



NORTH DAKOTA
DEPARTMENT of HEALTH

ENVIRONMENTAL HEALTH SECTION
Gold Seal Center, 918 E. Divide Ave.
Bismarck, ND 58501-1947
701.328.5200 (fax)
www.ndhealth.gov



June 1, 2015

James Melchior
Coyote Creek Mining Company, L.L.C.
6502 17th Street SW
Zap, ND 58580

RE: Notice of Coverage under Mining, Extraction, or Paving Material Preparation Activities Storm Water
General Permit, NDR32-0000
NDR32-0772

Mr. Melchior:

We have reviewed your application for coverage under the North Dakota Pollutant Discharge Elimination System (NDPDES) General Permit associated with storm water discharges from industrial activity, NDR32-0000. The coverage number for the facility is provided below. Please include this number on all future correspondence.

<u>Coverage #</u>	<u>Facility</u>
NDR32-0772	Coyote Creek Mine

It is the obligation of the permittee to implement a Storm Water Pollution Prevention Plan (SWPPP) that meets all the requirements of the general permit. Please remember to update the SWPPP when necessary, and to inspect, maintain, and adjust the best management practices (BMPs) and temporary structures as needed. A copy of the general permit associated with storm water discharges from *Mining, Extraction, or Paving Material Preparation Activities*; and related information is available on our website:
www.ndhealth.gov/wq/storm/mining/mining.htm.

Because the standard industrial classification (SIC) code for the facility is 1221, the facility is required to sample stormwater runoff from in accordance with Part III-B of NDR32-0000. Industry specific sample parameters may be found in Appendix 2, Group 6. A discharge monitoring report (DMR) must be completed for each discharge point and submitted annually. If no discharge occurs during the monitoring period then "no discharge" must be reported.

If you have any questions, please contact the department at (701) 328-5210 or at stormwater@nd.gov.

Sincerely,

Dallas J. Grossman
Environmental Engineer
Division of Water Quality

c. Sarah Flath – Coyote Creek Mining Company, L.L.C.

Permit No: NDR32-0000
Effective Date: January 01, 2015
Expiration Date: December 31, 2019

AUTHORIZATION TO DISCHARGE UNDER THE
NORTH DAKOTA POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with Chapter 33-16-01 of the North Dakota Department of Health rules as promulgated under Chapter 61-28 (North Dakota Water Pollution Control Act) of the North Dakota Century Code,

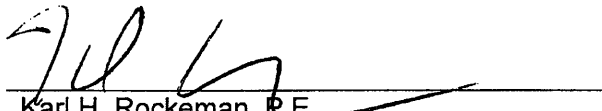
facilities both qualifying for and satisfying the requirements identified in Part I of this permit are authorized to discharge stormwater associated with mining, extraction or paving material preparation activities

to waters of the state

provided all the conditions of this permit are met.
in accordance with conditions set forth in this permit.

This permit and the authorization to discharge shall expire at midnight,
December 31, 2019.

Signed this 31 day of December, 2014.


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

BP 2014.06.12

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OUTFALL DESCRIPTION

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

PERMIT SUBMITTALS SUMMARY

Coverage Point	Submittal	Frequency	First Submittal Date
Portable Batch Plants	Annual Location Report	Annually	January 31, 2016
Sampled discharge points	Discharge Monitoring Report	Annually	January 31, 2016
New Applicants	Notice of Intent	1/permit cycle	7 Days prior to start of operation

Applications and reports shall be submitted to the department at the following address:

North Dakota Department of Health
Division of Water Quality
918 East Divide Ave
Bismarck, ND 58501-1947

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 composed (either in whole or in part) 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 mining or extracting activities, including processes to prepare materials for use, SIC Codes major groups 12 through 14;
 - b. Facilities operated to obtain or prepare materials for highway construction activities including concrete or asphalt batch plants, SIC Codes 1611, 2951, and 327;
 - c. 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. Coverage Limitations

This permit does not cover the following activities:

1. Discharges of stormwater from facilities or activities subject to a nationally established effluent limitations guideline or other performance standard under 40 CFR subchapter N.
2. Discharges or releases that are not stormwater except those non-stormwater discharges authorized under Part II(A)
3. Discharges to waters for which there is a total maximum daily load (TMDL) allocation for sediment and/or parameters associated with sediment transport are not covered unless you 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 must 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 has been established that would apply to the facility's discharge, the permittee must incorporate that allocation into the SWPPP and implement necessary steps to meet that allocation.
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), or National Historic Preservation Act (NHPA). It is your responsibility to ensure the project 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 water quality standards.

C. Obtaining Coverage and Authorization Effective Date

1. To obtain authorization under this general permit for stormwater discharges you must develop a Stormwater Pollution Prevention Plan (SWPPP) in accordance with Part II(C) of this permit and then submit a complete application. A SWPPP must be implemented as a condition of this permit and a copy of the SWPPP must be retained by the operator of the facility.
2. Permit coverage will become effective seven (7) days after you submit a complete application unless otherwise notified by the department (based on department receipt date).
3. Upon the effective date of permit coverage you, as the permit applicant, are authorized to discharge stormwater from eligible activities under the terms and conditions of this permit.

D. Application Contents

1. You may use a Notice of Intent (NOI) form (or photocopy thereof) or electronic NOI to complete your application. The NOI form is available at:

www.ndhealth.gov/WQ/Storm/StormWaterHome.htm.

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. Standard Industrial Classification (SIC) Code;
 - f. Acreage of the facility dedicated to industrial activity;
 - g. Location of the site(s), including the county, latitude and longitude or township, range, section, and 1/4 section;
 - h. Name of receiving water(s) or the name of the receiving municipal storm sewer system and receiving water(s); and
 - i. The signature of the applicant(s), signed in accordance with Signatory Requirements in Part IV(A)(6) of this permit.
3. An operator of multiple temporary or portable operations may submit a single application for such activities.
4. Operators of oil or gas extraction facilities (SIC codes 13) that experience a stormwater discharge resulting in or contacting a reportable quantity release of oil or hazardous substance (release for which notification is required pursuant to 40 CFR 110.6, 40 CFR 117.21, 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. As provided in 40 CFR 122.26 (c)(1)(iii), oil and gas extraction facilities that have not discharged a reportable quantity (RQ) of oil or hazardous substances are not required to apply for a stormwater permit. 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.
5. Local agencies may operate a local stormwater management program or other sediment and erosion control program. The local authority may require that a copy of the application be provided to them for review and approval.

E. Termination of Coverage

1. Permittees wishing to terminate coverage under this permit must submit a Notice of Termination (NOT) form or other written request identifying the facility, reason why the permit is no longer needed and signed in accordance with Signatory Requirements in Part IV(A)(6) 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. The 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. The discharges were from an oil or gas extraction 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. A new owner or operator has assumed responsibility over all stormwater discharges associated with industrial activity at the facility, in accordance with the Transfer provisions (Part IV(B)(3)) of this permit.
 - e. The facility has been issued an individual NDPDES permit to discharge stormwater associated with industrial activity.

II. STORMWATER DISCHARGE REQUIREMENTS

A. Prohibition on Non-Stormwater Discharges

The discharge of wastewater from processing operations or sanitary facilities is not authorized by this permit. The following non-stormwater discharges may be authorized if the non-stormwater sources are identified in the SWPPP with a description of the pollution prevention measures to be implemented: fire-fighting, fire hydrant flushing, potable water line flushing, infrequent building and equipment wash down without detergents or hazardous cleaning products (e.g., bleach, hydrofluoric acid, muriatic acid, sodium hydroxide, nonylphenols) that do not come into contact with oil and grease deposits or any other toxic or hazardous materials (unless cleaned up using dry clean-up methods), uncontaminated foundation drains, springs, lawn watering 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 to prevent pollution above standards of quality for waters of the state.

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 Chapter 33-16-02.1 of the North Dakota Administrative Code. Any release of a hazardous substance, including a release in a stormwater discharge, must be reported to the agencies identified in Part IV(A)(7). The potential discharge of hazardous substances in stormwater discharges shall be minimized by including

measures in the SWPPP to prevent and respond to releases of hazardous substances. Should a reportable quantity release occur, the SWPPP shall be revised to prevent the reoccurrence of such a release.

C. Stormwater Pollution Prevention Plans

All facilities covered by this permit shall prepare and implement Stormwater Pollution Prevention Plans (SWPPP) prior to submitting an NOI. The SWPPP and revisions are subject to review by the department. The major objectives of the SWPPP are to identify potential sources of stormwater pollution associated with industrial activity and ensure that practices are implemented to minimize the contribution of pollutants. Where the SWPPP refers to procedures in other facility documents, such as a Spill Prevention, Control and Countermeasure (SPCC) Plan, the procedures may be included in the SWPPP or incorporated by reference. The SWPPP shall be signed in accordance with the Signatory Requirements in Part IV(A)(6).

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) – in the immediate vicinity of the facility for stormwater discharges.
- c. Provide a site specific map(s) of suitable scale and quality to show:
 - (1) Section, township, and range, or lines of latitude and longitude;
 - (2) Stormwater drainage patterns;
 - (3) All stormwater conveyances including ditches, pipes, and swales;
 - (4) Storm sewer inlets and outfalls, with a unique identification code for each outfall (e.g., Outfall No. 1, No. 2);
 - (5) All stormwater monitoring points;
 - (6) Potential pollutant sources;
 - (7) Any existing or planned stormwater control measures;
 - (8) Location and extent of significant structures and impervious surfaces; and
 - (9) Any locations where reportable quantity spills or leaks have occurred.

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

- (1) Fueling stations;
- (2) Vehicle and equipment maintenance and/or cleaning areas;
- (3) Loading/unloading areas;
- (4) Locations used for the treatment, storage, or disposal of wastes;
- (5) Liquid storage tanks;
- (6) Processing and storage areas;
- (7) 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;
- (8) Transfer areas for substances in bulk; and
- (9) Machinery.

2. Stormwater Pollution Prevention Team

Identify the stormwater pollution prevention team members responsible for overseeing development of the SWPPP, any later modifications to the SWPPP, and for compliance with the requirements in this permit. Include each member's name or title and identify each member's responsibilities. Each member of the team shall have ready access to a copy of this

permit, the current version of the SWPPP, including other relevant documents, and information that must be kept as required by this permit.

3. Description of Potential Pollutant Sources

The SWPPP shall provide a narrative description of the potential pollution sources associated with industrial activity and material handling at the facility. Industrial activities and material handling include, but are not limited to: material handling equipment or activities; industrial machinery; industrial production and processes; and the storage, loading and unloading, transportation, disposal, and conveyance of any raw material, intermediate products, by-products, final products, and waste products.

For each potential pollution source, the description must include:

- a. **Activity Assessment.** The SWPPP shall provide an assessment of industrial sources at the site that could contribute pollutants to stormwater runoff. Each of the following shall be evaluated for the reasonable potential to contribute pollutants: loading/unloading operations, outdoor storage, disposal and processing activities, significant dust generating activities and disturbed area vulnerable to erosion.
- b. **Pollutant List.** The SWPPP shall identify a list of pollutants associated with industrial activity that could be exposed to precipitation and discharged from the facility. The pollutant list shall include all significant materials that have been handled, treated, stored, or disposed at the facility. The list also must include past spills that were exposed to stormwater in the three years prior to the date the SWPPP was prepared or amended.
- 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 that will be implemented.

4. Stormwater Controls

The SWPPP shall describe the location and type of existing or planned controls 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 pollutant contributions in stormwater. Such practices include but are not limited to:

- a. **Good housekeeping practices to maintain a clean and orderly facility.** Litter, debris, chemicals and parts shall be handled properly to minimize exposure to stormwater. This includes measures to reduce and remove sediment tracked offsite by vehicles and the generation of dust. Include a schedule for regular pickup 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. All materials shall be stored in appropriate containers. Sources of dust generated at the facility shall be minimized to prevent pollution to waters of the state. All waste containers (e.g., dumpsters) associated with industrial activity must be covered or remain closed when not in use.
- b. **Preventative maintenance procedures to ensure the proper operation of stormwater management devices, as well as equipment used or stored 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. The SWPPP shall ensure adequate spare parts and supplies are maintained for control measures and equipment.

- c. 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. The SWPPP shall document all spills and leaks of oil, or toxic or hazardous pollutants, that occurred in areas exposed to stormwater, or that drained to a stormwater conveyance. Documentation shall include all spills that occurred in the three years prior to the date of the SWPPP and throughout the life of this permit.
- d. Employee training informs 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 Pollution Prevention Team) must receive training.
 - (2) 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.
 - (3) 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 response procedures, good housekeeping, maintenance requirements, and material management practices;
 - The location of all on-site controls required by this permit and maintenance of those controls;
 - Operating procedures for preventing pollution; and
 - Inspection procedures including documentation of findings, initiating corrective actions and documenting completion of corrective actions.
- e. 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 properly 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 1.9 inches in the west to 2.3 inches in the east.
- f. Stormwater Management. The SWPPP shall include a description of practices that will be installed during the construction phase of a new site or expansion to control pollutants in stormwater discharges occurring after construction operations have been completed or incorporated into the reclamation of a temporary site. Such practices may include: stormwater ponds; flow reduction by use of open vegetated swales and natural depressions; infiltration of runoff onsite; and sequential systems which combine several practices. The SWPPP shall include an explanation of the technical basis used to select the practices to control pollution where flows exceed pre-development levels.

5. Maintenance

All erosion and sediment control measures and other protective measures identified in the SWPPP shall be maintained in effective operating condition. The SWPPP shall indicate as appropriate the maintenance or clean out interval for sediment controls. If site inspections, required in this permit, identify BMPs that are not operating effectively, maintenance shall be arranged and accomplished as soon as practicable.

6. Inspections

The SWPPP shall provide for site inspections 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 for conducting inspections;
- c. Areas and activities that will be inspected;
- d. Information that will be recorded as part of an inspection; and
- e. Corrective action schedules when deficiencies are noted during an inspection.

Control measures identified in the SWPPP shall be observed to ensure that they are operating correctly and in serviceable condition.

The SWPPP shall include a record of inspections summarizing the scope of the inspection, condition of control measures, signs of pollution (or the potential for pollution) from industrial activities, the date and time and the name of personnel conducting the inspection.

The SWPPP shall be revised based on the observations and deficiencies noted during the inspection.

7. Sampling

The SWPPP shall document procedures for conducting analytical monitoring required by this permit in Part III(B). The SWPPP shall include specifics such as sampling points, contracted laboratory, and parameters to be sampled.

a. The SWPPP shall document:

- (1) Locations where samples are collected, including any determination that two or more outfalls are substantially identical;
- (2) Sample parameters and type of sample (e.g., grab, composite);
- (3) Schedules for sampling and monitoring at the facility;
- (4) Any numeric control values (benchmarks, effluent limitations guidelines, TMDL-related requirements, or other requirements) applicable to discharges from each outfall;
- (5) Procedures for collecting samples; and
- (6) Procedures for gathering storm event data.

b. If you plan to use the substantially identical outfall exemption for sampling requirements then the exemption shall include:

- (1) The location of each of the substantially identical outfalls;
- (2) A description of the general industrial activities conducted in the drainage area of each outfall;
- (3) A description of the control measures implemented 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; and
- (5) 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 IV(A)(6), and retained on-site for the duration of activity at the permitted location.
- b. The permittee shall make SWPPPs available upon request to the department, EPA, or, in the case of discharges to a municipal separate storm sewer system, to the operator of the municipal system.
- c. 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 shall also be amended if the SWPPP is found to be ineffective in controlling pollutants present in stormwater.
- d. A SWPPP implemented under the previous version of this permit may be continued under this permit. Facilities operating under an existing SWPPP are responsible for incorporating any changes necessitated by the conditions described in this permit. Any such changes must be implemented within 180 days of this permit's effective date.

D. Additional Terms and Conditions

1. Dewatering or basin draining (e.g., pumped discharges, trench/ditch cuts for drainage) related to the permitted activity shall be managed with the appropriate BMPs, such that the discharge does not adversely affect the receiving water or downstream landowners. 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 stormwater and small amounts of uncontaminated ground water that may collect on a site. A separate permit shall be obtained for the release of water from other sources such as sand and gravel wash plants. Dewatering or basin draining activities associated with the facilities identified in Part III(B)(1)(a) shall meet the requirements of Appendix 2.

2. Concrete wash water shall not be discharged to waters of the state or storm water conveyance system.
3. Bulk storage structures for petroleum products and other chemicals shall have adequate leak and spill protection to prevent any spilled materials from entering waters of the state.
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 discharges associated with industrial activity shall be added to the SWPPP or, if appropriate, covered by another applicable NDPDES permit.
5. Minimize the exposure of manufacturing, processing, and material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations) to rain, snow, snowmelt, and runoff by either locating these industrial materials and activities inside or protecting them with storm resistant coverings.
6. Locate materials, equipment and activities so that leaks and spills are contained, or able to be contained, or diverted to prevent discharge;
7. Clean up spills and leaks promptly using dry methods (e.g., absorbents) to prevent the discharge of pollutants;
8. 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 (i.e., not the stormwater drainage system).

E. Records Retention

A copy of the completed and signed NOI, coverage letter from the department, SWPPP, inspection records, sampling results, chain of custody documents, discharge monitoring reports, annual reports, and this general permit shall be kept on-site during normal working hours. If the site does not have a reasonable on-site location, then the documents shall be retained at a readily available alternative location; preferably with a member of the Stormwater Pollution Prevention Team. If the site is inactive, then the documents may be stored at a local office.

III. SELF-MONITORING AND REPORTING

A. Inspection Requirements

1. Inspection Frequency

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

- a. Active facilities shall be inspected at least once (1) during a three (3) month period. The 3 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 and once every 3 months until final stabilization is achieved after ceasing operations.
- c. Inactive operations shall be evaluated annually, at a minimum, by a qualified individual with experience in surface water pollution issues (i.e., environmental, erosion control, reclamation or engineering). The objectives of such evaluations are to: 1) assess the stability and performance of existing runoff controls, and 2) identify areas adversely impacted by runoff from the site.
- d. Increased 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.
- e. At least one of the required inspections shall be conducted within 48 hours of a precipitation event resulting in a stormwater discharge. At least one inspection shall be during a 3 month period when no such events occur.

2. Inspector Qualifications

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

3. Areas to Inspect

- a. These areas shall be inspected for evidence of, or the potential for, pollutants entering the drainage system:
 - (1) Areas where industrial materials or activities are exposed to stormwater;
 - (2) Areas identified in the SWPPP that are potential pollutant sources;
 - (3) Areas where spills and leaks have occurred in the past 3 years;
 - (4) Discharge points;
 - (5) Control measures used to comply with this permit; and
 - (6) Disturbed areas of the site that have not reached final stabilization.
- b. During the inspection, permittees shall look for the following:
 - (1) Industrial materials, residue or trash that may have or could come into contact with stormwater;
 - (2) Leaks or spills;
 - (3) Offsite tracking of industrial or waste materials;
 - (4) Offsite tracking of sediment; and
 - (5) 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 and time of inspections;
- b. Name of person(s) conducting inspections;
- c. Signs of pollution or the potential for pollution from industrial activities;
- d. Inspection findings, including major observations relating to the SWPPP, condition of stormwater controls, deficiencies noted and recommendations for corrective actions;

- e. Corrective actions taken including dates, times, and party completing maintenance activities; and
 - f. Documentation that the SWPPP has been amended when substantial changes are made to stormwater controls or other BMPs in response to inspections.
5. Inspectors shall consider the results of visual and analytical monitoring when planning and conducting inspections.

B. Sampling Requirements

Facilities are not required to conduct sampling of stormwater discharges except for the following circumstances:

1. Only permittees with industrial activities identified in this section are required to sample stormwater discharges as a condition of this permit. The minimum monitoring frequency is annual except for discharges from oil and gas extraction facilities, and facilities directed by the department to follow another schedule.
 - a. Stormwater sampling is required for the facilities (industrial activities) identified below. The specific monitoring conditions and parameter list for each facility group 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)
 - Oil and Gas Extraction (SIC 1311, 1321, 1381-1389)
 - Non-Metallic Mineral Mining and Dressing (SIC 1411, 1422-1429, 1442, 1446, 1481, 1499)
2. The department may direct, by written notification, any other facility covered by this permit to conduct stormwater sampling. 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. The stormwater sampling, where required, shall conform to the requirements, procedures, and conditions in Appendix 3.

C. Effluent Limitations

1. 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.

D. Reporting Requirements

1. Location Record

Operators of portable or temporary facilities (such as sand and gravel operations, concrete or asphalt batch plants) shall maintain a location record that shows the location where they operated facilities. 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 following:

- a. Permit number;
- b. Name and mailing address of the owner or operator;
- c. The site or plant name or number;
- d. Site location (street address, latitude and longitude, or township, range, section, and quarter);
- e. Start date of each site;
- f. The estimated area of total disturbance in acres of each site;
- g. Name of water bodies within 2000 feet that may receive drainage from the site
- h. Status of each site (active, reclaimed, inactive); and
- i. Date of final stabilization or when contoured to contain all stormwater discharges.

2. Discharge Monitoring Reports

Facilities that are required to conduct sampling under this permit in Part III(B) shall submit an annual 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. DMRs shall be required from all facilities that are covered by this permit for any portion of that reporting period. For all facilities, the monitoring reports shall cover a period from January 1 to December 31 and be submitted to the department by January 31 of the following year.

3. Report Submittals

The reports and any other correspondence required in this permit shall be submitted to the department at the following address:

North Dakota Department of Health
Division of Water Quality
918 East Divide Ave
Bismarck, ND 58501-1947

IV. MONITORING, RECORDING, AND REPORTING REQUIREMENTS

BP 2014.12.08

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

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

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

The permittee must collect such additional samples as soon as the spill, discharge, or bypassed effluent reaches the outfall. The samples must be analyzed in accordance with Appendix 3 – E Test Procedures. The permittee must report all additional monitoring in accordance with Appendix 3 – G Additional Monitoring.

B. 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, a general partner, or a

principal executive officer or ranking elected official.

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

- a. The authorization is made in writing by a person described above and submitted to the department; and
- b. 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 effluent limitation in the permit under H. Upset Conditions;
or
 - c. Violation of any daily maximum effluent or instantaneous discharge limitation for any of the pollutants listed in the permit.
2. A written submission shall also be provided within five days of the time that the permittee became aware of the circumstances. The written submission shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;
 - c. The estimated time noncompliance is expected to continue if it has not been corrected;
and

- d. Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

Reports shall be submitted to the address in **Part III(D)(3) Report Submittals**. The department may waive the written report on a case by case basis if the oral report has been received within 24 hours by the department at 701.328.5210 as identified above.

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

G. Bypass of Treatment Facilities

1. **Bypass not exceeding limitations**. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to any of the following provisions in this section.
2. **Bypass exceeding limitations-notification requirements**.
 - a. **Anticipated Bypass**. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of bypass.
 - b. **Unanticipated Bypass**. The permittee shall submit notice of an unanticipated bypass as required under **F. Twenty-four Hour Notice of Noncompliance Reporting**.
3. **Prohibition of Bypass**. Bypass is prohibited, and the department may take enforcement action against a permittee for bypass, unless:
 - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - c. The permittee submitted notices as required under the **1. Anticipated Bypass** subsection of this section.

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

H. Upset Conditions

An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of the following paragraph are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

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

1. An upset occurred and the permittee can identify its cause(s);

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

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

I. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. The permittee, at the department's request, shall provide accelerated or additional monitoring as necessary to determine the nature and impact of any discharge.

J. Removed Materials

Collected screenings, grit, solids, sludges, or other pollutants removed in the course of treatment shall be buried or disposed of in such a manner to prevent any pollutant from entering any waters of the state or creating a health hazard. The permit issuing authority shall be contacted prior to the disposal of any sewage sludges. At that time, concentration limitations and/or self-monitoring requirements may be established.

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 wastewater treatment facilities and monitoring equipment, to sample any discharges, and to have access to and copy any records required to be kept by this permit.

B. Availability of Reports

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

C. Transfers

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

D. New Limitations or Prohibitions

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

E. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. This includes the establishment of limitations or prohibitions based on changes to Water Quality Standards, the development and approval of waste load allocation plans, the development or revision to water quality management plans, changes in sewage sludge practices, or the establishment of prohibitions or more stringent limitations for toxic or conventional pollutants and/or sewage sludges. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

F. Need to Halt or Reduce Activity Not a Defense

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

G. State Laws

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

H. Oil and Hazardous Substance Liability

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

I. Property Rights

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

J. Severability

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

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

A. Standard Permit Definitions

BP 2013.12.31

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

15. "**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.
16. "**Total drain**" means the total volume of effluent discharged.
17. "**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.

B. Permit Specific Definitions

1. "**303d List**" or "**Section 303d List**" means a list of North Dakota's water quality-limited waters needing total maximum daily loads or TMDLs developed to comply with section 303d of the Clean Water Act. A copy of the list is available on the state's web site at: www.ndhealth.gov/wq/sw/A_Publications.htm
2. "**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.
3. "**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 (1) or (2) above.
4. "**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.
5. "**NDPDES**" means North Dakota Pollutant Discharge Elimination System.
6. "**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.

7. **"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.
8. **"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, infrequent building and equipment wash down without detergents, uncontaminated foundation drains, springs, lawn watering and air conditioning condensate.
9. **"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".
10. **"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.
11. **"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).
12. **"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.
13. **"Stormwater"** means stormwater runoff, snow melt runoff, and surface runoff and drainage.
14. **"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 (including industrial facilities that are federally or municipally owned or operated that meet the description of the facilities listed in paragraph (i)-(xi)) include those facilities designated under 122.26(a)(1)(v). The following categories of facilities are considered to be engaging in "industrial activity" for the purposes of this subsection:
 - (i) 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 (xi) in paragraph (b)(14) of this section);
 - (ii) Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283), 29, 31, 32 (except 323), 33, 344, 373;
 - (iii) 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);

- (iv) Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under subtitle C of RCRA;
- (v) 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;
- (vi) Facilities involved in the recycling of materials, including metal scrap yards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;
- (vii) Steam electric power generating facilities, including coal handling sites;
- (viii) 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 (b)(14) (i)-(vii) or (ix)-(xi) of this section are associated with industrial activity;
- (ix) 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;
- (x) 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;
- (xi) 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;

15. "Temporary Erosion Protection" means methods employed to prevent erosion. Examples of temporary cover include; straw, wood fiber blanket, wood chips, and erosion netting.

16. "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.

17. "You" means the owner, operator or permittee as appropriate.

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. Temporary (or permanent) sediment basins, or equivalent control shall be provided where ten (10) or more acres of disturbed area drain to a common location prior to the runoff leaving the site or entering surface waters. The permittee is encouraged, but not required, to install temporary sediment basins where appropriate in areas with steep slopes or highly erodible soils even if less than ten (10) acres drains to one area. The basins shall provide at least the following:

The basins shall be sized to provide 3,600 cubic feet of storage below the outlet pipe per acre drained to the basin. Alternative designs may be used which provide storage below the outlet for a calculated volume of runoff from a 2-year, 24-hour storm and provides not less than 1800 cubic feet of storage below the outlet pipe from each acre drained to the basin.

Basin outlets shall be designed to avoid short-circuiting. The basin shall be designed with the ability to allow complete basin drawdown (e.g., perforated riser pipe wrapped with filter fabric and covered with crushed gravel, pumps or other means) for maintenance activities, and provide a stabilized emergency overflow to prevent failure of pond integrity. Energy dissipation shall be provided for the basin outlet.

2. Where the temporary sediment basin is not practical due to site limitations or nature of disturbance (such as developing a roadway or initial stripping to build sediment pond or diversion) a combination of measures must be used within the disturbance area and down slope boundaries. In determining whether installing a sediment basin is attainable, the permittee must consider public safety and may consider factors such as site soils, slope, and available area on site.
3. You must provide temporary erosion protection or permanent cover for the exposed soil areas where activities have been completed or temporarily ceased. For those areas with a continuous positive slope within 200 linear feet of a surface water, temporary erosion protection or permanent cover shall be applied 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. Temporary 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 temporary or permanent drainage ditch that drains water from a site, or diverts water around a site, shall be stabilized at least 200 linear feet from the property edge, or from the point of discharge to any surface water. Stabilization should be completed within 24 hours of connecting to a surface water.
6. Pipe outlets shall be provided with temporary or permanent energy dissipation within 24 hours of connection to a surface water.
7. In order to maintain sheet flow and minimize rills and/or gullies, there shall be no unbroken slope length of greater than 75 feet for slopes with a grade of 3:1 or steeper.

8. Temporary or permanent 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. Where appropriate, inlet protection devices may be used to reduce the amount of sediment that may enter a storm sewer system. Maintenance and cleaning of inlet protection devices, including onsite sediment and erosion controls, shall be performed in a timely manner.
10. Vegetated buffers shall 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% or less and the area draining to the buffer shall have a slope of 6% 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% of the buffer. Woody vegetation shall not be counted for the 90% coverage. No more than 10% of the overall buffer may be comprised of woody vegetation.

B. Maintenance Considerations 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 supplemented with functional BMPs. The permittee(s) shall investigate and comply with the following inspection and maintenance requirements:

All control devices similar to silt fence or fiber rolls shall be repaired, replaced, or supplemented when they become nonfunctional or sediment is near 1/3 of the height of the device. These repairs shall be made within 24 hours of discovery, or as soon as field conditions allow access.

Temporary and permanent sedimentation basins shall be drained and the sediment removed when the depth of sediment collected in the basin is near 1/2 the storage volume. Drainage and removal shall be completed within 72 hours of discovery, or as soon as field conditions allow access.

2. Surface waters, including drainage ditches and conveyance systems, shall be inspected for evidence of sediment being deposited by erosion. The permittee shall remove all deltas and sediment deposited in surface waters, including drainage ways, catch basins, and other drainage systems, and restabilize the areas where sediment removal results in exposed soil. The removal and stabilization shall take place immediately, but no more than, seven (7) days after the discovery unless precluded by legal, regulatory, or physical access constraints. The permittee shall use all reasonable efforts to obtain access. If precluded, removal and stabilization shall take place immediately, but no more than, seven (7) calendar days after obtaining access. The permittee is responsible for contacting all local, regional, state and federal authorities and receiving any applicable permits, prior to conducting any work.
3. Construction site vehicle exit locations shall be inspected for evidence of off-site sediment tracking onto paved surfaces. Accumulations of tracked and deposited sediment shall be removed from all off-site paved surfaces, as soon as practicable, or if applicable, within a shorter time specified by local authorities.
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 (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 such as a designated vehicle

entrance to the site and providing aggregate surface on the entrance as soon as practical. 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.
6. Concrete washout areas shall be cleaned when the storage capacity is near 80 percent of the total capacity.
7. Fiber rolls shall be replaced, repaired, or supplemented with functional controls when reduced by one-half (1/2) of the height of the original roll.
8. Fiber rolls must be replaced, repaired, or supplemented with functional controls when damaged by animals.

C. Housekeeping and Standard Operating Procedures

1. Properly handle construction debris and waste materials.

Provide appropriate container(s) on site (or centrally located at several sites) for storing debris and other wastes until disposal. Litter and debris shall be picked-up regularly to reduce the chance for materials to be carried off the site by wind or water. Collected material shall be taken to the appropriate facility for disposal or recycling.

Liquid or soluble materials including oil, fuel, paint and any other 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 hazardous waste shall be in compliance with applicable regulations.

Concrete wash water shall not be discharged to any waters of the state, storm sewer systems or allowed to drain onto adjacent properties. Wash water disposal shall be limited to a defined area of the site or to an area designated for cement washout. The area(s) shall be sufficient to contain the wash water and residual cement.

Appendix 2 - Industry specific sampling requirements and SWPPP considerations

The industry types identified in this appendix are required to collect samples of stormwater discharges as part of monitoring requirements listed in Part III(B) of the permit. The specific sampling parameters and monitoring conditions applicable to each industry type are listed below. The sampling procedures and conditions applicable to all facilities sampling stormwater discharges are outlined in Appendix 3. In general, operators shall collect grab samples of stormwater discharges at least once a year for the parameters listed for their industry type.

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.

1. Asphalt Paving and Roofing Materials

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

2. Asphalt Emulsion Facilities

<u>Required Parameter</u>	<u>Benchmark Value</u>	<u>Discharge Limit</u>
• 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		10 mg/L (monthly avg)

3. 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		
<u>Required Parameter</u>	<u>Benchmark Value</u>	<u>Discharge Limit</u>
• Total Suspended Solids	100 mg/L	
• Iron, Total	1.0 mg/L	

Additional SWPPP Requirements
Good Housekeeping Measures. 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, but it shall be performed at least once a week if cement, aggregate, kiln dust, fly ash, or settled dust are being handled or processed.

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.

4. **Cement Manufacturing**

Applicability: Discharges from material storage piles at cement manufacturing facilities		
<u>Required Parameter</u>	<u>Benchmark Value</u>	<u>Discharge Limit</u>
<ul style="list-style-type: none"> Total Suspended Solids pH 		50 mg/L (daily max) Between 6.0-9.0 S.U.

5. **Mine Dewatering**

Applicability: Mine dewatering at crushed stone mining facilities, construction sand and gravel mining facilities, and industrial sand mining facilities; SIC codes 1422-1429, 1442, 1446		
<u>Required Parameter</u>	<u>Benchmark Value</u>	<u>Discharge Limit</u>
<ul style="list-style-type: none"> pH 		Between 6.0-9.0 S.U.

Applicability: Mine dewatering discharges from industrial sand mining facilities (SIC 1446)		
<u>Required Parameter</u>	<u>Benchmark Value</u>	<u>Discharge Limit</u>
<ul style="list-style-type: none"> Total Suspended Solids 		45 mg/L (daily max) 25 mg/L (monthly avg)

6. **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		
<u>Required Parameter</u>	<u>Benchmark Value</u>	<u>Discharge Limit</u>
<ul style="list-style-type: none"> Total Suspended Solids Iron, Total Aluminum, Total 	100 mg/L 1.0 mg/L 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). OSM 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).		

7. **Oil and Gas Extraction**

Applicability: Facilities with industrial activities associated with Oil and Gas Extraction; SIC codes 1311, 1321, 1381-1389.

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)

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

Requirements for Dewatering Uncontaminated Stormwater and Melt Water from Oil Well Pads and Secondary Containment Structures

1. The following steps shall be taken to initiate the discharge of uncontaminated stormwater or melt water:
 - Test results show the water meets the parameters outlined above
 - Dewatering may occur from areas where a spill occurred (e.g., oil or produced water) that was remediated and meets the parameters outlined above
 - Dewatering may not occur in 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
2. Contact the land owner or neighbors to inform them that you will be dewatering stormwater or melt water. For an oil well pad, contact the North Dakota Industrial Commission, Oil and Gas Division for any additional requirements.
3. If the water cannot be discharged, then the following disposal options may be available; note that landfills and city sanitary sewer systems will not accept liquid waste:
 - Disposal at a class II injection well (or salt water disposal well)
 - Hydraulic fracturing
 - Contact a reputable disposal company

8. **Non-Metallic Mineral Mining and Dressing**

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

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

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

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

Appendix 3 - Stormwater Sampling Requirements, Procedures and Conditions

Applicable to facilities conducting a sampling program.

A. Sample procedures.

1. All samples and measurements taken shall be representative of the discharge. Samples shall be collected from discharges resulting from a storm event that is greater than 0.1 inches in magnitude and that has occurred at least 72 hours from the last 0.1-inch or greater storm event which generated runoff. Snowmelt which generates runoff considered to be equivalent to or greater than a 0.1-inch precipitation event qualifies for sampling purposes. However, no more than one sample per year for each sampling site can be from a snowmelt event.
1. 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, provided the permittee submits a description of why the grab sample could not be obtained during the first 30 minutes with the DMR.
3. For storm events sampled, the permittee shall record the date and duration (in hours) of the event, rainfall amount or estimates (in inches) of the event, the approximate duration since the end of the last 0.1-inch or greater storm event which generated runoff, and an estimate of the size of the drainage area. The information shall also 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. Any gauge station used shall be located within 10 miles of the stormwater discharge.

- B. Impractical or adverse conditions.** When a permittee is unable to collect samples due to impractical or adverse climatic conditions, the discharger must submit in lieu of sampling data a description of why samples could not be collected, including available documentation of the event. 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, etc.).
- C. Representative sampling.** 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 may submit a representative sampling plan in which at least 20 percent of all outfalls would be monitored. Permittees wishing to utilize this option shall submit documentation as to why they believe discharges from the sites will be substantially similar and also identify their proposed sampling sites. Upon approval by the department, the representative sampling plan can be implemented.
- 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. The alternative monitoring plans can only be implemented upon written request by the permittee and subsequent written approval by the department. When it is not feasible to develop a monitoring plan based on the percentage of outfalls, an alternative monitoring plan representative of the features and activities impacting stormwater outfalls may be developed. The alternative plan shall contain an explanation of why a percentage based plan is impracticable and how the plan is representative of the stormwater discharges at the facility.

- E. Test Procedures.** The collection and transportation of all samples shall conform with EPA preservation techniques and holding times found in 40 CFR 136. All laboratory tests shall be performed by a North Dakota certified laboratory in conformance with test procedures pursuant to 40 CFR 136, unless other test procedures have been specified in this permit or approved by EPA as an alternate test procedure under 40 CFR 136.5. The method of determining the total amount of water discharged shall provide results within 10 percent of the actual amount.
- F. Recording of Results.** For each sample taken, the name of the sampler, the exact place, and the date and time of the sampling shall be recorded. For each sample analyzed, the name of the laboratory, the name of the analyzer, the analytical techniques used, the test results, and the date and time of the analysis shall be recorded.
- G. Additional Monitoring.** If the discharge is monitored more frequently than this permit requires, all additional results, if in compliance with item E, above (Test Procedures), shall be included on the DMR.
- H. Sampling Waiver.** A permittee may seek a waiver from all or part of the sampling requirements outlined in 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 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 materials 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.
 3. This waiver is not applicable to sampling for parameters which are required due to effluent limits in the permit.