

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) GENERAL PERMITS FOR HYDROELECTRIC GENERATING FACILITIES

MAG360000 AND NHG360000

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NOTE: The hydroelectric generating facility General Permits (HYDROGP) for the Commonwealth of Massachusetts and the State of New Hampshire are combined herein. Part 1 contains the General Permit provisions for discharges in the Commonwealth of Massachusetts; Part 2 contains the General Permit provisions for discharges in the State of New Hampshire; and Parts 3 through 8 are General Permit provisions common to both General Permits.

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**PART 1. MASSACHUSETTS GENERAL PERMIT, PERMIT NO. MAG360000**

In compliance with the provisions of the Federal Clean Water Act, as amended, (33 U.S.C. §§1251 et seq.; the "CWA"), and the Massachusetts Clean Waters Act, as amended, (M.G.L. Chap. 21, §§26-53), operators of hydroelectric generating facilities located in Massachusetts that discharge equipment cooling water, equipment and floor drain water, equipment backwash strainer water, and specific maintenance waters from the facility to the classes of waters as designated in the Massachusetts Water Quality Standards, 314 CMR 4.00 et seq., are authorized to discharge to such waters, unless otherwise restricted, in accordance with the effluent limitations, monitoring requirements, and other conditions set forth herein.

This General Permit and the authorization to discharge supersedes the General Permit that was issued on November 10, 2009 and that expired on December 7, 2014. This General Permit shall become effective on April 15, 2023 and will expire March 31, 2028.

Signed this 14<sup>th</sup> day of February, 2023



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Ken Moraff, Director  
Water Division  
Environmental Protection Agency  
Region 1  
Boston, MA



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Lealdon Langley, Director  
Division of Watershed Management  
Department of Environmental Protection  
Commonwealth of Massachusetts  
Boston, MA 02108

**1.1 Equipment-Related Cooling Water**

During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge equipment-related cooling water that is characterized as non-contact cooling water (NCCW) and contact cooling water. Each outfall discharging equipment-related cooling water shall be limited and monitored by the permittee as specified below in accordance with the receiving water classification when indicated. Monitoring for each outfall is to be conducted and reported in accordance with Part 1.7.a. and Part 7.

<u>Effluent Characteristic</u>	<u>Units</u>	<u>Discharge Limitation</u>	<u>Monitoring Requirement</u>	
			<u>Measurement Frequency</u>	<u>Sample Type</u>
		<u>Monthly Average</u>		
Flow <sup>1</sup>	Gallons per day	Report	Daily, when discharging	Estimate or Recorder
pH Range for Class A and B Waters <sup>2</sup>	Standard Units	6.5 to 8.3	1/Quarter	Grab
pH Range for Class SA and SB Waters <sup>2</sup>	Standard Units	6.5 to 8.5	1/Quarter	Grab
Ambient pH <sup>2</sup>	Standard Units	Report	1/Quarter	Grab
Temperature, Effluent <sup>3</sup>	°F	Report	1/Quarter	Grab

Footnotes

- <sup>1</sup> For flow, calculate the average monthly flow for each of the three months of the monitoring period by dividing the total estimated or recorded gallons discharged each month by number of days of discharge in that month. Report the highest of the three monthly average flows on the Discharge Monitoring Report (DMR). Flow can be measured or estimated. For those quarters when a discharge does not occur, the permittee must still submit the quarterly DMR with the appropriate no data indicator (NODI) code. Any written explanation for the NODI code must be included with the DMR.
- <sup>2</sup> An alternate pH range may be requested. See Part 1.7.1 of the Permit. If a site-specific pH range is approved by the State the Permittee shall report both the effluent pH and the ambient (background) pH on the DMR for the reporting period.
- <sup>3</sup> Effluent temperature shall be measured prior to the point of confluence with the tailrace or receiving water.

**1.2 Equipment and Floor Drain Water**

During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge equipment and floor drain water from the following operations: floor drains, trench drains, station sumps, oil/water separators, wheel pit drains or sumps, compressor blowdowns, equipment and seal leakage, lower guide bearing drains and other bearing-related discharges, various pit drains, and miscellaneous infiltration and seepage waters collected in a sump or an oil/water separator. Each outfall discharging equipment and floor drain water shall be limited and monitored by the permittee as specified below in accordance with the receiving water classification when indicated. Monitoring for each outfall is to be conducted and reported in accordance with Part 1.7.a. and Part 7.

<u>Effluent Characteristic</u>	<u>Units</u>	<u>Discharge Limitation</u>	<u>Monitoring Requirement</u>	
			<u>Measurement Frequency</u>	<u>Sample Type</u>
		<u>Monthly Average</u>		
Flow <sup>1</sup>	Gallons per day	Report	Daily, when discharging	Estimate or Recorder
pH Range for Class A and Class B waters <sup>2</sup>	Standard Units	6.5 to 8.3	1/Quarter	Grab
pH Range for Class SA and Class SB waters <sup>2</sup>	Standard Units	6.5 to 8.5	1/Quarter	Grab
Ambient pH <sup>2</sup>	Standard Units	Report	1/Quarter	Grab
Oil and Grease for Class A and Class SA waters <sup>3</sup>	mg/L	Non-detect, See Part 1.7.h.	1/Quarter	Grab
Oil and Grease for Class B and Class SB waters <sup>3</sup>	mg/L	15	1/Quarter	Grab
Total Suspended Solids	mg/L	Report, See Part 1.7.k	1/Quarter	Grab

Footnotes

<sup>1</sup> For flow, calculate the average monthly flow for each of the three months of the monitoring period by dividing the total estimated or recorded gallons discharged each month by number of days of discharge in that month. Report the highest of the three monthly average flows on the Discharge Monitoring Report (DMR). For those quarters when a discharge does not occur, the permittee must still submit the quarterly DMR with the appropriate NODI code for each parameter. Any written explanation for the NODI code must be included with the DMR.

- <sup>2</sup> An alternate pH range may be requested. See Part 1.7.1 of the Permit. If a site-specific pH range is approved by the State the Permittee shall report both the effluent pH and the ambient (background) pH on the DMR for the reporting period.
- <sup>3</sup> Oil and Grease shall be tested using EPA test method 1664 Revision A or B, as approved in 40 C.F.R. §136.

**1.3 Maintenance-Related Water**

During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge maintenance-related water from sump dewatering. Each outfall discharging maintenance-related water shall be limited and monitored by the permittee as specified below in accordance with the receiving water classification when indicated. Monitoring for each outfall is to be conducted and reported in accordance with Part 1.7.a. and Part 7.

<u>Effluent Characteristic</u>	<u>Units</u>	<u>Discharge Limitation</u>	<u>Monitoring Requirement</u>	
			<u>Measurement Frequency</u>	<u>Sample Type</u>
		<u>Monthly Average</u>		
Flow <sup>1</sup>	Gallons per day	Report	Daily, when discharging	Estimate or Recorder
pH Range for Class A and Class B waters <sup>2</sup>	Standard Units	6.5 to 8.3	1/Quarter	Grab
pH Range for Class SA and Class SB waters <sup>2</sup>	Standard Units	6.5 to 8.5	1/Quarter	Grab
Ambient pH <sup>2</sup>	Standard Units	Report	1/Quarter	Grab
Oil and Grease for Class A and Class SA waters <sup>3</sup>	mg/L	Non-detect, See Part 1.7.h.	1/Quarter	Grab
Oil and Grease for Class B and Class SB waters <sup>3</sup>	mg/L	15	1/Quarter	Grab
Total Suspended Solids	mg/L	Report, See Part 1.7.k	1/Quarter	Grab

Footnotes

- <sup>1</sup> For flow, calculate the average monthly flow for each of the three months of the monitoring period by dividing the total estimated or recorded gallons discharged each month by number of days of discharge in that month. Report the highest of the three monthly average flows on the Discharge Monitoring Report (DMR). For those quarters when a discharge does not occur, the permittee must still submit the quarterly DMR with the appropriate NODI code for each parameter. Any written explanation for the NODI code must be included with the DMR.
- <sup>2</sup> An alternate pH range may be requested. See Part 1.7.l of the Permit. If a site-specific pH range is approved by the State the Permittee shall report both the effluent pH and the ambient (background) pH on the DMR for the reporting period.
- <sup>3</sup> Oil and Grease shall be tested using EPA test method 1664 Revision A or B, as approved in 40 C.F.R. §136.

**1.4 Equipment-Related Backwash Strainer Water**

During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge equipment-related backwash strainer water from the operation of the backwash strainer on the cooling water intake line. Each outfall discharging equipment-related backwash strainer water shall be limited and monitored by the permittee as specified below in accordance with the receiving water classification when indicated. Monitoring for each outfall is to be conducted and reported in accordance with Part 1.7.a. and Part 7. Such discharges shall also comply with Part D.5 of Appendix 7 (BMP plan), which details specific inspection and maintenance requirements for backwash strainer operation.

<u>Effluent Characteristic</u>	<u>Units</u>	<u>Discharge Limitation</u>	<u>Monitoring Requirement</u>	
			<u>Measurement Frequency</u>	<u>Sample Type</u>
		<u>Maximum Daily</u>		
Flow <sup>1</sup>	Gallons per day	Report	Per Event	Estimate or Recorder
pH Range for Class A and Class B waters <sup>2</sup>	Standard Units	Report	1/Quarter	Grab
pH Range for Class SA and Class SB waters <sup>2</sup>	Standard Units	Report	1/Quarter	Grab
Total Suspended Solids <sup>2</sup>	mg/L	Report	1/Quarter	Grab

Footnotes

<sup>1</sup> For flow, report the maximum daily flow for a backwashing event during the quarter. For those quarters when a discharge does not occur, the permittee must still submit the quarterly DMR with the appropriate NODI code for each parameter. Any written explanation for the NODI code must be included with the DMR.

<sup>2</sup> pH and TSS monitoring may be discontinued after the Permittee completes eight quarterly sampling events. After completion of eight quarterly samples the Permittee may enter the NODI code “9” (Conditional Monitoring – Not Required This Period) in the DMR.

**1.5 Facility Maintenance-Related Water during Flood/High Water Events**

During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge facility maintenance-related water during flood/high water events from flood water pumps, high water sump pumps, and miscellaneous flood/high water collection devices. Monitoring and reporting requirements for facility maintenance-related water during flood/high water events are to be conducted and reported in accordance with Part 1.7.a. and Part 7 and as specified below, which are the date and approximate duration of each flood/high water discharge event. This monitoring shall be reported as an attachment to the quarterly DMR. Flood/high water discharges shall comply with the requirements in Part 5 of this permit and be consistent with the implemented flood/high water discharge practices of the BMP plan in Appendix 7.

<u>Effluent Characteristic</u>	<u>Units</u>	<u>Monitoring Requirement</u>	
		<u>Measurement Frequency</u>	<u>Sample Type</u>
Flood/high water event	Report Number of events for the Quarter	1/Occurrence	Count
Flood/high water event duration	Report Hours per event and total hours for the quarter	1/Occurrence	Estimate

**1.6 Requirements for Any Combination of Discharges**

**Equipment-Related Cooling Water, Equipment and Floor Drain Water, Maintenance-Related Water, Equipment-Related Backwash Strainer Water, and Facility Maintenance-Related Water During Flood/High Water Events**

During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge a combination of two or more discharges associated with operations identified in Parts 1.1 through 1.5: equipment-related cooling water, equipment and floor drain water, maintenance-related water, equipment-related backwash strainer water, and facility maintenance-related water during flood/high water events. Each outfall with these combined discharges shall be limited and monitored by the permittee as specified below in accordance with the receiving water classification when indicated. Monitoring is to be conducted and reported in accordance with Part 1.7 and Part 7.

For facility maintenance-related water during flood/high water events, the date and approximate duration of each flood/high water discharge event shall be included as an attachment to the quarterly DMR. Flood/high water discharges shall comply with the requirements in Part 5 of this permit and be consistent with the implemented flood/high water discharge practices of the BMP plan in Appendix 7.

<u>Effluent Characteristic</u>	<u>Units</u>	<u>Discharge Limitation</u>	<u>Monitoring Requirement</u>	
			<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow <sup>1</sup>	Gallons per day	Report	Daily, when discharging	Estimate or Recorder
pH Range for Class A and Class B waters <sup>2</sup>	Standard Units	6.5 to 8.3	1/Quarter	Grab
pH Range for Class SA and Class SB waters <sup>2</sup>	Standard Units	6.5 to 8.5	1/Quarter	Grab
Ambient pH <sup>2</sup>	Standard Units	Report	1/Quarter	Grab
Oil and Grease for Class A and SA waters <sup>3</sup>	mg/L	Non-detect, See Part 1.7.h	1/Quarter	Grab
Oil and Grease for Class B and SB waters <sup>3</sup>	mg/L	15	1/Quarter	Grab
TSS <sup>4</sup>	mg/L	Report, See Part 1.7.k	1/Quarter	Grab
Temperature, Effluent <sup>5</sup>	° F	Report	1/Quarter	Grab

Footnotes

- <sup>1</sup> For flow, calculate the average monthly flow for each of the three months of the monitoring period by dividing the total estimated or recorded gallons discharged each month by number of days of discharge in that month. Report the highest of the three monthly average flows on the Discharge Monitoring Report (DMR). For those quarters when a discharge does not occur, the permittee must still submit the quarterly DMR with the appropriate NODI code for each parameter. Any written explanation for the NODI code must be included with the DMR.
- <sup>2</sup> An alternate pH range may be requested. See Part 1.7.1 of the Permit. If a site-specific pH range is approved by the State the Permittee shall report both the effluent pH and the ambient (background) pH on the DMR for the reporting period.
- <sup>3</sup> Oil and Grease shall be tested using EPA test method 1664 Revision A or B, as approved in 40 C.F.R. §136. The effluent limitation for Oil and Grease applies only to combined discharges that include effluent from equipment and floor drain water or facility maintenance-related water.
- <sup>4</sup> TSS monitoring requirements apply only to combined discharges that include equipment and floor drain water, maintenance-related water (except maintenance-related water during flood/high water events), and/or equipment-related backwash strainer water.
- <sup>5</sup> The temperature monitoring requirements apply only to combined discharges that include equipment-related cooling water.

## 1.7 Other Permit Conditions

- a. Samples taken in compliance with the monitoring requirements specified in Parts 1.1 through 1.6 of this permit shall be taken at a location that is representative of the discharge, unless otherwise indicated in the permit. All samples shall be tested using the analytical methods found in 40 C.F.R. § 136, or alternative methods approved by EPA in accordance with the procedures in 40 C.F.R. § 136. Effluent sampling shall begin during the calendar quarter in which the authorization date of the permit occurs, unless such date is during the last month of the quarter. Calendar quarters are defined as the following: January through March, April through June, July through September, and October through December. All sampling results shall be recorded, including those that are above the frequency required by this permit.

If the facility contains two or more outfalls with substantially identical discharges (e.g., 2 NCCW outfalls originating from similar turbines), the permittee may sample the representative outfall once the outfalls are identified and updated as necessary in accordance with the Optional Representative Outfall Sampling provision of Part E of Appendix 7. The quarterly DMR shall include a statement listing the other outfalls with discharges covered by the representative outfall sampling results. EPA may determine that certain outfalls are not representative and require sampling for such outfalls. If the permittee seeks to change a representative outfall, it shall submit a written request to EPA. The changing of a representative outfall shall be made only after written approval by EPA has been received.

- b. Solid materials, with the exception of naturally occurring materials, shall be removed from the trash racks or intake screens and disposed of in accordance with the procedures developed in Part D.4 of Appendix 7. Installation of trash racks or other equipment to remove the solid materials is not a permit requirement.
- c. There shall be no discharge of polychlorinated biphenyl compounds such as those commonly used for transformer fluid.
- d. The discharge shall not cause a violation of the water quality standards of the receiving waters.
- e. The effluent shall not contain floating or settleable solids.
- f. The discharge shall not cause objectionable discoloration, color, turbidity or a visible sheen in the receiving waters.
- g. The discharge shall not contain materials in concentrations or in combinations which are hazardous or toxic to aquatic life or which would impair the uses designated by the classification of the receiving waters.
- h. There shall be no detectable discharge of oil and grease for discharge to Class A or SA waters. The permittee shall use EPA Method 1664A or B for oil and grease analysis. Compliance with the non-detect limit shall be measured at the minimum level (ML) of detection for the EPA approved test methods. The ML for oil and grease is 5 mg/l using EPA Method 1664A or B, where the ML is the lowest point on the curve used to calibrate the test equipment for the pollutant of concern. If

EPA approves a method under 40 C.F.R. § 136 for oil and grease that has a ML lower than 5 mg/l, the permittee shall be required to use the improved method.

- i. In accordance with 40 C.F.R. § 122.44(i)(1)(iv), the Permittee shall use sufficiently sensitive test procedures (i.e., methods) approved under 40 C.F.R. § 136 or required under 40 C.F.R. Chapter I, Subchapter N or O, for the analysis of pollutants or pollutant parameters limited in this permit. A method is considered “sufficiently sensitive” when either (1) The method minimum level (ML) is at or below the level of the effluent limit established in this permit for the measured pollutant or pollutant parameter; or (2) The method has the lowest ML of the analytical methods approved under 40 C.F.R. § 136 or required under 40 C.F.R. Chapter I, Subchapter N or O for the measured pollutant or the pollutant parameter. The ML is not the minimum level of detection, but rather the lowest level at which the test equipment produces a recognizable signal and acceptable calibration point for an analyte, representative of the lowest concentration at which an analyte can be measured with a known level of confidence. When a parameter is not detected above the minimum level of detection, the Permittee must report the data qualifier signifying less than the minimum level of detection for that parameter on the DMR (i.e. <5 mg/L, if the minimum level of detection for a parameter is 5 mg/L).
- j. This permit does not allow for the addition of any chemical for any purpose to the discharges except for non-toxic neutralization (pH adjustment) chemicals or seasonal use of chemicals to prevent freezing to equipment associated with the facility’s intake structure(s). Additives used to control biological growth in cooling water are prohibited due to their inherent toxicity to aquatic life.

For each anti-freeze chemical that is requested to be used by the permittee as described above, the following data must be supplied with the Notice of Intent (NOI):

- (1) Name and manufacturer;
- (2) Maximum and average daily quantity that is proposed to be used on a monthly basis as well as the maximum and average daily expected concentrations (mg/l) in the discharge; and
- (3) Any aquatic toxicity values or other toxicological information from the vendor or other source.

Notification of any new chemicals or proposed substitutions of previously approved chemicals must be requested through the submittal of a Notice of Change (NOC) to EPA and the State. All substitution requests must contain the information required in Part I.7.j. and any substitute chemicals may not be used until allowed by EPA in writing.

- k. After at least four consecutive, quarterly samples for TSS that are below 30 mg/L, the Permittee may request a reduction or elimination of TSS monitoring by submitting a NOC, found in Appendix 8 of this Permit. EPA will consider a demonstration, based on additional ambient monitoring, that TSS values greater than or equal to 30 mg/L are due to the natural conditions of the river water and not caused by activities at the Facility. Prior to receiving written approval to reduce or eliminate TSS monitoring, the permittee must continue to monitor TSS at the frequency specified in this permit.

1. The pH range of 6.5 to 8.3 standard units (S.U.) for Class A and B waters and 6.5 to 8.5 S.U. for Class SA and SB waters must be achieved in the final effluent unless the Permittee demonstrates to MassDEP that Massachusetts Surface Water Quality Standards can be attained with an alternate range and submits an NOC (found in Appendix 8) with supporting documentation of this approval. Applicants must contact MassDEP to submit the appropriate effluent and ambient pH data required to make such a determination. If an alternate pH range is approved by MassDEP the Permittee shall sample ambient pH on the same day as the effluent pH and report the ambient pH value on the DMR.

## 1.8 State Permit Conditions

- a. This authorization to discharge includes two separate and independent permit authorizations. The two permit authorizations are (i) a federal National Pollutant Discharge Elimination System permit issued by the U.S. Environmental Protection Agency (EPA) pursuant to the Federal Clean Water Act, 33 U.S.C. §§1251 et seq.; and (ii) an identical state surface water discharge permit issued by the Commissioner of the Massachusetts Department of Environmental Protection (MassDEP) pursuant to the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26-53, and 314 C.M.R. 3.00. All of the requirements contained in this authorization, as well as the standard conditions contained in 314 CMR 3.19, are hereby incorporated by reference into this state surface water discharge permit.
- b. Each Agency shall have the independent right to enforce the terms and conditions of this permit. Any modification, suspension or revocation of this permit shall be effective only with respect to the Agency taking such action and shall not affect the validity or status of this permit as issued by the other Agency, unless and until each Agency has concurred in writing with such modification, suspension or revocation. In the event any portion of this permit is declared, invalid, illegal or otherwise issued in violation of State law such permit shall remain in full force and effect under Federal law as an NPDES permit issued by the EPA. In the event this permit is declared invalid, illegal or otherwise issued in violation of Federal law, this permit shall remain in full force and effect under State law as a permit issued by the Commonwealth of Massachusetts.

**PART 2. NEW HAMPSHIRE GENERAL PERMIT, PERMIT NO. NHG360000**

In compliance with the provisions of the Federal Clean Water Act, as amended, (33 U.S.C. §§ 1251 et seq.; the "CWA"), operators of hydroelectric generating facilities located in New Hampshire that discharge equipment cooling waters, equipment and floor drain water, equipment backwash strainer water, and specific maintenance waters from the facility are authorized to discharge to all waters, unless otherwise restricted by the New Hampshire water quality standards, 50 RSA §485-A:8 and the N.H. Code of Administrative Rules Env-Wq 1700-1709 in accordance with effluent limitations, monitoring requirements, and other conditions set forth herein.

This General Permit and the authorization to discharge supersedes the General Permit that was issued on November 10, 2009 and that expired on December 7, 2014. This General Permit shall become effective on April 15, 2023 and will expire March 31, 2028.

Signed this 14<sup>th</sup> day of February, 2023



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Ken Moraff, Director  
Water Division  
Environmental Protection Agency  
Region 1  
Boston, MA 02109-3912

## 2.1 Equipment-Related Cooling Water

During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge equipment-related cooling water that is characterized as non-contact cooling water (NCCW) and contact cooling water. Each outfall discharging equipment-related cooling water shall be limited and monitored by the permittee as specified below. Monitoring for each outfall is to be conducted and reported in accordance with Part 2.7.a. and Part 7.

<u>Effluent Characteristic</u>	<u>Units</u>	<u>Discharge Limitation</u>	<u>Monitoring Requirement</u>	
			<u>Measurement Frequency</u>	<u>Sample Type</u>
		<u>Monthly Average</u>		
Flow <sup>1</sup>	Gallons per day	Report	Daily, when discharging	Estimate or Recorder
pH Range <sup>2</sup>	Standard Units	6.5 to 8.0	1/Quarter	Grab
Ambient pH <sup>2</sup>	Standard Units	Report	1/Quarter	Grab
Temperature, Effluent <sup>3</sup>	°F	Report	1/Quarter	Grab

### Footnotes

- <sup>1</sup> For flow, calculate the average monthly flow for each of the three months of the monitoring period by dividing the total estimated or recorded gallons discharged each month by number of days of discharge in that month. Report the highest of the three monthly average flows on the Discharge Monitoring Report (DMR). Flow can be measured or estimated. For those quarters when a discharge does not occur, the permittee must still submit the quarterly DMR with the appropriate no data indicator (NODI) code for each parameter. Any written explanation for the NODI code must be included with the DMR.
- <sup>2</sup> The minimum and maximum pH sample values for the quarter shall be reported in standard units (S.U.). The pH shall be within the specified range at all times unless the ambient (background) upstream pH of the river is outside of this range. See Part 2.7.1 of the Permit. When the pH range is outside of the specified range, results of the ambient pH sample obtained to demonstrate compliance with this limit shall be reported in the discharge monitoring report (DMR). If the pH is within the specified range, the Permittee shall report an appropriate NODI code for background pH.
- <sup>3</sup> Effluent temperature shall be measured prior to the point of confluence with the tailrace or receiving water.

## 2.2 Equipment and Floor Drain Water

During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge equipment and floor drain water from the following operations: floor drains, trench drains, station sumps, oil/water separators, wheel pit drains or sumps, compressor blowdowns, equipment and seal leakage, lower guide bearing drains and other bearing-related discharges, various pit drains, and miscellaneous infiltration and seepage waters collected in a sump or oil/water separator. Each outfall discharging equipment and floor drain water shall be limited and monitored by the permittee as specified below. Monitoring for each outfall is to be conducted and reported in accordance with Parts 2.7.a. and 7.

<u>Effluent Characteristic</u>	<u>Units</u>	<u>Discharge Limitation</u>	<u>Monitoring Requirement</u>	
			<u>Measurement Frequency</u>	<u>Sample Type</u>
		<u>Monthly Average</u>		
Flow <sup>1</sup>	Gallons per day	Report	Daily, when discharging	Estimate or Recorder
pH Range <sup>2</sup>	Standard Units	6.5 to 8.0	1/Quarter	Grab
Oil and Grease <sup>3</sup>	mg/L	15	1/Quarter	Grab
Total Suspended Solids	mg/L	Report, See Part 2.7.k	1/Quarter	Grab

### Footnotes

- <sup>1</sup> For flow, calculate the average monthly flow for each of the three months of the monitoring period by dividing the total estimated or recorded gallons discharged each month by number of days of discharge in that month. Report the highest of the three monthly average flows on the Discharge Monitoring Report (DMR). Flow can be measured or estimated. For those quarters when a discharge does not occur, the permittee must still submit the quarterly DMR with the appropriate NODI code for each parameter. Any written explanation for the NODI code must be included with the DMR.
- <sup>2</sup> The minimum and maximum pH sample values for the quarter shall be reported in standard units (S.U.). The pH shall be within the specified range at all times unless the ambient (background) upstream pH of the river is outside of this range. See Part 2.7.1 of the Permit. When the pH range is outside of the specified range, results of the ambient pH sample obtained to demonstrate compliance with this limit shall be reported in the discharge monitoring report (DMR). If the pH is within the specified range, the Permittee shall report an appropriate NODI code for background pH.
- <sup>3</sup> Oil and Grease shall be tested using EPA test method 1664 Revision A or B, as approved in 40 C.F.R. § 136.

**2.3 Maintenance-Related Water**

During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge maintenance-related water from sump dewatering. Each outfall discharging maintenance-related water shall be limited and monitored by the permittee as specified below. Monitoring for each outfall is to be conducted and reported in accordance with Part 2.7.a. and Part 7.

<u>Effluent Characteristic</u>	<u>Units</u>	<u>Discharge Limitation</u>	<u>Monitoring Requirement</u>	
			<u>Measurement Frequency</u>	<u>Sample Type</u>
		<u>Monthly Average</u>		
Flow <sup>1</sup>	Gallons per day	Report	Daily, when discharging	Estimate or Recorder
pH Range <sup>2</sup>	Standard Units	6.5 to 8.0	1/Quarter	Grab
Oil and Grease <sup>3</sup>	mg/L	15	1/Quarter	Grab
Total Suspended Solids	mg/L	Report, See Part 2.7.k	1/Quarter	Grab

Footnotes

- <sup>1</sup> For flow, calculate the average monthly flow for each of the three months of the monitoring period by dividing the total estimated or recorded gallons discharged each month by number of days of discharge in that month. Report the highest of the three monthly average flows on the Discharge Monitoring Report (DMR). Flow can be measured or estimated. For those quarters when a discharge does not occur, the permittee must still submit the quarterly DMR with the appropriate NODI code for each parameter. Any written explanation for the NODI code must be included with the DMR.
- <sup>2</sup> The minimum and maximum pH sample values for the quarter shall be reported in standard units (S.U.). The pH shall be within the specified range at all times unless the ambient (background) upstream pH of the river is outside of this range. See Part 2.7.1 of the Permit. When the pH range is outside of the specified range, results of the ambient pH sample obtained to demonstrate compliance with this limit shall be reported in the discharge monitoring report (DMR). If the pH is within the specified range, the Permittee shall report an appropriate NODI code for background pH.
- <sup>3</sup> Oil and Grease shall be tested using EPA test method 1664 Revision A or B, as approved in 40 C.F.R. §136.

**2.4 Equipment-Related Backwash Strainer Water**

During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge equipment-related backwash strainer water from the operation of the backwash strainer on the cooling water intake line. Each outfall discharging equipment-related backwash strainer water shall be limited and monitored by the permittee as specified below in accordance with the receiving water classification when indicated. Monitoring for each outfall is to be conducted and reported in accordance with Part 2.7.a. and Part 7. Such discharges shall also comply with Part D.5. of Appendix 7, which details specific inspection and maintenance requirements for backwash strainer operation.

<u>Effluent Characteristic</u>	<u>Units</u>	<u>Discharge Limitation</u>	<u>Monitoring Requirement</u>	
			<u>Measurement Frequency</u>	<u>Sample Type</u>
		<u>Maximum Daily</u>		
Flow <sup>1</sup>	Gallons per day	Report	Per Event	Estimate or Recorder
pH Range <sup>2</sup>	Standard Units	Report	1/Quarter	Grab
Total Suspended Solids <sup>2</sup>	mg/L	Report	1/Quarter	Grab

Footnotes

- <sup>1</sup> Report the maximum daily flow that occurred during a backwash event during the quarter. Flow can be measured or estimated. For those quarters when a discharge does not occur, the permittee must still submit the quarterly DMR with the appropriate NODI code for each parameter. Any written explanation for the NODI code must be included with the DMR.
- <sup>2</sup> pH and TSS monitoring may be discontinued after the Permittee completes eight quarterly sampling events. After completion of eight quarterly samples the Permittee may enter the NODI code “9” (Conditional Monitoring – Not Required This Period) in the DMR.

**2.5 Facility Maintenance-Related Water during Flood/High Water Events**

During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge facility maintenance-related water during flood/high water events from flood water pumps, high water sump pumps, and miscellaneous flood/high water collection devices. Monitoring and reporting requirements for facility maintenance-related water during flood/high water events are to be conducted and reported in accordance with Part 2.7.a. and Part 7 and as specified below, which are the date and approximate duration of each flood/high water discharge event, which shall be reported as specified below. This monitoring shall be reported as an attachment to the quarterly DMR. Flood/high water discharges shall comply with the requirements in Part 5 of this permit and be consistent with the implemented flood/high water discharge practices of the BMP plan in Appendix 7.

<u>Effluent Characteristic</u>	<u>Units</u>	<u>Monitoring Requirement</u>	
		<u>Measurement Frequency</u>	<u>Sample Type</u>
Flood/high water event	Report Number of Events for the quarter	1/Occurrence	Count
Flood/high water event duration	Report Hours per event and total hours per quarter	1/Occurrence	Estimate

**2.6 Requirements for Any Combination of Discharges**

**Equipment-Related Cooling Water, Equipment and Floor Drain Water, Maintenance-Related Water, Equipment-Related Backwash Strainer Water, and Facility Maintenance-Related Water During Flood/High Water Events**

During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge a combination of two or more of the following from the associated operations identified in Parts 2.1 through 2.5: equipment-related cooling water, equipment and floor drain water, maintenance-related water, equipment-related backwash strainer water, and facility maintenance-related water during flood/high water events. Each outfall with these combined discharges shall be limited and monitored by the permittee as specified below. Monitoring for each outfall is to be conducted and reported in accordance with Part 2.7 and Part 7.

For facility maintenance-related water during flood/high water events, the date and approximate duration of each flood/high water discharge event shall be included as an attachment to the quarterly DMR. Flood/high water discharges shall comply with the requirements in Part 5 of this permit and be consistent with the implemented flood/high water discharge practices of the BMP plan in Appendix 7.

<u>Effluent Characteristic</u>	<u>Units</u>	<u>Discharge Limitation</u>	<u>Monitoring Requirement</u>	
			<u>Measurement Frequency</u>	<u>Sample Type</u>
		<u>Monthly Average</u>		
Flow <sup>1</sup>	Gallons per day	Report	Daily, when discharging	Estimate or Recorder
pH Range <sup>2</sup>	Standard Units	6.5 to 8.0	1/Quarter	Grab
Oil and Grease <sup>3</sup>	mg/L	15	1/Quarter	Grab
TSS <sup>4</sup>	mg/L	Report, See Part 2.7.k	1/Quarter	Grab
Temperature, Effluent <sup>5</sup>	° F	Report	1/Quarter	Grab

## Footnotes

- <sup>1</sup> For flow, calculate the average monthly flow for each of the three months of the monitoring period by dividing the total estimated or recorded gallons discharged each month by number of days of discharge in that month. Report the highest of the three monthly average flows on the Discharge Monitoring Report (DMR). Flow can be measured or estimated. For those quarters when a discharge does not occur, the permittee must still submit the quarterly DMR with the appropriate NODI code for each parameter. Any written explanation for the NODI code must be included with the DMR.
- <sup>2</sup> The minimum and maximum pH sample values for the quarter shall be reported in standard units (S.U.). The pH shall be within the specified range at all times unless the ambient (background) upstream pH of the river is outside of this range. See Part 2.7.1 of the Permit. When the pH range is outside of the specified range, results of the ambient pH sample obtained to demonstrate compliance with this limit shall be reported in the discharge monitoring report (DMR). If the pH is within the specified range, the Permittee shall report an appropriate NODI code for background pH.
- <sup>3</sup> Oil and Grease shall be tested using EPA test method 1664 Revision A or B, as approved in 40 C.F.R. §136. The effluent limitation for Oil and Grease applies only to combined discharges that include effluent from equipment and floor drain water or facility maintenance-related water.
- <sup>4</sup> TSS monitoring requirements apply only to combined discharges that include equipment and floor drain water, maintenance-related water (except maintenance-related water during flood/high water events), and/or equipment-related backwash strainer water.
- <sup>5</sup> The temperature monitoring requirements apply only to combined discharges that include equipment-related cooling water.

## 2.7 Other Permit Conditions

- a. Samples taken in compliance with the monitoring requirements specified in Parts 2.1 through 2.6 of this permit shall be taken at a location that is representative of the discharge unless otherwise indicated in the permit. All samples shall be tested using the analytical methods found in 40 C.F.R. § 136, or alternative methods approved by EPA in accordance with the procedures in 40 C.F.R. § 136. Effluent sampling shall begin during the calendar quarter in which the authorization date of the permit occurs, unless such date is during the last month of the quarter. Calendar quarters are defined as the following: January through March, April through June, July through September, and October through December. All sampling results shall be recorded, including those that are above the frequency required by this permit.

If the facility contains two or more outfalls with substantially identical discharges (e.g., 2 NCCW outfalls originating from similar turbines), the permittee may sample the representative outfall once the outfalls are identified and updated as necessary in accordance with the Optional Representative Outfall Sampling provision of Part E of Appendix 7. The quarterly DMR shall include a statement listing the other outfalls with discharges covered by the representative outfall sampling results. EPA may determine that certain outfalls are not representative and require sampling of such outfalls. If the permittee seeks to change a representative outfall, it shall submit a written request to EPA. The changing of a representative outfall shall be made only after written approval by EPA has been received.

- b. Solid materials, with the exception of naturally occurring materials, shall be removed from the trash racks or intake screens and disposed of in accordance with the procedures developed in Part D.4 of Appendix 7. Installation of trash racks or other equipment to remove the solid materials is not a permit requirement.
- c. There shall be no discharge of polychlorinated biphenyl compounds such as those commonly used for transformer fluid.
- d. The discharge shall not cause a violation of the water quality standards of the receiving waters.
- e. The effluent shall not contain floating or settleable solids.
- f. The discharge shall not cause objectionable discoloration, color, turbidity or a visible sheen in the receiving waters.
- g. The discharge shall not contain materials in concentrations or in combinations which are hazardous or toxic to aquatic life or which would impair the uses designated by the classification of the receiving waters.
- h. The permittee shall use EPA Method 1664A or B for O&G analysis. Compliance with the non-detect limit shall be measured at the minimum level (ML) of detection for the EPA approved test methods. The ML for oil and grease is 5 mg/l using EPA Method 1664A or B, where the ML is

the lowest point on the curve used to calibrate the test equipment for the pollutant of concern. If EPA approves a method under 40 C.F.R. §136 for oil and grease that has a ML lower than 5 mg/l, the permittee shall be required to use the improved method.

- i. In accordance with 40 C.F.R. § 122.44(i)(1)(iv), the Permittee shall use sufficiently sensitive test procedures (i.e., methods) approved under 40 C.F.R. § 136 or required under 40 C.F.R. Chapter I, Subchapter N or O, for the analysis of pollutants or pollutant parameters limited in this permit. A method is considered “sufficiently sensitive” when either (1) The method minimum level (ML) is at or below the level of the effluent limit established in this permit for the measured pollutant or pollutant parameter; or (2) The method has the lowest ML of the analytical methods approved under 40 C.F.R. § 136 or required under 40 C.F.R. Chapter I, Subchapter N or O for the measured pollutant or the pollutant parameter. The ML is not the minimum level of detection, but rather the lowest level at which the test equipment produces a recognizable signal and acceptable calibration point for an analyte, representative of the lowest concentration at which an analyte can be measured with a known level of confidence. When a parameter is not detected above the minimum level of detection, the Permittee must report the data qualifier signifying less than the minimum level of detection for that parameter on the DMR (i.e. <5 mg/L, if the minimum level of detection for a parameter is 5 mg/L).
- j. This permit does not allow for the addition of any chemical for any purpose to the discharges except for non-toxic neutralization chemicals or those used seasonally to prevent freezing to equipment associated with the facility’s intake structure(s). Additives used to control biological growth in cooling water are prohibited due to their inherent toxicity to aquatic life.

For each anti-freeze chemical that is requested to be used by the permittee as described above, the following data must be supplied with the Notice of Intent (NOI):

- (1) Name and manufacturer,
- (2) Maximum and average daily quantity that is proposed to be used on a monthly basis as well as the maximum and average daily expected concentrations (mg/l) in the discharge, and
- (3) Any aquatic toxicity values or other toxicological information from the vendor or other source.

Notification of any proposed substitutions of previously approved chemicals must be requested through the submittal of a Notice of Change (NOC) to EPA and the State. These substitution notifications must contain the information required in Part 2.7.j. and any substitute chemicals may not be used until allowed by EPA in writing.

- k. After at least four (4) consecutive, quarterly samples for TSS that are below 30 mg/L, the permittee may request a reduction or elimination of TSS monitoring by submitting a NOC, found in Appendix 8 of this Permit. EPA will consider a demonstration, based on additional ambient monitoring, that TSS values greater than or equal to 30 mg/L are due to the natural conditions of the river water and not caused by activities at the Facility. Prior to receiving written approval to

reduce or eliminate TSS monitoring, the permittee must continue to monitor TSS at the frequency specified in this permit.

1. Effluent pH shall be in the range of 6.5 to 8.0 standard units (S.U.) unless the upstream ambient pH in the receiving water is outside of this range and is not altered by the facility's discharge or activities. If the Permittee's discharge pH is lower than 6.5 S.U., the Permittee may demonstrate compliance by showing that the discharge pH is either higher than, or no more than 0.5 S.U. lower than, the ambient upstream river water pH. If the Permittee's discharge is higher than 8.0 S.U., the Permittee may demonstrate compliance by showing that the discharge pH is either lower than, or no more than 0.5 S.U. higher than, the ambient upstream river water pH. For this demonstration, the upstream river water sample must be collected on the same day as the discharge pH is measured. The location where the upstream ambient pH sample is collected must be representative of the upstream conditions unaffected by the facility's discharge(s) or activities. If an alternate pH is used to demonstrate compliance the Permittee shall report the effluent and ambient pH in the DMR.

## **2.8 State Permit Conditions**

- a. The Permittee shall not at any time, either alone or in conjunction with any person or persons, cause directly or indirectly the discharge of waste into the said receiving water unless it has been treated in such a manner as will not lower the legislated water quality classification or interfere with the uses assigned to said water by the New Hampshire Legislature (RSA 485-A:12).
- b. This NPDES Discharge Permit is issued by the EPA under Federal and State law. Upon final issuance by the EPA, the NHDES-WD may adopt this permit, including all terms and conditions, as a State permit pursuant to RSA 485-A:13. Each Agency shall have the independent right to enforce the terms and conditions of this Permit. Any modification, suspension or revocation of this Permit shall be effective only with respect to the Agency taking such action, and shall not affect the validity or status of the Permit as issued by the other Agency, unless and until each Agency has concurred in writing with such modification, suspension or revocation.

**NOTE: The following Parts 3 through 7 are common elements of both the Massachusetts and New Hampshire General Permits.**

### **PART 3. ELIGIBILITY AND COVERAGE UNDER THE HYDROGP**

#### **3.1 Eligible Discharges**

All hydroelectric generating facilities in Massachusetts and New Hampshire that discharge pollutants from the specified operations covered by these General Permits are eligible for coverage under these permits.

There are operations at hydroelectric generating facilities that produce similar discharges from a combination of sources. These general permits categorize the following operations contributing flow as: (1) equipment-related cooling water, (2) equipment and floor drain water, (3) maintenance-related water from sump dewatering, (4) discharges from flood/high water events and (5) equipment-related backwash strainer waters. While each generating facility is unique in its location, physical layout, and operational pattern, all facilities contain one or more of the discharges listed above. The effluent limitations proposed by the Draft General Permits are organized using these categories.

#### **3.2 Geographic Coverage Area**

- a. Massachusetts: Facilities authorized by the Massachusetts General Permit (MAG360000) for discharges in the Commonwealth of Massachusetts are allowed into all waters of the Commonwealth, except as limited in Part 3.3 and/or restricted by the Massachusetts Surface Water Quality Standards at 314 CMR 4.00.
- b. New Hampshire: Facilities authorized by the New Hampshire General Permit (NHG360000) may discharge into all waters of the State of New Hampshire, except as provided in Part 3.3, immediately below, and/or otherwise restricted by the State Water Quality Standards: New Hampshire 50 RSA 485-A:8 (or as revised) and/or the New Hampshire Code of Administrative Rules, Chapter Env-Wq 1700-1709 (or as revised).

#### **3.3 Limitations on Coverage**

The following discharges are excluded from coverage under this General Permit.

- a. Discharges to Outstanding Resource Waters in Massachusetts and New Hampshire:
  1. as defined in Massachusetts by 314 CMR 4.06(1)(d)2, including Public Water Supplies (314 CMR 4.06(1)(d)1), unless an authorization is granted by the MassDEP, under 314 CMR 4.04(5); or,
  2. as defined in New Hampshire under Env-Wq 1708.05(a), unless allowed by the NHDES under Env-Wq 1708.05(b).

- b. Discharges to Class A waters in New Hampshire, in accordance with RSA 485-A:8, I. To determine if the proposed receiving water is a Class A waterbody, contact the NHDES at the address listed in Appendix 4 of this General Permit.
- c. New or increased discharges to a river designated as a Wild and Scenic River, except in accordance with 16 U.S.C. 1271 et seq. See <http://www.rivers.gov/> for more information.
- d. New or increased discharges of commercial waste (including cooling water) to Ocean Sanctuaries in Massachusetts in accordance with Massachusetts General Law 132A: The Massachusetts Ocean Sanctuary Act. The boundaries of the five ocean sanctuaries can be found in MGL 132A Section 13: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIX/Chapter132A/Section13>).
- e. Discharges of pollutants identified as the cause of an impairment to receiving water segments identified on the Commonwealth of Massachusetts or the State of New Hampshire approved 303(d) lists, unless the pollutant concentration is at or below a concentration that meets water quality standards. A discharge is eligible if a segment is impaired for a pollutant that will not be present in the discharge. Permittees must include information in their NOI about impairments to receiving waterbodies. Upon review of the NOI, EPA may require the permittee to conduct additional effluent sampling to determine if any of the facility discharges are contributing to the receiving waterbody impairment.

Massachusetts 2018/2020 list of impaired waters available at:

<https://www.mass.gov/doc/final-massachusetts-integrated-list-of-waters-for-the-clean-water-act-20182020-reporting-cycle/download>

New Hampshire 2020/2022 list of impaired waters available at:

<https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/r-wd-20-18.pdf>

- f. Any facility whose new or increased discharge is not in compliance with the appropriate state's antidegradation policy or the NH Water Conservation Rules (Env-Wq 2101, or as amended).
- g. Any facility whose discharge(s) or intake(s) are likely to adversely affect any species listed as threatened or endangered and/or designated critical habitat under the Endangered Species Act (ESA).
- h. Discharges which adversely affect properties listed or eligible for listing in the National Register of Historic Places under the National Historic Preservation Act of 1966 (NHPA), 16 U.S.C. § 470 et seq. See Appendix 3 of this general permit for additional NHPA requirements.
- i. Discharges to a Publicly-Owned Treatment Works (POTW) which are permitted under § 402 of the CWA (NPDES).

- j. “New Source” dischargers, as defined in 40 C.F.R. § 122.2.

### 3.4 Special Eligibility Requirements

Facilities located in Massachusetts and New Hampshire seeking coverage under this General Permit must certify permit eligibility related to endangered species and historic properties.

- a. **Endangered Species Act Requirements:** Discharges to areas which include the presence of species listed and/or critical habitat designated under the Endangered Species Act (ESA) are not automatically covered under this General Permit. Prior to obtaining coverage under this General Permit, all NOI applicants must certify compliance with one of the criteria found in **Appendix 2** regarding ESA species. The NOI shall include documentation supporting the eligibility determination with regard to federally listed Endangered and Threatened Species and Critical Habitat.
- b. **National Historic Preservation Act Requirements:** Discharges which adversely affect properties listed or eligible for listing in the National Registry of Historic Places under the National Historic Preservation Act of 1966, 16 USC §§ 470 et seq. are not authorized under this permit. Prior to obtaining coverage under this General Permit, all NOI applicants must certify eligibility regarding historic properties in the NOI based on the criteria in **Appendix 3**. The NOI shall include documentation supporting the eligibility determination with regard to Historic Properties Preservation.

## PART 4. CWA § 316(B) REQUIREMENTS FOR THE DESIGN AND OPERATION OF COOLING WATER INTAKE STRUCTURES (CWIS)

Some facilities regulated by the HYDROGP use a small percentage of their intake water flow to cool turbine bearings or associated equipment and are therefore subject to CWA § 316(b), which requires that the design, location, construction, and capacity of the cooling water intake structures(s) reflect the best technology available (BTA) for minimizing adverse environmental impacts from the impingement and entrainment of various life stages of aquatic organisms (e.g., eggs, larvae, juveniles, adults). In most cases, CWISs are simply referred to as “intakes.”

### 4.1 Facilities That Must Comply with CWIS Requirements

Permittees seeking authorization under this General Permit which use any portion of the water withdrawn for cooling must comply with the requirements of Part 4.2 of this General Permit. Nothing in this General Permit authorizes the take, as defined at 16 U.S.C. § 1532(19), of threatened or endangered species of fish or wildlife.

## 4.2 General BTA Requirements

The permittee must comply with the BTA requirements at (a) and (b) below. Compliance with these requirements must be implemented within 180 days of receiving authorization to discharge under this permit. Permittees may request an extension for compliance with option (b) if installation of a new technology (e.g., a screen) is required.

- a. The permittee must minimize the volume of cooling water withdrawn. Permittees shall demonstrate compliance with (a) by submitting the following information with their NOI:
  - i. The maximum daily volume of cooling water withdrawn in gallons per day (GPD) based on monitoring over the previous five years;
  - ii. The maximum monthly average volume of cooling water withdrawn (GPD) based on monitoring over the previous five years;
  - iii. The volume of cooling water withdrawn as a percentage of: (i) installed capacity of the turbines; (ii) average daily flow through the penstock; and (iii) minimum flow through the penstock calculated as:  $[\text{cooling water (in cubic feet per second (cfs))} / \text{flow through the penstock (cfs)}] * 100$ ;
  - iv. The source water's annual mean flow and 7-day mean stream low flow with 10-year recurrence interval (7Q10) if the intake is located on a freshwater river or stream, in cubic feet per second (cfs) based on USGS or other sources (e.g., MassDEP, NHDES, or FERC licensing applications); if river flow is managed provide the parameters associated with such an arrangement;
  - v. The maximum daily and average monthly volume of water withdrawn as a percentage of the mean annual flow and 7Q10 flow of the river or stream calculated as:  $[\text{cooling water (cfs)} / \text{stream flow (cfs)}] * 100$ ;
  - vi. The volume (in GPD), of cooling water withdrawn that is then reused at the facility prior to discharge, and if so, how it was reused;
- b. Permittees shall satisfy the BTA for impingement mortality by demonstrating compliance with one of the following options:
  - i. An existing exclusion, diversion, or guidance device (e.g., a physical or behavioral barrier or spillway) that provides fish downstream passage and minimizes exposure to a CWIS. The permittee must describe any technology or combination of technologies implemented for fish protection in the NOI and provide sufficient information to demonstrate that the downstream fish passage effectively transports live fish in a manner that minimizes the likelihood of becoming impinged at the cooling water intake.
  - ii. An effective intake velocity not to exceed 0.5 fps at the point of cooling water withdrawal, or alternatively, at the point where cooling water enters the penstock (for intakes located within or after the penstock (e.g., in the scroll case or tailrace)). The NOI shall include a demonstration of compliance through observation of live fish in the intake or by calculation. Calculation of the velocity must be based on the maximum volume of cooling water withdrawn if applied at the cooling water intake or maximum volume of intake

- water if applied at the point where cooling water enters the penstock.
- iii. For cooling water withdrawn directly from the source waterbody (*i.e.*, not from within the penstock), a physical screen or other barrier technology with a mesh size no greater than ½-inch) that minimizes the potential for adult and juvenile fish to become entrapped in the CWIS. Alternatively, a Permittee may demonstrate that a screen with a larger mesh size has a sufficiently low intake velocity (e.g., no greater than 0.5 fps) to minimize the risk of impingement. The NOI shall include a description of the barrier technology implemented for fish protection including the mesh size and intake velocity calculated based on the screen dimensions, maximum intake flow, and 7Q10 flow of the source waterbody.
  - iv. Other aspects of the location, design, construction, and capacity of the intake that minimize impingement mortality. For example, for an intake located within or after the penstock and which is not already subject to fish passage requirements, a Permittee may demonstrate that the volume of water flowing through the penstock relative to the volume of cooling water withdrawn minimizes the risk of impingement at the CWIS. Permittees may also submit a biological evaluation or other studies completed during Federal Energy Regulatory Commission (FERC) licensing or otherwise with the assistance of state or federal agencies that demonstrate that the impacts from impingement are minimized.

## **PART 5. BEST MANAGEMENT PRACTICES (BMP) PLAN**

- a. Each Permittee shall have a BMP plan in place that is prepared in accordance with good engineering practices, and except as provided elsewhere in this permit, shall provide for compliance with the terms of this permit. Existing permittees with a currently implemented BMP plan shall revise such plan as necessary within ninety (90) days after the permit authorization date to reflect any changes at the facility and address any new requirements of the final permit. New permittees shall develop and implement a BMP plan no later than one hundred and eighty (180) days after the permit authorization date.

The objectives of the BMP plan are to protect the designated water uses of the surrounding surface water bodies; to mitigate pollution from materials storage areas, in-plant transfers of hazardous and/or toxic materials, process and material handling areas, loading and unloading operations, and accidental spillage; and to manage the removal and disposal of solid materials, to the extent practicable, from the trash racks or intake screens.

The plan shall identify potential sources of pollution which may reasonably be expected to affect the quality of discharges associated with day-to-day work activity at the facility from equipment and floor drain-related water, equipment-related cooling water, equipment and station maintenance-related water, equipment-related backwash strainer water, and facility maintenance-related water during flood/high water events. In addition, the plan shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in discharges associated with work-related operations at the facility from all discharges listed above; and to assure compliance with the terms and conditions of this permit.

The BMP plan shall describe and provide for implementing practices to remove and to dispose of

solid materials, except for naturally occurring materials, from the trash racks or intake screens. The BMP plan shall require, at a minimum, quarterly inspection and maintenance procedures for any installed backwash strainer. A permittee with flood/high water discharges authorized under Parts 1.5, 1.6, 2.5 and/or 2.6 of this permit shall also describe and develop specific flood/high water practices and procedures in a flood/high water BMP plan for the facility. The permittee must implement the provisions of the BMP plan required under this part as a condition of this permit. The requirements for the development of this plan are contained in Appendix 7.

- b. Annually, no later than February 15th, each Permittee shall prepare an Annual Report which shall demonstrate that the Permittee conducted the previous calendar year's inspections and maintenance activities, recorded the results, and maintained the relevant records and shall indicate whether the hydroelectric generating facility is in compliance with the BMP Plan. The required elements of the Annual Report are outlined in Part D.3.h of Appendix 7. These Annual Reports shall be retained on-site at the hydroelectric generating facility in accordance with Appendix 6.C.1.b. (Monitoring and Records) of this permit. The Annual Report shall identify any incidents of noncompliance with the permit or the BMP plan (such as oil spills, or other discharges of toxic or hazardous pollutants to the receiving waters). Where an Annual Report does not identify any incidents of noncompliance with the permit or the BMP plan, the Annual Report shall contain a certification that the facility is in compliance with the BMP plan and this permit. The Annual Report shall be signed in accordance with Appendix 6.D.2 (Signatory Requirements) of this permit.

## **PART 6. OBTAINING AUTHORIZATION TO DISCHARGE**

### **6.1 How to Obtain Authorization to Discharge**

To be authorized to discharge by this permit the applicant must submit a complete and accurate Notice of Intent (NOI), to both EPA and the appropriate State. For Massachusetts, an NOI submittal is required only if the applicant is seeking authorization from the state to discharge to an ORW. The NOI must contain all the information required in Appendix 4. Applicable state application fees should be paid in full. The permittee must confirm that its discharges meet the eligibility requirements of the HYDROGP and that the applicant is requesting coverage under the HYDROGP. However, the facility's discharge will not be authorized under this HYDROGP until the facility receives written authorization to discharge from EPA.

Facility operators must submit a NOI if they are seeking coverage under the HYDROGP for the first time or if the facility received coverage under the HYDROGP that expired on December 7, 2014.

Any facility operating under an effective (unexpired) or an administratively continued individual NPDES permit may request that the individual permit be revoked and that coverage under the HYDROGP be granted. When the facility is granted coverage under the HYDROGP, the facility's individual permit will be terminated and cease to be in effect.

## 6.2 NOI Submittal

The operator of the facility is responsible for applying for the General Permit as required by 40 C.F.R. § 122.21(b). To be authorized by this General Permit, operators of facilities whose discharge or discharges are identified in Part 3.1 of this permit, must submit to EPA and the appropriate State, a complete, accurate, and signed NOI. For purposes of this general permit, the NOI consists of either the suggested NOI format in **Appendix 4** of this permit or another format of official correspondence containing all of the information required in the NOI instructions in Appendix 4 of this general permit.

## 6.3 NOI Submittal Time Frames

- a. Proposed New Discharges: Facilities with proposed new discharges that are seeking coverage under this General Permit must email a completed NOI at least 30 days prior to the commencement of discharge to EPA at [Hydro.GeneralPermit@epa.gov](mailto:Hydro.GeneralPermit@epa.gov) NOIs shall also be submitted to each respective State at the addresses provided in **Appendix 4**. (Note: electronic submittals must include an electronic signature.)
- b. Existing Discharges: Operators of existing discharges, including those facilities with coverage under the HYDROGP that expired on December 7, 2014, or with individual NPDES permits that meet the eligibility criteria of this General Permit and that wish to seek authorization under this General Permit, must file an NOI to EPA at [Hydro.GeneralPermit@epa.gov](mailto:Hydro.GeneralPermit@epa.gov) and the respective State at the addresses provided in **Appendix 4** within 60 days of the effective date of this permit. (Note: electronic submittals must include an electronic signature). For enforcement purposes, a facility that fails to submit an NOI for an existing discharge or an application for an individual permit within 60 days of the effective date of this General Permit will be considered to be discharging without a permit.

## 6.4 NOI Requirements

For each eligible discharge, the NOI submitted to EPA for a hydroelectric facility must include, in writing, all the information described in **Appendix 4**, Part II and required in the suggested NOI format, found in **Appendix 4** Part III, including:

- a. Facility Information;
- b. Discharge Information;
- c. Best Technology Available for Cooling Water Intake Structures;
- d. Chemical Additives;
- e. Endangered Species Act Certification;
- f. National Historic Properties Act Eligibility;
- g. Supplemental Information; and
- h. Signature Requirements.

For any non-toxic chemicals used for anti-freeze purposes expected to be present in any of the discharges, the applicant must include the chemical name and manufacturer; the maximum and average dosages (concentrations) used as well as the estimated maximum and average concentrations (mg/l) in the discharge, and any reported aquatic toxicity information provided by the vendor of such chemicals. EPA will make a determination on whether the use of these chemicals is acceptable or otherwise may instruct the applicant to apply for an individual permit.

## 6.5 Certification and Signature

The NOI shall contain the following certification statement:

*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, to 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 have no personal knowledge that the information submitted is other than 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.*

The NOI must be signed by the operator of the facility in accordance with the signatory requirements of 40 C.F.R. § 122.22.

## 6.6 Submission of NOIs

Each applicant must submit a copy of the NOI to EPA and the appropriate State authority listed in **Appendix 4**. For Massachusetts, an NOI submittal is required only if the applicant is seeking authorization from the state to discharge to an ORW.

## 6.7 Submission of State Applications

- a. Massachusetts: Facilities eligible for and seeking coverage under the HYDROGP must file an NOI with MassDEP only for authorization to discharge to an ORW and must submit the following documents to the appropriate MassDEP offices, at the addresses listed in **Appendix 4**:
  - (1) a copy of the completed Suggested NOI Format found in **Appendix 4**; and
  - (2) the completed State transmittal form.

The transmittal form, instructions, and fee amount may be obtained through the MassDEP website at <http://www.mass.gov/eea/agencies/massdep/service/approvals/wm-15-npdes-general-permit-application.html>

New Hampshire: There is no state application form. Facilities located in New Hampshire are encouraged to use EPA's suggested NOI format found in **Appendix 4**.

## 6.8 When the Director May Require an Application for an Individual Permit

The Director may require any operator authorized by this permit to apply for and obtain an individual NPDES permit. Any interested operator may petition the Director to take such action. Discharges that the Director determines require an individual NPDES permit are not authorized to discharge under the HYDROGP.

- a. Facilities that may require an individual permit based on the Director's consideration of factors including, but not limited to, the following:
  - (1) The discharge(s) is/are a significant contributor of pollution or is/are in violation of State Water Quality Standards for the receiving water;
  - (2) Receiving stream or withdrawal stream characteristics, including possible or known water quality impairment;
  - (3) The location, capacity, design or construction of the cooling water intake structure may represent an adverse environmental impact to EFH or ESA species or their habitat;
  - (4) The discharge from or intake into the facility, when combined with other dischargers in the watershed, may represent a cumulative adverse environmental impact to the receiving water or surface water;
  - (5) Potential water quality impacts associated with pump storage project hydroelectric generating facilities;
  - (6) The discharger is not in compliance with the conditions of this General Permit;
  - (7) Effluent limitation guidelines are promulgated for point sources covered by this permit;
  - (8) In the opinion of the Director, the discharge is more appropriately controlled under an individual or different general permit;
  - (9) The point source(s) covered by this permit no longer:
    - i. Involves the same or substantially similar types of operations;
    - ii. Discharges the same types of wastes;
    - iii. Requires the same effluent limitations or operating conditions; or
    - iv. Requires the same or similar monitoring.
- b. If the Director requires that an individual permit be issued, the Director will notify the discharger in writing of that decision and the reasons for it and will provide an application form with the notice.
- c. When an individual NPDES permit is issued to an operator otherwise subject to this General Permit, the operator's coverage under this General Permit will be automatically terminated on the effective date of the individual permit.

## **6.9 When a Permittee May Request that an Individual Permit Be Issued**

Any operator may request to be excluded from coverage under this General Permit by applying for an individual permit. The request may be made by submitting an individual NPDES permit application and documentation to support the request to EPA for consideration. Application forms and instructions are available at: <https://www.epa.gov/npdes-permits/epa-npdes-permit-forms-attachments-new-england>.

## **6.10 EPA Determination of Coverage**

Any applicant may request coverage under this General Permit, but the final determination will be made by the EPA. Coverage under the General Permit will not be effective until EPA has reviewed the NOI, made a determination that coverage under the HYDROGP is warranted, and has notified the operator in writing of its determination. The effective date of coverage will be specified in EPA's authorization letter.

## **6.11 NOIs on the EPA NPDES HYDROGP website**

All NOIs received by EPA that EPA proposes to authorize will be posted on EPA's NPDES HYDROGP website for a minimum of thirty (30) days. Following this 30-day period, EPA will either grant authorization, request additional information, or deny authorization under this permit and require submission of an application for an individual NPDES permit. A facility will be authorized to discharge under the terms and conditions of this permit upon receipt of the written notice of authorization from EPA.

## **PART 7. MONITORING, RECORDKEEPING AND REPORTING REQUIREMENTS**

The effluent monitoring requirements have been established to yield data representative of the discharge under authority of § 308 (a) of the CWA in accordance with 40 C.F.R. §§122.41(j), 122.44(l), and 122.48. Unless otherwise specified in this permit, the Permittee shall submit reports, requests, and information and provide notices in the manner described in this section.

### **7.1 Submittal of DMRs Using NetDMR**

Permittees shall submit DMRs and reports required under this permit electronically to EPA and the State using NetDMR no later than the 15th day of the month following each calendar quarter. When the Permittee submits DMRs using NetDMR, it is not required to submit hard copies of DMRs to EPA or the State. NetDMR is accessible through EPA's Central Data Exchange at <https://cdx.epa.gov/>. Monitoring results shall be summarized for each calendar quarter, as defined in Part 1.7.a above and reported electronically using NetDMR no later than the 15<sup>th</sup> day of the month following the completed quarter. For example, the monitoring results for the calendar quarter running January through March shall be reported no later than April 15th. All reports required under this permit shall be submitted to EPA as an electronic attachment to the DMR. Permittees are no longer required to submit hard copies of DMRs to EPA and the appropriate state.

## 7.2 Submittal of Reports as NetDMR Attachments

Unless otherwise specified in this permit, the Permittee shall electronically submit all reports to EPA as NetDMR attachments rather than as hard copies. See Part I.H.7. for more information on State reporting. Because the due dates for reports described in this permit may not coincide with the due date for submitting DMRs (which is no later than the 15th day of the month following completion of a calendar quarter), a report submitted electronically as a NetDMR attachment shall be considered timely if it is electronically submitted to EPA using NetDMR with the next DMR due following the report due date specified in this permit.

## PART 8. ADMINISTRATIVE REQUIREMENTS

### 8.1 Notice of Change (NOC)

Facilities covered under this Permit may request a change to certain conditions through submission of a NOC to EPA and the appropriate State, when required, prepared in accordance with the instructions provided in **Appendix 8** and signed in accordance with 40 C.F.R. § 122.22. The Permittee may use the NOC format in **Appendix 8** or similar correspondence to request one or more of the following:

A reduction in monitoring requirements for the parameter Total Suspended Solids (TSS), the use of a new or substitute chemical(s) and/or additive(s), a change to the technology used to meet the BTA standard at Part 4, and a change to certain administrative information, such as a change in facility ownership.

Written approval by EPA is required for all changes to be effective, with the exception of those changes involving administrative information. Prior to receiving written approval for all changes with the exception of those involving administrative information, the Permittee must continue to comply with the associated permit condition. For example, a Permittee must continue to monitor TSS at the frequency specified in this General Permit until EPA provides a determination in writing that such frequency may be reduced or the monitoring for TSS eliminated for a specific outfall.

### 8.2 Notice of Termination (NOT) of Discharge

Permittees shall notify EPA and the appropriate State of the termination of the discharge(s) authorized by this General Permit. The Notice of Termination (NOT) may be either the suggested NOT format in **Appendix 5**, or any other official correspondence that incorporates all of the information required in **Appendix 5**, Part II. Instructions for completing the NOT are found in Part I of **Appendix 5**. The NOT must be completed and submitted within thirty (30) days of the permanent cessation of the discharge(s) authorized by the HYDROGP. Signed and completed NOTs and attachments must be submitted to EPA and the appropriate State agency at the addresses listed in **Appendix 5**.

### **8.3 Continuation of this General Permit after its Expiration**

If this General Permit is not reissued prior to its expiration date, it will be administratively continued in accordance with the Administrative Procedure Act and remain in force and in effect for discharges that were authorized to discharge prior to expiration. If a facility was granted permit authorization prior to the expiration date of this permit, it will automatically remain authorized by this permit until the earliest of:

- a. Authorization under a reissued general permit following timely and appropriate submittal of a complete and accurate NOI to discharge under the reissued permit;
- b. The permittee's submittal of a Notice of Termination;
- c. Issuance of an individual permit for the permittee's discharges; or
- d. A formal permit decision by the Director of EPA Region 1 not to reissue this General Permit, at which time the permittee must seek coverage under an alternative general permit or an individual permit.

However, once this General Permit expires, EPA cannot provide written authorization of coverage under this General Permit to any eligible discharger who submits an NOI to EPA after such expiration date.

If a facility does not submit a timely, appropriate, complete and accurate NOI requesting authorization to discharge under the reissued permit, or a timely request for authorization under an individual or alternative general permit, authorization under this permit will terminate on the due date for the NOI under the reissued permit unless otherwise specified in the reissued permit.

## APPENDIX 1

### SUMMARY OF ENDANGERED SPECIES ACT LISTINGS AND ESSENTIAL FISH HABITAT DESIGNATIONS

#### **Endangered Species Act Listings:**

The attached tables, Table 1 and Table 2, provide a summary of U.S. Fish and Wildlife Service (FWS) listings of federally endangered and threatened species for counties in Massachusetts and New Hampshire as of February 5, 2016. If a site is located close to the border of a county or a site is located in one county and the discharge location(s) for that site are located in another, operators must consider listings under both counties in accordance with Appendix 2 of the HYDROGP. EPA notes that species are listed and de-listed periodically. To get the most current list at the time of conducting the endangered species review for a site, see the U.S. FWS New England Field Office website at <https://www.fws.gov/office/new-england-ecological-services> or follow the instruction provided in Attachment 1 to Appendix 2 of the HYDROGP.

#### **Essential Fish Habitat Designations:**

Should an operator detect adverse impacts to essential fish habitat (EFH), EPA must be notified. Consultation with the National Marine Fisheries Service and/or an individual permit may be necessary. Operators must review information on Essential Fish Habitat Designations available at the NOAA Greater Atlantic Regional Fisheries Office website, including the EFH Mapper which presents EFH information in map form. The EFH Mapper is found at: <https://www.habitat.noaa.gov/apps/efhmapper/>. Additional information regarding EFH consultations is available on the National Oceanographic and Atmospheric Administration (NOAA) website at: <https://www.fisheries.noaa.gov/national/habitat-conservation/consultations-essential-fish-habitat> and from the Greater Atlantic Regional website at: <https://www.greateratlantic.fisheries.noaa.gov/habitat/efh/efhassessment.html>. Tabular summaries for species and life stages with designated EFH in major estuaries, bays, and rivers along the Northeast United States Coast is available online at: <https://www.greateratlantic.fisheries.noaa.gov/hcd/est.htm> and <https://www.greateratlantic.fisheries.noaa.gov/hcd/efhtables.pdf>. Additional information on designated EFH for Atlantic salmon are found on pages 176-182 and Table 31 of the 2017 Omnibus Essential Fish Habitat Amendment 2: Volume 2 available at [https://www.habitat.noaa.gov/protection/efh/efhmapper/oa2\\_efh\\_hapc.pdf](https://www.habitat.noaa.gov/protection/efh/efhmapper/oa2_efh_hapc.pdf).

EPA has prepared an assessment of the impacts of the proposed discharges to designated EFH for Atlantic salmon and provided a copy of this assessment for review by NMFS.

## APPENDIX 2

### Endangered Species Act Guidance and Eligibility Criteria

#### A. Background

In order to meet its obligations under the Clean Water Act and the Endangered Species Act (ESA), and to promote the goals of those Acts, the Environmental Protection Agency (EPA) is seeking to ensure the activities regulated by the hydroelectric generating facilities General Permit (HYDROGP) do not adversely affect endangered and threatened species or designated critical habitat. Facilities applying for permit coverage must assess the impacts of their discharges and discharge-related activities (i.e. intake of river water) on federally listed endangered and threatened species (“listed species”) and designated critical habitat (“critical habitat”) to ensure that those goals are met. For the purposes of this appendix, “discharge related activities” include: the discharge of miscellaneous wastewaters associated with operation of a hydroelectric generating facility, the use of an intake structure to withdraw water for equipment cooling purposes, and the measures taken as part of the facility’s Best Management Practices (BMP) plan implementation.

Prior to obtaining general permit coverage, applicants must meet the ESA eligibility provisions of this permit by following the steps in this appendix. EPA strongly encourages applicants to begin this process at the earliest possible stage to ensure the notification requirements for general permit coverage are complete upon Notice of Intent (NOI) submission. A facility that cannot meet any of the ESA eligibility criteria must apply for an individual permit.

Facilities seeking coverage also have an independent ESA obligation to ensure that their activities do not result in any prohibited “take” of listed species<sup>1</sup>. The term “take” is used in the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to engage in any such conduct. “Harm” is further defined to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns including breeding, feeding, or sheltering. “Harass” is defined as intentional or negligent actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering.

Many of the measures described in the HYDROGP and this appendix to protect species may also assist in ensuring that the applicant’s activities do not result in a prohibited take of species in violation of section 9 of the ESA. If the applicant has plans or activities in an area where endangered and threatened species are located, they may wish to ensure

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<sup>1</sup> Section 9 of the ESA prohibits any person from “taking” a listed species unless: (1) the taking is authorized through an “incidental take statement” as part of completion of formal consultation according to ESA section 7; (2) where an incidental take permit is obtained under ESA section 10 (which requires the development of a habitat conversion plan; or (3) where otherwise authorized or exempted under the ESA. This prohibition applies to all entities including private individuals, businesses, and governments.

that they are protected from potential take liability under ESA section 9 by obtaining an ESA section 10 permit (Incidental Take Permit) or by requesting formal consultation under ESA section 7. Applicants that are unsure whether to pursue a section 10 permit or a section 7 consultation for takings protection should confer with the appropriate United States Fish and Wildlife Service (USFWS)<sup>2</sup> office or the National Marine Fisheries Service (NMFS), jointly referred to as the Services.

The following are federally listed threatened and endangered species in Massachusetts and New Hampshire:

**Massachusetts (16)**

Dwarf wedgemussel (*Alasmidonta heterodon*)  
 Northeastern bulrush (*Scirpus ancistrochaetus*)  
 Sandplain gerardia (*Agalinis acuta*)  
 Small whorled Pogonia (*Isotria medeoloides*)  
 Northern long-eared bat (*Myotis septentrionalis*)  
 Piping plover (*Charadrius melodus*)  
 Red knot (*Calidris canutus rufa*)  
 Roseate tern (*Sterna dougallii dougallii*)  
 Plymouth redbelly turtle (*Pseudemys rubriventris bangsi samuelis*)  
 Bog turtle (*Clemmys mühlenbergii*)  
 American burying beetle (*Nicrophorus americanus*)  
 Northeastern beach tiger beetle (*Cicindela dorsalis dorsalis*)  
 Puritan tiger beetle (*Cicindela puritana*)  
 Rusty patched bumble bee (*Bombus affinis*)  
 Atlantic sturgeon (*Acipenser oxyrinchus*)\*  
 Shortnose sturgeon (*Acipenser brevirostrum*)\*

**New Hampshire (12)**

Dwarf wedgemussel (*Alasmidonta heterodon*)  
 Canada lynx (*Lynx Canadensis*)  
 Northern long-eared bat (*Myotis septentrionalis*)  
 Piping plover (*Charadrius melodus*)  
 Red knot (*Calidris canutus rufa*)  
 Roseate tern (*Sterna dougallii dougallii*)  
 Karner blue butterfly (*Lycaeides Melissa*)  
 Northeastern bulrush (*Scirpus ancistrochaetus*)  
 Small whorled pogonia (*Isotria medeoloides*)  
 Jesup’s milk-vetch (*Astragalus robbinsii var. jesupii*)  
 Atlantic sturgeon (*Acipenser oxyrinchus*)\*  
 Shortnose sturgeon (*Acipenser brevirostrum*)\*

\*These species are listed under the jurisdiction of NMFS, all others are listed under the jurisdiction of USFWS.

In addition, the following are federally protected marine species that are present in the near coastal waters of Massachusetts and New Hampshire. These species are listed under the jurisdiction of NMFS:

**Marine Reptiles (5)**

Loggerhead Sea Turtle (*Caretta caretta*)  
 Kemp’s Ridley Sea Turtle (*Lepidochelys kempii*)  
 Leatherback Sea Turtle (*Dermochelys coriacea*)  
 Green Sea Turtle (*Chelonia mydas*)  
 Hawksbill Sea Turtle (*Eretmochelys imbricata*)\*\*

**Marine Mammals (2)**

North Atlantic Right Whale (*Eubalaena glacialis*)  
 Fin Whale (*Balaenoptera physalus*)

\*\* Species rare in near shore Massachusetts and New Hampshire coastal waters

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<sup>2</sup> Discharges to marine waters may require consultation with the National Marine Fisheries Service instead.

Any facility seeking coverage under the HYDROGP must consult with the Services, specifically the USFWS. EPA may designate the applicants as non-Federal representatives for the general permit for the purpose of carrying out formal or informal consultation with the Services. *See* 50 C.F.R. § 402.08 and § 402.13. By terms of this permit, EPA has automatically designated operators as non-Federal representatives for the purpose of conducting formal or informal consultations with the USFWS. See Section B of this appendix. However, as covered in Section C of this appendix, EPA will coordinate with the NMFS regarding the marine species under its jurisdiction to determine that the terms of the permit adequately prevent adverse effects or the take of listed species and adverse effects on critical habitat due to HYDRO discharges.

When listed species are present, permit coverage will only be available if EPA determines, or the applicant determines and EPA concurs, that the discharge and related activities will have “no affect” on the listed species or critical habitat, or are “not likely to adversely affect” listed species or critical habitat. If the discharges and related activities are “not likely to adversely affect” listed species or critical habitat, consultation with the Services must be completed and a written concurrence from the Services must be provided with the NOI.

Before submitting a notice of intent (NOI) for coverage under this permit, applicants must determine whether they meet the ESA eligibility criteria by following the steps in Sections B and C of this Appendix. Applicants that cannot meet the eligibility criteria in Sections B and/or C must apply for an individual permit.

## **B. ESA Eligibility Criteria for the U.S. Fish and Wildlife Service**

The USFWS ESA eligibility requirements of this permit relating to the dwarf wedgemussel, northeastern bulrush, Jesup’s milk-vetch, sandplain gerardia, small whorled pogonia, Plymouth redbelly turtle, bog turtle, piping plover, roseate tern, red knot, Canada lynx, northern long-eared bat, puritan tiger beetle, northeastern beach tiger beetle, American burying beetle, Karner blue butterfly, and rusty patched bumble bee may be satisfied by documenting that one of the following criteria has been met:

**USFWS Criterion A:** No endangered or threatened species or critical habitat are in proximity to the discharges or related activities.

**USFWS Criterion B:** Formal or informal consultation with USFWS under section 7 of the ESA resulted in either a no jeopardy opinion (formal consultation) or a written concurrence by USFWS on a finding that the discharges and related activities are “not likely to adversely affect” listed species or critical habitat (informal consultation)<sup>3</sup>.

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<sup>3</sup> See USFWS ESA Section 7 Consultation information and resources, available at <https://www.fws.gov/service/esa-section-7-consultation>

**USFWS Criterion C:** Using the best scientific and commercial data available, the effect of the discharges and related activities on listed species and critical habitat have been evaluated. Based on those evaluations, a determination is made by EPA, or by the applicant and affirmed by EPA, that the discharges and related activities will have “no affect” on any federally threatened or endangered listed species or designated critical habitat under the jurisdiction of the USFWS.

### **Steps to Determine if the USFWS ESA Eligibility Criteria Can Be Met**

To determine eligibility, you must assess the potential effects of your discharges and related activities on listed species or critical habitat, PRIOR to completing and submitting a Notice of Intent (NOI). You must follow the steps outlined below and document the results of your eligibility determination.

The USFWS Information, Planning, and Conservation (IPaC) online system can be used to develop a preliminary determination of the occurrence of federally listed species or designated critical habitats within the action area of your discharge and related activities. Further information on IPaC is available on the Fish and Wildlife Services’ website at <http://ecos.fws.gov/ipac/>. Instructions for using IPaC are available in an attachment to this Appendix (end of document).

#### **Step 1 – Determine if you meet USFWS Criterion A:**

You can certify eligibility, according to USFWS Criterion A, for coverage by this permit if, upon completing the IPaC online system process, you printed and saved the preliminary determination which indicated that federally listed species or designated critical habitats are not present in the action area.

*If you have met USFWS Criterion A skip to Step # 4.*

*If you have not met USFWS Criterion A, go to Step # 2.*

#### **Step 2 – Determine if you meet USFWS Criteria B**

You can certify eligibility according to USFWS Criteria B for coverage by this permit if you answer “Yes” to **all** of the following questions:

- 1) Does your action area contain one or more of the following species: dwarf wedgemussel, northeastern bulrush, Jesup’s milk-vetch, sandplain gerardia, piping plover, Plymouth redbelly turtle, bog turtle, small whorled pogonia, roseate tern, Canada lynx, puritan tiger beetle, northeastern beach tiger beetle, American burying beetle, Karner blue butterfly, rusty patched bumble bee, red knot and northern long-eared Bat? (IPaC system may be used to answer this question)

- 2) Did your assessment of the discharge and related activities indicate that they may affect but are “not likely to adversely affect” listed species or critical habitat? <sup>4</sup>
- 3) Did you contact the USFWS and did formal or informal consultation result in either a “no jeopardy” opinion by the USFWS (for formal consultation) or concurrence by the USFWS that your discharge and related activities would be “not likely to adversely affect” listed species or critical habitat (for informal consultation)?
- 4) Do you agree to implement all measures upon which the consultation was conditioned?

Use the guidance listed below Step 3 to understand effects determination and to answer these questions.

*If you answered “Yes” to all four questions above, you have met eligibility USFWS Criterion B. Skip to Step 4.*

*If you answered “No” to any of the four questions above, go to Step 3.*

### **Step 3 – Determine if you meet USFWS Criterion C**

USFWS Criterion C: You can certify eligibility according to USFWS Criterion C for coverage by this permit if you answer “Yes” to **either** of the following questions:

- 1) Does your action area contain one or more of the following species: Canada lynx, sandplain gerardia, small whorled pogonia, Karner blue butterfly, American burying beetle, rusty patched bumble bee and/or northern long-eared Bat and **does not contain any of the following species**: dwarf wedgemussel, northeastern bulrush, Jesup’s milk-vetch, piping plover, Plymouth redbelly turtle, bog turtle, roseate tern, puritan tiger beetle, red knot, and northern beach tiger beetle? <sup>5</sup>
- 2) Did the assessment of your discharge and related activities indicate that there would be “no affect” on listed species or critical habitat <sup>6</sup> ?

Use the guidance below to understand effects determination and to answer these questions.

*If you answered “Yes” to **either** question above, you have met eligibility USFWS Criterion C. Go to Step 4.*

*If you answered “No” to both of the questions above, you are not eligible for coverage by this permit. You must submit an application for an individual permit for the discharges from your facility. (See 40 CFR 122.21).*

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<sup>4</sup> See USFWS ESA Section 7 Consultation information and resources, available at <https://www.fws.gov/service/esa-section-7-consultation>.

<sup>5</sup> EPA has considered the effects of hydroelectric facility discharges and related activities on the Canada Lynx, Sandplain gerardia, Small whorled Pogonia, Karner Blue Butterfly, American burying beetle, rusty patched bumble bee, and Northern long-eared Bat and determined that discharges in compliance with the hydroelectric general permit will have no effect on these threatened or endangered species.

<sup>6</sup> See USFWS ESA Section 7 Consultation information and resources, available at <https://www.fws.gov/service/esa-section-7-consultation>.

#### **Step 4 - Document results of the Eligibility Determination**

Once the USFWS ESA eligibility requirements have been met, you shall include documentation of USFWS ESA eligibility in your NOI. Documentation for the various eligibility criteria are as follows:

- USFWS Criterion A: A copy of the IPaC generated preliminary determination letter indicating that no listed species or critical habitat is present within your action area. You shall also include a statement on how you determined that no listed species or critical habitat are in proximity to your discharges.
- USFWS Criterion B: A dated copy of the USFWS letter of concurrence on a finding of “no jeopardy” (for formal consultation) or “not likely to adversely affect” (for informal consultation) regarding the ESA section 7 consultation.
- USFWS Criterion C: A copy of the IPaC generated preliminary determination letter indicating that the only listed species in your action area are the Canada Lynx, sandplain gerardia, small whorled pogonia, Karner blue butterfly, American burying beetle, rusty patched bumble bee, and/or Northern long-eared Bat. OR a dated copy of the EPA concurrence with the operator’s determination that the discharges and related activities will have “no affect” on listed species or critical habitat.

#### **USFWS Effects Determination Guidance:**

If you are unable to certify eligibility under USFWS Criterion A, you must assess whether your discharges or related activities “may affect”, will have “no affect” or are “not likely to adversely affect” listed species or critical habitat. “Discharge-related activities” include: the discharge of miscellaneous wastewaters associated with operation of a hydroelectric generating facility, the use of an intake structure to withdraw water from the river mainly for the generation of electricity, but also to a lesser extent for equipment cooling purposes, and the measures taken as part of the facility’s Best Management Practices (BMP) plan implementation.

The scope of effects to consider will vary with each facility. If you are having difficulty in determining whether your discharge is likely to cause adverse effects to a listed species or critical habitat, you should contact the USFWS for assistance. In order to complete the determination of effects it may be necessary to follow the formal or informal consultation procedures in section 7 of the ESA.

Upon completion of your assessment, document the results of your effects determination. If your results indicate that discharges and related activities will have “no affect” on threatened or endangered species or critical habitat and EPA concurs with your determination, you are eligible under USFWS Criterion C of this Appendix. Your determination may be based on measures that you implement to avoid, eliminate, or minimize adverse effects.

**If the determination is “May affect” or “not likely to adversely affect”** you must contact the USFWS to discuss your findings and measures you could implement to avoid,

eliminate, or minimize adverse effects. If you and the USFWS reach agreement on measures to avoid adverse effects, you are eligible under USFWS Criterion B. Any terms and/or conditions to protect listed species and critical habitat that you relied on in order to complete an adverse effects determination, must be attached to your NOI.

There is the potential for discharges of oil and grease, slightly elevated temperatures, or pH levels different from ambient associated with the wastewaters authorized by this permit. However, relative to the overall flow of water through this facility, the HYDROGP wastewater flows typically make up less than 1% of the total flow discharged. Therefore, there are not expected to be any adverse effects associated with the HYDROGP wastewaters. For those hydroelectric facilities that discharge to an area with Atlantic or shortnose sturgeon present, such projects have likely already undergone consultation between the FERC (Federal Energy Regulatory Commission) and the permittee, as the operation of dams that are present with the majority of these facilities falling under the jurisdiction of the FERC.

Effects from HYDROGP discharges which could pose an adverse effect include impacts associated with intake structures. The operation of intake structures can cause or contribute to a variety of adverse environmental effects, such as killing or injuring fish larvae and eggs entrained in the water withdrawn from a water body and sent through the facility's cooling system, or by killing or injuring fish and other organisms by impinging them against the intake structure's screens. Although FERC licensing may have already addressed these concerns or required mitigating measures to be implemented by these hydroelectric facilities, the draft HYDROGP requires the permittees which use some intake water for cooling purposes to implement measures to minimize any impacts from these intakes.

**If endangered species issues cannot be resolved:** If you cannot reach agreement with the USFWS on measures to avoid or eliminate adverse effects, you are not eligible for coverage under this permit. You must seek coverage under an individual permit.

### **C. The ESA Eligibility Criteria for the National Marine Fisheries Service**

Listed species under the jurisdiction of NMFS are the Atlantic Sturgeon and the Shortnose Sturgeon, as well as three species of whales and four species of sea turtles in the marine environment. NMFS has also designated critical habitat for Atlantic sturgeon in Massachusetts and New Hampshire. For facilities previously covered under the HYDROGP, EPA has reviewed available data and determined that the terms of the permit adequately prevent adverse effects or the take of listed species and adverse effects on critical habitat due to HYDROGP discharges.

Concurrently with this Draft Permit, EPA has provided NMFS with EPA's assessment of potential impacts of the Draft Permit on shortnose sturgeon, Atlantic sturgeon, and designated critical habitat for Atlantic sturgeon for existing facilities covered under the 2009 HYDROGP. EPA's assessment of the potential impacts and preliminary finding that the Draft HYDROGP is not likely to adversely affect listed species or critical habitat

may be found at: <https://www.epa.gov/npdes-permits/hydroelectric-generating-facilities-general-permit-hydrogp-massachusetts-new-hampshire>. On September 12, 2018, EPA received concurrence from NMFS with its preliminary finding for these previously permitted, existing facilities. *See* AR-35.

For facilities seeking coverage under the HYDROGP for the first time, EPA will review the information provided in the NOI and work with NMFS to determine whether there are likely to be adverse effects on an individual basis. Information that must be included in the NOI related to endangered species under the jurisdiction of NMFS:

- Identify if the discharge is located in the:
  - Merrimack River (between Lawrence, MA and the Atlantic Ocean);
  - Connecticut River (between MA/CT state line and Montague, MA);
  - Taunton River; or
  - Piscataqua River (including the Salmon Falls and Cocheco Rivers).
- Identify if the facility discharges into marine water.
- Identify if there has been any previous formal or informal consultation with NMFS, and the result of the consultation.

#### **D. Submittal of Notice of Intent**

Once the ESA eligibility requirements of Part B and C of this Appendix have been met, and you have determined NHPA eligibility (see Appendix 3), you may submit the Notice of Intent. Signature and submittal of the NOI constitutes your certification, under penalty of law, of eligibility for permit coverage under 40 C.F.R. § 122.21.

#### **E. Duty to Implement Terms and Conditions upon which Eligibility was Determined**

You must comply with any terms and conditions imposed under the ESA eligibility requirements to ensure that your discharges and related activities do not pose adverse effects or jeopardy to listed species and/or critical habitat. If the ESA eligibility requirements of this permit cannot be met, then you may not receive coverage under this permit and must apply for an individual permit.

#### **F. Services Information**

United States Fish and Wildlife Service:

National websites for Endangered Species Information:

Endangered Species home page: <https://www.fws.gov/endangered/?ref=topbar>

Section 7 Consultations: <https://www.fws.gov/service/esa-section-7-consultation>

Information, Planning, and Conservation System (IPAC): <http://ecos.fws.gov/ipac/>

U.S. FWS – Region 5, Supervisor  
New England Field Office  
U.S. Fish and Wildlife Services  
70 Commercial Street, Suite 300  
Concord, NH 03301

National Marine Fisheries Service:

Website: [https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-consultations-greater-atlantic-region?utm\\_medium=email&utm\\_source=govdelivery](https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-consultations-greater-atlantic-region?utm_medium=email&utm_source=govdelivery)

Contacts: <https://www.fisheries.noaa.gov/contact-directory/greater-atlantic-region-section-7-team>

National Marine Fisheries Service  
Greater Atlantic Regional Fisheries Office  
Protected Resource Division  
Attn: Endangered Species Coordinator  
55 Great Republic Drive, Gloucester, MA 01930

Natural Heritage Network

The Natural Heritage Network (NHN) comprises 75 independent heritage program organizations located in all 50 states, 10 Canadian provinces, and 12 countries and territories located throughout Latin America and the Caribbean. These programs gather, manage, and distribute detailed information about the biological diversity found within their jurisdictions.

In New Hampshire, the Natural Heritage Bureau, within the Division of Forests and Lands, focuses on protection of rare plants and natural communities. The Bureau has locational information on rare plants, wildlife, and natural communities by town and can be accessed at: <https://www.nhdfl.org/About-Us/Natural-Heritage-Bureau>

New Hampshire Fish and Game Department's Nongame and Endangered Wildlife Program also maintains information on rare wildlife, including Wildlife Action Plans accessible at <https://wildlife.state.nh.us/nongame/> .

In Massachusetts, the Division of Fisheries and Wildlife's Natural Heritage and Endangered Species Program is responsible for conservation and protection of rare species and natural communities. The Program, accessible at <https://www.mass.gov/orgs/masswildlifes-natural-heritage-endangered-species-program>, maintains information about the presence and distribution of rare species in Massachusetts.

## U.S. Fish and Wildlife IPaC system instructions

### Appendix 2 – Attachment 1

Use the following protocol to determine if any federally listed species or designated critical habitats under USFWS jurisdiction exist in your action area:

Enter your project specific information into the “Initial Project Scoping” feature of the Information, Planning, and Conservation (IPaC) system mapping tool, which can be found at the following location:

<http://ecos.fws.gov/ipac/>

1. Indicate the action area<sup>7</sup> for the site by either:
  - a. Drawing the boundary on the map; or
  - b. Uploading a shapefile.
2. Select “continue”.
3. Click on the “SEE RESOURCE LIST” button and on the next screen you can export a trust resources list. This will provided a list of natural resources of concern, which will include an Endangered Species Act Species list. You may also request an official species list under “REGULATORY DOCUMENTS”. Save copies and retain for your records.

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<sup>7</sup> The action area is defined by regulation as all areas to be affected directly or indirectly by the action and not merely the immediate area involved in the action (50 CFR §402.02). This analysis is not limited to the “footprint” of the action nor is it limited by the Federal agency's authority. Rather, it is a biological determination of the reach of the proposed action on listed species. Subsequent analyses of the environmental baseline, effects of the action, and levels of incidental take are based upon the action area.

The documentation used by a Federal action agency to initiate consultation should contain a description of the action area as defined in the Services' regulations and explained in the Services' consultation handbook. If the Services determine that the action area as defined by the action agency is incorrect, the Services should discuss their rationale with the agency or applicant, as appropriate. Reaching agreement on the description of the action area is desirable but ultimately the Services can only consult when an action area is defined properly under the regulations.

For hydroelectric generating facility discharges or discharge related activities, the action area should encompass the following:

- The immediate vicinity of, or nearby, the point of discharge into receiving waters.
- The cooling water intake structure (CWIS), penstock, dam structure, or other equipment associated with the intake or discharge of water that is used to operate turbines and any other electricity generating equipment at the facility. This includes areas in the receiving water upstream of the CWIS and downstream from the point of discharge.
- Areas that may be impacted by construction or repair activities. This extends as far as effects related to noise (from construction equipment, power tools, etc.) and light (if work is performed at night) may reach.

The action area will vary with the size and location of structures listed above, the nature and quantity of the discharges, and the type of receiving waters, among other factors.

## APPENDIX 3

### NATIONAL HISTORIC PRESERVATION ACT SCREENING PROCESS

#### I. Background

Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to take into account the effects of Federal “undertakings” on historic properties that are either listed on, or eligible for listing on, the National Register of Historic Places. 16 USC§ 470 et seq. The term Federal “undertaking” is defined in the NHPA regulations to include a project, activity or program of a Federal agency including those carried out by or on behalf of a Federal agency, those carried out with Federal financial assistance, and those requiring a Federal permit, license or approval. See 36 CFR 800.16(y). Historic properties are defined in the NHPA regulations to include prehistoric or historic districts, sites, buildings, structures, or object that are included in, or eligible for inclusion in, the National Register of Historic Places. This term includes artifacts, records, and remains that are related to and located within such properties. See 36 CFR 800.16(1).

EPA’s reissuance of a National Pollutant Discharge Elimination System (NPDES) General Permit is a federal undertaking within the meaning of NHPA regulations. To address any issued relating to historic properties in connection with the issuance of the permit, EPA has included criteria for applicants to certify that potential impacts of their covered activities on historic properties have been appropriately considered and addressed. Although individual applications for coverage under the general permit do not constitute separate Federal undertakings, the screening criteria and certifications provide an appropriate site-specific means of addressing historic property issues in connection with the issuance of the permit. Applicants seeking coverage under the HYDROGP are thus required to make certain certifications regarding the potential effects of their authorized discharges on properties listed or eligible for listing on the National Register of Historic Places.

#### II. Determination of Potential Impact

Operators seeking coverage under the HYDROGP must determine whether the discharges from their facilities or the implementation of their facility’s best management practices (BMP) Plan to control such discharges, may have adverse effects on a property or place that is either listed or eligible for listing on the National Register of Historic Places. The term “adverse effects” includes but is not limited to damage, deterioration, alteration, or destruction of the historic property or place.

For operators with existing discharges from sites which are not undergoing any construction activity, a simple visual inspection may be sufficient to determine whether historic properties are affected and to select one of the criteria in Section III of this Appendix. In fact, EPA has reason to believe that the majority of activities authorized under this general permit will have no potential to affect historic properties because the HYDROGP typically authorizes discharges from existing facilities and requires control of the pollutants discharged from the site. In

addition, many sites covered under the reissuance of this permit will be sites that are seeking renewal of previous permit authorization.

However, for operators with new discharges and existing discharges for which construction activities related to treatment systems or BMPs are planned or ongoing, operators must conduct further inquiry to determine whether historic properties may be affected by the discharge or discharge-related activities. In such instances, operators seeking coverage should first determine whether there are any nearby historic properties or places listed on the National Register or if any nearby properties and places are eligible for listing on the register (e.g., they are “eligible for listing”).

### **Activities With Potential to Affect Historic Properties**

Under the ongoing, typical operations of these facilities, EPA does not believe that discharges or discharge-related activities would have the potential to affect historic properties. However, if the permittee undertakes construction or rehabilitation of any of its facilities, intake structures, or associated structures such as dams, which may affect historic properties, it will need to ensure that (1) historic properties will not be affected by their activities and/or (2) it is in compliance with a written agreement with the SHPO, THPO (if appropriate) or, if the Tribe does not have a THPO, other tribal representative, that outlines all measures the applicant will implement to avoid, minimize or mitigate any adverse effects on historic properties.

EPA suggests that operators seeking coverage under the HYDROGP first search the National Register of Historic Places information available on the National Park Service’s website at <http://www.nps.gov/nr/>. Further information can be found in Section IV of this appendix. The relevant State and Tribal Historic Preservation Officers are listed in Sections V and VI of this appendix. Operators seeking coverage may also contact city, county or other local historical societies for assistance, especially when determining if a place or property is eligible for listing on the register.

### **III. Permit Eligibility Criteria**

The following three criteria indicate how facilities seeking coverage under the HYDROGP can meet the special eligibility requirements for protection of historic properties under this general permit. An applicant must meet one or more of the following three criteria (A-C) to be eligible for authorization under the RGP:

**Criterion A:** No historic properties are present. The discharges and discharge-related activities (e.g., BMP Plans) do not have the potential to affect historic properties.

**Criterion B:** Historic properties are present. Discharges and discharge-related activities do not have the potential to affect historic properties.

**Criterion C:** Historic properties are present. The discharges and discharge-related activities have the potential to affect or will have an adverse effect on historic properties. The applicant has obtained and is in compliance with a written agreement with the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (TPHO), or other tribal representative that outlines measures the applicant will carry out to mitigate or prevent any adverse effects on historic properties.

To determine whether historic properties are present in the vicinity of a facility, an applicant must review all reasonably ascertainable information and, if necessary, conduct a historic survey. Where historic properties are present, an applicant must include documentation of the determination with the NOI submitted to EPA so EPA can confirm that discharges and discharge-related activities do not have the potential to cause effects or will have an adverse effect on historic properties. Where the applicant believes or EPA determines that discharges or discharge-related activities have the potential to cause effects or will have an adverse effect on historic properties, an applicant must contact the relevant SHPO and/or TPHO to determine the likelihood that artifacts, records, or remains are potentially present on your site. The NOI must include any terms and conditions that the applicant must follow to mitigate or prevent adverse effects due to the activities regulated by this general permit resulting from evaluation and interaction with a SHPO and/or TPHO. These terms and conditions will be included in an applicant's authorization to discharge.

EPA encourages sites seeking coverage to contact the appropriate State or Tribal Historic Preservation Officer as soon as possible in the event of a potential adverse effect to a historic property. In situations where an agreement cannot be reached between an applicant and the State or Tribal Historic Preservation Officer, sites seeking coverage should contact the Advisory Council on Historic Preservation listed in Section VII below for assistance.

Applicants are reminded that they must comply with applicable State, Tribal, and local laws concerning protection of historic properties and should include documentation supporting the determination of permit eligibility in the BMP Plan for their sites.

#### **IV. Information on the National Register of Historic Places**

The National Register of Historic Places is the Nation's official list of cultural resources worthy of preservation. Authorized under the National Historic Preservation Act of 1966, the National Register is part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect our historic and archeological resources. Properties listed in the Register include districts, sites, buildings, structures, and objects that are significant in American history, architecture, archeology, engineering, and culture. The National Register is administered by the National Park Service, which is part of the U.S. Department of the Interior.

The National Park Service is currently in the process of digitizing their records of historic places. Listings of historic places based on the date they were listed can be found on the National Park Service web site at <https://www.nps.gov/subjects/nationalregister/database-research.htm>.

## V. State Historic Preservation Officers (SHPO)

### **Massachusetts Historical Commission**

220 Morrissey Boulevard

Boston, MA 02125

T: (617) 727-8470

TDD: 1-800-392-6090

<http://www.sec.state.ma.us/mhc/mhcidx.htm>

### **New Hampshire State Historic Preservation Office**

New Hampshire Division of Historical Resources Attention: Review and Compliance

19 Pillsbury Street

Concord, NH 03301-3570

T: (603) 271-8850

TDD: 1-800-735-2964

[http://www.nh.gov/nhdhr/programs/national\\_register.html](http://www.nh.gov/nhdhr/programs/national_register.html)

SHPO information can also be found online at

<https://www.nps.gov/subjects/nationalregister/state-historic-preservation-offices.htm>.

## VI. Tribal Historic Preservation Officers (THPO)

### **Wampanoag Tribe of Gay Head-Aquinnah**

Bettina Washington, THPO

20 Black Brook Road

Aquinnah, MA 02535-9701

T: 508.645.9265 x 175

F: 508.645.3790

Email: [bettina@wampanoagtribe.net](mailto:bettina@wampanoagtribe.net)

<http://www.wampanoagtribe.net>

THPO information can also be found online at <https://members.nathpo.org/thpodirectory>.

## VII. Advisory Council on Historic Preservation

The Advisory Council on Historic Preservation (ACHP) is an independent federal agency that promotes the preservation, enhancement, and productive use of our Nation's historic resources and advises the President and Congress on national historic preservation policy. The National Historic Preservation Act (NHPA) established ACHP in 1966 with the goal of having federal agencies act as responsible stewards of our Nation's resources when their actions affect historic properties. ACHP is the only entity with the legal responsibility to encourage federal agencies to factor historic preservation into federal project requirements. As directed by NHPA, ACHP serves as the primary federal policy advisor to the President and Congress; recommends administrative and legislative improvements for protecting our Nation's heritage; advocates for the full consideration of historic values in federal decision making; and reviews federal programs

and policies to promote effectiveness, coordination, and consistency with national preservation policies.

**Main Office:**

Advisory Council on Historic Preservation

401 F Street, Suite 308

Washington, DC 20001

Phone: (202) 517-0200

E-mail: [achp@achp.gov](mailto:achp@achp.gov)

<http://www.achp.gov/>

**APPENDIX 4  
SUGGESTED NOTICE OF INTENT (NOI) FORMAT  
AND INSTRUCTIONS**

**I. Notice of Intent (NOI) Instructions**

**A. Required Information**

Applicants seeking coverage under the Hydroelectric Generating Facilities General Permit (HYDROGP) must submit a written NOI to EPA and the appropriate state agency as described below. The NOI consists of either the suggested NOI format included in Section II of this document or another format of official correspondence that contains all of the required information described below and listed in the suggested format. At a minimum, the NOI must include the information in Parts I.A.1 through I.A.7 below for each facility. Additional information may be attached as needed.

1. General Facility Information

- a. Indicate whether applying for MA or NH HYDROGP.
- b. Provide the name, address, and location (latitude and longitude) of the facility, the SIC code and indicate type of business, contact information for the facility owner, and contact information for the facility operator (if different from the owner).
- c. Information about the current permit status of the facility, including if prior HYDROGP coverage or individual NPDES permit coverage has been granted and the permit number, if a pending NPDES application is on file for the discharge(s) and the date of submittal, a topographic map indicating the locations of the facility and outfalls, number of turbines and the maximum and minimum capacity, and whether the facility is a pump storage project.

2. Discharge Information

- a. Name and type of the receiving water, receiving waterbody classification, if the waterbody is included on the State's Integrated List of Waters and information about any impairments.
- b. A schematic of water flow through the facility.
- c. Information about discharges from each outfall and each type of effluent, including the location of the outfall (latitude and longitude), the type of discharge, maximum and average flows, temperatures, oil and grease concentrations, and pH (including whether alternative pH limitations are requested and, if so, if State's approval is attached).

3. Best Technology Available for Cooling Water Intake Structures

- a. Indicate whether the facility withdraws water for cooling purposes. Facilities that do withdraw cooling water must also provide the following information.
- b. Provide the required information to demonstrate compliance with the entrainment BTA requirements in Part 4.2.a of the HYDROGP (e.g., volume of cooling water

withdrawn, volume of cooling water calculated as a percentage of capacity of the turbines, source water flows, volume of cooling water calculated as a percentage of the source water flow, and volume of cooling water reused in the facility).

- c. Indicate which technology will be employed to comply with the impingement mortality BTA requirements in Part 4.2.b of the GP and, where applicable, any supplemental information required to demonstrate compliance (e.g., effective intake velocity, description of existing fish protection devices, screen mesh size, cooling water flow relative to penstock flow, or biological evaluation).

#### 4. Chemical Additives

- a. Indicate if the facility plans to use non-toxic neutralization chemicals for pH adjustment.
- b. Indicate if the facility plans to use anti-freeze chemicals and, if so, for EACH anti-freeze chemical provide the chemical name and manufacturer, dosage concentration, effluent concentration, and a material safety data sheet or other toxicity documentation.

#### 5. Endangered Species Act Certification

The certification requirements for the HYDROGP under the ESA, including necessary documentation, are explained in detail in Appendix 2. Facilities must include a certification for species and habitat under the jurisdiction of USFWS AND NMFS. The facility must certify and provide documentation if there are no USFWS species present. The facility must indicate if the facility is not located in the areas where listed species under the jurisdiction of NMFS exist.

#### 6. National Historic Properties Act Eligibility

The criteria for eligibility for the HYDROGP under the NHPA are explained in detail in Appendix 3. Facilities must attach supporting documentation for eligibility where historic properties are present and may be impacted by the authorized discharges.

#### 7. Supplemental Information

Provide any supplemental information, including antidegradation review information applicable to new or increased discharges.

### **B. Signature Requirements**

The NOI must be signed and dated in accordance with the signatory requirements of 40 CFR §122.22, including the certification statement shown on the suggested NOI format.

### **C. Submission of NOI to EPA and the Appropriate State Agency**

1. NOI submittal timelines

- a. Proposed new dischargers that are seeking coverage under this General Permit must submit an NOI to EPA and the respective State, at least 30 days prior to the commencement of discharge.
- b. Existing facilities, including those covered under the 2009 HYDROGP that expired on December 7, 2014, seeking coverage under this General Permit must file an NOI to EPA and the respective State within 60 days of the effective date of this permit reissuance.

Filing with EPA - All operators located in Massachusetts and New Hampshire that apply for coverage under this General Permit must submit a NOI to EPA Region 1. All NOIs must be submitted electronically to EPA at [Hydro.GeneralPermit@epa.gov](mailto:Hydro.GeneralPermit@epa.gov).

2. Filing with the States - A copy of the NOI filed with EPA Region 1 must also be filed with state agencies as described below. The state agency may elect to develop a state specific form or other additional information requirements. All applicants should keep a copy of the complete application package for their records.
  - a. Discharges in Massachusetts: Applicants seeking coverage under the HYDROGP to discharge to Outstanding Resource Waters as identified in 314 CMR 4.06, shall submit to MassDEP for review a copy of the EPA NOI. Pursuant to 314 CMR 4.04(5), MassDEP may request additional information for the purpose of conducting an antidegradation review. For purposes of this review, the permittee shall submit these documents to MassDEP at the same time they are submitted to EPA. Instructions on how to submit the EPA NOI to MassDEP can be found here: <https://www.mass.gov/how-to/wm-15-npdes-general-permit-notice-of-intent>

Applicants for discharges to all other waters do not require any submission to MassDEP.

- b. Discharges in New Hampshire: All applicants must provide a completed copy of their NOI to:

New Hampshire Department of Environmental Services  
Water Division, Wastewater Engineering Bureau  
29 Hazen Drive, P.O. Box 95  
Concord, New Hampshire 03302-0095

**II. Suggested Format for the HYDRO General Permit Notice of Intent (NOI):**

**Request for General Permit Authorization to Discharge Wastewater Notice of Intent (NOI) to be covered by Hydroelectric Generating Facilities General Permit (HYDROGP) No. MAG360000 or NHG360000**

Indicate Applicable General Permit for Discharge(s):       MAG360000                       NHG360000

**A. Facility Information**

1. Facility Location	Name:	
	Street:	
	City:	State:
	Zip:	SIC Code:
	Latitude:	Longitude:
	Type of Business:	
2. Facility Mailing Address (if different from Location)	Street:	
	City:	State:
	Zip:	
3. Facility Owner	Name:	Email:
	Street:	Telephone:

	City:	State:
	Contact Person:	Zip:
4. Facility Operator (if different from above)	Name:	Email:
	Street:	Telephone:
	City:	State:
	Zip:	
5. Current Permit Status	Has prior HYDROGP coverage been granted for the discharge(s) listed in the NOI?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Permit number (if yes):	
	Is the facility covered under an Individual Permit?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Is there a pending NPDES application of file with EPA for the discharge(s)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Date of Submittal (if yes): Click or tap to enter a date.	Permit Number (if known):
	Attach a topographic map indicating the locations. of the facility and outfall(s) to the receiving water	<input type="checkbox"/> Map Attached
	Number of turbines:	
	Combined turbine discharge (installed capacity) at:	Maximum capacity? cfs Minimum capacity? cfs
	Is this facility operated as a pump storage project?	<input type="checkbox"/> Yes <input type="checkbox"/> No

**B. Discharge Information**

1.	Name of Receiving Water(s):	<input type="checkbox"/> Freshwater <input type="checkbox"/> Marine
2.	Waterbody classification: <input type="checkbox"/> Class A <input type="checkbox"/> Class B <input type="checkbox"/> Class SA	<input type="checkbox"/> Class SB
3.	Is the receiving water is listed in the State’s Integrated List of Waters (i.e., CWA Section 303(d))?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.	If the applicant answered yes to B.2, has the applicant identified the designated uses that are impaired, any pollutants indicated, and whether a final TMDL is available for any of the indicated pollutants in a separate attachment to the NOI?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5.	Attach a line drawing or flow schematic showing water flow through the facility including location of intake(s), operations contributing to effluent flow, treatment units, outfalls, and receiving water(s).	<input type="checkbox"/> Line Drawing Attached
6.	List each outfall (numbered sequentially) discharging effluent from the following categories and provide an estimate of the average monthly flow (in gallons per day) for each discharge type. See Parts 1.1 through 1.5 (for MA) or Parts 2.1 through 2.5 (for NH) for descriptions and permit conditions for each discharge type.	
	Equipment-related cooling water	Outfalls: gpd
	Equipment and floor drain water	Outfalls: gpd
	Maintenance-related water	Outfalls: gpd
	Facility maintenance-related water during flood/high water events	Outfalls: gpd
	Equipment-related backwash strainer water	Outfalls: gpd

7. For each outfall listed above, provide the following information (attach additional sheets if necessary). Outfalls may be eligible for alternative pH effluent limits. See Parts 1.7.1. and 2.7.1 of the permit for additional information. Contact MassDEP or NHDES to determine the required information and protocol to request alternative pH effluent limits.					
Outfall No.	Latitude:		Longitude:		
	Discharge is: <input type="checkbox"/> Continuous <input type="checkbox"/> Intermittent <input type="checkbox"/> Seasonal				
	Maximum Daily Flow		MGD	Average Monthly Flow	
	Maximum Daily Temperature		°F	Average Monthly Temperature	
	Maximum Daily Oil & Grease		mg/L	Average Monthly Oil & Grease	
	Maximum Monthly pH			Minimum Monthly pH	
	s.u.			s.u.	
Alternative pH limits requested? <input type="checkbox"/> Yes <input type="checkbox"/> No			State approval attached? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Outfall No.	Latitude:		Longitude:		
	Discharge is: <input type="checkbox"/> Continuous <input type="checkbox"/> Intermittent <input type="checkbox"/> Seasonal				
	Maximum Daily Flow			Average Monthly Flow	
	MGD			MGD	
	Maximum Daily Temperature		°F	Average Monthly Temperature	
	Maximum Daily Oil & Grease		mg/L	Average Monthly Oil & Grease	
	Maximum Monthly pH		s.u.	Minimum Monthly pH	
			s.u.		
Alternative pH limits requested? <input type="checkbox"/> Yes <input type="checkbox"/> No			State approval attached? <input type="checkbox"/> Yes <input type="checkbox"/> No		

Outfall No.	Latitude:	Longitude:
	Discharge is: <input type="checkbox"/> Continuous <input type="checkbox"/> Intermittent <input type="checkbox"/> Seasonal	
	Maximum Daily Flow MGD	Average Monthly Flow MGD
	Maximum Daily Temperature                      °F	Average Monthly Temperature                      °F
	Maximum Daily Oil & Grease mg/L	Average Monthly Oil & Grease mg/L
	Maximum Monthly pH s.u.	Minimum Monthly pH s.u.
	Alternative pH limits requested? <input type="checkbox"/> Yes <input type="checkbox"/> No	State approval attached? <input type="checkbox"/> Yes <input type="checkbox"/> No

**C. Best Technology Available for Cooling Water Intake Structures**

Facilities that checked “equipment-related cooling” as one of the discharges in Part B. of this NOI are subject to the following requirements.	
1. Does the facility intake water for cooling purposes subject to the BTA Requirements at Part 4 of the HYDROGP?	<input type="checkbox"/> Yes <input type="checkbox"/> No If no, skip to Part D of this NOI.
2. If yes, indicate which technology employed to comply with the general BTA requirements at Part 4.2.b of the HYDROGP:	
<input type="checkbox"/> An existing technology (e.g., a physical or behavioral barrier, spillway, or guidance device) that directs fish towards a downstream passage that minimizes exposure to the CWIS. Has the applicant attached a narrative description of the barrier to demonstrate that the downstream fish passage effectively transports live fish in a manner that minimizes the likelihood of becoming impinged or entrained at the cooling water intake? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/> An effective intake velocity at the point of cooling water withdrawal, or alternatively, at the point where cooling water enters the penstock (for intakes located within the penstock), not to exceed 0.5 fps. Has the applicant attached a demonstration of compliance with this intake velocity through observation of live fish in the intake or calculation based on the maximum intake volume and minimum bypass flow? <input type="checkbox"/> Yes <input type="checkbox"/> No	



**D. Chemical Additives**

1.	Does the facility use or plan to use non-toxic chemicals for pH adjustment?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2.	Does the facility use or plan to use chemicals for anti-freeze purposes?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
3.	If the answer to D.2 is yes, provide the following for <b>EACH</b> chemical additive used for anti-freeze:		
Chemical Name and Manufacturer:			
Maximum Dosage Concentration Used:		Average Dosage Concentration Used:	
Maximum Concentration in Discharge: mg/L		Average Concentration in Discharge: mg/L	
Material Safety Data Sheet (MSDS) or other toxicity documentation for each chemical attached? <input type="checkbox"/> Yes <input type="checkbox"/> No			

**E. Endangered Species Act Certification**

Appendix 2 to the HYDROGP explains the certification requirements related to threatened and endangered species and designated critical habitat. Indicate under which criteria the discharge is eligible for coverage under the HYDROGP:	
1. ESA eligibility for species under jurisdiction of USFWS	<input type="checkbox"/> <b>Criterion A:</b> No endangered or threatened species or critical habitat are in proximity to the discharges or related activities or come in contact with the “action area.” See Appendix 2, Part B for documentation requirements. Documentation attached? <input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> <b>Criterion B:</b> Formal or informal consultation with the USFWS under Section 7 of the ESA resulted in either a no jeopardy opinion (formal consultation) or a written concurrence by USFWS on a finding that the discharges and related activities are “not likely to adversely affect” listed species or critical habitat. Has the operator completed consultation with USFWS and attached documentation? <input type="checkbox"/> Yes <input type="checkbox"/> No If no, is consultation underway? <input type="checkbox"/> Yes <input type="checkbox"/> No

	<input type="checkbox"/> <b>Criterion C:</b> Using the best scientific and commercial data available, the effect of the discharges and related activities on listed species and designated critical habitat have been evaluated. Based on those evaluations, a determination is made by EPA, or by the operator and affirmed by EPA, that the discharges and related activities will have “no effect” on any federally threatened or endangered species or designated critical habitat under the jurisdiction of the USFWS. Has the applicant attached documentation of the “no effect” finding? <input type="checkbox"/> Yes <input type="checkbox"/> No
2. ESA eligibility for species under jurisdiction of NMFS	<p>Is the facility located on: the Connecticut River between the Massachusetts/Connecticut state line and Turners Falls, MA; the Taunton River; the Merrimack River between Lawrence, MA and the Atlantic Ocean; the Piscataqua River including the Salmon Falls and Coheco Rivers; or a marine water?</p> <input type="checkbox"/> Yes <input type="checkbox"/> No
	If yes, was the applicant authorized to discharge from the facility under the 2009 HYDROGP? <input type="checkbox"/> Yes <input type="checkbox"/> No
	If the discharge is to one of the named rivers above or to a marine water <i>and</i> the facility was not previously covered under the 2009 HYDROGP, has there been any previous formal or informal consultation with NMFS? <input type="checkbox"/> Yes <input type="checkbox"/> No Documentation of consultation attached? <input type="checkbox"/> Yes <input type="checkbox"/> No

**F. National Historic Properties Act Eligibility**

1. Indicate under which criterion the discharge(s) is eligible for covered under the HYDROGP:
<input type="checkbox"/> <b>Criterion A:</b> No historic properties are present.
<input type="checkbox"/> <b>Criterion B:</b> Historic properties are present. The discharges and related activities do not have the potential to impact historic properties.
<input type="checkbox"/> <b>Criterion C:</b> Historic properties are present. The discharges and related activities have the potential to impact or adversely impact historic properties.

2.	Has the applicant attached supporting documentation for NHPA eligibility described in Appendix 3, Part C of the HYDROGP? <input type="checkbox"/> Yes <input type="checkbox"/> No
3.	Does supporting documentation include a written agreement from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or other tribal representative that outlines measures the operation will carry out to mitigate or prevent any adverse effects on historic properties? <input type="checkbox"/> Yes <input type="checkbox"/> No

**G. Supplemental Information**

Please provide any supplemental information, including antidegradation review information applicable to new or increased discharges. Attach any certifications required by the HYDROGP. Supplemental information attached? <input type="checkbox"/> Yes <input type="checkbox"/> No
---

**H. Signature Requirements**

1.	The NOI must be signed by the operator in accordance with the signatory requirements of 40 C.F.R. § 122.22, including the following certification:	
	<i>I certify under penalty of law that no chemical additives are used in the discharges to be authorized under this General Permit except for those used for pH adjustment or anti-freeze purposes and 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 directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I certify that I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.</i>	
2.	Notification provided to the appropriate State, including a copy of this NOI, if required?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Signature:	Date: Click or tap to enter a date.
	Print Name and Title:	

## APPENDIX 5

### NOTICE OF TERMINATION INSTRUCTIONS AND SUGGESTED FORMAT

#### **I. Notice of Termination (NOT) Instructions**

Operators of facilities and/or operations authorized under the hydroelectric generating facilities general permit (HYDROGP) shall notify US EPA Region 1 and the appropriate State of the termination of discharge(s). The NOT must be either the suggested NOT included in Part II of this Appendix or other official correspondence containing the information required in the instructions below. The NOT must be completed and submitted within thirty (30) days of the permanent cessation of the discharge(s) authorized by the HYDROGP.

**A. Instructions for the NOT** - The NOT requires the following information:

- 1) Name, mailing address, and discharge location of the facility or site for which the notification is submitted;
- 2) Name, address and telephone number of the operator addressed by the NOT;
- 3) The NPDES permit number assigned;
- 4) An indication that the discharge has been permanently terminated and the reason for the termination (i.e., completion of construction project, termination of temporary discharge);
- 5) Indicate the approximate volume and frequency of the discharge; and
- 6) Signatory requirements according to 40 CFR §122.22 (see NOI instructions) in addition to the following certification:

*I certify under penalty of law that all discharges from the identified facility that are authorized by the HYDROGP, have been terminated I understand that by submitting this Notice of Termination (NOT), I am no longer authorized to discharge waters covered by the HYDROGP and that discharging pollutants from the activity previously covered by the HYDROGP is unlawful under the Clean Water Act where the discharge is not authorized by a permit. I also understand that the submission of this NOT does not release an owner/operator from liability for any violation of the HYDROGP or the Clean Water Act.*

#### **B. Submission of a NOT –**

The completed, signed NOT and attachments must be submitted to EPA-NE either electronically at: [Hydro.GeneralPermit@epa.gov](mailto:Hydro.GeneralPermit@epa.gov), or mailed to

US Environmental Protection Agency  
HYDROGP Processing  
Wastewater Permits Section (OEP 06-1)  
5 Post Office Square – Suite 100  
Boston, MA 02109-3912

A copy of the NOT must also be filed with the respective state agency. The state agency may elect to develop a state specific form or other additional information requirements.

1. Discharges in Massachusetts

All applicants must provide a completed copy of the Notice of Termination to:

Massachusetts Department of Environmental Protection  
Division of Watershed Management  
8 New Bond Street  
Worcester, MA 01606

In addition, NOTs must be submitted to [MassDEP.NPDES@mass.gov](mailto:MassDEP.NPDES@mass.gov) with the following statement in the subject line: "NOT for HYDROGP" and include facility name.

2. Discharges in New Hampshire

All applicants must provide a completed copy of their Notice of Termination to:

New Hampshire Department of Environmental Services  
Water Division, Wastewater Engineering Bureau  
29 Hazen Drive, P.O. Box 95  
Concord, New Hampshire 03302-0095

**II. Suggested Notice of Termination (NOT)**

1) Name of site/facility:	Mailing address of site/facility:	
2) Name of the operator:	Address of operator:	
3) NPDES permit number assigned:	Telephone number of operator:	Location of the facility or site: Latitude: _____. Longitude: _____.
<p>4) Have all the discharges authorized by the HYDROGP been permanently terminated?          Yes _____ No _____.          Reason for termination:</p>		
<p>5) Signatory requirements according to 40 CFR 122.22 and certification:</p> <p><i>I certify under penalty of law that all discharges from the identified facility that are authorized by the HYDROGP have been terminated. I understand that by submitting this Notice of Termination (NOT), I am no longer authorized to discharged waters covered by the HYDROGP and that discharging pollutants from the activity covered by the HYDROGP is unlawful under the Clean Water Act where the discharge is not authorized by a permit. I also understand that the submission of this NOT does not release an owner/operator from liability for any violation of the HYDROGP or the Clean Water Act.</i></p> <p>Signature of operator _____ Date _____.</p> <p>Title:</p>		

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A. GENERAL REQUIREMENTS

1. Duty to Comply

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

- a. 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.
- b. Penalties for Violations of Permit Conditions: The Director will adjust the civil and administrative penalties listed below in accordance with the Civil Monetary Penalty Inflation Adjustment Rule (83 Fed. Reg. 1190-1194 (January 10, 2018) and the 2015 amendments to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note. See Pub. L. 114-74, Section 701 (Nov. 2, 2015)). These requirements help ensure that EPA penalties keep pace with inflation. Under the above-cited 2015 amendments to inflationary adjustment law, EPA must review its statutory civil penalties each year and adjust them as necessary.

(1) Criminal Penalties

- (a) *Negligent Violations.* The CWA provides that any person who negligently violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to criminal penalties of not less than \$2,500 nor more than \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation or by imprisonment of not more than 2 years, or both.
- (b) *Knowing Violations.* The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both.
- (c) *Knowing Endangerment.* The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 303, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he or she is placing another person in imminent danger of death or serious bodily injury shall upon conviction be subject to a fine of not

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more than \$250,000 or by imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in Section 309(c)(3)(B)(iii) of the Act, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.

- (d) *False Statement.* The CWA 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. The Act further 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 non-compliance 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.
- (2) *Civil Penalties.* The CWA provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed the maximum amounts authorized by Section 309(d) of the Act, the 2015 amendments to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note, and 40 C.F.R. Part 19. *See* Pub. L.114-74, Section 701 (Nov. 2, 2015); 83 Fed. Reg. 1190 (January 10, 2018).
- (3) *Administrative Penalties.* The CWA provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty as follows:
- (a) *Class I Penalty.* Not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act, the 2015 amendments to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note, and 40 C.F.R. Part 19. *See* Pub. L.114-74, Section 701 (Nov. 2, 2015); 83 Fed. Reg. 1190 (January 10, 2018).
- (b) *Class II Penalty.* Not to exceed the maximum amounts authorized by Section 309(g)(2)(B) of the Act the 2015 amendments to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note, and 40 C.F.R. Part 19. *See* Pub. L.114-74, Section 701 (Nov. 2, 2015); 83 Fed. Reg. 1190 (January 10, 2018).

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2. 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.

3. 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.

4. 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 responsibilities, liabilities or penalties to which the Permittee is or may be subject under Section 311 of the CWA, or Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

5. Property Rights

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

6. Confidentiality of Information

- a. In accordance with 40 C.F.R. Part 2, any information submitted to EPA pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words “confidential business information” on each page containing such information. If no claim is made at the time of submission, EPA may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40 C.F.R. Part 2 (Public Information).
- b. Claims of confidentiality for the following information will be denied:
  - (1) The name and address of any permit applicant or Permittee;
  - (2) Permit applications, permits, and effluent data.
- c. Information required by NPDES application forms provided by the Director under 40 C.F.R. § 122.21 may not be claimed confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

7. 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. The Permittee shall

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submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Director. (The Director shall not grant permission for applications to be submitted later than the expiration date of the existing permit.)

8. State Authorities

Nothing in Parts 122, 123, or 124 precludes more stringent State regulation of any activity covered by the regulations in 40 C.F.R. Parts 122, 123, and 124, whether or not under an approved State program.

9. Other Laws

The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.

B. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. Proper Operation and Maintenance

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

2. Need to Halt or Reduce 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.

3. 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.

4. Bypass

a. Definitions

- (1) *Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.
- (2) *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

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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 (c) and (d) of this Section.

c. Notice

(1) *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. As of December 21, 2020 all notices submitted in compliance with this Section must be submitted electronically by the Permittee to the Director or initial recipient, as defined in 40 C.F.R. § 127.2(b), in compliance with this Section and 40 C.F.R. Part 3 (including, in all cases, Subpart D to Part 3), § 122.22, and 40 C.F.R. Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, Permittees may be required to report electronically if specified by a particular permit or if required to do so by state law.

(2) *Unanticipated bypass.* The Permittee shall submit notice of an unanticipated bypass as required in paragraph D.1.e. of this part (24-hour notice). As of December 21, 2020 all notices submitted in compliance with this Section must be submitted electronically by the Permittee to the Director or initial recipient, as defined in 40 C.F.R. § 127.2(b), in compliance with this Section and 40 C.F.R. Part 3 (including, in all cases, Subpart D to Part 3), § 122.22, and 40 C.F.R. Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, Permittees may be required to report electronically if specified by a particular permit or required to do so by law.

d. *Prohibition of bypass.*

- (1) Bypass is prohibited, and the Director 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 preventative maintenance; and
  - (c) The Permittee submitted notices as required under paragraph 4.c of this Section.

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- (2) 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 4.d of this Section.

5. Upset

- a. *Definition.* *Upset* means an exceptional incident in which there is an 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 B.5.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:
  - (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
  - (2) The permitted facility was at the time being properly operated; and
  - (3) The permittee submitted notice of the upset as required in paragraph D.12.b.e (24-hour notice).
  - (4) The permittee complied with any remedial measures required under B.3. above.
- d. *Burden of proof.* In any enforcement proceeding the Permittee seeking to establish the occurrence of an upset has the burden of proof.

C. MONITORING REQUIREMENTS

1. 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 5 years (or longer as required by 40 C.F.R. § 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.

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- c. Records of monitoring information shall include:
  - (1) The date, exact place, and time of sampling or measurements;
  - (2) The individual(s) who performed the sampling or measurements;
  - (3) The date(s) analyses were performed;
  - (4) The individual(s) who performed the analyses;
  - (5) The analytical techniques or methods used; and
  - (6) The results of such analyses.
- d. Monitoring must be conducted according to test procedures approved under 40 C.F.R. § 136 unless another method is required under 40 C.F.R. Subchapters N or O.
- e. 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.

2. 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.

D. REPORTING REQUIREMENTS

1. Reporting Requirements

- a. *Planned Changes*. 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:
  - (1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 C.F.R. § 122.29(b); or

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- (2) 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 at 40 C.F.R. § 122.42(a)(1).
  - (3) 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.
- 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 the Clean Water Act. *See* 40 C.F.R. § 122.61; in some cases, modification or revocation and reissuance is mandatory.
- d. *Monitoring reports.* Monitoring results shall be reported at the intervals specified elsewhere in this permit.
- (1) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices. As of December 21, 2016 all reports and forms submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient, as defined in 40 C.F.R. § 127.2(b), in compliance with this Section and 40 C.F.R. Part 3 (including, in all cases, Subpart D to part 3), § 122.22, and 40 C.F.R. Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, permittees may be required to report electronically if specified by a particular permit or if required to do so by State law.
  - (2) If the Permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 C.F.R. § 136, or another method required for an industry-specific waste stream under 40 C.F.R. Subchapters N or O, 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.
  - (3) Calculations for all limitations which require averaging or measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.

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e. *Twenty-four hour reporting.*

- (1) The Permittee shall report any noncompliance which may endanger 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 report shall also be provided within 5 days of the time the Permittee becomes aware of the circumstances. The written report 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. For noncompliance events related to combined sewer overflows, sanitary sewer overflows, or bypass events, these reports must include the data described above (with the exception of time of discovery) as well as the type of event (combined sewer overflows, sanitary sewer overflows, or bypass events), type of sewer overflow structure (e.g., manhole, combined sewer overflow outfall), discharge volumes untreated by the treatment works treating domestic sewage, types of human health and environmental impacts of the sewer overflow event, and whether the noncompliance was related to wet weather. As of December 21, 2020 all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the Permittee to the Director or initial recipient, as defined in 40 C.F.R. § 127.2(b), in compliance with this Section and 40 C.F.R. Part 3 (including, in all cases Subpart D to Part 3), § 122.22, and 40 C.F.R. Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, Permittees may be required to electronically submit reports related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section by a particular permit or if required to do so by state law. The Director may also require Permittees to electronically submit reports not related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section.
- (2) 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 the permit. *See* 40 C.F.R. § 122.41(g).
  - (b) Any upset which exceeds any effluent limitation in the 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. *See* 40 C.F.R. § 122.44(g).
- (3) The Director may waive the written report on a case-by-case basis for reports under paragraph D.1.e. of this Section if the oral report has been received within 24 hours.

- f. *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.

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- g. *Other noncompliance.* The Permittee shall report all instances of noncompliance not reported under paragraphs D.1.d., D.1.e., and D.1.f. of this Section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph D.1.e. of this Section. For noncompliance events related to combined sewer overflows, sanitary sewer overflows, or bypass events, these reports shall contain the information described in paragraph D.1.e. and the applicable required data in Appendix A to 40 C.F.R. Part 127. As of December 21, 2020 all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the Permittee to the Director or initial recipient, as defined in 40 C.F.R. § 127.2(b), in compliance with this Section and 40 C.F.R. Part 3 (including, in all cases, Subpart D to Part 3), §122.22, and 40 C.F.R. Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, Permittees may be required to electronically submit reports related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section by a particular permit or if required to do so by state law. The Director may also require Permittees to electronically submit reports not related to combined sewer overflows, sanitary sewer overflows, or bypass events under this Section.
- h. *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.
- i. *Identification of the initial recipient for NPDES electronic reporting data.* The owner, operator, or the duly authorized representative of an NPDES-regulated entity is required to electronically submit the required NPDES information (as specified in Appendix A to 40 C.F.R. Part 127) to the appropriate initial recipient, as determined by EPA, and as defined in 40 C.F.R. § 127.2(b). EPA will identify and publish the list of initial recipients on its Web site and in the FEDERAL REGISTER, by state and by NPDES data group (see 40 C.F.R. § 127.2(c) of this Chapter). EPA will update and maintain this listing.

2. Signatory Requirement

- a. All applications, reports, or information submitted to the Director shall be signed and certified. *See* 40 C.F.R. §122.22.
- b. 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 non-compliance 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.

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3. Availability of Reports

Except for data determined to be confidential under paragraph A.8. above, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the State water pollution control agency and the Director. As required by the CWA, effluent data shall not be considered confidential. Knowingly making any false statements on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the CWA.

E. DEFINITIONS AND ABBREVIATIONS

1. General Definitions

For more definitions related to sludge use and disposal requirements, see EPA Region 1's NPDES Permit Sludge Compliance Guidance document (4 November 1999, modified to add regulatory definitions, April 2018).

*Administrator* means the Administrator of the United States Environmental Protection Agency, or an authorized representative.

*Applicable standards and limitations* means all, State, interstate, and federal standards and limitations to which a "discharge," a "sewage sludge use or disposal practice," or a related activity is subject under the CWA, including "effluent limitations," water quality standards, standards of performance, toxic effluent standards or prohibitions, "best management practices," pretreatment standards, and "standards for sewage sludge use or disposal" under Sections 301, 302, 303, 304, 306, 307, 308, 403 and 405 of the CWA.

*Application* means the EPA standard national forms for applying for a permit, including any additions, revisions, or modifications to the forms; or forms approved by EPA for use in "approved States," including any approved modifications or revisions.

*Approved program* or *approved State* means a State or interstate program which has been approved or authorized by EPA under Part 123.

*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.

*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.

*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.

*Bypass* see B.4.a.1 above.

*C-NOEC* or "*Chronic (Long-term Exposure Test) – No Observed Effect Concentration*" means the highest tested concentration of an effluent or a toxicant at which no adverse effects are observed on the aquatic test organisms at a specified time of observation.

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*Class I sludge management facility* is any publicly owned treatment works (POTW), as defined in 40 C.F.R. § 501.2, required to have an approved pretreatment program under 40 C.F.R. § 403.8 (a) (including any POTW located in a State that has elected to assume local program responsibilities pursuant to 40 C.F.R. § 403.10 (e)) and any treatment works treating domestic sewage, as defined in 40 C.F.R. § 122.2, classified as a Class I sludge management facility by the EPA Regional Administrator, or, in the case of approved State programs, the Regional Administrator in conjunction with the State Director, because of the potential for its sewage sludge use or disposal practice to affect public health and the environment adversely.

*Contiguous zone* means the entire zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone.

*Continuous discharge* means a “discharge” which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or similar activities.

*CWA* means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483 and Public Law 97-117, 33 U.S.C. 1251 *et seq.*

*CWA and regulations* means the Clean Water Act (CWA) and applicable regulations promulgated thereunder. In the case of an approved State program, it includes State program requirements.

*Daily Discharge* means the “discharge of a pollutant” measured during a calendar day or any other 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 measurements, the “daily discharge” is calculated as the average measurement of the pollutant over the day.

*Direct Discharge* means the “discharge of a pollutant.”

*Director* means the Regional Administrator or an authorized representative. In the case of a permit also issued under Massachusetts’ authority, it also refers to the Director of the Division of Watershed Management, Department of Environmental Protection, Commonwealth of Massachusetts.

*Discharge*

- (a) When used without qualification, *discharge* means the “discharge of a pollutant.”
- (b) As used in the definitions for “interference” and “pass through,” *discharge* means the introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c) or (d) of the Act.

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*Discharge Monitoring Report (“DMR”)* means the EPA uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees. DMRs must be used by “approved States” as well as by EPA. EPA will supply DMRs to any approved State upon request. The EPA national forms may be modified to substitute the State Agency name, address, logo, and other similar information, as appropriate, in place of EPA’s.

*Discharge of a pollutant* means:

- (a) Any addition of any “pollutant” or combination of pollutants to “waters of the United States” from any “point source,” or
- (b) Any addition of any pollutant or combination of pollutants to the waters of the “contiguous zone” or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any “indirect discharger.”

*Effluent limitation* means any restriction imposed by the Director on quantities, discharge rates, and concentrations of “pollutants” which are “discharged” from “point sources” into “waters of the United States,” the waters of the “contiguous zone,” or the ocean.

*Effluent limitation guidelines* means a regulation published by the Administrator under section 304(b) of CWA to adopt or revise “effluent limitations.”

*Environmental Protection Agency (“EPA”)* means the United States Environmental Protection Agency.

*Grab Sample* means an individual sample collected in a period of less than 15 minutes.

*Hazardous substance* means any substance designated under 40 C.F.R. Part 116 pursuant to Section 311 of CWA.

*Incineration* is the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device.

*Indirect discharger* means a nondomestic discharger introducing “pollutants” to a “publicly owned treatment works.”

*Interference* means a discharge (see definition above) which, alone or in conjunction with a discharge or discharges from other sources, both:

- (a) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

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

*Landfill* means an area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well, or waste pile.

*Land application* is the spraying or spreading of sewage sludge onto the land surface; the injection of sewage sludge below the land surface; or the incorporation of sewage sludge into the soil so that the sewage sludge can either condition the soil or fertilize crops or vegetation grown in the soil.

*Land application unit* means an area where wastes are applied onto or incorporated into the soil surface (excluding manure spreading operations) for agricultural purposes or for treatment and disposal.

*LC<sub>50</sub>* means the concentration of a sample that causes mortality of 50% of the test population at a specific time of observation. The *LC<sub>50</sub>* = 100% is defined as a sample of undiluted effluent.

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

*Municipal solid waste landfill (MSWLF) unit* means a discrete area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 C.F.R. § 257.2. A MSWLF unit also may receive other types of RCRA Subtitle D wastes, such as commercial solid waste, nonhazardous sludge, very small quantity generator waste and industrial solid waste. Such a landfill may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit or a lateral expansion. A construction and demolition landfill that receives residential lead-based paint waste and does not receive any other household waste is not a MSWLF unit.

*Municipality*

- (a) When used without qualification *municipality* means a city, town, borough, county, parish, district, association, or other public body created by or under State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of CWA.
- (b) As related to sludge use and disposal, *municipality* means a city, town, borough, county, parish, district, association, or other public body (including an intermunicipal Agency of two or more of the foregoing entities) created by or under State law; an Indian tribe or an authorized Indian tribal organization having jurisdiction over sewage sludge management; or a designated and approved management Agency under Section 208 of

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the CWA, as amended. The definition includes a special district created under State law, such as a water district, sewer district, sanitary district, utility district, drainage district, or similar entity, or an integrated waste management facility as defined in Section 201 (e) of the CWA, as amended, that has as one of its principal responsibilities the treatment, transport, use or disposal of sewage sludge.

*National Pollutant Discharge Elimination System* means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 402, 318, and 405 of the CWA. The term includes an “approved program.”

*New Discharger* means any building, structure, facility, or installation:

- (a) From which there is or may be a “discharge of pollutants:”
- (b) That did not commence the “discharge of pollutants” at a particular “site” prior to August 13, 1979;
- (c) Which is not a “new source:” and
- (d) Which has never received a finally effective NPDES permit for discharges at that “site.”

This definition includes an “indirect discharger” which commences discharging into “waters of the United States” after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a “site” for which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling rig that commences the discharge of pollutants after August 13, 1979, at a “site” under EPA’s permitting jurisdiction for which it is not covered by an individual or general permit and which is located in an area determined by the Director in the issuance of a final permit to be in an area of biological concern. In determining whether an area is an area of biological concern, the Director shall consider the factors specified in 40 C.F.R. §§ 125.122 (a) (1) through (10).

An offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig will be considered a “new discharger” only for the duration of its discharge in an area of biological concern.

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

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

*NPDES* means “National Pollutant Discharge Elimination System.”

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*Owner or operator* means the owner or operator of any “facility or activity” subject to regulation under the NPDES programs.

*Pass through* means a Discharge (see definition above) which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW’s NPDES permit (including an increase in the magnitude or duration of a violation).

*Pathogenic organisms* are disease-causing organisms. These include, but are not limited to, certain bacteria, protozoa, viruses, and viable helminth ova.

*Permit* means an authorization, license, or equivalent control document issued by EPA or an “approved State” to implement the requirements of Parts 122, 123, and 124. “Permit” includes an NPDES “general permit” (40 C.F.R § 122.28). Permit does not include any permit which has not yet been the subject of final agency action, such as a “draft permit” or “proposed permit.”

*Person* means an individual, association, partnership, corporation, municipality, State or Federal agency, or an agent or employee thereof.

*Person who prepares sewage sludge* is either the person who generates sewage sludge during the treatment of domestic sewage in a treatment works or the person who derives a material from sewage sludge.

*pH* means the logarithm of the reciprocal of the hydrogen ion concentration measured at 25° Centigrade or measured at another temperature and then converted to an equivalent value at 25° Centigrade.

*Point Source* means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff (see 40 C.F.R. § 122.3).

*Pollutant* means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

- (a) Sewage from vessels; or
- (b) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well is used either to facilitate production or for disposal purposes is approved by the authority of the State in which the well is located, and if the State determines that the injection or disposal will not result in the degradation of ground or surface water resources.

*Primary industry category* means any industry category listed in the NRDC settlement agreement (*Natural Resources Defense Council et al. v. Train*, 8 E.R.C. 2120 (D.D.C. 1976), *modified* 12 E.R.C. 1833 (D. D.C. 1979)); also listed in Appendix A of 40 C.F.R. Part 122.

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*Privately owned treatment works* means any device or system which is (a) used to treat wastes from any facility whose operator is not the operator of the treatment works and (b) not a “POTW.”

*Process wastewater* means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

*Publicly owned treatment works (POTW)* means a treatment works as defined by Section 212 of the Act, which is owned by a State or municipality (as defined by Section 504(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant. The term also means the municipality as defined in Section 502(4) of the Act, which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works.

*Regional Administrator* means the Regional Administrator, EPA, Region I, Boston, Massachusetts.

*Secondary industry category* means any industry which is not a “primary industry category.”

*Septage* means the liquid and solid material pumped from a septic tank, cesspool, or similar domestic sewage treatment system, or a holding tank when the system is cleaned or maintained.

*Sewage Sludge* means any solid, semi-solid, or liquid residue removed during the treatment of municipal waste water or domestic sewage. Sewage sludge includes, but is not limited to, solids removed during primary, secondary, or advanced waste water treatment, scum, septage, portable toilet pumpings, type III marine sanitation device pumpings (33 C.F.R. Part 159), and sewage sludge products. Sewage sludge does not include grit or screenings, or ash generated during the incineration of sewage sludge.

*Sewage sludge incinerator* is an enclosed device in which only sewage sludge and auxiliary fuel are fired.

*Sewage sludge unit* is land on which only sewage sludge is placed for final disposal. This does not include land on which sewage sludge is either stored or treated. Land does not include waters of the United States, as defined in 40 C.F.R. § 122.2.

*Sewage sludge use or disposal practice* means the collection, storage, treatment, transportation, processing, monitoring, use, or disposal of sewage sludge.

*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 substance 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 storm water discharges.

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*Significant spills* includes, but is not limited to, releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the CWA (see 40 C.F.R. §§ 110.10 and 117.21) or Section 102 of CERCLA (see 40 C.F.R. § 302.4).

*Sludge-only facility* means any “treatment works treating domestic sewage” whose methods of sewage sludge use or disposal are subject to regulations promulgated pursuant to section 405(d) of the CWA, and is required to obtain a permit under 40 C.F.R. § 122.1(b)(2).

*State* means any of the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or an Indian Tribe as defined in the regulations which meets the requirements of 40 C.F.R. § 123.31.

*Store or storage of sewage sludge* is the placement of sewage sludge on land on which the sewage sludge remains for two years or less. This does not include the placement of sewage sludge on land for treatment.

*Storm water* means storm water runoff, snow melt runoff, and surface runoff and drainage.

*Storm water discharge associated with industrial activity* means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant.

*Surface disposal site* is an area of land that contains one or more active sewage sludge units

*Toxic pollutant* means any pollutant listed as toxic under Section 307(a)(1) or, in the case of “sludge use or disposal practices,” any pollutant identified in regulations implementing Section 405(d) of the CWA.

*Treatment works treating domestic sewage* means a POTW or any other sewage sludge or waste water treatment devices or systems, regardless of ownership (including federal facilities), used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge. This definition does not include septic tanks or similar devices.

For purposes of this definition, “domestic sewage” includes waste and waste water from humans or household operations that are discharged to or otherwise enter a treatment works. In States where there is no approved State sludge management program under Section 405(f) of the CWA, the Director may designate any person subject to the standards for sewage sludge use and disposal in 40 C.F.R. Part 503 as a “treatment works treating domestic sewage,” where he or she finds that there is a potential for adverse effects on public health and the environment from poor sludge quality or poor sludge handling, use or disposal practices, or where he or she finds that such designation is necessary to ensure that such person is in compliance with 40 C.F.R. Part 503.

*Upset* see B.5.a. above.

*Vector attraction* is the characteristic of sewage sludge that attracts rodents, flies, mosquitoes, or other organisms capable of transporting infectious agents.

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*Waste pile* or *pile* means any non-containerized accumulation of solid, non-flowing waste that is used for treatment or storage.

*Waters of the United States* or *waters of the U.S.* means:

- (a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- (b) All interstate waters, including interstate “wetlands;”
- (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, “wetlands”, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
  - (1) Which are or could be used by interstate or foreign travelers for recreational or other purpose;
  - (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
  - (3) Which are used or could be used for industrial purposes by industries in interstate commerce;
- (d) All impoundments of waters otherwise defined as waters of the United States under this definition;
- (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition;
- (f) The territorial sea; and
- (g) “Wetlands” adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 C.F.R. § 423.11(m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area’s status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

*Wetlands* means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

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*Whole Effluent Toxicity (WET)* means the aggregate toxic effect of an effluent measured directly by a toxicity test.

*Zone of Initial Dilution (ZID)* means the region of initial mixing surrounding or adjacent to the end of the outfall pipe or diffuser ports, provided that the ZID may not be larger than allowed by mixing zone restrictions in applicable water quality standards.

2. Commonly Used Abbreviations

BOD	Five-day biochemical oxygen demand unless otherwise specified
CBOD	Carbonaceous BOD
CFS	Cubic feet per second
COD	Chemical oxygen demand
Chlorine	
Cl <sub>2</sub>	Total residual chlorine
TRC	Total residual chlorine which is a combination of free available chlorine (FAC, see below) and combined chlorine (chloramines, etc.)
TRO	Total residual chlorine in marine waters where halogen compounds are present
FAC	Free available chlorine (aqueous molecular chlorine, hypochlorous acid, and hypochlorite ion)
Coliform	
Coliform, Fecal	Total fecal coliform bacteria
Coliform, Total	Total coliform bacteria
Cont.	Continuous recording of the parameter being monitored, i.e. flow, temperature, pH, etc.
Cu. M/day or M <sup>3</sup> /day	Cubic meters per day
DO	Dissolved oxygen
kg/day	Kilograms per day
lbs/day	Pounds per day
mg/L	Milligram(s) per liter
mL/L	Milliliters per liter

APPENDIX 6  
NPDES PART II STANDARD CONDITIONS (April 26, 2018)

MGD	Million gallons per day
Nitrogen	
Total N	Total nitrogen
NH <sub>3</sub> -N	Ammonia nitrogen as nitrogen
NO <sub>3</sub> -N	Nitrate as nitrogen
NO <sub>2</sub> -N	Nitrite as nitrogen
NO <sub>3</sub> -NO <sub>2</sub>	Combined nitrate and nitrite nitrogen as nitrogen
TKN	Total Kjeldahl nitrogen as nitrogen
Oil & Grease	Freon extractable material
PCB	Polychlorinated biphenyl
Surfactant	Surface-active agent
Temp. °C	Temperature in degrees Centigrade
Temp. °F	Temperature in degrees Fahrenheit
TOC	Total organic carbon
Total P	Total phosphorus
TSS or NFR	Total suspended solids or total nonfilterable residue
Turb. or Turbidity	Turbidity measured by the Nephelometric Method (NTU)
µg/L	Microgram(s) per liter
WET	“Whole effluent toxicity”
ZID	Zone of Initial Dilution

**APPENDIX 7**  
**BEST MANAGEMENT PRACTICES (BMP) PLAN**

Existing permittees shall continue to implement and new permittees shall develop and implement a best management practices (BMP) plan for their hydroelectric generating facility. The BMP plan shall be prepared in accordance with good engineering practices.

A permittee with flood/high water discharges authorized under Parts 1.5 and 2.5 of this permit shall also develop and implement specific flood/high water practices and procedures to eliminate pollutants from areas of the facility that would be inundated during flood/high water events and that would reasonably be expected to add significant amounts of pollutants to the identified flood/high water discharges from the facility. Areas of the facility inundated by flood or high waters should be maintained to prevent pollutants from entering the surrounding surface waters during flood or high water events. These specific flood/high water practices and procedures shall be described and included in a flood/high water BMP plan for the facility following the appropriate items in Part D below. The permittee must also implement the provisions of this flood/high water BMP plan required under this Part as a condition of this permit.

**A. Deadlines for BMP Plan Preparation and Compliance**

1. New permittees shall develop and implement BMP plans, and except as provided elsewhere in this permit, shall provide for compliance with the terms of the permit and the BMP plan, no later than 180 days after the permit authorization date. Facilities with an existing BMP plan shall determine whether their plan requires revising and if it so determines, the BMP plan shall be revised within 90 days after the permit authorization date.
2. Upon a showing of good cause, the Director of EPA may establish, in writing, a later date for preparing and complying with a new or revised BMP plan.

**B. Signature and BMP Plan Review**

1. The BMP plan shall be signed in accordance with Appendix 6.D.2. (Signatory Requirement) and be retained on-site at the facility in accordance with Appendix 6.C.1.b. (Monitoring and Records) of this permit.
2. The permittee shall make its facility's BMP plan available upon request to the Director of EPA, or an authorized representative, as well as to the Commissioner of the MassDEP or NHDES, or their representatives.
3. The Director of EPA or the State Commissioner, or an authorized representative of either, may notify the permittee at any time that the BMP plan does not meet one or more of the minimum requirements of this Part. Such notification shall identify those provisions of the permit which are not being met by the BMP plan and identify which provisions of the BMP plan require modifications in order to meet the minimum requirements of this Part. Within 60 days of such notification from the Director, (or as otherwise provided by the

Director), or an authorized representative, the permittee shall make the required changes to the BMP plan and shall submit to the Director a written certification that the requested changes have been made.

C. Keeping BMP Plans Current

The permittee shall amend the BMP plan whenever there is a change in design, construction, operation, or maintenance procedure at the facility, which has a significant effect on the potential for the discharge of pollutants to the waters of the United States or if the BMP plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified under Section D.2. (Description of Potential Pollutant Sources) or in otherwise achieving the general objectives of controlling pollutants in the internal facility drainage water discharges. Amendments to the BMP plan may be reviewed as described in Section B.

D. Contents of BMP Plan

The BMP plan shall include the following items, at a minimum:

1. Pollution Prevention Team - The BMP plan shall identify a specific individual or individuals within the facility organization as members of the Pollution Prevention Team that are responsible for developing the BMP plan and for assisting the facility manager in the implementation, maintenance, and revision of this plan. The responsibilities of each team member must be listed. The activities and responsibilities of the Pollution Prevention Team shall address all aspects of the facility's BMP plan.
2. Description of Potential Pollutant Sources - The BMP plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to internal facility drainage water discharges. The BMP plan shall identify all activities and significant materials which may be potentially significant pollutant sources. The BMP plan shall include, at a minimum:
  - a. Drainage
    - (1) A plot of the floor drainage of the facility's interior including sumps and oil/water (O/W) separators and locations where major spills or leaks identified under Section D.2.c. (Spills and Leaks) have occurred.

(2) For internal facility drainage water discharges that could reasonably be expected to contain significant amounts of pollutants, a prediction of their direction of flow, and an identification of the types of pollutants which are likely to be present in these discharges. Factors to consider include the toxicity of pollutants; the quantity of pollutants used; the likelihood of contact with internal facility drainage water discharges; and the history of significant leaks or spills.

- b. Inventory of Exposed Materials - The BMP plan shall include an inventory of the types of materials handled at the facility. Such inventory shall include a narrative description of significant materials that are or have been handled, treated, stored or disposed in a manner to allow exposure to internal facility drainage water between the time of three years before the active date of permit coverage and the present; method and location of on-site material storage or disposal; materials management practices employed to minimize contact of materials with internal facility drainage water between the time of three years before the active date of permit coverage and the present; the location and description of existing structural and non-structural control measures to reduce pollutants in the internal facility drainage water discharges; and a description of any treatment that these discharges receive.
  - c. Spills and Leaks - A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred, during the three -year period prior to the active date of permit coverage, at areas that drain to an outfall associated with any discharge authorized by this permit. This list shall be updated as appropriate during the term of the permit.
  - d. Sampling Data - A summary of sampling data collected during the term of this permit for any permitted outfalls or internal locations.
  - e. Risk Identification and Summary of Potential Pollutant Sources - A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; maintenance programs; and on-site waste disposal practices. The description shall specifically list any significant potential source of pollutants at the facility and for each potential source, any pollutant or pollutant parameter (e.g. biochemical oxygen demand, etc.) of concern shall be identified.
3. Measures and Controls - The permittee shall develop a description of internal facility drainage water management controls appropriate for the facility and implement such controls. The appropriateness and priorities of controls in a BMP plan shall reflect identified potential sources of pollutants at the facility. The description of internal facility drainage water management controls shall address the following minimum components, including a schedule for implementing such controls:
- a. Good housekeeping - Good housekeeping requires that all areas of the facility which may contribute pollutants to internal facility drainage water discharges be maintained to be clean and orderly.

- b. Preventive Maintenance - A preventive maintenance program shall involve at least annual inspection and maintenance of internal facility drainage water management devices (e.g., cleaning oil/water separators, pits, sumps) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters and ensuring appropriate maintenance of such equipment and systems.
- c. Oil/Water Separators - Proper operation of oil/water separators shall include inspections at least annually or at appropriate intervals as determined by the manufacturer's recommendations, by regularly scheduled maintenance, and by review of sampling data. Removal and proper disposal of oily and solid waste shall be conducted as necessary to avoid carryover of these materials to the receiving water. Detailed operating procedures for oil/water separators shall be maintained to ensure the maximum design flow rate of the oil/water separators will not be exceeded.
- d. Spill Prevention and Response Procedures - Areas where potential spills, which can contribute pollutants to internal facility drainage water discharges, can occur and their accompanying drainage points shall be identified clearly in the BMP plan. Procedures shall be developed and implemented to eliminate and/or minimize the opportunity for oil leakage to enter the drainage system at the facility. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment in the BMP plan should be considered and implemented. Procedures for cleaning up spills shall be identified in the BMP plan and made available to the appropriate personnel. The necessary equipment to implement a clean-up must be available to personnel.
- e. Inspections - Facility personnel that are familiar with the facility's BMP plan shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the BMP plan. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to any findings of such inspections. Records of inspection shall be maintained.
- f. Employee Training - Employee training programs shall inform personnel responsible for implementing activities identified in the BMP plan or otherwise responsible for internal facility drainage water management, at all levels of responsibility, of the components and goals of the BMP plan. Training should address topics such as spill response, good housekeeping and material management practices. The BMP plan shall identify periodic dates for such training, which shall be conducted at least once per year.
- g. Record-keeping and Internal Reporting Procedures - A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of internal facility drainage water discharges shall be included in the BMP plan required under this Part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the BMP plan.

- h. Record-keeping and Reporting Procedures - An Annual Report summarizing the scope of permit compliance evaluations(s), personnel making the evaluations, the dates(s) of the evaluations, major observations relating to the implementation of the BMP plan and actions taken shall be prepared and retained as part of the BMP plan for at least three years after the date of the evaluations(s). A permit compliance evaluation shall be undertaken at least annually and involve the permittee's determination that the plan is current, that it includes all of the elements of Parts D.1 and D.2, and that all of the measures and controls in Part D.3 are being implemented.

These Annual Reports shall be retained on-site at the hydroelectric generating facility in accordance with Appendix 6.C.1.b. (Monitoring and Records) of this permit. The Annual Report shall identify any incidents of noncompliance with the permit or the BMP plan (such as oil spills, or other discharges of toxic or hazardous pollutants to the receiving waters). Where an Annual Report does not identify any incidents of noncompliance with the permit or the BMP plan, the Annual Report shall contain a certification that the facility is in compliance with the BMP plan and this permit. The Annual Report shall be signed in accordance with Appendix 6.D.2 (Signatory Requirements) of this permit.

4. Trash Racks or Intake Screens - The permittee shall develop and implement procedures to remove solid materials, with the exception of naturally occurring materials, from the trash racks or intake screens to the extent practicable in order to avoid releasing these materials back to the receiving water. Provisions shall be included and implemented to provide disposal for the removed solid materials in accordance with the Massachusetts Solid Waste Management Facility Regulations at 310 CMR 19.000 or the New Hampshire Solid Waste Rules at Env-Sw 100-2100, as appropriate. Inspections and maintenance of the trash racks and intake screens shall be scheduled and documented with the record-keeping included with the BMP plan and summarized in the Annual Report required under Section D.3.h. The permittee shall amend the removal procedures whenever there is a change in the design, construction, operation, or maintenance which has a significant effect on the deposition of solid material on the trash racks or intake screens.

The trash removal activities are to be performed where it is reasonable and feasible at the facility. These trash removal procedures are to include appropriate safety practices since the permittee is responsible for employee safety at the facility.

5. Backwash strainer - For those facilities with a backwash strainer on the cooling water intake line, the permittee shall develop and implement inspection and maintenance procedures specified in the BMP plan, at least once per quarter, to insure proper operation of the backwash strainer. Qualified facility personnel shall be identified to inspect this equipment. Records of the inspections and maintenance shall be maintained and summarized in the Annual Report required under Section D.3.h of this Appendix.

#### E. Optional Representative Outfall Sampling

A facility may contain two or more outfalls with substantially identical discharges. The permittee may sample a representative outfall in accordance with Parts 1.7.a and 2.7.a of this permit, provided the BMP plan includes the following items:

1. Identify Representative Outfalls - The permittee shall prepare a description of the locations of outfalls with substantially identical discharges at the facility, describe the operations contributing flow, explain why the discharges are expected to be substantially identical, and identify the selected representative outfall for effluent sampling under this permit. The other outfalls with discharges covered by the representative outfall sampling results shall be listed. The outfalls should be grouped and numbered using the system established in the Notice of Intent for the facility.
2. Amend Representative Outfall Information -The permittee shall amend the representative outfall information whenever such designated outfall is eliminated or ceases to be representative.

## **Appendix 8 – Notice of Change (NOC) Instructions and Suggested Format**

### **I. Notice of Change Instructions**

Permittees covered under the Hydroelectric Facilities General Permit (HYDROGP) may provide notification of or request a change to certain conditions of their authorization to discharge without submission of a new NOI. Unless otherwise noted, a requested change does not become effective until an operator receives written approval from EPA. A NOC must be submitted using either the suggested format provided with this appendix or in a form of correspondence containing all of the information required in A through C, below. If using the suggested format electronically, the signature page must be printed, signed and either scanned and attached to the electronic submittal or mailed in hard copy to the addresses listed in D, below.

At a minimum, the operator must provide the following information:

#### **A. General site information**

1. NPDES permit number assigned by EPA.
2. Site name and location, including street address.
3. Site **owner's** name, mailing address, telephone number(s), and email address. Indicate an individual that serves as the point of contact.
4. Site **operator's** name, mailing address, telephone number(s), and email address, if different from the site owner's information. Indicate an individual that serves as the point of contact.
5. Discharge identification, such as the outfall number. Include the discharge location (i.e., longitude and latitude), and receiving water(s).

#### **B. Type of change(s) requested**

1. Indicate the type of eligible change being requested or the notification being provided. Change requests and notifications that should be submitted using a NOC are for the following circumstances:
  - a. Request for reduction in monitoring requirements for the parameter Total Suspended Solids (TSS): Monitoring requirements for TSS may be reduced or eliminated upon demonstration of compliance if the eligibility requirements for reduction are met. Written approval by EPA is required for this change to be effective. Prior to receiving written approval, the operator must continue to monitor this parameter as

required at the frequency specified in this general permit. This request requires supporting rationale and monitoring data as follows:

To be eligible for a reduction in effluent TSS monitoring for a particular outfall, the operator must provide monitoring data for such outfall for a minimum of four (4) consecutive samples for TSS which are below 30 mg/l. EPA will consider a demonstration, based on additional ambient monitoring, that TSS values greater than or equal to 30 mg/L are due to the natural conditions of the river water and not caused by activities at the Facility.

- b. Request for a change in pH range for sites in Massachusetts: A NOC must be submitted to request a change in pH range. An operator must request and receive approval from MassDEP for a change in pH range prior to submitting a NOC to EPA. Supporting documentation from the State must be provided with the NOC. Written approval by EPA is required for this change to be effective.
- c. Request to discharge new or substitute chemical(s) and/or additive(s): A NOC must be submitted when an operator intends to discharge a chemical or additive that is allowed by the general permit and that was not disclosed in the NOI submitted for a facility. Written approval by EPA is required for this change to be effective. For each chemical that is requested to be used by the permittee, the following data must be supplied with the NOC:
  - (1) Name and manufacturer,
  - (2) Maximum and average daily quantity that is proposed to be used on a monthly basis as well as the maximum and average daily expected concentrations (mg/l) in the discharge, and
  - (3) Any aquatic toxicity values or other toxicological information from the vendor or other source.
- d. Notification of change to administrative information: This includes but is not limited to: a change in the address for an owner or operator; a change in contact information for an owner or operator; and a change in ownership, so long as the operator authorized to discharge under this general permit remains unchanged. A requested change to administrative information is automatic unless EPA notifies the operator otherwise. Examples of when EPA is likely to provide such notification is when EPA intends to revoke and reissue coverage under this general permit or intends to issue an individual permit. For a change in ownership, the new owner must submit:
  - (1) Written notification to EPA no more than 30 days following the date of ownership change; and
  - (2) Written notification containing the new ownership information, the specific date for ownership change, and an acknowledgement of permit responsibility,

coverage, and liability by the new owner.

2. Attach a brief narrative statement that describes the change consistent with Part B.1. above. Include any written rationale or supporting documentation for the change as well as any monitoring data, if required.

### **C. Certification requirement**

1. The NOC must be signed in accordance with the signatory requirements of 40 CFR § 122.22 and include the following certification statement:

*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 have no personal knowledge that the information submitted is other than 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.*

2. Notification Requirements

All operators must certify that notification has been provided to MassDEP or NHDES.

### **D. Submission of NOCs**

1. Submit NOCs to EPA electronically at [Hydro.GeneralPermit@epa.gov](mailto:Hydro.GeneralPermit@epa.gov) or, where an operator is able to demonstrate a reasonable basis, such as technical or administrative infeasibility, that precludes submittal in electronic format, in hard copy form to:

U.S. Environmental Protection Agency  
HYDROGP Coordinator  
5 Post Office Square – Mailcode 06-1  
Boston, MA 02109-3912

2. Submit NOCs to the appropriate State

A copy of a NOC submitted to EPA must also be submitted to the appropriate State. For submittal addresses, see Part I.C.2 of Appendix 4 of the HYDROGP. For Massachusetts facilities, NOCs must also be submitted to [MassDEP.NPDES@mass.gov](mailto:MassDEP.NPDES@mass.gov) with the following statement in the subject line: "NOC for HYDROGP" and include facility name.

## II. Suggested Format for the Hydroelectric Facilities General Permit Notice of Change (NOC)

### A. General site information

1. NPDES permit number assigned by EPA:			
2. Name of site:	Site address:		
	Street:		
	City:	State:	Zip:
3. Site owner	Contact Person:		
	Telephone:	Email:	
	Mailing address:		
	Street:		
	City:	State:	Zip:
4. Site operator, if different than owner	Contact Person:		
	Telephone:	Email:	
	Mailing address:		
	Street:		
	City:	State:	Zip:
5. Discharge identification:	Discharge location:	Receiving water(s):	

**B. Type of change(s) requested**

<b>Requested change (check all that apply):</b>	
<input type="checkbox"/>	1. Request for reduction or elimination in monitoring requirements for TSS, based on monitoring data attached in accordance with <b>Part I.B.1.a</b> of the NOC instructions. Written approval by EPA is required for this change to be effective.
<input type="checkbox"/>	2. Request for a change in pH range approved by MassDEP, based on supporting documentation attached in accordance with <b>Part I.B.1.b</b> of the NOC instructions. Written approval by EPA is required for this change to be effective.
<input type="checkbox"/>	3. Request to discharge chemical(s) and/or additive(s) that were not disclosed in the NOI submitted for the site, based on written rationale and/or monitoring data attached in accordance with <b>Part I.B.1.c</b> of the NOC instructions. Written approval by EPA is required for this change to be effective.
<input type="checkbox"/>	4. Change to administrative information. Supporting documentation is attached in accordance with <b>Part I.B.1.d</b> of the NOC instructions.

**C. Certification requirement**

<p><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 have no personal knowledge that the information submitted is other than 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.</i></p>	
Notification provided to the appropriate State, including a copy of this NOC.	Check one: Yes <input type="checkbox"/> No <input type="checkbox"/>
Signature:	Date:
Print Name and Title:	