

**North Dakota Department of Environmental Quality Public Notice
Issue of an NDPDES Permit**

Public Notice Date: 11/15/2019

Public Notice Number: ND-2019-025

Purpose of Public Notice

The Department intends to issue the following North Dakota Pollutant Discharge Elimination System (NDPDES) Discharge Permit under the authority of Section 61-28-04 of the North Dakota Century Code.

Permit Information

Application Date: 7/1/2019

Application Number: NDR32

Applicant Name: General Permit NDR320000-Stormwater from Mining, Extraction & Paving Material Preparation Industries

Mailing Address: ND Dept of Env Quality, Div of Water Quality, 918 East Divide Ave, Bismarck ND 58501-1947

Telephone Number: 701.328.5242

Proposed Permit Expiration Date: 12/31/2024

Description

The general permit applies to mining, extraction and paving facilities in North Dakota. The general permit regulates stormwater discharges from coal, gravel, scoria and other mineral mining operations, oil and gas facilities, and concrete and asphalt batch plants. The permit requires the implementation of a pollution prevention plan to reduce stormwater pollution. The permit includes discharge limits based on prohibitions, best management practices, water quality standards, and other considerations applicable to the activities.

Tentative Determinations

Proposed effluent limitations and other permit conditions have been made by the Department. They assure that State Water Quality Standards and applicable provisions of the FWPCAA will be protected.

Information Requests and Public Comments

Copies of the application, draft permit, and related documents are available for review. Comments or requests should be directed to the ND Dept of Env Quality, Div of Water Quality, 918 East Divide Ave, Bismarck ND 58501-1947 or by calling 701.328.5210.

All comments received by December 18, 2019 will be considered prior to finalizing the permit. If there is significant interest, a public hearing will be scheduled. Otherwise, the Department will issue the final permit within sixty (60) days of this notice. If you require special facilities or assistance relating to a disability, call TDD at 1.800.366.6868.

DRAFT

Permit No: NDR32-0000
Effective Date: January 01, 2020
Expiration Date: December 31, 2024

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,

facilities both qualifying for and satisfying the requirements identified in Part I of this permit

are authorized to discharge stormwater associated with mining, extraction, and paving material preparation activities

to waters of the state

provided all the conditions of this permit are met.

This permit and the authorization to discharge shall expire at midnight,

December 31, 2024.

Signed this _____ day of _____, _____.

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

BP 2019.05.29

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Table of Contents

OUTFALL DESCRIPTION	5
PERMIT SUBMITTAL SUMMARY	5
I. PERMIT COVERAGE AND LIMITATIONS	6
A. Discharges Covered	6
B. Discharges Not Covered	6
C. Obtaining Coverage and Authorization Effective Date	7
D. Notice of Intent Process	7
E. Termination of Coverage	8
II. STORMWATER DISCHARGE REQUIREMENTS	9
A. Prohibition on Non-Stormwater Discharges	9
B. Releases in Excess of Reportable Quantities	9
C. Stormwater Pollution Prevention Plans	9
1. Site Description	9
2. Stormwater Pollution Prevention Team	10
3. Description of Potential Pollutant Sources	10
4. Stormwater Controls	11
5. Maintenance	13
6. Inspections	13
7. Sampling	13
8. SWPPP Review and Revisions	14
D. Additional Terms and Conditions	14
E. Records Retention	15
III. SELF-MONITORING AND REPORTING	15
A. Inspection Requirements	15
1. Inspection Frequency	15
2. Inspector Qualifications	16
3. Areas to Inspect	16
4. Inspection Records	16
5. Maintenance Records	16
B. Sampling Requirements	16
C. Effluent Limitations	17
D. Reporting Requirements	18
1. Annual Inspection Report Summary	18
2. Discharge Monitoring Reports	18
3. Location Record	19
4. Report Submittals	19
IV. MONITORING, RECORDING, AND REPORTING REQUIREMENTS BP 2019.05.29	19
A. Representative Sampling (Routine and Non-Routine Discharges)	19
B. Test Procedures	19
C. Recording of Results	19
D. Additional Monitoring	20
E. Reporting of Monitoring Results	20
F. Records Retention	21
V. COMPLIANCE RESPONSIBILITIES	21
A. Duty to Comply	21
B. Proper Operation and Maintenance	21
C. Planned Changes	21
D. Duty to Provide Information	21
E. Signatory Requirements	21
F. Twenty-four Hour Notice of Noncompliance Reporting	22

G. Bypass of Treatment Facilities	22
H. Upset Conditions	23
I. Duty to Mitigate	23
J. Removed Materials	24
VI. GENERAL PROVISIONS	24
A. Inspection and Entry	24
B. Availability of Reports	24
C. Transfers	24
D. New Limitations or Prohibitions	24
E. Permit Actions	24
F. Need to Halt or Reduce Activity Not a Defense	24
G. State Laws	24
H. Oil and Hazardous Substance Liability	24
I. Property Rights	25
J. Severability	25
K. General Permits	25
L. Renotification	25
V. DEFINITIONS	26
Appendix 1 - Erosion and Sediment Control Requirements	30
Appendix 2 - Industry Specific Sampling and SWPPP Requirements	33
Appendix 3 - Stormwater Sampling Requirements, Procedures and Conditions	37

OUTFALL DESCRIPTION

Stormwater Drainage Outfall(s) – Stormwater discharges. The discharge of stormwater from a pipe, ditch, or other discrete conveyance of stormwater to waters of the state.

PERMIT SUBMITTAL SUMMARY

Coverage Point	Submittal	Frequency	First Submittal Date
Facility	Annual Inspection Report	Annually	January 31, 2021
Sampled Discharge Points	Discharge Monitoring Report	Refer to Part III(D)(2)	Refer to Part III(D)(2)
Portable Batch Plants	Annual Location Report	Annually	January 31, 2021
New Applicants	Notice of Intent	1/permit cycle	7 days prior to start of operation

Applications and reports shall be submitted to the department in accordance with Part IV(E).

I. PERMIT COVERAGE AND LIMITATIONS

A. Discharges Covered

1. This permit applies to all areas within the jurisdiction of the state of North Dakota.
2. This permit applies to discharges of stormwater associated with industrial activity as defined in Title 40 of the Code of Federal Regulations (CFR), Part 122.26(b)(14) from any of the following:
 - a. Operations involved in coal mining, Standard Industrial Classification (SIC) Code major group 12 (North American Industrial Classification System [NAICS] Codes 212111-212113, 213113, and 238910);
 - b. Operations involved in crude petroleum and natural gas extraction, SIC Code 1311 (NAICS Code 211111), that have had a discharge of stormwater resulting in the discharge of a reportable quantity for which notification is required pursuant to 40 CFR 110.6, 40 CFR 117.21, or 40 CFR 302.6 or contributes to a violation of a water quality standard;
 - c. Operations involved in producing liquid hydrocarbons from oil and gas field gases, SIC Code 1321 (NAICS Code 211112), that have had a discharge of stormwater resulting in the discharge of a reportable quantity for which notification is required pursuant to 40 CFR 110.6, 40 CFR 117.21, or 40 CFR 302.6 or contributes to a violation of a water quality standard;
 - d. Operations involved in oil and gas field services, SIC Codes 1381-1389 (NAICS Codes 213111, 213112, 237120, and 238910), that have had a discharge of stormwater resulting in the discharge of a reportable quantity for which notification is required pursuant to 40 CFR 110.6, 40 CFR 117.21, or 40 CFR 302.6 or contributes to a violation of a water quality standard;
 - e. Operations involved in mining and quarrying of nonmetallic minerals, SIC Code major group 14 (NAICS Codes 212311-212313, 212319, 212321-212325, 212391-212393, 213115, 238910, and 212399);
 - f. Facilities operated to obtain or prepare materials for highway construction activities including concrete or asphalt batch plants, SIC Codes 1611, 2951, and 327; and
 - g. Equipment storage and maintenance yards supporting the industrial categories identified above.
3. Certain non-stormwater discharges from facilities covered by this permit and meeting the requirements specified in Part II(A).

B. Discharges Not Covered

This permit does not cover the following activities:

1. Stormwater discharges from facilities or activities subject to nationally established effluent limitation guidelines or other performance standards under 40 CFR subchapter N except as provided in this permit.
2. Discharges or releases that are not stormwater except those non-stormwater discharges authorized under Part II(A)

3. Discharges to waters that have a total maximum daily load (TMDL) allocation are not covered unless permittees develop a Stormwater Pollution Prevention Plan (SWPPP) that is consistent with the assumptions and requirements in the approved TMDL. To be eligible for coverage under this general permit, the SWPPP shall incorporate the conditions applicable to the discharge necessary for consistency with the assumptions, allocations and requirements of the TMDL. If a specific numeric wasteload allocation (WLA) has been established that would apply to the discharge from the facility, the permittee shall incorporate that WLA into the SWPPP and implement necessary steps to meet the TMDL. Information about TMDL allocations may be found at: deg.nd.gov/WQ
4. The placement of fill into waters of the state requiring local, state, or federal authorizations (such as U.S. Army Corps of Engineers Section 404 permits).
5. This permit does not substitute for obligations under the National Environmental Policy Act (NEPA), Endangered Species Act (ESA), Wild and Scenic Rivers Act, or National Historic Preservation Act (NHPA). It is the responsibility of the permittee to ensure the facility and resulting discharges comply with the respective requirements.
6. Stormwater discharges that the department determines will cause, or have the reasonable potential to cause or contribute to, violations of standards of quality for waters of the state (North Dakota Administrative Code [NDAC] 33.1-16-02.1).
7. The discharge of process wastewater and sanitary waste.

C. Obtaining Coverage and Authorization Effective Date

1. To obtain authorization under this general permit, permittees shall develop a SWPPP in accordance with Part II(C) of this permit and submit a complete notice of intent (NOI) to the department. The SWPPP shall be implemented as a condition of this permit and a copy of the SWPPP shall be retained by the operator of the facility. Permittees are not required to submit a copy of the SWPPP with the NOI unless notified by the department.
2. Permit coverage becomes effective seven (7) days after a completed NOI is submitted to the department unless otherwise notified by the department (based on receipt date by the department).
3. Upon the effective date of permit coverage, permittees are authorized to discharge stormwater from eligible activities under the terms and conditions of this permit.

D. Notice of Intent Process

1. Applicants must use a NOI form or electronic NOI to complete the application. The NOI form or electronic NOI can be found at: deg.nd.gov/WQ
2. The application shall contain, at a minimum, the following information:
 - a. Name and mailing address of the owner or operator;
 - b. Contact name and phone number;
 - c. Name of facility or site;
 - d. A brief description of the nature of business or activity;
 - e. SIC Code;
 - f. Acreage of the facility dedicated to industrial activity;
 - g. Location of the site(s), including the county and latitude and longitude; or township, range,

- section, and quarter-quarter-quarter section;
- h. Name of the receiving water(s), or the name of the receiving municipal storm sewer system and receiving water; and
 - i. The signature of the applicant(s) signed in accordance with the Signatory Requirements in Part V(E) of this permit.
3. Facilities that are required to collect samples of stormwater discharges must include the following supplemental information with the NOI:
- a. Total number of outfalls;
 - b. Total number of substantially identical outfalls that will be sampled (Note: At least 20 percent of all outfalls must be sampled);
 - c. Sampling industry sector (see Appendix 2); and
 - d. For oil and gas related industries, if outfalls receive runoff from remediation activity or non-remediation activity.
4. An operator of multiple temporary or portable operations may submit a single application for such activities.
5. Operators involved in crude petroleum and natural gas extraction, production of liquid hydrocarbons from oil and gas field gases, and oil and gas field services (SIC Code major group 13) that experience a stormwater discharge that results in or contacts a reportable quantity release (release for which notification is required pursuant to 40 CFR 110.6, 40 CFR 117.21, or 40 CFR 302.6) or contributes to a violation of a water quality standard shall submit a NOI within 15 days of becoming aware of the release. Permit coverage for equipment storage and maintenance facilities of the field services sector (SIC Codes 1381-1389) may be requested to manage potential impacts to surface waters.
6. Local agencies may operate a stormwater management program and impose additional requirements. The local authority may require that a copy of the NOI and SWPPP be provided to them. This permit does not preempt or supersede the authority of local agencies to prohibit, restrict, or control the discharge of stormwater to storm sewer systems or other water courses within their jurisdiction.

E. Termination of Coverage

1. Permittees wishing to terminate coverage under this permit must submit a Notice of Termination (NOT) form or electronic NOT identifying the name and address of the owner or operator, name and location of the facility, the permit number, and a description of why coverage is not necessary (i.e., plant closure, ceasing industrial activity, removing equipment or storage, etc.). The NOT shall be signed in accordance with the Signatory Requirements in Part V(E) of this permit. Compliance with the conditions of this permit is required until a NOT is submitted.
2. Permittees may submit a NOT only after one of the following conditions have been met:
- a. All stormwater discharges associated with industrial activity have been eliminated and final stabilization (see definitions) has been achieved on all portions of the site for which the permittee is responsible.
 - b. Stormwater discharges were from an inactive coal mining operation no longer meeting the definition of a reclamation area under 40 CFR 434.11(l) because the performance bond issued to the facility by the appropriate Surface Mining Control and Reclamation Act (SMCRA) authority has been released; or a non-coal mining operation which has been

released from applicable state or federal reclamation requirements after December 17, 1990.

- c. Stormwater discharges were from a crude petroleum and natural gas extraction facility, facility producing liquid hydrocarbons from oil and gas field gases, or oil and gas field services facility where the areas affected by a reportable quantity release that resulted in coverage under this permit have been reclaimed and the facility has operated satisfactorily under a SWPPP for a minimum of one year following spill remediation and department closure. The department may deny termination for cause for facilities that experience repeat incidents (or discharges).
- d. The facility has been issued an individual North Dakota Pollutant Discharge Elimination System (NDPDES) permit to discharge stormwater associated with industrial activity.
- e. The facility is a portable operation that no longer operates within the state of North Dakota.

II. STORMWATER DISCHARGE REQUIREMENTS

A. Prohibition on Non-Stormwater Discharges

The discharge of wastewater is not authorized by this permit. The following sources of non-stormwater discharges are allowed if they are not a significant source of pollution and are identified in the SWPPP: fire-fighting, fire hydrant flushing, potable water line flushing, building and equipment wash down without detergents or hazardous cleaning products, uncontaminated foundation drains, springs, lawn watering, chemical treatment of stormwater, and air conditioning condensate. Pavement wash water may not be directed into any surface water or storm drain inlet unless appropriate control measures have been implemented. Discharges may not come into contact with oil and grease deposits or any other toxic or hazardous materials (unless cleaned up using dry clean-up methods). The SWPPP must include a description of the pollution prevention measures to be implemented while non-stormwater discharges are occurring.

B. Releases in Excess of Reportable Quantities

This permit does not relieve the permittee of the reporting requirements of 40 CFR 110, 40 CFR 117, and 40 CFR 302, nor the reporting requirements found in NDAC 33.1-16-02.1. Any release which meets any reporting requirement shall be reported to the department in accordance with Part V(F).

C. Stormwater Pollution Prevention Plans

All permittees shall develop a SWPPP prior to submitting an NOI. The SWPPP shall be implemented prior to the discharge of stormwater associated with industrial activities. The SWPPP and revisions are subject to review by the department. The objectives of the SWPPP are to identify potential sources of stormwater pollution associated with industrial activity and ensure that practices are implemented and maintained to reduce the contribution of pollutants in stormwater runoff to waters of the state and storm sewer systems. Stormwater management documents developed under other regulatory programs may be included or incorporated by reference in the SWPPP or used in whole as a SWPPP if it meets the requirements of this part. Additional industry specific SWPPP items can be found in Appendix 2 of this permit. The SWPPP shall be signed in accordance with the Signatory Requirements in Part V(E) of this permit.

The Stormwater Pollution Prevention Plan shall include the following:

1. Site Description

- a. Provide a description of the type of industrial activities conducted at the facility.
- b. Provide a general location map (e.g., U.S. Geological Survey [USGS] quadrangle map)

with enough detail to identify the location of the facility, boundaries of the property, the size of the property in acres and all receiving waters (including wetlands and municipal separate storm sewer systems [MS4] that receive stormwater runoff from the facility).

c. Provide a site specific map(s) of suitable scale and quality to show:

- (1) Township, range, and section, or latitude and longitude;
- (2) Stormwater drainage patterns in and around the facility;
- (3) All stormwater conveyances including ditches, pipes, and swales in and around the facility;
- (4) Storm sewer inlets and outfalls, along with a unique identification code for each outfall (e.g., Outfall 001, 002) in and around the facility;
- (5) All stormwater sample collection points;
- (6) Potential pollutant sources;
- (7) All stormwater control measures;
- (8) Location and extent of facility structures and impervious surfaces; and
- (9) Any locations and dates where reportable quantity spills or leaks have occurred within the three years preceding the most recent SWPPP revision.

Also indicate the location of the following activities that are exposed to precipitation:

- (10) Fueling stations;
 - (11) Vehicle and equipment maintenance and/or cleaning areas;
 - (12) Loading/unloading areas;
 - (13) Locations used for the treatment, storage, or disposal of wastes;
 - (14) Liquid storage tanks;
 - (15) Processing and storage areas;
 - (16) Immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility;
 - (17) Transfer areas for substances in bulk; and
 - (18) Machinery.
- d. Facilities that have a discharge point within 2000 feet of, and flow to, a water body listed as impaired under section 303(d) of the Federal Clean Water Act shall identify the water body and impairment in the SWPPP. The department's 303(d) list may be found at the following website under Integrated Reports: deg.nd.gov/WQ

2. Stormwater Pollution Prevention Team

Identify the individual(s) responsible for overseeing the development of the SWPPP, any later modifications to the SWPPP, and for compliance with this permit. Include the individual(s) name or title and identify their responsibilities. The individual(s) shall have ready access to a copy of this permit, the current version of the SWPPP, and other relevant documents and information that shall be kept as required by this permit.

3. Description of Potential Pollutant Sources

The SWPPP shall include a narrative description of the potential pollution sources associated with industrial activity and material handling at the facility. For each potential pollution source, the description must include:

- a. Activity Assessment. The SWPPP shall provide an assessment of industrial activity at the facility that could contribute pollutants to stormwater runoff. Each of the following shall be evaluated for the reasonable potential to contribute pollutants to stormwater runoff: material handling equipment or operations; industrial machinery; industrial production and processes; significant dust generating activities; disturbed area vulnerable to erosion; and the storage, loading and unloading, transportation, disposal, and conveyance of any raw material, intermediate products, by-products, final products, and waste products.

- b. Pollutant List. The SWPPP shall include a list of significant materials associated with industrial activity that could be exposed to precipitation and discharged from the facility as potential pollutants. Examples include but are not limited to crankcase oil, zinc, sulfuric acid, and cleaning solvents. The pollutant list shall include all significant materials that have been handled, treated, stored, or disposed at the facility. The list also shall include past spills that were exposed to stormwater in the three years prior to the date the SWPPP was prepared or amended.

For facilities subject to Emergency Planning and Community Right-to-Know Act Section 313 (EPCRA 313) requirements, the sources of potential pollutants for which you report under EPCRA 313 shall be included in the description of potential pollutant sources.

- c. Non-Stormwater Discharges. The SWPPP shall identify sources and locations of non-stormwater discharges that may be present and include a description of the pollution prevention measures in use.

4. **Stormwater Controls**

The SWPPP shall describe the location and type of all stormwater control measures for each industrial source or activity that could contribute pollutants to stormwater runoff. A combination of best management practices (BMPs) and structural controls shall be implemented as appropriate to reduce the contribution of pollutants to stormwater runoff. The SWPPP shall include a description of the following:

- a. The SWPPP shall describe good housekeeping practices to maintain a clean and orderly facility. Litter, debris, chemicals, and parts shall be handled properly to minimize exposure to stormwater. Include a schedule for regular collection and disposal of waste materials, along with routine inspections for leaks, and the condition of drums, tanks and containers. All exposed areas that are potential sources of pollutants shall be kept clean to prevent pollutants from being carried away by wind or water. All materials shall be stored in appropriately labeled containers when feasible. The SWPPP also shall address specific processing and storage practices for materials and parts that present a potential environmental concern.
- b. The SWPPP shall describe methods used to minimize the generation of dust that could be discharged in stormwater from the facility. Bins, dumpsters, and roll-off boxes that contain materials that are a potential source of stormwater pollution and are susceptible to being removed by wind or rain must have lids or be covered when not in use.
- c. The SWPPP shall describe preventative maintenance procedures to ensure the proper operation of stormwater management devices, as well as equipment on-site. This includes regular inspection, testing, maintenance, and repair of all control measures and equipment to ensure proper operation. The SWPPP shall include the schedule or frequency for inspecting and maintaining all selected control measures and equipment.
- d. The SWPPP shall detail procedures for preventing and responding to spills and leaks. The SWPPP shall include notification procedures for reporting internally and to the department. Response procedures shall specify recovery equipment and disposal methods. Document in the SWPPP all spills and leaks of chemicals, oil, or toxic or hazardous pollutants that occurred in areas exposed to stormwater or that drained to a stormwater conveyance. Documentation shall include all reportable quantity spills or leaks that have occurred within the three years preceding the most recent SWPPP revision. Spill kits shall be maintained in a ready state.
- e. The SWPPP shall describe employee training used to inform personnel of their

responsibility in implementing the practices and controls included in the SWPPP such as spill response, good housekeeping, and sediment control practices.

- (1) All employees who work in areas where industrial materials or activities are exposed to stormwater, or are responsible for implementing activities necessary to meet the conditions of this permit (including all members of the Stormwater Pollution Prevention Team), shall receive training.
 - (2) Personnel shall be trained in at least the following areas as related to the scope of their job duties:
 - An overview of the contents of the SWPPP;
 - Spill prevention and response procedures, good housekeeping practices, maintenance requirements, and material management practices;
 - The location and maintenance of on-site stormwater pollution prevention controls;
 - Operating procedures for preventing pollution; and
 - Inspection procedures and records retention.
 - (3) Training shall be provided at least annually, as new employees are hired, and as necessary to maintain compliance with this permit. The SWPPP shall detail the content and frequency of training, and retain a log of the dates employees received training.
- f. Sediment and erosion controls shall be implemented on areas of operations vulnerable to erosion. The SWPPP shall conform to the requirements provided in Appendix 1. The SWPPP shall describe the appropriate control measures and when they will be implemented during the process for each major phase of site activity (such as clearing, grading for new mine areas or building support features). The description and implementation of controls shall address the following minimum components:
- (1) Sediment basins, or an appropriate combination of equivalent sediment controls such as smaller sediment basins, and/or sediment traps, silt fences, fiber rolls, vegetative buffer strips, or berms are required for all down slope boundaries of the disturbance area and for those side slope boundaries as may be appropriate for site conditions.
 - (2) Temporary erosion protection (such as cover crop planting or mulching) or permanent cover shall be provided for the exposed soil areas where activities have been completed or temporarily ceased. These areas include graded slopes, pond embankments, ditches, berms and soil stockpiles.
 - (3) All control measures shall be selected, installed, and maintained in accordance with the manufacturer's specifications and good engineering practices. If periodic inspections or other information indicates a control has been used inappropriately, or incorrectly, the permittee shall replace or modify the control for site situations. The permittee may deviate from the manufacturer's specifications and erosion and sediment control requirements in Appendix 1 if they provide justification for the deviation and document the rationale for the deviation in the SWPPP.
 - (4) If sediment escapes the site, off-site accumulations of sediment shall be removed in a manner and at a frequency sufficient to minimize off-site impacts. The SWPPP shall be modified to prevent further sediment deposition off-site.
 - (5) Sediment and erosion controls are expected to withstand and function properly during precipitation events of less than or equal to the 2-year, 24-hour storm event. The release of sediment or other materials due to such storm events should be minimal.

The 2-year, 24-hour rainfall event in North Dakota ranges from about 1.76 inches in the west to 2.50 inches in the east (NOAA Atlas 14, Volume 8, Version 2, Midwestern States 2013).

- g. The SWPPP shall describe stormwater management. The SWPPP shall include a description of practices to control pollutants in stormwater discharges. Such practices may include: stormwater ponds; flow reduction by use of open vegetated swales and natural depressions; infiltration of runoff on-site; and sequential systems which combine several practices.
- h. For facilities that discharge to waters with a TMDL allocation the SWPPP shall incorporate the conditions applicable to the discharge necessary for consistency with the assumptions, allocations and requirements of the TMDL. The SWPPP shall incorporate the WLA and outline necessary steps to meet the TMDL.
- i. The SWPPP shall describe the pollution prevention measure(s) that will be implemented while non-stormwater discharges are occurring.

5. Maintenance

All stormwater pollution prevention control measures identified in the SWPPP shall be maintained in effective operating condition. The SWPPP shall identify the maintenance schedule for stormwater pollution prevention controls. If site inspections identify BMPs that are not operating effectively, maintenance shall be arranged and accomplished as soon as practicable.

6. Inspections

Site inspections as required in Part III(A) shall be conducted to monitor the condition of stormwater discharge outlets and effectiveness of BMPs. The SWPPP shall specify the procedures for performing inspections, including:

- a. Person(s) or position(s) responsible for inspections;
- b. Schedules and frequencies for conducting inspections;
- c. Areas and activities that will be inspected; and
- d. Information that will be recorded as part of an inspection.

Stormwater pollution prevention control measures identified in the SWPPP shall be inspected to ensure they are operating correctly and in serviceable condition. Areas that require more frequent monitoring due to the nature of the industrial activity or past leaks shall be identified in the SWPPP.

7. Sampling

The SWPPP shall include procedures for conducting sampling required by this permit in Part III(B). The SWPPP shall include specifics such as sampling points, sampling procedures, chain-of-custody requirements, contracted laboratory, and parameters to be sampled.

- a. The SWPPP shall outline:

- (1) Locations of all outfalls where samples will be collected, including any determination that two or more outfalls are substantially identical (refer to Appendix 3);
- (2) Sample parameters;
- (3) Type of sample collection method (e.g., grab, instantaneous);
- (4) Schedules for sampling and monitoring at the facility;
- (5) Any numeric control values (benchmarks, effluent limitations, TMDL-related WLAs, etc.) applicable to each outfall;

- (6) Procedures for collecting samples; and
 - (7) Procedures for gathering storm event data.
- b. The SWPPP for facilities conducting representative sampling (Appendix 3(C)) shall include:
- (1) The location of each of the substantially identical outfalls;
 - (2) The location of representative outfalls;
 - (3) A description of the general industrial activities conducted in the drainage area of each outfall;
 - (4) A description of the exposed materials located in the drainage area of each outfall that are likely to be significant contributors of pollutants to stormwater discharges;
 - (5) A description of the control measures implemented in the drainage area of each outfall; and
 - (6) Information indicating why the outfalls are expected to discharge substantially identical effluents.

8. SWPPP Review and Revisions

- a. The SWPPP shall be signed in accordance with the Signatory Requirements, Part V(E), and retained on-site for the duration of activity at the permitted location.
- b. The permittee shall amend the SWPPP whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the state. The SWPPP also shall be amended if it is found to be ineffective in controlling pollutants present in stormwater.
- c. Facilities operating under an existing SWPPP are responsible for incorporating and implementing any changes necessitated by the conditions described in this permit within 180 days of the effective date of this permit.

D. Additional Terms and Conditions

- 1. Salt storage piles used for deicing or other industrial or commercial purposes shall be enclosed or covered. Salt storage piles do not need to be covered or enclosed when adding or taking materials from the pile and when stormwater drainage from the pile is contained on-site.
- 2. Petroleum products, oil field production water, and other chemicals shall have adequate leak and spill protection to prevent any spilled materials from entering waters of the state. Position materials, equipment and activities so that leaks and spills are contained, or able to be contained, to prevent the leak or spill from leaving the facility. Clean up spills and leaks promptly to prevent the discharge of pollutants. The SWPPP shall include recovery and disposal methods for cleaning up spills and leaks.
- 3. Dewatering or basin draining (i.e., pumped discharges) related to the permitted activity shall be managed with the appropriate BMPs, such that the discharge does not adversely affect the receiving water. The permittee(s) shall operate the discharge to minimize the release of sediment and provide energy dissipation measures to adequately protect the outlet from erosion. Dewatering is limited to uncontaminated stormwater, ground water, and the non-stormwater sources found in Part II(A).
- 4. Stormwater discharges from construction related activity inherent to the normal operation and expansion of covered facilities are covered by this permit. Such activities shall be conducted

in accordance with the practices identified in the SWPPP. Any newly constructed stormwater outfall associated with industrial activity shall be added to the SWPPP or, if appropriate, covered by another applicable NDPDES permit.

5. Minimize the exposure of industrial activity including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations to precipitation by locating these activities indoors or utilizing storm resistant coverings, where practicable.
6. Ensure that all wash water from operations such as vehicle or equipment washing, with the exception of allowable non-stormwater discharges, drains to a sanitary sewer, sump, or other proper collection system and not the stormwater drainage system.
7. All stormwater discharges shall comply with the requirements, policies or guidelines of municipalities and other local agencies. Any discharges of stormwater to stormwater drainage systems or other water courses under local jurisdiction, including those subject to municipal stormwater management programs, shall comply with local requirements.
8. Concrete wash water shall not be discharged to waters of the state or storm water conveyance systems.

E. Records Retention

A copy of the completed and signed NOI, renewal forms, notice of coverage letter from the department, SWPPP, inspection records, this general permit, annual inspection reports, and where applicable annual location reports, sample results, chain-of-custody sheets, and discharge monitoring reports shall be kept at the facility – electronic copies of records are acceptable. If the facility does not have a reasonable on-site location or is inactive or unstaffed, then the documents shall be retained at a readily available alternative location; preferably with a member of the Stormwater Pollution Prevention Team. The permittee shall make plans available upon request to the department, EPA, or in the case of discharges to a MS4, the operator of the MS4.

III. SELF-MONITORING AND REPORTING

A. Inspection Requirements

1. Inspection Frequency

A comprehensive inspection of the facility shall be performed according to the schedule below:

- a. Active facilities shall be inspected at least once during each three-month period. The three-month periods shall consist of the first quarter of the year (January – March), the second quarter of the year (April – June), the third quarter of the year (July – September), and the fourth quarter of the year (October – December).
- b. Operators of temporary or portable facilities (e.g. sand and gravel, batch plants) shall conduct inspections on a monthly basis while the operation is active.
- c. Inactive facilities shall be inspected at least annually.
- d. Increased inspection frequency may be appropriate for some types of equipment, processes and stormwater control measures, or areas of the facility with significant activities and materials exposed to stormwater. These frequencies shall be identified in the SWPPP.

2. Inspector Qualifications

The permittee shall ensure that personnel conducting inspections are familiar with permit conditions, the SWPPP, the proper installation and operation of control measures, and applicable sampling requirements.

3. Areas to Inspect

Inspectors shall consider the results of previous inspections and sampling results when planning and conducting inspections. The following areas shall be inspected for the evidence of, or the potential for, pollutants entering the stormwater drainage system:

- a. Areas where industrial materials or activities are exposed to stormwater;
- b. Items identified in the SWPPP that are potential pollutant sources;
- c. Areas where spills and leaks have occurred in the past three years;
- d. Stormwater outfalls;
- e. Stormwater pollution prevention control measures used to comply with this permit; and
- f. Disturbed areas of the site that are vulnerable to erosion.

During the inspection, inspectors shall look for the following:

- g. Industrial materials, residue, leak or spilled material, or trash that may have or could come into contact with stormwater and pollute runoff from the facility;
- h. Offsite tracking of industrial or waste materials, or sediment; and
- i. Stormwater pollution prevention control measures needing replacement, maintenance or repair.

4. Inspection Records

A record shall be made summarizing the scope of the inspection, major observations relating to the SWPPP, and any corrective actions taken. At a minimum, the inspection record (or report) shall include:

- a. Date of inspections;
- b. Name of person(s) conducting inspections;
- c. Signature of person(s) conducting inspections or other means used to verify an inspector (e.g., work order or preventative maintenance schedule completion);
- d. Indicate if the inspection is a result of a stormwater discharge event;
- e. Signs of pollution, or the potential for pollution, from industrial activities;
- f. Inspection findings including major observations related to the SWPPP, condition of stormwater pollution prevention controls, deficiencies noted, recommendations for corrective actions, and corrective actions taken; and
- g. Documentation that the SWPPP has been amended when substantial changes are made to stormwater controls or other BMPs in response to inspections.

5. Maintenance Records

When deficiencies are noted during an inspection, corrective actions shall be performed as soon as feasible. A record of corrective and maintenance activities shall be kept. This record shall include the dates and party completing the activities.

B. Sampling Requirements

Facilities are not required to sample stormwater runoff from the facility except for the following circumstances:

1. Permittees with industrial activities identified in this section are required to sample stormwater runoff as a condition of this permit unless waived.

- a. The minimum monitoring conditions and parameter list for each facility group in this section is outlined in Appendix 2.
 - Asphalt Paving and Roofing Materials (SIC 2951)
 - Glass, Clay, Cement, Concrete, and Gypsum Products (SIC 3271-3275)
 - Coal Mines and Coal Mining Related Facilities (SIC 1221-1241)
 - Crude Petroleum and Natural Gas Extraction (SIC 1311)
 - Production of Liquid Hydrocarbons from Oil and Gas Field Gases (SIC 1321)
 - Oil and Gas Field Services (SIC 1381-1389)
 - Non-Metallic Mineral Mining and Dressing (SIC 1411, 1422-1429, 1442, 1446, 1481, 1499)
2. The department directs the permittee, by written notification, to conduct sampling at a facility covered by this permit. Instances where sampling could be required include, but are not limited to, any of the following:
 - a. Analytical data is needed to estimate water quality impacts;
 - b. Discharges are shown to be generally of poor quality; or
 - c. The SWPPP is delinquent or determined to be insufficient.
3. All outfalls at the facility shall be sampled in accordance with Appendix 2 and 3.
4. Stormwater sampling, where required, shall conform to the requirements, procedures, and conditions in Part IV and Appendix 2 and 3.

C. Effluent Limitations

1. Effluent limitations only apply to those facilities that are required to sample. The quality of stormwater discharges associated with industrial activity shall reflect the best which is attainable through the proper implementation of all items in the SWPPP for the facility.
2. Discharges from asphalt emulsion facilities shall not exceed a daily maximum concentration of 23.0 milligrams per liter (mg/L) or a monthly average concentration of 15.0 mg/L for total suspended solids (TSS). The pH shall remain within the range of 6.0 to 9.0 standard units (S.U.). Oil and grease concentrations shall not exceed a daily maximum concentration of 15.0 mg/L or a monthly average concentration of 10 mg/L.
3. Discharges from material storage piles at cement manufacturing facilities shall not exceed a daily maximum concentration of 50 mg/L for TSS. The pH shall remain within the range of 6.0 to 9.0 S.U.
4. Discharges from mine dewatering at crushed stone mining facilities, construction sand and gravel mining facilities, and industrial sand mining facilities (SIC 1422-1429, 1442, 1446) shall have a pH within the range of 6.0 to 9.0 S.U. Mine dewatering discharges from industrial sand mining facilities shall not exceed a daily maximum concentration of 45 mg/L or a monthly average concentration of 25 mg/L for TSS.
5. Discharges from crude petroleum and natural gas extraction facilities shall have a maximum total chlorides concentration of 250 mg/L. The pH shall remain within the range of 6.0 and 9.0 S.U. The concentration of benzene shall not exceed 5 micrograms per liter (ug/L). Total BTEX (benzene-toluene-ethylbenzene-xylene) concentrations shall not exceed 100 ug/L. The concentration of total petroleum hydrocarbons shall not exceed 1 mg/L for discharges to domestic water supplies or 10 mg/L for discharges to other waters. Oil and grease concentrations shall not exceed 10 mg/L.

6. Discharges from facilities that produce liquid hydrocarbons from oil and gas field gases shall have a pH within the range of 6.0 and 9.0 S.U. The concentration of benzene shall not exceed 5 ug/L. Total BTEX concentrations shall not exceed 100 ug/L. Oil and grease concentrations shall not exceed 10 mg/L.
7. Discharges from oil and gas field service facilities shall have a maximum total chlorides concentration of 250 mg/L. The pH shall remain within the range of 6.0 and 9.0 S.U. The concentration of total petroleum hydrocarbons shall not exceed 1 mg/L for discharges to domestic water supplies or 10 mg/L for discharges to other waters. Oil and grease concentrations shall not exceed 10 mg/L.

D. Reporting Requirements

1. Annual Inspection Report Summary.

Permittees shall submit an annual inspection report to the department. The report shall cover a period from January 1 to December 31 and be submitted to the department by January 31 of the following year. The report shall list all incidents or signs of pollution from stormwater outfalls observed during the monitoring period. The inspection summary shall include the following:

- a. Permit number;
- b. Name of owner or operator and phone number;
- c. Monitoring period;
- d. Incidents and signs of pollution from stormwater outfalls;
- e. Observation date;
- f. Outfall identification number or location of incident;
- g. Description of incident or pollution;
- h. Quantity of material or size of area affected; and
- i. Remedial actions taken.

2. Discharge Monitoring Reports

Permittees that are directed to conduct sampling under this permit shall submit a discharge monitoring report (DMR). The DMR shall summarize sampling results obtained during the reporting period. If no discharge occurs during a reporting period, "no discharge" shall be reported on the DMR. Indicate on the DMR if a sample could not be collected because the facility was inactive or unstaffed, or the discharge occurred outside of normal business hours. DMRs shall be submitted according to the following schedule:

- a. Facilities required to conduct monthly sampling (refer to Appendix 2) shall submit a DMR once per month. The monitoring period shall cover the calendar month and the DMR shall be submitted to the department by the end of the following month (e.g., March 1 to March 31, due April 30).
- b. Facilities required to conduct quarterly sampling (refer to Appendix 2) shall submit a DMR once per quarter. The monitoring period shall cover the calendar quarter and the DMR shall be submitted to the department by the end of the month following the quarter (e.g., January 1 to March 31, due April 30).
- c. Facilities required to conduct yearly sampling (refer to Appendix 2) shall submit a DMR once per year. The monitoring period shall cover the calendar year (January 1 to December 31) and the DMR shall be submitted to the department by January 31 of the following year.

3. Location Record

Operators of portable or temporary facilities, such as sand and gravel operations, concrete or asphalt batch plants, shall maintain a location record showing where the facility operated. The location record shall cover a period from January 1 to December 31 and be submitted to the department by January 31 of the following year. The location record shall include the following:

- a. Permit number;
- b. Name of owner or operator;
- c. The site number and plant name;
- d. Site location (township, range, section, and quarter-quarter-quarter);
- e. County;
- f. Receiving stream;
- g. Status of each site (active, storage, under reclamation);
- h. Start date of each site; and
- i. Reclamation date.

4. Report Submittals

Reports and any other correspondence required in this permit shall be submitted in accordance with Part IV(E).

IV. MONITORING, RECORDING, AND REPORTING REQUIREMENTS BP 2019.05.29**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 shall analyze the additional samples for those parameters listed in Appendix 2 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 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.

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, 2020, the permittee may elect to electronically submit the following compliance monitoring data and reports instead of mailing paper forms. Beginning December 21, 2020, 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
918 East Divide Ave
Bismarck ND 58501-1947

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.

V. 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 for a corporation; a general partner or the proprietor for a partnership or sole proprietorship; or a principal executive officer or ranking elected official for a municipality, State, Federal, or other public agency.

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:

1. The authorization is made in writing by a person described above and submitted to the department; and
2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters.

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 unanticipated bypass which exceeds any effluent limitation in the permit under G. Bypass of Treatment Facilities;
 - b. Any upset which exceeds any limitation in the permit under H. Upset Conditions; or
 - c. Violation of any daily maximum 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 in accordance with Part IV.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 as identified above.

All other instances of noncompliance shall be reported no later than at the time of the next Discharge Monitoring Report or Annual Inspection 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 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. The permit issuing authority shall be contacted prior to the disposal of any sludges. At that time, concentration limitations and/or self-monitoring requirements may be established.

VI. 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 stormwater/industrial activity 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 sludge practices, or the establishment of prohibitions or more stringent limitations for toxic or conventional pollutants and/or 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.

K. General Permits

Coverage under this permit may be modified, revoked and reissued, or terminated for cause. The department may require any operator covered by this permit to apply and obtain an individual or alternative general permit if:

1. The discharge is not in compliance with the conditions of the general permit.
2. Conditions or standards have changed so that the discharge no longer qualifies for a general permit.
3. Information becomes available which indicates that the permittee's discharge has a reasonable potential to contribute to an exceedance of a water quality standard

When an individual NDPDES permit is issued to an operator otherwise subject to this permit or the operator is approved for coverage under an alternative NDPDES general permit, the applicability of this permit to the operator is automatically inactivated upon the effective date of the individual permit or coverage under the alternative general permit.

L. Renotification

Any request to retain coverage under a renewal of this permit shall be made in writing to the department at least 15 days prior to the expiration date of this permit. Upon request by the department, a new Notice of Intent shall be submitted.

V. DEFINITIONS

“303(d) list” or “section 303(d) list” means a list of North Dakota’s water quality-limited waters needing total maximum daily loads or TMDLs developed to comply with section 303(d) of the Clean Water Act. A copy of the list is available on the state’s web site at: deg.nd.gov/WQ

“Act” means the Clean Water Act.

“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.

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

“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.

“Department” means the North Dakota Department of Environmental Quality, Division of Water Quality.

“DMR” means discharge monitoring report.

“Energy dissipation” means methods employed at pipe outlets to prevent erosion. Examples include, but are not limited to: concrete aprons, riprap, splash pads, and gabions that are designed to prevent erosion.

“EPA” means the United States Environmental Protection Agency.

“Final stabilization” means that:

- a. All soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of 70 percent of the native cover for unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) has been achieved.
- b. For areas with an average annual rainfall of less than 20 inches only, all soil disturbing activities at the site have been completed and temporary erosion control measures (e.g., degradable rolled erosion control product) are selected, designed, and installed along with an appropriate seed base to provide erosion control for at least three years and achieve 70 percent vegetative coverage within three years without active maintenance.
- c. For soil disturbing activities on land used for agricultural purposes, final stabilization may be accomplished by returning the disturbed land to its pre-disturbance agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to “waters of the state” and areas which are not being returned to their pre-disturbance agricultural use must meet the final stabilization criteria in (a) or (b) above.

“Grab” for monitoring requirements, means a single “dip and take” sample collected at a

representative point in the discharge stream.

“Inactive mining” or **“inactive oil and gas operations”** means areas, on or beneath lands, which were previously disturbed in activity related to the extraction, removal or recovery of coal, minerals, ores, or oil and gas from their natural deposits and were not otherwise subject to runoff controls or reclamation requirements. The term does not include areas of coal mining activity defined as “active mining area” or reclamation area” in 40 CFR 434.11 or areas which have been reclaimed, cleaned up or sealed under applicable SMCRA or equivalent requirements.

“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.

“Maximum daily discharge limitation” means the highest allowable “daily discharge.”

“Measurable storm event” means a storm event that results in an actual discharge and follows the preceding measurable storm event by at least 72 hours (3-days). The 72-hour storm interval does not apply if you document that less than a 72-hour interval is representative for local storm events. In the case of snowmelt, the monitoring must be performed at a time when a measurable discharge occurs at your site.

“NDPDES” means North Dakota Pollutant Discharge Elimination System.

“No exposure” means that all industrial materials or activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt and/or runoff.

“Non-stormwater discharges” means discharges other than stormwater. The term includes both process and non-process sources. Process wastewater sources that require a separate NDPDES permit include, but are not limited to industrial processes, domestic facilities and cooling water. Non-stormwater sources that may be addressed in this permit include, but are not limited to: fire-fighting, fire hydrant flushing, potable water line flushing, building and equipment wash down without detergents or hazardous cleaning products, uncontaminated foundation drains, springs, lawn watering, chemical treatment of stormwater, and air conditioning condensate.

“Normal wetted perimeter” means the area of a conveyance, such as a ditch, channel, or pipe that is in contact with water during flow events that are expected to occur once every year.

“Operator” means the owner, party, person, general contractor, corporation, or other entity that has operational control over a facility. The operator is responsible for ensuring compliance with all conditions of the permit and with development and implementation of the “stormwater pollution prevention plan.”

“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.

“Significant materials” includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of CERCLA; any chemical the facility is required to report pursuant to Section 313 of Title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharges.

“Significant spills” includes, but is not limited to: releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the Clean Water Act (see 40 CFR 110.10 and CFR 117.21) or Section 102 of CERCLA (see 40 CFR 302.4).

“Stabilized” means the exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, wood fiber blanket, or other material that prevents erosion from occurring. Grass seeding alone is not stabilization.

“Stormwater” means stormwater runoff, snow melt runoff, and surface runoff and drainage.

“Stormwater associated with industrial activity” means stormwater runoff, snow melt runoff, or surface runoff and drainage from industrial activities as defined in 40 CFR 122.26(b)(14). Industrial facilities include industrial facilities that are federally, state, or municipally owned or operated that meet the description of the facilities listed in paragraphs (1)-(11) below, including those facilities designated under 40 CFR 122.26(a)(1)(v). The following categories of facilities are considered to be engaging in "industrial activity" for the purposes of this subsection:

1. Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category 11 of this section);
2. Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283), 29, 311, 32 (except 323), 33, 3441, 373;
3. Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(1) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);
4. Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under subtitle C of RCRA;
5. Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under subtitle D of RCRA;
6. Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;
7. Steam electric power generating facilities, including coal handling sites;
8. Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs 1-7 or 9-11 of this section are associated with industrial activity;
9. Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR part 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with section 405 of the CWA;
10. Construction activity including clearing, grading and excavation, except operations that result in the disturbance of less

than five acres of total land area. Construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more;

11. Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, and 4221-25;

“Temporary erosion protection” means methods employed to prevent erosion. Examples of temporary cover include; straw, wood fiber blanket, wood chips, and erosion netting.

“Total drain” means the total volume of effluent discharged.

“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.

“Waters of the state” means any and all surface waters that are contained in or flow in or through the state of North Dakota as defined in NDCC 61-28-02. This definition includes all water courses, even if they are usually dry.

Appendix 1 - Erosion and Sediment Control Requirements

Requirements for designing, implementing and maintaining erosion and sediment controls. Permittees shall minimize erosion by stabilizing exposed soils at the facility and placing flow velocity dissipation devices at discharge locations. Permittees also shall use structural and non-structural control measures to minimize the discharge of pollutants. If polymers and/or other chemical treatments are used as part of the controls, permittees shall identify the polymers and/or chemicals used and the purpose in the SWPPP.

A. Erosion and Sediment Control Practices

1. Sites using temporary or permanent sediment basins must meet the following requirements:
 - a. Sediment basins shall be designed for a calculated volume of runoff from a 2-year, 24-hour storm per acre drained to the basin and provide not less than 1,800 cubic feet of sediment storage below the invert of the outlet pipe from each acre drained to the basin; or
 - b. Basins shall be sized to provide 3,600 cubic feet of sediment storage below the invert of the outlet pipe per acre drained to the basin if calculations are not performed.
 - c. Basin outlets must be designed to avoid short-circuiting and the discharge of floating debris. Basins must be designed with the ability to allow complete basin drawdown for maintenance activities. The basin must have a stabilized emergency overflow to prevent failure of pond integrity. Energy dissipation must be provided for the basin outlet.
2. Erosion, sediment, and stabilization practices shall be provided. Erosion, sediment, and stabilization practices include such things as: silt fences, fiber logs, vegetative buffer strips, erosion control blankets, mulch, hydro-seeding combined with mulch or tackifiers, etc.
3. Provide temporary erosion protection or permanent cover for exposed soil areas where activities have been completed or temporarily ceased. For areas with a continuous positive slope within 200 linear feet of a surface water, temporary erosion protection or permanent cover shall be provided within 21 days of completing or ceasing earth moving activities. These areas include pond embankments, ditches, berms and soil stockpiles. Temporary stockpiles without significant silt, clay or organic components (e.g., clean aggregate stockpiles, demolition concrete stockpiles, sand stockpiles) are exempt from this requirement.
4. Soil stockpiles shall have effective sediment controls, and cannot be placed in surface waters, including stormwater conveyances such as curb and gutter systems, or conduits and ditches.
5. The normal wetted perimeter of any ditch that drains water from a site, or diverts water around a site, shall be stabilized. Stabilization shall be completed before connecting to a surface water.
6. Pipe outlets shall be provided with energy dissipation before connecting to a surface water.
7. Drainage ditches and sediment basins that are designed as part of a treatment system (e.g., ditches with rock check dams) require sediment control practices only as appropriate for site conditions.
9. Storm drain inlets in the immediate vicinity of the facility must be protected by appropriate BMPs.
10. Vegetated buffers must have a minimum width of 25 feet for every 125 feet of disturbed area which drains to the buffer. For each additional 5 feet of disturbance, an additional 1 foot of width must be added. The width of the buffer shall have a slope of 5 percent or less and the area draining to the buffer shall have a slope of 6 percent or less. Concentrated flows should be minimized throughout the buffer.

Buffers shall consist of dense grassy vegetation, 3 to 12 inches tall with uniform coverage over 90 percent of the buffer. Woody vegetation shall not be counted for the 90 percent coverage. No more than 10 percent of the overall buffer may be comprised of woody vegetation.

B. Maintenance Requirements for Erosion and Sediment Controls

1. All erosion prevention and sediment control BMPs shall be inspected to ensure integrity and effectiveness. All nonfunctional BMPs shall be repaired, replaced, or maintained with functional BMPs. Permittees shall investigate and comply with the following inspection and maintenance requirements:
 - a. All control devices similar to, and including, silt fence or fiber rolls shall be repaired or replaced when they become nonfunctional or as sediment approaches 1/2 of the above ground capacity of the control device. These repairs shall be made within 24 hours of discovery, or as soon as field conditions allow access.
 - b. Sedimentation basins shall be drained and the sediment removed when the depth of sediment collected in the basin reaches 1/2 the storage volume. Drainage and removal shall be completed within 72 hours of discovery, or as soon as field conditions allow access.
 - c. Maintenance and cleaning of inlet protection devices must be performed when sediment accumulates, the filter becomes clogged, and/or performance is compromised.
2. Surface waters, including drainage ditches and conveyance systems, shall be inspected for evidence of sediment deposited by erosion. Permittees must remove all deltas and sediment deposits in surface waters, drainage ways, catch basins, and other drainage systems. Areas where sediment removal results in exposed soil must be stabilized. Removal and stabilization shall take place immediately, but no more than seven days after discovery, unless precluded by legal, regulatory, or physical access constraints. Permittees shall use all reasonable efforts to obtain access. If precluded, removal and stabilization shall take place immediately, but no more than seven calendar days after obtaining access. Permittees are responsible for contacting all local, regional, state, and federal authorities and receiving any applicable permits prior to conducting any work.
3. Facility exits shall be inspected for evidence of sediment being tracked offsite by vehicles or equipment onto paved surfaces. Accumulations of tracked and deposited sediment must be removed from all offsite paved surfaces by the end of the work day, shift or if applicable, within a shorter time specified by local authorities or the department.
4. If sediment escapes the facility, offsite accumulations of sediment shall be removed in a manner and at a frequency sufficient to minimize offsite impacts (e.g., fugitive sediment in streets could be washed into storm sewers by the next rain and/or pose a safety hazard to users of public streets).

Vehicle tracking of sediment from the site shall be minimized by BMPs. The facility operator is responsible for (or making the arrangements for) street sweeping and/or scraping if BMPs are not adequate to prevent sediment from being tracked onto the street from the facility.

5. Vegetative buffers shall be inspected for proper distribution of flows, sediment accumulation, and signs of rill formation. If a buffer becomes silt covered, contains rills, or is otherwise rendered ineffective, other control measures shall be implemented. Eroded areas shall be repaired and stabilized.

C. Operational Controls

1. Properly handle debris and waste materials.
 - a. Debris and waste must be handled appropriately until disposal. Litter and debris shall be collected and stored to reduce the potential for wind and water to carry the materials off site or leachate discharging from the facility. Collected material shall be taken to the appropriate facility for disposal or recycling.
 - b. Liquid or soluble materials including oil, fuel, paint, and hazardous substances shall be properly stored to prevent spills, leaks, or other discharges. Restricted access to storage areas shall be provided to prevent vandalism. Storage and disposal of liquid or soluble material shall comply with applicable regulations.
2. Concrete wash water disposal shall be limited to an area designated for cement washout. The area must be sufficient to contain the wash water and residual cement. Concrete washout areas shall be cleaned out (solid and liquid) before 80 percent of storage capacity is attained.

Appendix 2 - Industry Specific Sampling and SWPPP Requirements

The industry sectors identified in this appendix are required to collect samples of stormwater discharges from all outfalls as part of the sampling requirements listed in Part III(B) of the permit. The specific sampling parameters and frequencies applicable to each industry sector are listed below.

The sampling procedures and conditions applicable to all facilities sampling stormwater discharges are outlined in Part IV and Appendix 3. In general, operators shall collect grab samples of measurable storm events at each and every outfall for the parameters listed for their industry sector. Appendix 3 also provides conditions for reduction in monitoring based on sample history and “benchmark” values.

Benchmark concentrations should not be interpreted as stormwater effluent limitations, individual wastewater effluent limitations, or as state water quality standards. Benchmark concentrations provide an appropriate level to determine whether a facility’s stormwater pollution prevention measures are effective. A pollutant concentration that is above the benchmark value represents a potential water quality concern and the need to improve a facility’s SWPPP. If samples exceed the benchmark value, the SWPPP shall be revised to include possible sources of the high concentration and methods to reduce future concentrations.

A. Asphalt Paving and Roofing Materials

Applicability: Facilities with asphalt paving and roofing materials; SIC code 2951		
• Sample Frequency: 1/year		
Required Parameter	Benchmark Value	Discharge Limit
• Total Suspended Solids	100 mg/L	

B. Asphalt Emulsion Facilities

• Sample Frequency: 1/year		
Required Parameter	Benchmark Value	Discharge Limit
• Total Suspended Solids		23.0 mg/L (daily max) 15.0 mg/L (monthly avg)
• pH		Between 6.0-9.0 S.U.
• Oil and Grease		15 mg/L (daily max) 10 mg/L (monthly avg)

C. Glass, Clay, Cement Concrete, and Gypsum Products

Applicability: Facilities with industrial activities associated with Cement, Concrete, and Gypsum Product manufacturing facilities; SIC codes 3271-3275		
• Sample Frequency: 1/year		
Required Parameter	Benchmark Value	Discharge Limit
• Total Suspended Solids	100 mg/L	
• Iron, Total	1.0 mg/L	
Additional SWPPP Requirements <i>Good Housekeeping Measures.</i> Using good housekeeping measures, prevent or minimize the discharge of spilled cement, aggregate (including sand or gravel), kiln dust, fly ash, settled dust, or other significant material in stormwater from paved portions of the site that are exposed to stormwater. Determine the frequency of sweeping or other measures based on the amount of industrial activity occurring in the area and the frequency of precipitation. Sweeping or other measures shall be performed at least once a week if cement, aggregate, kiln dust, fly ash, or settled		

dust are being handled or processed and may be discharged in stormwater.

Prevent the exposure of fine granular solids (cement, fly ash, kiln dust, etc.) to stormwater, where practicable, by storing these materials in enclosed silos, hoppers, or buildings, or under other covering.

D. Cement Manufacturing

Applicability: Discharges from material storage piles at cement manufacturing facilities; SIC code 3241

- Sample Frequency: 1/year

Required Parameter	Benchmark Value	Discharge Limit
• Total Suspended Solids		50 mg/L (daily max)
• pH		Between 6.0-9.0 S.U.

E. Mine Dewatering – Nonmetallic Mineral (except fuels), Crushed Stone, Sand and Gravel Mining

Applicability: Mine dewatering at crushed stone mining facilities, construction sand and gravel mining facilities, and industrial sand mining facilities; SIC codes 1422-1429, 1442

- Sample Frequency: 1/year

Required Parameter	Benchmark Value	Discharge Limit
• pH		Between 6.0-9.0 S.U.

F. Mine Dewatering – Nonmetallic Mineral (except fuels), Industrial Sand Mining

Applicability: Mine dewatering discharges from industrial sand mining facilities; SIC code 1446

- Sample Frequency: 1/year

Required Parameter	Benchmark Value	Discharge Limit
• Total Suspended Solids		45 mg/L (daily max) 25 mg/L (monthly avg)
• pH		Between 6.0-9.0 S.U.

G. Runoff – Nonmetallic Mineral Mining and Dressing, Sand and Gravel Mining

Applicability: Runoff from Sand and Gravel Mining; SIC codes 1442, 1446

- Sample Frequency: 1/year

Required Parameter	Benchmark Value	Discharge Limit
• Nitrate plus Nitrite Nitrogen	0.68 mg/L	
• Total Suspended Solids	100 mg/L	

H. Runoff – Nonmetallic Mineral Mining and Dressing, Dimension and Crushed Stone and Nonmetallic Minerals (except fuels)

Applicability: Runoff from Dimension and Crushed Stone and Nonmetallic Minerals (except fuels); SIC codes 1411, 1422-1429, 1481, 1499

- Sample Frequency: 1/year

Required Parameter	Benchmark Value	Discharge Limit
• Total Suspended Solids	100 mg/L	

I. Coal Mines and Coal Mining Related Facilities

Applicability: Stormwater discharges associated with industrial activity from Coal Mines and Coal Mining-Related facilities as identified by the SIC codes 1221-1241

- Sample Frequency: 1/year

Required Parameter	Benchmark Value	Discharge Limit
• Total Suspended Solids	100 mg/L	
• Iron, Total	1.0 mg/L	
• Aluminum, Total	0.75 mg/L	

Additional SWPPP Requirements

Other Applicable Regulations. All active coal mining-related areas (SIC Codes 1221-1241) are subject to sediment and erosion control regulations of the Public Service Commission (PSC) that enforces the Surface Mining Control and Reclamation Act (SMCRA). The Office of Surface Mining has granted authority to most coal-producing states to implement SMCRA through State SMCRA regulations. All SMCRA requirements regarding control of stormwater-related pollutant discharges must be addressed and then documented with the SWPPP (directly or by reference).

J. Crude Petroleum and Natural Gas Extraction

Applicability: Facilities with industrial activities associated with Crude Petroleum and Natural Gas Extraction; SIC code 1311.

- Sample Frequency (Spill Remediation Sites): 1/month
- Sample Frequency (Post-Remediation Sites): 1/quarter

Required Parameter	Benchmark Value	Discharge Limit
• Chlorides, Total		250 mg/L
• pH		Between 6.0-9.0 S.U.
• Benzene		5 ug/L
• Total BTEX		100 ug/L
• Total Petroleum Hydrocarbons		1 mg/L (to domestic water supply) 10 mg/L (to other waters)
• Oil and Grease		10 mg/L (if a visible sheen is present)

Crude petroleum and natural gas extraction facilities shall conduct monthly sampling during spill remediation activities. Sampling may be reduced to quarterly following spill remediation and department closure.

The following steps shall be taken to initiate the discharge of stormwater or melt water from well pads or secondary containment structures:

- Dewatering may occur from areas where a spill occurred (e.g., oil or produced water) that was remediated
- Dewatering may not occur from areas where a spill has not been remediated
- The water to be discharged shall not have come in contact with reserve pits, drilling fluid, drilling mud, crude oil, produced water, hydrofracturing fluid, hydrofracturing flowback water, or other possible contaminants

K. Production of Liquid Hydrocarbons from Oil and Gas Field Gases

Applicability: Facilities with industrial activities associated with the Production of Liquid Hydrocarbons from Oil and Gas Field Gases; SIC code 1321.

- Sample Frequency (Facilities without a Reportable Quantity Release): 1/year
- Sample Frequency (Spill Remediation Sites): 1/month
- Sample Frequency (Post-Remediation Sites): 1/quarter

Required Parameter	Benchmark Value	Discharge Limit
• pH		Between 6.0-9.0 S.U.
• Benzene		5 ug/L
• Total BTEX		100 ug/L
• Oil and Grease		10 mg/L (if a visible sheen is present)

Facilities producing liquid hydrocarbons from oil and gas field gases shall conduct monthly sampling during spill remediation activities. Sampling may be reduced to quarterly following spill remediation and department closure. Facilities that have not experienced a reportable quantity release may sample annually.

L. Oil and Gas Field Service

Applicability: Facilities with industrial activities associated with Oil and Gas Field Services; SIC codes 1381-1389.

- Sample Frequency (Facilities without a Reportable Quantity Release): 1/year
- Sample Frequency (Spill Remediation Sites): 1/month
- Sample Frequency (Post-Remediation Sites): 1/quarter

Required Parameter	Benchmark Value	Discharge Limit
• Chlorides, Total		250 mg/L
• pH		Between 6.0-9.0 S.U.
• Total Petroleum Hydrocarbons		1 mg/L (to domestic water supply) 10 mg/L (to other waters)
• Oil and Grease		10 mg/L (if a visible sheen is present)

Oil and gas field service facilities shall conduct monthly sampling during spill remediation activities. Sampling may be reduced to quarterly following spill remediation and department closure. Facilities that have not experienced a reportable quantity release may sample annually.

Appendix 3 - Stormwater Sampling Requirements, Procedures and Conditions

Applicable to facilities conducting a sampling program.

A. Sample procedures

1. All required monitoring must be performed on a storm event that results in an actual discharge from the facility ("measurable storm event") that follows the preceding measurable storm event by at least 72 hours (three days). In the case of snowmelt, the monitoring must be performed at a time when a measurable discharge occurs from the facility.
2. For discharges from holding ponds or other impoundments with a 24-hour or greater retention capability, grab samples of the discharge may be obtained at any time. For all other discharges, grab samples shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample may be taken as soon as practicable.
3. For storm events sampled, except snowmelt monitoring, the permittee shall record the date and duration (in hours) of the event, rainfall amount or estimates (in inches) of the event, and time (in days) since the last measurable storm event which generated runoff. For snowmelt monitoring, you must identify the date of the sampling event. The information shall be included on DMRs. The permittee shall have the option of maintaining a rain gauge on site or utilizing the nearest National Weather Service rain gauge station. Rain gauge locations or stations must be representative of the facility.

B. Impractical or adverse conditions

When a permittee is unable to collect samples due to impractical or adverse climatic conditions, the permittee must describe in the DMR why samples could not be collected. Impractical or adverse climatic conditions which may prohibit the collection of samples include: normal non-working hours, nightfall, or weather conditions that create dangerous conditions for personnel (local flooding, high winds, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impractical (drought, extended frozen periods, inactive or unstaffed facility, etc.).

C. Substantially identical outfalls

When a facility has two or more outfalls which the permittee believes would discharge substantially identical effluents (based on the features and activities within the areas drained by the outfalls), the permittee must develop and retain a representative sampling plan in which at least 20 percent of all outfalls would be monitored. Permittees utilizing this option shall include the representative sampling plan in the SWPPP.

D. Equivalent monitoring plans

Where appropriate, results for monitoring plans developed for other regulatory agencies or other purposes can be used for the requirements of this permit.

E. Sampling waiver

A permittee may seek a waiver from all or part of the sampling requirements outlined in Part III(B) and Appendix 2 by demonstrating that the conditions listed below have been met. The waiver (or reduction in sampling) may be pursued on both a parameter by parameter and outfall by outfall basis. The waiver request must be submitted to the department for approval. The waiver is not applicable to sampling for parameters which are required due to effluent limits in the permit. Permittees do not have to request a new waiver if a waiver was approved under a previous permit. The approval of any waiver will be based on the following conditions:

1. At least four (4) samples must have been collected and analyzed from a discharge point where sampling is required for the parameter(s) being considered. The samples may have been obtained over the course of one year or several years. The results from the four (4) most recent samples must

have an average concentration below the benchmark value listed in Appendix 2. A summary of all available monitoring data should be included in the request.

2. The industrial activities at the site, such as material handling and storage, chemical use, waste disposal practices, erosion controls, and other types of industrial activities, have not changed since the samples were taken in any way that could have an adverse impact on stormwater quality.

**FACT SHEET FOR NDPDES PERMIT
NDR32-0000**

PERMIT REISSUANCE

**GENERAL PERMIT FOR STORMWATER DISCHARGES FROM
MINING, EXTRACTION OR PAVING MATERIAL PREPARATION ACTIVITIES**

DATE OF THIS FACT SHEET – NOVEMBER 2019

INTRODUCTION

The Federal Clean Water Act (CWA, 1972, and later amendments in 1977, 1981, and 1987, etc.) established water quality goals for the navigable (surface) waters of the United States. One mechanism for achieving the goals of the CWA is the National Pollutant Discharge Elimination System (NPDES), which the US Environmental Protection Agency (EPA) has oversight authority. In 1975, the State of North Dakota was delegated primacy of the NPDES program by EPA. The North Dakota Department of Environmental Quality (NDDEQ), hereafter referred to as “department”, has been designated the state water pollution control agency for all purposes of the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251, et seq.], and is hereby authorized to take all action necessary or appropriate to secure to this state the benefits of the act and similar federal acts. The department’s authority and obligations for the wastewater discharge permit program is in the NDAC 33.1-16 (North Dakota Administrative Code) which was promulgated pursuant to NDCC chapter 61-28 (North Dakota Century Code). The department uses North Dakota Pollutant Discharge Elimination System (NDPDES) as its permitting title.

The following rules or regulations apply to NDPDES permits:

- Procedures the department follows for issuing NDPDES permits (NDAC chapter 33.1-16-01),
- Standards of Quality for Waters of the State (NDAC chapter 33.1-16-02.1).

These rules require any treatment facility operator to obtain an NDPDES permit before discharging wastewater to state waters. They also define the basis for limits on each discharge and for other requirements imposed by the permit.

According to the North Dakota Administrative Code (NDAC) section 33.1-16-01-08, the department must prepare a draft permit and accompanying fact sheet, and make it available for public review. The department must also publish an announcement (public notice) during a period of thirty days, informing the public where a draft permit may be obtained and where comments regarding the draft permit may be sent (NDAC chapter 33.1-16-01-07). For more information regarding preparing and submitting comments about the fact sheet and permit, please see **Appendix A – Public Involvement**. Following the public comment period, the department may make changes to the draft NDPDES permit. The department will summarize the responses to comments and changes to the permit in **Appendix D - Response to Comments**.

TABLE OF CONTENTS

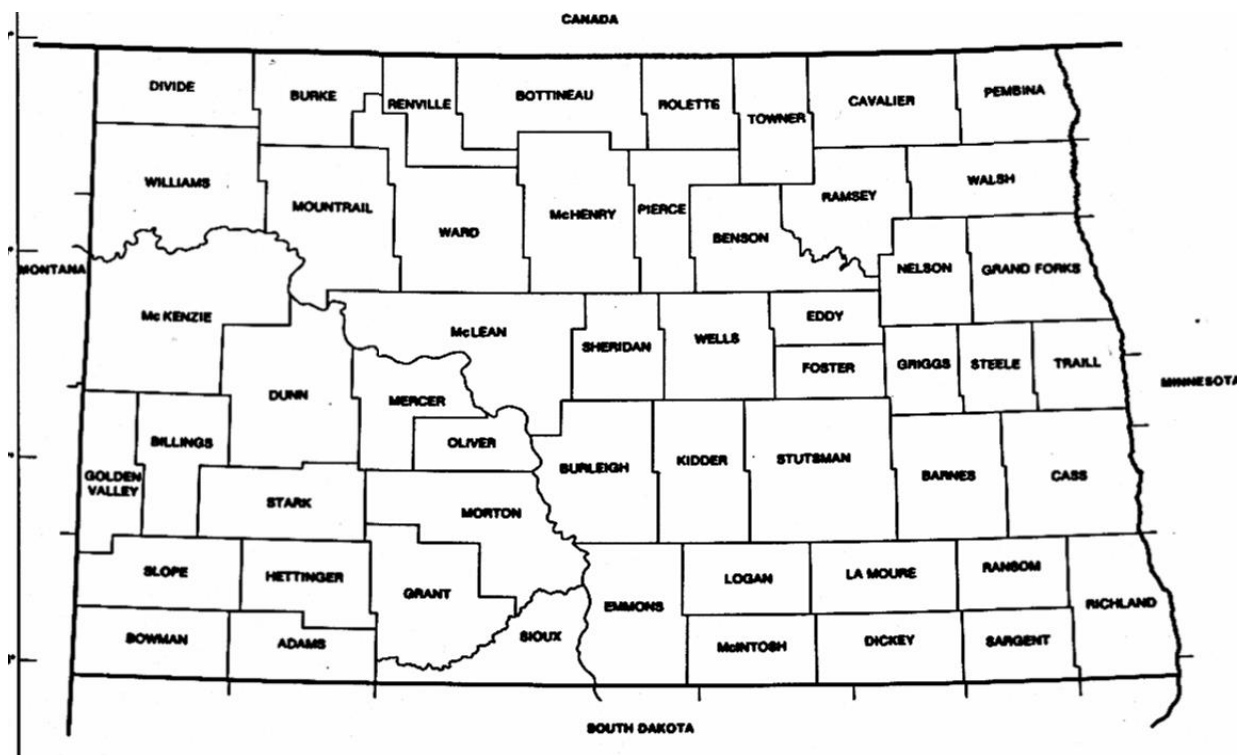
BACKGROUND INFORMATION	3
SIGNIFICANT PERMIT CHANGES.....	4
COVERAGE UNDER THIS PERMIT	5
Applicability of the General Permit	5
Discharges Not Covered	6
Request for Authorization.....	6
Alternative Permit Coverage and Notice of Termination	7
Termination of Coverage	7
Special Conditions	8
STORMWATER POLLUTION PREVENTION PLAN.....	8
Additional Terms and Conditions	9
Records Retention.....	10
Authorization to Discharge.....	10
PROPOSED PERMIT LIMITS	10
Effluent Limitations, Benchmark Concentrations, and Stormwater Sampling.....	10
Annual Inspection and Discharge Monitoring Report Requirements	15
Self-Monitoring Requirements.....	15
SURFACE WATER QUALITY-BASED EFFLUENT LIMITS	16
Numerical Criteria for the Protection of Aquatic Life and Recreation	17
Numerical Criteria for the Protection of Human Health	17
Narrative Criteria	17
Antidegradation	17
Mixing Zones	17
EVALUATION OF SURFACE WATER QUALITY-BASED EFFLUENT LIMITS FOR NUMERIC CRITERIA	17
MONITORING REQUIREMENTS.....	18
Test Procedures	18
PERMIT ISSUANCE PROCEDURES.....	18
Permit Actions	18
Proposed Permit Issuance.....	18
APPENDIX A – PUBLIC INVOLVEMENT INFORMATION	19
APPENDIX B – GLOSSARY	21
APPENDIX C – RESPONSE TO COMMENTS.....	25

BACKGROUND INFORMATION

General Information

Permit Number:	NDR32-0000
Permit Type:	General Permit, Renewal
Type of Treatment:	Best Available Technology Economically Achievable (BAT); Best Professional Judgment (BPJ); and Best Management Practices (BMPs)
Discharge Location:	Waters of the State of North Dakota

Figure 1 – Photograph of the State of North Dakota



General permits (Title 40 of the Code of Federal Regulations (CFR), Part 122.28) provide a streamlined means to cover a large number of facilities that fall under the broad definition of "stormwater discharges associated with industrial activity." These facilities are subject to the requirements of Section 402 of the Clean Water Act, as enforced by the NDPDES program. General permits require baseline control practices aimed at minimizing the impact of stormwater discharges to waters of the state. In addition, the general permit process places less of an administrative burden on the issuing authority than the individual permitting process. Individual permits or industry specific permits may still be developed to address specific water quality concerns or industry specific control practices.

The present general permit issued for stormwater discharges associated with mining, extraction, or paving material preparation activities expires December 31, 2019. The permit was developed in response to the stormwater permit application requirements promulgated by the U.S. Environmental Protection Agency on November 16, 1990. The renewal will continue to provide coverage for stormwater discharges from mining, extraction, or paving material preparation facilities statewide. Currently, there are approximately 210 facilities covered by the present permit for mining, extraction or paving material preparation activities.

SIGNIFICANT PERMIT CHANGES

The following additions or changes to this general permit were made:

- Facilities that are required to sample stormwater runoff must submit supplemental information with the Notice of Intent. The supplemental information relates to number of outfalls that will be sampled; sampling industry sector; and for oil and gas related industries, whether the outfalls are receive runoff from remediation or non-remediation activity.
- The requirement to submit an annual inspection report (AIR) was reinstated in the proposed permit. All facilities will be required to submit an AIR. The AIR is a summary of all incidents and signs of pollution from a facility's stormwater outfalls. The submittal of an AIR meets 40 CFR 122.44(i)(5) which requires permits that do not require a report for monitoring result to require a report of all instances of non-compliance not otherwise reported.
- North American Industrial Classification System (NAICS) Codes were correlated with a number of Standard Industrial Classification (SIC) Code major groups.
- Language throughout the proposed permit was made more consistent with other NDPDES industrial stormwater permits.
- Effluent limitations for oil and gas related facilities (SIC Code major group 13) were added to the Effluent Limitations section of the proposed permit (Part III(C)). Effluent limitations were already included in Appendix 2 of the current general permit. Effluent limitations for specific sectors of oil and gas related facilities also were clarified in Part III(C) and Appendix 2 of the proposed permit.
- Language regarding the submittal of discharge monitoring reports (DMRs) was updated. Monthly DMRs will be due the month following the monitoring period, quarterly DMRs will be due the month following the quarter, and annual DMRs will be due the month following the calendar year. Details about DMR submittal frequency were added in Part III(D)(2) of the proposed permit.
- Sector-specific sample frequencies were added to Appendix 2 of the proposed permit.
- Electronic reporting requirements were included in Part IV(E) the proposed permit. The

electronic reporting requirements comply with 40 CFR 127.

- A definition of a “measurable storm event” was included in the proposed permit. In general, a “measurable storm event” is an event where an actual discharge occurs from the facility and can be sampled. The proposed permit also clarifies in Appendix 3 that a sample must be collected from a “measurable storm event.”

COVERAGE UNDER THIS PERMIT

Applicability of the General Permit

The proposed general permit authorizes the discharge of relatively uncontaminated stormwater from mining, extraction or paving material preparation activities. The permit is not intended for stormwater discharges from other industrial activities or construction disturbances. These activities are covered under separate general permits, NDR05-0000 and NDR10-0000, respectively.

The proposed permit applies to discharges of stormwater associated with industrial activity as defined in 40 CFR 122.26(b)(14) from any of the following:

- Operations involved in coal mining, Standard Industrial Classification (SIC) Code major group 12 (NAICS Codes 212111-212113, 213113, and 238910);
- Operations involved in crude petroleum and natural gas extraction, SIC Code 1311 (NAICS Code 211111), that have had a discharge of stormwater resulting in the discharge of a reportable quantity for which notification is required pursuant to 40 CFR 110.6, 40 CFR 117.21, or 40 CFR 302.6 or contributes to a violation of a water quality standard (40 CFR 122.26(a)(2)(ii) and (c)(1)(iii)) ;
- Operations involved in producing liquid hydrocarbons from oil and gas field gases, SIC Code 1321 (NAICS Code 211112), that have had a discharge of stormwater resulting in the discharge of a reportable quantity for which notification is required pursuant to 40 CFR 110.6, 40 CFR 117.21, or 40 CFR 302.6 or contributes to a violation of a water quality standard (40 CFR 122.26(a)(2)(ii) and (c)(1)(iii));
- Operations involved in oil and gas field services, SIC Codes 1381-1389 (NAICS Codes 213111, 213112, 237120, and 238910), that have had a discharge of stormwater resulting in the discharge of a reportable quantity for which notification is required pursuant to 40 CFR 110.6, 40 CFR 117.21, or 40 CFR 302.6 or contributes to a violation of a water quality standard (40 CFR 122.26(a)(2)(ii) and (c)(1)(iii));
- Operations involved in mining and quarrying of nonmetallic minerals, SIC Code major group 14 (NAICS Codes 212311-212313, 212319, 212321-212325, 212391-212393, 213115, 238910, and 212399);
- Facilities operated to obtain or prepare materials for highway construction activities

including concrete or asphalt batch plants, SIC Codes 1611 and 2951, and industry group number 327;

- Equipment storage and maintenance yards supporting the industrial categories identified above.

Discharges Not Covered

There are other types of discharges that are not appropriately regulated by the proposed permit and other limitations on what activities the proposed permit can authorize. As such, the following discharges are not eligible for coverage under the proposed permit:

- Stormwater discharges from facilities or activities subject to nationally established effluent limitation guidelines or other performance standards under 40 CFR subchapter N except as provided in the proposed permit.
- Discharges or releases that are not stormwater except those non-stormwater discharges authorized under Part II(A) of the proposed permit.
- Discharges to waters that have a total maximum daily load (TMDL) allocation are not covered unless permittees develop a Stormwater Pollution Prevention Plan (SWPPP) that is consistent with the assumptions and requirements in the approved TMDL. To be eligible for coverage under the proposed general permit, the SWPPP shall incorporate the conditions applicable to the discharge necessary for consistency with the assumptions, allocations and requirements of the TMDL. If a specific numeric wasteload allocation (WLA) has been established that would apply to the discharge from the facility, the permittee shall incorporate that WLA into the SWPPP and implement necessary steps to meet the TMDL.
- The placement of fill into waters of the state requiring local, state, or federal authorizations (such as U.S. Army Corps of Engineers Section 404 permits).
- The proposed permit does not substitute for obligations under the National Environmental Policy Act (NEPA), Endangered Species Act (ESA), Wild and Scenic Rivers Act, or National Historic Preservation Act (NHPA). It is the responsibility of the permittee to ensure the facility and resulting discharges comply with the respective requirements.
- Stormwater discharges that the department determines will cause, or have the reasonable potential to cause or contribute to, violations of standards of quality for waters of the state (North Dakota Administrative Code 33.1-16-02.1).
- The discharge of process wastewater or sanitary waste.

Request for Authorization

Facilities that are required to obtain coverage under the proposed permit must submit a Notice of Intent (NOI) in accordance with 40 CFR 122.28(b)(2). Facilities covered under the present permit will be retained, provided a satisfactory request was made under the renotification provisions of the permit. If necessary, the department may require the submittal of a new NOI.

For operators of new facilities wishing to obtain coverage, a NOI must be submitted at least seven days prior to starting any activity subject to regulation as a stormwater discharge associated with mining, extraction or paving material preparation activity. Operators of oil and gas related facilities that experience a stormwater discharge of a reportable quantity release must submit an NOI within 15 days of becoming aware of the release. Permit coverage becomes effective seven days after a complete application has been submitted to the department unless otherwise notified by the department (based on the department receipt date).

The NOI will include the following:

- Owner or operator contact name and phone number and mailing address;
- Name of facility or site with brief description of business or activity;
- Location of the site; and
- Name of receiving water or the name of the receiving municipal storm sewer system and receiving water.

The NOI for facilities required to sample must include:

- Number of outfalls and outfalls sampled, and sampling group; and
- For oil and gas related activities, whether runoff is from remediation activities.

Alternative Permit Coverage and Notice of Termination

The department may require any facility to apply for and obtain an individual NDPDES permit or seek coverage under an alternative NDPDES general permit (40 CFR 122.28(b)(3)). Any facility covered by the proposed general permit may request to be excluded from coverage by applying for an individual NDPDES permit.

When an individual NDPDES permit is issued to a facility otherwise subject to the proposed permit, the applicability of the general permit to the individual permittee is automatically terminated upon the effective date of the individual permit.

Termination of Coverage

A permittee may request the termination of permit coverage when stormwater discharges associated with industrial activity are no longer present at the facility. The permittee must submit a Notice of Termination (NOT) to terminate coverage. The NOT may be submitted after one of the following conditions has been met:

- All stormwater discharges associated with industrial activity have been eliminated and final stabilization has been achieved.
- Stormwater discharges were from an inactive coal mining operation no longer meeting the definition of a reclamation area because the performance bond issued to the facility has been released, or a non-coal mining operation which has been released from applicable reclamation requirements after December 17, 1990.
- Stormwater discharges were from oil and gas related facilities where the areas affected by a reportable quantity release that resulted in coverage under the permit have been reclaimed and the facility has operated satisfactorily under a SWPPP for a minimum of one year following spill remediation and department closure. The department may deny

termination for facilities that experience repeat incidents.

- The facility has been issued an individual NDPDES permit to discharge stormwater associated with industrial activity.
- The facility is a portable operation that no longer operates within the state of North Dakota.

Special Conditions

The proposed permit must identify discharges that are prohibited from coverage under the permit. Wastewater and other non-stormwater sources that combine with a stormwater discharge must comply with a NDPDES permit specifically for the wastewater or non-stormwater discharge. Non-stormwater discharges that are eligible for coverage under the proposed permit include: fire-fighting activity, fire hydrant flushing, potable water line flushing, building and equipment wash down without detergents or hazardous cleaning products, uncontaminated foundation drains, springs, lawn watering, chemical treatment of stormwater, air conditioning condensate, and appropriately managed pavement wash water. These non-stormwater discharges are identified, or sufficiently similar to those identified, in similar EPA stormwater discharge general permits.

The proposed permit does not relieve the permittee of reporting requirements under 40 CFR 110, 40 CFR 117, or 40 CFR 302 or the reporting requirements found in NDAC 33.1-16-02.1. Any releases which meet any reporting requirements must be reported. There is a remote possibility that hazardous substances in excess of reporting quantities may enter stormwater discharges regulated by this permit. Since the discharge of these hazardous substances is not authorized by this permit, the reporting requirement exemption in 40 CFR 117.12 would not apply, and all specified reporting requirements would remain in effect. Of a more probable nature is the possibility of oil in excess of the mandated reporting quantity entering a stormwater discharge. As an oil spill release is not authorized by this permit, the discharger would not be relieved of the reporting obligations, which in this case are identified in 40 CFR 110. In addition, the requirements of Section 311 of the Clean Water Act, and any applicable provisions of Section 301 and 402 of the Clean Water Act would also apply.

STORMWATER POLLUTION PREVENTION PLAN

All facilities covered by the proposed general permit are required to prepare, implement, and maintain a SWPPP. The major objectives of the SWPPP are to identify potential sources of pollution which may reasonably be expected to affect the quality of stormwater discharges and ensure that practices are implemented to minimize pollutants in stormwater discharges.

Some facilities covered by the proposed permit may be subject to local or state sediment and erosion control programs or stormwater management related requirements as part of other regulatory programs. In particular, spill prevention control and countermeasure (SPCC) plans have been developed for many facilities. In most cases, it will be acceptable to incorporate by reference the applicable portions or requirements of plans developed under other regulatory programs into the SWPPP.

The SWPPP developed and approved under the current permit may be continued under the proposed permit. Facilities with existing plans are responsible for updating their SWPPP accordingly within 180 days of the issuance of the proposed permit.

The SWPPP requirements reflect a combination of control measures and BMPs outlined in the EPA Multi-Sector General Permit (MSGP-2015) pertinent to the industrial activities covered by the proposed permit. The required SWPPP items in the proposed permit are similar to those in the past versions of the permit. At a minimum, the SWPPP must include the following:

- Site Description: Include description of activities, general location maps, site specific maps detailing items such as outfalls and the presence of impaired waters.
- Stormwater Pollution Prevention Team: Identify who will be responsible for SWPPP compliance.
- Description of Potential Pollutant Sources: Include a narrative description of potential pollution sources associated with industrial activity and material handling at the facility. Each description shall include an activity assessment, a pollutant list, and identify non-stormwater discharges.
- Stormwater Controls: Describe the location and type of existing and planned controls for each industrial source or activity that could contribute pollutants to stormwater runoff. This section includes good housekeeping, dust control, preventative maintenance, spill prevention and response, employee training, erosion and sediment controls, stormwater management, TMDL conditions, and non-stormwater control practices.
- Maintenance: A description of the maintenance schedule for all stormwater pollution prevention control measures identified in the SWPPP.
- Inspections: Procedures for performing inspections such as person or position responsible, schedule, area of inspection, and information to record.
- Sampling: Procedures for conducting stormwater discharge sampling.
- Plan Review and Revisions: Amendments to the SWPPP when there is a change that affects the SWPPP or to achieve compliance with the proposed permit.

Additional Terms and Conditions

The proposed permit includes additional terms and conditions for:

- Salt storage piles
- Petroleum products, oil field production water, and other chemicals
- Dewatering or basin draining
- Construction related to the normal operation and expansion of the facility
- Loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations
- Vehicle and equipment washing

- Local requirements
- Concrete wash water

Records Retention

A copy of the completed and signed NOI, renewal forms, notice of coverage letter from the department, SWPPP, inspection records, the general permit, and when applicable, annual inspection reports, annual location reports, sample results, chain-of-custody sheets, and discharge monitoring reports shall be kept at the facility or reasonable alternative location. Electronic copies are acceptable. All records must be kept for at least three years.

Authorization to Discharge

Coverage under the proposed permit does not convey approval to discharge through any ditch, storm sewer, private property, or other method of routing stormwater from the facility to waters of the state. Facilities are responsible for applying and obtaining any additional authorizations necessary to initiate the discharge proposed in the facility's application. If the process of obtaining all authorizations to discharge results in changes to the permittee's application, the permittee shall modify in writing the application for an NDPDES permit. The facility will not be authorized to discharge stormwater other than the type and at the location specified in the application.

PROPOSED PERMIT LIMITS

Effluent Limitations, Benchmark Concentrations, and Stormwater Sampling

The proposed permit contains effluent limitations and benchmark concentrations for stormwater discharge from various industrial sectors. The proposed permit does not take the place of any promulgated effluent limitation guidelines applicable to any discharge unless specified in the proposed permit. These discharges must be covered by a different NDPDES permit. The effluent limitation and benchmark concentrations in the proposed permit reflect the conditions of the EPA Multi-Sector General Permit (MSGP-2015). Effluent limitations for oil and gas related facilities are based on the water quality standard for total chlorides and similar effluent limitations found in the department's NDPDES temporary discharge general permit for treatment of contaminated ground or surface water from remediation activities (NDG07-0000, Part I(B)(1), Table 4).

Benchmark concentrations should not be interpreted as stormwater effluent limitations, individual wastewater effluent limitations, or as state water quality standards. Benchmark concentrations provide an appropriate level to determine whether a facility's stormwater pollution prevention measures are effective. A pollutant concentration that is above the benchmark value represents a potential water quality concern and the need to improve a facility's SWPPP.

The proposed permit includes benchmarks for industrial categories that currently operate or could potentially operate within the state of North Dakota. Benchmarks for industrial activities that do not exist or are not reasonably expected to begin operation within the state were not included in this renewal. If the expectations change over time, a future permit renewal could include such benchmarks.

The permit identifies several industry types that must conduct stormwater sampling. The

specific monitoring conditions and parameter list for each facility group is outlined in Appendices 2 and 3 of the proposed permit. The parameters, effluent limitations, and benchmark concentrations by industry are provided below.

Asphalt Paving and Roofing Materials

Applicability: Facilities with asphalt paving and roofing materials, SIC code 2951		
Required Parameter	Benchmark Value	Discharge Limit
• Total Suspended Solids	100 mg/L	

Asphalt Emulsion Facilities

Required Parameter	Benchmark Value	Discharge Limit
• Total Suspended Solids		23.0 mg/L (daily max) 15.0 mg/L (monthly avg)
• pH		Between 6.0-9.0 S.U.
• Oil and Grease		15 mg/L (daily max) 10 mg/L (monthly avg)

Glass, Clay, Cement Concrete, and Gypsum Products

Applicability: Facilities with industrial activities associated with Cement, Concrete, and Gypsum Product manufacturing facilities SIC codes 3271-3275		
Required Parameter	Benchmark Value	Discharge Limit
• Total Suspended Solids	100 mg/L	
• Iron, Total	1.0 mg/L	
Additional SWPPP Requirements <i>Good Housekeeping Measures.</i> Using good housekeeping measures, prevent or minimize the discharge of spilled cement, aggregate (including sand or gravel), kiln dust, fly ash, settled dust, or other significant material in stormwater from paved portions of the site that are exposed to stormwater. Determine the frequency of sweeping or other measures based on the amount of industrial activity occurring in the area and the frequency of precipitation. Sweeping or other measures must be performed at least once a week if cement, aggregate, kiln dust, fly ash, or settled dust are being handled or processed that may be discharged in stormwater. Prevent the exposure of fine granular solids (cement, fly ash, kiln dust, etc.) to stormwater, where practicable, by storing these materials in enclosed silos, hoppers, or buildings, or under other covering.		

Cement Manufacturing

Applicability: Discharges from material storage piles at cement manufacturing facilities; SIC code 3241		
<u>Required Parameter</u>	<u>Benchmark Value</u>	<u>Discharge Limit</u>
• Total Suspended Solids		50 mg/L (daily max)
• pH		Between 6.0-9.0 S.U.

Mine Dewatering – Nonmetallic Mineral (except fuels), Crushed Stone, Sand and Gravel Mining

Applicability: Mine dewatering at crushed stone mining facilities, constructions sand and gravel mining facilities, and industrial sand mining facilities SIC code 1422-1429, 1442		
<u>Required Parameter</u>	<u>Benchmark Value</u>	<u>Discharge Limit</u>
• pH		Between 6.0-9.0 S.U.

Mine Dewatering – Nonmetallic Mineral (except fuels), Industrial Sand Mining

Applicability: Mine dewatering discharges from industrial sand mining facilities; SIC code 1446		
<u>Required Parameter</u>	<u>Benchmark Value</u>	<u>Discharge Limit</u>
• Total Suspended Solids		45 mg/L (daily max) 25 mg/L (monthly avg)
• pH		Between 6.0-9.0 S.U.

Runoff – Nonmetallic Mineral Mining and Dressing, Sand and Gravel Mining

Applicability: Runoff from Sand and Gravel Mining; SIC codes 1442, 1446		
<u>Required Parameter</u>	<u>Benchmark Value</u>	<u>Discharge Limit</u>
• Nitrate plus Nitrite Nitrogen	0.68 mg/L	
• Total Suspended Solids	100 mg/L	

Runoff – Nonmetallic Mineral Mining and Dressing, Dimension and Crushed Stone and Nonmetallic Minerals (except fuels)

Applicability: Runoff from Dimension and Crushed Stone and Nonmetallic Minerals (except fuels); SIC codes 1411, 1422-1429, 1481, 1499		
<u>Required Parameter</u>	<u>Benchmark Value</u>	<u>Discharge Limit</u>
• Total Suspended Solids	100 mg/L	

Coal Mines and Coal Mining Related Facilities

Applicability: Stormwater discharges associated with industrial activity from Coal Mines and Coal Mining-Related facilities as identified by the SIC Codes 1221-1241		
Required Parameter	Benchmark Value	Discharge Limit
• Total Suspended Solids	100 mg/L	
• Iron, Total	1.0 mg/L	
• Aluminum, Total	0.75 mg/L	
Additional SWPPP Requirements <i>Other Applicable Regulations.</i> All active coal mining-related areas (SIC Codes 1221-1241) are subject to sediment and erosion control regulations of the Public Service Commission (PSC) that enforces the Surface Mining Control and Reclamation Act (SMCRA). The Office of Surface Mining has granted authority to most coal-producing states to implement SMCRA through State SMCRA regulations. All SMCRA requirements regarding control of stormwater-related pollutant discharges must be addressed and then documented with the SWPPP (directly or by reference).		

Crude Petroleum and Natural Gas Extraction

Applicability: Facilities with industrial activities associated with Crude Petroleum and Natural Gas Extraction; SIC code 1311.		
Required Parameter	Benchmark Value	Discharge Limit
• Chlorides, Total		250 mg/L
• pH		Between 6.0-9.0 S.U.
• Benzene		5 ug/L
• Total BTEX		100 ug/L
• Total Petroleum Hydrocarbons		1 mg/L (to domestic water supply) 10 mg/L (to other waters)
• Oil and Grease		10 mg/L (if a visible sheen is present)
<p>Crude petroleum and natural gas extraction facilities shall conduct monthly sampling during spill remediation activities. Sampling may be reduced to quarterly following spill remediation and department closure.</p> <p>The following steps shall be taken to initiate the discharge of stormwater or melt water from well pads or secondary containment structures:</p> <ul style="list-style-type: none"> – Dewatering may occur from areas where a spill occurred (e.g., oil or produced water) that was remediated – Dewatering may not occur from areas where a spill has not been remediated – The water to be discharged shall not have come in contact with reserve pits, drilling fluid, drilling mud, crude oil, produced water, hydrofracturing fluid, hydrofracturing flowback water, or other possible contaminants 		

Production of Liquid Hydrocarbons from Oil and Gas Field Gases

Applicability: Facilities with industrial activities associated with Production of Liquid Hydrocarbons from Oil and Gas Field Gases; SIC code 1321.		
Required Parameter	Benchmark Value	Discharge Limit
• pH		Between 6.0-9.0 S.U.
• Benzene		5 ug/L
• Total BTEX		100 ug/L
• Oil and Grease		10 mg/L (if a visible sheen is present)
Facilities producing liquid hydrocarbons from oil and gas field gases shall conduct monthly sampling during spill remediation activities. Sampling may be reduced to quarterly following spill remediation and department closure. Facilities that have not experienced a reportable quantity release may sample annually.		

Oil and Gas Field Service

Applicability: Facilities with industrial activities associated with oil and gas field services; SIC codes 1381-1389.		
Required Parameter	Benchmark Value	Discharge Limit
• Chlorides, Total		250 mg/L
• pH		Between 6.0-9.0 S.U.
• Total Petroleum Hydrocarbons		1 mg/L (to domestic water supply) 10 mg/L (to other waters)
• Oil and Grease		10 mg/L (if a visible sheen is present)
Oil and gas field service facilities shall conduct monthly sampling during spill remediation activities. Sampling may be reduced to quarterly following spill remediation and department closure. Facilities that have not experienced a reportable quantity release may sample annually.		

There may be instances where the department may find it necessary to require sampling to evaluate the effectiveness of BMPs and other water quality concerns. As such, provisions for sampling stormwater discharges are included in the proposed permit. Conditions that may require sampling include but are not limited to the following:

- Facilities where additional analytical data is needed to estimate the potential impact of stormwater discharges on water quality. Examples of where additional data may be needed include: water quality improvement projects such as Section 319 Nonpoint Sources, Total Maximum Daily Load (TMDL) development, or lake restoration projects.
- Facilities where monitoring sample results indicate discharges are generally of a poor quality or have significantly higher pollutant concentrations relative to the results of similar industrial categories.

- Facilities where the SWPPP is delinquent, not properly implemented, or determined to be inaccurate.

The permit contains conditions for sampling waivers. The waiver (or reduction in sampling) may be pursued on both a parameter by parameter and outfall by outfall basis. The waiver request must be submitted to the department for approval. The waiver is not applicable to sampling for parameters which are required due to effluent limits in the permit. Permittees do not have to request a new waiver if a waiver was approved under a previous permit. The approval of any waiver will be based on the following conditions:

- At least four samples must have been collected and analyzed from a discharge point where sampling is required. The results from the four most recent samples must have an average concentration below the benchmark value.
- The industrial activities at the site have not changed since the samples were taken.

Annual Inspection and Discharge Monitoring Report Requirements

All facilities covered by the proposed permit must submit an annual inspection report (AIR) to the department. The AIR summarizes all incidents and signs of pollution from stormwater outfalls. The submittal of an AIR meets 40 CFR 122.44(i)(5) which requires permits that do not require a report for monitoring result to require a report of all instances of non-compliance not otherwise reported.

Facilities that are required to conduct sampling under the proposed permit must submit a discharge monitoring report (DMR). The DMR summarizes monitoring results obtained during the monitoring period. If no discharge occurs during a monitoring period, "no discharge" shall be reported. Facilities also must report if a sample could not be collected because the facility was inactive or unstaffed, or if the discharge occurred outside of normal business hours. The proposed permit describes the schedule for submitting monthly, quarterly, and yearly reports.

Portable or temporary facilities covered by this permit are required to submit annual location record reports to the department on an annual basis.

The department may require reports on a case-by-case basis to gauge permit adequacy such as inspection result summaries, SWPPPs or portions thereof.

Self-Monitoring Requirements

All facilities covered by this permit are required to conduct comprehensive site inspections according to the schedule below:

- Active facilities shall be inspected at least once during a three-month period. The three-month periods consist of the calendar quarter of each year (i.e., January – March, April – June, July – September, October – December).
- Operators of temporary or portable facilities (i.e., sand and gravel pits, batch plants) have to conduct monthly inspections while the operation is active.

- Inactive operations shall be inspected annually.

Permittees must inspect the following areas for evidence of, or the potential for, pollutants entering the drainage system:

- Areas where industrial materials or activities are exposed to stormwater;
- Areas identified in the SWPPP that are potential pollutant sources;
- Areas where spills and leaks have occurred in the past 3 years;
- Stormwater outfalls;
- Stormwater pollution prevention control measures used to comply with the proposed permit; and
- Disturbed areas that are vulnerable to erosion.

Permittees must look for the following during the inspection:

- Industrial materials, residue, leak or spilled material, and trash that can be a source of pollution in runoff;
- Offsite tracking of industrial or waste materials, or sediment; and
- Stormwater pollution prevention control measures in need of replacement, maintenance, or repair.

Personnel conducting inspections must be familiar with permit conditions, the SWPPP, and the proper installation and operation of control measures.

Inspection records must summarize the scope of the inspection, major observations related to the SWPPP and any corrective actions. Inspection records must include:

- Date of the inspection;
- Name of person(s) conducting the inspection;
- Whether the inspection is a result of a stormwater discharge;
- Signs of pollution, or the potential for pollution, from industrial activities;
- Inspection findings and corrective actions; and
- Documentation that the SWPPP has been amended.

Inspectors must consider the results of previous visual and analytical monitoring when planning and conducting inspections.

SURFACE WATER QUALITY-BASED EFFLUENT LIMITS

The North Dakota Standards of Quality for Waters of the State (NDAC Chapter 33.1-16-02.1) – known as the state water quality standards (WQS) – are designed to protect existing water quality and preserve the beneficial uses of North Dakota's surface waters. Stormwater discharge permits must include conditions that ensure the discharge will meet the surface water quality standards. Water quality-based effluent limits may be based on an individual waste load allocation or on a waste load allocation developed during a basin wide total maximum daily load (TMDL) study. TMDLs result from a scientific study of the water body and are developed in order to reduce pollution from all sources.

Numerical Criteria for the Protection of Aquatic Life and Recreation

Numerical water quality criteria are listed in the WQS for surface waters (NDAC Chapter 33.1-16-02.1-09). They specify the maximum levels of pollutants allowed in receiving waters to protect aquatic life and recreation in and on the water. The department uses numerical criteria along with chemical and physical data for stormwater and receiving waters to derive the effluent limits in the discharge permit. When surface water quality-based limits are more stringent or potentially more stringent than technology-based limits, the discharge must meet the water quality-based limits.

Numerical Criteria for the Protection of Human Health

The U.S. EPA has published numeric water quality criteria for the protection of human health that are applicable to dischargers. These criteria are designed to protect humans from exposure to pollutants linked to cancer and other diseases, based on consuming fish and shellfish and drinking contaminated surface waters. The WQS also include radionuclide criteria to protect humans from the effects of radioactive substances.

Narrative Criteria

Narrative water quality criteria (NDAC Chapter 33.1-16-02.1-08) limit concentrations of pollutants from exceeding applicable standards of the receiving waters. The department adopted a narrative biological goal solely to provide an additional assessment method that can be used to identify impaired surface waters.

Antidegradation

The purpose of North Dakota's Antidegradation Policy (NDAC Chapter 33.1-16-02.1(Appendix IV)) is to:

- Provide all waters of the state one of three levels of antidegradation protection.
- Determine whether authorizing the proposed regulated activity is consistent with antidegradation requirements.

The department's fact sheet demonstrates that the existing and designated uses of the receiving water will be protected under the conditions of the proposed permit.

Mixing Zones

The department's WQS contain a Mixing Zone and Dilution Policy and Implementation Procedure, NDAC Chapter 33.1-16-02.1 (Appendix III). This policy addresses how mixing and dilution of point source discharges with receiving waters will be addressed in developing chemical-specific and whole effluent toxicity discharge limitations for point source discharges. Depending upon site-specific mixing patterns and environmental concerns, some pollutants/criteria may be allowed a mixing zone or dilution while others may not. In all cases, mixing zone and dilution allowances shall be limited, as necessary, to protect the integrity of the receiving water's ecosystem and designated uses.

EVALUATION OF SURFACE WATER QUALITY-BASED EFFLUENT LIMITS FOR NUMERIC CRITERIA

The effluent limitation and benchmark concentrations in the proposed permit reflect the

conditions of the EPA Multi-Sector General Permit (MSGP-2015). Effluent limitations for oil and gas related facilities are based on the water quality standard for total chlorides and similar effluent limitations found in the department's NDPDES temporary discharge general permit for treatment of contaminated ground or surface water from remediation activities (NDG07-0000, Part I(B)(1), Table 4). Additional water quality-based limitations may be imposed on discharges covered by this permit through the implementation of a TMDL allocation. In addition, a facility covered by this permit may be required to obtain an individual permit based on site specific water quality based limitations.

MONITORING REQUIREMENTS

The department requires monitoring, recording, and reporting (NDAC Chapter 33.1-16-01-(21 through 23), and 40 CFR 122.41 and 122.44) to verify that the treatment process is functioning correctly and that the discharge complies with the permit's limits.

Test Procedures

The collection and transportation of all samples shall conform to 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 or approved by EPA as an alternate test procedure under 40 CFR 136.5.

PERMIT ISSUANCE PROCEDURES

Permit Actions

The proposed permit may be modified, revoked and reissued, or terminated for cause. This includes the establishment of limitations or prohibitions based on changes to WQS, 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.

Proposed Permit Issuance

The proposed permit meets all statutory requirements for the department to authorize a stormwater discharge associated with industrial activity. The permit includes limits and conditions to protect human health and aquatic life, and the beneficial uses of waters of the State of North Dakota. The department proposes to issue the proposed permit for a term of five (5) years.

Any request to retain coverage under a renewal of this permit shall be made in writing to the department at least 15 days prior to the expiration date of this permit. Typically, the department provides permit holders with renewal or renotification instructions when a new permit has been drafted. Upon request by the department, a new Notice of Intent shall be submitted.

APPENDIX A – PUBLIC INVOLVEMENT INFORMATION

The department proposes to reissue a general permit for stormwater discharges associated with mining, extraction, or paving material preparation activity. The permit includes the use of best management practices, the development of a stormwater pollution prevention plan, monitoring requirements and other conditions. This fact sheet describes the type of facilities covered under the permit and the department's reasons for requiring permit conditions.

The department will place a Public Notice of Draft on **November 15, 2019** in the **Bismarck Tribune**, the official newspaper of the capital city, and in **Regional Papers** throughout the state to inform the public and to invite comment on the proposed draft North Dakota Pollutant Discharge Elimination System permit and fact sheet. The notice also will be mailed to the department's Public Notice mailing list and placed on the department's Public Comments & Notices webpage.

The Notice –

- Indicates where copies of the draft Permit and Fact Sheet are available for public evaluation.
- Offers to provide assistance to accommodate special needs.
- Urges individuals to submit their comments before the end of the comment period.
- Informs the public that if there is significant interest, a public hearing will be scheduled.

You may obtain further information from the department by telephone, 701.328.5210 or by writing to the address listed below.

North Dakota Department of Environmental Quality
Division of Water Quality
918 East Divide Avenue, 4th Floor
Bismarck, ND 58501

The primary author of the general permit and fact sheet is Dallas Grossman.

**North Dakota Department of Environmental Quality Public Notice
Issue of an NDPDES Permit**

Public Notice Date: 11/15/2019

Public Notice Number: ND-2019-025

Purpose of Public Notice

The Department intends to issue the following North Dakota Pollutant Discharge Elimination System (NDPDES) Discharge Permit under the authority of Section 61-28-04 of the North Dakota Century Code.

Permit Information

Application Date: 7/1/2019

Application Number: NDR32

Applicant Name: General Permit NDR320000-Stormwater from Mining, Extraction & Paving Material Preparation Industries

Mailing Address: ND Dept of Env Quality, Div of Water Quality, 918 East Divide Ave, Bismarck ND 58501-1947

Telephone Number: 701.328.5242

Proposed Permit Expiration Date: 12/31/2024

Description

The general permit applies to mining, extraction and paving facilities in North Dakota. The general permit regulates stormwater discharges from coal, gravel, scoria and other mineral mining operations, oil and gas facilities, and concrete and asphalt batch plants. The permit requires the implementation of a pollution prevention plan to reduce stormwater pollution. The permit includes discharge limits based on prohibitions, best management practices, water quality standards, and other considerations applicable to the activities.

Tentative Determinations

Proposed effluent limitations and other permit conditions have been made by the Department. They assure that State Water Quality Standards and applicable provisions of the FWPCA will be protected.

Information Requests and Public Comments

Copies of the application, draft permit, and related documents are available for review. Comments or requests should be directed to the ND Dept of Env Quality, Div of Water Quality, 918 East Divide Ave, Bismarck ND 58501-1947 or by calling 701.328.5210.

All comments received by December 18, 2019 will be considered prior to finalizing the permit. If there is significant interest, a public hearing will be scheduled. Otherwise, the Department will issue the final permit within sixty (60) days of this notice. If you require special facilities or assistance relating to a disability, call TDD at 1.800.366.6868.

APPENDIX B – GLOSSARY

“303(d) list” or “section 303(d) list” means a list of North Dakota’s water quality-limited waters needing total maximum daily loads or TMDLs developed to comply with section 303(d) of the Clean Water Act. A copy of the list is available on the state’s web site at: deg.nd.gov/WQ

“Act” means the Clean Water Act.

“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.

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

“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.

“Department” means the North Dakota Department of Environmental Quality, Division of Water Quality.

“DMR” means discharge monitoring report.

“Energy dissipation” means methods employed at pipe outlets to prevent erosion. Examples include, but are not limited to: concrete aprons, riprap, splash pads, and gabions that are designed to prevent erosion.

“EPA” means the United States Environmental Protection Agency.

“Final stabilization” means that:

- a. All soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of 70 percent of the native cover for unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) has been achieved.
- b. For areas with an average annual rainfall of less than 20 inches only, all soil disturbing activities at the site have been completed and temporary erosion control measures (e.g., degradable rolled erosion control product) are selected, designed, and installed along with an appropriate seed base to provide erosion control for at least three years and achieve 70 percent vegetative coverage within three years without active maintenance.

- c. For soil disturbing activities on land used for agricultural purposes, final stabilization may be accomplished by returning the disturbed land to its pre-disturbance agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to "waters of the state" and areas which are not being returned to their pre-disturbance agricultural use must meet the final stabilization criteria in (a) or (b) above.

"Grab" for monitoring requirements, means a single "dip and take" sample collected at a representative point in the discharge stream.

"Inactive mining" or **"inactive oil and gas operations"** means areas, on or beneath lands, which were previously disturbed in activity related to the extraction, removal or recovery of coal, minerals, ores, or oil and gas from their natural deposits and were not otherwise subject to runoff controls or reclamation requirements. The term does not include areas of coal mining activity defined as "active mining area" or reclamation area" in 40 CFR 434.11 or areas which have been reclaimed, cleaned up or sealed under applicable SMCRA or equivalent requirements.

"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.

"Maximum daily discharge limitation" means the highest allowable "daily discharge."

"Measurable storm event" means a storm event that results in an actual discharge and follows the preceding measurable storm event by at least 72 hours (3-days). The 72-hour storm interval does not apply if you document that less than a 72-hour interval is representative for local storm events. In the case of snowmelt, the monitoring must be performed at a time when a measurable discharge occurs at your site.

"NDPDES" means North Dakota Pollutant Discharge Elimination System.

"No exposure" means that all industrial materials or activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt and/or runoff.

"Non-stormwater discharges" means discharges other than stormwater. The term includes both process and non-process sources. Process wastewater sources that require a separate NDPDES permit include, but are not limited to industrial processes, domestic facilities and cooling water. Non-stormwater sources that may be addressed in this permit include, but are not limited to: fire-fighting, fire hydrant flushing, potable water line flushing, building and equipment wash down without detergents or hazardous cleaning products, uncontaminated foundation drains, springs, lawn watering, chemical treatment of stormwater, and air conditioning condensate.

"Normal wetted perimeter" means the area of a conveyance, such as a ditch, channel, or pipe that is in contact with water during flow events that are expected to occur once every year.

"Operator" means the owner, party, person, general contractor, corporation, or other entity that has operational control over a facility. The operator is responsible for ensuring compliance with all

conditions of the permit and with development and implementation of the “stormwater pollution prevention plan.”

“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.

“Significant materials” includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of CERCLA; any chemical the facility is required to report pursuant to Section 313 of Title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharges.

“Significant spills” includes, but is not limited to: releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the Clean Water Act (see 40 CFR 110.10 and CFR 117.21) or Section 102 of CERCLA (see 40 CFR 302.4).

“Stabilized” means the exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, wood fiber blanket, or other material that prevents erosion from occurring. Grass seeding alone is not stabilization.

“Stormwater” means stormwater runoff, snow melt runoff, and surface runoff and drainage.

“Stormwater associated with industrial activity” means stormwater runoff, snow melt runoff, or surface runoff and drainage from industrial activities as defined in 40 CFR 122.26(b)(14). Industrial facilities include industrial facilities that are federally, state, or municipally owned or operated that meet the description of the facilities listed in paragraphs (1)-(11) below, including those facilities designated under 40 CFR 122.26(a)(1)(v). The following categories of facilities are considered to be engaging in “industrial activity” for the purposes of this subsection:

1. Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category 11 of this section);
2. Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283), 29, 311, 32 (except 323), 33, 3441, 373;
3. Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(1) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);

4. Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under subtitle C of RCRA;
5. Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under subtitle D of RCRA;
6. Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;
7. Steam electric power generating facilities, including coal handling sites;
8. Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs 1-7 or 9-11 of this section are associated with industrial activity;
9. Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR part 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with section 405 of the CWA;
10. Construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more;
11. Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, and 4221-25;

“Temporary erosion protection” means methods employed to prevent erosion. Examples of temporary cover include; straw, wood fiber blanket, wood chips, and erosion netting.

“Total drain” means the total volume of effluent discharged.

“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.

“Waters of the state” means any and all surface waters that are contained in or flow in or through the state of North Dakota as defined in NDCC 61-28-02. This definition includes all water courses, even if they are usually dry.

APPENDIX C – RESPONSE TO COMMENTS

Comments received during the public comment period will be addressed and placed here.