



CDPS GENERAL PERMIT

CONSTRUCTION DEWATERING DISCHARGES

TO DISCHARGE UNDER THE COLORADO DISCHARGE PERMIT SYSTEM

PERMIT NUMBER COG070000

Colorado Department
of Public Health
and Environment

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"), entities engaged in construction dewatering are authorized to discharge source water from authorized locations throughout the State of Colorado to specified waters of the State. Such discharges shall be in accordance with the conditions of this general permit.

This permit specifically authorizes the entity(s) listed on page 1 of this document (also known as the permit certification) to discharge process generated wastewaters, as of the effective dates stated on page 1 of the certification, 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.

The applicant may demand an adjudicatory hearing within thirty (30) days of the date of issuance of the final permit determination, per the Colorado Discharge Permit System Regulations, 61.7(1). Should the applicant choose to contest any of the effluent limitations, monitoring requirements or other conditions contained herein, the applicant must comply with Section 24-4-104 CRS and the Colorado Discharge Permit System Regulations. Failure to contest any such effluent limitation, monitoring requirement, or other condition, constitutes consent to the condition by the Applicant.

This permit and the authorization to discharge shall expire at midnight AUGUST 31, 2018

Modified and signed this 24th day of July, 2014.

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Janet Kieler, Permits
Section Manager
WATER QUALITY CONTROL
DIVISION

Permit Action Summary:

Minor Modification #2 – Issued July 24, 2014, Effective July 24, 2014: Part I.C.1.b

Minor Modification #1—Issued May 16, 2014, Effective May 16, 2014: Part I.E.1; Table B.1

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PART I

A. COVERAGE UNDER THIS PERMIT

1. Activities Covered

This permit authorizes the discharge of construction dewatering source water throughout the State of Colorado to waters of the state. Construction dewatering source water means groundwater, surface water, and stormwater that has mixed with the groundwater and/ or surface water (i.e. commingled stormwater runoff) that has come into contact with Construction Activities. This permit only authorizes discharges for which the source water is drawn from the specific area(s) identified in the application, or in subsequent notification(s) in accordance with Part II.A.2 and II.B.5 of the permit.

2. Limitations on Coverage

All effluent limitations for this permit are applied at the point of discharge. Dilution (i.e., mixing zone) considerations are not applicable in this permit.

A discharge that would meet any of the following conditions at the time of the effective date of the permit authorization are not eligible for coverage under this permit and must apply for coverage under another general permit or under an individual permit:

- a. The Division has determined that there is a reasonable potential for a pollutant to be present in the source water at a concentration that is greater than a numeric water quality standard of the receiving water. Note that a numeric water quality standard does not exist for Total Suspended Solids, and therefore permit coverage is available for discharges that require treatment to meet the Total Suspended Solid limitation in this permit. The Division's evaluation to identify potential pollutants will include, but is not limited to:
 - known areas of contamination at or near the facility (e.g., hazardous waste site, leaking underground storage tanks, or additional sources other than what is normally encountered at excavation and construction sites),
 - naturally occurring pollutants that potentially exist in the source water, and
 - pollutants that have the potential to be added to the source water prior to discharge.

An exception to this limitation will be allowed for discharges with a reasonable potential for Benzene, Toluene, Ethylbenzene, and Xylene to be present in the source water at a concentration that is greater than a numeric water quality standard of the receiving water when the applicant can demonstrate that the construction dewatering source water does not have concentrations of these parameters that are greater than the water quality standard of the receiving water.

A discharge subject to this limitation following the effective date of the permit authorization shall be determined to be inconsistent with the conditions of the permit and the Division shall require a new or revised permit application and shall follow the procedures specified in Sections 61.5 through 61.6, and 61.15 of the Colorado Discharge Permit System Regulations.

- b. The discharge(s) is to a receiving water designated as "outstanding waters."
- c. Discharges to ground water only cannot be covered under this general permit if subject to regulation by the EPA or by implementing agencies under Senate Bill 181. This exclusion does not apply to discharges to surface waters, including discharges to groundwater that are tributary to surface waters and for which the Division determines that the requirements of Regulation 61 applicable to surface waters apply.

Discharges that fall under the regulating authority of other agencies include:

- i. Discharges to Class V Injection Wells—Discharges to Class V Injection Wells within the state of Colorado are regulated by the Environmental Protection Agency (EPA), Region 8, through the Underground Injection Control (UIC) program. In accordance with of Colorado Discharge Permit System Regulations Section 61.14(1)(b)(vii), facilities operating under a permit issued pursuant to the UIC provisions are specifically exempt from coverage under the ground water discharge provisions of Regulation 61. A Class V Injection well is defined by EPA as any bored, drilled, or driven shaft, or dug hole that is deeper than its widest surface dimension, or an improved sinkhole, or a subsurface fluid distribution system.
- ii. Discharges to Surface Impoundments or Other Engineered Units—Facilities discharging wastewaters into surface impoundments and associated pipelines or other engineered units, even those designed for purposeful seepage (e.g. no liner or a seeping liner) shall be regulated by the Hazardous Materials Waste Management Division (HMWMD), Solid Waste Program.

3. Application Requirements

In order to apply for certification under this general permit, the applicant shall submit an application form as provided by the Division by mail or hand delivery **at least 30 days before the anticipated date of discharge**. The application in its entirety shall be submitted to:

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

Following review of the application, the Division may request additional information or deny the authorization to discharge under this general permit. If the Division determines that a new facility does not fall under the authority of the general permit, then the information received will be processed for an individual permit or the applicant may apply for coverage under an alternative general permit, and the applicant shall be notified of such a determination. If during the renewal process, the Division determines that a facility no longer qualifies for the general permit, then the certification may be revoked or the facility may be allowed to discharge under the general permit, with additional conditions in the amended certification, until an individual permit or alternative general permit is issued.

A permittee desiring continued coverage under the general permit must reapply **at least 180 days in advance of this permit expiration**. If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued and remain in force and effect. If a permittee was authorized to discharge under this permit prior to the expiration date, any discharges authorized under this permit will automatically remain covered by this permit until the earliest of:

- a. Authorization for coverage under a reissued permit or a replacement of this permit following the timely and appropriate submittal of a complete application requesting authorization to discharge under the new permit and compliance with the requirements of the application;
- b. The issuance and effect of a termination issued by the Division;
- c. The issuance or denial of an individual permit for the facility's discharges;
- d. A formal permit decision by the Division not to reissue this general permit, at which time the Division will identify a reasonable time period for covered dischargers to seek coverage under an

alternative general permit or an individual permit. Coverage under this permit will cease when coverage under another permit is granted/authorized; or

e. The Division has informed the permittee that they are no longer covered under this permit.

4. **Terminating Coverage**

To terminate permit coverage, the legal permit applicant or duly authorized agent must submit a complete and accurate Notice of Termination Form, to the address listed in Part I.A.3. The authorization to discharge under this permit terminates at midnight of the day that the termination is effective as notified by the Division. The permittee is responsible for meeting the terms of this permit until the authorization is terminated. The Notice of Termination must be signed in accordance with Part I.E.8 of this permit.

5. **Modifying Existing Permit Coverage**

To modify an existing permit certification, the legal permit contact or duly authorized agent must submit a complete and accurate Modification Form, to the address listed in Part I.A.3. This form must be submitted to the Division at least 30 days prior to implementing any requested modifications that result in a discharge to state waters. The permittee is not authorized to discharge under the modified conditions until the modified certification is issued and effective. Modifications include but are not limited to: adding or removing discharge outfalls, adding new or additional chemicals to the treatment process or effluent, modifying treatment in a manner that would result in a new or altered discharge in terms of location or effluent quality, etc. The modification form must be signed in accordance with Part I.E.8 of this permit.

B. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. **Permitted Outfall(s)**

Beginning no earlier than the effective date listed on the permit certification and lasting through the expiration date of this permit, the permittee identified on the permit certification is authorized to discharge from the Outfall(s) listed on the permit certification in accordance with the conditions and limitations of this permit.

If requested in the permit application, the permit certification may identify an outfall as an undefined outfall, and the location of the discharge outfall will not be identified on the permit certification. For all undefined outfalls, the permittee must comply with the record keeping requirements in Part I.C.1.c (Discharge Log), reporting requirements in Part I.E.2 (Reporting for Undefined Outfalls), and the outfall location shall not be changed after a discharge has occurred except through a modification in accordance with Part I.A.5.

In order to keep permit certifications, discharge monitoring reports, and administration manageable, the Division is limiting the number of outfalls per permit certification to twenty (20). If the applicant has reason to request more than twenty outfall locations the Division may grant more outfalls on a case-by-case basis.

2. **Numeric Effluent Limitations, Monitoring Frequencies, and Sample Types**

In accordance with the Water Quality Control Commission Regulations for Effluent Limitations, Section 62.4, and the Colorado Discharge Permit System Regulations, Section 61.8(2), 5.C.C.R. 1002-61, the permitted discharge shall not contain effluent parameter concentrations that exceed the limitations specified in Table B.1 or B.2 below, as applicable to the outfall(s). For parameters for which the applicable note states that the analysis or monitoring will be included in the permit certification based on meeting specific

conditions, limitations and monitoring requirements are only applicable if identified in the permit certification for the specified outfall.

The permittee must monitor the effluent for all listed parameters at the frequency and sample types specified in Table B.1 or B.2 below, as applicable to the outfall(s).

Report only monitoring requirements for additional site-specific parameters may be included in the permit certification. Such additional monitoring may be required where this additional information will help the Division verify whether any anticipated changes or additional uncertainties reveal data that more accurately predicts actual effluent concentrations.

All required monitoring will begin immediately and last for the life of the permit unless otherwise noted. The results of such monitoring must be reported on the Discharge Monitoring Report (DMR) form (See Part I.E).

Table B.1, Numeric Effluent Limitations and Monitoring Requirements for all Discharges to Surface Water

ICIS Code	Parameter	Note (below)	Discharge Limitations			Monitoring Conditions	
			30-Day Average	7-Day Average	Daily Maximum	Monitoring Frequency	Sample Type
50050	Flow, gpm	1	---	---	Limitation in Certification	Weekly	Instantaneous or Continuous Recorder
00530	Total Suspended Solids, mg/l		30	45	---	Weekly	Grab
84066	Oil and Grease	2	---	----	---	Weekly	Visual
03582	Oil and Grease, mg/l	2	----	----	10	Weekly	Grab
00400	pH, s.u.		----	----	6.5-9.0	Weekly	In-situ or Grab
70295	Total Dissolved Solids, mg/l	3	Report	----	Report	Monthly	Grab
00665	Total Phosphorus, mg/l, as P	4	Report	----	Report	Monthly	Grab
51040	E. Coli bacteria, per 100 ml	5	Limit in Certification	Limit in Certification	----	Weekly	Grab
34030	Benzene, ug/l	6	Limit in Certification	----	Limit in Certification	Weekly	Grab
34010	Toluene, ug/l	6	Limit in Certification	----	Limit in Certification	Weekly	Grab
37371	Ethylbenzene, ug/l	6	Limit in Certification	----	Limit in Certification	Weekly	Grab
81551	Xylene, ug/l	6	Limit in Certification	----	Limit in Certification	Weekly	Grab
	Metals, Organics, Inorganics, Temperature, RADs	7	Report	----	Report	Weekly	Grab

Table B.2, Numeric Effluent Limitations and Monitoring Requirements for all Discharges to Ground Water

Parameter ICIS Code	Note (below)	Discharge Limitations			Monitoring Conditions	
		30-Day Average	7-Day Average	Daily Maximum	Monitoring Frequency	Sample Type
50050 Flow, gpm	1	----	----	Limitation in Certification	Weekly	Instantaneous or Continuous Recorder
84066 Oil and Grease	2	----	-----	-	Weekly	Visual
03582 Oil and Grease, mg/l	2	----	-----	10	Weekly	Grab
00400 pH, s.u.		----	-----	6.5-8.5	Weekly	In-situ or Grab
70295 Total Dissolved Solids, mg/l	8	Limit in Certification	-----	Limit in Certification	Monthly	Grab
00665 Total Phosphorus, mg/l, as P	4	Report	-----	Report	Monthly	Grab
74056 Total Coliform, per 100 ml	5	2.2		23	Weekly	Grab
34030 Benzene, ug/l	6	Limit in Certification	-----	Limit in Certification	Weekly	Grab
34010 Toluene, ug/l	6	Limit in Certification	-----	Limit in Certification	Weekly	Grab
37371 Ethylbenzene, ug/l	6	Limit in Certification	-----	Limit in Certification	Weekly	Grab
81551 Xylene, ug/l	6	Limit in Certification	-----	Limit in Certification	Weekly	Grab
Metals, Organics, Inorganics, Temperature, RADs	7	Report	-----	Report	Weekly	Grab

Notes for Tables B.1 and B.2:

Note 1: Flow Limit— The acute flow limit will be equal to twice the maximum flow rate provided in the permit application and will be stated on the certification. However, if the discharge flow rate exceeds the maximum flow rate identified in the application, the permittee shall notify the Division in accordance with Part II.A.2. of the Permit. The method for measuring flow rates authorizes estimates.

Note 2: Oil and Grease—A visual observation of the discharge for each permitted outfall must be made once a week. In the event an oil sheen or floating oil is observed, a composite sample shall be collected weekly, analyzed, and reported on the DMR. In addition, corrective action shall be taken immediately to mitigate the discharge of oil and grease. A description of the corrective action taken must be included with the DMR.

- Note 3: Total Dissolved Solids (TDS) – Surface Water Outfalls—Analysis for salinity, measured as TDS, will be included in the permit certification for all discharges in the Colorado River Basin. Following the submittal of the initial six sets of monthly data, the Division shall determine whether the permittee is required to submit a report addressing salt removal in accordance with the Colorado River Salinity Standards, Regulation No. (5CCR 1002-39). If the salinity report is required, the Division shall so advise the permittee by letter or through the inclusion of a compliance schedule and the report shall be submitted within 180 days.
- Note 4: Total Phosphorus—Analysis for Total Phosphorus, as P, will be included in the permit certification for all discharges to waters with a control regulation for P. In accordance with the Dillon Reservoir Control Regulation (Regulation 71), monitoring for Total Phosphorus is required. In accordance with the Cherry Creek Reservoir Control Regulation (Regulation 72), monitoring and compliance with the Total Phosphorus chronic numeric effluent limit of 0.05mg/l is required. In accordance with the Chatfield Reservoir Control Regulation (Regulation 73), monitoring and compliance with the Total Phosphorus chronic numeric effluent limit of 1.0 mg/l is required. In accordance with the Bear Creek Watershed Control Regulation (Regulation 74), monitoring for Total Phosphorus is required.
- Note 5: E Coli and Total Coliform—Analysis and limitations for E. Coli and Total Coliform will be included in the permit certification for discharges from construction dewatering operations that involve replacing or repairing existing sanitary sewer lines, are in proximity to septic disposal systems, or other sewage disposal conveyances or vessels, where the Division has made a qualitative reasonable potential determination that E. coli or Total Coliform may be present in the discharge. The E. coli effluent limitation will be applied for discharge to surface water and will reflect the Recreational Class of the receiving stream of the discharge (Class E at 126 per 100 ml, Class P at 205 per 100 ml, and Class N at 630 per 100ml). The Total Coliform effluent limitation will be applied if the discharge is to groundwater. If the construction dewatering operation is considered in-stream (for example, bank stabilization and discharges back to the same water body), monitoring and reporting, or monitoring and compliance with the numeric effluent limitation for E. coli or Total Coliform will not be required.
- Note 6: Benzene, Toluene, Ethylbenzene, and Xylene — Analysis and limitations for Benzene, Toluene, Ethylbenzene, and Xylene will be included in the permit certification for construction dewatering operations where the Division has made a qualitative reasonable potential determination that Benzene, Toluene, Ethylbenzene, or Xylene may be present in the discharge. See Part I A.2.a. of the permit regarding limitations of permit coverage associated with Benzene, Toluene, Ethylbenzene, and Xylene.
- If the construction dewatering operation is considered in-stream (for example bank stabilization and discharges back to the same water body), monitoring and compliance with the additional numeric effluent limitations will not be required.
- Note 7: Metals, Organics, Inorganics, Temperature, and RADS—Analysis for additional parameters may be added to the permit certification in accordance with Part I.B.2.
- If the construction dewatering operation is considered in-stream (for example bank stabilization and discharges back to the same water body), monitoring for the additional parameters will not be required.
- Note 8: Total Dissolved Solids (TDS) – Ground Water Outfalls—Analysis for salinity, measured as TDS, will be added to the permit certification for all discharges to a different aquifer from which the ground water was pulled. If the discharge is to the same aquifer from which it was pulled, sampling for TDS will not be required provided that the remediation activity is not contributing to TDS concentrations.

C. TERMS AND CONDITIONS

1. **Discharge Log**

The permittee shall maintain a documented Discharge Log identifying the following information for each permitted outfall:

- a. the dates and times when a discharge commences and ends,
- b. records for monitoring as required by Part I.E.5.
- c. prior to the start of any discharge from an undefined discharge outfall(s) (see Part I.B.1), the receiving water for the discharge and the location that the outfall will be located at, including the latitude and longitude to the nearest 15 seconds, , general description of the location, and a map showing the discharge locations.
- d. a description of the pollutant control practices used during construction dewatering, including:
 - i. for all filter devices- document the pollutant control filter maximum flow rate that will maintain compliance with the permit effluent limits and a drawing, sketch, and/or written description of the installation and implementation specifications.
 - ii. for all settling devices- document the residence time and maximum flow rate that will maintain compliance with the permit effluent limits and a drawing, sketch, and/or written description of the installation and implementation specifications..
 - iii. for all other techniques and methods implemented to remove pollutants prior to discharge, such as but not limited to pump in gravel-packs, sump conditions, and well screens- document the technique used and its intended purpose, the maximum flow rate for operation that will maintain compliance with the permit effluent limits, and a drawing, sketch, and/ or written description of the installation and implementation specifications.
 - iv. if no treatment has been determined necessary to remove pollutants prior to discharge in order to maintain compliance with the permit effluent limits- a statement identifying that no treatment will be provided.
- e. The method used to measure flow, in accordance with I.E.7.

The log must be updated within 72 hours of the occurrence of any activity requiring documentation in accordance with this subsection.

2. **Practice Based Requirements**

- a. **Pollutant Control Practices**: The permittee shall implement pollutant control practices to meet the effluent limitations contained in this permit. The pollutant control practices must be selected, designed, installed, implemented and maintained in accordance with good engineering, hydrologic, pollution control practices, and the manufacturer's specifications including installation and implementation specifications, where applicable. Practices may include treatment, schedules of activities, prohibitions of practices, maintenance procedures, monitoring practices used to document the capability of the treatment practices to remove pollutants, handling and disposal practices, and other management practices necessary to meet the effluent limitations contained in this permit.

3. **Practices for Discharges in Exceedance of Applicable Water Quality Standards**

The Division expects that compliance with the effluent limits in this permit will control discharges as necessary to meet applicable water quality standards. If at any time the permittee becomes aware that at the permitted outfall, pollutant concentrations for an effluent parameter **not** subject to an effluent limitation in Part I.B or the permit certification exceeds any applicable water quality standard for the receiving water, the permittee shall:

- a. Halt or reduce any activity if necessary to prevent the discharge of an effluent parameter(s), at the permitted outfall, in concentrations which exceed the applicable water quality standards for the receiving water; and
- b. Mail a written report to the Division containing all relevant monitoring data and the information consistent with that required for noncompliance in Part II.A.4 (a) within five (5) days after becoming aware of the exceedance.

Coverage under this general permit may be modified, suspended, or terminated by the Division if necessary to effectively implement protection of waters of the State. If the Division finds that such new or altered discharge might be inconsistent with the conditions of the permit, the Division shall require a new or revised permit application, or require coverage under an individual permit or alternative general permit, and shall follow the procedures specified in Sections 61.5 through 61.6, and 61.15 of the Colorado Discharge Permit System Regulations.

4. Chemical Additions

No chemicals are to be added that have the potential to be present in the permitted discharge, including, but not limited to, chemical additions at any point in the treatment process, unless the permittee provides advance notice to the Division of the planned changes in accordance with Part II.A.2 and the Division confirms that the new or altered discharge is appropriate for coverage under this permit. The permit applicant must submit a list of proposed chemicals, including dosage rates, used in the treatment process. Additionally, a MSDS for each chemical proposed for use must be provided to the Division. The addition of chemicals may require permitting under the Remediation Activities general permit that authorizes the discharge from remediation activities (e.g., the discharge requires treatments to remove pollutants resulting from the chemical addition).

Chemicals used in waters that will, or may be, discharged to waters of the State must be used in accordance with all state and federal regulations, and in strict accordance with the manufacturer's site-specific instructions.

4. Discharge Point

All waters shall be discharged in a manner to prevent erosion, scouring, or damage to stream banks, streambeds, or ditches.

5. Discharges to Conveyances

All dischargers must comply with the lawful requirements of counties; drainage districts and other state or local agencies regarding any discharges to storm drain systems or other watercourses under their jurisdiction.

6. Mixing Zone

For this general permit, all numeric effluent limitations are assigned as end of pipe limits based on the Water Quality Standards. Dilution (i.e. mixing zone) considerations are not applicable in this permit. Dischargers who want consideration of a mixing allowance should apply for an individual permit

7. Discharges to Waters with Total Maximum Daily Loads (TMDLs)

Discharges to State waters for which an approved or established TMDL has been developed may be authorized provided there are sufficient remaining waste load allocations in the approved or established TMDL. If sufficient remaining waste load allocations are not available, coverage under an Individual permit may be required. If additional effluent limitations or other terms and conditions not included in this permit are required for discharges to segments for which a TMDL has been completed, the discharge cannot be covered under this general permit and must apply for coverage under another general permit or under an individual permit. Factors that will be taken into consideration when making this determination include the plausibility that the pollutant for which the TMDL was developed will be in the discharge, and duration and frequency of the discharge.

8. Discharges to 303(d) Listed Waters

Sampling, monitoring and compliance with numeric effluent limitations may be required for discharges to 303(d) listed waters that are impaired for a specified pollutant(s), and that pollutant has the potential to be in the construction dewatering project discharge. If additional effluent limitations or other terms and conditions not included in this permit are required for discharges to 303(d), the discharge cannot be covered under this general permit and must apply for coverage under another general permit or under an individual permit. Factors that will be taken into consideration when making this determination include the plausibility that the pollutant listed on the 303(d) list will be in the discharge, and duration and frequency of the discharge.

D. DEFINITIONS OF TERMS

1. "**Construction Activities**" refers to ground surface disturbing activities, which include, but are not limited to, clearing, grading, excavation, demolition, installation of new or improved haul roads and access roads, staging areas, stockpiling of fill materials, and borrow areas.
2. "**Continuous**" measurement is a measurement obtained from an automatic recording device which continually measures provides measurements.
3. "**Daily Maximum limitation**" for all parameters except temperature, means the limitation for this parameter shall be applied as an instantaneous maximum (or, for pH or DO, instantaneous minimum) value. The instantaneous value is defined as the analytical result of any individual sample. DMRs shall include the maximum (and/or minimum) of all instantaneous values within the calendar month. Any instantaneous value beyond the noted daily maximum limitation for the indicated parameter shall be considered a violation of this permit.
4. "**Daily Maximum Temperature (DM)**" is defined in the Basic Standards and Methodologies for Surface Water 1002-31, as the highest two-hour average water temperature recorded during a given 24-hour period. This will be determined using a rolling 2-hour maximum temperature. If data is collected every 15 minutes, a 2-hour maximum can be determined on every data point after the initial 2 hours of collection. Note that the time periods that overlap days (Wednesday night to Thursday morning) do not matter as the reported value on the DMR is the greatest of all the 2-hour averages.

For example, data points collected at:

08:15, 08:30, 08:45, 09:00, 09:15, 09:30, 09:45, 10:00, would be averaged for a single 2 hour average data point

08:30, 08:45, 09:00, 09:15, 09:30, 09:45, 10:00, 10:15, would be averaged for a single 2-hour average data

point

08:45, 09:00, 09:15, 09:30, 09:45, 10:00, 10:15, 10:30, would be averaged for a single 2 hour average data point

This would continue throughout the course of a calendar day. The highest of these 2-hour averages over a month would be reported on the DMR as the daily maximum temperature. At the end/beginning of a month, the collected data should be used for the month that contains the greatest number of minutes in the 2-hour maximum.

Data from 11 pm to 12:59 am would fall in the previous day. Data collected from 11:01 pm to 1:00 am would fall in the new month.

5. "**Dissolved (D) metals fraction**" is defined in the Basic Standards and Methodologies for Surface Water 1002-31, as that portion of a water and suspended sediment sample which passed through a 0.40 or 0.45 UM (micron) membrane filter. Determinations of "dissolved" constituents are made using the filtrate. This may include some very small (colloidal) suspended particles which passed through the membrane filter as well as the amount of substance present in true chemical solution.
6. "**Geometric mean**" for *E. coli* bacteria concentrations, the thirty (30) day and seven (7) day averages shall be determined as the geometric mean of all samples collected in a thirty (30) day period and the geometric mean of all samples taken in a seven (7) consecutive day period respectively. The geometric mean may be calculated using two different methods. For the methods shown, a, b, c, d, etc. are individual sample results, and n is the total number of samples.

Method 1: Geometric Mean = $(a*b*c*d*...)^{(1/n)}$ "*" - means multiply

Method 2: Geometric Mean = $\text{antilog} ([\log(a)+\log(b)+\log(c)+\log(d)+...]/n)$

Graphical methods, even though they may also employ the use of logarithms, may introduce significant error and may not be used.

In calculating the geometric mean, for those individual sample results that are reported by the analytical laboratory to be "less than" a numeric value, a value of 1 should be used in the calculations. If all individual analytical results for the month are reported to be less than numeric values, then report "less than" the largest of those numeric values on the monthly DMR. Otherwise, report the calculated value.

For any individual analytical result of "too numerous to count" (TNTC), that analysis shall be considered to be invalid and another sample shall be promptly collected for analysis. If another sample cannot be collected within the same sampling period for which the invalid sample was collected (during the same month if monthly sampling is required, during the same week if weekly sampling is required, etc.), then the following procedures apply:

- i. A minimum of two samples shall be collected for coliform analysis within the next sampling period.
- ii. If the sampling frequency is monthly or less frequent: For the period with the invalid sample results, leave the spaces on the corresponding DMR for reporting coliform results empty and attach to the DMR a letter noting that a result of TNTC was obtained for that period, and explain why another sample for that period had not been collected.

If the sampling frequency is more frequent than monthly: Eliminate the result of TNTC from any further calculations, and use all the other results obtained within that month for reporting purposes. Attach a letter

noting that a result of TNTC was obtained, and list all individual analytical results and corresponding sampling dates for that month.

7. **“Good Engineering, Hydrologic and Pollution Control Practices:** means methods, procedures, and practices that a) are based on basic scientific fact(s); b) reflect best industry practices and standards; c) are appropriate for the conditions and pollutant sources; and d) provide appropriate solutions to meet the associated permit requirements, including all effluent limitations.
8. **"Grab"** sample, is a single "dip and take" sample so as to be representative of the parameter being monitored.
9. **“Groundwater”** means any water not visible on the surface of the ground under natural conditions.
10. **"In-situ"** measurement is defined as a single reading, observation or measurement taken in the field at the point of discharge.
11. **"Instantaneous"** measurement is a single reading, observation, or measurement performed on site using existing monitoring facilities.
11. To be considered an **“Intermittent Discharge”** one of the following must apply:
 - i. the maximum discharge frequency is less than 3 consecutive days (72 hours), and less than 3 days per 7 day period, and less than 10 days total per month
 - ii. the maximum discharge frequency is less than 5 consecutive days (120 hours) and less than 5 total days per month
 - iii. It can be shown that discharge frequency and duration is tied solely to precipitation events, where the discharge starts and stops shortly after the precipitation event starts/stops.
12. **"Maximum Weekly Average Temperature (MWAT)"** is defined in the Basic Standards and Methodologies for Surface Water 1002-31, as an implementation statistic that is calculated from field monitoring data. The MWAT is calculated as the largest mathematical mean of multiple, equally spaced, daily temperatures over a seven-day consecutive period, with a minimum of three data points spaced equally through the day. For lakes and reservoirs, the MWAT is assumed to be equivalent to the maximum WAT from at least three profiles distributed throughout the growing season (generally July-September).

The MWAT is calculated by averaging all temperature data points collected during a calendar day, and then averaging the daily average temperatures for 7 consecutive days. This 7 day averaging period is a rolling average, i.e. on the 8th day, the MWAT will be the averages of the daily averages of days 2-8. The value to be reported on the DMR is the highest of all the rolling 7-day averages throughout the month. For those days that are at the end/beginning of the month, the data shall be reported for the month that contains 4 of the 7 days.

- Day 1: Average of all temperature data collected during the calendar day.
- Day 2: Average of all temperature data collected during the calendar day.
- Day 3: Average of all temperature data collected during the calendar day.
- Day 4: Average of all temperature data collected during the calendar day.
- Day 5: Average of all temperature data collected during the calendar day.
- Day 6: Average of all temperature data collected during the calendar day.
- Day 7: Average of all temperature data collected during the calendar day.

1st MWAT Calculation as average of previous 7 days

- Day 8: Average of all temperature data collected during the calendar day.

2nd MWAT Calculation as average of previous 7 days

Day 9: Average of all temperature data collected during the calendar day.

3rd MWAT Calculation as average of previous 7 days

13. "**Potentially dissolved (PD) metals fraction**" is defined in the Basic Standards and Methodologies for Surface Water 1002-31, as that portion of a constituent measured from the filtrate of a water and suspended sediment sample that was first treated with nitric acid to a pH of 2 or less and let stand for 8 to 96 hours prior to sample filtration using a 0.40 or 0.45-UM (micron) membrane filter. Note the "potentially dissolved" method cannot be used where nitric acid will interfere with the analytical procedure used for the constituent measured.
14. "**Practical Quantification Limit (PQL)**" means the minimum concentration of an analyte (substance) that can be measured with a high degree of confidence that the analyte is present at or above that concentration. The use of PQL in this document may refer to those PQLs shown in Part I.D of this permit or the PQLs of an individual laboratory.
15. "**Quarterly measurement frequency**" means samples may be collected at any time during the calendar quarter if a continual discharge occurs. If the discharge is intermittent, then samples shall be collected anytime during the quarter that the discharge occurs. Calendar quarters are defined as January-March, April-June, July- September, and October-December.
16. "**Recorder**" requires the continuous operation of a chart and/or totalizer (or drinking water rotor meters or pump hour meters where previously approved.)
17. "**Seven (7) day average**" means, with the exception of fecal coliform or *E. coli* bacteria (see geometric mean), the arithmetic mean of all samples collected in a seven (7) consecutive day period. Such seven (7) day averages shall be calculated for all calendar weeks, which are defined as beginning on Sunday and ending on Saturday. If the calendar week overlaps two months (i.e. the Sunday is in one month and the Saturday in the following month), the seven (7) day average calculated for that calendar week shall be associated with the month that contains the Saturday. Samples may not be used for more than one (1) reporting period. (See the "**Analytical and Sampling Methods for Monitoring and Reporting Section in Part I.E.3 for guidance on calculating averages and reporting analytical results that are less than the PQL**").
18. "**State Waters**" means any and all surface or subsurface waters which are contained in or flow in or through this state, but does not include waters in sewage systems, waters in treatment works of disposal systems waters in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed.
19. "**Stormwater**" means precipitation induced stormwater runoff, snow melt runoff, and surface runoff and drainage
20. "**Surface Water**" means all surface waters that meet the definition of "State Waters" but does not meet the definition of "stormwater runoff."
21. "**Thirty (30) day average**" means, except for fecal coliform or *E. coli* bacteria (see geometric mean), the arithmetic mean of all samples collected during a thirty (30) consecutive-day period. The permittee shall report the appropriate mean of all self-monitoring sample data collected during the calendar month on the Discharge Monitoring Reports. Samples shall not be used for more than one (1) reporting period. (See the "**Analytical and Sampling Methods for Monitoring and Reporting Section in Part I.E.3 for guidance on calculating averages and reporting analytical results that are less than the PQL**").

22. "**Total Metals**" means the concentration of metals determined on an unfiltered sample following vigorous digestion (Section 4.1.3), or the sum of the concentrations of metals in both the dissolved and suspended fractions, as described in Manual of Methods for Chemical Analysis of Water and Wastes, U.S. Environmental Protection Agency, March 1979, or its equivalent.
23. "**Total Recoverable Metals**" means that portion of a water and suspended sediment sample measured by the total recoverable analytical procedure described in Methods for Chemical Analysis of Water and Wastes, U.S. Environmental Protection Agency, March 1979 or its equivalent.
24. "**Visual**" observation is observing the discharge to check for the presence of a visible sheen or floating oil.
25. "**Water Quality Control Division**" or "Division" means the state Water Quality Control Division as established in 25-8-101 et al.)
26. "**Weekly measurement frequency**" means samples may be collected at any time during the week as defined as beginning on Sunday and ending on Saturday. If the discharge is intermittent, a sample must be collected for each week (as defined above) that the discharge occurs. A minimum of one sample must be collected for discharges lasting less than one week. For example, if an intermittent discharge begins on Wednesday, February 2nd and ends on Friday, February 4th, one sample must be collected on the 2nd, 3rd, or 4th. If the discharge resumes on Sunday, February 13 and is intermittent through Monday, February 14th an additional sample must be collected on the 13th or 14th.

E. GENERAL MONITORING, SAMPLING AND REPORTING REQUIREMENTS

1. Routine Reporting of Data

Reporting of data gathered in compliance with Part I.B.2 shall be on a **monthly** basis. Reporting of all data gathered shall comply with the requirements of Part I.E. (General Requirements). Monitoring results shall be summarized for each calendar month and reported on Division approved discharge monitoring report (DMR) forms (EPA form 3320-1).

The permittee must submit these forms either by mail, or by using the Division's Net-DMR services (when available). DMRs **must be** received by the Division no later than the 28th day of the month following the monitoring period (for example, the DMR for discharges occurring in January must be received by the Division by February 28th). If no discharge occurs during the reporting period, "No Discharge" shall be reported on the DMR.

If being mailed, the original signed copy of each discharge monitoring report (DMR) shall be submitted to the Division at the following address:

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

The Discharge Monitoring Report forms shall be filled out accurately and completely in accordance with requirements of this permit and the instructions on the forms. They shall be signed by an authorized person as identified in Part I.E.8.

2. **Reporting for Undefined Outfalls**

DMRs will be mailed to the permittee for each of the numbered undefined discharge outfalls identified in the permit certification.

Each outfall identified in the permit certification, and the associated DMR forms for that outfall shall only authorize and be used for reporting discharges at a single outfall at a specific location. The permittee shall establish and maintain records that identify, among other information, the exact place for each outfall for which monitoring has occurred in accordance with Part I. B. of the permit.

DMRs for all outfalls must be submitted monthly as long as the certification is in effect. DMRs must be submitted for each outfall even if there was not a discharge from the outfall in a given month. For each outfall where no discharge occurs in a given month, the permittee shall mark 'No Discharge' on the DMR form(s). The permittee shall provide the Division with any additional monitoring data on the permitted discharge collected for entities other than the Division. If forms have not been received, please contact the Division at 303-692-3517.

Sampling is required at the frequency established in the permit certification for each undefined discharge location. For multiple undefined discharge locations, as discharges occur chronologically, the data collected from the sampling event(s) in a given month from the first discharge location shall be summarized and reported on the pre-printed DMR for Discharge Number 001-AU. The data collected from the sampling event(s) in a given month from the second discharge location shall be summarized and reported on the pre-printed DMR for Discharge Number 002-AU; etc. If there is only one undefined outfall location requested in the permit application, the permit certification will only authorize one discharge location (outfall) to state water within the project boundary. The data collected from the sampling event(s) in a given month from the one authorized discharge location shall be summarized and reported on the pre-printed DMR for Discharge Number 001-AU.

3. **Representative Sampling**

Discharge points shall be designed or modified so that a sample of the effluent can be obtained at a point after the final treatment process and prior to discharge to state waters. Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring points specified in this permit and, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points shall not be changed without notification to and approval by the Division. The permittee shall provide access to the Division to sample the discharge at these points.

4. **Analytical and Sampling Methods for Monitoring and Reporting**

The permittee shall install, calibrate, use and maintain monitoring methods and equipment, including biological and indicated pollutant monitoring methods. All sampling shall be performed by the permittee according to specified methods in 40 C.F.R. Part 136; methods approved by EPA pursuant to 40 C.F.R. Part 136; or methods approved by the Division, in the absence of a method specified in or approved pursuant to 40 C.F.R. Part 136 (see text below for specifics on nonylphenol monitoring).

If the permit contains a numeric effluent limit for a parameter, the analytical method and PQL selected for all monitoring conducted in accordance with this permit for that parameter shall be the one that can measure at or below the numeric effluent limit. If all specified analytical methods and corresponding PQLs are greater than the numeric effluent limit, then the analytical method with the lowest PQL shall be used.

If the permit contains a report only requirement for a parameter, the analytical method and PQL chosen shall be one that can measure at or below the potential numeric effluent limit(s). If all analytical methods and corresponding PQLs are greater than the potential numeric effluent limit(s), then the analytical method with the lowest PQL shall be used.

If the permit contains an interim effluent limitation (a limit is report until such time as a numeric effluent limit becomes effective) for a parameter, the analytical method and PQL chosen for all monitoring conducted in accordance with this permit for the parameter shall be one that can measure to the final numeric effluent limit. If all analytical methods and corresponding PQLs are greater than the final numeric effluent limit(s), then the analytical method with the lowest PQL shall be used.

For parameters such as TIN, the analytical methods chosen shall be those that can measure to the potential or final numeric effluent limit, based on the sum of the PQLs for nitrate, nitrite and ammonia.

When the analytical method which complies with the above requirements has a PQL greater than the permit limit, and the permittee's analytical result is less than the PQL, the permittee shall report "BDL" on the DMR. Such reports will not be considered as violations of the permit limit, as long as the lowest available PQL is used for the analysis. When the analytical method which complies with the above requirements has a PQL that is equal to or less than the permit limitation, and the permittee's analytical result is less than the PQL, "< X" (where X = the actual PQL achieved by the laboratory) shall be reported on the DMR. For parameters that have a report only limitation, and the permittee's analytical result is less than the PQL, "< X" (where X = the actual PQL achieved by the laboratory) shall be reported on the DMR.

In the calculation of average concentrations (i.e. 7- day average, 30-day average, 2-year rolling average) any individual analytical result that is less than the PQL shall be considered to be zero for the calculation purposes. When reporting:

If all individual analytical results are less than the PQL, the permittee shall report either "BDL" or "<X" (where X = the actual PQL achieved by the laboratory), following the guidance above.

If one or more individual results is greater than the PQL, an average shall be calculated and reported. Note that it does not matter if the final calculated average is greater or less than the PQL, it must be reported as a value.

Note that when calculating T.I.N. for a single sampling event, any value less than the PQL (for total ammonia, total nitrite, or total nitrate) shall be treated as zero. The T.I.N. concentration for a single sampling event shall then be determined as the sum of the analytical results (zeros if applicable) of same day sampling for total ammonia and total nitrite and total nitrate. From these calculated T.I.N. concentrations, the daily maximum and thirty day average concentrations shall be calculated and must be reported as a value.

The present lowest PQLs for specific parameters, as determined by the State Laboratory (November 2008) are provided below. If the analytical method cannot achieve a PQL that is less than or equal to the permit limit, then the method, or a more precise method, must achieve a PQL that is less than or equal to the PQL in the table below. A listing of the PQLs for organic parameters that must meet the above requirement can be found in the Division's Practical Quantification Limitation Guidance Document, July 2008.

For nonylphenol, until such time as there is an EPA 40 CFR Part 136 method, the State is approving use of ASTM Methods D7065 and D7485. Until a statewide PQL has been developed, the permittee shall use

either the default PQLs listed in the table below, or develop their own site-specific PQL in accordance with the Practical Quantification Limitation Guidance Document (July 2008) for Organic Parameters. This document is available on the Division’s website at www.coloradowaterpermits.com. The delayed effective date for the monitoring requirement allows time for the permittee to develop a site-specific PQL.

For hexavalent chromium, samples must be unacidified so dissolved concentrations will be measured rather than potentially dissolved concentrations.

Parameter	Practical Quantification Limits,	Parameter	Practical Quantification Limits, µg/l
Aluminum	50 µg/l	Manganese	2 µg/l
Ammonia	1 mg/l	Mercury	0.1 µg/l
Arsenic	1 µg/l	Mercury (low-level)	0.003 µg/l
Barium	5 µg/l	Nickel	50 µg/l
Beryllium	1 µg/l	N-Ammonia	50 µg/l
BOD / CBOD	1 mg/l	N Nitrate/Nitrite	0.5 mg/l
Boron	50 µg/l	N-Nitrate	50 µg/l
Cadmium	1 µg/l	N-Nitrite	10 µg/l
Calcium	20 µg/l	Total Nitrogen	0.5 mg/l
Chloride	2 mg/l	Phenols	100 µg/l
Chlorine	0.1 mg/l	Phosphorus	10 µg/l
Total Residual Chlorine		Radium 226	1 pCi/l
- DPD colorimetric	0.10 mg/l	Radium 228	1 pCi/l
- Amperometric titration	0.05 mg/l	Selenium	1 µg/l
Chromium	20 µg/l	Silver	0.5 µg/l
Chromium, Hexavalent	20 µg/l	Sodium	0.2 mg/l
Copper	5 µg/l	Sulfate	5 mg/l
Cyanide (Direct / Distilled)	10 µg/l	Sulfide	0.2 mg/l
Cyanide, WAD+A47	5 µg/l	Total Dissolved Solids	10 mg/l
Fluoride	0.1 mg/l	Total Suspended Solids	10 mg/l
Iron	10 µg/l	Thallium	1 µg/l
Lead	1 µg/l	Uranium	1 µg/l
Magnesium	20 µg/l	Zinc	10 µg/l

5. Records

The permittee shall establish and maintain records. The records shall include the following:

- a. The date, type, exact location, and time of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) the analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used;
- f. The results of such analyses; and
- g. Any other observations which may result in an impact on the quality or quantity of the discharge as indicated in 40 CFR 122.44 (i)(1)(iii).

The permittee shall retain for the duration of permit coverage or a minimum of three (3) years (whichever is greater) records of all monitoring information, including all original strip chart recordings for continuous monitoring instrumentation, all calibration and maintenance records, laboratory data sheets, copies of all reports required by this permit and records of all data used to complete the application for this permit. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or when requested by the Division or EPA. These records must be retained at the facility during active treatment. Once active treatment is complete, the records shall be maintained and made available at the request of the Division.

6. Additional Monitoring by Permittee

If the permittee, using the approved analytical methods, monitors any parameter more frequently than required by this permit, then the results of such monitoring shall be included in the calculation and reporting of the values required in the Discharge Monitoring Report Form or other forms as required by the Division. Such increased frequency shall also be indicated.

7. Flow Measuring Device

Flow can be measured or determined from estimates based on volume of fill water, dimension of the pipeline, capacity of the pump, or other method documented in accordance with I.C.1.e (Discharge Log).

At the request of the Division, the permittee shall show proof of the accuracy of any flow-measuring device or method used in obtaining data submitted in the monitoring report. The flow-measuring device must indicate values within ten(10) percent of the actual flow being discharged from the facility.

8. Signatory and Certification Requirements

a. All applications must be signed and certified for accuracy as follows:

- (i) In the case of corporations, by a responsible corporate officer. For purposes of this section, the responsible corporate officer is responsible for the overall operation of the facility from which the discharge described in the form originates;
- (ii) In the case of partnership, by a general partner;
- (iii) In the case of a sole proprietorship, by the proprietor;
- (iv) In the case of a municipal, state, or other public facility, by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer has responsibility for the overall operation of the facility from which the discharge originates.

b. All reports and other information required by the Division shall be signed and certified for accuracy by the permittee in accord with the following criteria:

- i) In the case of corporations, by a responsible corporate officer. For purposes of this section, the responsible corporate officer is responsible for the overall operation of the facility from which the discharge described in the form originates;
- ii) In the case of a partnership, by a general partner;
- iii) In the case of a sole proprietorship, by the proprietor;

- iv) In the case of a municipal, state, or other public facility, by either a principal executive officer, or ranking elected official. For purposes of this section, a principal executive officer has responsibility for the overall operation of the facility from which the discharge originates;
- v) By a duly authorized representative of a person described above, only if:
 - 1) The authorization is made in writing by a person described in i, ii, iii, or iv above;
 - 2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and,
 - 3) The written authorization is submitted to the Division.
- c. If an authorization as described in 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 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.

The permittee, or the duly authorized representative shall make and sign the following certification on all such documents:

"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."

Part II

A. NOTIFICATION REQUIREMENTS

1. Notification to Parties

All notification requirements under this section shall be directed as follows:

- a. Oral Notifications, during normal business hours shall be to:

Water Quality Protection Section - Industrial Compliance Program
Water Quality Control Division
Telephone: (303) 692-3500

- b. Written notification shall be to:

Water Quality Protection Section - Industrial Compliance Program
Water Quality Control Division
Colorado Department of Public Health and Environment
WQCD-WQP-B2
4300 Cherry Creek Drive South
Denver, CO 80246-1530

2. Change in Discharge or Wastewater Treatment

The permittee shall notify the Division in writing, of any planned physical alterations or additions to the permitted facility, this includes the treatment process. Notice is required when:

- a. The alteration or addition is likely to result in a new or altered discharge either in terms of location or effluent quality prior to the occurrence of the new or altered discharge, or;
- b. 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 pursuant to an approved land application plan.

The permittee shall give advance notice to the Division of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. For any pollutant for which monitoring requirements are not included in the permit certification, the permittee shall notify the Division as soon as it becomes aware that the pollutant(s) are present in the source water, influent, or effluent in concentrations greater than originally identified in the application.

Whenever notification of any planned physical alterations or additions to the permitted facility is required pursuant to this section, the permittee shall furnish the Division such plans and specifications which the Division deems reasonably necessary to evaluate the effect on the discharge, the stream, or ground water.

If the Division finds that such new or altered discharge might be inconsistent with the conditions of the permit, the Division shall require a new or revised permit application or a permit modification and shall follow the procedures specified in Sections 61.5 through 61.6, and 61.15 of the Colorado Discharge Permit System Regulations.

3. Special Notifications Definitions

- a. Bypass: The intentional diversion of waste streams from any portion of a treatment facility.
- b. Severe Property Damage: Substantial physical damage to property at the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. It does not mean economic loss caused by delays in production.
- c. 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.

4. Noncompliance Notification

- a. If, for any reason, the permittee does not comply with or will be unable to comply with any discharge limitations or standards specified in this permit, the permittee shall, at a minimum, provide the Division with the following information:
 - i) A description of the discharge and cause of noncompliance;
 - ii) The period of noncompliance, including exact dates and times and/or the anticipated time when the discharge will return to compliance; and
 - iii) Steps being taken to reduce, eliminate, and prevent recurrence of the noncomplying discharge.
- b. The permittee shall report the following circumstances **orally within twenty-four (24) hours** from the time the permittee becomes aware of the circumstances, and shall mail to the Division a written report containing the information requested in Part II.A.4 (a) **within five (5) days** after becoming aware of the following circumstances:
 - i) Circumstances leading to any noncompliance which may endanger health or the environment regardless of the cause of the incident;
 - ii) Circumstances leading to any unanticipated bypass which exceeds any effluent limitations in the permit;
 - iii) Circumstances leading to any upset which causes an exceedance of any effluent limitation in the permit;
 - iv) Daily maximum violations for any of the pollutants limited by Part I.A of this permit and specified as requiring 24-hour notification. This includes any toxic pollutant or hazardous substance or any pollutant specifically identified as the method to control any toxic pollutant or hazardous substance.
- c. Unless otherwise indicated in this permit, the permittee shall report instances of non-compliance which are not required to be reported within 24-hours at the time Discharge Monitoring Reports are submitted. The reports shall contain the information listed in sub-paragraph (a) of this section.

5. Other Notification Requirements

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule in the permit shall be submitted no later than fourteen (14) days following each scheduled date, unless otherwise provided by the Division.

The permittee shall notify the Division, in writing, thirty (30) days in advance of a proposed transfer of permit as provided in Part II.B.3.

The permittee's notification of all anticipated noncompliance does not stay any permit condition.

All existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Division as soon as they know or have reason to believe:

- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - i) One hundred micrograms per liter (100 µg/l);
 - ii) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and 2-methyl-4,6-dinitrophenol; and one milligram per liter (1.0 mg/l) for antimony;
 - iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Section 61.4(2)(g).
 - iv) The level established by the Division in accordance with 40 C.F.R. § 122.44(f).
- b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - i) Five hundred micrograms per liter (500 µg/l);
 - ii) One milligram per liter (1 mg/l) for antimony; and
 - iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application
 - iv) The level established by the Division in accordance with 40 C.F.R. § 122.44(f).

6. Bypass Notification

If the permittee knows in advance of the need for a bypass, a notice shall be submitted, at least ten days before the date of the bypass, to the Division. The bypass shall be subject to Division approval and limitations imposed by the Division. Violations of requirements imposed by the Division will constitute a violation of this permit.

7. **Upsets**

a. **Effect of an Upset**

An upset constitutes an affirmative defense to an action brought for noncompliance with permit effluent limitations 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**

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

- i) An upset occurred and that the permittee can identify the specific cause(s) of the upset; and
- ii) The permitted facility was at the time being properly operated and maintained; and
- iii) The permittee submitted proper notice of the upset as required in Part II.A.4. of this permit (24-hour notice); and
- iv) The permittee complied with any remedial measure necessary 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.

In addition to the demonstration required above, a permittee who wishes to establish the affirmative defense of upset for a violation of effluent limitations based upon water quality standards shall also demonstrate through monitoring, modeling or other methods that the relevant standards were achieved in the receiving water.

c. **Burden of Proof**

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

8. **Discharge Point**

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

9. **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 as necessary to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance and adequate laboratory and process controls, including appropriate quality assurance procedures (40 CFR 122.41(e)). This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when necessary to achieve compliance with the conditions of the permit.

10. **Minimization of Adverse Impact**

The permittee shall take all reasonable steps to minimize or prevent any discharge of sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. As necessary, accelerated or additional monitoring to determine the nature and impact of the noncomplying discharge is required.

11. **Removed Substances**

Solids, sludges, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in accordance with applicable state and federal regulations and in a manner that will prevent the removed pollutant(s) from entering waters of the State.

For all domestic wastewater treatment works, at industrial facilities, the permittee shall dispose of sludge in accordance with all State and Federal regulations.

12. **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, the permittee shall promptly submit the relevant information which was not submitted or any additional information needed to correct any erroneous information previously submitted.

13. **Bypass**

- a. Bypasses are prohibited and the Division may take enforcement action against the permittee for bypass, unless:
 - i) The bypass is unavoidable to prevent loss of life, personal injury, or severe property damage;
 - ii) There were no feasible alternatives to bypass such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - iii) Proper notices were submitted in compliance with Part II.A.4.
- b. "Severe property damage" as used in this Subsection means substantial physical damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- c. The permittee may allow a bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance or to assure optimal operation. These bypasses are not subject to the provisions of paragraph (a) above.
- d. The Division may approve an anticipated bypass, after considering adverse effects, if the Division determines that the bypass will meet the conditions specified in paragraph (a) above.

14. **Reduction, Loss, or Failure of Treatment Facility**

The permittee has the duty to halt or reduce any activity if necessary to maintain compliance with the effluent limitations of the permit. Upon reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control production, control sources of wastewater, or all discharges, until the facility is restored or an alternative method of treatment is provided. This provision also applies to power failures, unless an alternative power source sufficient to operate the wastewater control facilities 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.

B. RESPONSIBILITIES

1. Inspections and Right to Entry

The permittee shall allow the Division and/or the authorized representative, 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 in a reasonable manner and at a reasonable time to inspect and/or investigate, any actual, suspected, or potential source of water pollution, or to ascertain compliance or non-compliance with the Colorado Water Quality Control Act or any other applicable state or federal statute or regulation or any order promulgated by the Division. The investigation may include, but is not limited to, the following: sampling of any discharge and/or process waters, the taking of photographs, interviewing of any person having knowledge related to the discharge permit or alleged violation, access to any and all facilities or areas within the permittee's premises that may have any affect on the discharge, permit, or alleged violation. Such entry is also authorized for the purpose of inspecting and copying records required to be kept concerning any effluent source.
- d. The permittee shall provide access to the Division to sample the discharge at a point after the final treatment process but prior to the discharge mixing with state waters upon presentation of proper credentials.

In the making of such inspections, investigations, and determinations, the Division, insofar as practicable, may designate as its authorized representatives any qualified personnel of the Department of Agriculture. The Division may also request assistance from any other state or local agency or institution.

2. Duty to Provide Information

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

3. Transfer of Ownership or Control

- a. Except as provided in paragraph b. of this section, a permit may be transferred by a permittee only if the permit has been modified or revoked and reissued as provided in Section 61.8(8) of the Colorado Discharge Permit System Regulations, to identify the new permittee and to incorporate such other requirements as may be necessary under the Federal Act.
- b. A permit may be automatically transferred to a new permittee if:
 - i) The current permittee notifies the Division in writing 30 days in advance of the proposed transfer date; and
 - ii) The notice includes a written agreement between the existing and new permittee(s) containing a specific date for transfer of permit responsibility, coverage and liability between them; and
 - iii) The Division does not notify the existing permittee and the proposed new permittee of its intent to modify, or revoke and reissue the permit.

iv) Fee requirements of the Colorado Discharge Permit System Regulations, Section 61.15, have been met.

4. **Availability of Reports**

Except for data determined to be confidential under Section 308 of the Federal Clean Water Act and the Colorado Discharge Permit System Regulations 5 CCR 1002-61, Section 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 and the Environmental Protection Agency.

The name and address of the permit applicant(s) and permittee(s), permit applications, permits and effluent data shall not be considered confidential. Knowingly making false statements on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the Federal Clean Water Act, and Section 25-8-610 C.R.S.

5. **Modification, Suspension, Revocation, or Termination of Permits By the Division**

The filing of a request by the permittee for a permit modification, revocation and reissuance, termination or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

- a. A permit may be modified, suspended, or terminated in whole or in part during its term for reasons determined by the Division including, but not limited to, the following:
 - i) Violation of any terms or conditions of the permit;
 - ii) 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; or
 - iii) Materially false or inaccurate statements or information in the permit application or the permit.
 - iv) A determination that the permitted activity endangers human health or the classified or existing uses of state waters and can only be regulated to acceptable levels by permit modifications or termination.
- b. A permit may be modified in whole or in part for the following causes, provided that such modification complies with the provisions of Section 61.10 of the Colorado Discharge Permit System Regulations:
 - i) There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.
 - ii) The Division has received new information which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of different permit conditions at the time of issuance. For permits issued to new sources or new dischargers, this cause includes information derived from effluent testing required under Section 61.4(7)(e) of the Colorado Discharge Permit System Regulations. This provision allows a modification of the permit to include conditions that are less stringent than the existing permit only to the extent allowed under Section 61.10 of the Colorado Discharge Permit System Regulations.
 - iii) The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only as follows:
 - (A) The permit condition requested to be modified was based on a promulgated effluent limitation guideline, EPA approved water quality standard, or an effluent limitation set forth in 5 CCR 1002-62, § 62 et seq.; and

- (B) EPA has revised, withdrawn, or modified that portion of the regulation or effluent limitation guideline on which the permit condition was based, or has approved a Commission action with respect to the water quality standard or effluent limitation on which the permit condition was based; and
 - (C) The permittee requests modification after the notice of final action by which the EPA effluent limitation guideline, water quality standard, or effluent limitation is revised, withdrawn, or modified; or
 - (D) For judicial decisions, a court of competent jurisdiction has remanded and stayed EPA promulgated regulations or effluent limitation guidelines, if the remand and stay concern that portion of the regulations or guidelines on which the permit condition was based and a request is filed by the permittee in accordance with this Regulation, within ninety (90) days of judicial remand.
- iv) The Division determines that good cause exists to modify a permit condition because of events over which the permittee has no control and for which there is no reasonable available remedy.
 - v) The permittee has received a variance.
 - vi) When required to incorporate applicable toxic effluent limitation or standards adopted pursuant to §307(a) of the Federal act.
 - vii) When required by the reopener conditions in the permit.
 - viii) As necessary under 40 C.F.R. 403.8(e), to include a compliance schedule for the development of a pretreatment program.
 - ix) When the level of discharge of any pollutant which is not limited in the permit exceeds the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under Section 61.8(2) of the Colorado Discharge Permit System Regulations.
 - x) To establish a pollutant notification level required in Section 61.8(5) of the Colorado Discharge Permit System Regulations.
 - xi) To correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions, to the extent allowed in Section 61.10 of the Colorado State Discharge Permit System Regulations.
 - xii) When required by a permit condition to incorporate a land application plan for beneficial reuse of sewage sludge, to revise an existing land application plan, or to add a land application plan.
 - xiii) For any other cause provided in Section 61.10 of the Colorado Discharge Permit System Regulations.
- c. At the request of a permittee, the Division may modify or terminate a permit and issue a new permit if the following conditions are met:
- i) The Regional Administrator has been notified of the proposed modification or termination and does not object in writing within thirty (30) days of receipt of notification,
 - ii) The Division finds that the permittee has shown reasonable grounds consistent with the Federal and State statutes and regulations for such modifications or termination;
 - iii) Requirements of Section 61.15 of the Colorado Discharge Permit System Regulations have been met, and
 - iv) Requirements of public notice have been met.

- d. Permit modification (except for minor modifications), termination or revocation and reissuance actions shall be subject to the requirements of Sections 61.5(2), 61.5(3), 61.6, 61.7 and 61.15 of the Colorado Discharge Permit System Regulations. The Division shall act on a permit modification request, other than minor modification requests, within 180 days of receipt thereof. Except for minor modifications, the terms of the existing permit govern and are enforceable until the newly issued permit is formally modified or revoked and reissued following public notice.
- e. Upon consent by the permittee, the Division may make minor permit modifications without following the requirements of Sections 61.5(2), 61.5(3), 61.7, and 61.15 of the Colorado Discharge Permit System Regulations. Minor modifications to permits are limited to:
 - i) Correcting typographical errors; or
 - ii) Increasing the frequency of monitoring or reporting by the permittee; or
 - iii) Changing an interim date in a schedule of compliance, provided the new date of compliance is not more than 120 days after the date specific in the existing permit and does not interfere with attainment of the final compliance date requirement; or
 - iv) Allowing for a transfer in ownership or operational control of a facility where the Division determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage and liability between the current and new permittees has been submitted to the Division; or
 - v) Changing the construction schedule for a discharger which is a new source, but no such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge; or
 - vi) Deleting a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits.
- f. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term.
- g. The filing of a request by the permittee for a permit modification, revocation and reissuance or termination does not stay any permit condition.
- h. All permit modifications and reissuances are subject to the antibacksliding provisions set forth in 61.10(e) through (g).

6. **Oil and Hazardous Substance Liability**

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

7. **State Laws**

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. Nothing in this permit shall be construed to prevent or limit application of any emergency power of the division.

8. **Permit Violations**

Failure to comply with any terms and/or conditions of this permit shall be a violation of this permit. The discharge of any pollutant identified in this permit more frequently than or at a level in excess of that

authorized shall constitute a violation of the permit. Except as provided in Part I.E and Part II.A or B, nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance (40 CFR 122.41(a)(1)).

9. Property Rights

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.

10. Severability

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

11. Renewal Application

If the permittee desires to continue to discharge, a permit renewal application shall be submitted at least one hundred eighty (180) days before this permit expires. If the permittee anticipates 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 II.B.5.

12. Confidentiality

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 Subsection (12) shall bear the burden of proving its applicability. This section shall never be interpreted as preventing full disclosure of effluent data.

13. Fees

The permittee is required to submit payment of an annual fee as set forth in the 2005 amendments to the Water Quality Control Act. Section 25-8-502 (l) (b), and the Colorado Discharge Permit System Regulations 5 CCR 1002-61, Section 61.15 as amended. 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.

14. Duration of Permit

The duration of a permit shall be for a fixed term and shall not exceed five (5) years. Filing of a timely and complete application shall cause the expired permit to continue in force to the effective date of the new permit. The permit's duration may be extended only through administrative extensions and not through interim modifications.

15. Section 307 Toxics

If a toxic effluent standard or prohibition, including any applicable schedule of compliance specified, is established by regulation pursuant to Section 307 of the Federal Act for a toxic pollutant which is present in the permittee's discharge and such standard or prohibition is more stringent than any limitation upon such pollutant in the discharge permit, the Division shall institute proceedings to modify or revoke and reissue the permit to conform to the toxic effluent standard or prohibition.

16. Effect of Permit Issuance

- a. The issuance of a permit does not convey any property rights or any exclusive privilege.
- b. The issuance of a permit does not authorize any injury to person or property or any invasion of personal rights, nor does it authorize the infringement of federal, state, or local laws or regulations.
- c. Except for any toxic effluent standard or prohibition imposed under Section 307 of the Federal act or any standard for sewage sludge use or disposal under Section 405(d) of the Federal act, compliance with a permit during its term constitutes compliance, for purposes of enforcement, with Sections 301, 302, 306, 318, 403, and 405(a) and (b) of the Federal act. However, a permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in Section 61.8(8) of the Colorado Discharge Permit System Regulations.
- d. Compliance with a permit condition which implements a particular standard for sewage sludge use or disposal shall be an affirmative defense in any enforcement action brought for a violation of that standard for sewage sludge use or disposal.