



Pete Ricketts  
Governor

STATE OF NEBRASKA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Jim Macy

Director

Suite 400, The Atrium

1200 'N' Street

P.O. Box 98922

Lincoln, Nebraska 68509-8922

Phone (402) 471-2186

FAX (402) 471-2909

website: <http://deq.ne.gov>

**AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)**

**General NPDES Permit Number NEG500000**

**A General NPDES Permit Authorizing  
Land Application of Concrete Grooving/Grinding Slurry**

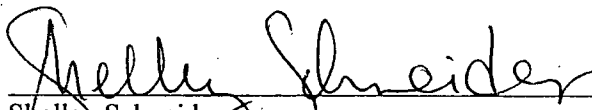
This NPDES permit is issued in compliance with the provisions of the Federal Water Pollution Control Act (33 U.S.C. Secs. 1251 *et. seq.* as amended to date), the Nebraska Environmental Protection Act (Neb. Rev. Stat. Secs. 81-1501 *et. seq.* as amended to date), and the Rules and Regulations promulgated pursuant to these Acts. This general permit authorizes the land application of concrete grooving/grinding slurry generated from any Public Agency owning a concrete transportation right-of-way. This permit regulates and controls the release of pollutants in the land application(s) authorized herein. All land applications are prohibited to those areas or sites identified in Part I in compliance with the provisions of the Federal Water Pollution Control Act (33 U.S.C. Sections. 1251 *et. seq.* as amended to date), the Nebraska Environmental Protection Act (Neb. Rev. Stat. Sections 81-1501 *et. seq.* as amended to date), and the Rules and Regulations promulgated pursuant to these Acts. This general permit does not relieve permittees of other duties and responsibilities under the Nebraska Environmental Protection Act, as amended, or established by regulations promulgated pursuant thereto.

This permit shall become effective on **October 1, 2016**.

This permit and the authorization to discharge shall expire at midnight, **September 30, 2021**.

Pursuant to the Delegation Memorandum dated August 22, 2016, and signed by the Director, the undersigned hereby executes this document on the behalf of the Director.

Signed this 25<sup>th</sup> day of September, 2016

  
Shelley Schneider  
Water Permits Division Administrator



**TABLE OF CONTENTS**

<b>PART I. APPLICABILITY</b>	<b>3</b>
A. Land Application Authorized by this Permit .....	3
B. Area of Application .....	3
C. Limitations on Coverage.....	3
<b>PART II. AUTHORIZATION FOR LAND APPLICATION</b>	<b>3</b>
A. Authorization .....	3
B. Other Requirements that Apply .....	3
C. Revocation of Land Application Authorization.....	3
D. Requiring an Alternative Permit and Application.....	4
E. Notification of Activities that May Cause an Environmental Impact.....	4
<b>PART III. CONCRETE GROOVING/GRINDING SLURRY BEST MANAGEMENT HANDLING PRACTICES</b>	<b>4</b>
A. Site Inspections Prior to Grooving/Grinding Operations.....	4
B. Equipment Practices and Requirements.....	5
C. Land Application of Slurry .....	5
D. Land Application Is Not Permitted In The Following Areas or Conditions:.....	6
E. Slurry Collection and Pond Decanting .....	6
<b>PART IV. OTHER CONDITIONS AND REQUIREMENTS</b>	<b>6</b>
A. Compliance with the Terms and Conditions.....	6
B. Immediate Reporting Requirements .....	6
C. Modification of Permit Attachments .....	6
D. Continuation of the Expired General Permit .....	7
E. Electronic Reporting .....	7
<b>PART V. RECORDKEEPING AND REPORTING REQUIREMENTS</b>	<b>7</b>
A. Summary List of Record Keeping Requirements .....	7
B. Summary List of Reporting Requirements .....	8
C. Submissions to MS4s.....	8
<b>Appendix A Table of Contents.....</b>	<b>9</b>

## **Part I. Applicability**

### **A. Land Application Authorized by this Permit**

This general permit authorizes the land application of concrete grooving/grinding slurry generated from any Public Agency, or their contractor, in a concrete transportation right-of-way.

Discharge to Waters of the State is prohibited.

### **B. Area of Application**

This permit has application throughout the entire State of Nebraska except for those limitations listed in Part I. C.

### **C. Limitations on Coverage**

This permit does not authorize the land application of concrete grooving/grinding slurry in the following circumstances or to waters of the state:

1. Land application activities that are regulated by an existing NPDES permit;
2. To the tribal lands within the State of Nebraska;
3. Land application activities that, when determined by the Department, may create potential, negative water quality impacts in the receiving stream, water body; wetland, and ground water;
4. Land application activities that adversely affect a listed endangered or threatened species or its critical habitat;
5. Land application activities for which effluent standards have been established in Title 119;
6. Wellhead protection areas; and
7. Land application activities that adversely affect a recognized historical property.

## **Part II. Authorization for Land Application**

### **A. Authorization**

1. Eligible Permittees are defined by the requirements and limitations in Part I.
2. A Notice of Intent (NOI) is not required for this permit.
3. The requirements of this permit apply to the eligible Permittees even though a NOI is not required to be submitted.

### **B. Other Requirements that Apply**

1. The Department may request additional information from the source as necessary to adequately review and evaluate the land application associated with this discharge.
2. Permittees are prohibited from discharging in a public or private storm sewer systems or drainage way.

### **C. Revocation of Land Application Authorization**

1. The Director may revoke a permittee's authorization to discharge under the terms and conditions of this permit for any of the following reasons:
  - a. The land application discharge is believed to be causing a violation of a surface or ground water quality standard;
  - b. The land application discharge is adversely affecting a listed endangered or threatened species or its critical habitat;
  - c. A permittee fails to submit an alternative permit application requested by the Department;
  - d. The land application discharge is adversely affecting a recognized historical property; and
  - e. As necessary to protect the public health and welfare.
2. The Department may revoke authorization to discharge under the terms and conditions of this permit by providing the applicant with a written notice of the revocation and an explanation of the basis for the determination.
3. Authorization to land apply under the terms and conditions of this permit shall be terminated upon the issuance of an alternative permit.

**D. Requiring an Alternative Permit and Application**

1. The Director may require any person authorized for land application under the terms and conditions of this permit to apply for and obtain a site-specific NPDES permit. The Department shall provide a written notice that an alternative permit application is required. This notice shall include:
  - a. A brief explanation of the basis for the determination;
  - b. An application or Notice of Intent for the alternative permit; and
  - c. A deadline for submitting the application for the alternative permit.
2. The Director may grant additional time for the submittal of the alternative application following the initial notice.

Conditions that may constitute a basis for requesting an alternative application include, but are not limited to:

- a. Land application of concrete grooving/grinding slurry is a significant contributor of pollution to Waters of the State;
- b. The discharger is not in compliance with the terms and conditions of the permit;
- c. Additional pollution control or prevention technology has become available;
- d. The promulgation of new effluent limitations that apply to land application of concrete grooving/grinding slurry; and
- e. The identification of conditions or pollutant sources not previously recognized.

**E. Notification of Activities that May Cause an Environmental Impact**

The permittee shall notify the Department immediately of any activities or actions that may cause adverse environmental impacts. Reporting requirements relative to spills, leaks, or physical characteristics are in Part IV. B and Part V.G. The telephone number listed for immediate reporting is 402-471-4220.

**Part III. Concrete Grooving/Grinding Slurry Best Management Handling Practices**

**A. Site Inspections Prior to Grooving/Grinding Operations**

The permittee shall make a site inspection prior to the start of grinding to identify sensitive areas:

1. The permittee shall identify wetlands, water bodies, streams and other sensitive areas where slurry discharge operations are not permitted.
2. The spreading of slurry shall not take place within 100 feet from the sensitive area or through these sensitive areas.
3. The spreading start and stop points shall be clearly marked on the shoulder of the road.
4. The slurry shall not flow across the roadway into adjacent lanes.
5. In urban areas with closed drainage systems and sensitive areas, the slurry shall be collected in water-tight haul units and transported to settlement ponds constructed by the permittee.
6. The locations of the closed drainage systems and sensitive areas, application areas, and settlement ponds shall be identified within the project plans or a supplemental plan, prior to the commencement of grooving/grinding operations.

**B. Equipment Practices and Requirements**

1. The grooving/grinding equipment shall be well-maintained; and
2. Shall be capable of removing all standing slurry, leaving the roadway in a damp condition after the grooving/grinding equipment passes.
3. The settlement ponds may be constructed within or outside the right-of-way. All locations shall be approved by the project engineer.

**C. Land Application of Slurry**

The concrete grooving/grinding slurry may be used as a liming product under the following conditions:

1. The application site may be within or outside the right-of-way or on agricultural cropland. Slurry shall not be applied to crops that are intended for distribution in their raw form for direct human consumption (e.g. fresh produce). Site locations are to be approved by the project engineer and the land owner;
2. A pH control plan shall ensure the pH of the grinding residue is maintained below 12.5 and greater than 2 standard units prior to land application.
  - a. With either the spreading or pickup operations, the permittee shall monitor and control the pH of the slurry.
  - b. At the start-up of operations, the permittee shall test the pH at once per hour to ensure it is within acceptable limits;
  - c. The test equipment shall be calibrated daily;
    - 1) Once the pH control plan is operational and producing consistent results, the test frequency may be reduced to 4 tests per day;
    - 2) The permittee shall log all test results weekly;
    - 3) At no time shall the slurry containing a pH outside the acceptable range (below 12.5 and greater than 2 standard units) be allowed to be deposited on the ground.
    - 4) The permittee shall determine the procedure to be used to maintain the slurry within the acceptable range. The procedure shall be approved by the project engineer.
3. These materials may be applied to the public agency rights-of-way or cropland (non-edible crops as described in Part III C.1) at agronomic rates. Land application to cropland shall require prior approval from the land owner(s).
  - a. The agronomic rate is defined as the rate which beneficially adjusts the pH of the soil to enhance plant growth but does not overload the soil with constituents, including pH, that may eventually leach to ground water, limit crop growth, or adversely impact soil quality;
  - b. To insure the agronomic rate is being met:
    - 1) The evaluation by a certified crop specialist, professional agronomist or biologist with acquired skill specific to determining agronomic rates must address the following items:
      - (a) An evaluation of site-specific plant-soil assimilation characteristics:
        - i. The Effective Calcium Carbonate Equivalent (ECCE) of the material;
        - ii. Particle size of the material;
        - iii. The land application site current soil pH;
        - iv. The Cation Exchange Capacity (CEC) of the land application site soil;
      - (b) A characteristics assessment of the slurry pollutants to determine the size of the land application site;
      - (c) A determination of the slurry application rates and the land area needed to protect the plant-soil characteristics with the purpose of ensuring that there is no loss of crops or soil productivity; and
      - (d) An evaluation of soil management practices to ensure that there is a long-term correction for potential imbalances due to the application of the slurry.
      - (e) The permittee may use information generated through long term monitoring and research projects to inform evaluations and determinations for agronomic rates.

- 2) These materials shall not be applied in a manner that adversely restricts soil permeability or causes ponding, pooling or runoff in the area;
- 3) The application rate shall be limited to the agronomic rate or a maximum of forty (40) dry tons per acre whichever is lower;
- 4) The vacuumed material shall be spread evenly by using a distribution device to distribute in uniform manner to prevent any build-up of the grinding residue; and
- 5) Spreading operations are restricted to above the usual high-water line of the drainage areas (ditches).

**D. Land Application Is Not Permitted In The Following Areas or Conditions:**

1. These materials shall not be applied to an application site unless the water table is at least 30 inches below the surface of the soil;
2. The slurry shall not be spread within 100 feet of any stream, lake, or wetland;
3. At no time will the grinding residue be allowed to enter a closed drainage system;
4. The spreading should not take place on the shoulder. Spreading should begin a minimum of 2 foot from the shoulder; and
5. Changing Environmental Conditions - The operator shall be aware of changing environmental conditions. As example: A recent or anticipated rain event may result in the slurry being carried into a surface water body or into what is now a water-filled ditch or drainage way.

**E. Slurry Collection and Pond Decanting**

In situations where the slurry must be captured and contained, the following requirements apply:

1. In urban areas with closed drainage systems and sensitive areas, the slurry shall be collected in water-tight haul units and transported to settlement ponds constructed by the permittee.
2. The settlement ponds may be constructed within or outside the right-of-way. All locations shall be approved by the project engineer.
  - a. The settlement ponds shall be constructed to allow for the settlement of the solids and decanting of the water for reuse in the grinding operation.
  - b. The settlement ponds shall be constructed so that there is no discharge to surface or ground water.
4. Upon completion of the grooving/grinding operation, the remaining water will be allowed to evaporate or may be used in a commercially useful manner (i.e., dust control).
5. After drying, the remaining solids may be used as a fill material, a component in recycled aggregate or any other commercially useful application.
6. Areas disturbed for the construction of temporary decanting ponds must comply with the General permit for construction stormwater, if applicable. If CSW-GP authorization is not required, based on the disturbed area, these locations must be stabilized with perennial vegetation at 70% of original background. Activity conducted on or through agricultural or silvicultural land shall be considered finally stabilized upon return to the preexisting agriculture or silvicultural use.

**Part IV. Other Conditions and Requirements**

**A. Compliance with the Terms and Conditions**

This permit does not relieve the permittee from any liability that may arise as a consequence of their land application activities.

**B. Immediate Reporting Requirements**

Any physical characteristic in the effluent, spills or leaks that could indicate the presence of a pollutant or pollutants not previously identified or anticipated should be reported to the Department at 402-471-4220.

**C. Modification of Permit Attachments**

The Department may modify the attachment to this permit. The modified form must satisfy the notification and reporting requirements set forth in this permit. If information is submitted on an outdated form, opportunity to resubmit the information shall be provided the permittee, or, at the discretion of the Department, submittals on outdated forms may be accepted.

#### **D. Continuation of the Expired General Permit**

This permit does not replace or satisfy any other applicable regulatory requirements that the permittee is subject to. The initiator of any regulated activity is the sole responsible party for obtaining authorization or permit coverage and for maintaining compliance with any applicable laws, regulations, or rules that may apply to their activities.

#### **E. Electronic Reporting**

The NPDES Electronic Reporting Rule requires electronic reporting of NPDES information rather than the currently required paper based reports from the permitted facilities. To comply with the federal rule, permittees may be required to submit information electronically on the NDEQ website.

### **Part V. Recordkeeping and Reporting Requirements**

These are summary lists. They do not contain all the record keeping and reporting requirements that may be required by various Department regulations, nor does it relieve the permittee of the responsibility to comply with any other recordkeeping and reporting requirements.

All records required by this permit must be retained for a period of at least 3 years from the date that your coverage under this permit expires or is terminated. Records must be accessible to NDEQ personnel or their representative.

Paper copies of any reports required must be sent to the following address:

**Nebraska Department of Environmental Quality  
Water Quality Division, Industrial Storm Water  
PO Box 98922  
Lincoln, NE 68509-8922**

#### **A. Summary List of Record Keeping Requirements**

The permittee must maintain the following records and make them available upon request:

1. A complete Best Management Handling Practices Plan for each site addressing all requirements in Part III of this permit. This should include, but is not limited to:
  - a. The pH control plan defined in Part III C.2.
  - b. The evaluation of agronomic rate as defined in Part III C.3.
  - c. Disposition locations of slurry (pond locations, land application areas (see Part V A.2 below), and / or other disposition.
2. Maps of land application areas including depth to ground water and known pollutants that may be present.
3. The identity of the Public Agency and/or operator, whichever is responsible for operations at the site. The Public Agency and/or operator identified shall be responsible for maintaining compliance with the terms and conditions of the permit.
  - d. The identity, mailing address, and telephone number of the Principal Executive Officer for the Agency and/or operator shall be provided. The qualifications and responsibilities for the Principal Executive Officer are set forth in this permit and NDEQ Title 119, Chapter 13.002. All permit applications submitted to the Department shall be signed:

- 002.01 - For a corporation by a responsible corporate officer;
  - 002.02 - For a partnership by a general partner or proprietorship by the proprietor;
  - 002.03 - For a municipal, State, Federal, or other public agency by either a principal executive officer or ranking elected official.
- e. The identity, mailing address, and telephone number of the Authorized Representative shall be provided. The Authorized Representative is the primary site contact for correspondence and monitoring reporting, and must meet the requirements set forth in NDEQ Title 119, Chapter 13.003.

## **B. Summary List of Reporting Requirements**

1. Notification of activities or actions that may alter the water quality resulting from land application of the slurry; and
2. Immediate telephone reporting of changes in effluent water quality and of events or activities that could adversely impact effluent water quality.
3. In addition to the reporting requirements stipulated above, you are also subject to the standard permit reporting provisions of Appendix A including:
  - a. 24-hour reporting (see Appendix A) - You must report any noncompliance which may endanger health or the environment. Any information must be provided orally within 24 hours from the time you become aware of the circumstances;
  - b. 5-day follow-up reporting to the 24 hour reporting (see Appendix A – A written submission must also be provided within five days of the time you become aware of the circumstances;
  - c. Reportable quantity spills - You must provide notification, as required under Appendix A Part A.12, as soon as you have knowledge of a leak, spill, or other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity. All reports to NDEQ should be sent to the address noted above.

## **C. Submissions to MS4s**

If required or upon request, copies of all required submissions to NDEQ shall be concurrently submitted to the appropriate Combined Sewer (CS), or Municipal Separate Storm Sewer Systems (MS4s) operator.



## **Appendix A**

### **Conditions Applicable to all NPDES Permits**

The following conditions apply to all NPDES permits:

#### **1. Information Available**

All permit applications, fact sheets, permits, discharge data, monitoring reports, and any public comments concerning such shall be available to the public for inspection and copying, unless such information about methods or processes is entitled to protection as trade secrets of the owner or operator under Neb. Rev. Stat. §81-1527, (Reissue 1999) and NDEQ Title 115, Chapter 4.

#### **2. Duty to Comply**

- a. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Federal Clean Water Act and the Applicable State Statutes and Regulations and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.
- b. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.

#### **3. Violations of this Permit**

- a. Any person who violates this permit may be subject to penalties and sanctions as provided by the Clean Water Act.
- b. Any person who violates this permit may be subject to penalties and sanctions as provided by the Nebraska Environmental Protection Act.

#### **4. Duty to Reapply**

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

#### **5. 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.

#### **6. 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.

#### **7. Proper Operation and Maintenance**

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective performance based on designed facility removals, effective management, adequate operator staffing and training, adequate process controls, adequate funding that reflects proper user fee schedules, adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary

facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

## **8. Permit Actions**

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

## **9. Property Rights**

This permit does not convey any property rights of any sort, or any exclusive privilege.

## **10. Duty to Provide Information**

The permittee shall furnish to the Director, within a reasonable time, any information which the Director 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 Director upon request, copies of records required to be kept by this permit.

## **11. Inspection and Entry**

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

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

## **12. Monitoring and Records**

- a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.
- c. Records of monitoring information shall include:
  - i) The date(s), exact place, time and methods of sampling or measurements;
  - ii) The individual(s) who performed the sampling or measurements;
  - iii) The date(s) analyses were performed;
  - iv) The individual(s) who performed the analyses;
  - v) The analytical techniques or methods used; and

- vi) The results of such analyses.
- d. Monitoring must be conducted according to test procedures approved under NDEQ Title 119, Chapter 27 002 unless another method is required under 40 CFR Subchapters N – Effluent Guidelines and Standards Parts 425 to 471 or O – Sewer Sludge Parts 501 and 503.
- e. Falsifies, Tampers, or Knowingly Renders Inaccurate
  - i) On actions brought by EPA, the Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction: be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.
  - ii) On action brought by the State, The Nebraska Environmental Protection Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished pursuant to Neb. Stat. §81-1508.01.

### 13. Signatory requirements

- a. All applications, reports, or information submitted to the Director shall be signed and certified.
  - i) All permit applications shall be signed as follows:
    - (a) For a corporation
      - (i) By a responsible corporate officer: For the purpose of this section, a responsible corporate officer means:
        - (a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
        - (b) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
      - (b) For a partnership or sole proprietorship
        - (i) By a general partner or the proprietor.
      - (c) For a municipality, State, Federal, or other public agency
        - (i) By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
          - (a) The chief executive officer of the agency, or
          - (b) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
- b. Reports and Other Information
  - i) All reports required by permits, and other information requested by the Director shall be signed by a person described in this section [paragraphs 13. a. i) (a),(b), or (c)], 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 in paragraphs 13. a. i) (a),(b), or (c);
  - (b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company, (a duly authorized representative may thus be either a named individual or any individual occupying a named position) and;
  - (c) The written authorization is submitted to the Director.
- c. Changes to Authorization
- If an authorization of paragraphs 13. a. i) (a),(b), or (c) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of this section must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.
- d. Certification
- All applications, reports and information submitted as a requirement of this permit shall contain the following certification statement:
- i) 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 gathered and evaluated 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.
- e. False Statement, Representation, or Certification
- i) The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.
  - ii) The Nebraska Environmental Protection Act provides criminal penalties and sanctions for false statement, representation, or certification in any application, label, manifest, record, report, plan, or other document required to be filed or maintained by the Environmental Protection Act, the Integrated Solid Waste Management Act, the Livestock Waste Management Act or the rules or regulations adopted and promulgated pursuant to such acts.

## **14. Reporting Requirements**

- a. Planned Changes
  - i) The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
    - (a) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in NDEQ Title 119, Chapter 4 and 8.
    - (b) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under NDEQ Title 119, Chapter 15.
    - (c) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions

that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan. The sludge program is not delegated to the State so notification to the EPA Regional Administrator in addition to the State is required.

b. Anticipated Noncompliance

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

c. Transfers

This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under NDEQ Title 119, Chapter 24 in some cases, modification or revocation and reissuance is mandatory.

d. Monitoring Reports

- i) Monitoring results shall be reported at the intervals specified elsewhere in this permit.
- ii) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director.
- iii) Monitoring results shall be submitted on a quarterly basis using the reporting schedule set forth below, unless otherwise specified in this permit or by the Department.

<u>Monitoring Quarters</u>	<u>DMR Reporting Deadlines</u>
January - March	April 28
April - June	July 28
July - September	October 28
October - December	January 28

- iv) For reporting results of monitoring of sludge use or disposal practices
- v) Additional reports may be required by the EPA Regional Administrator.
- vi) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved in NDEQ Title 119, Chapter 27 002, or another method required for an industry-specific waste stream under 40 CFR Subchapters N – Effluent Guidelines and Standards Parts 425 to 471 and O – Sewer Sludge Parts 501 and 503, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director or EPA Regional Administrator.
- vii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.

e. Compliance Schedules

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

f. Twenty-four Hour Reporting

- i) The permittee shall report any noncompliance which may endanger human health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

- ii) The following shall be included as information which must be reported within 24 hours under this paragraph.
  - (a) Any unanticipated bypass which exceeds any effluent limitation in this permit.
  - (b) Any upset which exceeds any effluent limitation in this permit.
  - (c) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours.
- g. The Director may waive the written report on a case-by-case basis for reports under section 14. f. ii) (a), (b) and (c) if the oral report has been received within 24 hours.
- h. Other noncompliance
 

The permittee shall report all instances of noncompliance not reported under paragraphs d., e., and f. of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph f. of this section.
- i. Other information
 

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.
- j. Noncompliance Report Forms
  - i) Noncompliance Report Forms are available from the Department and shall be submitted with or as the written noncompliance report.
  - ii) The submittal of a written noncompliance report does not relieve the permittee of any liability from enforcement proceedings that may result from the violation of permit or regulatory requirements.

## 15. Bypass

- a. Definitions
  - i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
  - ii) 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.
- b. Bypass Not Exceeding Limitations
 

The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 15.c. and d. of this section.
- c. Notice
  - i) Anticipated Bypass
 

If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.
  - ii) Unanticipated Bypass
 

The permittee shall submit notice of an unanticipated bypass as required in paragraph 14.f. of this section (24-hour notice).
- d. Prohibition of Bypass
 

Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

- i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - ii) 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
  - iii) The permittee submitted notices as required under paragraph 15.c. of this section.
- e. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph 15.d.

## **16. Upset**

### **a. Definition**

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. Effect of an Upset**

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph 16.c. of this section 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.

### **c. Conditions Necessary for a Demonstration of Upset.**

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

- i) An upset occurred and that the permittee can identify the cause(s) of the upset;
- ii) The permitted facility was at the time being properly operated;
- iii) The permittee submitted notice of the upset as required in paragraph 14.f. ii) (a), of this section (24-hour notice).
- iv) The permittee complied with any remedial measures required under paragraph (d) of this section.

### **d. Burden of Proof**

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

## **17. Other Rules and Regulations Liability**

The issuance of this permit in no way relieves the obligation of the permittee to comply with other rules and regulations of the Department.

## **18. Severability**

If any provision of this permit is held invalid, the remainder of this permit shall not be affected.

## **19. Other Conditions that Apply to NPDES and NPP Permits**

### **a. Land Application of Wastewater Effluent**

The permittee shall be permitted to discharge treated domestic wastewater effluent by means of land application in accordance with the regulations and standards set forth in NDEQ Title 119, Chapter 12 002.

The Wastewater Section of the Department must be notified in writing if the permittee chooses to land apply effluent.

b. Toxic Pollutants

The permittee shall not discharge pollutants to waters of the state that cause a violation of the standards established in NDEQ Titles 117, 118 or 119. All discharges to surface waters of the state shall be free of toxic (acute or chronic) substances which alone or in combination with other substances, create conditions unsuitable for aquatic life outside the appropriate mixing zone.

c. Oil and Hazardous Substances/Spill Notification

Nothing in this permit shall preclude the initiation of any legal action or relieve the permittee from any responsibilities, liabilities or penalties under section 311 of the Clean Water Act. The permittee shall conform to the provisions set forth in NDEQ Title 126, Rules and Regulations Pertaining to the Management of Wastes. If the permittee knows, or has reason to believe, that oil or hazardous substances were released at the facility and could enter waters of the state or any of the outfall discharges authorized in this permit, the permittee shall immediately notify the Department of a release of oil or hazardous substances. During Department office hours (i.e., 8:00 a.m. to 5:00 p.m., Monday through Friday, except holidays), notification shall be made to the Nebraska Department of Environmental Quality at telephone numbers (402) 471-2186 or (877) 253-2603 (toll free). When NDEQ cannot be contacted, the permittee shall report to the Nebraska State Patrol for referral to the NDEQ Immediate Response Team at telephone number (402) 471-4545. It shall be the permittee's responsibility to maintain current telephone numbers necessary to carry out the notification requirements set forth in this paragraph.

d. Removed Substances

- i) Solids, sludge, filter backwash or other pollutants removed in the course of treatment or control of wastewater shall be disposed of at a site and in a manner approved by the Nebraska Department of Environmental Quality.
  - (a) The disposal of nonhazardous industrial sludges shall conform to the standards established in or to the regulations established pursuant to 40 CFR Part 257.
  - (b) The disposal of sludge shall conform to the standards established in or to the regulations established pursuant to 40 CFR Part 503.
  - (c) If solids are disposed of in a licensed sanitary landfill, the disposal of solids shall conform to the standards established in NDEQ Title 132.
- ii) Publicly owned treatment works shall dispose of sewage sludge in a manner that protects public health and the environment from any adverse effects which may occur from toxic pollutants as defined in Section 307 of the Clean Water Act.
- iii) This permit may be modified or revoked and reissued to incorporate regulatory limitations established pursuant to 40 CFR Part 503.

e. Representative Sampling

- i) Samples and measurements taken as required within this permit shall be representative of the discharge. All samples shall be taken at the monitoring points specified in this permit and, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points shall not be changed without notification to the Department and with the written approval of the Director.
- ii) Composite sampling shall be conducted in one of the following manners;
  - (a) Continuous discharge - a minimum of one discrete aliquot collected every three hours,
  - (b) Less than 24 hours - a minimum of hourly discrete aliquots or a continuously drawn sample shall be collected during the discharge, or



- (c) Batch discharge - a minimum of three discrete aliquots shall be collected during each discharge.
  - (d) Composite samples shall be collected in one of the following manners:
    - (i) The volume of each aliquot must be proportional to either the waste stream flow at the time of sampling or the total waste stream flow since collection of the previous aliquot,
    - (ii) A number of equal volume aliquots taken at varying time intervals in proportion to flow,
    - (iii) A sample continuously collected in proportion to flow, and
  - (e) Where flow proportional sampling is infeasible or non-representative of the pollutant loadings, the Department may approve the use of time composite samples.
  - (f) Grab samples shall consist of a single aliquot collected over a time period not exceeding 15 minutes.
- iii) All sample preservation techniques shall conform to the methods adopted in NDEQ Title 119, Chapter 21 006 unless:
- (a) In the case of sludge samples, alternative techniques are specified in 40 CFR Part 503, or
  - (b) Other procedures are specified in this permit.
- iv) Flow Measurements
- Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be used to insure the accuracy and reliability of measurements. The devices shall be installed, calibrated and maintained to insure the accuracy of the measurements. The accepted capability shall be consistent with that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of +/- 10%. The amount of deviation shall be from the true discharge rates throughout the range of expected discharge volumes. Guidance can be obtained from the following references for the selection, installation, calibration and operation of acceptable flow measurement devices:
- (a) "Water Measurement Manual," U.S. Department of the Interior, Bureau of Reclamation, Third Edition, Revised Reprint, 2001.  
(Available online at <http://www.usbr.gov/tsc/techreferences/mands/wmm/index.htm>)
  - (b) "NPDES Compliance Flow Measurement Manual," U.S. Environmental Protection Agency, Office of Water Enforcement, Publication MCD-77, September 1981, 147 pp.  
(Available online at <http://www.epa.gov/nscep>, and enter 'NPDES Compliance Flow Measurement Manual, Publication MCD-77' in the search box)
- f. Changes of Loadings to Publicly Owned Treatment Works (POTWs)
- All POTWs must provide adequate notice to the Director of the following:
- i) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to NDEQ Title 119, Chapter 26, if it were directly discharging those pollutants;
  - ii) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
  - iii) For purposes of this paragraph, adequate notice shall include information on the quality and quantity of effluent introduced into the POTW, and any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

## 20. Definitions

**Administrator:** The Administrator of the USEPA.

**Aliquot:** An individual sample having a minimum volume of 100 milliliters that is collected either manually or in an automatic sampling device.

**Annually:** Once every calendar year.

**Authorized Representative:** Individual or position designated the authorization to submit reports, notifications, or other information requested by the Director on behalf of the Owner under the circumstances that the authorization is made in writing by the Owner, the authorization specifies the individual or position who is duly authorized, and the authorization is submitted to the Director.

**Bimonthly:** Once every other month.

**Biosolids:** Sewage sludge that is used or disposed through land application, surface disposal, incineration, or disposal in a municipal solid waste landfill.

**Biweekly:** Once every other week.

**Bypass:** The intentional diversion of wastes from any portion of a treatment facility.

**Certifying Official:** See Section 13, Standard Conditions above.

**Daily Average:** An effluent limitation that cannot be exceeded and is calculated by averaging the monitoring results for any given pollutant parameter obtained during a 24-hour day.

**Department:** Nebraska Department of Environmental Quality.

**Director:** The Director of the Nebraska Department of Environmental Quality.

**Industrial Discharge:** Wastewater that originates from an industrial process and / or is noncontact cooling water and / or is boiler blowdown.

**Industrial User:** A source of indirect discharge (a pretreatment facility).

**Monthly Average:** An effluent limitation that cannot be exceeded. It is calculated by averaging any given pollutant parameter monitoring results obtained during a calendar month.

**Operator:** A person (often the general contractor) designated by the owner who has day to day operational control and/or the ability to modify project plans and specifications related to the facility.

**Owner:** A person or party possessing the title of the land on which the activities will occur; or if the activity is for a lease holder, the party or individual identified as the lease holder; or the contracting government agency responsible for the activity.

**Outfall:** A discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged into Waters of the State.

**Passive Discharge:** A discharge from a POTW that occurs in the absence of an affirmative action and is not authorized by the NPDES permit (e.g. discharges due to a leaking valve, discharges from an overflow structure) and / or is a discharge from an overflow structure not designed as part of the POTW (e.g. discharges resulting from lagoon berm / dike breaches).

**Publicly Owned Treatment Works (POTW):** A treatment works as defined by Section 212 of the Clean Water Act (Public Law 100-4) which is owned by the state or municipality, excluding any sewers or other conveyances not leading to a facility providing treatment.

**Semiannually:** Twice every year.

**Significant Industrial User (SIU):** All industrial users subject to Categorical Pretreatment Standards or any industrial user that, unless exempted under Chapter 1, Section 105 of NDEQ Title 119, discharges an average of 25,000 gallons per day or more of process water; or contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW; or is designated as such by the Director on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any National Pretreatment Standard or requirement.

**Sludge:** Any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effect.

**30-Day Average:** An effluent limitation that cannot be exceeded. It is calculated by averaging any given pollutant parameter monitoring results obtained during a calendar month.

**Total Toxic Organics (TTO):** The summation of all quantifiable values greater than 0.01 milligrams per liter (mg/l) for toxic organic compounds that may be identified elsewhere in this permit. (If this term has application in this permit, the list of toxic organic compounds will be identified, typically in the Limitations and Monitoring Section(s) and/or in an additional Appendix to this permit.)

**Toxic Pollutant:** Those pollutants or combination of pollutants, including disease causing agents, after discharge and upon exposure, ingestion, inhalation or assimilation into an organism, either directly from the environment or indirectly by ingestion through food chains will, on the basis of information available to the administrator, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunction (including malfunctions in reproduction), or physical deformations in such organisms or their offspring.

**Upset:** 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, excluding such factors as operational error, improperly designed or inadequate treatment facilities, or improper operation and maintenance or lack thereof.

**Volatile Organic Compounds (VOC):** The summation of all quantifiable values greater than 0.01 milligrams per liter (mg/l) for volatile, toxic organic compounds that may be identified elsewhere in this permit. (See the definition for Total Toxic Organics above. In many instances, VOCs are defined as the volatile fraction of the TTO parameter. If the term VOC has application in this permit, the list of toxic organic compounds will be identified, typically in the Limitations and Monitoring Section(s) and/or in an additional Appendix to this permit.)

**Waters of the State:** All waters within the jurisdiction of this state including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.

**Weekly Average:** An effluent limitation that cannot be exceeded. It is calculated by averaging any given pollutant parameter monitoring results obtained during a fixed calendar week. The permittee may start their week on any weekday but the weekday must remain fixed. The Department approval is required for any change of the starting day.

**"X" Day Average:** An effluent limitation defined as the maximum allowable "X" day average of consecutive monitoring results during any monitoring period where "X" is a number in the range of one to seven days.

## 21. Abbreviations

**CFR:** Code of Federal Regulations

**kg/Day:** Kilograms per Day

**MGD:** Million Gallons per Day

**mg/L:** Milligrams per Liter

**NOI:** Notice of Intent

**NDEQ:** Nebraska Department of Environmental Quality

**NDEQ Title 115:** Rules of Practice and Procedure

**NDEQ Title 117:** Nebraska Surface Water Quality Standards

**NDEQ Title 118:** Ground Water Quality Standards and Use Classification

**NDEQ Title 119:** Rules and Regulations Pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System

**NDEQ Title 126:** Rules and Regulations Pertaining to the Management of Wastes

**NDEQ Title 132:** Integrated Solid Waste Management Regulations

**NPDES:** National Pollutant Discharge Elimination System

**NPP:** Nebraska Pretreatment Program

**POTW:** Publicly Owned Treatment Works

**µg/L:** Micrograms per Liter

**WWTF:** Wastewater Treatment Facility

**Table of Contents for Appendix A**  
**Standard Conditions that Apply to NPDES and NPP Permits**

**Section**  
**Page**

1. Information Available .....	1
2. Duty to Comply .....	1
3. Violations of this Permit.....	1
4. Duty to Reapply.....	1
5. Need to Halt or Reduce Activity not a Defense .....	1
6. Duty to Mitigate .....	1
7. Proper Operation and Maintenance .....	1
8. Permit Actions .....	2
9. Property Rights.....	2
10. Duty to Provide Information .....	2
11. Inspection and Entry.....	2
12. Monitoring and Records .....	2
13. Signatory Requirement.....	3
14. Reporting Requirements.....	4
15. Bypass .....	6
16. Upset.....	7
17. Other Rules and Regulations Liability .....	8
18. Severability.....	8
19. Other Conditions that Apply to NPDES and NPP Permits.....	8
20. Definitions .....	10
21. Abbreviations .....	12