## CDPS GENERAL PERMIT

# STORMWATER DISCHARGES ASSOCIATED WITH METAL MINING OPERATIONS AND MINE-WASTE REMEDIATION

## AUTHORIZATION TO DISCHARGE UNDER THE

## COLORADO DISCHARGE PERMIT SYSTEM

In compliance with the provisions of the Colorado Water Quality Control Act, (25-8-101 et seq., CRS, 1973 as amended) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.; the "Act"), this permit authorizes the discharge of stormwater associated with metal mining operations, minewaste remediation sites, and some coal mines certified under this permit, from those locations specified throughout the State of Colorado to specified waters of the State. Such discharges shall be in accordance with the conditions of this permit.

This permit specifically authorizes the facility listed on page 1 of this permit to discharge stormwater associated with metal mining operations, mine-waste remediation sites, and some coal mines, as of this date, in accordance with the permit requirements and conditions set forth in Parts I and II hereof. All discharges authorized herein shall be consistent with the terms and conditions of this permit.

This permit and the authorization to discharge shall expire at midnight, **September 30, 2011**.

Issued and Signed this 28<sup>TH</sup> day of August, 2006

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Janet S. Kieler Permits Section Manager Water Quality Control Division

**ISSUED AND SIGNED AUGUST 28, 2006** 

**EFFECTIVE OCTOBER 1, 2006** 

#### PART I

#### A. COVERAGE UNDER THIS PERMIT

## 1. Authority to Discharge

Under this permit, active and inactive metal mining operations, mine-waste remediation projects at inactive mine sites, and coal mines with process water discharge sources which are authorized under individual CDPS permits, where stormwater has come into contact with any overburden, raw material, intermediate products, byproducts, finished products or waste products located at the mining site, are permitted to discharge stormwater associated with those operations into waters of the state of Colorado. The term mining operation includes active and inactive mining activities.

## 2. Industries Covered Under this Permit

## a. Types of Activities Covered by this Permit:

- 1) This permit authorizes all new and existing discharges composed **entirely** of stormwater associated with active and inactive metal mining operations. (See Rationale, Section III for an explanation of exemptions for uncontaminated stormwater and reclaimed mines.)
- 2) This permit authorizes all new and existing discharges composed entirely of stormwater associated with mine-waste remediation projects at the mine-waste site. Separate coverage under this permit is necessary to address stormwater discharges from off-site disposal areas.
- 3) This permit may also authorize existing discharges composed entirely of stormwater from any mining operation that is currently covered by an individual CDPS permit for discharge of process water. See Section IV.C of the Rationale for a discussion of stormwater discharges from coal mines with process water discharge sources which are authorized under individual CDPS permits.

#### b. **Definitions**

- 1) **Stormwater** is precipitation-induced surface runoff.
- 2) **Mining operations** include facilities classified as Standard Industrial Classification Codes 10 through 14 (metal mining), including active or inactive mining activities. This definition includes operations that have temporarily ceased mining and are in "temporary cessation" status with the Colorado Division of Reclamation, Mining, And Safety, or CDRMS (formerly the Division of Minerals and Geology, or DMG).
- 3) **Active metal mining facility:** a place where work or other activity related to the extraction, removal, or recovery of metal ore is being conducted. Mines that are in temporary cessation are considered active.
- 4) **Inactive metal mining facility:** a site or portion of a site where metal mining and/or milling occurred in the past but is no longer actively occurring.
- 5) Mine-waste remediation projects: projects undertaken to reduce or eliminate environmental impacts of mine waste.
- 6) **Mine waste,** for the purposes of this permit, means any mineral material such as overburden, raw materials, intermediate products, byproducts, finished products or waste products, which is or has been disturbed or moved from its naturally occurring location as part of a mineral extraction (mining) activity. Examples of mine waste include: mine tailings, which is ore that has gone through a milling process and then been discarded, and waste rock, which is rock that has been moved from its natural location, but not processed.
- 7) Best Management Practices (BMPs): schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment, operating procedures, and practices to control site runoff, spillage or leaks, waste disposal, or drainage from material storage. BMPs include structural and nonstructural controls.

#### A. COVERAGE UNDER THIS PERMIT (cont.)

- 8) **Operator:** the individual who has day-to-day supervision and control of activities occurring at the mine site.
- 9) **Qualified personnel**, for purposes of site inspections (see Part I.D5) are those who possess the knowledge and skills to assess conditions and activities that could impact stormwater quality at the facility, and who can also evaluate the effectiveness of BMPs selected.
- 10) **Remediation**, as used in this permit, means actions taken to reduce or eliminate the overall adverse environmental impact associated with a pollutant source. The term includes actions such as re-routing of surface flows, re-location or a pollutant source, the addition of pollutant neutralizing or immobilizing substances, capping and re-vegetation.
- 11) **Significant Materials** include but are not limited to: raw materials; fuels; materials such as metallic products; hazardous substances designated under section 101(14) of CERCLA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharge.
- 12) **Vegetative Cover:** the aerial projection of all grasses, forbs, mosses (living or dead) onto the ground.

## 3. **Application, Due Dates**

a. **Application Due Dates**: At least **thirty days** prior to the anticipated date of discharge, the owner (or operator when the owner does not operate the facility) of the facility shall submit an application provided by the Division.

The original completed permit application shall be submitted to:

Colorado Department of Public Health and Environment Water Quality Control Division WQCD-P-B2 4300 Cherry Creek Drive South Denver, Colorado 80246-1530

- b. **Summary of Application:** The application requires, at a minimum, the following information:
  - 1) Name and address of the applicant;
  - 2) Site address and location;
  - 3) Facility contact person, telephone number, and email address (if available);
  - 4) Standard Industrial Classification (SIC) code(s);
  - 5) The size of the mining operation in acres;
  - 6) Status as active, inactive, or in remediation;
  - 7) List of any other environmental permits currently held by the facility;
  - 8) Activities which take place at the site;
  - 9) Receiving waters; and
  - 10) Certification as to the completion of a SWMP.

## 4. Permit Certification Procedures

If this general permit is appropriate, the Division will issue a certification and the applicant will be authorized to discharge stormwater under this general permit.

- a. **Request for Additional Information**: The Division shall have up to **thirty days** after receipt of the above information to request additional data and/or deny the authorization for any particular discharge. Upon receipt of additional information, the Division shall have an additional **fifteen days** to issue or deny authorization for the particular discharge.
- b. **Automatic Coverage**: If the applicant does not receive a request for additional information or a notification of denial from the Division dated within thirty days of receipt of the application by the Division, authorization to discharge in accordance with the conditions of this permit shall be deemed granted.

#### A. COVERAGE UNDER THIS PERMIT (cont.)

- c. **Individual Permit Required**: If, after evaluation of the application (or additional information, such as the SWMP), it is found that this general permit is not applicable to the operation, then the application will be processed as one for an individual permit or a more appropriate general permit. The applicant will be notified of the Division's decision to deny certification under this general permit. For an individual permit, additional information may be requested, and 180 days will be required to process the application and issue the permit. Temporary coverage under this general permit may be allowed until the individual permit goes into effect.
- d. **General vs. Individual Permit Coverage**: Any owner or operator authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual CDPS permit. The owner or operator shall submit an individual application, with reasons supporting the request, to the Division at least 180 days prior to any discharge.

## 5. Individual Permit Criteria

Aside from the operation type, the Division may use other criteria in evaluating whether an individual permit is required instead of this general permit. This information may come from the application, SWMP, or additional information as requested by the Division, and includes, but is not limited to, the following:

- a. the quality of the receiving waters (e.g., the presence of downstream drinking water intakes or a high quality fishery, or for preservation of high quality water);
- b. the type of mining operation, including pollution potential;
- c. the volume and type of materials handled;
- d. the size of the facility;
- e. evidence of noncompliance under a previous permit for the operation;
- f. the use of chemicals within the stormwater system; or
- g. discharges of pollutants of concern to waters for which there is a Total Maximum Daily Load (TMDL) established.

In addition, an individual permit may be required when the Division has shown or has reason to suspect that the stormwater discharge is a significant contributor of pollutants to waters of the State.

## 6. Permit Expiration Date/Reapplication

Authorization to discharge under this general permit shall expire on September 30, 2011. The Division must evaluate and reissue this general permit once every five years and must recertify the applicant's authority to discharge under the general permit at such time. Any permittee desiring continued authorization under the general permit must reapply by June 30, 2011. The Division will initiate the renewal process; however, it is ultimately the permittee's responsibility to ensure that the renewal is submitted. The Division will determine if the applicant may continue to operate under the terms of the general permit. An individual permit may be required for any facility not reauthorized to discharge under the reissued general permit. For facilities wishing to terminate authorization under the new permit, provisions of Part I.F will be applicable.

## **B. STORMWATER MANAGEMENT PLAN - ACTIVE MINES**

A Stormwater Management Plan (SWMP) shall be developed for the portion of each facility covered by this permit. The SWMP shall include best management practices (BMPs) that are selected, installed, implemented and maintained in accordance with good engineering practices. (The plan need not be completed by a registered engineer.) The plan shall identify potential sources of pollution (including sediment) which may reasonably be expected to affect the quality of stormwater discharges associated with the mining operation. In addition, the plan shall describe and ensure the implementation of BMPs which will be used to reduce the pollutants in stormwater discharges associated with mining activity and to assure compliance with the terms and conditions of this permit.

**Permittees must implement the provisions of their SWMP as a condition of this permit**. The Division reserves the right to review the plan, and to require additional measures to prevent and control pollution as needed.

Any SWMP prepared before September 30, 2006 that does not meet all of the requirements listed herein (especially those items required for the site map) must be amended to conform with the SWMP requirements in this permit. Such amendments must be completed within 60 days of the certification effective date (which is typically October 1, 2006).

#### B. STORMWATER MANAGEMENT PLAN - ACTIVE MINES (cont.)

The SWMP for active mines shall include the following items, at a minimum:

## 1. **Description of Mining Activities**

The plan shall provide a narrative description of the mining and associated activities taking place at the site which affect or may affect stormwater runoff intended to be covered by this permit. The narrative description shall report the total acreage within the mine site and an estimate of the number of acres of disturbed area. A general description of the location of the mining site relative to major transportation routes and communities shall also be provided.

## 2. Area Subject to Effluent Limitations Guidelines

Each plan shall describe the portion of the mining site (if any) which contributes runoff to areas subject to effluent limitations guidelines contained in 40 CFR subchapter N.

## 3. Site Map

Each plan shall provide a site map or maps which indicate at a minimum:

- mining/milling site boundaries and access and haul roads;
- equipment storage, fueling and maintenance areas;
- materials handling areas;
- areas used for storage of overburden, materials, soils or wastes;
- areas used for outdoor manufacturing, heap leach pads, storage or disposal of materials;
- location of mine drainage or any other process water;
- tailings piles/ponds, both new and pre-existing;
- mine drainage or any other process water discharge points;
- existing structural control measures to reduce pollutants in stormwater runoff;
- springs, streams, wetlands and other surface waters; and
- boundary of area that contributes runoff to outfalls that are subject to effluent limitations guidelines.
- all areas of soil disturbance

For those areas outside of the area that contributes runoff to outfalls that are subject to effluent limitations guidelines:

- an estimate of the direction(s) of surface flow;
- stormwater outfalls and an approximate outline of the areas draining to each outfall;
- each existing and new structural control measure to reduce pollutants in stormwater runoff;
- the location of impervious structures (e.g. parking lots, roofs, etc.);
- the locations of all surface water bodies, including dry water courses, located in or next to the facility; and
- the locations of all potential pollutant sources identified under Part I.B.4.b.

## 4. Stormwater Management Controls

Each mining site certified under by this permit shall develop a description of stormwater quality controls appropriate for that site, and implement such controls. The appropriateness and priorities of controls in the plan shall reflect identified potential sources of pollutants at the mining site. The description of stormwater quality controls shall address the following minimum components, including a schedule for implementing such controls. For newly-certified facilities, if existing controls are inadequate to achieve the general objective of controlling pollutants in stormwater discharges associated with industrial activity, any schedule to implement additional controls to meet this objective shall not exceed 60 days from when the facility begins operations, or from when the general permit certification is issued, whichever is later, unless permission for a later deadline is obtained from the Division. New controls that will replace or modify existing controls that are already adequately addressing a pollutant source are not required to meet this schedule (e.g., replacing a control with a less resource-intensive practice).

a. **SWMP Administrator** - The SWMP shall identify a specific individual or individuals within the mining organization who is responsible for developing the SWMP and assisting the mine operator in its implementation, maintenance, and revision. The activities and responsibilities of the administrator shall address all aspects of the facility's SWMP.

#### B. STORMWATER MANAGEMENT PLAN - ACTIVE MINES (cont.)

- b. **Identification of Potential Pollutant Sources and Best Management Practices** The SWMP shall identify potential sources of pollutants at the site, and assess the potential of these sources to contribute pollutants to stormwater discharges associated with mining activities. The SWMP must also describe appropriate Best Management Practices (BMPs) to reduce the potential of these sources to contribute pollutants to stormwater discharges. At a minimum, each of the following shall be evaluated for the reasonable potential for contributing pollutants to runoff:
  - loading and unloading operations;
  - outdoor storage of chemicals or equipment;
  - outdoor milling or processing activities;
  - crushing facilities or significant dust and particulate generating activities;
  - on-site waste disposal practices;
  - stockpiles of overburden, raw material, intermediate products, byproducts, finished products or waste products; and
  - disturbed areas.

Factors to consider include the toxicity of the material; quantity of chemicals used; amount of material processed; the likelihood of contact with stormwater; and history of significant drainage, leaks or spills of toxic or hazardous pollutants.

The description of the BMPs shall include:

- 1) **Stormwater diversion**: Describe how and where stormwater will be diverted away from material handling and storage areas to prevent stormwater contamination.
- 2) **Materials handling and spill prevention**: For materials that could impact stormwater runoff, all existing and planned BMPs that prevent the contamination of stormwater runoff at the site shall be included and described.
- 3) **Sediment and erosion prevention**: Describe practices that will be used to reduce erosion and prevent sediment delivery to State waters. These could include structural (such as silt fences, sediment ponds, drop structures, check dams) and non-structural (such as mulching and revegetation) methods.
- 4) **Other pollution prevention measures:** The plan shall identify any other structural and non-structural measures for stormwater quality control on-site.

In each case where stormwater pollution potential exists, appropriate preventive measures must be identified and implemented.

- c. **Preventive Maintenance** A preventive maintenance program is required, and shall involve inspection and maintenance of stormwater management devices (maintenance of dikes separating mine drainage from stormwater, cleaning oil/water separators and catch basins, etc.) as well as inspecting and testing of equipment and systems to prevent conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters. These periodic inspections are different from the comprehensive site evaluation (see Part I.D.5), although the former may be incorporated into the latter. Equipment, area, or other inspections are typically visual and are normally conducted on a regular basis (e.g., daily inspections of loading areas).
- d. **Good Housekeeping** The SWMP shall identify good housekeeping procedures that will be followed by the mining operation. Good housekeeping requires the maintenance of a clean, orderly facility. This part of the SWMP shall address cleaning and maintenance schedules, trash collection and disposal practices, grounds maintenance, etc.
- e. **Spill Prevention and Response Procedures** Areas where potential spills can occur, and their accompanying drainage points, shall be identified clearly in the SWMP. Where appropriate, specifying material handling procedures and storage requirements in the plan shall be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean-up shall be available to personnel.
- f. **Employee Education** The SWMP shall describe employee education programs to inform personnel at all levels of responsibility (who are involved in mining activities that may impact stormwater runoff) of the components and goals of the SWMP. Education shall address topics such as spill response, good housekeeping and material management practices. The SWMP shall identify periodic dates for such instruction. Contractor or temporary personnel shall be informed of mine operations and control features in order to prevent stormwater pollution from occurring.

#### B. STORMWATER MANAGEMENT PLAN - ACTIVE MINES (cont.)

g. **Identification of Discharges other than Stormwater** - The stormwater conveyance system on the site shall be evaluated for the presence of discharges other than stormwater. The SWMP shall include a description of the results of any evaluation for the presence of discharges other than stormwater, the method used, the date of any evaluations and the on-site drainage points that were directly observed during the evaluation.

A number of discharges other than stormwater may not require a CDPS Wastewater Discharge permit and are considered Allowable Non-stormwater Discharges. These are listed at Part I.D.3, below. Any of these discharges that exist at the site must be identified in the SWMP.

## 5. Comprehensive Inspection

The SWMP shall identify qualified personnel that shall inspect designated equipment and mine areas at appropriate intervals specified in the plan, at least twice a year (in the spring and fall). The operator shall keep a record of such inspections. This record shall be made available to the Division upon request and shall be summarized in the Annual Report (see Part I.E.1.a of the permit).

## 6. Consistency with Other Plans

SWMPs may reflect requirements for Spill Prevention Control and Countermeasure (SPCC) plans under section 311 of the CWA, or Best Management Practices (BMPs) Programs otherwise required by a CDPS permit, and may incorporate any part of such plans into the SWMP by reference. The SWMP may rely upon information developed for other similar pollution control programs, including the Mined Land Reclamation Plan. Appropriate portions of these other plans may be incorporated in the SWMP by reference, as long as a **complete** SWMP can be reproduced and submitted to the requesting agency within the time frame specified in the request. Those portions of the referenced documents must be included in the submittal. The SWMP must also be readily available to an on-site inspector.

#### C. STORMWATER MANAGEMENT PLAN - INACTIVE MINES

A Stormwater Management Plan (SWMP) shall be developed for each inactive mine covered by this permit. The SWMP shall include best management practices (BMPs) that are selected, installed, implemented and maintained in accordance with good engineering practices. (The plan need not be completed by a registered engineer.) The plan shall identify potential sources of pollution (including sediment) which may reasonably be expected to affect the quality of stormwater discharges associated with the inactive mining operation. In addition, the plan shall describe and ensure the implementation of BMPs which will be used to reduce the pollutants in stormwater discharges associated with the inactive mining operation and to assure compliance with the terms and conditions of this permit.

**Inactive mining operations must implement the provisions of their SWMP as a condition of this permit**. The Division reserves the right to review the plan, and to require additional measures to prevent and control pollution as needed.

Any SWMP prepared before September 30, 2006 that does not meet all of the requirements listed herein (especially those items required for the site map) must be amended to conform with the SWMP requirements in this permit. Such amendments must be completed within 60 days of the certification effective date (which is typically October 1, 2006).

The SWMP shall include the following items, at a minimum:

## 1. Description of Mining Activities

The plan shall provide a narrative description of the mining and associated activities that took place at the site which affect or may affect stormwater runoff intended to be covered by this permit. The narrative description shall report the approximate dates of operation, the total acreage within the mine site and an estimate of the number of acres of disturbed area. A general description of the location of the mining site relative to major transportation routes and communities shall also be provided.

#### C. STORMWATER MANAGEMENT PLAN - INACTIVE MINES (cont.)

## 2. Site Map

Each plan shall provide a generalized site map or maps which indicate any of the following which may be applicable:

- mining/milling site boundaries and access and haul roads;
- equipment storage, fueling and maintenance areas;
- materials handling areas;
- areas used for storage of overburden, materials, soils, tailings or wastes;
- areas used for outdoor manufacturing, heap leach pads, storage or disposal of materials;
- location of mine drainage or any other process water;
- tailings piles and ponds;
- an estimate of the direction(s) of surface flow;
- stormwater outfalls and an approximate outline of the areas draining to each outfall;
- existing structural control measures to reduce pollutants in stormwater runoff;
- springs, streams, wetlands and other surface waters; and
- all areas of soil disturbance.

## 3. Stormwater Management Controls - Identification of Sources and Best Management Practices

Each mining site certified under by this permit shall develop a description of stormwater quality controls appropriate for that site, and implement such controls. The appropriateness and priorities of controls in the plan shall reflect identified potential sources of pollutants at the mining site. The description of stormwater quality controls shall address the following minimum components, including a schedule for implementing such controls. For newly-certified facilities, if existing controls are inadequate to achieve the general objective of controlling pollutants in stormwater discharges associated with industrial activity, any schedule to implement additional controls to meet this objective shall not exceed 60 days from when the facility begins operations, or from when the general permit certification is issued, whichever is later, unless permission for a later deadline is obtained from the Division. New controls that will replace or modify existing controls that are already adequately addressing a pollutant source are not required to meet this schedule (e.g., replacing a control with a less resource-intensive practice).

- a. **SWMP Administrator** The SWMP shall identify a specific individual or individuals within the mining organization who is responsible for developing the SWMP and assisting the mine operator in its implementation, maintenance, and revision. The activities and responsibilities of the administrator shall address all aspects of the facility's SWMP.
- b. **Identification of Potential Pollutant Sources and Best Management Practices** The SWMP shall identify potential sources of pollutants at the site, and assess the potential of these sources to contribute pollutants to stormwater discharges associated with mining activities. The SWMP must also describe appropriate Best Management Practices (BMPs) to reduce the potential of these sources to contribute pollutants to stormwater discharges.

At a minimum, each of the following shall be evaluated for the reasonable potential for contributing pollutants to runoff:

- outdoor storage of chemicals or equipment;
- on-site waste disposal practices;
- overburden, raw material, intermediate products, byproducts, finished products or waste products; and
- disturbed areas

Factors to consider include the toxicity of the material; quantity of chemicals used; the likelihood of contact with stormwater; and history of significant drainage, leaks or spills of toxic or hazardous pollutants.

The description of the BMPs shall include:

- 1) **Stormwater Diversion**: Describe how and where stormwater will be diverted away from potential pollutant sources to prevent stormwater contamination.
- 2) Sediment and Erosion Prevention: Describe practices that will be used to reduce erosion and prevent sediment delivery to State waters. These could include structural (such as silt fences, sediment ponds, drop structures, check dams) and non-structural (such as mulching and revegetation) methods.

#### C. STORMWATER MANAGEMENT PLAN - INACTIVE MINES (cont.)

3) Other pollution prevention measures: The plan shall identify any other structural and non-structural measures for stormwater quality control on-site.

In each case where stormwater pollution potential exists, appropriate preventive measures must be identified and implemented.

Inactive mining sites that have non-mining activity occurring (such as remediation) must also evaluate the other potential sources listed in Part I.B.4.b, and must include in their SWMP the items listed in Parts I.B.4.c, d, e, f and g, as applicable.

## 4. Comprehensive Inspection

The SWMP shall identify qualified personnel that shall inspect designated equipment and mine areas at appropriate intervals specified in the plan, at least annually. Where annual inspections are impracticable, certification is required once every three years by a Registered Professional Engineer that the site is in compliance with the SWMP. The operator shall keep a record of such inspections. This record shall be made available to the Division upon request and shall be summarized in the Compliance Report (see Part I.E.1.b of the permit).

#### 5. Additional SWMP Items for Sites Seeking Mine Remediation/Permit Termination

Additional requirements apply in the event that the permittee wishes to remediate the inactive mine site and terminate permit coverage. If the site is already covered by this permit, the permittee shall notify the Division as to the change in status. Notification shall be prior to the implementation of the remediation work, if possible. The SWMP must be amended to include the following items, prior to implementation of the remediation work, if possible:

- a. **Documentation of Permission**: The plan shall include documentation of permission from the land owner, if the remediation work is undertaken by someone other than the land owner.
- b. **Photographs**: The plan shall include photographs documenting the condition of the inactive mine site before any remedial action has occurred. For recently active mines, photographs of the active mining phase may be substituted.
- c. **Description of Remedial Action:** The plan shall describe the remedial action that will take place to minimize or eliminate the water quality impacts from the mine waste. The description shall include:
  - Remediation Goal Statement:
  - the characteristics of the mineralogical content of the mine waste, and estimated volume of the waste;
  - description of any materials that will be mixed into the mine waste on site; and
  - estimated surface area of the final site, and estimated angle of side slopes.
- d. Description of BMPs during Remediation Activities: The plan shall describe the BMPs that will be implemented to reduce the potential of remediation activities to contribute pollutants to stormwater discharges. Activities that shall be addressed include, at a minimum, vehicle maintenance, earth moving, revegetation, material storage and spill prevention.
- e. **Procedures for Disposal of Water Stored Within Mine Waste**: The permittee must describe how any water stored within the mine waste will be collected and/or routed to any storage or treatment facilities. No discharge of this water shall be made to waters of the state, unless separate CDPS permit coverage is obtained.
- f. **Description of Permanent BMPs, Final Site Stabilization, and Ultimate Land Use:** The plan shall include a description of the specific permanent measures that will be installed or used at the mine waste site. The description shall include any of the following if appropriate: specifications for capping or isolation of the mine waste, method and type of revegetation, and other permanent BMPs. The plan shall also include a description of the ultimate land use after remediation is complete.

#### C. STORMWATER MANAGEMENT PLAN - INACTIVE MINES (cont.)

## 6. Consistency with Other Plans

SWMPs may reflect requirements for Spill Prevention Control and Countermeasure (SPCC) plans under section 311 of the CWA, or Best Management Practices (BMPs) Programs otherwise required by a CDPS permit, and may incorporate any part of such plans into the SWMP by reference. The SWMP may reflect information contained in approved plans submitted for other similar pollution control programs, including the Voluntary Clean Up Program, (Voluntary Cleanup and Redevelopment Act, CRS 25-16-303) as long as they contain the elements described above. These plans must have been approved by the implementing agency prior to application for the stormwater permit. Appropriate portions of these other plans may be incorporated in the SWMP by reference, as long as a **complete** SWMP can be reproduced and submitted to the requesting agency within the time frame specified in the request. Those portions of the referenced documents **must** be included in the submittal. The SWMP must also be readily available to an on-site inspector.

## D. BASIC TERMS AND CONDITIONS -- ALL FACILITIES

## 1. **General Limitations**

The following limitations shall apply to all discharges authorized by this permit:

- a. Stormwater discharges from mining operations or mine-waste remediation projects shall not cause or threaten to cause pollution, contamination or degradation of State waters.
- b. Bulk storage structures for petroleum products and any other chemicals shall have secondary containment or equivalent adequate protection so as to contain all spills and prevent any spilled material from entering State waters.
- c. No chemicals are to be added to the discharge unless permission for the use of a specific chemical is granted by the Division. In granting the use of such chemicals, special conditions and monitoring may be addressed by separate letter.
- d. All dischargers must comply with the lawful requirements of counties, drainage districts and other state or local agencies regarding any discharges of stormwater to storm drain systems or other water courses under their jurisdiction.

## 2. **SWMP Requirements**

The following conditions must be met to achieve compliance with this permit:

- a. **SWMP Preparation and Implementation**: The SWMP shall be prepared prior to applying for coverage under the general permit, and certification of completion submitted with the application. **The SWMP shall be implemented when the facility begins operation, or when the general permit certification is issued, whichever is later, and updated as appropriate (see paragraph c., below).**
- b. **SWMP Retention**: For **active** mining operations, the plan shall be retained on site. For **inactive** mining operations, the plan shall be retained by the permittee.

## c. SWMP Review/Changes:

1) Division Review: The Division reserves the right to request and review the plans, and to require additional measures to prevent and control pollution, as needed. Upon review of the SWMP, the Division may notify the permittee at any time that the plan does not meet one or more of the minimum requirements of this permit. After such notification, the permittee shall make changes to the plan and shall submit to the Division an update to the plan including the requested changes. Unless otherwise provided by the Division, the permittee shall have 30 days after such notification to both make the necessary changes to the plan and to implement them.

If the Division determines that the permittee's discharges may cause, have the reasonable potential to cause, or contribute to an excursion above any applicable water quality standard, the Division may require the permittee, within a specified time period, to develop and implement a supplemental BMP action plan describing SWMP modifications to adequately address the identified water quality concerns.

#### D. BASIC TERMS AND CONDITIONS -- ALL FACILITIES (cont.)

2) Permittee Review/Change: The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance which has a significant effect on the potential for the discharge of pollutants to the waters of the State, or if the SWMP proves to be ineffective in achieving the general objectives of controlling pollutants in stormwater discharges associated with mining activity. If existing BMPs need to be modified or if additional BMPs are necessary, the plan changes and implementation must be completed before the next anticipated storm, or not more than 60 days after: the change in design, construction, operation, or maintenance, or; the SWMP has been determined to be ineffective, unless this time frame is extended by the Division. Amendments to the plan shall be summarized in the Annual or Compliance Report. The Division reserves the right to require additional measures to prevent and control pollution, as needed.

## 3. Prohibition of Non-stormwater Discharges

- Except as provided in paragraph b, below, all discharges authorized by this permit shall be composed entirely of stormwater. Discharges of water other than stormwater must be addressed in a separate CDPS permit issued for that discharge.
- b. Discharges from the following sources that are combined with stormwater discharges associated with mining activity may be authorized by this permit, provided that the non-stormwater component of the discharge is identified in the SWMP (see Part I.B.4.g of the permit): fire fighting activities, uncontaminated compressor condensate, irrigation drainage, lawn watering, air conditioner condensate, uncontaminated seeps and springs, and foundation or footing drains where flows are not contaminated.

## 4. Releases in Excess of Reportable Quantities

This permit does not relieve the permittee of the reporting requirements of 40 CFR 110, 40 CFR 117 or 40 CFR 302. Any discharge of hazardous material must be handled in accordance with the Division's Notification Requirements (see Part II.A.3 of the permit).

## 5. Facility Inspections

- a. Active Mining Operations. In addition to the inspections necessary to comply with the preventive maintenance program requirements in Part I.B.4.c, qualified personnel identified by the permittee shall make a thorough inspection of their stormwater management system, at least twice per year (in the spring and fall). Where semi-annual site inspections are shown in the plan to be impracticable because an employee is not stationed at or does not routinely visit the site, inspections as required in this part shall be conducted at appropriate intervals specified in the plan, but never less than once in two years. These inspections must be documented and summarized in the Annual Report (see Part I.E.1 of the permit).
- b. **Inactive Mining Operations**. Qualified personnel identified by the permittee shall make a thorough inspection of their stormwater management system, at least once per year. Where annual inspections are shown in the plan to be impracticable, because an employee is not stationed at or does not routinely visit the site, an inspection is required at least once every three years by a Registered Professional Engineer. The inspector must certify that the site is in compliance with the plan. If the site is not in compliance with the plan, it must be brought into compliance, reinspected, and plan compliance then certified by the inspector. These inspections must be documented and summarized in the Compliance Report (see Part I.E.1 of the permit).
- c. **Remediation Operations.** Qualified personnel identified by the permittee shall make a thorough inspection of their stormwater management system, at least once per year (in the field season). Where annual site inspections are shown in the plan to be impracticable, because an employee is not stationed at or does not routinely visit the site, inspections as required in this part shall be conducted at appropriate intervals specified in the plan, but never less than once in two years. These inspections must be documented and summarized in the Annual Report (see Part I.E.1 of the permit).

#### D. BASIC TERMS AND CONDITIONS -- ALL FACILITIES (cont.)

- d. **Inspection Requirements ALL Operations.** The inspections as required above must include the following:
  - Disturbed areas, areas used for material storage or handling that are exposed to precipitation, and other potential sources of pollution identified in the SWMP in accordance with Part I.B.4.b or Part I.C.3.b shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Erosion and sediment control measures and other structural pollution prevention measures identified in the SWMP shall be observed to ensure that they are operating correctly.
  - 2) Any repairs or maintenance needs identified by the inspection shall be completed immediately. Based on the results of the inspection, if revisions to the description of the potential pollutant sources and the pollution prevention and control measures identified in the SWMP are needed, the plan shall be revised as appropriate as soon as practicable after such inspection. Revised control measures shall be implemented in a timely manner, but in no case more than 90 calendar days after the inspection, unless otherwise provided by the Division, and in compliance with the requirements of Part I.D.2.c.2.
  - A report summarizing the scope of the inspection, personnel making the inspection, the date(s) of the inspection, significant observations relating to the implementation of the SWMP, and actions taken in accordance with paragraph (b), above, shall be made and retained for at least three years after the date of the inspection. Significant observations include such things as the locations of discharges of pollutants from the site; locations of previously unidentified sources of pollutants; locations of BMPs needing maintenance or repair; locations of failed BMPs that need replacement; and locations where additional BMPs are needed. The report must also document any incidents of noncompliance observed. This record shall be made available to the Division upon request and summarized in the Annual or Compliance Report.

## 6. Monitoring

Sampling and testing of stormwater for specific parameters is not required on a routine basis under this permit. The Division reserves the right to require sampling and testing, on a case-by-case basis, in the event that there is reason to suspect that compliance with the SWMP is a problem, or to measure the effectiveness of the BMPs in removing pollutants from the discharge.

## 7. **SWMP Availability**

Upon request, the permittee shall submit a copy of the SWMP to the Division, the Colorado Division of Reclamation, Mining, And Safety, or CDRMS (formerly the Division of Minerals and Geology, or DMG) and/or EPA, and any local agency approving sediment and erosion plans or stormwater management plans, within the time frames specified in the request. If the SWMP is required to be submitted to any of these entities, it must include a signed certification in accordance with Part I.E.5 of the permit, certifying that the SWMP is complete and meets all permit requirements.

All SWMPs required under this permit are considered reports that shall be available to the public under Section 308(b) of the CWA. The owner or operator of a facility with stormwater discharges covered by this permit shall make plans available to members of the public upon request. However, the permittee may claim any portion of a SWMP as confidential in accordance with 40 CFR part 2.

## 8. Total Maximum Daily Load (TMDL)

If a TMDL has been approved for any waterbody into which the permittee discharges, and it has been determined that the types of discharges covered under this permit are or have the potential to be identified as a significant source of the pollutant in question, the permittee will be notified by the Division. The permittee will be required to do the following:

a. Under the permittee's SWMP, implement specific management practices based on requirements of the TMDL, and evaluate whether the requirements are being met through implementation of existing stormwater BMPs or if additional BMPs are necessary. Document the calculations or other evidence that show that the requirements, including any specific pollutant wasteload allocations (WLAs), are expected to be met; and

#### D. BASIC TERMS AND CONDITIONS -- ALL FACILITIES (cont.)

b. If the evaluation shows that additional or modified BMPs are necessary, describe the type and schedule for the BMP additions/revisions. A description of the SWMP changes shall be included with the next Annual or Compliance Report, or if requested by the Division, whichever is sooner.

Discharge monitoring may also be required. The permittee may maintain coverage under the general permit provided they comply with the applicable requirements outlined above. The Division reserves the right to require individual or alternate general permit coverage.

## E. REPORTING REQUIREMENTS

#### 1. **Reporting**

- a. **Annual Report for Active Mining Operations.** The permittee will be required to submit an Annual Report, covering January 1 through December 31 of each year, on their compliance with the SWMP. The Annual Report will contain, at a minimum:
  - 1) Name of permittee, address, phone number, and permit certification number.
  - 2) A report on the facility's overall compliance with the SWMP.
  - 3) A summary of each comprehensive stormwater facility inspection made, including date, findings, and action taken. If the inspection frequency that is less than twice per year, in accordance with the allowable reduced inspection frequencies in Part I.D.5.a of this permit, the Annual Report must indicate the reason.
  - 4) Results and interpretation of any stormwater monitoring performed.
  - 5) Certification language and signature by the permittee. (See Part I.E.5 of the permit.)

The Annual Report will be due to the Division on or before **February 15** of the following year. The exact due date for the permittee's first Annual Report will be listed in their permit certification. The Division reserves the right to require additional information in the report, on a case-by-case basis, as needed.

- b. **Compliance Report for Inactive Mining Operations:** The permittee will be required to submit a report on the compliance with the SWMP. The report shall contain, at a minimum:
  - 1) Name of permittee, address, phone number, and permit certification number.
  - 2) A report on the facility's overall compliance with the SWMP.
  - 3) A summary of the annual inspection reports, including date, findings, and action taken, or the triennial certification by a Professional Engineer (based on one or more inspections) that the facility is in compliance with the permit. If the inspection frequency that is less than once per year, in accordance with the allowable reduced inspection frequencies in Part I.D.5.b of this permit, the Annual Report must indicate the reason.
  - 4) Certification language and signature by the permittee. (See Part I.E.5 of the permit.)

The report will be due to the Division on or before **February 15, 2011** and cover the period of time between the coverage by this version of the general permit and December 31, 2010. The Division reserves the right to require additional information in the report, and more frequent reports, on a case-by-case basis, as needed.

- c. **Annual Report for Remediation Operations:** The permittee will be required to submit an Annual Report, covering January 1 through December 31 of each year, on the overall compliance with the SWMP. The Annual Report shall contain, at a minimum:
  - 1) Name of permittee, address, phone number, and permit certification number.
  - A report on the facility's overall compliance with the SWMP, including a progress report on all remediation activities.
  - 3) A summary of each comprehensive stormwater facility inspection made, including date, findings, and action taken. If the inspection frequency that is less than once per year, in accordance with the allowable reduced inspection frequencies in Part I.D.5.c of this permit, the Annual Report must indicate the reason.
  - 4) Results and interpretation of any stormwater monitoring performed.
  - 5) Certification language and signature by the permittee. (See Part I.E.5 of the permit.)

#### E. REPORTING REQUIREMENTS (cont.)

The Annual Report will be due to the Division on or before **February 15** of the following year. The exact due date for the permittee's first Annual Report will be listed in their permit certification. The Division reserves the right to require additional information in the report, and more frequent reports, on a case-by-case basis, as needed.

d. **Reporting Address:** A signed copy of the above report forms(s) shall be submitted to the following address:

Colorado Department of Public Health & Environment Water Quality Control Division WQCD-P-B2 4300 Cherry Creek Drive South Denver, Colorado 80246-1530

#### 2. Monitoring

Sampling and testing of stormwater for specific parameters is not required on a routine basis under this permit. The Division reserves the right to require sampling and testing, on a case-by-case basis, in the event that there is reason to suspect that compliance with the SWMP is a problem, or to measure the effectiveness of the BMPs in removing pollutants in the effluent.

If monitoring is required, the following definitions apply:

- a. The **thirty (30) day average** shall be determined by the arithmetic mean of all samples collected during a thirty (30) consecutive-day period.
- b. A **grab** sample, for monitoring requirements, is a single "dip and take" sample.

## 3. **Reporting of Data**

Reporting of any monitoring data gathered in compliance with Part I.D.6 or I.D.8 shall be on an annual basis, unless otherwise specified by the Division.

Monitoring results shall be summarized for each year (January 1-December 31) and reported on Division-approved discharge monitoring report forms and submitted to the Division with the Annual Report due **February 15** of each year at the address above.

## 4. Reporting to Municipality

Any permitted facility discharging to a municipal storm sewer shall provide the municipality with a copy of the permit application, and/or Annual Reports, upon request. A copy of the SWMP shall also be provided to the municipality upon request.

## 5. Signatory Requirements

- a. All reports and applications submitted to the Division and/or EPA shall be signed and certified for accuracy by the permittee in accordance with the following criteria:
  - 1) In the case of corporations, by a principal executive officer of at least the level of vice-president or his or her duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge described in the form originates;
  - 2) In the case of a partnership, by a general partner;
  - 3) In the case of a sole proprietorship, by the proprietor;
  - 4) In the case of a municipal, state, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee, if such employee is responsible for the overall operation of the facility from which the discharge described in the permit originates.

#### E. REPORTING REQUIREMENTS (cont.)

- b. Changes to authorization. If an authorization under paragraph a. of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph a. of this section must be submitted to the Division, prior to or together with any reports, information, or applications to be signed by an authorized representative.
- c. Certification. Any person signing a document under paragraph a. of this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

## 6. Record-keeping and Internal Reporting Procedures

The permittee shall retain a copy of the SWMP required by this permit for the duration of this permit.

Incidents such as spills or other discharges, along with other information describing the quality and quantity of stormwater discharges, shall be included in the records. Inspections and maintenance activities shall be documented and recorded. (This does not relieve the permittee of the responsibility of reporting spills as required under section 25-8-601(2) of the Colorado Water Quality Control Act.) The permittee shall retain such records for a minimum of three (3) years from the date generated. All reports required by the permit and/or the Division, and any relevant correspondence, shall be retained for a minimum of five (5) years from the date generated.

## F. TERMINATION OF PERMIT COVERAGE

## 1. Termination Criteria

- a. **Reclamation Permit Release:** When a site has been reclaimed in accordance with the Colorado Division of Reclamation, Mining, And Safety, or CDRMS (formerly the Division of Minerals and Geology, or DMG) requirements and the site has been released from State reclamation requirements, the permittee may request stormwater permit termination.
- b. **Termination in the absence of CDRMS Permit:** For facilities without CDRMS permits, permittees wishing to terminate stormwater permit coverage through mine waste remediation must amend their SWMP to include the items listed in Part I.C.5, above, prior to implementation of the remediation work. In addition, permittees seeking coverage under the Voluntary Cleanup Act must notify the Division of their intent 30 days before any remediation activities commence. The notification must include certification language and signature by the permittee. (See Part I.E.5 of the permit.)

Certification under this permit may be terminated once raw materials, intermediate products, byproducts, finished products and waste products (including acid generating material exposed by the mining activity) have been permanently removed or isolated and the site has been stabilized (with little evidence of soil erosion or other runoff problem) and revegetated. The following criteria must be met for the entire mine site, including any on-site disposal areas:

- all raw materials, intermediate products, byproducts, finished products and waste products (including acid generating material exposed by the mining activity) have been removed or permanently isolated from stormwater;
- 2) all soil disturbing activities at the site have been completed; and
- 3) vegetation has been established with an average cover or density, over the previously disturbed area, of a minimum of 40 percent vegetative cover over the area, or 70 percent of the vegetative cover of a similar undisturbed site, whichever is higher (vegetative cover or density determinations need not be determined scientifically by extensive measurement and statistical analyses; simple representative transects are adequate.); or equivalent permanent physical erosion reduction methods have been employed.

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#### F. TERMINATION OF PERMIT COVERAGE (cont.)

The Division may, after consultation with the permittee and upon good cause being shown, revise the vegetative cover requirements on a case-by-case basis.

## 2. Request for Termination

When a site has been reclaimed in accordance with the CDRMS requirements and the site has been released from State reclamation requirements, or the above Termination Criteria have been met, the permittee may request certification termination. The Division will consider termination of permit coverage when:

- a. the permittee has submitted a completed Inactivation Form as provided by the Division which summarizes the work accomplished;
- b. In the case of mine waste remediation projects, the permittee has submitted photographic documentation of the post remediation conditions at the mine site:
- All stormwater discharges to state waters associated with mining activities have ceased and the permittee has
  demonstrated to the Division the termination criteria have been met or the CDRMS performance bond has been
  released;
- d. The Division finds that the permittee has shown reasonable grounds consistent with the Federal and State statutes and regulations for such termination; and
- e. Fee requirements of Section 61.15 of State Discharge Permit System Regulations have been met.

Continued coverage may be required after reclamation or remediation has been completed if the Division has shown or has reason to suspect that the stormwater discharges may contribute to a violation of a water quality standard.

## PART II

## A. MANAGEMENT REQUIREMENTS

## 1. Change in Discharge

The permittee shall inform the Division (Permits Section) in writing of any intent to construct, install, or alter any process, facility, or activity that is likely to result in a new or altered discharge that is not composed entirely of stormwater and/or allowable non-stormwater discharges identified in Part I.D.3.b. Division notification is also required if the permittee significantly changes the industrial activities at the site such that the industrial activities are no longer consistent with the activity description and/or SIC Code(s) originally identified in the permit application. The permittee shall furnish the Division such plans and specifications which the Division deems reasonably necessary to evaluate the effect on the discharge and receiving stream. If applicable, this notification may be accomplished through submittal of an application for a CDPS process water permit authorizing the discharge. The SWMP shall be updated and implemented prior to the changes. Also see Part I.D.2.c.2).

Any discharge to the waters of the State from a point source other than specifically authorized by this permit or a different CDPS permit is prohibited.

## 2. **Special Notifications - Definitions**

- a. **Spill**: An unintentional release of solid or liquid material which may cause pollution of state waters.
- b. **Upset**: An exceptional incident in which there is unintentional and temporary noncompliance with 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 preventative maintenance, or careless or improper operation.

## A. MANAGEMENT REQUIREMENTS (cont.)

## 3. Noncompliance Notification

- a. If, for any reason, the permittee does not comply with or will be unable to comply with any discharge limitations, standards or permit requirements specified in this permit, except as addressed in sub-paragraph c. of this section, the permittee shall, at a minimum, provide the Water Quality Control Division and EPA with the following information:
  - 1) A description of the discharge and cause of noncompliance;
  - The period of noncompliance, including exact dates and times and/or the anticipated time when the discharge will return to compliance; and
  - 3) Steps being taken to reduce, eliminate, and prevent recurrence of the noncomplying discharge.
- b. The permittee shall report the following instances of noncompliance orally within twenty-four (24) hours from the time the permittee becomes aware of the noncompliance, and shall mail to the Division a written report within five (5) days after becoming aware of the noncompliance (unless otherwise specified by the Division):
  - 1) Any instance of noncompliance which may endanger health or the environment;
  - 2) Any spill or discharge of oil or other substance which may cause pollution of the waters of the state;
  - 3) Any discharge of stormwater which may cause an exceedance of a water quality standard.
- c. The permittee shall report all other instances of non-compliance to the Division in the following Annual or Compliance Report. The reports shall contain the information listed in sub-paragraph a. of this section.

## 4. Submission of Incorrect or Incomplete Information

Where the permittee failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or report to the Division, or relevant new information becomes available, the permittee shall promptly submit the relevant application information which was not submitted or any additional information needed to correct any erroneous information previously submitted.

## 5. **Bypass**

The bypass of treatment facilities is generally prohibited.

## 6. <u>Upsets</u>

#### a. Effect of an Upset

An upset constitutes an affirmative defense to an action brought for noncompliance with permit limitations and requirements if the requirements of paragraph b. 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.)

## b. 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 specific cause(s) of the upset;
- 2) The permitted facility was at the time being properly operated;

#### A. MANAGEMENT REQUIREMENTS (cont.)

- 3) The permittee submitted notice of the upset as required in Part II.A.3. of this permit (24-hour notice); and
- 4) The permittee complied with any remedial measures required under Section 122.7(d) of the federal regulations.

#### c. Burden of Proof

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

## 7. Removed Substances

Solids, sludges, or other pollutants removed in the course of treatment or control of discharges shall be properly disposed of in a manner such as to prevent any pollutant from such materials from entering waters of the State.

## 8. Minimization of Adverse Impact

The permittee shall take all reasonable steps to minimize any adverse impact to waters of the State resulting from noncompliance with any terms and conditions specified in this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

## 9. Reduction, Loss, or Failure of Stormwater Controls

The permittee has the duty to halt or reduce any activity if necessary to maintain compliance with the permit requirements. Upon reduction, loss, or failure of the stormwater control, the permittee shall, to the extent necessary to maintain compliance with its permit, control production, or remove all pollutant sources from exposure to stormwater, or both until the stormwater controls are restored or an alternative method of treatment/control is provided.

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

## 10. 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 includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

## **B. RESPONSIBILITIES**

## 1. <u>Inspections and Right to Entry</u>

The permittee shall allow the Director of the State Water Quality Control Division, the EPA Regional Administrator, and/or their authorized representative(s), upon the presentation of credentials:

- a. To enter upon the permittee's premises where a regulated facility or activity is located or in which any records are required to be kept under the terms and conditions of this permit;
- b. At reasonable times to have access to and copy any records required to be kept under the terms and conditions of this permit and to inspect any monitoring equipment or monitoring method required in the permit; and
- c. To enter upon the permittee's premises to investigate, within reason, any actual, suspected, or potential source of water pollution, or any violation of the Colorado Water Quality Control Act. The investigation may include, but is not limited to, the following: sampling of any discharge and/or process waters, the taking of photographs, interviewing permittee staff on alleged violations and other matters related to the permit, and access to any and all facilities or areas within the permittee's premises that may have any effect on the discharge, permit, or any alleged violation.

## B. RESPONSIBILITIES (cont.)

## 2. **Duty to Provide Information**

The permittee shall furnish to the Division, within the time frame specified by the Division, any information which the Division may request to determine whether cause exists for modifying, revoking and reissuing, or terminating coverage under this permit, or to determine compliance with this permit. The permittee shall also furnish to the Division, upon request, copies of records required to be kept by this permit.

## 3. Transfer of Ownership or Control

Certification under this permit may be transferred to a new permittee if:

- a. The current permittee notifies the Division in writing 30 days in advance of the proposed transfer date; and
- b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage and liability between them; and
- c. The current permittee has met all fee requirements of the State Discharge Permit System Regulations, Section 61.15.

#### 4. Modification, Suspension, or Revocation of Permit By Division

All permit modification, termination or revocation and reissuance actions shall be subject to the requirements of the State Discharge Permit System Regulations, Sections 61.5(2), 61.5(3), 61.7 and 61.15, 5 C.C.R. 1002-61, except for minor modifications.

- a. This permit, and/or certification under this permit, may be modified, suspended, or revoked in whole or in part during its term for reasons determined by the Division including, but not limited to, the following:
  - 1) Violation of any terms or conditions of the permit;
  - 2) Obtaining a permit by misrepresentation or failing to disclose any fact which is material to the granting or denial of a permit or to the establishment of terms or conditions of the permit;
  - 3) Materially false or inaccurate statements or information in the application for the permit;
  - 4) Promulgation of toxic effluent standards or prohibitions (including any schedule of compliance specified in such effluent standard or prohibition) which are established under Section 307 of the Clean Water Act, where such a toxic pollutant is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit.
- b. This permit, and/or certification under this permit, may be modified in whole or in part due to a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge, such as:
  - 1) Promulgation of Water Quality Standards applicable to waters affected by the permitted discharge; or
  - 2) Effluent limitations or other requirements applicable pursuant to the State Act or federal requirements; or
  - 3) Control regulations promulgated; or
  - 4) Data submitted pursuant to Part I.E or other available information indicates a potential for violation of adopted Water Quality Standards or stream classifications.

#### B. RESPONSIBILITIES (cont.)

c. This permit, or certification under this permit, may be modified in whole or in part to include new effluent limitations and other appropriate permit conditions where information submitted pursuant to Part I indicates that such effluent limitations and permit conditions are necessary to ensure compliance with applicable water quality standards and protection of classified uses.

#### 5. **Permit Violations**

Failure to comply with any terms and/or conditions of this permit shall be a violation of this permit. Dischargers of stormwater associated with industrial activity, as defined in the EPA Stormwater Regulation (40 CFR 122.26(b)(14), which do not obtain coverage under this or other Colorado general permits, or under an individual CDPS permit regulating industrial stormwater, will be in violation of the federal Clean Water Act and the Colorado Water Quality Control Act, 25-8-101. Failure to comply with CDPS permit requirements will also constitute a violation. Civil penalties for such violations may be up to \$10,000 per day, and criminal pollution of state waters is punishable by fines of up to \$25,000 per day.

## 6. Legal Responsibilities

The issuance of this permit does not convey any property or water rights in either real or personal property, or stream flows, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject to under Section 311 (Oil and Hazardous Substance Liability) of the Clean Water Act.

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

#### 7. Severability

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

## 8. Renewal Application

If the permittee desires to continue to discharge, a permit renewal application shall be submitted at least ninety (90) days before this permit expires. If the permittee anticipates that there will be no discharge after the expiration date of this permit, the Division should be promptly notified so that it can terminate the permit in accordance with Part I.F.

## 9. **Confidentiality**

Except for data determined to be confidential under Section 308 of the Federal Clean Water Act and Regulations for the State Discharge Permit System 61.5(4), all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Division. The permittee must state what is confidential at the time of submittal.

Any information relating to any secret process, method of manufacture or production, or sales or marketing data which has been declared confidential by the permittee, and which may be acquired, ascertained, or discovered, whether in any sampling investigation, emergency investigation, or otherwise, shall not be publicly disclosed by any member, officer, or employee of the Commission or the Division, but shall be kept confidential. Any person seeking to invoke the protection of this section shall bear the burden of proving its applicability. This section shall never be interpreted as preventing full disclosure of effluent data.

## B. RESPONSIBILITIES (cont.)

## 10. **Fees**

The permittee is required to submit payment of an annual fee as set forth in the Water Quality Control Act. Failure to submit the required fee when due and payable is a violation of the permit and will result in enforcement action pursuant to Section 25-8-601 et seq., C.R.S. 1973 as amended.

#### 11. Requiring an Individual CDPS Permit

The Director may require any owner or operator covered under this permit to apply for and obtain an individual or alternate general CDPS permit if:

- a. The discharger is not in compliance with the conditions of this general permit;
- b. Conditions or standards have changed so that the discharge no longer qualifies for a general permit; or
- c. Data/information become available which indicate water quality standards may be violated.

The owner or operator must be notified in writing that an application for an individual or alternate general CDPS permit is required. When an individual or alternate general CDPS permit is issued to an owner or operator otherwise covered under this General Permit, the applicability of this general permit to that owner or operator is automatically terminated upon the effective date of the individual or alternate general CDPS permit.

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