

Permit No: NDG120000
Effective Date: October 1, 2023
Expiration Date: September 30, 2028

AUTHORIZATION TO DISCHARGE UNDER THE
NORTH DAKOTA POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with Chapter 33.1-16-01 of the North Dakota Department of Environmental Quality rules as promulgated under Chapter 61-28 (North Dakota Water Pollution Control Act) of the North Dakota Century Code,

domestic wastewater treatment facilities satisfying the requirements of this permit

are authorized to discharge from waste stabilization ponds

to Class I or IA waters of the state

provided all the conditions of this permit are met.

This permit and the authorization to discharge shall expire at midnight,
September 30, 2028.

Signed this 26 day of September, 2023



Karl H. Rockeman, P.E.
Director
Division of Water Quality

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DEFINITIONS Standard Permit BP 2019.05.29

1. “**Act**” means the Clean Water Act.
2. “**Average monthly discharge limitation**” means the highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.
3. “**Average weekly discharge limitation**” means the highest allowable average of “daily discharges” over a calendar week, calculated as the sum of all “daily discharges” measured during a calendar week divided by the number of “daily discharges” measured during that week.
4. “**Best management practices**” (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage areas.
5. “**Bypass**” means the intentional diversion of waste streams from any portion of a treatment facility.
6. “**Composite**” sample means a combination of at least 4 discrete sample aliquots, collected over periodic intervals from the same location, during the operating hours of a facility not to exceed a 24-hour period. The sample aliquots must be collected and stored in accordance with procedures prescribed in the most recent edition of Standard Methods for the Examination of Water and Wastewater.
7. “**Daily discharge**” means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the “daily discharge” is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the “daily discharge” is calculated as the average measurement of the pollutant over the day.
8. “**Department**” means the North Dakota Department of Environmental Quality, Division of Water Quality.
9. “**DMR**” means discharge monitoring report.
10. “**EPA**” means the United States Environmental Protection Agency.
11. “**Geometric mean**” means the n^{th} root of a product of n factors, or the antilogarithm of the arithmetic mean of the logarithms of the individual sample values.
12. “**Grab**” for monitoring requirements, means a single "dip and take" sample collected at a representative point in the discharge stream.
13. “**Instantaneous**” for monitoring requirements, means a single reading, observation, or measurement. If more than one sample is taken during any calendar day, each result obtained shall be considered.
14. “**Maximum daily discharge limitation**” means the highest allowable “daily discharge.”
15. “**Salmonid**” means of, belonging to, or characteristic of the family Salmonidae, which includes the salmon, trout, and whitefish.

16. **“Sanitary Sewer Overflows (SSO)”** means untreated or partially treated sewage overflows from a sanitary sewer collection system.
17. **“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.
18. **“Total drain”** means the total volume of effluent discharged.
19. **“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.

OUTFALL DESCRIPTION

Outfall “Cell Name” – Active. Final Outfall. Wastewater Stabilization Ponds Discharge. The wastewater stabilization pond system receives domestic wastewater for treatment.

PERMIT SUBMITTALS SUMMARY

Coverage Point	Submittal	Frequency	First Submittal Date
“Cell Name”	Discharge Monitoring Report	Semiannually	April 30, 2024
Application Renewal	NDPDES Notice of Intent (NOI)	1/permit cycle	April 1, 2028

SPECIAL CONDITIONS

A. Alternate Permits

When an individual North Dakota Pollutant Discharge Elimination System (NDPDES) permit is issued to a facility otherwise subject to this permit, coverage under General Permit NDG120000 is automatically terminated upon the effective date of the individual permit. When a facility is approved for coverage under an alternative NDPDES general permit, the authorization under this permit is automatically terminated on the date of approval for coverage under the alternative NDPDES general permit. When an individual NDPDES permit or coverage under an alternative general permit is denied to a facility/POTW otherwise subject to this permit, the applicability of this permit remains in effect, unless otherwise specified by the department.

B. Facility Permit Coverage

1. To obtain coverage under this permit, the owner, operator, or authorized agent of the facility must submit a Notice of Intent (NOI) to Obtain Coverage Under NDPDES General Permit for Discharges Associated with the Treatment of Domestic Wastewater (SFN 61369).

The NOI shall contain, at a minimum, the following information:

- a. Legal name, mailing address and phone number of the organization responsible for the facility;
- b. Name of the facility;
- c. Contact name and phone number;
- d. Average number of people serviced daily;
- e. Whether the facility receives industrial waste and how many industrial facilities discharge to the system;
- f. Types of facilities that discharge to the system;
- g. Estimated percentage of influent flow that is domestic and industrial;
- h. Type of treatment and design capacity;
- i. Effluent characteristics include five-day biochemical oxygen demand, total suspended solids, ammonia, and *E.coli*. Include name, mailing address and telephone number of each laboratory or consulting firm conducting the analysis;
- j. Discharge point location (latitude and longitude, or township, range, and section);
- k. Name of receiving water(s)

- l. Whether the facility receives waste from septic haulers. Include:
- m. Location of designated disposal station at the facility for accepting domestic hauled waste;
- n. Signature of the application signed in accordance with Part IV.(E) Signatory Requirements.

Completed applications shall be submitted to:

North Dakota Department of Environmental Quality
Division of Water Quality
4201 Normandy Street, 3rd floor
Bismarck, ND 58503

- 2. Within thirty (30) days after receiving an application, the department will authorize coverage under this discharge permit, deny coverage, or request additional information. Coverage under this General Permit will begin with the applicant receives a written notice of coverage from the department.
- 3. A request to be issued an individual permit may be made by the owner, operator, or authorized agent of any facility that is eligible for coverage under this General Permit. Such requests shall provide the reasons for issuing an individual permit to the facility. If the reasons are adequate to support the request, the department may issue an individual permit.
- 4. Facilities covered by an individual permit, which are also eligible for coverage under this permit, shall remain covered by the individual permit until it expires. The reapplication submitted under the provisions of the existing individual permit will be processed as an application for authorization under this permit.

C. Notice of Termination (NOT)

1. Permittees wishing to terminate coverage under this permit must submit a Notice of Termination (NOT) or other written request identifying the facility, reason why the permit is no longer needed, and signed in accordance with **Part IV(E) Signatory Requirements**. Compliance with the conditions of this permit is required until a NOT is submitted.

I. PERMIT COVERAGE

A. Applicability of the General Permit

The department may issue a general permit to one or more category of subcategories of discharges when the point sources within a particular category operate in the same geographic area; involve the same or similar types of operations; discharge the same types of wastes; require the same effluent limitations and operating conditions; require the same or similar monitoring requirements; and, in the opinion of the department, are more appropriately controlled under a general permit than under individual permits (NDAC 33.1-16-01-26.1).

B. Discharges Covered

1. This permit applies to all areas within the jurisdiction of the state of North Dakota.
2. This permit applies to wastewater discharges from facilities that primarily treat domestic wastewater utilizing wastewater stabilization ponds (lagoons) and have no industrial contributions. The department may approve facilities that receive industrial contributions if it is determined that the system can adequately treat the wastewater.

C. Discharges Not Covered

Discharges to waters for which there is a total maximum daily load (TMDL) allocation in which the discharge is not consistent with the assumptions, allocations, and requirements of the approved TMDL.

II. LIMITATIONS AND MONITORING REQUIREMENTS

A. Discharge Authorization

1. During the effective period of this permit, the permittee is authorized to discharge wastewater pollutants provided the discharge meets the limitations and monitoring requirements outlined in this permit. Permittees discharging wastewater that does not comply with the permit conditions may be subject to civil and/or criminal penalties under the North Dakota Statutes. This permit identifies the requirements for discharges from waste stabilization ponds in North Dakota to Class I or IA waters of the state.
2. To be eligible for authorization to discharge under this general permit, the stabilization ponds must service a population of less than 5,000 people, not be considered a major discharge facility by the department and have no significant industrial discharge contributions as determined by the department. Additionally, it must be demonstrated that the system can meet secondary treatment limitations through compliance with a previously issued discharge permit for the facility or engineering design criteria.

This permit authorizes the discharge of only those pollutants resulting from facility processes, waste streams, and operations that have been clearly identified in the permit application process.

B. Effluent Limitations and Monitoring

The permittee must notify the department prior to any lagoon discharge. Approximately two (2) weeks prior to any planned discharge, a representative pre-discharge grab sample must be collected from the lagoon cell and analyzed for the parameters listed in the table below. The pre-discharge sample results must be provided when notifying the department of a planned discharge.

The permittee must limit and monitor all discharges as specified below:

Table 1 – Effluent Limitations and Monitoring Requirements – Wastewater Stabilization Ponds					
Parameter	Effluent Limitations			Monitoring Requirements	
	Avg. Monthly Limit	Avg. Weekly Limit	Daily Maximum Limit	Sample Frequency	Sample Type
Biological Oxygen Demand (BOD ₅) ^a	25 mg/l	*	45 mg/l	Weekly	Grab
Total Suspended Solids (TSS) ^a	30 mg/l	*	45 mg/l	Weekly	Grab
pH ^a	Shall remain between 6.5 and 9.0 s.u.			Weekly	Grab
Escherichia coli (<i>E. coli</i>) ^{a, b}	126/100 ml	*	409/100 ml	Conditional/ Weekly	Grab
Ammonia as N, mg/l ^a	Refer to Ammonia Table (Table 2)			Weekly	Grab
Total Drain, MG ^c	*	*	Report Total	Per Event	Calculated
Receiving Stream Parameters – collect same day as effluent Ammonia as N					
Flow, cfs ^d	*	*	*	Conditional/ Weekly	Usable Data Source
pH, s.u. – Upstream ^d	*	*	*	Conditional/ Weekly	Usable Data Source
Temperature, °C – Upstream ^d	*	*	*	Conditional/ Weekly	Usable Data Source
Notes:					
*	This parameter is not limited. However, the department may impose limitations based on sample history and to protect the receiving waters.				
a.	A pre-discharge sample must be analyzed and reported to the department prior to the start of any discharge. A pre-discharge grab sample shall be tested for BOD ₅ , TSS, pH, <i>E. coli</i> , and Ammonia as N. This analysis shall be reported to the department prior to discharge and used for the first week of discharge. In addition, one (1) grab sample of the actual discharge shall be taken and analyzed on a weekly basis for each additional week of discharge.				
b.	Monitoring for <i>E. coli</i> shall be in effect only during the recreational season (April 1 through October 31).				
c.	The total amount of water discharged shall be determined either by using a flow-measuring device or by recording the water level drop in the pond.				
d.	Testing only required if permittee is using upstream pH and Temperature to calculate ammonia as N limitation.				

Table 1 – Effluent Limitations and Monitoring Requirements – Wastewater Stabilization Ponds					
Parameter	Effluent Limitations			Monitoring Requirements	
	Avg. Monthly Limit	Avg. Weekly Limit	Daily Maximum Limit	Sample Frequency	Sample Type
Stipulations:					
Best Management Practices (BMPs) are to be utilized so that there shall be no discharge of floating debris, oil, scum, or other floating materials in sufficient amounts to be unsightly or deleterious, or oil wastes that produce a visible sheen on the surface of the receiving water.					
The average monthly limitations for BOD ₅ , TSS, and <i>E. coli</i> are based on the average of all samples taken to monitor the discharge from a cell. If only one sample is collected, that one value shall be used as the average. The limitation for pH applies to each sample taken.					
The facility must sample for any additional pollutant added during the treatment process. The department may require the permittee to provide additional sampling and monitoring as deemed necessary to assure adequate operation of the treatment system and ensure the water quality standards are met during the discharge period.					
All samples and measurements taken shall be representative of the discharge.					
Discharges may only occur during the open-water season. There shall be no discharge when the receiving water is ice covered.					
All discharges shall be made in such a manner to minimize any possible adverse impacts on the receiving stream and downstream landowners.					
Compliance samples meeting the monitoring requirements specified in this permit shall be taken prior to leaving the wastewater stabilization pond system or entering the receiving stream.					

Table 2 – Ammonia as N Effluent Limitations Calculations (NDAC 33.1-16-02.1)			
Parameter	Avg. Monthly Limit	Avg. Weekly Limit	Daily Maximum Limit
Ammonia ^a	†	*	‡
Stream flow upstream, cfs ^b	*	*	*
Temperature upstream, °C ^b	*	*	*
pH upstream, S.U. ^b	*	*	*
a.	Calculations must be performed for each discharge sample. If an exceedance is detected on any single sample, the exceedance must be reported on the DMR.		
b.	Sample must be collected/recorded the same day as the ammonia sample. The upstream flow, temperature, and pH may be obtained from USGS gauging stations if applicable or can be sampled by the permittee. If the permittee cannot feasibly sample upstream flow, temperature, and pH, effluent information shall be used when calculating ammonia and no mixing will be allowed.		

Table 2 – Ammonia as N Effluent Limitations Calculations (NDAC 33.1-16-02.1)			
Parameter	Avg. Monthly Limit	Avg. Weekly Limit	Daily Maximum Limit
†	<p>Chronic Standard (Average Monthly Limit)</p> <p>The 30-day average concentration of total ammonia (expressed as N in mg/L) does not exceed the numerical value given by the following formula and the highest 4-day average concentration of total ammonia within the 30-day averaging period does not exceed 2.5 times the numerical value given by the following formula:</p> $0.8876 \times \left(\frac{0.0278}{1 + 10^{7.688-pH}} + \frac{1.1994}{1 + 10^{pH-7.688}} \right) \times (2.126 \times 10^{0.028 \times (20 - \text{MAX}(T,7))})$ <p>Receiving stream pH and temperature is used for the calculation if applicable, otherwise effluent pH and temperature is used for the calculation</p>		
‡	<p>Acute Standard (Daily Maximum Limit)</p> <p>The one-hour average concentration of total ammonia (expressed as N in mg/l) does not exceed the numerical value given by the following formula:</p> $0.7249 \times \left(\frac{0.0114}{1 + 10^{7.204-pH}} + \frac{1.6181}{1 + 10^{pH-7.204}} \right) \times \text{MIN}(51.93, 23.12 \times 10^{0.036 \times (20-T)})$ <p>where <i>Oncorhynchus</i> are absent; or</p> $\text{MIN} \left(\frac{0.275}{1 + 10^{7.204-pH}} + \frac{39.0}{1 + 10^{pH-7.204}} \right),$ $\left(0.7249 \times \left(\frac{0.0114}{1 + 10^{7.204-pH}} + \frac{1.6181}{1 + 10^{pH-7.204}} \right) \times (23.12 \times 10^{0.036 \times (20-T)}) \right)$ <p>where <i>Oncorhynchus</i> are present.</p> <p>Receiving stream pH and temperature is used for the calculation if applicable, otherwise effluent pH and temperature is used for the calculation</p>		
Stipulations			
The maximum mixing factor is 10.0%.			

C. Additional Conditions

1. Wastewater may be utilized for other beneficial uses in accordance with **Part VIII. Beneficial Reuses** of this permit.
2. If wastewater is being taken by another party for use, the permittee must provide the other party with an analysis of the wastewater. The analysis must include the applicable parameters the permittee is responsible for monitoring in accordance with this permit. The permittee must keep a record of all wastewater transferred to another entity.

III. MONITORING, RECORDING, AND REPORTING REQUIREMENTS BP 2021.09.09

A. Representative Sampling (Routine and Non-Routine Discharges)

All samples and measurements taken shall be representative of the monitored discharge.

In order to ensure that the effluent limits set forth in this permit are not violated at times other than when routine samples are taken, the permittee must collect additional samples at the appropriate outfall whenever any discharge occurs that may reasonably be expected to cause or contribute to a violation that is unlikely to be detected by a routine sample. The permittee must analyze the additional samples for those parameters limited under **Part II(B). Effluent Limitations and Monitoring** of this permit that are likely to be affected by the discharge.

The permittee must collect such additional samples as soon as the spill, discharge, or bypassed effluent reaches the outfall. The samples must be analyzed in accordance with **B. Test Procedures**. The permittee must report all additional monitoring in accordance with **D. Additional Monitoring**.

B. Test Procedures

The collection and transportation of all samples shall conform with EPA preservation techniques and holding times found in 40 CFR 136. All laboratory tests shall be performed by a North Dakota certified laboratory in conformance with test procedures pursuant to 40 CFR 136, unless other test procedures have been specified in this permit or approved by EPA as an alternate test procedure under 40 CFR 136.5. The method of determining the total amount of water discharged shall provide results within 10 percent of the actual amount.

C. Recording of Results

Records of monitoring information shall include:

1. the date, exact place and time of sampling or measurements;
2. the name(s) of the individual(s) who performed the sampling or measurements;
3. the name of the laboratory;
4. the date(s) and time(s) analyses were performed;
5. the name(s) of the individual(s) who performed the analyses;
6. the analytical techniques or methods used; and
7. the results of such analyses.

D. Additional Monitoring

If the discharge is monitored more frequently than this permit requires, all additional results, if in compliance with B. Test Procedures, shall be included in the summary on the Discharge Monitoring Report.

E. Reporting of Monitoring Results

1. Monitoring results shall be summarized and reported to the department using Discharge Monitoring Reports (DMRs). If no discharge occurs during a reporting period, "No Discharge" shall be reported. The permittee must submit DMRs electronically using the electronic information reporting system unless requirements in subsection 3 are met.

2. Prior to December 21, 2025, the permittee may elect to electronically submit the following compliance monitoring data and reports instead of mailing paper forms. Beginning December 21, 2025, the permittee must report the following using the electronic reporting system:
 - a. General permit reports [e.g., notices of intent (NOI); notices of termination (NOT); no exposure certifications (NOE)];
 - b. Municipal separate storm sewer system program reports;
 - c. Pretreatment program reports;
 - d. Sewer overflow/bypass event reports; and
 - e. Clean Water Act 316(b) annual reports

3. The permittee may seek a waiver from electronic reporting. To obtain a waiver, the permittee must complete and submit an Application for Temporary Electronic Reporting Waiver form (SFN 60992) to the department. The department will have 120 days to approve or deny the waiver request. Once the waiver is approved, the permittee may submit paper versions of monitoring data and reports to the department.
 - a. One of the following criteria must be met in order to obtain a waiver. The department reserves the right to deny any waiver request, even if they meet one of the criteria below.
 1. No internet access,
 2. No computer access,
 3. Annual DMRs (upon approval of the department),
 4. Employee turnover (3-month periods only), or
 5. Short duration permits (upon approval of the department)

All reports must be postmarked by the last day of the month following the end of each reporting period. All original documents and reports required herein shall be signed and submitted to the department at the following address:

ND Department of Environmental Quality
Division of Water Quality
4201 Normandy Street
Bismarck ND 58503-1324

F. Records Retention

All records and information (including calibration and maintenance) required by this permit shall be kept for at least three years or longer if requested by the department or EPA.

IV. COMPLIANCE RESPONSIBILITIES

A. Duty to Comply

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

B. Proper Operation and Maintenance

The permittee shall at all times maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit. If necessary to achieve compliance with the conditions of this permit, this shall include the operation and maintenance of backup or auxiliary systems.

C. Planned Changes

The department shall be given advance notice of any planned changes at the permitted facility or of an activity which may result in permit noncompliance. Any anticipated facility expansions, production increase, or process modifications which might result in new, different, or increased discharges of pollutants shall be reported to the department as soon as possible. Changes which may result in a facility being designated a "new source" as determined in 40 CFR 122.29(b) shall also be reported.

D. Duty to Provide Information

The permittee shall furnish to the department, within a reasonable time, any information which the department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the department, upon request, copies of records required to be kept by this permit. When a permittee becomes aware that it failed to submit any relevant facts or submitted incorrect information in a permit application or any report, it shall promptly submit such facts or information.

E. Signatory Requirements

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

All permit applications shall be signed by a responsible corporate officer, a general partner, or a principal executive officer or ranking elected official.

All reports required by the permit and other information requested by the department 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:

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

The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters.

If an authorization under E. Signatory Requirements is no longer accurate for any reason, a new authorization satisfying the above requirements must be submitted to the department prior to or together with any reports, information, or applications to be signed by an authorized representative.

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."

F. Twenty-four Hour Notice of Noncompliance Reporting

1. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of the circumstances. The following occurrences of noncompliance shall be included in the oral report to the department at 701.328.5210:
 - a. Any lagoon cell overflow or any unanticipated bypass which exceeds any effluent limitation in the permit under G. Bypass of Treatment Facilities;
 - b. Any upset which exceeds any effluent limitation in the permit under H. Upset Conditions; or
 - c. Violation of any daily maximum effluent or instantaneous discharge limitation for any of the pollutants listed in the permit.
2. A written submission shall also be provided within five days of the time that the permittee became aware of the circumstances. The written submission shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;
 - c. The estimated time noncompliance is expected to continue if it has not been corrected; and
 - d. Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

Reports shall be submitted to the address in Part III(E). Reporting of Monitoring Results. The department may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the department at 701.328.5210 as identified above.

All other instances of noncompliance shall be reported no later than at the time of the next Discharge Monitoring Report submittal. The report shall include the four items listed in this subsection.

G. Bypass of Treatment Facilities

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 any of the following provisions in this section.
2. Bypass exceeding limitations-notification requirements.
 - a. Anticipated Bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of bypass.
 - b. Unanticipated Bypass. The permittee shall submit notice of an unanticipated bypass as required under F. Twenty-four Hour Notice of Noncompliance Reporting.
3. Prohibition of Bypass. Bypass is prohibited, and the department may take enforcement action against a permittee for bypass, unless:
 - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been

installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

- c. The permittee submitted notices as required under the 1. Anticipated Bypass subsection of this section.

The department may approve an anticipated bypass, after considering its adverse effects, if the department determines that it will meet the three (3) conditions listed above.

H. Upset Conditions

An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of the following paragraph 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.

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

1. An upset occurred and the permittee can identify its cause(s);
2. The permitted facility was, at the time being, properly operated;
3. The permittee submitted notice of the upset as required under F. Twenty-four Hour Notice of Noncompliance Reporting and
4. The permittee complied with any remedial measures required under I. Duty to Mitigate.

In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

I. 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. The permittee, at the department's request, shall provide accelerated or additional monitoring as necessary to determine the nature and impact of any discharge.

J. Removed Materials

Collected screenings, grit, solids, sludges, or other pollutants removed in the course of treatment shall be buried or disposed of in such a manner to prevent any pollutant from entering any waters of the state or creating a health hazard. Sludge/digester supernatant and filter backwash shall not be directly blended with or enter either the final plant discharge and/or waters of the state. The permit issuing authority shall be contacted prior to the disposal of any sewage sludges. At that time, concentration limitations and/or self-monitoring requirements may be established.

K. Duty to Reapply

Any request to have this permit renewed should be made six months prior to its expiration date.

V. GENERAL PROVISIONS

A. Inspection and Entry

The permittee shall allow department and EPA representatives, at reasonable times and upon the presentation of credentials if requested, to enter the permittee's premises to inspect the wastewater treatment facilities and monitoring equipment, to sample any discharges, and to have access to and copy any records required to be kept by this permit.

B. Availability of Reports

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

C. Transfers

This permit is not transferable except upon the filing of a Statement of Acceptance by the new party and subsequent department approval. The current permit holder should inform the new controller, operator, or owner of the existence of this permit and also notify the department of the possible change.

D. New Limitations or Prohibitions

The permittee shall comply with any effluent standards or prohibitions established under Section 306(a), Section 307(a), or Section 405 of the Act for any pollutant (toxic or conventional) present in the discharge or removed substances within the time identified in the regulations even if the permit has not yet been modified to incorporate the requirements.

E. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. This includes the establishment of limitations or prohibitions based on changes to Water Quality Standards, the development and approval of waste load allocation plans, the development or revision to water quality management plans, changes in sewage sludge practices, or the establishment of prohibitions or more stringent limitations for toxic or conventional pollutants and/or sewage sludges. 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.

F. Need to Halt or Reduce Activity Not a Defense

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

G. State Laws

Nothing in this permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation preserved under Section 510 of the Act.

H. 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.

I. Property Rights

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

J. 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.

**VI. INDUSTRIAL WASTE MANAGEMENT BP 2023.02.23
Minor POTWs Non-Approved Pretreatment Program Requirements**

A. General Responsibilities

The permittee has the responsibility to protect the Publicly Owned Treatment Works (POTW) from pollutants which would inhibit, interfere, or otherwise be incompatible with operation of the treatment works including interference with the use or disposal of municipal sludge.

B. Pollutant Restrictions

Pretreatment Standards (40 CFR Section 403.5) developed pursuant to Section 307 of the Federal Clean Water Act (the Act) require that the permittee shall not allow, under any circumstances, the introduction of the following pollutants to the POTW from any source of nondomestic discharge:

1. Any other pollutant which may cause Pass Through or Interference;
2. Pollutants which create a fire or explosion hazard in the POTW, 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 Section 261.21;
3. Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with a pH of lower than 5.0 s.u., unless the treatment facilities are specifically designed to accommodate such discharges;
4. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW, or other interference with the operation of the POTW;
5. Any pollutant, including oxygen demanding pollutants (e.g., BOD), released in a discharge at a flow rate and/or pollutant concentration which will cause Interference with any treatment process at the POTW;
6. Heat in amounts which will inhibit biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds forty (40) degrees Centigrade (104 degrees Fahrenheit) unless the Approval Authority, upon request of the POTW, approves alternate temperature limits;
7. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through at the POTW;
8. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
9. Any trucked or hauled pollutants, except at discharge points designated by the POTW; and
10. Any specific pollutant which exceeds a local limitation established by the permittee in accordance with the requirements of 40 CFR Section 403.5 (c) and (d).

C. Approval Authority

North Dakota was delegated the Industrial Pretreatment Program in September of 2005. The North

Dakota Department of Environmental Quality, Division of Water Quality shall be the Approval Authority and the mailing address for all reporting and notifications to the Approval Authority shall be:

ND Department of Environmental Quality
Division of Water Quality
4201 Normandy Street
Bismarck ND 58503-1324

D. Industrial 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 307 of the Act (40 CFR Part 405 et. Seq.).

E. Notification Requirements

The permittee must notify the Approval Authority, 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:

1. Any new introduction of pollutants into the POTW from an industrial user which would be subject to Sections, 301, 306, and 307 of the Act if it were directly discharging those pollutants; or
2. Any substantial change in the volume or character of pollutants being introduced into the POTW by any industrial user;
3. For the purposes of this section, adequate notice shall include information on:
 - a. The identity of the industrial user;
 - b. The nature and concentration of pollutants in the discharge and the average and maximum flow of the discharge to be introduced into the POTW; and
 - c. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from or biosolids produced at such POTW,
4. For the purposes of this section, a significant industrial user shall include:
 - a. Any discharger subject to Categorical Pretreatment Standards under Section 307 of the Act and 40 CFR chapter I, subchapter N;
 - b. Any discharger which has a process wastewater flow of 25,000 gallons or more per day;
 - c. Any discharger contributing five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant;
 - d. Any discharger who is designated by the Approval Authority as having a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standards or requirements.

F. Approval Authority Options

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:

1. Amend the permittee's North Dakota Pollutant Discharge Elimination System (NDPDES) discharge permit to specify the additional pollutant(s) and corresponding effluent limitation(s) consistent with the applicable national Pretreatment Standards;
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 POTW for treatment. Such requirement shall be imposed in a manner consistent with the POTW program development requirements of the General Pretreatment Regulations at 40 CFR Part 403; and/or,
3. Require the permittee to monitor its discharge for any pollutant which may likely be discharged from the permittee's POTW, should the industrial user fail to properly pre-treat its waste.

G. Enforcement Authority

The Approval Authority retains, at all times, the right to take legal action against any source of nondomestic 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 North Dakota Pollutant Discharge Elimination System (NDPDES) permit violation has occurred because of requirements as necessary to protect the POTW, the North Dakota Department of Environmental Quality and/or Approval Authority 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.

VII. ACCEPTING HAULED WASTE

- A. The permittee may only accept waste from permitted septic haulers unless the permittee has written approval from the department.
- B. The permittee may not accept production wastewater from oil and gas operations (i.e. produced water).
- C. A monitoring plan shall be developed to ensure accepted hauled waste meets the requirements of part **VI. Industrial Waste Management**.
- D. The permittee shall maintain records indicating the hauler transporting the load, the source of the wastewater, the date and time the waste was accepted, the volume of waste accepted, and any sample results from these loads.

VIII. BENEFICIAL REUSES BP 2015.09.03

A. Irrigation

Only wastewater that has received secondary or tertiary treatment may be used for irrigation provided soil and water compatibility testing confirms the water is suitable for irrigation. Wastewater used for irrigation shall be applied at a rate which would allow complete infiltration and not result in ponding or runoff from the irrigated area.

Agricultural land may be irrigated provided the crop is not used for human consumption. Forage crops used for livestock consumption or pastures irrigated with wastewater shall not be harvested or grazed within 30 days of a wastewater application.

Public properties such as golf courses or parks may be irrigated provided the treated wastewater meets the following quality criteria.

Parameter	Limitations	Monitoring Requirements	
	Daily Max	Measurement Frequency	Sample Type
BOD ₅	30 mg/l	1 per 14 days	Grab
TSS	45 mg/l	1 per 14 days	Grab
<i>E. Coli</i>	126/100 ml	Weekly	Grab

Whenever possible, irrigation shall take place during hours when the public does not have access to the area being irrigated. If the public has constant access to an area, signs must be posted in visible areas during irrigation and for two hours after irrigation is completed. The signs must advise people that the water could pose a health concern and to avoid the irrigated area.

Worker and public contact with treated wastewater should be minimized. Where frequent contact is likely, a higher level of disinfection should be provided such as achieving *E. coli* counts less than 14 colonies per 100 ml.

Avoid application within 100 feet of areas which have unlimited access (i.e., yards) or within 300 feet of potable water supply wells.

Runoff that occurs from irrigated areas shall be monitored at the frequencies and with the types of measurements described in **Part II(B). Effluent Limitations and Monitoring.**

The permittee shall maintain monitoring records indicating the location and usage (e.g., park or agricultural) of the land being irrigated, the dates irrigation occurred, the amount of wastewater used, and the total flow. In addition, monitoring records must include results from collected samples.

B. Construction

Treated domestic wastewater may be used for construction purposes such as soil compaction, dust suppression and washing aggregate, provided the following conditions are met.

The wastewater intended for use in construction, must at a minimum, receive secondary treatment.

Prior to using treated wastewater a sample from the prospective source must be tested and meet the criteria set below. In addition, the test results for *E. coli* must be provided to the department prior to use. Results from samples up to two (2) weeks old will be considered valid. The water quality limitations and minimum sampling frequencies recommended for wastewater used in construction are provided in the following table.

Parameter	Limitations	Monitoring Requirements	
	Daily Max	Measurement Frequency	Sample Type
BOD ₅	30 mg/l	Monthly	Grab
TSS	100 mg/l	Monthly	Grab
<i>E. Coli</i>	126/100 ml	Weekly	Grab

In some systems chlorination is available. Chlorination is particularly desirable when frequent worker

contact with the treated wastewater is likely or when the public may have constant access to areas where the wastewater is being used. Maintaining a chlorine residual of at least 0.1 mg/l is recommended.

While the conventional methods for treating domestic wastewater are generally effective in reducing infectious agents (bacteria, viruses, parasites) to acceptable levels, direct reuse of treated wastewater can pose a health concern. Additional precautions to consider are:

1. Worker and public contact with treated wastewater should be minimized.
2. Where frequent worker contact is likely a higher level of disinfection should be provided, such as achieving *E. coli* counts less than 14/100 ml.
3. Work closely with the treatment system operator to ensure treated wastewater quality is suitable when it is drawn for construction purposes.
4. Apply the treated wastewater in a manner that does not result in runoff or ponding.

Runoff that occurs from application areas shall be monitored at the frequencies and with the types of measurements described in **Part II(B). Effluent Limitations and Monitoring**.

The permittee shall maintain monitoring records indicating the location and usage of the land where application occurs, the dates application occurred, the amount of wastewater used, and the total flow. In addition, monitoring records must include results from collected samples.

C. Oil and Gas Production (including Hydraulic Fracturing)

The specific user of the wastewater may determine the specific treatment requirements for receiving wastewater.

The permittee shall maintain monitoring records indicating the specific user, the amount of wastewater used, and the total flow. In addition, monitoring records must include results from collected samples.

D. Other Uses as Approved

The permittee must consult with the department before beneficially reusing wastewater for purposes not identified in this permit.