a letter confirming 401 certification from the Southern Ute Indian Tribe. As of July 7, 2019, no response was received from the remaining tribes. The EPA considers that the tribes who haven't responded have waived the certification requirement according to 40 CFR 124.53(c)(3).

**14. Minor Edits to the Permit and Fact Sheet are as Follows:**

Updated the mailing address and contact information in accordance with the EPA realignment of 2019.

Added a description of permit numbering scheme to the Fact Sheet in section 1.2.1.