

NPDES Permit Number: WYG589###

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

AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

**Environmental Protection Agency, Region 8  
General Permit for Wastewater Lagoon Systems in Indian Country (Permit) WYG589###**

Coverage under this Permit is contingent upon approval of EPA in accordance with the eligibility and Notice of Intent (NOI) requirements, effluent limitations, monitoring requirements and other conditions set forth in this Permit. In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. § 1251 *et seq.*; “the Act”), operators of wastewater treatment lagoon systems in Indian country (as defined in 18 U.S.C. Section 1151) covered under this Permit, where EPA is the permitting authority, are authorized to discharge (except as provided in Section 3.2 of this Permit) within the below described areas to waters of the United States.

Permit Coverage Area:

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.

This Region 8 General Permit for Wastewater Lagoon Systems in Indian Country shall become effective **April 1, 2022**

This Permit and any authorizations to discharge issued under this Permit shall expire at midnight, **March 31, 2027**.

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Authorized Permitting Official  
Darcy O’Connor  
Director  
Water Division

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# 1 COVERAGE UNDER REGION 8 GENERAL PERMIT FOR WASTEWATER LAGOON SYSTEMS IN INDIAN COUNTRY

## 1.1 Definitions:

“7-day” (and “weekly”) average, other than for microbiological organisms (e.g., bacteria, viruses, etc.), is the arithmetic mean of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. Geometric means shall be calculated for microbiological organisms unless specified otherwise in the permit. The 7-day and weekly averages are applicable only to those effluent characteristics for which there are 7-day average effluent limitations. The calendar week, which begins on Sunday and ends on Saturday, shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. Weekly averages shall be calculated for all calendar weeks with Saturdays in the month. If a calendar week overlaps two months (i.e., the Sunday is in one month and the Saturday in the following month), the weekly average calculated for that calendar week shall be included in the data for the month that contains the Saturday. (40 CFR §122.2)

“30-day” (and “monthly”) average, other than for microbiological organisms (e.g., bacteria, viruses, etc.), is the arithmetic average of all samples collected during a consecutive 30-day period or calendar month, whichever is applicable. Geometric means shall be calculated for microbiological organisms unless specified otherwise in the permit. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. (40 CFR §122.2)

“The Act” means the Clean Water Act (CWA) or the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.* Act (“the Act”) means the Clean Water Act (formerly referred to as either the Federal Water Pollution Act or the Federal Water Pollution Control Act Amendments of 1972), Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, Pub. L. 97-117, and Pub. L. 100-4. In this Permit the Act may be referred to as the CWA. (40 CFR § 122.2)

“Bypass” means the intentional diversion of waste streams from any portion of a treatment facility. (40 CFR § 122.41(m)(1)(i))

“Composite samples” shall be flow proportioned. The composite sample shall, at a minimum, contain at least four (4) samples collected over the compositing period, unless specified otherwise at 40 CFR Part 136. (40 CFR § 122.21(g)(7). Unless otherwise specified, the time between the collection of the first sample and the last sample shall not be less than six (6) hours nor more than 24 hours.

Acceptable methods for preparation of composite samples are as follows:

- Constant time interval between samples, sample volume proportional to flow rate at time of sampling;
- Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time the sample was collected may be used;
- Constant sample volume, time interval between samples proportional to flow (i.e., sample taken every "X" gallons of flow); and,
- Continuous collection of sample, with sample collection rate proportional to flow rate.

“Daily Maximum” (“Daily Max.”) is the highest allowable discharge during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with daily maximum limitations expressed in units of mass, the daily discharge is calculated as the total mass of pollutants discharged over the calendar day. For pollutants with limitations

expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the calendar day. If only one measurement or sample is taken during the calendar day, that will be considered the average for the calendar day. If only one measurement or sample is taken during a calendar day or representative 24-hour period, the single measured value for a pollutant will be considered the daily maximum measurement for that calendar day or representative 24-hour period. (40 CFR § 122.2, see “daily discharge” and “maximum daily discharge limitation” definitions)

“Domestic sewage” means waste and wastewater from humans or household operations that are discharged to or otherwise enter a treatment works. (40 CFR § 122.2 as related to “treatment works treating domestic sewage”).

“*E. coli*” means *Escherichia coli*.

“Geometric mean” is an average or mean based on multiplication instead of addition. To calculate a geometric mean, multiply all the measured values together and then take the nth root, where n is the number of measured values.

$$\sqrt[n]{(X_1 X_2 X_3 \dots X_n)} \quad \text{or} \quad (X_1 X_2 X_3 \dots X_n)^{1/n}$$

“EPA” means the United States Environmental Protection Agency, the Regional Administrator of the EPA Region 8 or an authorized representative.

“Grab sample”, for monitoring requirements, is defined as a sample collected over a period not exceeding 15 minutes (typically a single "dip and take" sample or an instantaneous measurement) at a location that is representative of water conditions at the time the sample is collected.

“Indian country” is defined as in 18 U.S.C. § 1151 to mean (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running throughout the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights of way running through the same.

“Industrial User” or “User” means a source of “Indirect Discharge,” which is the introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b), (c) or (d) of the Act. (40 CFR § 403.3(i) and (j))

“Instantaneous” measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.

“Instantaneous Maximum Limit” means the maximum allowable concentration or other measure of a pollutant determined from the analysis of any sample.

“Instantaneous Minimum Limit” means the minimum allowable concentration or other measure of a pollutant determined from the analysis of any sample.

“Interference” means a discharge from an Industrial User which, alone or in conjunction with a discharge or discharges from other sources, both:

- Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act. (40 CFR § 403.3(k))

“New Source” means any building, structure, facility, or installation from which there is or may be a “discharge of pollutants,” the construction of which commenced:

- After promulgation of standards of performance under section 306 of CWA which are applicable to such source, or
- After proposal of standards of performance in accordance with section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal. (40 CFR § 122.2)

“Pass Through” means an “Indirect Discharge” which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation). (40 CFR § 403.3(p))

“Permit” means this NPDES Region 8 General Permit for Wastewater Lagoon Systems in Indian Country upon finalization. (40 CFR § 122.2)

“Permittee” means the “person” as defined by section 502(5) of the Act authorized to discharge under the Permit.

“Publicly Owned Treatment Works” or “POTW” means a treatment works as defined by section 212 of the Act, which is owned by a State or municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant, which means that portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste. The term POTW also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works. (40 CFR § 403.3(q) and (r))

“Region 8” is the U.S. Environmental Protection Agency, Region 8.

“Severe property damage” means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production. (40 CFR § 122.41(m)(1)(ii))

“Sewage sludge” includes, but is not limited to, solids removed during primary, secondary, or advanced waste water treatment, scum, septage, portable toilet pumpings, type III marine sanitation device pumpings (33 CFR Part 159), and sewage sludge products. Sewage sludge does not include grit or screenings, or ash generated during the incineration of sewage sludge. (40 CFR § 122.2)

“Storm water” means storm water runoff, snow melt runoff, and surface runoff and drainage. (40 CFR § 122.26(b)(13))

“Sufficiently Sensitive” – An analytical chemical-specific test method is sufficiently sensitive when: The method minimum level (ML) is at or below the level of the effluent limit established in the permit for the measured pollutant or pollutant parameter; or

The method has the lowest ML of the analytical methods approved under 40 CFR Part 136 or required under 40 CFR chapter I, subchapter N or O for the measured pollutant or pollutant parameter. (40 CFR § 122.44(i)(1)(iv)(A))

“*Treatment works treating domestic sewage*” means a POTW or any other sewage sludge or waste water treatment devices or systems, regardless of ownership (including federal facilities), used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge. This definition does not include septic tanks or similar devices. For purposes of this definition, “domestic sewage” includes waste and wastewater from humans or household operations that are discharged to or otherwise enter a treatment works. In States where there is no approved State sludge management program under section 405(f) of the CWA, the Regional Administrator may designate any person subject to the standards for sewage sludge use and disposal in 40 CFR Part 503 as a “treatment works treating domestic sewage,” where he or she finds that there is a potential for adverse effects on public health and the environment from poor sludge quality or poor sludge handling, use or disposal practices, or where he or she finds that such designation is necessary to ensure that such person is in compliance with 40 CFR § 503. (40 CFR § 122.2)

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

“Wastewater lagoon system” means individually or any combination of waste stabilization pond(s), oxidation pond(s), facultative pond(s), aerated pond(s), aerobic or anaerobic pond(s), or similar treatment system. This may also be referred to as “wastewater treatment lagoon system,” “wastewater treatment lagoon facility,” “facility” and/or be inclusive of the wastewater collection system.

## **1.2 Introduction:**

The Region 8 General Permit for Wastewater Lagoon Systems in Indian Country (Permit) is intended for the permitting of wastewater treatment lagoon systems that treat primarily domestic sewage (an average total influent flow consisting of ~80 % or greater domestic sewage) and are located within the boundaries of the specified Region 8 Indian Reservations or otherwise in Indian country as defined in Section 1.1. Definitions of this Permit. Permit Area: This Permit covers the areas specified on the signed cover page of this Permit.

### 1.3 Eligibility:

- 1.3.1. Coverage under this Permit is limited to those 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.**
- 1.3.2. This Permit is intended to provide coverage for wastewater treatment lagoon systems treating primarily domestic sewage (~80 % or greater average total influent flow). The wastewater treatment lagoon system may not receive any significant volumes of industrial discharge or non-domestic wastewater contributions that result in the makeup of the average total wastewater influent no longer being composed of primarily domestic sewage (as defined in Section 1.1 of the Permit). EPA has the final determination as to whether any non-domestic wastewater is considered a significant volume of industrial discharge or whether non-domestic wastewater contributions (regardless of volume) impact Permit coverage eligibility.
- 1.3.3. Limitations on Coverage: Discharges from wastewater treatment lagoon systems that have been issued an individual permit or are required to obtain coverage under an individual permit or alternative general permit, in accordance with Section 7.16 of this Permit, are not authorized by this Permit.
- 1.3.4. A wastewater lagoon system that has an individual permit, other than an individual permit required under Section 7.16 of this Permit, may request that the individual permit be revoked, and that its coverage be transferred to this Permit. The request shall be in writing and include the notice of intent (NOI). Upon receipt of written notification of coverage from EPA, the wastewater treatment lagoon system shall be covered by the provisions of this Permit.
- 1.3.5. Threatened and Endangered Species and Critical Habitat Protection: Coverage under this general permit is only available if the permittee follows the procedures set forth in Appendix B and demonstrates that it meets at least one of the acceptable eligibility criteria related to the protection of federally-listed threatened and endangered species and their designated critical habitat. The Permittee must meet one of the acceptable eligibility criteria and follow the procedures in Appendix B. Nothing in this Permit authorizes “take”, as defined by the ESA, for the purposes of a facility’s compliance with the Endangered Species Act.
- 1.3.6. Historic Properties Preservation: Coverage under this Permit is available only if wastewater treatment lagoon system discharges and related activities meet one of four eligibility criteria, following the procedures in Appendix C. The Permittee must comply with all applicable laws concerning the protection of cultural resources, including historic properties. Applicants must also 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

### 1.4 Authorization to Discharge:



- 1.4.1. Eligible wastewater treatment lagoon systems may be authorized to discharge under this Permit in the following three circumstances:
  - 1.4.1.1. The operator/Permittee for a wastewater treatment lagoon system has submitted a complete NOI in accordance with the requirements of Section 2 of this Permit and the Permittee receives a written notice of authorization from EPA;
  - 1.4.1.2. The operator/Permittee for a wastewater treatment lagoon system has submitted a complete application for renewal of an individual permit issued by EPA under the National Pollutant Discharge Elimination System (NPDES) program for wastewater discharges to waters of the U.S., and the Permittee instead receives written notification for authorization of coverage under this Permit from EPA; or
  - 1.4.1.3. The EPA notifies the owner/operator of a wastewater lagoon system that its wastewater treatment lagoon facility meets the requirements for needing permit coverage, even if the facility has not submitted an NOI to be covered by this Permit, 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.
- 1.4.2. The EPA may withhold its notification for authorization of coverage and instead require submittal of an application for an individual NPDES permit based on a review of the NOI or other information.

## 1.5 Categories and Subcategories of Coverage

Authorization for coverage under this Permit will be limited to one of the following two categories of wastewater lagoon systems:

**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 Permit, below).

**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 3 of the Permit contains additional details on the permit limits, monitoring and reporting requirements related to these sub-categories.

**POTENTIAL TO DISCHARGE (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 wastewater treatment facilities do not have authorization to discharge under regular operating conditions and are required to have no discharge except in accordance with the upset or bypass provisions of the Permit. A discharge may include, but is not limited to, discharge of water from the lower end of the treatment or containment system through a release structure or over or through retention dikes. 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 terms, EPA may determine that the facility's Permit category and coverage requirements should be changed to "discharge (DIS)".

**The category of operational requirement (i.e. Discharge (DIS) or Potential to Discharge (NODIS)) authorized for the lagoon system will be specified by EPA in the letter authorizing coverage under this Permit. The basic requirements for each of the categories are specified in Sections 3 and 5 of this Permit. A summary of applicable limitations, monitoring requirements, and any special requirements will be specified in the written notice of authorization of coverage letter or subsequent letter from EPA.**

## **1.6 Tribal Environmental Office Notification:**

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

- 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 this Permit issuance) for Tribal Environmental Offices are provided in Appendix A of the Permit.

## **2 NOI REQUIREMENTS**

### **2.1 Obtaining Authorization for Coverage Under this Permit:**

2.1.1. To obtain authorization under this Permit, a facility must:

Submit a complete and accurate NOI using an EPA notice of intent form for coverage under this Permit. The "NPDES 2020 Lagoon General Permit Notice of Intent Form" is located electronically at: <https://www.epa.gov/npdes-permits/region-8-npdes-lagoon-general-permit>

Facilities may also contact EPA's Region 8 Office (EPA contact information is available at the website provided in the following paragraph) and request a hardcopy NOI be mailed to them. Once completed, the form can be submitted to EPA as indicated in Section 2.4 of this Permit.

The "NPDES 2020 Lagoon General Permit Notice of Intent Form" can also be requested from EPA's Region 8 Office. Contacts for Region 8 are listed at the following website: <https://www.epa.gov/npdes-permits/forms/contact-us-about-npdes-permits-around-nation#tab-r8>

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 December 21, 2025, unless this timeframe is replaced with another EPA-approved alternative date.

- 2.1.2. Based on a review of the NOI or other information, EPA may delay an authorization for further review, may request additional information, or may deny coverage under this Permit and require submission of an application for an individual NPDES permit, as detailed in Section 7.16 of this Permit. In these instances, EPA will notify the applicant of the delay, request for additional information, or of the request for submission of an individual NPDES permit application.

## **2.2 Deadlines for Submitting a NOI:**

- 2.2.1. Facilities that had coverage under the previous lagoon general permit and would like to renew coverage under this Permit must submit a complete NOI within 90 days after the effective date of this Permit if they want to maintain continuous coverage (i.e. without a gap in coverage between permit terms) under this Permit.
- 2.2.2. Facilities that meet the minimum requirements for coverage under this Permit that did not have coverage under the previous lagoon general permit, and are not currently covered under an individual NPDES permit, must submit a complete NOI at least thirty (30) days before:
- 2.2.2.1. The expected start of discharge from the wastewater lagoon system; or,
  - 2.2.2.2. The date when the Permittee wants authorization to begin, if the date is before discharge is expected to begin.

## **2.3 Contents of NOI:**

The NOI to request coverage authorization to discharge under the provisions of this Permit shall be submitted to EPA and must include the minimum information contained in Appendix F of this Permit in addition to any other information requested on the NOI form.

Upon review of the submitted NOI, the EPA may request additional information. **Authorization to discharge under this Permit does not begin until the Permittee receives written authorization for coverage from the EPA.**

## **2.4 Where to Submit a NOI:**

Unless otherwise authorized by EPA, the signed Notice of Intent form (hardcopy) must be sent to the address listed below:

U.S. Environmental Protection Agency, Region 8  
Wastewater Section (8WD-CWW)  
1595 Wynkoop Street  
Denver, CO 80202-1129

In addition to submitting the signed hardcopy, a copy may be submitted electronically as provided in the submission instructions at:

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

If requested by a Tribe(s), a copy of completed NOIs shall be provided to the Tribal Environmental Offices by EPA (see Appendix A for list of Tribal Environmental Offices).

### 3 Effluent Limitations, Monitoring, and Reporting Requirements

#### 3.1 DISCHARGE (DIS) - AUTHORIZATION TO DISCHARGE FACILITIES:

##### 3.1.1. Baseline Effluent Limitations and Influent Requirements:

As of the effective date of the coverage letter and lasting through the life of this Permit, the quality of effluent discharged by 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, at a minimum, shall meet the limitations and requirements as set forth in Table 1 and Table 2 below:

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

Effluent Characteristic	30-Day Average a/	7-Day Average a/	Daily Maximum a/
Flow, mgd	Report only	N/A	Report only
Biochemical Oxygen Demand (BOD <sub>5</sub> ), mg/L	30	45	N/A
BOD <sub>5</sub> , percent removal	≥ 65%	N/A	N/A
Total Suspended Solids (TSS), mg/L	30	45	N/A
TSS, percent removal	≥ 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.			
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. b/			

a/ See Definitions, (Section 1.1. of this Permit) for definition of terms.

b/ b/ 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

Influent Characteristic	30-Day Average a/	7-Day Average a/	Daily Maximum a/
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 this Permit), for definition of terms.

b/ The influent samples shall be collected at the frequencies designated in Table 4 of this Permit and will be used to calculate the BOD and TSS percent removals for each Sub-category type as indicated in footnote e/ of Table 3 of this Permit.

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

Self-monitoring requirements shall be effective immediately as of effective date of the coverage letter and lasting through the effective term of this Permit. Sampling and test procedures for pollutants listed in this section shall be in accordance with 40 CFR Part 136, as required in 40 CFR § 122.41(j), unless another method is required under 40 CFR subchapters N or O. At a minimum, the following constituents shall be monitored at the frequency and with the type of measurement indicated; samples or measurements shall be representative of the volume and nature of the monitored discharge. See Representative Sampling, Section 5.1 of this Permit, for more details.

If no discharge occurs during the entire monitoring period, it shall be stated on the Discharge Monitoring Report (DMR) that no discharge or overflow occurred. See Reporting of Monitoring Results, Section 5.4. of this 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)	Weekly	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	Monthly	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/

<b>Effluent Characteristic</b>	<b>Sub-category A Frequency b/</b>	<b>Sub-category B Frequency b/</b>	<b>Sub-category C Frequency b/</b>	<b>Sample Type a/</b>
TSS, mg/L	Monthly	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	N/A	N/A	N/A	Calculated e/
pH, standard units	Weekly	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	Weekly	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
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	Monthly	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/	<u>Grab</u>
Nitrate-Nitrite, mg/L	Monthly	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	Monthly	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 this Permit, for definition of terms.
- b/ See Section VI. Monitoring Requirements of the Fact Sheet and Section 3.1.4. of this Permit, for additional information 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 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 and TSS percent removal shall be calculated using the 30-day average values for influent and the 30-day average values for effluent BOD5 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 values reported over the previous 6 months and the average of all 30-day average influent BOD values reported over the previous 6 months shall be used to calculate the BOD 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 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 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 values reported over the previous 12 months and the average of all 30-day average influent BOD values reported over the previous 12 months shall be used to calculate the BOD 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 for 12 months =*

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

*Average Influent 30-day BOD for 12 months =*

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

**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 sample shall be taken, analyzed and recorded in accordance with the requirements of 40 CFR Part 136.
- h/ At the time of the Permit 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 this Permit, for definition of terms.
- b/ See Section VI. Monitoring Requirements of the Fact Sheet and Section 3.1.4. of this Permit, 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 calendar 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 taken at least once each calendar quarter and will be used in the calculation for the 30-day averages 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.

### 3.1.3. Supplemental Effluent Limitations and Monitoring (Effluent/Receiving/Influent)

EPA expects that compliance with the effluent limitations in this Permit will result in compliance with applicable water quality standards for most dischargers covered under this Permit. 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 under this Permit. If EPA determines that 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.

In EPA Region 8, as of the date of this Permit reissuance, the following Tribes were approved by EPA in a manner similar to a state (Treatment As State or TAS) for CWA §§ 303(c) and 401, and have CWA-approved WQS in effect (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>):

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

If additional or different water quality-based or technology-based effluent limitations, not specified in this Permit, are necessary for wastewater treatment lagoon facilities being considered for coverage under this Permit (e.g. not protective of potential pollutants not included in Permit 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

<b>Effluent Characteristic</b>	<b>30-Day Average a/</b>	<b>7-Day Average a/</b>	<b>Daily Maximum a/</b>	<b>Frequency</b>	<b>Sample Type a/</b>
Total Residual Chlorine, mg/L b/	0.011 b/	N/A	0.019 b/	g/	Grab
<i>Escherichia coli</i> , Number/100 mL c/	126 unless otherwise specified c/	N/A	410 unless otherwise specified c/	g/	Grab
Total Aluminum, µg/L, f/	N/A	N/A	Report only	Annually (or with each discharge if facility discharges less than annually)	Grab
Total Iron, µg/L, f/	N/A	N/A	Report only	Annually (or with each discharge if facility discharges less than annually)	Grab
Total Arsenic, µg/L, f/	N/A	N/A	Report only	Annually (or with each discharge if facility discharges less than annually)	Grab
Total Ammonia Nitrogen (as N) mg/L d/	Current Tribal CWA-approved WQS for ammonia will be included for all applicable			g/	Grab

Effluent Characteristic	30-Day Average a/	7-Day Average a/	Daily Maximum a/	Frequency	Sample Type a/
	dischargers where TAS and WQS have been approved by EPA at the time of Permit coverage issuance. d/				
Temperature, °C	Report only when associated with ammonia. Additionally, report only included if temperature is included in Tribal CWA-approved WQS. e/			g/	Grab

- a/ See Definitions, Section 1.1. of the Permit, 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. EPA is using the National Recommended Water Quality Criteria for Aquatic Life for freshwater published at the time of the Permit reissuance 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 Permit 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.

- d/ 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 Permit reissuance. Permit limits will be established based on approved tribal CWA-approved WQS at the time a facility’s Permit 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.

- e/ 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).

- f/ 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.
- g/ Frequency will be determined in alignment with the sub-category monitoring requirements outlined in Section 3 of this Permit.

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 this Permit, for definition of terms.
- b/ Frequency will be determined in alignment with the sub-category monitoring requirements outlined in Section 3 of this Permit. A Permittee’s sub-category and monitoring schedule will be clearly identified in the authorization of coverage letter.
- 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**

*Table 7 only applicable to the COG587XXX and UTG589XXX permits (see Fact Sheet for details).*

3.1.4 Sub-Categories of Discharge

Self-monitoring frequency for DISCHARGE facilities will be based upon their discharge regimen and will be specified in the facility's authorization for coverage letter for this Permit. 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 Permit.

3.1.4.1. 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 permit 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.

3.1.4.2. 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 sample 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.

#### 3.1.4.3. 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 sample 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.

**3.2 POTENTIAL TO DISCHARGE (NODIS) Monitoring Requirements:**

No Discharge Requirement: Effective immediately as of the effective date of the permit coverage letter and lasting through the life of this Permit, there shall be no discharge except in accordance with the bypass provisions of this Permit. Facilities covered under the NODIS category are not expected to discharge, and this Permit does not authorize discharges from these facilities, except in accordance with the bypass provisions of this Permit. 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 and reporting requirements outlined in this section and Section 5.4.2 of this Permit.

Self-Monitoring Requirements: If a discharge is discovered or expected to occur, the discharge shall be monitored as shown below:

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

Effluent Characteristic	Frequency	Sample Type <u>a/</u>
Total Flow, MGD	Minimum of 3 measurements collected (beginning, middle and end)	Instantaneous, <u>c/</u>

Effluent Characteristic	Frequency	Sample Type <u>a/</u>
	during any discharge plus weekly starting second week. <u>b/</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
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 Permit, 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 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 Permit 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 this Permit in the issuance of permit coverage letter** 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 this Permit, 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.

## 4 SPECIAL CONDITIONS

### 4.1 Industrial Waste Survey (IWS) Requirements:

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. This requirement will be outlined in a facility's permit coverage letter if required. For those facilities required to implement the IWS requirements, an IWS shall be developed within one year of issuance of coverage authorization under this Permit and regularly maintained by the Permittee to ensure that the information remains current and the Permittee is aware of the nature of the discharges it is receiving from the service area, in alignment with the objectives of the general pretreatment regulations (40 CFR § 403.2). The Permittee shall incorporate the following pretreatment management practices when performing the IWS, referenced from 40 CFR § 403.8(f)(2)(i-ii):

- 4.1.1. Identify and locate all possible Industrial Users that discharge to the wastewater treatment lagoon system and might be subject to the Pretreatment Standards identified in Sections 6.11.2, 6.11.4, and 6.11.5 of this Permit. Any compilation, index or inventory of Industrial Users made under this paragraph shall be made available to the EPA upon request.

- 4.1.2. Identify the character and volume of pollutants contributed to the wastewater treatment lagoon system by the Industrial Users identified in Section 4.1.1. (above) of this Permit. This information shall be made available to EPA upon request.

Further requirements for controlling discharges from Industrial Users into the wastewater treatment lagoon system can be found in Section **Error! Reference source not found.** (Industrial Waste Management) of this Permit.

## **5 MONITORING, RECORDING AND REPORTING REQUIREMENTS**

### **5.1 Representative Sampling:**

All samples taken in compliance with the monitoring requirements established under Section 3 of the Permit shall be representative and all monitoring shall be conducted in accordance with Section 5.2 (below) of the Permit. Effluent samples shall be collected from the effluent stream prior to discharge into the receiving waters. Any influent samples shall be taken at a location representative of the influent flow prior to treatment (e.g. an influent structure, upstream manhole that contains flow from the entire service area, or any other representative location). Any receiving water samples shall be collected in a representative location of the receiving stream, directly upstream of the confluence where the wastewater treatment lagoon system's effluent discharge enters the receiving stream. Samples and measurements shall be representative of the volume and nature of the monitored effluent discharge, influent, receiving stream, or other monitored location. Sludge samples, if applicable, shall be collected at a location representative of the quality of sludge immediately prior to use or disposal practice.

### **5.2 Monitoring Procedures:**

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, or other test procedures have been specified in this Permit. Sludge monitoring procedures shall be those specified in 40 CFR 503, or as specified in the Permit. The Permittee must select a test procedure that is Sufficiently Sensitive for all monitoring conducted in accordance with the Permit.

### **5.3 Penalties for Tampering:**

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

### **5.4 Reporting of Monitoring Results:**

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

In some circumstances, the regulations allow for hardcopy reporting of DMR reports in lieu of electronic reporting. See requirements for requesting a temporary waiver to allow for hardcopy reporting in Section 5.5.2 of the Permit.

Regardless of the reporting format, reports are to be signed in accordance with the Signatory Requirements given in Section 7.7 of this Permit and submitted to the EPA and to the applicable Tribe(s), as indicated in this section.

5.4.1. 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 (see example schedules in table below). If no discharge occurs during the reporting period, it shall be reported as “no discharge” in the NetDMR reporting system. If there is no discharge, no flow or access was impeded by snow, ice, flooding, other unsafe conditions, etc.; the information 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> )

5.4.2. 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 this Permit.** Unless otherwise approved by the appropriate EPA delegated official, any discharge must be monitored. All required effluent and receiving water (as applicable) monitoring results obtained during the duration of each discharge shall be summarized in **the format of Appendix E of this Permit or on a photocopy of those pages of this Permit.** If the discharge continues into the next month, monitoring results shall be reported monthly until the discharge is terminated. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the Signatory Requirements (see Section 7.7), and

submitted to the EPA Region 8 Enforcement and Compliance Assurance Division Water Enforcement Branch and the Tribe(s) at the addresses in Section 5.6 of this Permit with a postmark date no later than the 28th day of the month following the beginning of the discharge.

## 5.5 Submission of DMRs

### 5.5.1. Electronic Submission of DMRs

NetDMR is accessed from the internet at: <https://netdmr.zendesk.com/home>. NPDES Permittees required to submit DMRs may use NetDMR after requesting and receiving permission from EPA. After EPA has approved the Permittee's request, the NetDMR tool enables Permittees to complete DMRs via a secure Internet connection. The NetDMR Login page has links to additional resources that provide more information on NetDMR. NetDMR can also be found by searching the internet using the keywords "EPA, NetDMR, reporting".

### 5.5.2. Temporary Waiver to Allow for Hardcopy 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 NetDMR 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 NetDMR 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 Permit.

All waiver requests must be mailed to the following address for consideration:

U.S. EPA Region 8 Wastewater Section, Water Division  
Mailcode: 8WD-CWW  
1595 Wynkoop Street  
Denver, CO 80202

Upon waiver approval by EPA to allow 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 Permit. **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 Permit, and submitted to the addresses indicated in Section 5.6 of the Permit.**

#### 5.5.3. Submission and Signatory Requirements for DMRs

The reports are to be signed in accordance with the Signatory Requirements given in Section 7.7 of this Permit and submitted to the EPA and to the applicable Tribe. Currently, the Permittee may submit a copy to the Tribe(s) by one of three ways: 1. a paper copy may be mailed (see Appendix A of this Permit). 2. The email address for Tribe(s) may be added to the electronic submittal through NetDMR, or 3. The Permittee may provide the Tribe(s) viewing rights through NetDMR.

### 5.6 Other Reporting Requirements:

Prior to December 21, 2025, legible copies of all other reports required herein, as well as combined sewer overflows, sanitary sewer overflows, or bypass events reports, shall be signed and certified in accordance with the Signatory Requirements (see Section 7.7 of this Permit), and submitted to EPA Region 8 Enforcement and Compliance Assurance Division Water Enforcement Branch and the Tribe(s) as indicated below:

Original to:

EPA Region 8 Enforcement and Compliance Assurance Division Water Enforcement Branch address:

U.S. Environmental Protection Agency, Region 8  
(8ENF-W-NW)  
Attention: NPDES and Wetlands Enforcement Section Chief  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

Copy to:

Applicable Tribe(s) (see Appendix A for list of Tribes)

Effective no later than December 21, 2025, these reports shall be submitted electronically using the NPDES Electronic Reporting Tool (NeT). If the NeT tool is not available on December 21, 2025, the reports can continue to be submitted to the addresses above until the tool is available, unless otherwise indicated in compliance with this section, 40 CFR Part 3 (including, in all cases, subpart D to Part 3), 40 CFR §122.22, and 40 CFR Part 127.

In addition, Permittees should provide updates to contact information for facilities in the event that a contact from the original NOI application changes, so that EPA and Tribe(s) can maintain current contact information in their records for all Permittees. Updates can be provided to the above addresses in writing or by phone using the contact website provided in Section 2.1.1 of the Permit.

## **5.7 Additional Monitoring by the Permittee:**

If the Permittee monitors any pollutant more frequently than required by this Permit, using test procedures approved under 40 CFR Part 136, 40 CFR Part 503, another method required for an industry-specific waste stream under 40 CFR subchapters N or O, or as specified in this Permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the associated DMR. Such increased frequency shall also be indicated. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by this Permit.

## **5.8 Records Contents:**

Records of monitoring information shall include:

- 5.8.1. The date, exact place, and time of sampling or measurements;
- 5.8.2. The name(s) of the individual(s) who performed the sampling or measurements;
- 5.8.3. The date(s) analyses were performed;
- 5.8.4. The time(s) analyses were initiated;
- 5.8.5. The name(s) of individual(s) who performed the analyses;
- 5.8.6. References and, when available, written procedures for the analytical techniques or methods used; and,
- 5.8.7. The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results when analysis is conducted by the Permittee.

## **5.9 Retention of Records:**

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

## **5.10 Twenty-four Hour Notice of Noncompliance Reporting:**

- 5.10.1. The Permittee shall report any noncompliance which may endanger health or the environment (including sanitary sewer overflows) as soon as possible, but no later than twenty-four (24) hours from the time the Permittee first became aware of the circumstances. The report shall be made to EPA, Region 8, Superfund & Emergency Management Division (EPA Region 8 24-hr. Emergency Response line) at (303) 293-1788 and the applicable Tribe(s) (see Appendix A for list of Tribes and telephone numbers).

- 5.10.2. The following occurrences of noncompliance shall also be included as information which must be reported within 24 hours under this section and shall be reported by telephone to EPA, Region 8 Enforcement and Compliance Assurance Division at (800) 227-8917 (8:00 a.m. - 4:30 p.m. Mountain Time) and the applicable Tribe(s)(see Appendix A for list of Tribes and telephone numbers) (8:00 a.m. - 4:30 p.m. local time).
- 5.10.2.1. Any unanticipated bypass which exceeds any effluent limitation in this Permit in accordance with 40 CFR §122.41(g). (See Section 6.8, Bypass of Treatment Facilities of this Permit.);
  - 5.10.2.2. Any upset which exceeds any effluent limitation in the permit (See Section 6.9, Upset Conditions of this Permit.); or,
  - 5.10.2.3. Violation of a maximum daily discharge limitation for any of the pollutants listed in the Permit to be reported within 24 hours in accordance with 40 CFR §122.44(g).
- 5.10.3. For any noncompliance notification required under Sections 5.10.1 or 5.10.2 of this Permit (above), a written submission shall also be provided to EPA Office of Enforcement and Compliance Assurance Division, Water Enforcement Branch, and to the applicable Tribe(s) within five days of the time that the Permittee becomes aware of the circumstances. The written submission shall be submitted to the addresses indicated in Section 5.6 of this Permit and contain:
- 5.10.3.1. A description of the noncompliance and its cause;
  - 5.10.3.2. The period of noncompliance, including exact dates and times;
  - 5.10.3.3. The estimated time noncompliance is expected to continue if it has not been corrected; and,
  - 5.10.3.4. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
  - 5.10.3.5. For noncompliance events related to combined sewer overflows, sanitary sewer overflows, or bypass events, these reports must include the data described above as well as the type of event (i.e. combined sewer overflows, sanitary sewer overflows, or bypass events), type of sewer overflow structure (*e.g.*, manhole, combine sewer overflow outfall), discharge volumes untreated by the treatment works treating domestic sewage, types of human health and environmental impacts of the sewer overflow event, and whether the noncompliance was related to wet weather.
  - 5.10.3.6. The signed certification statement required by the Signatory Requirements (see Section 7.7 of this Permit).
- 5.10.4. The EPA may waive the written report on a case-by-case basis for an occurrence of noncompliance listed under Section 5.10.3 of this Permit (above), if the incident has been orally reported in accordance with the requirements of Sections 5.10.1 and 5.10.2 of this Permit.

## **5.11 Other Noncompliance Reporting:**

Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for Section 5.4 of this Permit are submitted. The reports shall contain the information listed in Section 5.10.3 of this Permit.

## **5.12 Inspection and Entry:**

The Permittee shall allow EPA or the Tribe(s), or authorized representative (including an authorized contractor acting as a representative of EPA) upon presentation of credentials and other documents as may be required by law, to:

- 5.12.1. Enter upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Permit;
- 5.12.2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;
- 5.12.3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and,
- 5.12.4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

## **6 COMPLIANCE RESPONSIBILITIES**

### **6.1 Duty to Comply:**

The Permittee must comply with all conditions of this Permit. Any failure to comply with the Permit may constitute a violation of the Clean Water Act and may be grounds for enforcement action including, but not limited to, permit termination, revocation and reissuance, modification, or denial of a permit renewal application.

### **6.2 Penalties for Violations of Permit Conditions:**

The Clean Water Act provides for specified civil and criminal monetary penalties for violations of its provisions. However, the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, requires EPA to adjust the statutory civil monetary penalties for inflation on a periodic basis. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 required these adjustments on an annual basis, beginning in 2016. The EPA has adjusted its civil monetary penalties effective December 23, 2020 (85 Fed. Reg. 83818-83821). 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. The civil and criminal penalties for violations of the Act are as follows:

- 6.2.1. Any person who violates Section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under Section 402, or any requirement imposed in a pretreatment program approved under Section 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$56,460 per day for each violation.



- 6.2.2. Any person who *negligently* violates Section 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, or any requirement imposed in a pretreatment program approved under Section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment for not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment for not more than 2 years, or both.
- 6.2.3. Any person who *knowingly* violates Section 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, or any requirement imposed in a pretreatment program approved under Section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment for not more than 6 years, or both.
- 6.2.4. Any person who *knowingly* violates Section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the Act, and who knows at that time that the person thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment for not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment for not more than 30 years, or both. An organization, as defined in Section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.
- 6.2.5. Any person may be assessed an administrative penalty by the Administrator for violating Section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of this Act. Administrative civil penalties for Class I violations are not to exceed \$22,584 per violation, with a maximum amount of any Class I civil penalty assessed not to exceed \$56,460. Civil penalties for Class II violations are not to exceed \$22,584 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$282,293.

### **6.3 Need to Halt or Reduce Activity not a Defense:**

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

### **6.4 Duty to Mitigate:**

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

### **6.5 Inspection Requirements:**

- 6.5.1. On at least a weekly basis, unless otherwise modified by written approval from EPA, the Permittee shall inspect its wastewater treatment facility. Permission for less frequent inspections must be requested in writing by the Permittee and 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), at the discretion of EPA. The Permittee shall maintain a notebook/logbook recording all information obtained during the inspection 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. At a minimum, the notebook/logbook shall include the following (see Appendix D of this Permit for an Example Lagoon Inspection Form):
- 6.5.1.1. Name of facility and permit number;
  - 6.5.1.2. Date and time of the inspection;
  - 6.5.1.3. Name of the inspector(s);
  - 6.5.1.4. The facility's discharge status;
  - 6.5.1.5. The flow rate of the discharge, if occurring;
  - 6.5.1.6. Determine if a discharge is occurring, has occurred since the previous inspection, and/or if a discharge is likely to occur before the next inspection. (Note: If a discharge has occurred or is likely to occur before the next inspection, perform the appropriate monitoring and reporting requirements in Sections 3 and 5.4 of this Permit if not already done.);
  - 6.5.1.7. If there is any leakage through the dikes;
  - 6.5.1.8. If there are any animal burrows in the dike;
  - 6.5.1.9. If there is any erosion of the dikes (e.g., rills, cracks or other structural indications of erosion);
  - 6.5.1.10. If there are any rooted plants, including weeds or trees growing in the water;
  - 6.5.1.11. If the vegetative growth on the dikes need mowing (i.e. no greater than 6" tall or any height that may interfere with monitoring, operation and maintenance of the system);
  - 6.5.1.12. Visual observation for visible sheen, floating oil, floating solids and foam;
  - 6.5.1.13. Visual observation to check for evidence of illicit septic dumping;
  - 6.5.1.14. List the date scheduled for operation and maintenance procedures to be undertaken at the wastewater treatment facility;
  - 6.5.1.15. Identification of operational and/or maintenance problems, and a determination of whether proper operation and maintenance procedures are being undertaken at the frequency necessary to maintain working operations and the overall treatment and collection systems of the wastewater treatment lagoon system;
  - 6.5.1.16. Recommendations, as appropriate, to remedy identified problems;
  - 6.5.1.17. A brief description of any actions taken with regard to problems identified;
  - 6.5.1.18. Overall visual observations to identify potential concerns with the "health" of the lagoon system (e.g., water is cloudy, water coloration concerns (e.g. red, black, grey, dark blue-green and cloudy), etc.); and
  - 6.5.1.19. Other information, problems identified, or observations, as appropriate.

The Permittee shall maintain the notebook/logbook in accordance with required record-keeping items listed above and shall make the log available for inspection, upon request, by authorized representatives of the U.S. Environmental Protection Agency or the applicable Tribe(s) (see Appendix A for list of Tribes).

Problems identified during the inspection (including, but not limited to, those associated with this section of the Permit) shall be corrected at the time of inspection, if possible. If they cannot be corrected at the time of the inspection, the inspector must identify a corrective action to remedy the

problem(s), as well as a timeline for completion of the remedy. Corrective actions to remedy problem(s) shall be in line with (and addressed through) proper operation and maintenance (Section 6.6 of this Permit.). All problems identified during inspections, as well as associated corrective actions and timelines, shall be documented in the inspection log.

## **6.6 Proper Operation and Maintenance:**

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

The Permittee shall do the following as part of the operation and maintenance program for the wastewater treatment facility:

- 6.6.1. For Permittees not previously covered under the Region 8 General Permit for Wastewater Lagoon Systems in Indian Country, the Permittee shall, as soon as reasonable and practicable, but no later than six (6) months after the effective date of this Permit, do the following as part of the operation and maintenance program for the wastewater treatment facility:
  - 6.6.1.1. Have a current O & M Manual(s) that describes the proper operational procedures and maintenance requirements of the wastewater treatment facility;
  - 6.6.1.2. Have the O & M Manual(s) readily available to the operator of the wastewater treatment facility and require that the operator become familiar with the manual(s) and any updates;
  - 6.6.1.3. Have a schedule(s) for routine operation and maintenance activities at the wastewater treatment facility; and,
  - 6.6.1.4. Require the operator to perform the routine operation and maintenance requirements in accordance with the schedule(s).

For Permittees renewing coverage under this Permit, the Permittee is expected to have the above listed items (Sections 6.6.1.1. thru 6.6.1.4., which were part of the requirements under the previous Region 8 General Permit for Wastewater Lagoon Systems in Indian Country) completed prior to the coverage date under this Permit. These Permittees shall ensure that each of the items listed above are updated and maintained as part of the operation and maintenance program for the wastewater treatment facility.

In addition to the operation and maintenance items in the manual for the lagoon system, ALL Permittees shall do the following maintenance, at a minimum:

The Permittee shall maintain a log in either paper (e.g. bound notebook) or electronic format containing a summary record of any daily operation and maintenance activities at the wastewater treatment lagoon facility and collection system, that is to be updated on each day operation and maintenance activities are performed. At a minimum, the log shall include the following information:

- 6.6.1.5. Date and time;
- 6.6.1.6. Name and title of person(s) making the log entry;

- 6.6.1.7. Name of the persons(s) performing the activity;
- 6.6.1.8. A brief description of any operations and maintenance activity performed on the wastewater treatment lagoon system;
- 6.6.1.9. The Permittee shall ensure that necessary action to promptly correct the problem of leakage through the dikes is taken and documented in the maintenance log;
- 6.6.1.10. The Permittee shall ensure that necessary action to promptly remove burrowing animals from the dikes is taken and documented in the maintenance log;
- 6.6.1.11. The Permittee shall ensure prompt repair of damage to dikes caused by burrowing animals and/or erosion and documentation of all actions in the maintenance log;
- 6.6.1.12. The Permittee shall ensure removal of rooted plants, including weeds and trees, from the water on a regular basis or as needed and documentation of all actions in the maintenance log; and
- 6.6.1.13. The Permittee shall ensure that the dikes are kept mowed on a regular basis during the growing season or as needed (i.e., vegetation not greater than 6" tall or any height that may interfere with monitoring, operation and maintenance of the system) and that documentation of all actions taken are recorded in the maintenance log.
- 6.6.1.14. Other information, as appropriate.

The Permittee shall maintain the daily log in accordance with proper record-keeping procedures and shall make the log available for inspection, upon request, by authorized representatives of the U.S. Environmental Protection Agency or the applicable Tribe(s)(see Appendix A for list of Tribes).

- 6.6.2. Staffing and Funding: The Permittee shall provide adequate staff and funding to carry out the operation, maintenance, repair, and testing functions required to ensure compliance with the terms and conditions of this Permit. The level of staffing needed, in numbers, training and experience, shall be determined taking into account the work involved in operating the system, conducting maintenance, and complying with this Permit.

## **6.7 Removed Substances:**

Collected screenings, grit, solids, sludge (including sewage sludge), or other pollutants removed in the course of treatment shall be buried or disposed in a manner consistent with all applicable federal and tribal regulations (e.g., 40 CFR Part 257, 40 CFR Part 258, 40 CFR Part 503). Sludge/digester supernatant and filter backwash shall not be directly blended with or enter either the final plant discharge and/or waters of the United States.

## **6.8 Bypass of Treatment Facilities:**

- 6.8.1. Bypass not exceeding limitations. The Permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Sections 6.8.2 and 6.8.3 of this Permit.
- 6.8.2. Notice:
  - 6.8.2.1. Anticipated bypass. If the Permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass to the to

EPA, Region 8, NPDES and Wetlands Enforcement Section Enforcement Unit at (800) 227-8917 (8:00 a.m. - 4:30 p.m. Mountain Time) and the applicable Tribe(s)(see Appendix A for list of Tribes and telephone numbers) (8:00 a.m. - 4:30 p.m. local time). As of December 21, 2025 all notices submitted in compliance with this section must be submitted electronically by the Permittee to the EPA or initial recipient, as defined in 40 CFR 127.2(b), unless otherwise indicated in compliance with this section, 40 CFR Part 3 (including, in all cases, subpart D to Part 3), 40 CFR §122.22, and 40 CFR Part 127, should electronic reporting not be available by December 21, 2025.

6.8.2.2. Unanticipated bypass. The Permittee shall submit notice of an unanticipated bypass as required under Section 5.10 of this Permit, Twenty-four Hour Notice of Noncompliance Reporting, to EPA, Region 8, NPDES and Wetlands Enforcement Section Enforcement Unit at (800) 227-8917 (8:00 a.m. - 4:30 p.m. Mountain Time) and the applicable Tribe(s)(see Appendix A for list of Tribes and telephone numbers) (8:00 a.m. - 4:30 p.m. local time). As of December 21, 2025 all notices submitted in compliance with this section must be submitted electronically by the Permittee to the EPA or initial recipient, as defined in 40 CFR 127.2(b), unless otherwise indicated in compliance with this section and 40 CFR Part 3 (including, in all cases, subpart D to Part 3), 40 CFR §122.22, and 40 CFR Part 127, should electronic reporting not be available by December 21, 2025.

### 6.8.3. Prohibition of bypass.

6.8.3.1. Bypass is prohibited and the EPA may take enforcement action against a Permittee for a bypass, unless:

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

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

6.8.3.1.3. The Permittee submitted notices as required under Section 6.8.2 of this Permit.

6.8.3.2. The EPA may approve an anticipated bypass, after considering its adverse effects, if the EPA determines that it will meet the three conditions listed above in Section 6.8.3.1 of this Permit.

## 6.9 Upset Conditions:

6.9.1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Section 6.9.2 of this Permit are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review (i.e., Permittees will have the opportunity for a

judicial determination on any claim of upset only in an enforcement action brought for noncompliance with technology-based permit effluent limitations).

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

6.9.2.1. An upset occurred and that the Permittee can identify the cause(s) of the upset;

6.9.2.2. The permitted facility was at the time being properly operated;

6.9.2.3. The Permittee submitted notice of the upset as required under Section 5.10, Twenty-four Hour Notice of Noncompliance Reporting, of this Permit; and,

6.9.2.4. The Permittee complied with any remedial measures required under Section 6.4, Duty to Mitigate, of this Permit.

6.9.3. Burden of proof. In any enforcement proceeding the Permittee seeking to establish the occurrence of an upset has the burden of proof.

## **6.10 Toxic Pollutants:**

The Permittee shall comply with effluent standards or prohibitions established under Section 307 (a) of the Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the Act within the time provided in the regulations that establish those standards or prohibitions or standards for sewage sludge use or disposal, even if this Permit has not yet been modified to incorporate the requirement.

## **6.11 Industrial Waste Management:**

6.11.1. Wastewater treatment facilities covered under the Permit 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 (e.g. because of ownership; 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. The Permittees have the responsibility to protect the permitted wastewater treatment lagoon facility from pollutants which would inhibit, interfere, or otherwise be incompatible with operation of the treatment works including interference with the use or disposal of sewage sludge.

6.11.2. General and Specific Prohibitions: Pretreatment Standards (40 CFR § 403.5) developed pursuant to Section 307 of the Act require that the Permittee shall not allow, under any circumstances, the introduction of the following pollutants to the wastewater treatment lagoon system from any source of non-domestic discharge:

6.11.2.1. Any other pollutant which may cause Pass Through or Interference.

6.11.2.2. Pollutants which create a fire or explosion hazard in the wastewater treatment lagoon system, including, but not limited to, waste streams with a closed cup flashpoint of less

than sixty (60) degrees Centigrade (140 degrees Fahrenheit) using the test methods specified in 40 CFR § 261.21;

- 6.11.2.3. Pollutants which will cause corrosive structural damage to the wastewater treatment lagoon system, but in no case discharges with a pH of lower than 5.0 standard units, unless the treatment facilities are specifically designed to accommodate such discharges;
  - 6.11.2.4. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the wastewater treatment lagoon system, or other interference with the operation of the wastewater treatment lagoon system;
  - 6.11.2.5. Any pollutant, including oxygen demanding pollutants (e.g., BOD<sub>5</sub>), released in a discharge at a flow rate and/or pollutant concentration which will cause Interference with any treatment process of the wastewater treatment lagoon system;
  - 6.11.2.6. Heat in amounts which will inhibit biological activity in the wastewater treatment lagoon system resulting in Interference, but in no case heat in such quantities that the temperature at the wastewater treatment lagoon system exceeds forty (40) degrees Centigrade (104 degrees Fahrenheit) unless EPA, upon request of the wastewater treatment lagoon system, approves alternate temperature limits;
  - 6.11.2.7. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through;
  - 6.11.2.8. Pollutants which result in the presence of toxic gases, vapors, or fumes within the wastewater treatment lagoon system in a quantity that may cause acute worker health and safety problems;
  - 6.11.2.9. Any trucked or hauled pollutants, except at discharge points designated by the wastewater treatment lagoon system; and
  - 6.11.2.10. Any specific pollutant which exceeds a local limitation established by the Permittee in accordance with the requirements of 40 CFR§ 403.5(c) and (d).
- 6.11.3. For the wastewater treatment lagoon systems covered by this Permit, EPA presently is the Approval Authority for the Pretreatment Program as defined in 40 CFR § 403.3. The mailing address for all reporting and notifications shall be mailed to the addresses indicated in Section 5.6 of the Permit.
- 6.11.4. Categorical Pretreatment Standards/Point Source Categories: In addition to the general limitations expressed above, more specific Pretreatment Standards have been and will be promulgated for specific industrial categories under Section 301, 306, and 307 of the Act (40 CFR Part 405 et. seq.).
- 6.11.5. The Permittee must notify the EPA at the address in Section 5.6 and the appropriate Tribe(s) (see list of Tribes in Appendix A of this Permit) of any new introductions by new or existing Industrial Users or any substantial change in pollutants from any Industrial User within sixty (60) days following the introduction or change. Such notice must identify:

- 6.11.5.1. Any new introduction of pollutants into the wastewater treatment lagoon system from an Industrial User which would be subject to the Point Source Categories listed in 40 CFR Part 405 et. seq. if it were directly discharging those pollutants (i.e. Sections 301, 306, or 307 of the Act); or
- 6.11.5.2. Any substantial change in the volume or character of pollutants being introduced into the wastewater treatment lagoon system by any Industrial User including but not limited to any Industrial User that discharges an average of 25,000 gallons per day or more of process wastewater to the wastewater treatment lagoon system (excluding sanitary, noncontact cooling and boiler blowdown wastewater), contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the wastewater treatment lagoon treatment system, whose discharge designated by the EPA as having a reasonable potential for adversely affecting the wastewater treatment lagoon system's operation or for violating any Pretreatment Standard or requirements. or other discharges that may cause Pass Through or Interference.;
- 6.11.5.3. For the purposes of this section, adequate notice shall include information on:
  - 6.11.5.3.1. The identity of the Industrial User;
  - 6.11.5.3.2. The nature and concentration of pollutants in the discharge and the average and maximum flow of the discharge to be introduced into the wastewater treatment lagoon system; and
  - 6.11.5.3.3. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from or biosolids or sludge produced at such wastewater treatment lagoon system.
- 6.11.6. At such time as a specific Pretreatment Standard or requirement becomes applicable to an Industrial User of the Permittee, the EPA may, as appropriate:
  - 6.11.6.1. Amend the Permittee's NPDES coverage or require the Permittee to apply for an individual permit so EPA can amend the Permittee's NPDES discharge requirements to specify the additional pollutant(s) and corresponding effluent limitation(s) consistent with the applicable national Pretreatment Standards;
  - 6.11.6.2. Require the Permittee to specify, by ordinance, order, or other enforceable means, the type of pollutant(s) and the maximum amount which may be discharged to the Permittee's wastewater treatment lagoon system for treatment. Such requirement shall be imposed in a manner consistent with the program development requirements of the General Pretreatment Regulations at 40 CFR Part 403; and/or,
  - 6.11.6.3. Require the Permittee to monitor its discharge for any pollutant which may likely be discharged from the Permittee's wastewater treatment lagoon system, should the Industrial User fail to properly pretreat its waste. Under this provision, EPA may also require the Permittee to apply for an individual permit with more site-specific monitoring and permitting requirements.



- 6.11.7. EPA retains, at all times, the right to take legal action against any source of non-domestic discharge, whether directly or indirectly controlled by the Permittee, for violations of a permit, order or similar enforceable mechanism issued by the Permittee, violations of any Pretreatment Standard or requirement, or for failure to discharge at an acceptable level under national standards issued by EPA under 40 CFR chapter I, subchapter N. In those cases where a NPDES permit violation has occurred because of the failure of the Permittee to properly develop and enforce Pretreatment Standards and requirements as necessary to protect the wastewater treatment lagoon system, the EPA shall hold the Permittee and/or Industrial User responsible and may take legal action against the Permittee as well as the Industrial User(s) contributing to the Permit violation.

## **7 GENERAL REQUIREMENTS**

### **7.1 Planned Changes:**

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

- 7.1.1. The alteration or addition could significantly change the nature or increase the quantity of pollutant discharge. This notification applies to pollutants which are not subject to effluent limitations in the Permit. For POTWs or equivalent facilities, this includes, per 40 CFR §122.42, (b)(1) Any new introduction of pollutants into the Facility from an indirect discharger which would be subject to Section 301 or 306 of CWA if it were directly discharging those pollutants; and (2) Any substantial change in the volume or character of pollutants being introduced into the Facility by a source introducing pollutants into the Facility at the time of issuance of the Permit. (3) For purposes of this paragraph, adequate notice shall include information on (i) the quality and quantity of effluent introduced into the Facility, and (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the Facility; or,
- 7.1.2. There are any planned substantial changes to the existing sewage sludge facilities, the manner of its operation, or to current sewage sludge management practices of storage and disposal. The Permittee shall give the Director notice of any planned changes at least 30 days prior to their implementation. This includes if the alteration or addition results in a significant change in the Permittee's sludge use, storage or disposal practices, and such alteration, addition, or change may justify the application of Permit conditions that are different from or absent in the Permit, including notification of additional use or disposal sites not reported during the Permit application process or not reported pursuant to an approved land application plan; or,
- 7.1.3. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29 (b).

### **7.2 Anticipated Noncompliance:**

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

### **7.3 Permit Actions:**

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

#### **7.4 Continuation of the Expired General Permit and Duty to Reapply:**

This Permit expires five years after the effective date. However, an expired general permit may continue in force and effect if it is administratively continued by EPA until a renewal general permit is issued. If the Permittee wishes to continue an activity regulated by this Permit after the expiration date of this Permit or after the administratively continued period has ended (as applicable), the Permittee must apply for and obtain permit coverage within the renewal general permit NOI application timeframe or apply for individual permit coverage (as applicable).

#### **7.5 Duty to Provide Information:**

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

#### **7.6 Other Information:**

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

#### **7.7 Signatory Requirements:**

7.7.1. All NOI applications, reports or other information submitted to EPA, in accordance with 40 CFR 122.22, shall be signed as follows:

7.7.1.1. *For a corporation.* By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

- i. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or
- ii. The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

NOTE: EPA does not require specific assignments or delegations of authority to responsible corporate officers identified in Section 7.7.1.1. (i) of this Permit (above). EPA will presume that

these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the EPA to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under Section 7.7.1.1.(ii) of this Permit (above) rather than to specific individuals.

7.7.1.2. *For a partnership or sole proprietorship.* By a general partner or the proprietor, respectively; or

7.7.1.3. *For a municipality, State, Federal, or other public agency.* By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

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

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

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

7.7.2.3. The written authorization is submitted to the EPA.

7.7.3. Changes to authorization: If an authorization under Section 7.7.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Section 7.7.2 must be submitted to EPA prior to or together with any reports, information, or applications to be signed by an authorized representative.

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

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

Typed or Printed Name: \_\_\_\_\_

Signature \_\_\_\_\_

Title: \_\_\_\_\_

Date \_\_\_\_\_

7.7.5. Electronic Reporting: If documents described in paragraph Sections 7.7.1. and 7.7.2. (above) of this Permit are submitted electronically by or on behalf of the permitted facility, any person providing the electronic signature for such documents shall meet all relevant requirements of this section, and shall ensure that all of the relevant requirements of 40 CFR Part 3 (including, in all cases, subpart D to part 3) (Cross-Media Electronic Reporting) and 40 CFR Part 127 (NPDES Electronic Reporting Requirements) are met for that submission.

### **7.8 Penalties for Falsification of Reports:**

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

### **7.9 Availability of Reports:**

Except for data determined to be confidential under 40 CFR Part 2, Subpart B, all reports prepared in accordance with the terms of this Permit shall be available for public inspection at the EPA Region 8 Offices. As required by the Act and 40 CFR 122.7, permit applications, permits and effluent data shall not be considered confidential.

### **7.10 Property Rights:**

The issuance of this Permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, or any infringement of federal, state, tribal or local laws or regulations.

### **7.11 Severability:**

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

### **7.12 Transfers:**

Permit coverage is not transferable to any person except after notice to EPA. EPA may require modification or revocation and reissuance of the permit to change the name of the Permittee and incorporate such other requirements as may be necessary under the Act.

Except as provided in 40 CFR 122.61 and Section 7.12.1 (below) of the Permit, Permit coverage may be transferred by the Permittee to a new owner or operator only if the Permit coverage has been modified or revoked and reissued (under §122.62(b)(2)), or a minor modification made (under §122.63(d)), to identify the new Permittee and incorporate such other requirements as may be necessary under Act.

7.12.1. This permit may be automatically transferred to a new Permittee if:

1. The current Permittee notifies the EPA and the Tribe(s) at least 30 days in advance of the proposed transfer date at the addresses in Section 5.6 of this Permit;
2. The notice includes a written agreement between the existing and new Permittees containing a specific date for transfer of the Permit responsibility, coverage, and liability between them; and
3. The EPA does not notify the existing Permittee and the proposed new Permittee of EPA's intent to modify, or revoke and reissue this Permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in item 2 of Section 7.12.1. (above).

### **7.13 Oil and Hazardous Substance Liability:**

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

### **7.14 Permittees in Indian Country:**

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

### **7.15 Reopener Provision:**

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

- 7.15.1. Water Quality Standards: The water quality standards of the receiving water(s) to which the Permittee discharges are modified in such a manner as to require different limits than contained in this Permit.
- 7.15.2. Wasteload Allocation: A wasteload allocation is developed and approved by the applicable Tribe(s) and/or EPA for incorporation in this Permit.
- 7.15.3. Water Quality Management Plan: A revision to a water quality management plan is approved and adopted which calls for different effluent limitations than contained in this Permit.
- 7.15.4. At such time as a specific Pretreatment Standard or requirement becomes applicable to an industrial user of the Permittee, the Approval Authority may, as appropriate, amend the Permittee's NPDES discharge Permit coverage in accordance with Section 6.11.6. of the Permit.

### **7.16 Requiring an Individual Permit or an Alternative General Permit:**

- 7.16.1. Requiring an individual permit. The EPA may require any discharger authorized by a general permit to apply for and obtain an individual NPDES permit. Any interested person may petition the EPA to take action under this section. Typical situations where an individual NPDES permit may be required include, but may not be limited to, the following:

- a) The discharger or “treatment works treating domestic sewage” (as defined in 40 CFR § 122.2) is not in compliance with the conditions of the Permit;
- b) 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;
- c) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source or treatment works treating domestic sewage;
- d) Effluent limitation guidelines are promulgated for point sources covered by the general NPDES permit;
- e) A Water Quality Management plan containing requirements applicable to such point sources is approved;
- f) Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary;
- g) Standards for sewage sludge use or disposal have been promulgated for the sludge use and disposal practice covered by the general NPDES permit; or
- h) The discharge(s) is a significant contributor of pollutants. In making this determination, the EPA may consider the following factors:
  - 1) The location of the discharge with respect to waters of the United States;
  - 2) The size of the discharge;
  - 3) The quantity and nature of the pollutants discharged to waters of the United States; and
  - 4) Other relevant factors.

7.16.2. EPA may require any person authorized by this Permit to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Where EPA requires a discharger authorized to discharge under this Permit to apply for an individual NPDES permit, the EPA shall notify the discharger in writing that a permit application is required. This notification shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for the discharger to file the application, and a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the individual Permittee, coverage under this general permit shall automatically terminate. Applications shall be submitted to the mailing address given in Section 2.4 of this Permit. EPA may grant additional time to submit the application upon request of the applicant. If a discharger fails to submit in a timely manner an individual NPDES permit application as required by EPA under this section, then the applicability of this Permit to the individual NPDES permittee is automatically terminated at the end of the day specified by EPA for application submittal.

7.16.3. Any discharger authorized by this Permit may request to be excluded from the coverage of this permit by applying for an individual permit. In such cases, the Permittee shall submit an individual application in accordance with the requirements of 40 CFR § 122.21, with reasons supporting the request, to EPA at the mailing address given in Section 2.4 of this Permit. The application shall be submitted no later than 90 days after the publication by EPA of the general permit in the Federal Registrar and the request shall be processed under 40 CFR § 124. The request may be granted by issuance of any individual permit or coverage under an alternative general permit if the reasons cited by the Permittee are adequate to support the request.

7.16.4. When an individual NPDES permit is issued to a discharger otherwise subject to this Permit, or the discharger is authorized to discharge under an alternative NPDES general permit, the applicability of this Permit to the individual NPDES Permittee is automatically terminated on the

effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be.

### **7.17 Termination of Permit Coverage:**

In accordance with 40 CFR § 122.64, the following are causes for terminating Permit coverage during its term, or for denying a permit renewal:

- 1) Noncompliance by the Permittee with any condition of the Permit;
- 2) The Permittee's failure in the application or during the Permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;
- 3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
- 4) A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit (for example, plant closure or termination of discharge by connection to a POTW).

EPA shall follow the applicable procedures in 40 CFR § 124 or 22, as appropriate, in terminating any NPDES permit coverage under this section, except that if the entire discharge is permanently terminated by elimination of the flow or by connection to a POTW (but not by land application or disposal into a well), EPA may terminate Permit coverage by notice to the Permittee. Termination by notice shall be effective 30 days after notice is sent, unless the Permittee objects within that time. If the Permittee objects during that period, EPA shall proceed in accordance with 40 CFR §124 of this chapter for termination.

Expedited permit termination procedures are not available to Permittees that are subject to pending State and/or Federal enforcement actions including citizen suits brought under State or Federal law. If requesting expedited permit termination procedures, a Permittee must certify that it is not subject to any pending State or Federal enforcement actions including citizen suits brought under State or Federal law.

Permittees that wish to terminate Permit coverage must submit a Notice of Termination (NOT) to EPA. If requesting expedited permit termination procedures, a Permittee must certify in the NOT that it is not subject to any pending State or Federal enforcement actions including citizen suits brought under State or Federal law. As of December 21, 2025 all NOTs submitted in compliance with this section must be submitted electronically by the Permittee to the EPA or initial recipient, or as otherwise defined in 40 CFR § 127.2(b), in compliance with this section and 40 CFR § 3 (including, in all cases, subpart D), §122.22, and 40 CFR § 127. Part 127 is not intended to undo existing requirements for electronic reporting.

**APPENDIX A. LIST OF ENVIRONMENTAL COORDINATORS FOR APPLICABLE TRIBES IN REGION 8 STATES: UTAH, SOUTH DAKOTA, NORTH DAKOTA, WYOMING, MONTANA, COLORADO**

**LIST OF ENVIRONMENTAL COORDINATORS FOR APPLICABLE TRIBES IN COLORADO**

<b>Tribe</b>	<b>Environmental Coordinator Contact Information</b>
Southern Ute Indian Tribe of the Southern Ute Reservation	Environmental Programs Division Head Southern Ute Indian Tribe P.O. Box 737 Ignacio, CO 81137 (970) 563-2206
Ute Mountain Ute Tribe of the Ute Mountain Reservation	Environmental Director Ute Mountain Ute Tribe P.O. Box 448 Towaoc, CO 81334 (970) 564-5600

**LIST OF ENVIRONMENTAL COORDINATORS FOR APPLICABLE TRIBES IN MONTANA**

<b>Tribe</b>	<b>Environmental Coordinator Contact Information</b>
Blackfeet Tribe of the Blackfeet Indian Reservation of Montana	Environmental Director Blackfeet Tribe P.O. Box 2029 Browning, MT 59417 (406) 338-7421
Crow Tribe of Montana of the Crow Indian Reservation	Environmental Director Crow Tribe of Montana P.O. Box 159 Crow Agency, MT 59022 (406) 426-0397
Confederated Salish & Kootenai Tribes of the Flathead Reservation	Environmental Director CSKT of the Flathead Reservation 301 Main Street Polson, MT 59860 (406) 675-2700 ext. 7208
Fort Belknap Indian Community of the Fort Belknap Reservation of Montana	Environmental Director Fort Belknap Environmental Protection Program 656 Agency Main Street Harlem, MT 59526 (406) 353-2205 ext. 8429
Assiniboine & Sioux Tribes of the Fort Peck Indian Reservation	Environmental Director Assiniboine & Sioux Tribes P.O. Box 1027 Poplar, MT 59255 (406) 768- 2329
Northern Cheyenne Tribe of the Northern	Environmental Director



<b>Tribe</b>	<b>Environmental Coordinator Contact Information</b>
Cheyenne Indian Reservation	Northern Cheyenne Tribe P.O. Box 128 Lame Deer, MT 59043 (406) 477-6508 ext. 101
Chippewa Cree Tribe of the Rocky Boy's Reservation	Environmental Director Chippewa Cree Tribe of the Rocky Boy's Reservation P.O. Box 544 Box Elder, MT 59521 (406) 395-4225

**LIST OF ENVIRONMENTAL COORDINATORS FOR APPLICABLE TRIBES IN NORTH DAKOTA**

<b>Tribe</b>	<b>Environmental Coordinator Contact Information</b>
MHA Nation of the Fort Berthold Reservation	Environmental Director MHA Nation 404 Frontage Road New Town, ND 58763 (701) 627-6127
Spirit Lake Tribe of the Spirit Lake Reservation	Environmental Director Spirit Lake Tribe P.O. Box 99 Fort Totten, ND 58335 (701) 230-0573
Standing Rock Sioux Tribe of the Standing Rock Reservation	Environmental Director Standing Rock Sioux Tribe P.O. Box D Fort Yates, ND 58538 (701) 854-3823
Turtle Mountain Band of Chippewa Indians of North Dakota	Director of Tribal Environmental Program Turtle Mountain Band of Chippewa Indians of North Dakota P.O. Box 900 Belcourt, ND 58316 (701) 477-0407 ext. 214 or (701) 477-8328

**LIST OF ENVIRONMENTAL COORDINATORS FOR APPLICABLE TRIBES IN SOUTH DAKOTA**

<b>Tribe</b>	<b>Environmental Coordinator Contact Information</b>
Cheyenne River Sioux Tribe of the Cheyenne River Reservation	Environmental Director Cheyenne River Sioux Tribe of the Cheyenne River Reservation P.O. Box 590 Eagle Butte, SD 57625 (605) 964-6558
Crow Creek Sioux Tribe of the Crow Creek Reservation	Environmental Director Crow Creek Sioux Tribe of the Crow Creek

<b>Tribe</b>	<b>Environmental Coordinator Contact Information</b>
	Reservation P.O. Box 380 Fort Thompson, SD 57339 (605) 245-2608
Flandreau Santee Sioux Tribe of the Flandreau Santee Sioux Reservation -South Dakota	Environmental Director Flandreau Santee Sioux Tribe of South Dakota P.O. Box 283 Flandreau, SD 57028 (605) 997-5123
Sisseton-Wahpeton Oyate of the Lake Traverse Reservation	Environmental Director Sisseton-Wahpeton Oyate of the Lake Traverse Reservation P.O. Box 509 Agency Village, SD 57262-0509 (605) 698-6575
Lower Brule Sioux Tribe of the Lower Brule Reservation	Environmental Director Lower Brule Sioux Tribe of the Lower Brule Reservation 187 Oyate Circle Lower Brule, SD 57548 (605) 473-0163
Oglala Sioux Tribe of the Pine Ridge Reservation	Environmental Director Oglala Sioux Tribe of the Pine Ridge Reservation P.O. Box 2008 Pine Ridge, SD 57770 (605) 867-5236 or 5736 or 5476
Rosebud Sioux Tribe of the Rosebud Indian Reservation	Environmental Director Rosebud Sioux Tribe of the Rosebud Indian Reservation P.O. Box 658 Rosebud, SD 57570 (605) 747-2933
Yankton Sioux Tribe of the Yankton Sioux Reservation	Environmental Director Yankton Sioux Tribe P.O. Box 1153 Wagner, SD 57380 (605) 384-5012

**LIST OF ENVIRONMENTAL COORDINATORS FOR APPLICABLE TRIBES IN UTAH**

<b>Tribe</b>	<b>Environmental Coordinator Contact Information</b>
Northwestern Band of Shoshoni Nation of Utah Reservation (Washakie)	Environmental Director Northwestern Band of Shoshoni Nation of Utah 505 Pershing Avenue, Suite 200 Pocatello, Idaho 83201 (208) 406-6774
Paiute Indian Tribe of Utah	Environmental Director

<b>Tribe</b>	<b>Environmental Coordinator Contact Information</b>
	Paiute Indian Tribe of Utah 440 North Paiute Drive Cedar City, UT 84721 (435) 586-1112 ext. 801
Skull Valley Band of Goshute Indians of Utah	Environmental Director Skull Valley Band of Goshute Indians of Utah P.O. Box 448 Grandville, UT 84029 (435) 882-4532
Ute Indian Tribe of the Uintah & Ouray Reservation	Natural Resources Director Ute Indian Tribe P.O. Box 190 Fort Duchesne, UT 84026 (435) 725-4803

**LIST OF ENVIRONMENTAL COORDINATORS FOR APPLICABLE TRIBES IN WYOMING**

<b>Tribe</b>	<b>Environmental Coordinator Contact Information</b>
Northern Arapaho Tribe of the Wind River Reservation	Environmental Director Northern Arapaho Tribe P.O. Box 396 Fort Washakie, WY 82514 (307) 463-4185
Eastern Shoshone Tribe of the Wind River Reservation	Environmental Director Eastern Shoshone Tribe P.O. Box 217 Fort Washakie, WY 82514 (307) 332-3532

## **APPENDIX B. PROCEDURES RELATING TO THREATENED AND ENDANGERED SPECIES PROTECTION**

### **Assessing the Effects of a Facility's Discharge and Discharge-Related Activities:**

As set forth in Section 1.3.5 of the Permit, coverage under this general permit is only available if the Permittee follows the procedures set forth in this Appendix and demonstrates that it meets at least one of the six eligibility criteria related to the protection of federally-listed threatened or endangered species (federally-listed species) or their designated critical habitat. In accordance with Section 5.9 Retention of Records of the Permit, the facility must maintain documentation with the Permit to support the determination of eligibility under Section 1.3.5 of the Permit, including the process employed and results of the federally-listed species investigation.

If a Permittee is seeking renewal of coverage under the Permit, the applicant must complete this analysis using any data collected when the facility was fully active and discharging, even if the applicant is now claiming that the facility is not discharging. If no such data exists for a wastewater lagoon system, the facility should utilize the best available information from any facility(ies) expected to or already discharging substantially similar effluents. An applicant should contact EPA if assistance is needed in obtaining data from a facility with a substantially similar effluent.

When evaluating the potential effects of activities, an applicant must consider effects to federally-listed species or designated critical habitats within the "action area." "Action area" is defined as all areas affected directly or indirectly by the wastewater activities, and not merely the immediate area involved in these discharges and activities. See 50 CFR 402.02. This includes areas beyond the footprint of the facility that are likely to be affected by planned or unplanned lagoon discharges, and discharge-related activities. EPA encourages coordination with the U.S. Fish and Wildlife Service (FWS) early in the process prior to submitting a NOI for coverage under this permit and documentation of such coordination.

### **Eligibility Criterion:**

As required by Section 1.3.5 of this Permit, the wastewater lagoon system must meet one or more of the following criteria to be eligible for coverage under the Permit for the facility's wastewater discharge and discharge-related activities. **For all Criteria, the FWS IPaC site (<https://ecos.fws.gov/ipac/>) must be used when determining the likely presence of federally-listed species or designated critical habitat.**

**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.

Criterion A. No federally-listed threatened or endangered species nor designated critical habitat are likely to occur in the facility's "action area."

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

- there are no federally-listed species nor designated critical habitat in the facility's action area.

- If the above is true, the applicant may select Criterion A on the NOI. If the above is not true, applicant may not select Criterion A.

An explanation of the basis for selecting this criterion and supporting documentation identifying the FWS information sources (including the FWS IPaC site) must be maintained by the applicant in accordance with Section 5.9 Retention of Records of the Permit.

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

In order to be eligible for coverage under Criterion B, the applicant must confirm that all the following are true:

- Consultation between a Federal agency and the FWS under ESA section 7(a)(2) has been concluded. The consultation may be either formal or informal and would have occurred only as a result of a separate federal action. Consultation must have addressed the potential effects of the facility's wastewater discharge and related activities on all federally-listed threatened or endangered species or all federally-designated critical habitat in the facility action area. The result of this consultation must be either:
  - i) an FWS biological opinion that concludes that the action in question (taking into account the effects of your facility's discharges and related activities) is not likely to jeopardize the continued existence of federally-listed species, nor the destruction or adverse modification of designated critical habitat; or
  - ii) written concurrence from the FWS with the federal agency's finding that its action (including the facility's wastewater discharge and related activities) is not likely to adversely affect federally-listed species or designated critical habitat.
- The applicant must verify with the appropriate federal agency that the consultation remains valid and that there is no obligation to re-initiate consultation under 50 CFR §402.16. If re-initiation of consultation is required, in order to be eligible under this criterion, the applicant must ensure that consultation has been re-initiated by the appropriate federal agency and the result must be consistent with (i) or (ii) above.
- If all of the above are true, the applicant may select Criterion B on the NOI. If any of the above is not true, the applicant may not select Criterion B.

If eligible under this criterion, the Permittee must maintain documentation with the Permit in accordance with Section 5.9 Retention of Records of the Permit, including identification of the federal agency(ies) and its action, the FWS office involved in the consultation, any identifiers or tracking information for the process, the date consultation was completed and federal agency's biological evaluation or assessment and the FWS biological opinion or concurrence letter.

Criterion C. A wastewater lagoon system's activities and associated potential take are authorized through the issuance of a permit under section 10 of the ESA, and the authorization addresses the effects of the wastewater discharges and related activities on federally-listed species or designated critical habitat.

In order to be eligible for coverage under Criterion C, the applicant must confirm that the following is true:

- A permit has been issued under section 10 of the ESA. The permit authorization specifically addresses the effects of the facility's wastewater discharges and related activities on all federally-listed species or designated critical habitat in the facility's action area.
- If the above is true, the applicant may select Criterion C on the NOI. If the above is not true, the applicant may not select Criterion C.

If eligible under this criterion, the Permittee must maintain relevant documentation with the Permit in accordance with Section 5.9 Retention of Records of the Permit, including information on the FWS office that provided the permit, any tracking numbers or identifiers (e.g., IPaC number, ECO number) and a copy of the permit from the FWS.

Criterion D. [This Criterion was in the previous general permit but is no longer an acceptable option for purposes of this renewal Permit. EPA will contact any applicant that selects this option in the renewal NOI to discuss which Criterion would be most appropriate based on the facility's situation].

Criterion E. Federally-listed species or their designated critical habitat(s) are likely to occur in or near the facility's "action area," and the wastewater discharges and related activities **are not** likely to adversely affect the listed species or their designated critical habitat.

To be eligible for permit coverage under Criterion E, the applicant must demonstrate that the facility's wastewater discharge and wastewater management related activities are not likely to adversely affect federally-listed species and designated critical habitat that may occur in the facility's action area. To arrive at this conclusion, the applicant must maintain documentation to conclude that at least one of the following is true:

- listed species or critical habitat are not likely to be exposed to the effects of the facility's activities; or
- if they may be exposed, the facility's activities are not likely to adversely affect the listed species or result in the destruction or adverse modification of designated critical habitat.

In addition, to certify eligibility under this criterion, the applicant must follow the assessment procedures in this Appendix (listed in the following section: Summary of Steps to Assist in the Determination of ESA Eligibility) and must provide the following information to the EPA along with the completed NOI form:

- i. If the facility is an **existing discharger**, the following shall be submitted:

- a. An updated list of the federally-listed species and any designated critical habitat that are likely to occur in the “action area” based on the most current FWS IPaC and other informational resources;
- b. A list of the pollutant parameters for which the facility has ever exceeded any applicable permitted effluent limitations, or for which the facility has ever been found to have caused or contributed to an exceedance of any applicable water quality standard or to have violated a tribal water quality requirement; AND
- c. If the facility was eligible under this criterion for the previous EPA Region 8 general permit for lagoon waste systems, documentation as noted in either option 1 or 2 (below) shall be submitted based on the facility’s circumstance at the time of the NOI submission:
  1. If there is **NO CHANGE** to the action area; federally-listed species; designated critical habitat; or potential effects from the discharge and related activities to such species or critical habitat, the applicant must submit:
    - a. a rationale supporting the facility’s determination that it qualifies under Criterion E;
    - b. documentation confirming that there has been no change in the facility’s action area and, based on the current FWS IPaC or other informational resources, there are no additional FWS-listed species, designated critical habitat listed by FWS or other new information relevant to potential effects on such species or critical habitat;
    - c. information on the approximate distance (in miles) between the facility’s discharge(s) and federally-listed species or designated critical habitat; and
    - d. a description of measure(s) the facility will implement or continue to implement to ensure that no likely adverse effects on federally-listed species or critical habitat will occur (e.g. appropriate measures to be undertaken to avoid or eliminate the likelihood of adverse effects);

**OR**

2. If there **HAVE BEEN CHANGES** in your facility’s action area; and/or additional threatened or endangered species; and/or designated critical habitat have been listed by FWS in the facility’s action area since your certification under the previous EPA Region 8 general permit for lagoon waste systems; and/or your facility’s discharges have changed in a manner that may potentially affect such species or critical habitat; the applicant must submit:
  - a. a rationale supporting the facility’s determination that it qualifies under Criterion E;

- b. a description of the changes in the facility's action area, FWS designated critical habitat, or additional federally-listed species (as applicable);
  - c. information on the approximate distance (in miles) between the facility's discharge(s) and federally-listed species or designated critical habitat; and
  - d. a description of measure(s) the facility will implement or continue to implement to ensure that no likely adverse effects on federally-listed species or critical habitat will occur (e.g. appropriate measures to be undertaken to avoid or eliminate the likelihood of adverse effects).
- ii. If the facility is a **new discharger**, the following shall be submitted:
- a. a list of the federally-listed threatened or endangered species or their designated critical habitat that are likely to occur in the "action area" based on the most current FWS IPaC and other informational resources;
  - b. a list of the potential pollutants in the facility's discharge; AND
  - c. if any ESA-listed species or designated critical habitat are likely to occur in the action area, but the facility's discharges are not likely to adversely affect them, the applicant shall also submit:
    - a rationale supporting the facility's determination that it qualifies under Criterion E;
    - information on the approximate distance (in miles) between the facility's discharge(s) and the federally-listed species or designated critical habitat; and
    - a description of measure(s) the facility will implement or continue to implement to ensure that no likely adverse effects on federally-listed species or critical habitat will occur (e.g. appropriate measures to be undertaken to avoid or eliminate the likelihood of adverse effects).

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

In addition to submitting to the EPA, the above-described information to demonstrate eligibility under this Criterion with the NOI, the Permittee must also maintain relevant documentation with the Permit, in accordance with Section 5.9 Retention of Records of the Permit, supporting the claim for Criterion E.

If analysis reveals that the wastewater discharge and its related activities **are** likely to adversely affect federally-listed species and/or designated critical habitat; **and/or the facility cannot ascertain measures to implement to avoid** the likelihood of adverse effects, **the Permittee cannot submit an NOI for coverage under this general permit and must apply for an individual permit.**



Criterion F. The facility's wastewater discharges and related activities were already addressed in another operator's valid certification of eligibility for the facility's "action area" under one of the other criteria described in this Appendix (i.e. criteria A, B, C or E) and the permittee has confirmed (i.e. utilizing the most current FWS IPaC information) that no additional federally-listed species or designated critical habitat not considered in the prior certification may be present or located in the "action area".

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

- There has been no lapse of NPDES permit coverage in the other operator's certification.
- The other operator's certificate of eligibility accounted for the facility's action area, discharges and related activities, and that the eligibility determination was valid.
  - If the certification is based on another operator's certification under Criterion E, that certification is valid only if the applicant has documentation showing that the other operator had certified under Criterion E, and the applicant provides EPA with the relevant supporting information required of dischargers in Criterion E (listed in Criterion E above, under subparagraph (i) for existing dischargers or (ii) for new dischargers) in the NOI form.

If certifying under Criterion F, the facility must:

- document what certification was relied upon and comply with any measures or controls upon which the other operator's certification was based to ensure that wastewater discharges and discharge-related activities are protective of federally-listed species or designated critical habitat;
- comply with all terms and conditions imposed under the other operator's valid certification of eligibility, and those terms and conditions are listed in the NOI and maintained with the Permit file; and
- maintain relevant documentation with the Permit, in accordance with Section 5.9 Retention of Records of the Permit, that supported the other operator's eligibility determination, as well as any terms and conditions imposed under the eligibility requirements that applied under the prior certification, and documentation confirming that there are no additional federally-listed species or designated critical habitat since the prior certification.

If the applicant has complied with all of the above listed requirements, the applicant may select Criterion F on the NOI. If the applicant is unable to comply with the requirements above, the applicant may not select Criterion F

### **Summary of Steps to Assist in the Determination of ESA Eligibility:**

The following section provides a summary of step-by-step instructions to determine eligibility under the criteria described above.

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

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

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

Next, the applicant should determine whether federally-listed species or designated critical habitat are likely to occur in the facility's action area. The applicant can do this by obtaining a list of federally-listed species that are likely to occur in facility's general area, including the appropriate receiving water for the facility's discharges.

The FWS IPaC site (<https://ecos.fws.gov/ipac/>) must be used when determining the likely presence of federally-listed species or designated critical habitat. EPA encourages applicants to contact the FWS directly for assistance. If there are federally-listed species in the facility's county or township, the applicant must determine, as best they are able, whether any of the species are likely to occur in the facility's action area (using the appropriate FWS offices or Tribal Heritage Centers, as necessary). General species information can be found at: [www.fws.gov/angered/](http://www.fws.gov/angered/).

The applicant must also check to see if critical habitat has been designated and whether such areas overlap the facility's action area. Critical habitat should be listed on the species list for the facility's county or township, available from the appropriate FWS office. The applicant can also find critical habitat designations at 50 CFR §§ 17 and 226 and at <http://ecos.fws.gov/crithab/>.

Based on the assessment above utilizing the website tools and any coordination with the FWS:

- if the applicant confirms that there are **no federally-listed species nor designated critical habitat** in the facility's action area, the applicant **may select Criterion A** on the NOI; or
- if the applicant determines that federally-listed species or designated critical habitat **may be present** in the action area, the applicant will need to evaluate whether the facility's discharges have the potential to affect such species or critical habitat. **Proceed to Step Three.**

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

To apply for Permit coverage, the applicant must analyze the effects of facility's activities, which may include not only the facility's wastewater discharge, but also any construction, operation, maintenance, and other activities related to wastewater management. The applicant must assess whether the wastewater discharge and associated activities are likely to adversely affect federally-listed species and/or designated critical habitat.

Construction, operation, and maintenance related to the facility's wastewater discharge can potentially result in adverse hydrological, habitat and toxicity effects. The scope of effects to consider will vary with each site. If the applicant has difficulty determining whether the facility is likely to adversely affect listed species or designated critical habitat, or the FWS has already raised concerns to the facility, the applicant must contact the appropriate office of the FWS for assistance. Some potential effects include, but are not limited to:

- Wastewater discharges that may adversely affect receiving waters from parameters such as temperature, salinity, pH, or other pollutant parameters. These effects will vary with the amount of wastewater discharged and the volume and condition of the receiving water. Where a wastewater discharge constitutes a minute portion of the total volume of the receiving water, adverse hydrological effects are less likely.
- Outdoor activities, such as storage of materials, maintenance and land disturbances associated with construction or wastewater management-related activities, may adversely affect receiving waters, federally-listed species or designated critical habitat.
- Pollutants in wastewater discharges and lagoon systems (e.g. waste stabilization ponds) may have adverse or toxic effects on federally-listed species or adversely affect critical habitat. Exceedances of effluent limitations, or tribal water quality requirements may be indicative of potential adverse effects on federally-listed species or critical habitat.

**Step Four:** *Determine if the Eligibility Requirements of Criterion E can be met.*

Based on the assessment performed in Step Three:

- if adverse effects to federally-listed species or designated critical habitat are **not likely**, then the applicant **may select eligibility Criterion E** on the NOI form; or
- if the applicant **cannot** yet conclude the facility's wastewater discharge is **not likely** to adversely affect federally-listed species or designated critical habitat, or if the applicant concludes that the facility's **wastewater discharge could potentially** adversely affect listed species or critical habitat, **proceed to Step Five.**

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

If the facility could not make a preliminary determination in Steps Three and Four that adverse effects to listed species and/or critical habitat are not likely to occur, the facility can still receive coverage under Criterion E if appropriate measures are undertaken to avoid or eliminate the likelihood of adverse effects prior to applying for Permit coverage (e.g., re-routing a wastewater discharge to avoid an area where federally-listed species and/or designated critical habitat are located, etc.).

- If the facility **is able** to install and implement appropriate measures to avoid the likelihood of adverse effects, the **applicant may submit the facility's NOI for coverage under this general permit and the measures the facility adopts to avoid or eliminate adverse effects must be implemented.**
- If the facility **cannot** ascertain measures to implement to avoid the likelihood of adverse effects, the permittee **may not** submit an NOI for coverage under this general permit and **should submit an individual NPDES permit application to EPA.**

## APPENDIX C. PROCEDURES RELATING TO HISTORIC PROPERTIES

### Background:

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

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

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

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

### Historic Properties Eligibility Criteria:

- **Criterion A.** The facility’s wastewater discharges and related activities do not have the potential to have an effect on historic properties, because the facility was already covered under either the previous general permit or an individual permit, and there will be no new ground-disturbing activity on the facility’s site and no new discharges; or
- **Criterion B.** The facility’s wastewater discharges and related activities have the potential to have an effect on historic properties, but there are no historic properties within the area of potential effects (APE)<sup>1</sup>; or

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<sup>1</sup> The APE includes each lagoon facility covered by the permit and any locations that may be physically affected (for instance, as a result of downstream scouring) by facility discharges. See 36 CFR §§ 800.4(a)(1), 800.16(d).

- **Criterion C.** The facility's wastewater discharges and related activities have the potential to have an effect on historic properties, there are historic properties within the APE, and the facility has obtained and is in compliance with a written agreement with the HPO (including coordination with EPA) regarding measures to mitigate or prevent any adverse effects on historic properties; or
- **Criterion D.** The facility's wastewater discharges and related activities have the potential to have an effect on historic properties, and there are historic properties within the APE; the applicant has contacted EPA and the HPO, informing them in writing that the facility has the potential to have an effect on historic properties; and EPA, in consultation with HPO, has provided the additional measures, if any, required for the facility to be eligible for permit coverage. This category includes situations where the facility has been unable to reach an agreement with the HPO regarding appropriate measures to mitigate or prevent adverse effects.

### **Contact information**

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

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

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

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

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

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

Examples of Control Measures That Involve Ground Disturbance:

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

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

Regardless of whether they appear on this list, any control measures that involve ground-disturbing activities must be examined for the potential to affect historic properties before being implemented.

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

The applicant should use the following process to assess and certify compliance with historic property eligibility requirements under this Permit (see Section 1.3.6). Note that after notification of NOI submission, there is a 30 day waiting period during which the HPO may review the NOI and may request that EPA withhold authorization based on concerns about potential adverse impacts to historic properties. EPA will evaluate any such request, and will notify the applicant if any additional measures to address adverse impacts to historic properties are necessary.

**Step One:** Is the NOI application for an existing facility under the previous permit that is reapplying for certification, or switching to this renewal Permit from an individual permit?

An existing facility should have already addressed NHPA issues. To gain coverage under the previous general permit the facility was required to certify that it was either not affecting historic properties or had obtained written agreement from the relevant HPO regarding methods of addressing potential impacts. If the facility was previously covered under an individual permit, then EPA has already determined the facility's effect on historic properties. As long as the facility is not constructing or installing any new ground-disturbing modifications then the facility will have met eligibility **Criterion A**.

For a new facility, or an existing facility without documented NHPA compliance, proceed to Step Two. Note: if at any time during the permit term the Permittee determines that ground disturbance is needed for a facility that initially chose eligibility Criterion A, then the Permittee must follow the procedures in Steps Two through Four to ensure that the facility's eligibility for continued authorization to discharge is maintained before any ground disturbance occurs.

**Step Two:** Is the facility constructing or installing a new wastewater treatment facility that requires ground disturbance of less than one acre?

If so, assess the potential presence of historic properties within the APE, as described in (a) and (b) below.

- (a) *Determine whether the facility's APE includes any portion of a property listed in the National Register of Historic Places.* Listed properties can be identified by consulting the National Register of Historic Places at <https://www.nps.gov/subjects/nationalregister/index.htm>.

Note that this website may not be up to date, and that the connection between the facility's APE and a listed historic property may not be obvious. For any questions regarding listings in the National Register of Historic Places, the applicant should contact their HPO.

If the result of the applicant's inquiry is "yes" then proceed to Step Four. If "no," consider part (b).

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

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

Alternatively, if the facility's activities are substituted or modified to eliminate any ground disturbance, the applicant may select eligibility **Criterion A** on the NOI form and the facility would have no further obligations relating to historic properties.

**Step Three:** In coordination with the facility's HPO, or by retaining a qualified historical or archaeological consultant, determine whether any historic properties may be within the facility's APE.

This step assumes that the facility is disturbing up to one acre of land in connection with this Permit, and that the APE for the facility's project does not include any site listed in the National Register of Historic Places, and that no prior ground disturbance, survey, or other activity has revealed the presence of historic properties or other evidence that a National Register-eligible historic property may exist within the facility's APE. In these circumstances, the applicant must still determine, in coordination with the relevant HPO, whether any properties eligible for listing in the National Register of Historic Places exist within the facility's APE.

The applicant may contact the appropriate HPO to request their help in determining the presence of historic properties. Alternatively, the applicant may opt to contact a qualified historical or archaeological consultant without first contacting the HPO. If the HPO indicates to the applicant,

within 30 calendar days of the applicant making contact, that they are unable to assist, then the facility must engage the services of a qualified professional consultant. If the HPO does not respond within 30 days of the applicant making contact, the facility may assume there are no historic properties or National Register of Historic Places-eligible property within the facility's APE, may certify the facility's eligibility under **Criterion B** on the NOI form, and does not have any further obligations relating to historic properties.

The HPO and/or a qualified professional consultant can assist the applicant's analysis and determination by examining local records to determine whether historic artifacts have been found in nearby areas, conducting surveys of the facility's APE, and performing limited surface and subsurface examinations. The facility's results must be documented and retained.

If the applicant determines that there are or may be historic properties within the facility's APE, continue to Step Four.

If the applicant determines there are no historic properties within the facility's APE, the facility should inform the appropriate HPO of that finding in writing. If the HPO provides written concurrence or does not respond within 30 days of the facility making contact, the facility may assume there are no historic properties or National Register of Historic Places-eligible property within the facility's APE, may certify the facility's eligibility under **Criterion B** on the NOI form, and has no further obligations relating to historic properties.

Alternatively, if the facility's activities are substituted or modified to eliminate any controls involving ground disturbance, the applicant may select eligibility **Criterion A** on the NOI form and have no further obligations relating to historic properties.

**Step Four:** Contact EPA and appropriate historic preservation authorities.

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

If the facility enters into, and complies with, a written agreement with the HPO (in coordination with EPA) regarding how to address any adverse impacts on historic properties, the facility will have met eligibility **Criterion C**. In this case, the facility should retain a copy of the written agreement consistent with Section 5.9 Retention of Records of the Permit.

If the facility does not receive a response from the HPO within 30 days after making contact in this step, or if the facility consults with the HPO regarding adverse impacts to historic properties and measures to mitigate them but an agreement cannot be reached, EPA may require the facility to obtain coverage under an individual permit. Alternatively, EPA may determine what additional measures, if any, are required for



the facility to become eligible for Permit coverage. After complying with any such additional measures, the facility must document the facility's compliance and retain that documentation. If no additional measures are required for the facility to become eligible for permit coverage, retain the written statement from EPA informing the facility of this. The applicant may then select eligibility **Criterion D** on the facility's NOI form and the facility will have no further obligations regarding historic properties.

## APPENDIX D. EXAMPLE LAGOON INSPECTION FORM

**Inspections are required weekly** unless otherwise approved by EPA in writing. Fill out this form completely. If something is not applicable, write "N/A".

Facility Name		NPDES Permit Number	
Inspection Date		Inspection Time	
Inspector Name(s)			

**Comments/Descriptions:**

1. Is the lagoon discharging? If yes, indicate approximate flow rate in Comment/Descriptions field (note gallons per minute or gallons per day).	Yes ___ No ___	
<b>NOTE: If discharging, ensure that the appropriate monitoring and reporting requirements are performed:</b> <ul style="list-style-type: none"> <li>DISCHARGE (DIS) – See Sections 3.1 and 5.4 of the Permit</li> <li>POTENTIAL TO DISCHARGE/NO DISCHARGE (NODIS) – See Sections 3.2 and 5.4. of the Permit</li> </ul>		
2. Has the lagoon discharged since the last inspection? If yes, indicate whether monitoring and reporting was performed at the time of discharge in the Comment/Descriptions field.	Yes ___ No ___	
<b>NOTE: If monitoring and reporting was <u>not</u> performed at the time of the discharge, perform the appropriate monitoring and reporting requirements:</b> <ul style="list-style-type: none"> <li>DISCHARGE (DIS) – See Sections 3.1 and 5.4 of the Permit</li> <li>POTENTIAL TO DISCHARGE/NO DISCHARGE (NODIS) – See Sections 3.2 and 5.4. of the Permit</li> </ul>		
3. Is the lagoon likely to discharge before the next inspection?	Yes ___ No ___	
<b>NOTE: If a discharge is likely to occur before the next inspection, ensure that the appropriate monitoring and reporting requirements are performed:</b> <ul style="list-style-type: none"> <li>DISCHARGE (DIS) – See Sections 3.1 and 5.4 of the Permit</li> <li>POTENTIAL TO DISCHARGE/NO DISCHARGE (NODIS) – See Sections 3.2 and 5.4. of the Permit</li> </ul>		
4. Is there any leakage through the dikes?	Yes ___ No ___	
5. Are there any animal burrows in the dikes?	Yes ___ No ___	
6. Is there erosion of the dikes? Check to see if there are any visible signs of erosion (e.g., rills, cracks or other structural indications of erosion) in the dikes.	Yes ___ No ___	
7. Are there any rooted plants, including weeds or trees growing in the water?	Yes ___ No ___	
8. Does the vegetation on the dikes need mowing (greater than 6" in length or any height that may interfere with monitoring, operation and maintenance of the system)?	Yes ___ No ___	
9. Upon visual observation, is there a visible sheen, floating oil, floating solids or foam? If yes, perform any sampling as necessary, per Section 3 of the Permit.	Yes ___ No ___	
10. Upon visual observation, is there evidence of illicit septic dumping?	Yes ___ No ___	
11. Are there any overall visual observations indicating potential concerns with the "health" of the lagoon system (e.g., water is cloudy, water coloration concerns (e.g. red, black, grey, dark blue-green and cloudy), etc.);	Yes ___ No ___	

<p>12. In addition to issues identified in items 4-11 above, are there any operational and/or maintenance problems?  a. If yes, describe problems in Comment/Descriptions field.  b. If the facility is a NO DISCHARGE facility, include problems related to any discharges in Comment/Descriptions field.</p>	<p>Yes ___ No ___</p>	
<p>13. In the Comment/Descriptions field, list recommendations to remedy identified problems in items 4-11. If the facility is a NO DISCHARGE facility, include problems related to any discharges →</p>		
<p>14. In the Comment/Descriptions field, list any actions taken regarding identified problems →</p> <p>In the Comment/Descriptions field, list corrective actions taken at the time of inspection →</p> <p>In the Comment/Descriptions field, for any issues identified during the inspection that were not corrected at the time of inspection, identify a corrective action to remedy for the problem(s), as well as a timeline for completion of the remedy →</p>		
<p>15. Are operation and maintenance procedures being undertaken at the wastewater treatment facility?</p> <p>If yes, list the dates of operation/maintenance procedures that have been taken since the last inspection and those that are anticipated to be taken prior to the next inspection, in the Comment/Descriptions field. →</p>	<p>Yes ___ No ___</p>	
<p>16. Are proper operation and maintenance procedures being undertaken at the frequency necessary to maintain working operations and the overall treatment and collection systems of the wastewater treatment lagoon system?</p> <p>If no, indicate in the Comment/Description field why and/or any obstacles preventing proper operation and maintenance of the wastewater treatment lagoon system →</p>	<p>Yes ___ No ___</p>	
<p>17. Other information</p>		

## APPENDIX E: FORMAT FOR REPORTING EFFLUENT MONITORING DATA FOR DISCHARGES - Potential to Discharge (NO DIS) Facilities

Permittee Name: \_\_\_\_\_ NPDES Permit No.: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name of Facility Contact: \_\_\_\_\_ Phone: \_\_\_\_\_  
When discharge started or discovered: \_\_\_\_\_ (time, date)  
End of Discharge: \_\_\_\_\_ (time, date)  
Total Estimated Volume of Discharge: \_\_\_\_\_  
Time & date 24-Hour Notice of Noncompliance given to EPA & Tribe(s) \_\_\_\_\_

Written Notification was sent to EPA & Tribe(s) (check one): Yes \_\_\_ No \_\_\_  
If no, indicate reason why: \_\_\_\_\_  
\_\_\_\_\_

Describe Location and Circumstances of Discharge (may include separate attachment if insufficient space provided below)  
\_\_\_\_\_  
\_\_\_\_\_

### ANALYTICAL RESULTS

**\*Submission of Copies of Laboratory Reports is REQUIRED along with the summary of results indicated below (additional sample results summary attachment may be submitted if insufficient space in table):**

	Sample No. 1	Sample No. 2	Sample No. 3	Sample No. 4	Sample No. 5
Date of Sample Collection					
Time of Sample Collection					
Flow while Sampling, gpm					
BOD <sub>5</sub> , mg/L					
TSS, mg/L					
pH, s.u.					
Oil and Grease, Visual					
Oil and Grease, mg/L					
Total Kjeldahl Nitrogen (TKN), mg/L					
Nitrate-Nitrite, mg/L					
Total Nitrogen (TN), mg/L (calculated = TKN + Nitrate-Nitrite)					
Total Phosphorus (TP), mg/L					
<b>List any additional parameters below (e.g. supplemental monitoring requirements):</b>					

	Sample No. 1	Sample No. 2	Sample No. 3	Sample No. 4	Sample No. 5

**Any Additional Sample Collection/Result Notes:**

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

Typed or Printed Name: \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_

## APPENDIX F: Contents of Notice of Intent (NOI)

The NOI to request coverage authorization to discharge under the provisions of this Permit shall be submitted to EPA and must include the following information (along with any other additional information requested in the NOI, applicable to the wastewater treatment lagoon system):

- Facility information – including name, street address, phone number
- Facility's owner, operator, and authorized official- including legal name, street address, and email/phone number for each.
- Name, title, and work phone number/email of other contact person(s) for the facility. This should be a person that is familiar with the day-to-day operation of the facility.
- Location of facility: Give section (to nearest quarter section) township, and range (e.g., NW 1/4 sec.5, T.33 N., R.9 W.); latitude and longitude to the nearest three decimal degrees (e.g., 45.212 N, -110.153 W) or nearest 15 seconds (depending on format of lat./long. used for application); and, if applicable, the street address, city, and county.
- Is the discharge from this facility located in Indian country?
- Is the facility tribally owned and/or operated? If only partial tribal ownership, indicate what percentage?
- Does this facility have or did it previously have an individual NPDES permit? If yes, give the number of the permit and the status of the permit (e.g. effective, expired, pending, etc).
- Name of the waterway that will receive the discharge from the lagoon system. If the name of the waterway is unknown, give the name of the first downstream waterway (stream or lake) that the name is known (e.g., unnamed tributary of Rock Creek).
- For each discharge point from which the facility has either an existing or potential release of treated or untreated wastewater, assign an outfall number (e.g., 001, 002, 003, etc.) and provide a brief description of the discharge point (e.g., 001, outlet from cell number 3; 002, overflow structure on cell no. 2; 003, bypass structure at headworks of lagoon system, etc.). **Include discharge points for non-continuous overflows, bypasses or seasonal discharges.** Include latitude and longitude to the nearest 15 seconds for each outfall. If outfall numbers have been assigned on a previous permit application for this facility, the same designation shall be used.
- A map and/or diagram showing the location of the lagoon system, existing or potential discharge points, and the receiving waterway. Label discharge points by outfall number. All maps and diagrams should be submitted on 8.5" by 11" paper. It is acceptable to use a photocopy of the appropriate part of a 7.5 minute USGS quadrangle map with the necessary information added as appropriate, or satellite or aerial internet images.
- Provide the following plant design and treatment data:

- Give the year the lagoon system was originally constructed and the year(s) of any additions or modifications;
- A line drawing (flow diagram) of the current treatment system. Show all treatment units and existing or potential discharge points. Label the discharge points with outfall numbers;
- A brief description of the types of treatment units employed by the facility (e.g. bar screen, aerated or non-aerated cells, ultraviolet or chlorine disinfection, etc.);
- Total estimated average daily wastewater inflow, in MGD (million gallons per day), received by the facility;
- For each cell of the lagoon system, give the surface area (in acres or square feet) and the capacity (in million gallons);
- The average and peak design flow (mgd);
- The average and peak design organic treatment capacity (pounds of biochemical oxygen demand [BOD<sub>5</sub>] per day or design population);
- Has sludge been removed from the lagoon system in the last 5 years? If yes, give the years when it was dredged and the approximate quantity removed.
- The name of the nearest waterbody down gradient from the lagoon and the approximate distance from the lagoon to the waterbody.
- The depth, in feet, from the bottom of the lagoon to the annual high groundwater level below the lagoon.
- List any changes or improvements to the facility, either currently underway or anticipated over the next five (5) years, which will affect the quality of the discharge. Provide a narrative description of each improvement (e.g. description of improvement, including projected dates for beginning construction date, ending construction date, beginning discharge date, operational level attained, etc.).
- What is the total estimated average daily waste inflow, in mgd, from all non-domestic industrial sources?
- Non-Domestic waste sources: Provide information on any businesses (industrial or commercial) that discharge to the lagoon facility.
- Trucked-in Wastes:
- Does the treatment system receive any trucked-in wastes, including septage haulers? If yes, describe the kinds of waste received and volume and if any such waste is subject to any other state, local or federal regulations. How many days per month is septage dumped, from how many septic companies?

- Does the facility have a dedicated trucked waste discharge location? If no, where is the trucked waste discharged into the municipal facility?
- List the name and actual (or, if unavailable, estimated) population for each municipality, quasi-municipality, or unincorporated area served. Information can be gathered from census data or internet queries (list source of data).
- List any discharge sample analyses (e.g., BOD<sub>5</sub>, TSS, and *Escherichia coli* or fecal coliforms) which are routinely performed by a contract laboratory or consulting firm. For each pollutant listed, give the name, mailing address, and telephone number of the contract laboratory or consulting firm doing the analysis.
- Is a contractor responsible for any operational or maintenance aspects of the permitted facility? If yes, give the name, mailing address, and telephone number of the contractor and describe the contractor's responsibilities.
- Specify which of the following categories of operational requirements that Permittee requests consideration to be authorized for coverage under this Permit:

**DISCHARGE (DIS)** – Authorization to Discharge. This category is used for wastewater lagoon systems that either discharge on a continuous, periodic, seasonal or other intermittent basis.

**POTENTIAL TO DISCHARGE (NODIS)** – No Authorization to Discharge. This category is for those facilities that do not anticipate discharge to occur but still have a potential to discharge (e.g. unanticipated emergency discharges). These wastewater treatment lagoon facilities do not have authorization to discharge under regular operating conditions and are required to have no discharge.

**Note-Applicants may indicate a particular category for consideration when submitting NOIs however, EPA R8 reserves the right to determine final facility categorization after reviewing information submitted in the Permittee's NOIs or historical facility information. Therefore, the category of operational requirements approved by EPA may be different from that specified in the NOI.**

- Will the proposed action by the applicant affect endangered or threatened species or a specific critical habitat of an endangered or threatened species in permitted facility's county? As required by Section 1.3.5. of the Permit, the wastewater treatment lagoon system must indicate one or more of the following six criteria (A-F) to be considered for eligibility for coverage under this Permit for wastewater discharge and discharge-related activities. Use Appendix B of this Permit to select the U.S. Fish and Wildlife Service (FWS) criterion applicable:

- Criterion A
- Criterion B
- Criterion C
- Criterion D
- Criterion E
- Criterion F



If none of the six criteria apply, the wastewater treatment lagoon system cannot submit an NOI and must apply for an individual permit.

- Will the proposed action by the applicant affect properties listed, or eligible for listing, on the National Register of Historic Places? As required by Section 1.3.6. of the Permit, the wastewater treatment lagoon system must meet one or more of the following four criteria (A-D) to be eligible for coverage under this Permit for wastewater discharge and discharge-related activities. Use Appendix C of this Permit to select the National Historic Preservation Act (NHPA) criterion applicable:

- Criterion A
- Criterion B
- Criterion C
- Criterion D

If none of the four criteria apply, the wastewater treatment lagoon system cannot submit an NOI and must apply for an individual permit.

- The wastewater treatment lagoon system may report the results of any monitoring of discharges (discharge sample analyses) that occurred during the past three (3) years. Include the dates and location of any samples that were taken.
- The NOI must be submitted by the organization or entity that has the legal responsibility for operating the wastewater treatment lagoon system, shall be signed in accordance with the signatory requirements of Section 7.7 of the Permit, and the person signing the NOI shall make the following certification:

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

Typed or Printed Name: \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Title: \_\_\_\_\_