

U.S. Environmental Protection Agency, Region 8  
National Pollutant Discharge Elimination System

Fact Sheet for the General Permit for Wastewater Lagoon Systems in Indian Country

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## **I. Background**

### **Clean Water Act**

Section 301(a) of the Clean Water Act (CWA) provides that “the discharge of any pollutant by any person shall be unlawful” unless the discharge is in compliance with 33 U.S.C. § 1311(a) of the CWA. The CWA 33 U.S.C. § 1362(12) defines “discharge of a pollutant” as “any addition of any pollutant to navigable waters from any point source”. A “point source” is any discernible, confined and discrete conveyance from which pollutants are or may be discharged but does not include “agricultural stormwater discharges and return flows from irrigated agriculture”, as defined in the CWA 33 U.S.C. § 1362(14).

### **NPDES Permits**

A National Pollutant Discharge Elimination System (NPDES) permit authorizes the discharge of a pollutant or pollutants into a receiving water under certain conditions. The NPDES program relies on two types of permits: individual and general. An individual permit is a permit specifically tailored for an individual discharger or situations that require individual consideration based on the information contained in the permit application specific to that particular discharger (e.g., type of activity, nature of discharge, receiving water quality). In contrast, a general permit covers multiple facilities/sites/activities within a specific category. For general permits, the permitting authority develops and issues a general permit, under which dischargers may apply to obtain coverage through submission of a Notice of Intent (NOI). Both individual and general permit types are subject to public comment prior to issuance and are issued for a specific period of time (not to exceed 5 years).

Under 40 C.F.R § 122.28(a)(2)(ii), general permits may be written to cover categories of point sources having common elements, such as facilities that involve the same or substantially similar types of operations, that discharge the same types of wastes, or that are more appropriately regulated by a general permit. Given the significant number of tribal wastewater treatment facilities that require NPDES permit coverage whose principal treatment process is a lagoon system (e.g. waste stabilization pond), EPA Region 8 (EPA R8) has issued NPDES General Permits for Wastewater Lagoon Systems in Indian Country (lagoon general permits or LGPs) for coverage of these similar types of facilities rather than developing and issuing individual permits. Individual facilities (Permittees) may apply for and receive coverage under the LGPs. The LGPs allow EPA R8 to allocate resources in a more efficient manner, provide more timely coverage, and will significantly simplify the permitting process for the majority of tribal wastewater treatment lagoon system dischargers. As with any NPDES permit, the CWA requires the general permit to contain technology-based effluent limitations, as well as any more stringent limits when necessary to meet any applicable downstream water quality standards (e.g. tribal CWA-approved water quality standards).

### **History of Tribal Lagoon General Permits**

This Fact Sheet is for the six LGPs that are being reissued in calendar year 2022 for NPDES permit coverage of wastewater treatment lagoon systems that discharge, or have the potential to discharge, treated sanitary wastewater in Indian country in six states in EPA R8. Although the discharges consist primarily of domestic sanitary wastewater that has been treated, the discharges may also include a limited amount wastewater from other sources, such as industrial and/or commercial contributions.

The EPA R8’s LGPs were initially issued in 1998, and subsequently reissued in 2004, 2010, and 2016. With this reissuance, EPA R8 is maintaining the previous LGP groupings, which utilized reservation boundaries in combination with Indian country areas designated geographically by EPA R8 states.

A list of the mailing addresses and telephone numbers of the tribal environment directors for each Indian tribe covered by the LGPs is included in Appendix A of the LGPs. The names of the environmental directors are not included as they are subject to change.

### **Major Changes from Previous EPA R8 Tribal LGPs**

The following section provides information on the major changes in this reissuance of the LGPs:

#### Percent Removal Requirements

In reissuing the LGPs, R8 is including the 5-day biological oxygen demand (BOD<sub>5</sub>) and total suspended solids (TSS) percent removal requirements from 40 CFR § 133.105(a)(3) and (b)(3). The percent removal requirements are being added for discharging (DIS) facilities to ensure that the LGPs meet the equivalent to secondary treatment requirements. Neither BOD<sub>5</sub> or TSS percent removal requirements will apply to facilities with the potential to discharge that are designated as no discharge (NODIS).

Since percent removal has not been previously included in the LGPs, there is no current facility influent data available to evaluate the quality of wastewater received (e.g. influent consisting of less concentrated wastewater, inflow/infiltration (I/I) issues, etc.) by the Permittees currently covered under the LGPs. Therefore, there is no facility data to provide insight on influent quality and whether it may impact a Permittee's ability to meet percent removal requirements. Percent removal requirements are being added to the LGPs to gather this data and ensure the following:

- a) the LGPs meet the minimum treatment equivalent to secondary treatment requirements (taking into consideration the allowances per 40 CFR §133.101(g) for facilities utilizing waste stabilization ponds as their principal process);
- b) ensure significant biological treatment as defined in 40 CFR §133.101(k); and
- c) better support future decision making regarding the application of these regulations, including 40 CFR § 133.103(d), and 133.105 (a)(3) and (b)(3).

R8 is adding the following BOD<sub>5</sub> and TSS percent removal limits from 40 CFR § 133.105(a)(3) and (b)(3) to the LGPs:

- BOD<sub>5</sub> percent removal: the 30-day average percent removal calculations shall not be less than 65 percent
- TSS percent removal: the 30-day average percent removal calculations shall not be less than 65 percent

This will require that additional sampling and sample locations be added to collect TSS and BOD<sub>5</sub> data at a representative influent point to the wastewater treatment facility systems (e.g. prior to any treatment) so that the percent removal can be calculated when the facilities discharge. A minimum of quarterly influent sampling shall be implemented for all discharging facilities. These samples will be required regardless of discharge status during the monitoring period. This minimum influent sampling will provide data that accounts for influent characteristics over time and potential seasonal variations to be able to make a more valid comparison between influent and effluent concentrations.

Note- For facilities in the coverage category of "POTENTIAL TO DISCHARGE" that do not anticipate the need to discharge (i.e. NODIS), no percent removal requirements will be required in the LGPs. Applicable monitoring requirements are only applicable for these facilities if a bypass, upset, or other type of unanticipated discharge occurs. There will not be a regular frequency of influent BOD<sub>5</sub> or TSS sample collection/analysis to characterize influent or calculate a percent removal due to the expectation that NODIS facilities will not discharge during the life of the permit.

#### Alternative TSS Limitations Removed

Previously, the LGPs allowed for EPA R8 to adjust the minimum level of TSS effluent quality for wastewater treatment facilities that met certain regulatory criteria in 40 CFR 133 (i.e., where waste stabilization ponds are the principal process used for secondary treatment, the operation and maintenance data indicate that the secondary treatment standard effluent limitations on total suspended solids cannot be achieved, and the previously permitted secondary treatment standard effluent limitations for BOD<sub>5</sub> are being met). However, this allowance is being removed from the renewal LGPs and all facilities will be held to the secondary treatment requirements for TSS in 40 CFR 133.102(b)(1) and (2). These are a 30-day average of 30 mg/L and a 7-day average of 45 mg/L. If a facility applying for LGP coverage is seeking alternative or equivalent to secondary treatment effluent limitations for TSS, EPA will require that facility to apply for individual permit coverage. This will allow EPA R8 to evaluate the facility on a more individualized basis to determine if it qualifies for higher limitations, per the allowances in 40 CFR § 133.105 and 133.103(c), and include any additional requirements that may be necessary to ensure the facility continues to qualify for these alternative limits, such as operation and maintenance requirements specific to the facility.

#### Industrial Waste Survey Provision

Due to the potential for non-domestic wastewater facilities within a service area to discharge to wastewater treatment lagoon facilities covered under the LGPs, EPA R8 will evaluate NOI applications to determine if there is a need for an Industrial Waste Survey (IWS) provision to be added to permit coverages, as outlined in Section 4 Special Conditions of the LGPs. This provision is being added to ensure the facility operators are aware of the nature of discharges received by the facility and any non-domestic waste being received from the service area that could impact the collection system or wastewater treatment lagoon facility, in alignment with the objectives of the general pretreatment regulations (40 CFR § 403.2). The IWS shall be completed within one year of coverage under the reissuance date for these LGPs.

#### *Escherichia coli* (*E. coli*), Fecal Coliform, Temperature, and pH Requirement and Applicable Limits Updated to Align with Tribal CWA-approved Water Quality Criteria

The following Tribes were approved by the EPA for both treatment in a manner similar to a state (Treatment As State, or TAS) for CWA §§ 303(c) and 401, and have CWA-approved water quality standards (WQS) in effect at the time the LGP renewals are finalized:

- 1) Assiniboine & Sioux Tribes of the Fort Peck Indian Reservation
- 2) Confederated Salish & Kootenai Tribes of the Flathead Reservation
- 3) Northern Cheyenne Tribe
- 4) Ute Mountain Ute Tribe

The *E. coli* criteria in the Assiniboine & Sioux Tribes of the Fort Peck Indian Reservation WQS (effective June 4, 2018), Confederated Salish & Kootenai Tribes of the Flathead Reservation WQS (effective April 2, 2019), and Northern Cheyenne Tribe WQS (effective March 21, 2013) vary and will result in more stringent limits, and additional types of limits in some circumstances, compared to EPA's 2012 recommended *E. coli* criteria for primary contact recreation used to develop the supplemental limits applied in the LGPs. Therefore, limitations have been updated to include language applicable to align with any more stringent or additional criteria of the Tribes. See the Fact Sheet's Table 5 footnotes related to the *E. coli* supplemental effluent limitations and monitoring.

For the Ute Mountain Ute Tribe, the WQS (effective October 19, 2011) for pH for tribal cultural uses ranges between 6.6 and 8.5, which is more stringent than the EPA National Secondary Standard for pH. Therefore, the more stringent limit of 6.6 to 8.5 shall be used for any LGP-covered facilities on the Ute Mountain Reservation that discharge or have the potential to discharge to waters designated for tribal cultural uses in the Ute Mountain Ute WQS.

Additionally, language and applicable limits have been included in the LGPs to account for those Tribes with Tribal CWA-approved WQS that include temperature and fecal coliform limits.

For fecal coliform, the Assiniboine & Sioux Tribes of the Fort Peck Indian Reservation and Northern Cheyenne Tribe WQS indicate that during periods when the daily maximum water temperature is greater than 15.5° C, the geometric mean number of organisms in the fecal coliform group must not exceed 200 per 100 milliliters, nor are 10% of the total samples during any 30-day period to exceed 400 fecal coliforms per 100 milliliters. Similarly, the Confederated Salish & Kootenai Tribes of the Flathead Reservation WQS indicate that the geometric mean number of organisms in the fecal coliform group must not exceed 200 per 100 milliliters, and 10 percent of the total samples during any 30-day period are not to exceed 400 fecal coliforms per 100 milliliters. Limitations have been updated to include language applicable to align with these criteria (see the Fact Sheet's Table 5 footnotes related to the fecal coliform supplemental effluent limitations and monitoring).

A “monitor only” requirement for temperature has been included and will be required for facilities in areas where Tribal CWA-approved WQS for temperature are applicable at the time of LGP finalization (i.e. where TAS and CWA-approved WQS are established at the time of LGP coverage issuance). Since the Tribal CWA-approved WQS for temperature does not currently contain a specific numeric temperature as a limit and only contains requirements related to allowable changes in ambient receiving water temperature, the “monitor only” requirement will provide baseline data on discharges that can be used to assess the potential for the temperature of discharges to cause these in-stream temperature WQS to be exceeded and the need to address temperature concerns in future permitting actions.

#### Aluminum, Arsenic, and Iron Monitoring

Aluminum, iron, and/or arsenic shall be monitored in a facility's effluent discharge that receives filter backwash discharge directly from a drinking water treatment facility that utilizes specific drinking water treatment processes/chemicals such as aluminum-based coagulants; coagulants that contain iron salts, reverse osmosis (RO) or ion exchange (see Table 5 footnotes of the Fact Sheet for additional details). Though the volume of discharge of these materials may not be large, there is the potential for these pollutants to accumulate and pass through the lagoon treatment system to the receiving water. Data collection for these parameters can be utilized to determine if there is reasonable potential to implement additional permit requirements or limitations in future permitting actions.

#### Language/Naming Changes to LGP Categories and Additional Specifications for LGP Sub-categories

With the renewal LGPs, wastewater treatment lagoon facilities will still be separated into similar categories and sub-categories as the 2016 LGPs for coverage. However, the naming convention used for “no discharge” facilities has been changed (see Section IV of the Fact Sheet) and additional language has been added for LGP categories. More detailed language, including discharge frequencies with respect to LGP sub-categories, has also been added to the LGP sub-categories. These changes have been made to provide additional detail, more accurately describe, and further clarify how LGP categories and sub-categories are distinguished.

### Staffing and Funding Provision

A general staffing and funding provision (see Section 6.6.2. of the LGPs) has been added to the operations and maintenance requirements of the LGPs, to help ensure that Permittees maintain adequate staff and funding to carry out the operation, maintenance, repair, and testing functions required to ensure compliance with the terms and conditions of the LGPs.

### LGP Standard Language Updates

The renewal LGPs include revised standard language and regulatory requirements consistent with recent EPA R8 NPDES permits and regulations that have been updated since the previous issuance of the LGPs (e.g., updated pretreatment regulatory language, updated electronic reporting language, etc.).

## **II. LGP Area Coverages**

### Colorado (COG587###):

Indian country, as defined in 18 U.S.C. Section 1151, located in Colorado. Indian country in Colorado generally includes (1) lands within the exterior boundaries of the following Indian reservations located within Colorado, in part or in full: 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.

In addition to Indian country in Colorado, the portion of the Ute Mountain Ute Reservation located in New Mexico and any other Indian country lands in New Mexico and Utah held in trust by the United States for the Ute Mountain Ute Tribe or its members.

### Montana (MTG589###):

Indian country, as defined in 18 U.S.C. Section 1151, located in Montana. Indian country in Montana generally includes (1) lands within the exterior boundaries of the following Indian reservations located within Montana: the Blackfeet Indian Reservation, the Crow Indian Reservation, the Flathead Reservation, the Fort Belknap Reservation, the Fort Peck Indian Reservation, the Northern Cheyenne Indian Reservation, and the Rocky Boy’s 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.

### North Dakota (NDG589###):

Indian country, as defined in 18 U.S.C. Section 1151, located in North Dakota. Indian country in North Dakota generally includes (1) lands within the exterior boundaries of the following Indian reservations located within North Dakota, in part or in full: 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.

In addition to Indian country in North Dakota, the portion of the Standing Rock Sioux Reservation located in South Dakota and any other Indian country lands held in trust by the United States for the Standing Rock Sioux Tribe or its members in South Dakota.

The North Dakota LGP covers the above identified Indian country **except** as provided below:

- Not including any Indian country lands in North Dakota held in trust by the United States for the Sisseton-Wahpeton Oyate Tribe or its members, which are covered under the South Dakota general permit (SDG589###).

South Dakota (SDG589###):

Indian country, as defined in 18 U.S.C. Section 1151, located in South Dakota. Indian country in South Dakota generally includes (1) lands within the exterior boundaries of the following Indian reservations located within South Dakota, in part or in full: 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 certain 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.

In addition to Indian country in South Dakota, Indian country lands in North Dakota held in trust by the United States for the Sisseton-Wahpeton Oyate Tribe or its members, and the portion of the Pine Ridge Reservation of the Oglala Sioux Tribe located in Nebraska and any other Indian country lands in Nebraska held in trust by the United States for the Oglala Sioux Tribe or its members.

The South Dakota LGP covers the above identified Indian country **except** as provided below:

- Not including the portion of the Standing Rock Sioux Reservation located in South Dakota and any other Indian country lands in South Dakota held in trust by the United States for the Standing Rock Sioux Tribe or its members, which are covered under the North Dakota general permit (NDG589###).

Utah (UTG589###):

Indian country, as defined in 18 U.S.C. Section 1151, located in Utah. Indian country in Utah generally includes (1) lands within the exterior boundaries of the following Indian reservations located within Utah, in part or in full: the Goshute Reservation, the Navajo Indian Reservation, 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.

The Utah LGP covers the above identified Indian country **except** as provided below:

- Not including any Indian country lands in Utah held in trust by the United States for the Ute Mountain Ute Tribe or its members, which are covered under the Colorado general permit (COG587###).
- Not including the portions of the Goshute Reservation and the Navajo Indian Reservation in Utah, or any other Indian country lands in Utah held in trust by the United States for the Navajo Nation or its members or for the Confederated Tribes of the Goshute Reservation or its members, which are regulated by EPA Region 9.

Wyoming (WYG589###):

Indian country, as defined at 18 U.S.C. § 1151, located in Wyoming. Indian country in Wyoming generally includes any 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)); any land held in trust by the United States for an Indian tribe; and any other areas that are “Indian country” within the meaning of 18 U.S.C. § 1151.

### III. Limitations on Eligibility for Coverage Under the LGPs

Coverage under the LGPs are limited to wastewater treatment lagoon systems that meet the following criteria, at a minimum:

- 1) **The facility is located in Indian country in EPA Region 8; and**
- 2) **The wastewater treatment facility is primarily a lagoon (e.g. waste stabilization pond) treatment system, not a mechanical or package plant.**

In general, the LGPs are intended to provide coverage for wastewater treatment lagoon systems treating primarily domestic wastewater which, for the purposes of the LGPs, is considered an average total influent flow consisting of ~80 % or greater domestic sewage, as defined in Section 1.1 of the LGPs. However, applications for LGP coverage from wastewater treatment lagoon facilities/systems that receive an average total influent flow consisting of ~80 % or greater domestic sewage, but also treat commercial/industrial wastewater (including backwash water from drinking water treatment plants), will be reviewed on a case-by-case basis for coverage under the LGPs.

If the EPA determines that a facility receives, or has the potential to receive, significant industrial contributions, LGP limits would not be protective of receiving waters based on the potential influent received, or that individual or alternative general permit coverage is required in accordance with Section 7.16 of the LGPs, the operator of that facility may be required to submit an application for an individual permit or alternative general permit and will not be covered under the LGPs. Facilities that have a record of frequent non-compliance with previously permitted effluent limitations or require facility specific limits (e.g. alternative or equivalent to secondary treatment limits) may also be required to submit an application for an individual permit. Additionally, if EPA has determined that facility discharges may affect downstream waters subject to state WQS, submission of an application for an individual permit will be required.

### IV. Coverage Under the LGPs

The authorization for coverage is limited to one of the following two categories:

- 1) **DISCHARGE (DIS)** – Authorization to Discharge. This category is used for wastewater treatment lagoon facilities that either discharge on a continuous, periodic, seasonal or other intermittent basis. No prior notification to EPA is required before starting to discharge once notification of Permit coverage from EPA is received, however discharges may require Tribal Environmental Office notifications (specified in the Tribal Environmental Office Notification information in Section 1.6 of the LGPs).

**For Permit coverage, this category is further broken down into three sub-categories depending on the frequency of discharge and required reporting: Sub-category A (monthly reporting), Sub-category B (quarterly reporting), and Sub-category C (semi-annual reporting).** This sub-category designation shall be determined by EPA based on the evaluation of NOI information submitted. Section V and VI of the Fact Sheet and Section 3 of the LGPs

contain additional details on the permit limits, monitoring and reporting requirements related to these sub-categories.

- 2) **POTENTIAL TO DISCHARGE (No Discharge or NODIS)** – This category is for those wastewater treatment lagoon facilities that do not anticipate discharge to occur but still have the potential to discharge (e.g. upset or bypass discharges). These facilities do not have authorization to discharge under typical operating conditions and are required to have no discharge, except in accordance with the upset or bypass provisions of the LGPs. Should a facility in this category anticipate the need to perform discharges on a regular, periodic or other intermittent basis, or discharges beyond authorized bypasses or upset conditions begin to occur during the permit term, EPA R8 may determine that the facility’s LGP category and coverage requirements should be changed to “discharge (DIS)”.

The category (i.e. Discharge (DIS) or Potential to Discharge (NODIS)) of operational requirements authorized for the lagoon system will be specified by EPA R8 in the letter authorizing coverage under the applicable LGP. Facility owners and operators may indicate a particular category when submitting NOIs however, EPA R8 will make the final determination for facility categorization after reviewing information submitted in the Permittee’s NOIs or historical facility information. Therefore, the category of operational requirements approved by EPA R8 may be different from that specified in the NOI. The basic requirements for these categories are specified in Section 3 of the LGPs.

### **Obtaining Coverage**

Coverage for eligible facilities under the LGP may be obtained if one of the following occurs:

- 1) A complete NOI is submitted in accordance with the requirements of Section 2 of the LGPs and the applicant receives a written notice of coverage from EPA R8; or,
- 2) A complete application has been submitted for renewal of an individual permit issued by EPA R8 under NPDES, for wastewater discharges to waters of the U.S., and the applicant receives written notification of LGP coverage from EPA R8 (i.e. EPA R8 deems that coverage under the LGP, rather than an individual permit, is appropriate); or
- 3) A facility is notified by EPA R8 that its wastewater treatment lagoon facility meets the requirements for needing permit coverage under the NPDES regulations and is thereby covered by the LGP, even if the facility has not submitted an NOI to be coverage under the LGP, in accordance with 40 CFR 122.28 (b)(2)(vi). A facility so notified may request an individual permit, subject to EPA review and approval.

A facility that has an EPA-issued individual permit, other than an individual permit required under Section 7.16 of the LGPs, may request that the individual permit be revoked and that the coverage be provided under the applicable LGP.

Additionally, the EPA may require submittal of an application for an individual NPDES permit based on a review of a discharger’s NOI and/or other information.

Coverage under the LGPs begins upon the effective date of the written notice of coverage from EPA R8.

### **How to Submit an NOI**

With this issuance, both a printable and an electronically fillable NOI form will be available for facilities to apply for coverage under the LGPs. The electronic “Region 8 NPDES 2020 Lagoon General Permit Notice of Intent Form” is located at:

<https://www.epa.gov/npdes-permits/region-8-npdes-lagoon-general-permit>

Facilities may also contact the EPA Region 8 Office and request a hardcopy NOI be mailed to them using the contact resources in Section 2.1.1 of the LGPs.

Unless otherwise authorized by EPA, if the electronically fillable NOI form is utilized, once completed, it can be printed out, signed with a wet ink signature, and submitted to the EPA in accordance with Section 2.4 of the LGPs.

40 CFR 122.28(b)(2)(i) states, “As of December 21, 2025 or an EPA-approved alternative date (see 40 CFR 127.24(e) or (f)), all [NOIs]” for general permits must be submitted electronically. EPA R8 plans to provide instructions for electronic NOI submittal on the website above for any NOIs submitted on or after this December 21, 2025, unless this timeframe is replaced with another EPA-approved alternative date.

### **ESA Consultation**

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 CFR 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 CFR § 402.14(a)).

To evaluate how the LGPs may affect Endangered Species, the EPA is requiring the use of FWS criteria in Appendix B of the LGPs to evaluate potential impacts to federally-listed threatened or endangered species (federally-listed species) and designated critical habitat of such species by the discharges from wastewater treatment lagoon systems covered under the LGPs. As with the previous LGPs, applicants will provide EPA R8 with information relating to their eligibility under one or more of the FWS criteria in Appendix B, and EPA R8 will use this information to confirm that permitted discharges, will either have “no effect” or “may affect, but . . . [are] not likely to adversely affect” federally- listed species or designated critical habitat. Where the FWS selection criteria are not indicated in the NOI application, EPA R8 will withhold its notification of coverage until the Permittee has provided adequate information to determine whether LGP coverage may be issued. EPA also performed a Biological Evaluation (BE) of coverage areas at the time of permit development and has made a determination that reissuance of this permit may affect, but is not likely to adversely affect listed species or designated critical habitat.

### **National Historic Preservation Act (NHPA) Consultation**

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 CFR § 800.16(y). EPA R8’s renewal of the LGPs is considered a federal “undertaking” within the meaning of the NHPA regulations.

With regard to compliance with the NHPA, based on information received in reports or any updates provided to EPA by Permittees during the previous permit term, EPA R8 is not aware of any impacts or potential impacts to historic properties by the discharges from the wastewater lagoon treatment facilities previously covered under the EPA R8 LGPs. No new ground disturbance is expected to occur because of the issuance of the LGPs. To evaluate how the LGPs may affect historic properties, EPA R8 is requiring the use of NHPA criteria in Appendix C of the LGPs, in the submissions of NOIs, to evaluate potential impacts to historic properties by the discharges from wastewater treatment lagoon systems covered under the LGPs. EPA R8 is requiring applicants to provide certification regarding the NHPA criteria outlined in the LGPs and will evaluate whether the LGP NHPA criteria have been satisfied prior to authorization for coverage under the LGPs. Additionally, EPA R8 has included, in Section 1.3.6 of the LGPs, the requirement for applicants to notify the appropriate Tribal Historic Preservation Officers (THPO), or designated tribal officials, and, if applicable, State Historic Preservation Officers (SHPO) of their NOI application for the renewal of coverage under the LGPs.

If facilities that do not meet the NHPA criteria outlined in the LGPs, EPA R8 will withhold its notification of coverage until the Permittee has provided adequate information to determine whether LGP coverage may be issued. During the public comment period, the EPA will notify the HPOs and/or designated tribal officials, as applicable, of the planned issuance of the LGPs.

**LGP NPDES ID Formatting**

The LGP authorizations and numbering is in the format of SSG589(or 7)###, where:

- SS is for the state abbreviation,
- G indicates general permit,
- 58 indicates sewerage system,
- 9 (or 7) indicates that the permit is issued by EPA, and
- ### is a number assigned to a reservation and specific facility covered under the LGP.

This standard numbering was utilized in the previous LGPs and will remain the same with these LGP issuances. Additionally, facilities with a previous LGP number will maintain their previous specified NPDES number if they reapply for coverage under the renewal LGPs.

**V. Effluent Limitations, Monitoring, and Reporting Requirements**

**DISCHARGE (DIS) - AUTHORIZATION TO DISCHARGE FACILITIES:**

**Baseline Effluent Limitations**

**For Permit coverage, this category is further broken down into three sub-categories depending on the frequency of discharge and required reporting: Sub-category A (monthly reporting), Sub-category B (quarterly reporting), and Sub-category C (semi-annual reporting).** This sub-category designation shall be determined by EPA based on the evaluation of NOI information submitted. In addition to the limits and requirements in this section, Section VI of the Fact Sheet and Section 3 of the LGPs contain monitoring and reporting requirements related to these sub-categories.

Wastewater treatment facilities covered under the LGPs either meet the definition of a publicly owned treatment works (POTW) as defined in 40 CFR § 403.3 or, if the facility does not meet the definition of a POTW because it is not owned by a State, Tribe or other type of “municipality” as defined in 40 CFR

§ 122.2 , the waste treated and type of treatment have been determined to be significantly similar to that of a POTW. While the National Secondary Standards (NSS) for secondary treatment (40 CFR § 133) apply only to POTWs, the NSS will be referenced for establishing effluent limits for all wastewater treatment facilities covered under the LGPs due to the similarity of these covered wastewater treatment lagoon systems to POTWs. In addition, due to EPA’s increased emphasis on nutrients in the nation’s streams as pollutants of concern, and in line with the previous requirements of the EPA R8 LGPs, effluent monitoring requirements for total nitrogen and total phosphorus will be continued to provide information on the concentrations being discharged from LGP permitted facilities. Nutrients data from the previous permit term was too limited to determine whether effluent limits are warranted in the renewal LGPs.

Therefore, all facilities covered under the LGPs shall have baseline effluent limitations for BOD<sub>5</sub>, BOD<sub>5</sub> percent removal, TSS, and TSS percent removal based on the NSS. Effluent limitations for pH and oil and grease, as well as monitoring for nutrients (e.g. nitrogen and phosphorus) and flow, are also included as part of the baseline effluent limitations.

Discharge (DIS) facilities will have effluent limitations for BOD<sub>5</sub>, BOD<sub>5</sub> percent removal, TSS, TSS percent removal, pH, and oil and grease. The baseline numeric effluent limitations along with baseline monitoring are listed in Table 1 and Table 2.

Table 1. Baseline **Effluent Limitations** for DISCHARGE (DIS) Facilities

<b>Effluent Characteristic</b>	<b>30-Day Average a/</b>	<b>7-Day Average a/</b>	<b>Daily Maximum a/</b>
Flow, mgd	Report only	N/A	Report only
Biochemical Oxygen Demand (BOD <sub>5</sub> ), mg/L b/	30	45	N/A
BOD <sub>5</sub> , percent removal c/	≥ 65%	N/A	N/A
Total Suspended Solids (TSS), mg/L b/	30	45	N/A
TSS, percent removal c/	≥ 65%	N/A	N/A
Total Kjeldahl Nitrogen (TKN), mg/L	Report only	N/A	Report only
Nitrate-Nitrite, mg/L	Report only	N/A	Report only
Total Nitrogen (TN), mg/L	Report only	N/A	Report only
Total Phosphorus (P), mg/L	Report only	N/A	Report only
The pH of the effluent in any single sample or analysis shall have a pH effluent range of 6.5 - 9.0. For facilities on the <b>Ute Mountain Ute Tribe on the Ute Mountain Reservation</b> that discharge to tribal cultural use waters, a pH effluent range of 6.6 – 8.5 shall apply. d/			
Oil and Grease (visual, mg/L) - Upon visual inspection, there shall be no visible sheen or floating oil detected. The concentration of oil and grease shall not exceed 10 mg/L in any sample. e/			

- a/ See Definitions, (Section 1.1. of the LGPs) for definition of terms.
- b/ The limits for BOD<sub>5</sub>, and TSS effluent limitations are based on the National Secondary Treatment Standards (40 CFR Part 133).
- c/ The percent removal requirements for BOD<sub>5</sub> and TSS are based on 40 CFR § 133.105(a)(3) and (b)(3) are being included in the LGPs to ensure that the LGPs meet the minimum equivalent to secondary treatment

requirements, taking into consideration the allowances in 40 CFR §133.101(g) for facilities utilizing waste stabilization ponds (e.g. lagoons) as their principal process, and to better support future decision making regarding the application of the regulations in 40 CFR § 133.103(c) and 133.105(b).

- d/ The facilities either meet the definition of a POTW as defined in 40 CFR § 403.3, or the waste treated and type of treatment have been determined to be significantly similar to that of a POTW. Therefore, the NSS for POTWs in 40 CFR Part 133 are applied in conjunction with the EPA National Recommended Aquatic Life Criteria. The pH range for NSS is 6.0 - 9.0. However, the EPA National Recommended Aquatic Life Criteria freshwater chronic range is 6.5 - 9.0. The range of 6.5 - 9.0 has been selected to ensure that the range is protective of the more stringent requirements.

For the **Ute Mountain Ute Tribe**, the WQS for pH for tribal cultural uses ranges between 6.6 and 8.5, which is more stringent than the EPA National Recommended Aquatic Life Criteria for pH. Therefore, the more stringent limit of 6.6 to 8.5 shall be used in line with the Ute Mountain Ute Tribe’s WQS for any LGP-covered facilities on the Ute Mountain Reservation that discharge or have the potential to discharge to waters designated for tribal cultural uses in the Ute Mountain Ute WQS.

- e/ At the time of the LGPs development, there were no specific concentration Effluent Limit Guidelines (ELGs) or Federal WQSs developed for concentration limitations on oil and grease specific to POTWs, lagoons, or equivalent facilities. This limit shall be incorporated into the LGPs based on previous LGP provisions and the potential for discharge from non-residential/non-domestic discharge into the facility from local businesses. There also exists a potential for spills of oil and/or grease related to facility operations (e.g. spills, leakage from pumps, etc.).

If a visible sheen or floating oil is detected in the discharge, a grab sample shall be taken immediately, analyzed and recorded in accordance with the requirements of 40 CFR Part 136.

Table 2. Baseline **Influent** Requirements for DISCHARGE (DIS) Facilities

<b>Influent Characteristic</b>	<b>30-Day Average a/</b>	<b>7-Day Average a/</b>	<b>Daily Maximum a/</b>
BOD <sub>5</sub> mg/L b/	Report only - Results to be used for BOD <sub>5</sub> percent removal calculations for compliance with limits specified in Table 1 (above).	N/A	N/A
TSS, mg/L b/	Report only - Results to be used for TSS percent removal calculations for compliance with limits specified in Table 1 (above).	N/A	N/A

- a/ See Definitions, (Section 1.1. of the LGPs), for definition of terms.
- b/ The influent samples shall be collected at the frequencies designated in Table 4 of this Fact Sheet and will be used to calculate the BOD<sub>5</sub> and TSS percent removals for each Sub-category type as indicated in footnote e/ of Table 3 of this Fact Sheet.

**Baseline Self-Monitoring and Reporting Requirements:**

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless another method is required under 40 CFR subchapters N or O. Sample collection for all Baseline Influent and Effluent Monitoring Requirement samples must be representative, as indicated in the LGPs. See Representative Sampling, Section 5.1 of the Permit, for more details.

Table 3- Baseline **Effluent Monitoring** Requirements

Effluent Characteristic	Sub-category A Frequency b/	Sub-category B Frequency b/	Sub-category C Frequency b/	Sample Type a/
Total Flow, million gallons per day (MGD)	<u>Weekly</u>	Minimum of 3 measurements collected (beginning, middle and end) during any discharge plus weekly starting second week. c/	Minimum of 3 measurements collected (beginning, middle and end) during any discharge plus weekly starting second week. c/	Instantaneous, d/
Discharge start date and time	N/A	Each discharge	Each discharge	Documentation maintained in facility records by Permittee.
Discharge end date and time	N/A	Each discharge	Each discharge	Documentation maintained in facility records by Permittee.
BOD <sub>5</sub> , mg/L	<u>Monthly</u>	Minimum of 3 samples collected (beginning, middle and end) during any discharge plus weekly starting second week. c/	Minimum of 3 samples collected (beginning, middle and end) during any discharge plus weekly starting second week. c/	Grab
BOD <sub>5</sub> , percent removal	N/A	N/A	N/A	Calculated e/
TSS, mg/L	<u>Monthly</u>	Minimum of 3 samples collected (beginning, middle and end) during any discharge plus weekly starting second week. c/	Minimum of 3 samples collected (beginning, middle and end) during any discharge plus weekly starting second week. c/	Grab
TSS, percent removal	<u>N/A</u>	N/A	N/A	Calculated e/
pH, standard units	<u>Weekly</u>	Minimum of 3 samples collected (beginning, middle and end) during any discharge plus weekly starting second week. c/	Minimum of 3 samples collected (beginning, middle and end) during any discharge plus weekly starting second week. c/	Grab, f/
Oil and grease, visual	<u>Weekly</u>	Minimum of 3 observations (beginning, middle and end) during any discharge plus weekly starting second week. c/	Minimum of 3 observations (beginning, middle and end) during any discharge plus weekly starting second week. c/	Visual

Effluent Characteristic	Sub-category A Frequency b/	Sub-category B Frequency b/	Sub-category C Frequency b/	Sample Type a/
Oil and grease, mg/L	Immediately upon a visible sheen or floating oil being detected in the discharge	Immediately upon a visible sheen or floating oil being detected in the discharge.	Immediately upon a visible sheen or floating oil being detected in the discharge	Grab, g/
TKN, mg/L	<u>Monthly</u>	Minimum of 3 samples collected (beginning, middle and end) during any discharge plus weekly starting second week. c/	Minimum of 3 samples collected (beginning, middle and end) during any discharge plus weekly starting second week. c/	Grab
Nitrate-Nitrite, mg/L	<u>Monthly</u>	Minimum of 3 samples collected (beginning, middle and end) during any discharge plus weekly starting second week. c/	Minimum of 3 samples collected (beginning, middle and end) during any discharge plus weekly starting second week. c/	Grab
TN, mg/L	N/A	N/A	N/A	Calculated, h/
TP, mg/L	<u>Monthly</u>	Minimum of 3 samples collected (beginning, middle and end) during any discharge plus weekly starting second week. c/	Minimum of 3 samples collected (beginning, middle and end) during any discharge plus weekly starting second week. c/	Grab

a/ See Definitions, Section 1.1. of the LGPs, for definition of terms.

b/ See Section VI. Monitoring Requirements of the Fact Sheet for additional detail on the discharging sub-categories. A Permittee’s sub-category will be clearly identified in the authorization of coverage letter.

c/ A minimum of three (3) effluent samples shall be taken during any discharge of wastewater. It is required that a sample be taken at the beginning, middle, and end of the discharge if the discharge is less than one week in duration. If a single, continuous discharge is greater than one week in duration, three (3) samples shall be taken during the first week and one (1) during each following week. All of the effluent samples collected during the 7-day or 30-day period are to be used in determining the averages for reporting.

d/ Flow measurements of effluent volume shall be made with a flow measuring device (i.e. Parshall flume, weirs, or any additional documented and verifiable flow measurement procedure) in such a manner that the Permittee can affirmatively demonstrate that representative values are being obtained.

e/ *Percent removal is defined in 40 CFR § 133.101(j)* as a percentage expression of the removal efficiency across a treatment plant for a given pollutant parameter, as determined from the 30-day average values of the raw wastewater influent pollutant concentrations to the facility and the 30-day average values of the effluent pollutant concentrations for a given time period. Based on this definition, BOD<sub>5</sub> and TSS percent removal calculations by facility sub-category are provided based on anticipated discharge frequency:



- **Sub-category A:** On a monthly DMR reporting basis, the BOD<sub>5</sub> and TSS percent removal shall be calculated using the 30-day average values for influent and the 30-day average values for effluent BOD<sub>5</sub> and TSS reported during that calendar month.
- **Sub-category B:** Since monitoring requirements under this category are less frequent than Sub-category A due to less frequent discharge, calculations will be based on a longer sampling period. On a quarterly DMR reporting basis, the average of all 30-day average effluent BOD<sub>5</sub> values reported over the previous 6 months and the average of all 30-day average influent BOD<sub>5</sub> values reported over the previous 6 months shall be used to calculate the BOD<sub>5</sub> percent removal that will be reported for that quarterly DMR reporting period, **if a discharge occurs within that quarterly monitoring period**. This will result in a rolling 6-month window of data used for quarterly calculations.

Similarly, on a quarterly reporting basis, the average of all 30-day average effluent TSS values reported over the previous 6 months and the average of all 30-day average influent TSS values reported over the previous 6 months shall be used to calculate the TSS percent removal that will be reported for that quarterly DMR reporting period, **if a discharge occurs within that quarterly monitoring period**. This will result in a rolling 6-month window of data used for quarterly calculations.

Months where no sampling occurred should not be included in the calculation. If no discharge occurred within a quarterly reporting period, no percent removal calculation is necessary for that reporting period.

**Example calculation for 1<sup>st</sup> Calendar Quarter DMR Reporting (January-March):**

*Average Effluent 30-day BOD<sub>5</sub> for 6 months =*

$$\frac{(\text{October effluent BOD 30day average} + \text{November effluent BOD 30day average} + \text{December effluent BOD 30day average} + \text{January effluent BOD 30day average} + \text{February effluent BOD 30day average} + \text{March effluent BOD 30day average})}{(\# \text{ of months for which effluent data was reported (e. g. "6" if there is data for all 6 months)})}$$

*Average Influent 30-day BOD<sub>5</sub> for 6 months =*

$$\frac{(\text{October influent BOD 30day average} + \text{November influent BOD 30day average} + \text{December influent BOD 30day average} + \text{January influent BOD 30day average} + \text{February influent BOD 30day average} + \text{March influent BOD 30day average})}{(\# \text{ of months for which influent data was reported (e. g. "6" if there is data for all 6 months)})}$$

**Quarterly DMR percent removal reported value =**

$$\left( \frac{\text{Average Influent 30day BOD for 6 months} - \text{Average Effluent 30day BOD for 6 months}}{\text{Average Influent 30day BOD for 6 months}} \right) \times 100$$

Use of these average influent and effluent 30-day average values over these longer periods of time for Sub-category B facilities will provide a better characterization of the removal capabilities of the facility over time (since these facilities will have detention times ranging from a month to several months between discharges).

- **Sub-category C:** Since monitoring requirements under this category are less frequent than Sub-category A and B due to less frequent discharge, calculations will be based on a longer sampling

period. On a six month reporting basis, the average of all 30-day average effluent BOD<sub>5</sub> values reported over the previous 12 months and the average of all 30-day average influent BOD<sub>5</sub> values reported over the previous 12 months shall be used to calculate the BOD<sub>5</sub> percent removal that will be reported for that six month DMR reporting period, **if a discharge occurs within that 6-month monitoring period**. This will result in a rolling yearly window of data used for 6-month calculations.

Similarly, on a quarterly reporting basis, the average of all 30-day average **effluent** TSS values reported over the previous 12 months and the average of all 30-day average **influent** TSS values reported over the previous 12 months shall be used to calculate the TSS percent removal that will be reported for that six month DMR reporting period, **if a discharge occurs within that 6-month monitoring period**. This will result in a rolling yearly window of data used for 6-month calculations.

Months where no sampling occurred should not be included in the calculation. If no discharge occurred within a 6-month reporting period, no percent removal calculation is necessary for that reporting period.

**Example calculation for 1<sup>st</sup> Calendar 6-months DMR Reporting (January-June):**

*Average Effluent 30-day BOD<sub>5</sub> for 12 months =*

$$\frac{\begin{aligned} & \text{(July effluent BOD 30day average + August effluent BOD 30day average + September effluent BOD 30day average +} \\ & \text{October effluent BOD 30day average + November effluent BOD 30day average + December effluent BOD 30day average +} \\ & \text{January effluent BOD 30day average + February effluent BOD 30day average + March effluent BOD 30day average +} \\ & \text{April effluent BOD 30day average + May effluent BOD 30day average + June effluent BOD 30day average)} \end{aligned}}{\text{(# of months for which effluent data was reported (e.g. "12" if there is data for all 12 months))}}$$

*Average Influent 30-day BOD<sub>5</sub> for 12 months =*

$$\frac{\begin{aligned} & \text{(July influent BOD 30day average + August influent BOD 30day average + September influent BOD 30day average +} \\ & \text{October influent BOD 30day average + November influent BOD 30day average + December influent BOD 30day average +} \\ & \text{January influent BOD 30day average + February influent BOD 30day average + March influent BOD 30day average +} \\ & \text{April influent BOD 30day average + May influent BOD 30day average + June influent BOD 30day average)} \end{aligned}}{\text{(# of months for which influent data was reported (e.g. "12" if there is data for all 12 months))}}$$

**Quarterly DMR percent removal reported value =**

$$\left( \frac{\text{Average Influent 30day BOD for 12 months} - \text{Average Effluent 30day BOD for 12 months}}{\text{Average Influent 30day BOD for 12 months}} \right) \times 100$$

Use of these average influent and effluent 30-day average values over these longer periods of time for Sub-category C facilities will provide a better characterization of the removal capabilities of the facility over time (since these facilities will have detention times ranging from a month to several months between discharges).

- f/ Measurement must be analyzed within fifteen (15) minutes of sampling per 40 CFR Part 136. If supplemental ammonia sampling/analysis is required by the facility, pH samples shall be collected at the same time as sampling for the total ammonia nitrogen (as N).
- g/ Grab samples shall be taken, analyzed and recorded in accordance with the requirements of 40 CFR Part 136.

h/ At the time of the LGPs development, there was no EPA approved analytical method for Total Nitrogen listed in 40 CFR Part 136. For the purposes of the Permit, the term “Total Nitrogen (TN)” is defined as the calculated sum of analytical results from “Total Kjeldahl Nitrogen (TKN)” plus “Nitrate-Nitrite”.

Table 4- Baseline **Influent Monitoring** Requirements

Influent Characteristic	Sub-category A Frequency b/	Sub-category B Frequency b/	Sub-category C Frequency b/	Sample Type a/
BOD <sub>5</sub> , mg/L	Monthly	Twice per Quarter c/	Quarterly, d/	Grab
TSS, mg/L	Monthly	Twice per Quarter c/	Quarterly, d/	Grab

- a/ See Definitions, Section 1.1. of the LGPs, for definition of terms.
- b/ See Section VI. Monitoring Requirements of the Fact Sheet for additional information on the discharging sub-categories. A Permittee’s sub-category will be clearly identified in the authorization of coverage letter.
- c/ At least two samples will be taken each quarter and will be used in the calculation for the 30-day averages for the month in which they are performed. Samples are to be taken during different months within the quarter to provide information for possible variations in influent that may occur during the quarter. Additional samples may be taken at the Permittee’s discretion if a large amount of variability is anticipated in the influent within a quarter. Any additional sample results must be included in the 30-day average influent DMR reporting for the month in which it is performed. If only one sample is taken within a month, that result will be the 30-average for the month.
- d/ A sample will be at taken at least once each calendar quarter and will be used in the calculation for the 30-day average for the month in which they are performed. Additional samples may be taken at the Permittee’s discretion if a large amount of variability is anticipated in the influent within a quarter. Any additional sample results must be included in the 30-day average influent DMR reporting for the month in which it is performed. If only one sample is taken within a month, that result will be the 30-average for the month.

**Supplemental Effluent Limitations and Monitoring (Effluent/Receiving/Influent)**

EPA expects that compliance with the effluent limitations in the LGPs will result in compliance with applicable water quality standards for most dischargers covered under the LGPs. However, there may be situations where additional and/or more stringent water quality-based effluent limitations are necessary to protect applicable water quality standards.

For applicants with unique lagoon characteristics, additional water quality-based effluent limitations will be applied on a site-specific basis and will be specified in the written authorization of coverage letter under the LGPs. If EPA determines that these additional supplemental water quality-based effluent limitations are necessary to comply with applicable water quality requirements, tribal standards, downstream state standards, etc., those limitations will be established utilizing Table 5 below.

As of the date of the LGP reissuances, the following Tribes were approved by the EPA for both TAS for CWA §§ 303(c) and 401, and have CWA-approved WQS (based on EPA R8 records and the publicly

available information available at: <https://www.epa.gov/wqs-tech/epa-actions-tribal-water-quality-standards-and-contacts>):

1. Assiniboine & Sioux Tribes of the Fort Peck Indian Reservation
2. Confederated Salish & Kootenai Tribes of the Flathead Reservation
3. Northern Cheyenne Tribe
4. Ute Mountain Ute Tribe

If additional or different water quality-based or technology-based effluent limitations, not specified in this Fact Sheet and the LGPs, are necessary for wastewater treatment lagoon facilities being considered for coverage under the LGPs (e.g. not protective of potential pollutants not included in the LGPs limitations, require special considerations related to 40 § CFR 133.103(b), etc.), the discharger will be directed to obtain coverage under an individual permit so those specific limitations may be evaluated and included.

Table 5. Supplemental **Effluent** Limitations and Monitoring

Effluent Characteristic	30-Day Average a/	7-Day Average a/	Daily Maximum a/	Frequency	Sample Type a/
Total Residual Chlorine, mg/L b/	0.011 b/	N/A	0.019 b/	i/	Grab
<i>Escherichia coli</i> , Number/100 mL c/	126 unless otherwise specified c/	N/A	410 unless otherwise specified c/	i/	Grab
Fecal coliform, Number/100 mL d/	200	N/A	400	i/	Grab
Total Ammonia Nitrogen (as N) mg/L e/	Current Tribal CWA-approved WQS for ammonia will be included for all applicable dischargers where TAS and WQS have been approved by EPA at the time of LGP coverage issuance. e/			i/	Grab
Temperature, °C	Report only when associated with ammonia. Additionally, report only included if temperature is included in Tribal CWA-approved WQS. f/			i/	Grab
Total Dissolved Solids (TDS), mg/L, g/	Report only	N/A	N/A	i/	Grab
Total Aluminum, µg/L, h/	N/A	N/A	Report only	Annually (or with each discharge if facility discharges less than annually)	Grab
Total Iron, µg/L, h/	N/A	N/A	Report only	Annually (or with each discharge if facility discharges less than annually)	Grab

Effluent Characteristic	30-Day Average a/	7-Day Average a/	Daily Maximum a/	Frequency	Sample Type a/
Total Arsenic, µg/L, h/	N/A	N/A	Report only	Annually (or with each discharge if facility discharges less than annually)	Grab

- a/ See Definitions, Section 1.1. of the LGPs, for definition of terms.
  
- b/ Chlorine effluent limit application: Chlorine limitations may be specified for facilities that receive chlorinated drinking water backwash from connected drinking water facilities, receive any other influent that may potentially be chlorinated (e.g. swimming pools, hot tubs), or use chlorinated products in their wastewater lagoon treatment process. The EPA is using the National Recommended Water Quality Criteria for Aquatic Life for freshwater published at the time of the LGP reissuances, to determine chlorine effluent limits: Acute 19 µg/L, Chronic 11 µg/L. The minimum limit of analytical reliability in the analysis for total residual chlorine is considered to be 0.05 mg/L. For purposes of the LGPs and calculating averages and reporting in the Discharge Monitoring Report form, analytical values less than 0.05 mg/L shall be considered to be in compliance with this permit.
  
- c/ Supplemental effluent limits for *E. coli* shall be applied if a facility’s discharge (or potential to discharge) is to waters that have been determined to have potential for primary contact recreation activity uses (including tribal/cultural uses). If it is unclear as to whether a receiving/downstream water has the potential for primary contact recreation, the EPA may apply this requirement to a facility’s coverage based on permit writer discretion and information obtained related to the facility’s discharge. Per EPA’s 2012 recommended *E. coli* criteria for primary contact recreation (“Recreational Water Quality Criteria”, Office of Water 820-F-12-058), the 30-day Average is to be calculated using the 30-Day geometric mean. The 30-day geometric mean calculation will be based on the geometric mean from the total number of samples collected during the 30-day period. The Permittee may collect more samples than the monthly samples specified in the self-monitoring requirements. The daily maximum limitation will be 410 Number/100 mL therefore, the statistical threshold value shall not exceed 410 Number/100 mL as a daily maximum. The 30-day average geometric mean shall not exceed 126 Number/100 mL.
  - For Northern Cheyenne and Assiniboine & Sioux Tribes of the Fort Peck Indian Reservation: Based on the Northern Cheyenne Indian Reservation Physical and Biological Criteria Table; and Fort Peck Table C-1 Physical and Biological Criteria, respectively, the following *E. coli* limits shall be implemented:
 

Per both Tribes’ WQS, the *E. coli* WQS of 126 per 100 mL is only to be applied on a statistically sufficient number of samples (i.e. not less than 5 samples) equally spaced over a 30-day period. However, since facilities covered under the LGP will not consistently be required to sample at least 5 times per month, the limitation of **30-day average geometric mean not exceeding 126 Number/100 mL shall be applied regardless of the number of samples in the 30-day period. In addition, no single sample shall exceed 235 Number/100mL in water designated for Primary/Full Contact Recreation in the tribal CWA-approved WQS or 406 Number/100 mL in water designated as Secondary/Incidental Contact Recreation in the tribal CWA-approved WQS.**
  - For the Confederated Salish & Kootenai Tribes of the Flathead Reservation, the geometric mean number of *E. coli* may not exceed 126 Number/100 mL, and ten percent of the total samples may not exceed 252 Number/100 mL during any 30-day period. A daily maximum 410 Number/100mL will be implemented as a daily maximum.

**NOTE- limits for A-Closed and A-1 waters: a geometric mean of 26 Number/100mL if resulting from domestic sewage, will not be applied through the LGPs. Should a facility submit an NOI for discharges to these water types on the Flathead Reservation, the facility will be required to apply for an individual permit. See Section III of the Fact Sheet for the associated clause in the ‘Limitations on Eligibility for Coverage Under the LGPs’.**

- For Ute Mtn Ute Tribe, an *E. coli* 30-day average limit of 126 Number/100mL and a single sample maximum of 235 Number/100 mL shall be implemented (implemented as a daily maximum if no more than one monitoring sample is collected per day) for discharges to waters designated as recreational (e.g. designated at REC1 and REC2 in the Ute Mountain Ute Tribal CWA-approved WQS).

**NOTE- where flowing surface waters have a Tribal Ceremonial Use ("T") designation in the Ute Mountain Ute WQS, the tribal criterion of total absence of *E. coli* would apply. However, the LGP has not been designed to apply this type of criterion. Should a facility submit an NOI for discharges to these water types on the Ute Mountain Ute Reservation, an individual permit application and permit will be required. See Section III of the Fact Sheet for the associated clause in the ‘Limitations on Eligibility for Coverage Under the LGPs’.**

- d/ For fecal coliforms, Assiniboine & Sioux Tribes of the Fort Peck Indian Reservation and Northern Cheyenne Tribe WQS indicate that during periods when the daily maximum water temperature is greater than 15.5° C, the geometric mean number of organisms in the fecal coliform group must not exceed 200 per 100 milliliters, nor are 10% of the total samples during any 30-day period to exceed 400 fecal coliforms per 100 milliliters. Similarly, the Confederated Salish & Kootenai Tribes of the Flathead Reservation WQS indicate that the geometric mean number or organisms in the fecal coliform group must not exceed 200 per 100 milliliters, and 10 percent of the total samples during any 30-day period are not to exceed 400 fecal coliforms per 100 milliliters.
- e/ Facility-specific ammonia limitations may be specified within reservations with applicable Treatment as a State (TAS) and WQS requirements, where monitoring has demonstrated that water quality standards may be affected. Ammonia water quality-based effluent limits will be included if TAS to implement and manage the Water Quality Standards programs under Sections 303(c), and 401 has been granted, and WQS for ammonia have been approved by EPA at the time of LGP reissuance (i.e., Assiniboine & Sioux Tribes of the Fort Peck Indian Reservation, Confederated Salish & Kootenai Tribes of the Flathead Reservation, Northern Cheyenne Tribe, and Ute Mountain Ute Tribe). Permit limits will be established based on approved Tribal CWA-approved WQS at the time a facility’s LGP authorization for coverage letter is issued. Where TAS and tribal CWA-approved WQS have **not** been approved by EPA, EPA R8 will still include a “monitor only” requirement for ammonia and concurrent pH and temperature in all discharge permits, to continue to establish baseline data for determining reasonable potential in future permitting actions. Where downstream State uses may be affected, EPA will utilize those State WQS when evaluating reasonable potential.
- f/ Temperature samples shall be collected at the same time as sampling for the total ammonia nitrogen (as N) and must be analyzed within fifteen (15) minutes of sampling. In addition, a “monitor only” requirement for temperature has been included and will be required for facilities in areas where Tribal CWA-approved WQS for temperature are currently applicable (i.e. where TAS and CWA-approved WQS are established at the time of LGP development).
- g/ The Colorado River Basin Salinity Control Forum policy for the control of salinity includes discharges from municipalities in the Colorado River Basin. The Southern Ute Indian Reservation, Ute Mountain Ute Indian Reservation, and Indian country lands within the Uintah and Ouray Indian Reservations are within the Colorado River Basin. The previous LGPs included TDS monitoring requirements to be applied to facilities in these areas. Permitted facilities required to conduct this monitoring during the

previous LGPs did not discharge, so no data is available for a reasonable potential analysis. This LGP reissuance will continue to require monitoring of TDS of the intake water supply (i.e. influent) and discharges from the wastewater treatment lagoons, should they occur.

- h/ Aluminum, iron, and/or arsenic shall be monitored in a facility’s effluent discharge on an **annual basis** (or with **each discharge if a wastewater treatment lagoon facility discharges on a less than annual basis**) for any wastewater treatment lagoon facility that receives backwash discharge directly from a drinking water treatment facility that utilizes any of the following treatment processes (listed below). Data collection shall be utilized to determine if there is reasonable potential to implement additional permit requirements or limits in future permitting for these facilities. Should reasonable potential be established for additional permit requirements or limits based on the data provided, the wastewater treatment facility may be required to submit an application for an individual permit.
  - Aluminum: Monitoring will be required if 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 and may be present in the drinking water treatment plant backwash wastewater. Wastewater generated after coagulation/clarification processes has the potential for elevated levels of aluminum.
  - Iron: Monitoring will be required if iron salts are the active ingredients in coagulants used by the drinking water treatment facility and may be present in drinking water treatment plant backwash. The monitoring is intended to assess whether the metal is present at elevated levels of concern in the discharges from the wastewater treatment lagoon facilities.
  - Arsenic: Since arsenic can be present at high levels in source water at many locations in EPA Region 8, monitoring will be required for wastewater treatment lagoon facilities that receive influent from drinking water treatment plants that utilize reverse osmosis (RO) or ion exchange processes to remove arsenic and may be present in drinking water treatment plant backwash.
- i/ Frequency will be determined in alignment with the sub-category monitoring requirements outlined in Section VI. Monitoring Requirements of the Fact Sheet and Section 3 of the LGPs.

Table 6. Supplemental Ammonia Receiving Stream Monitoring

Receiving Stream Characteristic	Frequency	Sample Type a/
pH, standard units, c/	b/	Grab
Temperature, °C, c/	b/	Grab
Total Ammonia Nitrogen (as N), mg/L, c/	b/	Grab

- a/ See Definitions, Section 1.1. of the LGPs, for definition of terms.
- b/ Frequency will be determined in alignment with the sub-category monitoring requirements outlined in Section VI. Monitoring Requirements of the Fact Sheet and Section 3 of the LGPs.
- c/ Temperature and pH samples shall be collected at the same time as sampling for the total ammonia. Temperature and pH measurements must be analyzed within fifteen (15) minutes of sampling. Where TAS and tribal CWA-approved WQS have not been approved by EPA, EPA R8 will require ammonia and concurrent pH and temperature monitoring of receiving waters in all discharge permits to continue to establish baseline data for determining reasonable potential in future permitting actions.

Table 7. Supplemental **Influent** Monitoring- Total Dissolved Solids

(only applicable to COG587XXX and UTG589XXX permits, see footnote g/ of Table 5 of Fact Sheet)

Influent Characteristic	Frequency	Sample Type a/
Total Dissolved Solids (TDS), mg/L, c/	b/	Grab

- a/ See Definitions, Section 1.1. of the LGPs, for definition of terms.
- b/ Frequency will be determined in alignment with the sub-category monitoring requirements outlined in Section VI. Monitoring Requirements of the Fact Sheet and Section 3 of the LGPs.
- c/ See footnote g/ of Table 5 (above) of the Fact Sheet.

**Anti-backsliding**

Section 402(o)(2) of the CWA and federal regulations at 40 CFR §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.

The effluent limitations in the renewal LGPs are equal to or more stringent than limitations in the previously issued LGPs. Backsliding of limitations will not occur when renewing coverage under these LGPs. Should any facility currently covered or previously covered under an individual permit (e.g. casinos) have its coverage transferred under the renewal LGPs, EPA R8 will do an evaluation of the previous effluent limitations to ensure that backsliding does not occur.

**VI. Monitoring Requirements**

**DISCHARGE Monitoring Requirements**

Self-monitoring frequency for DISCHARGE facilities will be based upon their discharge regimen and will be specified in the facility’s LGP authorization for coverage letter. Facilities will be assigned to one of the three reporting sub-categories; A – Monthly, B – Quarterly, C – Semi-annual, based on their discharge status. The basic requirements for each of these sub-categories are specified below.

Regardless of sub-category, results shall be summarized and reported as outlined in Sections 5.4 and 5.5 of the LGPs.

**Sub-Category A – Monthly Reporting**

In general, this Sub-Category shall apply to facilities that typically discharge on a monthly frequency or greater. Flow, pH, and oil and grease are to be monitored weekly. BOD<sub>5</sub>, BOD<sub>5</sub> percent removal, TSS, TSS percent removal, Total Nitrogen (including TKN and Nitrate-Nitrite), Total Phosphorus, and any



applicable supplemental parameters are to be monitored and reported monthly. This schedule will apply to all required influent, effluent and receiving stream monitoring, unless otherwise indicated in the facility's coverage letter. At least a weekly instantaneous reading is to be taken of the discharge flow rate, but the Permittee has the option of taking more frequent flow measurements or even monitoring flow continuously.

The minimum visual monitoring for oil and grease is to be a weekly visual observation for an oil sheen or floating oil during the monitoring period. In the event that an oil sheen or floating oil is observed, then a grab sample shall be immediately taken, analyzed, and the results reported along with the other monitoring results for that reporting period.

Receiving stream monitoring, if required, will occur at the time of the discharge and will consist of a single grab sample taken at a location immediately upstream of where the discharge is anticipated to meet the receiving stream, unless otherwise indicated in the facility's permit coverage letter.

Influent monitoring sampling will consist of a single grab sample at a location representative of the influent flow entering the wastewater lagoon treatment system prior to treatment (e.g. an influent structure, upstream manhole that contains flow from the entire service area, or any other representative location), unless otherwise indicated in the facility's permit coverage letter.

All required influent, effluent and receiving stream monitoring will be indicated in the facility's permit coverage letter.

### **Sub-category B – Quarterly Reporting**

In general, this Sub-Category shall apply to facilities that typically discharge less frequently than monthly but at least once a quarter. Effluent flow, pH, oil and grease, BOD<sub>5</sub>, TSS, Total Nitrogen (including TKN and Nitrate-Nitrite), Total Phosphorus, and any applicable supplemental parameters are to be monitored during any discharge. A minimum of three (3) effluent samples shall be taken during any discharge of wastewater for all specified monitoring parameters above. It is required that a sample be taken at the beginning, middle, and end of the discharge if the discharge is less than one week in duration. If a single, continuous discharge is greater than one week in duration, three (3) samples shall be taken during the first week and one (1) during each following week. All of the samples collected during the 7-day or 30-day period are to be used in determining the averages, as applicable.

The minimum visual monitoring for oil and grease is to be a visual observation for an oil sheen or floating oil at the frequency indicated above. In the event that an oil sheen or floating oil is observed, then a grab sample shall be immediately taken, analyzed, and the results reported along with the other monitoring results for that discharge.

Receiving stream monitoring, if required, will occur at the time of the discharge and will consist of a single grab sample taken at a location immediately upstream of where the discharge is anticipated to meet the receiving stream, unless otherwise indicated in the facility's permit coverage letter.

Influent monitoring sampling will consist of a single grab sample at a location representative of the influent flow entering the wastewater lagoon treatment system prior to treatment (e.g. an influent structure, upstream manhole that contains flow from the entire service area, or any other representative location), unless otherwise indicated in the facility's permit coverage letter. Influent sampling

monitoring shall be required twice per quarter in different months to allow characterization of influent flow with regard to BOD<sub>5</sub>, TSS, and flow, and calculation of BOD<sub>5</sub> and TSS percent removal values.

All required influent, effluent and receiving stream monitoring will be indicated in the facility's permit coverage letter.

### **Sub-category C – Semi-annual Reporting**

In general, this Sub-Category shall apply to facilities that typically discharge less frequently than quarterly. Effluent flow, pH, oil and grease, BOD<sub>5</sub>, TSS, Total Nitrogen (including TKN and Nitrate-Nitrite), Total Phosphorus, and any applicable supplemental parameters are to be monitored during any discharge. A minimum of three (3) effluent samples shall be taken during any discharge of wastewater for all specified monitoring parameters above. It is required that a sample be taken at the beginning, middle, and end of the discharge if the discharge is less than one week in duration. If a single, continuous discharge is greater than one week in duration, three (3) samples shall be taken during the first week and one (1) during each following week. All of the samples collected during the 7-day or 30-day period are to be used in determining the averages, as applicable.

The minimum visual monitoring for oil and grease is to be a visual observation for an oil sheen or floating oil at the frequency indicated above. In the event that an oil sheen or floating oil is observed, then a grab sample shall be immediately taken, analyzed, and the results reported along with the other monitoring results for that discharge.

Receiving stream monitoring, if required, will occur at the time of the discharge and will consist of a single grab sample taken at a location immediately upstream of where the discharge is anticipated to meet the receiving stream, unless otherwise indicated in the facility's permit coverage letter.

Influent monitoring sampling will consist of a single grab sample at a location representative of the influent flow entering the wastewater lagoon treatment system prior to treatment (e.g. an influent structure, upstream manhole that contains flow from the entire service area, or any other representative location), unless otherwise indicated in the facility's permit coverage letter. Influent sampling monitoring shall be required quarterly to allow characterization of influent flow with regard to BOD<sub>5</sub>, TSS, and flow, and calculation of BOD<sub>5</sub> and TSS percent removal values.

All required influent, effluent and receiving stream monitoring will be indicated in the facility's permit coverage letter.

### **POTENTIAL TO DISCHARGE (NODIS) Monitoring Requirements**

Facilities covered under the NODIS category are not expected to discharge, and the LGPs do not authorize discharges from these facilities, except in accordance with the bypass provisions of the LGPs. However, if an upset, bypass or any other unauthorized discharge is discovered or is expected to occur, the discharge is to be monitored and the Permittee must follow the monitoring requirements of the LGPs in Sections 3.2 and 5.4.2.

A minimum of three (3) samples shall be taken during any discharge of wastewater for all specified monitoring parameters. It is required that a sample be taken at the beginning when an expected discharge begins (or as soon as is practical after an unexpected discharge is discovered), middle, and end of the discharge if the discharge is less than one week in duration. If a single, continuous discharge is

greater than one week in duration, three (3) samples shall be taken during the first week (i.e. beginning, middle and end of the discharge) and one (1) during each following week. All of the samples collected during the 7-day or 30-day period are to be used in determining the averages.

Table 8. Baseline **NODIS Effluent** Monitoring Requirements

<b>Effluent Characteristic</b>	<b>Frequency</b>	<b>Sample Type <u>a/</u></b>
Total Flow, MGD	Minimum of 3 measurements collected (beginning, middle and end) during any discharge plus weekly starting second week. <u>b/</u>	Instantaneous, <u>c/</u>
Total Discharge Volume, millions of gallons <u>c/</u>	Each discharge	Calculated
Maximum Flow Rate, MGD <u>c/</u>	Each discharge	Calculated
Average Flow Rate, MGD <u>c/</u>	Each discharge	Calculated
Discharge start date and time	Each discharge	Documentation maintained in facility records by Permittee, <u>c/</u>
Discharge end date and time	Each discharge	Documentation maintained in facility records by Permittee, <u>c/</u>
Biochemical Oxygen Demand (BOD <sub>5</sub> ), mg/L	Minimum of 3 samples collected (beginning, middle and end) during any discharge plus weekly starting second week. <u>b/</u>	Grab
Total Suspended Solids (TSS), mg/L	Minimum of 3 samples collected (beginning, middle and end) during any discharge plus weekly starting second week. <u>b/</u>	Grab
pH, standard units	Minimum of 3 samples collected (beginning, middle and end) during any discharge plus weekly starting second week. <u>b/</u>	Grab, <u>d/</u>
Oil and grease, visual	Minimum of 3 observations (beginning, middle and end) during any discharge plus weekly starting second week. <u>b/</u>	Visual
Oil and grease, mg/L	Immediately upon a visible sheen or floating oil being detected in the discharge.	Grab
Total Kjeldahl Nitrogen (TKN), mg/L	Minimum of 3 samples collected (beginning, middle and end) during any discharge plus weekly starting second week. <u>b/</u>	Grab
Nitrate-Nitrite, mg/L	Minimum of 3 samples collected (beginning, middle and end) during any discharge plus weekly starting second week. <u>b/</u>	Grab

Effluent Characteristic	Frequency	Sample Type <u>a/</u>
Total Nitrogen (TN), mg/L	<u>N/A</u>	Calculated, <u>f/</u>
Total Phosphorus (TP), mg/L	Minimum of 3 samples collected (beginning, middle and end) during any discharge plus weekly starting second week. <u>b/</u>	Grab

- a/ See Definitions, Section 1.1. of the LGPs, for definition of terms.
- b/ A minimum of three (3) effluent samples shall be taken during any discharge of wastewater. It is required that a sample be taken at the beginning, middle, and end of the discharge if the discharge is less than one week in duration. If a single, continuous discharge is greater than one week in duration, three (3) samples shall be taken during the first week and one (1) during each following week. All of the effluent samples collected during the 7-day or 30-day period are to be used in determining the averages for reporting.
- c/ Flow measurements of effluent volume shall be made with a flow measuring device (i.e. Parshall flume, weirs, or any additional documented and verifiable flow measurement procedure) in such a manner that the Permittee can affirmatively demonstrate that representative values are being obtained. If it is not possible to measure the rate of discharge (i.e. flow) or total volume of discharge, the rate of discharge and total volume of discharge shall be estimated.
- d/ Measurement must be analyzed within fifteen (15) minutes of sampling per 40 CFR Part 136. If supplemental ammonia sampling/analysis is required by the facility, pH samples shall be collected at the same time as sampling for the total ammonia nitrogen (as N).
- e/ Grab sample shall be taken, analyzed and recorded in accordance with the requirements of 40 CFR Part 136.
- f/ At the time of the LGP development, there was no EPA approved analytical method for Total Nitrogen listed in 40 CFR Part 136. For the purposes of the Permit, the term “Total Nitrogen (TN)” is defined as the calculated sum of analytical results from “Total Kjeldahl Nitrogen (TKN)” plus “Nitrate-Nitrite”.

The monitoring shall be performed in line with Table 8 (above) for flow, pH, oil and grease, BOD<sub>5</sub>, TSS, Total Nitrogen (including TKN and Nitrate-Nitrite), Total Phosphorus, **and may also include any applicable supplemental parameter monitoring covered in Section 3.1 of the LGPs** that are to be monitored during any discharge. As noted in the Fact Sheet, for NODIS facilities, percent removal monitoring for BOD<sub>5</sub> and TSS will not be required. Additional applicable supplemental effluent limitations required by the LGPs, may be applied to discharges from NODIS facilities. All required effluent and receiving stream monitoring will be indicated in the facility’s permit coverage letter.

## VII. Reporting of Monitoring Results and Other Information

The requirements for reporting monitoring results are in Section 5.4 of the LGPs. They are summarized as follows:

### DISCHARGE (DIS) Reporting Requirements

For discharge facilities, the effluent monitoring results obtained during the previous **month, calendar quarter, or semi-annual period**, shall be summarized and reported via the NetDMR reporting system

by the DMR by no later than the 28th day of the month following the completed reporting period, or on a Discharge Monitoring Report (DMR) Form (EPA No. 3320-1), postmarked no later than the 28th day of the month following the completed reporting period. If no discharge occurs or access to monitor is impeded (as outlined in Section 5.4.1 of the LGPs) during the reporting period, “no discharge” shall be reported on the DMR using the applicable NetDMR no data indicator code (i.e., NODI code) to identify the circumstances of the situation. If the DMR Form (EPA No. 3320-1) is used, “no discharge” shall be indicated on the form if no discharge occurs. See example reporting schedules in Table 9, below.

Table 9. Reporting Requirements

Sub-Category	Frequency of Discharge	Reporting Period	DMR Due Date
A	Continuous discharge or frequency of at least once a month	Monthly (e.g. January)	28 <sup>th</sup> day of the following month (February 28 <sup>th</sup> )
B	Less frequently than monthly but at least once a quarter	Quarterly (e.g. April – June)	28 <sup>th</sup> day following the end of the quarter (July 28 <sup>th</sup> )
C	Less than quarterly	Semi-annually (e.g. July – December)	28 <sup>th</sup> day following the end of 6 <sup>th</sup> month period (January 28 <sup>th</sup> )

With the effective date of the LGPs, the Permittee must electronically report DMRs using NetDMR (except in accordance with Section 5.5.2 of the LGPs), as outlined in Section 5.5 of the LGPs, at the frequency and by the due dates specified in Section 5.4 of the LGPs.

In some circumstances, the regulations allow for hardcopy reporting of DMR reports in lieu of electronic reporting. 40 CFR § 127.15 allows for Permittees to seek a temporary waiver from electronic reporting (not to exceed 5 years). To obtain a waiver, the Permittee must submit the following information:

- i. Facility name;**
- ii. NPDES permit number (if applicable);**
- iii. Facility address;**
- iv. Name, address and contact information for the owner, operator, or duly authorized facility representative;**
- v. Brief written statement regarding the basis for claiming such a temporary waiver:**  
 At least one of the following criteria must be met in order to obtain a waiver however, EPA reserves the right to deny any waiver request even if the facility meets one of the criteria below:
  - 1. No internet access;
  - 2. No computer access;
  - 3. Extended durations anticipated (subject to approval of EPA) between reporting using the Net database that would result in excessive time updating Net user access information to retain access/log-in rights for data submission (i.e. to ease the burden on facilities that do not regularly access NET for reporting since infrequent access and the EPA approval process can create difficulties for facilities that perform infrequent data reporting);
  - 4. Employee turnover (may be limited to 3 month waiver periods only); and/or
  - 5. Other – a facility may submit a request for another scenario (outside of those mentioned above) that results in the inability of the facility to perform DMR reporting, which would be subject to review and approval/denial by EPA.; and
- vi. Any other follow-up information required by the authorized NPDES program.**

EPA will have 120 days from receipt of the request by the R8 CWB Wastewater Section to approve or deny the waiver request. Once the waiver is approved, the Permittee may submit paper versions of monitoring data and reports to EPA in accordance with the reporting requirements outlined in Section 5.4 of the LGPs. All waiver requests must be submitted in accordance with Section 5.5.2 of the LGPs.

For hardcopy reporting, effluent monitoring results obtained during the monitoring period shall be submitted in accordance with the reporting schedule and requirements of Section 5.4 of the LGPs. **For each month** in which monitoring results are reported within the reporting period, monitoring results will be summarized and reported on a separate Discharge Monitoring Report (DMR) Form (EPA No. 3320-1 found at <https://www3.epa.gov/npdes/pubs/dmr.pdf>).

**All hardcopy DMR reports for a monitoring period must be postmarked by the DMR due date, in accordance with Table 9 in Section 5.4 of the LGPs, and submitted to the addresses indicated in Section 5.6 of the LGPs.**

Permittees required to submit electronic DMRs may use NetDMR after requesting and receiving permission from the EPA. After the EPA Region 8 has approved the facility's request, the NetDMR tool enables Permittees to complete their DMRs via a secure Internet connection. The NetDMR Login page has links to additional resources that will give more information on NetDMR. NetDMR can be found by searching the internet using the keywords "EPA, NetDMR, reporting". If no discharge occurs during the reporting period, "no discharge" shall be reported on the NetDMR reporting site.

All reports are to be signed in accordance with the Signatory Requirements given in Section 7.7 of the LGPs and submitted to EPA and to the applicable Tribe.

Other Reporting Requirements shall be submitted as outlined in Section 5.6 of the LGPs, unless otherwise indicated in another section of the LGPs.

### **POTENTIAL TO DISCHARGE (NODIS) Reporting Requirements**

Potential to Discharge (NODIS) facilities are not authorized to discharge except for an authorized bypass or upset conditions. **24-hour reporting is required for any discharge (whether it is an authorized bypass, upset conditions apply, or other type of discharge) that meet the criteria outlined in Section 5.10 of the LGPs.** Unless otherwise approved by the appropriate EPA delegated official, any discharge must be monitored. The use of DMR Forms for reporting monitoring results from unauthorized discharges is not appropriate. Instead, the Permittee shall report the monitoring results using the format in Appendix E of the LGPs in accordance with the instructions in Section 5.4.2 of the LGPs. The monitoring results obtained during the duration of each discharge are to be reported by the 28th day of the month following the beginning of the discharge. If the discharge continues into the next month, monitoring results are to be reported for each month until the discharge is terminated. All reports are to be signed in accordance with the Signatory Requirements given in Section 7.7 of the LGPs and submitted to the Region and to the applicable Tribe at the addresses in Section 5.6 of the LGPs.

### **Tribal Environmental Office Notification**

Applicable to Discharge (DIS) sub-categories B and C and Potential to Discharge (NODIS) facilities:

At the request of the Tribal Environmental Directors, in alignment with the issuance of the previous LGPs, the requirement for facilities to notify their applicable Tribal Environmental Office prior to discharge, in addition to the requirement to provide monitoring data from discharges, is being continued in this LGP reissuance. Permittees are required to send copies of all DMRs or other required monitoring reports (e.g. Appendix E formatted reports), as well as written notifications of non-compliance and anticipated bypass, to the applicable Tribal Environmental Office.

For Discharge (DIS) sub-categories B and C and Potential to Discharge (NODIS) facilities, notification to the Tribal Environmental Office of anticipated discharges are also required by phone. This requirement may be waived with approval from the Tribal Environmental Office. When notification is required by telephone, EPA recommends that facility operators record the date and time of calls and the recipient of the call in their inspection record notebooks or similar record. Contact phone numbers and mailing addresses (as of the date of LGP reissuance) for Tribal Environmental Offices are provided in Appendix A of the LGPs.

### **Inspection Requirements**

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

Sections 6.5 and 6.6 of the LGPs include routine inspection and operation and maintenance requirements. These are included as a preventative measure and require that the wastewater treatment facilities covered under the LGPs be inspected on at least a weekly basis unless otherwise approved in writing by the EPA. Permission for less frequent inspections may be granted on a case-by-case basis where appropriate (e.g. a lagoon located in a remote area where access is a problem during the winter and compliance issues are not present).

The objectives of the inspections include checking on the discharge status of the lagoon system, checking for specified items that will require corrective maintenance (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), and determining if proper operation and maintenance procedures are being undertaken. 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.

Notebooks/logbooks shall be used for the maintenance of facility inspection records. All entries should record the information as required in Section 6.5 of the LGPs. Documentation shall be recorded in notebooks/logbooks using indelible ink pens (or inspection logs may be kept in electronic format in accordance with proper record-keeping procedures) and in sufficient detail so that decision logic may be traced back, once reviewed. An example form for lagoon inspections is provided in Appendix D of the LGPs to support facility operators with inspection requirements. These forms may be printed out, completed and maintained in the inspection notebook (or maintained electronically with inspection logs in accordance with proper record-keeping procedures).

### **Effective Date and Duration of LGPs**

The LGPs will be issued for a period of five years, with the effective date and expiration date determined at the time of LGP reissuance.

### **Continuation of Expired LGPs**

The LGPs will expire within five years after the effective date. If the LGPs have not been renewed or terminated, the expired LGPs may continue in force (i.e. administratively continued) and effect until new LGPs issued.

### **Certification of the LGPs**

The following Tribes had CWA § 303(c) Water Quality Standard TAS that also establishes their CWA § 401(a)(1) certification TAS at the time of the reissuance of the LGPs:

1. Assiniboine & Sioux Tribes of the Fort Peck Indian Reservation
2. Confederated Salish & Kootenai Tribes of the Flathead Reservation
3. Northern Cheyenne Tribe
4. Ute Mountain Ute Tribe
5. Southern Ute Indian Tribe (tribal trust lands for CWA § 401 only)
6. Blackfeet Tribe

A CWA Section 401 certification was requested of the Tribes listed above prior to finalization of the LGPs.

With the exception of these Reservations where the Tribe(s) has CWA § 401(a)(1) certification authority, EPA was also a Clean Water Act (Act) Section 401(a)(1) certifying authority for the LGPs since not all Tribes had received authorization to implement Section 303(c) at the time of LGPs reissuances.

The EPA also solicited comments for Section 401(a)(1) certification requirements during the public notice comment period. Upon addressing all comments received during the public notice comment period related to Section 401(a)(1) certification requirements, the signing of the LGPs shall constitute the EPA's Section 401(a)(1) certification, in accordance with 40 CFR Part 121.

No comments related to Section 401(a)(1) certification were received.

### **Environmental Justice Analysis**

An environmental justice (EJ) screen was conducted for all reservations covered by the LGPs using EPA's EJ Screening and Mapping Tool (<https://www.epa.gov/ejscreen>). All reservations came back as communities with potential EJ concerns based on the percentage of minority or low-income populations being above the state average.

EPA's EJ Screening and Mapping Tool also includes a Wastewater Dischargers Indicator (Stream Proximity and Toxic Concentration), which is a model that evaluates toxic concentrations in stream segments within 500 meters divided by distance in kilometers (km), using data from toxic substance releases for industrial facilities from EPA's Risk-Screening Environmental Indicators (RSEI) model. This indicator was not used for this EJ analysis because the indicator is based on industrial toxic pollutant releases, and the LGPs will permit primarily domestic wastewater lagoons that are not expected to discharge significant industrial pollutants that are toxic for human health. Any facility that could discharge high concentrations of industrial pollutants will be required to obtain an individual permit.



Table 10 contains an analysis of potential human health impacts from permit-limited pollutants and other potential concerns.

Table 10. Potential Human Health Impacts Analysis

<b>Pollutant/ concern</b>	<b>Potential exposure pathways</b>	<b>Potential health impacts from exposure</b>	<b>EPA water quality criteria for human health?</b>	<b>Do exposure pathways potentially impact human health?</b>
Biochemical Oxygen Demand (BOD <sub>5</sub> )	Recreation Ingestion	None known	No	No
Total Suspended Solids (TSS)	Recreation Ingestion	None known	No	No
pH	Recreation Ingestion	Swelling of hair fibers, gastrointestinal irritation at pH 10–12.5 Eye irritation and exacerbation of skin disorders at pH >11 Redness and irritation of the eyes at pH < 4 a/ b/	Yes – consumption (pH 5-9)	Yes
Oil and Grease	Recreation Ingestion	None known in trace amounts	No	No
Total Residual Chlorine	Recreation Ingestion	Small amounts do not cause harmful health effects. c/	No	No
<i>Escherichia coli</i> ( <i>E. coli</i> )	Recreation Ingestion	Gastrointestinal illness d/	Yes - recreation	Yes
Fecal coliform	Recreation Ingestion	Gastrointestinal illness d/	Yes - recreation	Yes
Sanitary sewer overflows/ discharges of partially treated wastewater e/	Recreation Ingestion	Gastrointestinal illness d/  Life-threatening ailments such as cholera, dysentery, infections hepatitis, and severe gastroenteritis f/	<i>E. coli</i> and fecal coliform in raw or partially treated sewage - Yes	Yes

a/ World Health Organization Working Group. (1986). *Health impact of acidic deposition*. Science of the total environment, 52:157-187.

b/ World Health Organization. (2003). *pH in Drinking-water*. Retrieved July 1, 2021 from [https://www.who.int/water\\_sanitation\\_health/dwq/chemicals/ph.pdf](https://www.who.int/water_sanitation_health/dwq/chemicals/ph.pdf).

- c/ Centers for Disease Control and Prevention. (n.d.). *Water Disinfection with Chlorine and Chloramine*. Retrieved July 1, 2021, from [https://www.cdc.gov/healthywater/drinking/public/water\\_disinfection.html](https://www.cdc.gov/healthywater/drinking/public/water_disinfection.html).
- d/ U.S. Environmental Protection Agency. (2012). *Recreational water quality criteria*.
- e/ The LGPs do not allow the discharge of raw sewage as the result of a sanitary sewer overflow or partially treated wastewater that does not meet effluent limits.
- f/ U.S. Environmental Protection Agency. (n.d.). *Sanitary Sewer Overflow (SSO) Frequent Questions*. Retrieved July 1, 2021, from <https://www.epa.gov/npdes/sanitary-sewer-overflow-ss0-frequent-questions>.

Based on the analysis, only pH, *E. coli*, fecal coliform, and sanitary sewer overflows/discharges of partially treated wastewater have the potential to impact human health.

For pH, the LGPs limit is 6.5-9.0, except for the Ute Mountain Reservation where the limit is 6.6-8.5. These limits are based on criteria for the protection of aquatic life. Any violation of a maximum daily discharge limitation must be reported to the EPA and the applicable tribe(s) within 24 hours (Section 5.10.2.3 of the LGPs). EPA or the applicable tribe(s) may respond as needed.

During the last permit cycle, there were 13 pH results reported outside of the permitted range. The EPA's National Water Quality Criteria for human health provides a pH range of 5.0-9.0. Only one result of the 13 was below the minimum range of the human health criteria, with a result of 3.3. A pH at this level could cause redness and irritation of the eyes however, this single, low pH result is unlikely based on typical lagoon operations. Additionally, there were ten pH results above the human health criteria maximum of 9, with the highest result being 10.36 (only one sample result occurred in this range) and all others being 9.6 or lower. Skin exposure or ingestion of water with pH of 10.36 could cause swelling of hair fibers and gastrointestinal irritation. However, because the effluent would have been diluted with the receiving water and the human health criteria is based on an older drinking water standard, it is unlikely such pH violations would result in actual human health impacts.

Sanitary sewer overflows and discharges of partially treated wastewater that do not meet effluent limits are not allowed by the LGPs. Permittees are required to notify EPA and the applicable tribe(s) as soon as possible of any noncompliance which may endanger public health. This would include a sanitary sewer overflow or discharge of partially treated wastewater that could cause illnesses (Sections 5.10.1, 5.10.2, and 5.10.3 of the LGPs). EPA or the applicable tribe(s) may respond to any such emergency as needed.

*E. coli* is limited to a 30-day average of 126/100 mL and daily maximum of 410 /100 mL unless there are more stringent EPA-approved tribal water quality criteria on the reservation. Additionally, fecal coliform is limited on the Ft. Peck, Northern Cheyenne, and Flathead reservations to a 30-day average of 200/100 mL and daily maximum of 400/100 mL. However, since *E. coli* is the major species of concern for human health within the fecal coliform bacterial group, the lack of a fecal coliform limit on other reservations does not provide less human health protection. *E. coli* and fecal coliform limits are based on either EPA national water quality criteria for human health or more restrictive EPA-approved tribal water quality criteria based on human health. Additionally, these discharge limit concentrations are likely higher than actual concentrations expected for human health exposure because of the dilution of effluent within receiving waterbodies, and because the effluent limitations represent the maximum concentrations allowable (i.e. many facilities discharge at lower levels). Any violation of a maximum daily discharge limitation must be reported to the EPA and the applicable tribe(s) within 24 hours

(Section 5.10.2.3 of the LGPs). EPA or the applicable tribe(s) may respond to any such emergency as needed.

Based on the limits and reporting requirements in the LGPs, potential health impacts and any health conditions in these communities are not expected to be exasperated by the issuance of these LGPs. This EJ analysis finds the LGPs are not expected to have disproportionately high and adverse human health or environmental effects on minority or low-income populations.

### **Miscellaneous**

Prepared by: Alysia Tien, U.S. EPA Region 8, Wastewater Section, (303) 312-7021, June 2020 - March 2022.

## **VIII. Response to Comments/Changes to Draft LGPs Prior to Finalization**

### **Public Notice Comment Period:**

The LGPs and associated Fact Sheet were public noticed in the Federal Register on August 25, 2021 for a 45 day public comment period. Notifications were also sent out to facilities covered by the previous LGPs and 25 newspaper publications in the vicinity of Region 8 Tribal areas.

During the public comment period, the EPA notified the THPOs of the Tribes and/or designated tribal officials, as applicable, of the planned issuance of the LGPs.

**No comments were received during the 2021 Public Notice comment period for the Draft NPDES LGPs covering Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming.**

### **Fish and Wildlife Service Consultation/Concurrence:**

Based on FWS IPaC information and consultation with Maria Boroja of the FWS Regional Office, EPA determined the permitting action “may affect, but is not likely to adversely affect” species, as outlined in its Biological Evaluation for the LGPs. EPA received a concurrence letter dated March 2, 2022, from the FWS on this determination. FWS’s concurrence with this determination was contingent on the addition of the following language related to the LGP ESA evaluation process, which has been added to the final LGPs:

*For New Discharging Facilities Only: In addition to the Eligibility Criteria listed below, EPA will provide ESA affects determinations, including FWS IPAC site information, for any new discharging facilities that are not already EPA permitted that apply to receive coverage under the renewal LGPs. EPA will provide these facility-specific ESA affect determinations to the corresponding FWS field office for a 30-day review period. Upon completion of the review period, if no written concerns have been communicated to the designated R8 LGP contact, EPA will move forward with LGP permit coverage.*

### **Additional Changes to Draft LGPs Prior to Finalization:**

After public notice but prior to finalization of the LGPs, EPA identified an accidental omission of clarifying statements to the standard permit language in Section 6.2 Penalties for Violations of Permit Conditions of the draft LGPs. The standard language clarifications are being included to provide the public the basis for the cited penalty numbers and to ensure consistency with standard permit language included in permits across the Region. These changes were considered a logical outgrowth of the original penalty language. The updated clarifying statements added are as follows:

*Please note that the civil penalties described below are reflective of the December 23, 2020 adjustments per the Civil Monetary Penalty Inflation Rule and that civil penalties will have been adjusted annually thereafter. Civil penalties that EPA issues will therefore be reflective of the minimum amounts adjusted for inflation at the time of the violation.*