



DIVISION RESPONSE TO PUBLIC COMMENTS

CDPS GENERAL PERMIT COR900000

FOR

STORMWATER DISCHARGES ASSOCIATED WITH NON-EXTRACTIVE INDUSTRIAL ACTIVITY

COLORADO DISCHARGE PERMIT SYSTEM

This document provides the Water Quality Control Division’s (Division) Response to Public Comments for CDPS General Permit COR900000. This permit and the associated Fact Sheet were sent to public notice on June 17, 2011. All comments received by the Division are arranged by applicable permit or Fact Sheet section, and this document follows the permit and Fact Sheet numbering convention. Only those permit sections for which comments were received are addressed in this document.

Due to the number of comments received on the permit, the Division paraphrased comments where possible. Interested parties may obtain copies of the original comments in their entirety from the Division. A summary of the commenters is provided in the tables below. Changes to the permit or Fact Sheet made in response to comments, or as initiated by the Division, are identified by permit section and/or Fact Sheet section in this document. The Division made several editorial-only (e.g., spelling, grammar, punctuation) changes to the permit – these changes are not discussed in this document. For consistency throughout the document, the Division refers to the 2008 EPA Multi-Sector General Permit as the 2008 MSGP.

Summary of commenters:

	Name	# comments		Name	# comments		Name	# comments
1	St. Vrain Block	1	12	Lafarge (2)	2	23	Wright Water Engineers, Inc.	1
2	True Guard	3	13	Stanley Consultants, Inc.	7	24	Denver Water	6
3	CSSGA	6	14	Colorado Contractors Association	6	25	Trade Center Autorecycling	1
4	Colorado Automotive Recyclers	7	15	Colorado Mining Association (1)	9	26	Xcel Energy	39
5	Whitewater Building Material Corporation	4	16	Colorado Mining Association (2)	5	27	EnviroGroup Limited	39
6	Colorado Ready Mixed Concrete Association	4	17	Holcim	11	28	Western Sugar Cooperative	7
7	Colorado Springs Airport	5	18	City of Pueblo	3	29	Grand Junction Pipe and Steel	7
8	Treated Wood Council	5	19	Waste Management	19	30	Suncor Energy	2
9	Brannan Sand and Gravel Co.	7	20	Colorado Springs Utilities	33	31	Metro Wastewater Reclamation District	4
10	Osrose	2	21	CDPHE – Division of Environmental Health and Sustainability and Hazardous Materials and Waste Management Division	5	32	LKQ Corporation	3
11	Lafarge (1)	28	22	Tri-State Generation and Transmission Association, Inc.	21		Total	302

Same as Colorado Automotive Recyclers:

	Name	# comments		Name	# comments		Name	# comments
1	Creative Auto Recyclers & Salvage, Inc.	7	5	Central Foreign Auto Parts	7	9	Falcon Auto Recycle, LLC	7
2	Ex Dir CARs	7	6	Avalanche Auto Parts	7	10	Trade Center Auto Recycling	7
3	Loveland Auto Salvage, Inc.	7	7	Active Truck Parts, Inc.	7	11	LKQ	7
4	A-1 Transmission and Parts Co	7	8	Adopt A Part	7		Total	77

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GENERAL COMMENTS	
FACT SHEET	
<p>Analytical Requirements, page 14</p> <p>i. Comment was received requesting that the Division revise the Fact Sheet to reflect that the “Practical Quantitation Limitation Guidance Document” is not a policy, and only covers PQLs for organics, not inorganics.</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division agrees with the comment. As asserted by the commenter, the “Practical Quantitation Limitations Guidance Document” (July 2008) is <u>guidance</u>, which is “intended to inform the Division regarding the selection of analytical methods and associated practical quantitation limits (PQLs) for use in permits issued for discharges to surface waters or ground water under the Colorado Discharge Permit System (Regulation No. 61).” The Fact Sheet was revised appropriately. <p>The current guidance includes PQLs for organic compounds only. In the absence of specific PQLs for inorganic compounds, the Division’s interim process is to use the PQLs established by the State of Colorado Laboratory Services Division. These are provided at Part I.H.7 of the permit. The PQL Work Group is currently working toward modifying the guidance to update the existing organic compound PQLs, and add inorganic PQLS.</p>	Fact Sheet Section III.H.1
<p>Benchmark Monitoring, page 15</p> <p>ii. Comment was received requesting that the Division expand the Fact Sheet to explain how it will determine hardness values absent data for the receiving water.</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division agrees with the comment, and added language to Section III.I.2 of the Fact Sheet, as follows: <p>“The Division will typically compute a mean hardness for the receiving stream based on sampling data obtained from Division, USGS, or other sampling efforts. The Division will attempt to use all available hardness data to minimize seasonal variations, from a sampling point downstream from the stormwater discharge. If hardness values are not available for the receiving stream, sampling data obtained from Division, USGS, or other sampling efforts for a stream within the same or comparable watershed will be used.”</p>	Fact Sheet Section III.I.2
PERMIT	
<p>Limited Division resources</p> <p>iii. Comment was received that questions how the Division intends to administer the new permit given its current resources. Specifically, comment indicates that:</p> <ul style="list-style-type: none"> - the Division lacks sufficient staff to prepare required certifications, conduct inspections, reply to questions, prepare individual permits, review reports, etc. that are required by the ~1000 facilities permitted under the new permit; - the added requirements in the permit actually increase the administrative burden on both the permittee and the Division. - this program as proposed would add significantly to the workload of an agency that has repeatedly reminded the regulated community that it is already strained, has difficulty keeping up with permit requests and compliance inspections, and does not have the resources to consider or implement scientifically-based procedures to existing water-permitting programs. <ul style="list-style-type: none"> • <u>Response</u>: The Division agrees that we continue to remind the regulated community of our resource constraints, and this permit renewal 	No Change

Comment and Response	Changes
<p>action provides an excellent example of the challenges the Division faces in issuing permits that meet statutory and regulatory requirements, make sense for Colorado, will be implementable for the Division, but that may cause the Division to reduce work in other parts of program implementation if resource levels do not increase. The Division prioritizes required work based on environmental outcomes, consistent with the mission of the Division of protecting and preserving the State's water resources and the Division and Department strategic plans. Comprehensive renewal of the industrial stormwater permits is a program priority at this time based on an identified gap in the quality of the current industrial stormwater permits relative to the MSGP, other state permits, case law, and statutory and regulatory direction provided. Based on this analysis, the Division determined that it would be appropriate to spend more time on this permit renewal and reduce time spent conducting industrial stormwater inspections, for FY11 and FY12. The Division has implemented that plan and spent a considerable amount of time in FY11 and FY12 on this permit renewal, and has conducted fewer inspections as a trade-off.</p> <p>Once this renewal is in place, some provisions are expected to reduce the administrative burden of the Division. Examples include reduced annual reporting requirements and including benchmarks and corrective actions in the permit. The Division expects annual reports to be more concise and require less review time than is spent reviewing the current annual reports. Also, with the current heavy, light and recycling permits, the Division has had the sole burden of comparing sampling results to benchmarks and then notify permittees that corrective action is required. The Division will not have to conduct this review since permittees will be self-implementing corrective action as appropriate in accordance with the renewal permit.</p> <p>Other provisions may increase the administrative burden for the Division, however the Division moved forward with those provisions because they were determined necessary to meet legal requirements and made sense for Colorado. A good example is the provision in this permit regarding new discharges to impaired waters. The Division included a narrative site-specific water quality based effluent limit that will apply to new discharges to impaired waters. This provision was included because the Division is directed to issue permits that are in conformance with statutory and regulatory requirements. Since the issuance of the last heavy, light and recycling general permits, case law and model permits available have provided a backdrop that led the Division to address the underlying regulatory requirement more directly in this permit action. The Division wanted to be clear that the regulatory requirement is being fully implemented in this permit, increase knowledge and transparency regarding how this provision is implemented in Colorado, and be consistent and minimize case-by-case interpretations in how the underlying regulatory requirement should be met for types of discharges covered under this general permit. The Division also took a different approach than the MSGP regarding this provision, one that is expected to increase its resource cost in the certification issuance process. The Division intends to review permit applications and determine prior to issuance of a certification if the request is for a new discharge to an impaired water, and if so inform the permittee that additional narrative conditions apply. In contrast, in the 2008 MSGP, EPA took the approach of including the underlying regulatory requirement verbatim in the permit, including the conditions in limitations on coverage, and requiring the permittee to self-identify that they are a new discharge to an impaired water and are meeting the underlying regulatory requirement. While the Colorado approach is expected to result in more time spent during the certification issuance process, the Division expects this approach to prevent other resource costs, such as litigation costs that will be minimized by clearly addressing the regulatory requirement in the permit, and compliance costs that would have been incurred in making case-by-case determinations as to whether permittees have properly self-identified that they are a new discharge to an impaired water and do in fact have permit coverage (regardless of having a permit certification in hand), that would be expected if Colorado had modeled EPA's approach.</p> <p>On the whole, this general permit issuance action has resulted in resource costs significantly higher than previous renewals of the heavy, light, and recycling permits, and expects issuance of certifications under the renewal permit to have a higher resource cost than certification issuance has had in the past. In the permitting context, a consequence of these costs has been that the Division has had to administratively continue its industrial stormwater general permits for the first time, and has not been able to meet existing certification issuance goals. Without additional resources, the Division expects that it will continue to take longer to complete permit actions. The increase in permitting work has also had resource costs in compliance oversight, as the Division has reduced its inspection capacity in stormwater over the past</p>	

Comment and Response	Changes
<p>several years. The Division has discussed these competing demands and inspection reductions with EPA in developing an annual performance partnership agreement with EPA. EPA has agreed to those reductions, and in turn has increased its direct inspections of stormwater facilities and permits in Colorado, to compensate for the state reduction.</p>	
<p>Permittee training</p> <p>iv. Comment was received requesting that the Division provide training for facilities subject to the new permit within the first year the permit is effective.</p> <ul style="list-style-type: none"> • <u>Response</u>: To the extent that resources are available, the Division intends to provide compliance assistance (i.e., outreach) to the regulated community during the first year the permit is effective. 	<p>No change</p>
<p>Permit length and complexity</p> <p>v. Comment was received that disagrees with the Division's statement in the Fact Sheet that combining the Light, Heavy and Recycling stormwater permits into one permit promotes improved consistency of permit requirements, a flexible and efficient process for application review and issuing permit certifications, and provides a more user-friendly format for the permittee. Specifically, comment indicated that the renewal permit:</p> <ul style="list-style-type: none"> - is too long, more complicated and less transparent than the three permits it replaces; - is confusing, not flexible, efficient, or user friendly; doesn't streamline and simplify the permit process; - in some cases goes above and beyond what the 2008 MSGP requires; - will be a tremendous burden on small businesses as they attempt to cope with the increases in complexity, inspection and monitoring requirements. <ul style="list-style-type: none"> • <u>Response</u>: See response to <u>Cost to business vs. Environmental benefit</u> (ix.), below. 	<p>See ix. below</p>

Comment and Response	Changes
<p>Paperwork vs. Environmental benefit</p> <p>vi. Comment was received stating that the new permit requirements don't correlate to an environmental benefit and that the Division should focus on the current regulations and on non-compliant dischargers with the existing authority and flexibility that the existing permit and regulations provide. Specifically, comment stated that permittees are concerned:</p> <ul style="list-style-type: none"> - with the potential for 'paperwork' or clerical fines associated with permit requirements that have nothing to do with the quality of the stormwater being discharged, and that the Division should focus on the actual stormwater discharges and not on paperwork. - about the additional resources that will be required to maintain compliance with this permit without obvious environmental benefit. <ul style="list-style-type: none"> • <u>Response</u>: See response to <u>Cost to business vs. Environmental benefit</u> (ix.), below. 	<p>See ix. below</p>
<p>Non-filer focus</p> <p>vii. Comment was received that the Division ought to focus its efforts on those businesses whose industrial activities are subject to the stormwater permitting regulations, but who are operating without a permit.</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division agrees that having a level playing field is an important economic consideration in how the Division targets and utilizes its compliance resources. Since the stormwater regulations were adopted in Colorado in 1992 and permits were first issued in 1993, the Division had taken varying approaches to how it targets its compliance resources including non-filers, and different sectors subject to stormwater permitting requirements. For example, the Division initiated a targeted effort at non-filers in the late 1990s, which resulted in a significant increase in the size of the permitted universe for the auto recycling sector. Since that time, the Division has addressed stormwater non-filers on a more limited, but routine basis, by requiring entities to obtain appropriate permit coverage as information becomes available to the Division, predominantly through complaints and non-filers discovered through field presence. <p>Based on comments received on this topic both during the pre-public notice meeting and the permit public comment period, the Division has taken several actions: 1) resources targeted for addressing non-filers have been identified in the annual report to the Joint Budget Committee, and 2) the Division has had dialogue with EPA and some of their stormwater direct inspection resources have been targeted at non-filers and, 3) the Division is evaluating the extent to which non-filers can be addressed more comprehensively with Division resources once this renewal permit is issued and effective.</p>	<p>No change</p>
<p>Partnerships</p> <p>viii. Comment was received requesting that the Division engage permittees and industry groups as partners with respect to environmental protection and support their businesses rather than utilizing a punitive and inflexible approach.</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division agrees that permittees and industry groups are performance partners, and that environmental outcomes can be achieved only through constructive engagement. For example, the Division conducted a significant stakeholder process with respect to this permit, one that went beyond regulatory requirements for public process and included a Pre-public Notice meeting, 10-outreach meetings around the state, a 60- rather than 30-day public notice period, a Public Meeting, a pre-issuance meeting with commenters, and significant website communication. The Division also included flexibility in this permit where appropriate, such as the ability to reduce sampling if benchmarks are being met, and exceptions for adverse weather conditions and for climates with irregular stormwater runoff. While the Division does conduct compliance assistance work such as the issuance of guidance documents and public speaking, there is significant unmet demand and the Division agrees that more should be done. In the enforcement framework, penalties are not meant to be punitive, but are an important tool for motivating non-compliant entities to return to compliance and stay in compliance, which leads to a level business play field and water quality protection. While the Division often is functioning at the level of constructive engagement with many permittees and 	<p>No change</p>

Comment and Response	Changes
industry groups, the challenges are large and gaps remain and emerge. The Division intends to continue to work hard to identify and understand differences in perspective with permittees and industry groups and bridge those gaps to result in constructive engagement, which is consistent with direction in the Division strategic plan.	

Comment and Response	Changes
<p>Cost to business vs. Environmental benefit</p> <p>ix. Comment was received stating that compliance with the new permit requirements will increase the cost of business without a corresponding environmental benefit. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - the permit will increase operator workload when staffing levels are low; - Colorado businesses will face significantly greater implementation and compliance costs; it is not clear that the increased requirements will provide any increased benefit to water quality; - there is no explanation or discussion regarding why the current stormwater permitting approach used in Colorado has not been effective in protecting water quality; - it is inappropriate to issue a draft permit that contains increased monitoring, inflexible effluent limitations, and other burdensome requirements that will significantly increase compliance costs without providing a corresponding water quality benefit, especially during these difficult economic times. - increasing the cost of business on environmentally responsible recyclers is counterproductive to the overall goals of storm water permitting, and could force many out of business and result in more end-of-life vehicles being mishandled and associated environmental impacts <p>• Response: The Division prioritizes required work based on environmental outcomes, consistent with the mission of the Division of protecting water quality and the Division and Department strategic plans. Comprehensive renewal of the industrial stormwater permits is a program priority at this time based on an identified gap in the quality of the current industrial stormwater permits relative to the MSGP, other state permits, case law, and statutory and regulatory direction provided. The existing industrial stormwater permits have not been significantly modified since 1992 (almost 20-years) and there is a significant amount of new information available since that time that led the Division to determine that a comprehensive review was appropriate. As indicated in the Fact Sheet that accompanied permit COR900000, Division observations during compliance inspections of permitted industrial facilities indicate non-compliant field conditions, which have the potential to result in discharges of pollutants from the facility to state waters. In addition, the Division conducted a review of sampling results for years 2000 – 2010, submitted to the Division by those industrial sectors required to conduct annual sampling of stormwater discharges from their facilities. In general, for facilities that reported sampling data, results demonstrate that <i>all sectors</i> exceeded either the applicable benchmark values or federal ELGs, for at least one parameter (this review included those sectors required to sample under both the existing Heavy and Recycling stormwater permits; the existing Light industrial stormwater permit does not require sampling). Also, available scientific literature and EPA’s industrial stormwater Fact Sheets provide information with respect to the types and quantities pollutants discharged with stormwater [Line, D.E., Arnold, J.A., Jennings, G.D., Wu, J., 1996. <i>Water quality of stormwater runoff from ten industrial sites</i>. Journal of the American Water Resources Association. 32 (4) 807-816; Stenstrom, M.K., Lee, H., 2005. <i>Utility of Stormwater Monitoring</i>. Water Environment Research. 77 (3), 219-228; Stenstrom, M.K., Lee, H., 2007. <i>Design of stormwater monitoring programs</i>. Water Research. 41, 4186-4196.] Together, this information indicates that industrial facilities continue to discharge pollutants in stormwater from their facilities at levels that have the potential to cause or contribute to an exceedance of water quality standards, and substantiates the Division’s determination that the time was appropriate for a comprehensive review of all industrial stormwater permits up for renewal.</p> <p>The Division believes that the fundamental approach taken in this permit is appropriate (including using the 2008 MSGP and some states industrial stormwater permits as a model) and timely, to better address the pollutant potential of industrial stormwater discharges to state waters. The Division also considered comments that combining the permits was not an efficiency, and resulted in inefficiencies to both the Division and permittees. The Division disagrees. Because the review of the permits has been comprehensive, and there has been significant stakeholder involvement, the Division believes that there has been tremendous efficiency for the Division in renewing all three permits into one renewal permit. Converting certifications to a renewal permit number will also allow the Division to take time to identify impaired segments, TMDLs, and any site-specific requirements. The Division independently evaluated the appropriateness of the terms and conditions in this</p>	<p>See specific sections in document</p>

Comment and Response	Changes
<p>permit for each sector, and did not apply the requirements in the heavy permit to all sectors “ad hoc”. As did EPA, the Division also included numeric site-specific requirements in the sector-specific portion of the Fact Sheet, as the Division determined these requirements were not one size fits all. Through talking to permittees during the public notice process, the Division found that concerns about the overall length of the permit reduce significantly as the format of the permit is better understood, that only 44 of the 113 pages apply to all sectors and most sectors have one or two additional pages that apply.</p> <p>The Division must include certain provisions in permits without consideration of the compliance cost or burden. An example is that the Division must include an effluent limit where a discharge causes, or has the reasonable potential to cause an exceedance of a water quality standard. At the same time, if a reasonable potential determination results in an effluent limit that will have a significant cost burden, the Division can provide time for an entity to comply (including time to secure funding) through the allowance of a compliance schedule. In developing other permit terms and conditions, such as monitoring, recordkeeping, and reporting, the Division has more latitude and balances the need to have adequate information to evaluate a discharge with compliance costs and burden. The Division appreciates the numerous comments received on the draft and has <i>significantly reduced</i> permit requirements with respect to monitoring requirements and inspection frequency, and reporting requirements in particular, as discussed in this document.</p> <p>See also response to comment at Practice-Based Effluent Limits (xi), below.</p>	

Comment and Response	Changes
<p>Combined permit approach</p> <p>x. Comment was received requesting that the Division not use a combined permit approach, and recommended that it use the current version of its general permits as a template for its stormwater general permits, because:</p> <ul style="list-style-type: none"> - the industries covered are different; - the new permit holds all permittees to the “Heavy Industrial standard”, which will cause unwarranted burden and financial impact. - enforcement action should be taken against violators as opposed to making a change (combining the three permits) that has an impact on all permittees; - the Division has not offered a specific rationale for the combined permit approach, or why it is necessary to burden the regulated community and the agency with the problematic provisions (correction action provisions, benchmark monitoring, and imposition of effluent limitations) it adopted from EPA’s 2008 MSGP; - the Division is not required to adopt or follow any portion of EPA’s 2008 MSGP and in fact may issue general permits that differ from their federal counterparts in order to address unique state issues; - the template approach would avoid increased costs to the regulated community under the draft general permit (or any subsequent stormwater general permits) and would allow a smooth transition from the current permit to any newly-issued permit; - the template approach would avoid what would appear to be significantly increased internal costs associated with administering and enforcing an entirely new permit approach and format, and the regulated community would have the comfort of some predictability and familiarity with the current permitting approach, as it would be based on a permitting approach under which they already operate. <p>• <u>Response</u>: See response to <u>Cost to business vs. Environmental benefit</u> (ix.), above.</p>	<p>See ix. above</p>
<p>Practice-Based Effluent Limits</p> <p>xi. Comment was received requesting that the Division not impose Practice-Based Effluent Limits (PBELs) in the new permit, and instead, retain the flexibility currently found in the current CDPS stormwater general permits that allows permittees to select the stormwater management controls appropriate for the facility discharge. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - the new terminology is confusing -- what are referred to as stormwater management controls in the current version of the CDPS general stormwater permit for heavy industrial activity, are now being characterized as “practice-based effluent limits” (Part I.D.1). The term “stormwater management control” is the term of art most commonly understood by the regulated community. - calling something an effluent limit would appear to make it directly enforceable under the federal Clean Water Act (CWA), potentially even by citizen suit, such that regulated facilities could be subject to CWA enforcement and liability to third parties based on frivolous disputes over such issues as housekeeping or employee training measures mandated in the permit as “practice-based effluent limits.” - the generic classes of “practice-based effluent limits” set forth in the draft permit little resemble traditional effluent limitations developed through the effluent limitation guideline process or as a result of best professional judgment in an individual permit negotiation, and should not be enforced as effluent limitations. - the proposed “practice-based effluent limits” constitute inflexible, unnecessarily prescriptive measures, and appears to mandate the imposition of certain control measures at every site. For example, at many sites, the mandatory requirements to minimize exposure of materials (Part I.D.1.a), as well as the requirement to stabilize all exposed areas (Part I.D.1.e), simply do not make sense. 	<p>No change</p>

Comment and Response

Changes

- Response: The Division disagrees with the suggestion that it should not impose Practice-Based Effluent Limits (PBELs) in the renewal permit. The Division has a regulatory obligation to derive and include effluent limitations in a permit and has done so in previous permits. As discussed in Section III.F of the Fact Sheet, the significant change from previous permits is that the effluent limitations contained in this permit are located in a section separate from the SWMP, thereby clarifying which terms and conditions are effluent limitations versus other terms and conditions of the permit.

The Fact Sheet further identifies that the practice-based effluent limits and numeric effluent limits based on effluent limitation guidelines (ELGs) are technology-based effluent limits that are required for all CDPS permits. These effluent limitations correspond to the required levels of technology based control (BPT, BCT, BAT) for various discharges under the Colorado Water Quality Control Act. For this permit, most of the technology-based effluent limits are based on Best Professional Judgment (BPJ) decision making because no ELG applies. However, the permit also includes technology-based limits based on the specific ELGs included. This permit includes water quality-based effluent limits as necessary to meet applicable water quality standards and supplement the technology-based effluent limits. The Division determined that it was appropriate to include the BPJ based technology-based effluent limits and the water quality-based effluent limits on the same basis EPA used in development of the 2008 MSGP.

For more information on this subject, commenters are encouraged to read the Fact Sheet for the 2008 MSGP [Section VI. Effluent Limits (Part 2)], which provides an extensive discussion of the applicability of PBELs in this permit.

Comment and Response	Changes
<p>Benchmarks</p> <p>xii. Comment was received requesting that the Division not impose Benchmarks in the new permit. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - there is no legitimate or valid rationale for implementing benchmark monitoring in Colorado other than to follow the lead of EPA, and EPA has completely failed to justify its benchmark monitoring approach. - EPA has long recognized that the nature and variability of stormwater renders the use of numeric pollutant standards impracticable, and therefore, has never simply applied water quality standards-based or other numeric effluent limits to stormwater discharges associated with industrial activity in any of its industrial general permits. - developing numeric benchmark levels for stormwater discharges is difficult given the unique conditions that occur during episodic storm events. In addition, application of any numeric criteria to stormwater is problematic given (1) the unique conditions that occur during episodic storm events and (2) the failure to account for the receiving water assimilation of the pollutant or for a mixing zone or similar approach (when appropriate). - although there is a stated premise that benchmark monitoring is intended to evaluate stormwater control measures, there is no clear connection between the proposed benchmark concentrations and stormwater control effectiveness. This lack of a clear connection could lead permittees to have to engage in potentially expensive review and upgrade of control measures even if doing so is not necessary to attain applicable water quality standards in the receiving water. Ultimately, because there is no clear connection between the proposed benchmark concentrations and control measure effectiveness, the establishment of benchmarks becomes an arbitrary and technically unsupportable exercise, with potentially expensive consequences. If Colorado were to retain benchmark monitoring requirements, it would need to make an independent, scientifically and economically defensible assessment to define appropriate benchmark concentrations to protect the waters of the state. - stormwater runoff quality from disturbed and undisturbed areas in the arid west is influenced as much or more by the type and intensity of the storm event, and the time since the last rain event, than by the type of control measures implemented. The quality of storm water discharge has been seen to vary significantly even where there has been no change in control measures. <ul style="list-style-type: none"> • <u>Response</u>: The Division disagrees with the comment. The Division wishes to clarify that benchmark concentration levels are not intended to be used as numeric effluent limitations as asserted by the commenter, but as a tool to assess control measure effectiveness. This distinction is made in the permit, but to clarify this intent, the Division modified the Fact Sheet to reflect this intent. <p>As the comment pertains to the value of benchmark monitoring, the Division disagrees with the commenters request that the Division not impose benchmarks in the renewal permit, and agrees with EPA’s statement that “there is presently no alternative that provides stakeholders with an equivalent indicator of program effectiveness.” (see 65 Fed. Reg. 64796, October 20, 2000). For more information on this subject, commenters are encouraged to read the Fact Sheet for the 2008 MSGP [Section X.B.1. Benchmark Monitoring (Part 6.2.1)], which provides an extensive discussion of the applicability of benchmark monitoring in this permit.</p>	<p>Fact Sheet Section III.I.2</p>
<p>Corrective Actions</p> <p>xiii. Comment was received requesting that the Division significantly revise or remove the Corrective Actions requirements in the new permit. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - the concept of corrective action is not found in the current version of the CDPS general stormwater permits and is not necessary as applied to stormwater management and permit compliance; 	<p>No change</p>

Comment and Response	Changes
<ul style="list-style-type: none"> - the permit already imposes requirements to maintain stormwater management controls, eliminate unauthorized discharges, and to not cause or contribute to an exceedance of water quality standards in the receiving water. - the corrective action concept adds additional and burdensome requirements to the draft permit that will increase the cost and burden of the permit without any corresponding benefit; - there is no explanation or rationale for why stormwater permits must now include stringent corrective action implementation and reporting requirements other than to follow the lead of EPA's 2008 MSGP; the federal NPDES and state CDPS permit regulations do not contain any reference to "corrective action" as applied to stormwater or other NPDES/CDPS permits other than as applicable to housed commercial swine feeding operations). <ul style="list-style-type: none"> • Response: The Division disagrees with the suggestion to significantly revise or remove the Corrective Actions requirements in the renewal permit. As discussed in Section III.J of the Fact Sheet, the Division added a new section (Corrective Actions) to the renewal permit to identify permittee responsibilities with respect to resolving specific facility conditions. The corrective action process is one that requires steps to remove problems or to further review conditions indicative of potential problems, and is critical to fixing conditions occurring during the permit term that are indicative of permit violations. 	
<p>Reporting requirements</p> <p>xiv. Comment was received indicating that the permit reporting requirements are too burdensome, and that as a result, permittees may "fake" the reports, which may have a negative effect on water quality.</p> <ul style="list-style-type: none"> • Response: See response to <u>Cost to business vs. Environmental benefit</u> (ix.), above. 	See ix. above
<p>Hardness</p> <p>xv. Comment was received requesting that the Division clarify in the permit whether "hardness" applies to the receiving waterway or the stormwater discharge. The commenter noted that if it applies to the receiving waterway, such measurements may be difficult to ascertain, and may vary significantly with seasonal precipitation or snowmelt.</p> <ul style="list-style-type: none"> • Response: The reference to hardness data in the permit is for the receiving stream, not the stormwater discharge. In contrast to EPA's approach in the 2008 MSGP, the Division will not routinely require the permittee to provide hardness data for the receiving water for industrial activities with hardness-dependent benchmarks. The Division will determine appropriate hardness values, and apply them in the permit certification for hardness-dependent benchmarks, as applicable. <p>The Division will typically compute a mean hardness for the receiving stream based on sampling data obtained from Division, USGS, or other sampling efforts. The Division will attempt to use all available hardness data to minimize seasonal variations, from a sampling point downstream from the stormwater discharge. The Fact Sheet was modified to clarify the hardness reference.</p>	Fact Sheet Section III.I.2

Comment and Response	Changes
<p>xvi. Comment was received indicating the maximum hardness value used to calculate hardness-dependent table value standards (TVS) for use in evaluating industrial stormwater sample results should be 400 mg/l; and if a maximum of 250 mg/l is used for metal limits (EPA 2008 MSGP protocol) the justification for limiting the hardness should be stated. Documentation for the comment is as follows:</p> <p>“Water Quality Standards for metals in the State of Colorado are adjusted based on the appropriate hardness for each permit per Regulation 31.</p> <p>31.16 TABLES Certain toxic metals for Aquatic Life have different numeric levels for different levels of water hardness. Water hardness is being used here as an indication of differences in the complexing capacity of natural waters and the corresponding variation of metal toxicity.</p> <p>Table III – Footnotes Hardness values to be used in equations are in mg/l as calcium carbonate and shall be no greater than 400 mg/l. The exception is for Al, where the upper cap on calculations is a hardness of 220 mg/l. For permit effluent limit calculations, the hardness values used in calculating the appropriate metal standard should be based on the lower 95 per cent confidence limit of the mean hardness value at the periodic low flow criteria as determined from a regression analysis of site-specific data. Where insufficient site-specific data exists to define the mean hardness value at the periodic low flow criteria, representative regional data shall be used to perform the regression analysis. Where a regression analysis is not possible, a site-specific method should be used, e.g., where hardness data exists without paired flow data, the mean of the hardness during the low flow season established in the permit shall be used. In calculating a hardness value, regression analyses should not be extrapolated past the point that data exist. For determination of standards attainment, where paired metal/hardness data is available, attainment will be determined for individual sampling events. Where paired data is not available, the mean hardness will be used.”</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division acknowledges the comment, and clarified the use of hardness values with respect to the sector-specific benchmark values adopted from the 2008 MSGP, and those derived on a site-specific basis, in the Fact Sheet. 	<p>Fact Sheet Section III.1.2</p>
<p>Governor Hickenlooper’s Red-Tape Roundtable</p> <p>xvii. Comment was received stating that the new permit falls in Governor Hickenlooper’s Red-Tape Roundtable category of “burdensome and unnecessary regulatory red-tape”, and encourages the Division to meet with the Governor, and Barbara Kelly (Director, Department of Regulatory Agencies) regarding the new stormwater discharge permit.</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division appreciates the comments received on the draft permit and has made significant revisions to the terms and conditions. In particular, monitoring, recordkeeping, and reporting requirements were reduced to decrease the compliance and cost burden for industry. Comments were also received on the draft permit through the Governor’s Red-Table Roundtable, and the response was that the Division will continue communication with stakeholders on the issues raised through the permit development process. 	
<p>Different format</p> <p>xviii. Comment was received requesting that the format of the new permit be changed to move some requirements that should differ between industrial sectors into the sector-specific portion of the permit, specifically 1) inspection frequency and 2) inspection, sampling and monitoring requirements for inactive/unstaffed sites.</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division revised the inspection frequency from <u>monthly</u> to a minimum frequency of <u>quarterly</u> for all industrial sectors covered by this permit (see response to comment at Part I.G.1 of this document). As indicated in this response, more frequent inspections are required for some activities in certain sectors; these requirements are located in the sector-specific section of the permit. The Division did not change 	<p>No change</p>

Comment and Response	Changes
inspection, sampling and monitoring requirements for inactive/unstaffed sites that do not meet the condition of no-exposure. No change was made to the permit.	
<p>Not more restrictive than federal MSGP</p> <p>xix. Comment was received stating that Colorado's COR900000 should not be more restrictive than the federal MSGP, i.e., should not be more restrictive than the statutory requirements of the Clean Water Act because:</p> <ul style="list-style-type: none"> - publicly available data is not available to demonstrate why Colorado's MSGP should be more stringent than other western region states' requirements, nor has CDPHE presented the effectiveness and the expected costs to meet these more stringent requirements - the combined permit "one-size-fits-all" universal approach by CDPHE increases burdens and costs across the board to all owner/operators, even to those sources for which there is no demonstrated need for increased stringency over federal requirements. - more frequent and more prescriptive procedures create unnecessary and potentially duplicative enforceable conditions for Colorado's industrial facilities. <ul style="list-style-type: none"> • <u>Response</u>: Please see response to comment at <u>Cost to business vs. Environmental benefit (ix.)</u>, above. 	See ix. above
<p>Justification and data requested</p> <p>xx. Comment was received requesting that the Division justify changing the existing permit scheme and documentation. Specifically, the comment states that the permit is based on presumed violations or exceedances at permitted facilities, yet the data on which this presumption is based has not been made available to the public. Further, if there is a problem with water quality being impaired by stormwater runoff, then those facilities that contribute to the problem should be regulated by individual permits.</p> <ul style="list-style-type: none"> • <u>Response</u>: With respect to the changes to the format and content of the permit, please see response to comment at <u>Cost to business vs. Environmental benefit (ix.)</u>, above. The Division disagrees with the commenter's assertion that changes to the permit were made based on "presumed violations or exceedances at permitted facilities". The Division's observations of facility compliance during inspections, and review of the last 10-years of sampling data submitted by facilities currently required to monitor their stormwater discharges, indicates that industrial facilities continue to be sources of pollutants to state waters. All information is available from the Division through the records center. 	Fact Sheet Section III
<p>Cost benefit analysis requested</p> <p>xxi. Comment was received requesting that the Division conduct a thorough cost-benefit analysis before making significant changes to existing regulatory programs that appear to be functioning as designed. This analysis should look at the cost to business and should consider the cost of implementation by the State.</p> <ul style="list-style-type: none"> • <u>Response</u>: Please see response to comment at <u>Cost to business vs. Environmental benefit (ix.)</u>, above. 	See ix. above
<p>Compliance Schedule</p> <p>xxii. Comment was received requesting that the Division either provide a workable and negotiable compliance schedule for entities with multiple facilities that will require certification under COR900000, or alternatively, administratively extend certifications under the Heavy, Light, and Recycling Industrial SW Discharge permits for 12 months after the effective date of the new Non-Extractive Industrial Activity permit because:</p> <ul style="list-style-type: none"> - permittees with multiple facilities anticipate a significant amount of time spent at each facility to update SWMPs, inspection procedures, and sampling processes to ensure compliance with the terms of COR900000. 	Part I.E

Comment and Response	Changes
<ul style="list-style-type: none"> - current staffing levels will not allow permittees with multiple facilities to bring all facilities into compliance with the terms of COR900000 in the timeframe set forth in the proposed permit. • <u>Response</u>: The Division discusses the ~4-month time lag between the permit issue and effective dates, and the revised timeframe for permittees to update their facility SWMP from 60- to 90-days in response to comment at Part I.E.ii. 	
<p>Calendar days to working days xxiii. Comment was received recommending that the Division change all references of calendar days to working days.</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division added the terms “calendar” and “working” in advance of the term “days” in the permit, to provide clarification. See also response to comment at Part II.A.2.iv. 	No change
<p>Define terms xxiv. Comment was received requesting that the Division define the term “potential” as used in various locations throughout the permit.</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division uses the term “potential” in two ways within the permit: 1) in a stormwater context, e.g., potential pollutant sources, and 2) in a regulatory context, e.g., reasonable potential. In the stormwater context, the Division followed previous permits’ and the MSGP lead, and does find it necessary to define the term. As used within the regulatory context, the term is used as it is in the regulation, and does not warrant definition. 	No change
<p>Impaired water xxv. Comment was received requesting that the Division provide guidance to permittees and applicants on how to determine whether facility run-off will be to an impaired water. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - The public meeting held on August 3rd indicated that the determination of a discharge to impaired waters can only be made by the Division as part of the permitting process. - A SWMP needs to be prepared before an application is submitted to the Division, and there are specific SWMP requirements for discharges impaired waters. - The GIS link on the CDPHE webpage for use in determining the appropriate stream segment does not allow for the use of township/range location information. For remote sites, that may be the only location information available. <ul style="list-style-type: none"> • <u>Response</u>: As indicated by the commenter, the Division’s website now provides an outward facing ArcGIS mapping function, whereby users can identify the stream segment identification for the receiving water of the stormwater discharge. Interested permittees may use this identification to determine whether this segment is currently listed as impaired (Regulation No. 93), or if the Division has developed, or is currently developing a TMDL for the segment. Regulation 93 and published TMDLs are available to the public through the Division’s website at www.coloradowaterpermits.com. The Division also intends to notify permittees that are discharging to an impaired water in the permit certification. 	No change
<p>Public Notice process for permit certifications xxvi. Comment was received recommending that the Division subject all permit certifications to the public notice process to ensure adequate public participation. Specifically, comment indicated that:</p>	No change

Comment and Response	Changes
<ul style="list-style-type: none"> - Specific effluent limitations (such as water quality limits, site-specific limits, etc.), monitoring requirements, compliance schedule requirements, etc., are proposed to be detailed in the individual certifications, which will be issued to the permittee with no opportunity to review, comment, or submit supplemental data/information prior to issuance. - The only recourse available to a permittee is an adjudicatory hearing under the Colorado Discharge Permit System Regulations, 61.7(1).which will result in an increase in adjudicatory hearings at significant cost to the regulated community and the Division. • <u>Response:</u> The public notice and comment process, and the adjudicatory process cited at 61.7(1) applies to the general permit, and does not apply to individual certifications issued authorizing discharges in accordance with the general permit. The Division includes site-specific conditions in many general permit certifications, including effluent limitations, monitoring requirements, and compliance schedule requirements. The Division also currently includes site-specific conditions, primarily monitoring requirements, in certifications under current industrial stormwater permits. Through its permitting experience, the Division has found that the vast majority of the time, the Division is able to request supplemental information when needed, communicate with permittees, and use other regulatory tools such as a modification to a certification to address comments and concerns when they do arise. On rare occasion where the issues become more complex and/or the permittee has significant concerns about terms and conditions included in a certification, the Division has found the facility to be more appropriately covered under an individual permit. In the individual permit process, the Division has more time to consider unique site specific factors and permittees have the multiple opportunities to formally raise concerns, including public notice and appeal. 	
<p>Exempt outfalls for unique facility circumstances</p> <p>xxvii. Comment was received recommending that the Division consider unique facility circumstances in the proposed permit/certifications. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - At some facilities, much stormwater run-off is discharged as final effluent regulated under a CDPS permit with extensive monitoring requirements; regulating such outfalls under a CDPS permit and the stormwater permit/certification is redundant and unnecessary. - Applying uniform limits/monitoring/requirements, etc., for all outfalls may not be appropriate for all permitted facilities and reasonable exemptions are appropriate. Under the following scenarios, the permit/certification should be modified to exempt outfalls from the permit requirements: <ul style="list-style-type: none"> o stormwater is collected, treated, and discharged under an individual CDPS permit; o outfall only receives roof runoff with no potential contact with process operations or activities; o outfall is located in loading/unloading area only or road/rail access area with no other process activities and no documented spills or incidents related to chemicals being transported, loaded or unloaded; o and any other areas where permittee can document no potential stormwater contamination associated with process activities. • <u>Response:</u> Response is provided in order of the statements above. <ul style="list-style-type: none"> o The Division agrees with the comment that stormwater that commingles with discharges covered by another NPDES or CDPS permit <u>prior to treatment</u> is not subject to the requirements of this permit. Please see response to comment at Part I.A.2.d of this document. o The Division disagrees with the comment suggesting the permit/certification be modified to exempt outfalls from the permit requirements. As provided by 5 CCR 1002-61.3(2)(e)(ii)(A) through (C), a stormwater permit is required for discharges of “stormwater associated with industrial activity”, which includes but is not limited to: <p style="margin-left: 40px;">stormwater discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials,</p> 	No change

Comment and Response	Changes
<p>manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to stormwater.</p> <p>The regulation indicates that the term “stormwater associated with industrial activity” excludes only areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots, as long as the drainage from the excluded areas is not mixed with stormwater drained from the above described areas.</p> <p>Therefore, using the roof run-off example provided in the comment, this discharge requires permit coverage if it meets the definition of “stormwater associated with industrial activity”. If it does not meet this definition, the permit terms and condition do not apply.</p>	
<p>ECHO database corrections</p> <p>xxviii. Comment was received requesting that the Division develop a more efficient process for correcting errors and inaccuracies in the ECHO database. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - Permittees with monitoring requirements will be required to submit stormwater Discharge Monitoring Reports (DMRs) to the Division with the goal of making water quality information accessible to the public. - Monthly monitoring of the ECHO database for accuracy and completeness and has found periodic inaccuracies. - Experience with the error reporting process is that making corrections to the ECHO database is a very slow process and can take months to correct. <ul style="list-style-type: none"> • <u>Response:</u> The Division agrees and is currently implementing new business processes to increase its efficiency in administering the permitting program and increase the accuracy of information in the ICIS database, which is the source of data for EPA's ECHO web interface. Beginning in 2011, the Division fully deployed netDMR, which is a web based tool that allows permittees to submit their monitoring results electronically. This eliminates the opportunity for data entry errors by the Division. The Division has also implemented an internal business process that better facilitates the transfer of information from program staff who often detect errors in the ICIS database to data entry staff. The Division agrees that it can be difficult for external parties to understand how to correct data entry errors, and in response to this comment, a link was added on the Division web site to the location on EPA's ECHO web site where errors can be reported. Once data entry errors are corrected, revised information appears on EPA's ECHO site in accordance with EPA's ECHO refresh dates, which are posted on the ECHO site. EPA has also announced their intent to conduct rulemaking to require states and permittees to submit NPDES information electronically. EPA's goal with this regulation is to ensure that facility-specific information would be readily available, accurate, timely and nationally consistent on the facilities that are regulated by the NPDES program. 	Website change
<p>Executive Order 13563</p> <p>xxix. On January 18, 2011, President Obama issued Executive Order 13563 (attached) reaffirming a previous Order, titled Improving Regulation and Regulatory Review. This Executive Order states to the extent permitted by law, federal agencies must:</p> <ol style="list-style-type: none"> 1) Propose or adopt a regulation only upon a reasoned determination that its benefits justify the costs (recognizing that some benefits and costs are difficult to quantify); 2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other 	No change

Comment and Response	Changes
<p>things, and to the extent practicable, the costs of cumulative regulations;</p> <p>3) Select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health safety, and other advantages; distributive impacts, and equity);</p> <p>4) To the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt.</p> <p>5) Identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing additional information upon which choices can be made by the public.</p> <p>While this Executive Order applies to federal agencies, we believe the ideas therein are sound and should be considered in this case.</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division agrees that this executive order does not apply to a state agency, and that the concept of balancing costs with environmental protection is important. The extent to which the Division can and has considered costs in developing this permit is addressed in response to <u>Cost to business vs. Environmental benefit</u> (ix.), above. 	
<p>Preconceived Outcome</p> <p>xxx. Based on the July 15 outreach presentation, it is very apparent that WQCD is not willing to listen to industry or to incorporate many of the comments and questions that were raised. If the EPA is not driving this new stormwater discharge permit process, who at the “State” is driving this process?</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division disagrees with the commenter’s assertion that the Division is not willing to engage the regulated community in meaningful dialogue with respect to the renewal permit requirements. The Division conducted a significant stakeholder process for this permit, one that went beyond regulatory requirements for public process and included a Pre-public Notice meeting, 10-outreach meetings around the state, a 60- rather than 30-day public notice period, a Public Meeting, a pre-issuance meeting with commenters, and significant website communication. The Division further demonstrated its commitment to the public process as evidenced by the number of changes it made to the renewal permit based on stakeholder input. 	
SPECIFIC COMMENTS	
PART I	
A. COVERAGE UNDER THIS PERMIT	
1. Facilities Covered	
a. Allowable Stormwater Discharges	
<p>i. Comment was received requesting that the Division clearly explain that the Effluent Limitation Guidelines (ELGs) come from the federal Effluent Guidelines and Standards (40 CFR Subchapter N), and that if there are no ELGs listed for a given sector/subsector then those sections of the permit that refer to ELGs are not applicable to that sector/subsector.</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division agrees with the commenter’s suggested clarification for the term “Effluent Limitation Guidelines” and revised the final permit accordingly. The Division notes the commenter’s request for further clarification of the applicability of ELGs to stormwater discharges, however, maintains that this clarification is already provided in Parts I.A.2.e and I.I.3 of the permit, and that additional detail is not required. 	Part I.A.1.a
ii. Comment was received requesting clarification of requirements applicable to stormwater run-on. Specifically, comment indicated that:	Part I.A.1.a Part I.F.3

	Comment and Response	Changes
	<ul style="list-style-type: none"> - In Part I.A.1.a.iii, stormwater run-on is included as “not otherwise required” to have a permit. However, no mention is made of permitted run-off that includes run-on. - It is unclear how run-off that includes contaminated run-on is to be handled and whether the stormwater permittee is responsible for treating run-on as well. <ul style="list-style-type: none"> • <u>Response:</u> The intent of Part I.A.1.a “Allowable Stormwater discharges” is to identify those discharges that are subject to the effluent limitations and terms and conditions of this permit. As such, contaminated run-on that 1) commingles with a facility’s discharge of industrial stormwater, or 2) picks up pollutants associated with the facility’s industrial activities, must comply with all effluent limitations and terms and conditions of this permit, or must be diverted to prevent 1) or 2). <p>The Division modified Part I.A.1.a and Part I.F.3 of the permit to clarify this intent, and added the following language to Part I.F.5 of the permit to further clarify the requirement:</p> <p style="padding-left: 40px;">“Documentation must include those control measures implemented for stormwater run-on that commingles with any discharges covered under this permit.”</p>	Part I.F.5
	b. Allowable Non-Stormwater Discharges	
	<p>i. Comment was received suggesting that the Division expand the list of allowable non-stormwater discharges to include the same activities as is listed in the 2008 MSGP. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - The new permit should align with the 2008 MSGP with respect to allowable non-stormwater discharges; - The narrowed list of allowable non-stormwater discharges in the new permit will require dischargers to obtain individual permits for benign discharges such as from seeps, springs, wash down waters, etc.; - The Division has not justified its decision to narrow the list, or the justification for eliminating these as part of the stormwater permit is not valid. <ul style="list-style-type: none"> • <u>Response:</u> The Division agrees that additional documentation of the basis on which the Division excluded certain allowable non-stormwater discharges should be expanded. The Division provided additional discussion in the Fact Sheet. No change was made to the permit. 	Fact Sheet Section III.A.1.b
	<p>ii. Comment was received stating that allowable non-stormwater discharges should include discharges authorized by separate CDPS permit coverage.</p> <ul style="list-style-type: none"> • <u>Response:</u> This permit specifically excludes from eligibility those "stormwater discharges associated with industrial activity that are covered under an individual NPDES or CDPS permit or an alternative NPDES or CDPS general permit." See Part I.A.2.c. The rationale behind this exclusion is that redundant permit coverage is not necessary and inefficient. The Fact Sheet was modified to document the basis for the exclusion. <p>In addition, the Division modified Part I.A.2.c of the permit COR900000 to remove the word “stormwater” to more clearly indicate that any discharges covered by another permit are ineligible for coverage under permit COR900000.</p>	Fact Sheet Section III.A.2 Part I.A.2.c

Comment and Response	Changes
<p>iii. Comment was received requesting the Division clarify how a facility that has had allowable non-stormwater discharges covered under its existing permit deal with such discharges once the new general permit becomes effective, and whether these facilities will be expected to obtain a discharge permit for these discharges.</p> <ul style="list-style-type: none"> • <u>Response:</u> Refer to the response provided at Part I.A.1.b.i (above) for permit and Low Risk Discharge Guidance options for the non-stormwater discharges not included in this permit. 	No change
c. Emergency Fire Fighting	
<p>i. Comment was received stating that the Emergency Fire Fighting activities section should include discharges due to maintenance of a fire hydrant system that requires periodic hydrant flushes. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - Such flushes are required by the local fire marshal or insurance company when facilities are located beyond municipal fire hydrants. - Some fire hydrant flushes contain raw water, are very temporary (a few minutes), and do not typically contain pollutants. - Erosion and sediment control measures (as described in the Practice-based Effluent Limitations, Part I.D.I.e) are still applicable to these flushes to prevent any scouring. - The 2008 MSGP includes "fire hydrant flushings" as one of the allowable non-stormwater discharges covered by the MSGP. <ul style="list-style-type: none"> • <u>Response:</u> The Division disagrees with the comment. The Division Low Risk Discharge Guidance: <i>Discharges of Potable Water (Revised August 2009)</i> covers potable water discharges, including fire hydrant and water line flushing. However, raw water discharges are not covered by this Low Risk Discharge Guidance, and requires permit coverage (Hydrostatic Testing of Pipelines, Tanks & Similar Vessels, COG604000). Please see the response to comment at Part I.A.1.b.i regarding the list of allowable non-stormwater discharges covered by this permit. 	No change
2. Limitations on Coverage	
b. Discharges with Chemical Addition.	
<p>i. Comment was received requesting that the Division clarify the limitation on coverage with respect to chemical addition. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - chemical addition is not eligible for coverage as a stormwater discharge. It is unclear whether this includes the addition of treatment chemicals (e.g., flocculants) for treating stormwater run-off. - The limitation on coverage in Part I.A.2.b for stormwater discharges to which chemicals have been added should be further explained or it should be removed. - It is unclear what is meant by the use of the term "chemical" or what is considered "stormwater discharges to which chemicals have been added." For example, does the limitation only apply to a direct addition of a "chemical" to stormwater or does the limitation apply to stormwater that may run across industrial areas, including landscaped areas, and pick up traces of a "chemical"? - The language currently proposed by CDPHE is overly broad and should be appropriately narrowed or removed. <ul style="list-style-type: none"> • <u>Response:</u> The Division agrees with the commenter's request for clarification—chemical addition within the context of this permit means chemicals (e.g., flocculent, alum, chitosan, etc.) that are added to stormwater, prior to discharge. After further consideration, the Division has determined that this limitation is not warranted, and has removed it from the renewal permit, thereby allowing discharges with chemical addition to be eligible for coverage under this permit. The rationale for removing this limitation is that the 	<p>Fact Sheet Section III.A.2</p> <p>Part I.A.2</p>

Comment and Response	Changes
<p>Division can require site-specific effluent limitations, including WQBELs, as necessary to protect water quality in the permit certification for such discharges. The Fact Sheet was modified to document the basis for removing of this limitation.</p>	
<p>c. Discharges Currently Covered by Another Permit.</p>	
<p>i. Comment was received stating that the permit COR900000 is duplicative and unnecessary in instances where stormwater discharges associated with industrial activity commingle with a permitted process wastewater discharge that is treated and discharged from the facility via an outfall subject to a NPDES or CDPS industrial wastewater permit. Permit COR900000 should not apply to such discharges.</p> <ul style="list-style-type: none"> • <u>Response:</u> The Division agrees with the comment. Stormwater that commingles with discharges covered by a NPDES or CDPS industrial wastewater permit prior to treatment is not subject to the requirements of this permit. Stormwater discharges that do not commingle with discharges covered under a NPDES or CDPS industrial wastewater permit at all, or that commingle after treatment must comply with the requirements of this permit. <p>Part I.A.2.c of the permit COR900000 specifically indicates that stormwater discharges covered by another permit are ineligible for coverage under permit COR900000. The Division made an editorial change to this section to more clearly indicate that any discharges covered by another permit are ineligible for coverage under permit COR900000.</p>	<p>Part I.A.2.c</p>
<p>f. Discharges to Waters Designated as Outstanding Waters for Antidegradation Purposes</p>	
<p>i. Comment was received stating that the limitation on coverage should be revised to only apply to “new or increased” discharges to receiving waters designated as “outstanding waters”.</p> <ul style="list-style-type: none"> • <u>Response:</u> No permit certifications are currently in effect under the current heavy, light, and recycling permits authorizing discharges to outstanding waters. Therefore, the Division anticipates that if an application is received for general permit coverage for a discharge to outstanding waters it would be for a new or increased discharge. 	<p>No Change</p>
<p>3. Obtaining and maintaining Authorization under this permit</p>	
<p>General</p>	
<p>i. Comment was received inquiring about the application for the new permit. Specifically, the following questions were posed:</p> <ul style="list-style-type: none"> - Has the application form to apply for coverage under this new permit been developed or are permittees applying for coverage expected to use the current form? - If the application process uses a new form, how much more detail will be required in the application? - Has an estimate of the administrative burden for compiling an application under the new general permit using a new form been completed? <ul style="list-style-type: none"> • <u>Response:</u> Because this permit replaces the Heavy, Light, and Recycling stormwater permits, this permit is considered a renewal of each of the previous permits. Therefore, the applications received under the other permits are considered an application under this renewal permit. The previous application documented enough information for the Division to accept and determine administrative continuance. However, as the Division developed the draft renewal permit, the Division has determined that it requires additional information to issue permit certifications, specifically SIC codes for co-located industrial activities, down-stream receiving waters, etc. Therefore, the Division intends to send permittees an application supplement form to acquire this additional information in advance of issuing certifications. 	<p>NA</p>

Comment and Response	Changes
<p>ii. Comment was received requesting that the Division clarify in the Fact Sheet, or within the permit, that this section applies to new discharges only. Also, please clarify the compliance schedule for obtaining and maintaining authorization under COR900000 for existing permitted facilities set forth above.</p> <ul style="list-style-type: none"> • <u>Response:</u> The Division provided application requirements (applicable to unpermitted discharges) and permit continuation requirements (applicable to existing permitted discharges) in Part I.A.3 of the permit. The Division made a minor editorial change to Part III.A.3 of the Fact Sheet to ensure the intent of these requirements is clear. <p>The Division is unclear what the phrase “compliance schedule for obtaining and maintaining authorization under COR900000” means. The Division intends to issue the final permit in January, 2012; however, the permit will not become effective until April 1, 2012. This 2-3-month time lag between the issue and effective dates will enable the Division to issue the certifications under the renewal permit, and permittees to modify their facility processes and procedures to meet the requirements of the final permit. After the permit becomes effective and the permittee has received an effective permit certification, an additional 90-days is provided to modify the facility SWMP to meet the requirements of the renewal permit. See response to comment at Part I.E.ii.</p>	<p>Fact Sheet Section III.A.3</p>
<p>a. Application Requirements</p>	
<p>i. Comment was received requesting that the Division retain the current stormwater permit requirement that permit applications be submitted 30 days prior to the commencement of the industrial activity. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - The 90-day application submittal requirement is unrealistic for highway or road projects that are awarded with a 30-day start-up deadline. - The 90-day application submittal requirement is incompatible with the nature of the industry, resulting in lost revenue. Portable asphalt or concrete plants need quick permit approvals. - The 90-day application submittal requirement is a significant change. - 30 days to review applications is more appropriate and provides adequate time for review. <ul style="list-style-type: none"> • <u>Response:</u> The Division recognizes that changing the permit application submittal requirement from 30- to 90-days is an increase in planning time on the part of the owner/operator. However, as provided in the Fact Sheet that accompanied the Public Notice version of permit COR900000, the Division found that additional time is required to adequately evaluate an application and associated materials, and determine whether site specific terms and conditions are necessary to include in the certification to meet the terms and conditions of this permit and the associated regulatory requirements. This is particularly true with the current resource level dedicated to industrial stormwater. <p>The 90-day application submittal requirement is less than that required pursuant to 5 CCR 1002-61.4(3)(a)(i), which requires that facilities proposing a new discharge of stormwater associated with industrial activity submit an application <u>180 days</u> before that facility commences industrial activity which may result in a discharge of stormwater associated with that industrial activity. This regulatory provision also indicates that different submittal dates may be required under the terms of applicable general permits. For this permit the Division determined that it was essential to include the 90-day requirement. See response to comment at General Comments - Limited Division Resources, above.</p> <p>While no change was made to the permit with respect to changing the 90-day application submittal requirement, the Division</p>	<p>Part III.D Part III.E</p>

Comment and Response	Changes
<p>determined that the administrative procedure for permitting mobile batch plants (i.e., SIC codes 2951 and 3273) implemented under the previous Light Industry stormwater permit is appropriate for the renewal permit. Specifically, because the pollutant sources associated with such industrial activities are reflected in benchmark and ELG sampling, the Division does not believe that additional site-specific sampling for impaired waters is necessary at this time. Therefore, the permit certification for a mobile batch plant may be associated with the plant (with the mobile equipment defined as the facility), and existing batch plants may move to locations around the state without re-applying for permit coverage. Permittees must provide the Division with written documentation of the new location each time the mobile plant is moved, and must meet all permit requirements, terms and conditions for each location. The sector-specific requirements at Part III.D and Part III.E of the renewal permit were amended to reflect this change.</p>	
<p>ii. Comment was received requesting that the Division consider making a provisional permit authorization available to industrial discharges. Specifically, the comment indicates:</p> <ul style="list-style-type: none"> - that the 90-day application submittal requirement hinders industry's ability to undergo operational changes when they are economically advantageous; - that the Division could consider allowing a provisional authorization be available to industrial discharges, whereby the applicant could submit a notice of intent to discharge, and within 24 hours (or a similarly flexible timeframe), be covered under, and be bound to, the terms of the permit. - that such notice could be followed by the full permit application and storm water management plan. <ul style="list-style-type: none"> • <u>Response</u>: Please see response to comment at Part I.A.3.a.i. above. For this general permit, the Division determined that it is most appropriate to require an application and that coverage begin following notification from the Division. Considerations in making this determination include that additional conditions will necessarily be included in permit certifications for discharges to impaired waters, and the Division per regulation is prohibited from issuing permits that will cause or contribute to an exceedance of a water quality standard. Therefore, coverage must begin upon notification from the Division in this case, in order for the Division to meet its regulatory requirements. The Division encourages entities to contact the permit writer by phone or email in person to determine the current workload and estimate for when the permit certification may be done. No change was made to the permit. 	No change
<p>iii. Comment was received requesting that the Division modify Part I.A.3.a.v of the permit to allow for automatic permit coverage in the absence of written notification from the Division. Specifically, the comment states that:</p> <ul style="list-style-type: none"> - Part I.A.3.a.v of the permit requires that the permittee must receive written notification that the Division granted permit coverage; - as described in the Division's industrial stormwater public meetings, the Division is resource-limited, and there is concern that the Division may not be able to provide written notification within the 90-day period required by the draft permit, putting the permittee at risk to not obtain permit coverage required to "commence industrial activity"; - the Division should follow the method used in Permit Transfers in Part I.A.5.c or d that allows for automatic coverage as long as the Division does not notify the permittee of: 1) "the need to submit a new application for coverage under the general permit or for an individual permit", or 2) "its intent to revoke coverage under the general permit," respectively. <ul style="list-style-type: none"> • <u>Response</u>: The Division disagrees with the comment. For this general permit the Division determined that it is most appropriate to require an application and that coverage begin following notification from the Division. The permit certification is the written notification referred to in this section of the permit. Considerations in making this determination include that additional conditions will 	No change

Comment and Response	Changes
<p>be necessary to be included in permit certifications for discharges to impaired waters, and the Division per regulation is prohibited from issuing permits that will cause or contribute to an exceedance of a water quality standard. Therefore coverage must begin upon notification from the Division in this case in order for the Division to meet its regulatory requirements. No change was made to the permit.</p>	
<p>b. Permit Certification Procedures</p>	
<p>i. Comment was received requesting that the Division modify this section to include an <i>Automatic Coverage</i> clause. Specifically, the comment recommends the following language:</p> <p>“Automatic Coverage: If the applicant does not receive a request for additional information or a notification of denial from the Division dated within XXX calendar days of receipt of the application by the Division, authorization to discharge in accordance with the conditions of this permit shall be deemed granted”.</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division disagrees with the comment. The Division provided response to this comment at Part I.A.3.a.ii. and iii., above. No change was made to the permit. 	No change
<p>ii. Comment was received requesting that the Division limit the ability to delay or deny the authorization of a discharge to circumstances where the Division determines that the discharge does not fall under the scope of the general permit. In addition the Division's ability to add additional terms and conditions should be limited to those conditions necessary to comply with the requirements of the permit. The Division should also be required to provide a written explanation of the reasons for the additional requirements when it notifies the applicant of the request or determination. The method for the permittee to challenge such additional requirements should also be made clear.</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division disagrees that the Division's ability to deny authorization to discharge under the general permit should be further limited as suggested. Regulation 61.9(2)(iii) states “the Director may require any person authorized by a general permit to apply for an obtain an individual permit.” It would be inappropriate for the Division to limit its ability to require an individual permit in a specific master general permit and as such, create a conflict between regulatory direction provided and the master general permit condition. The Division intends to add site-specific terms and conditions in a certification consistent with the provisions and direction provided in the master general permit. For example, the Division provided specific conditions in the master general permit regarding additional requirements for discharges to impaired waters to provide clarity regarding when and what type of additional conditions would be included in the permit certification. The Division intends to provide a written explanation of the reasons for the additional requirements, such as the determination that the proposed discharge is to an impaired waterbody, in the transmittal letter or fact sheet for the permit certification. <p>Permit certifications to operate in accordance with a master general permit are not permits subject to appeal in accordance with the permit adjudication provisions of Regulation 61.7. The process for administrative appeal of permit certifications is not entirely clear under the applicable Colorado statutes and regulations. In lieu of a clear forum for administrative appeal, permit certifications may constitute “final determination” by the Division, which are subject to judicial review under the provisions of the WQCA and the Colorado Administrative Procedure Act, section 24-4-106, C.R.S. See WQCA § 25-8-404(1). As stated above, the Division's intent is to provide written notification regarding additional requirements included in permit certifications and allow an applicant sufficient opportunity to exercise its due process rights where good cause is shown. In its recent experience issuing permit certifications, the Division has had two occasions where an entity that received a general permit certification requested a stay of certain terms and conditions in the certification, and an appeal of those terms and conditions. In one case, the Division interpreted Colorado Procedural</p>	No change

Comment and Response	Changes
<p>Rule 5 CCR 1002-21.7 to allow the Division to grant a stay and the Division subsequently worked with the applicant to resolve the disagreement, made some modification to terms of the certification, and the facility continued operating in accordance with the general permit and certification as modified. In the second case, the Division revoked the permit certification and required the facility to apply for an individual permit which allowed time for due process. Permittees may also request individual permit coverage in accordance with Regulation 61.9(2)(iii)(B) which states that “any owner or operator authorized by a general permit may request to be excluded from the coverage of the general permit by applying for an individual permit, as required in 61.4.”</p>	
<p>d. Permit Expiration/Continuation</p>	
<p>i. Comment was received stating that the 180-day reapplication time frame is too long. Specifically, the comment states that:</p> <ul style="list-style-type: none"> - the current General Permit for Stormwater Discharges Associated with Heavy Industrial Activity has a 90-day reapplication deadline; - 180 days is a significant change; - 90 days to review re-application is more appropriate and provides adequate time for review. <ul style="list-style-type: none"> • <u>Response</u>: The Division recognizes that changing the permit re-application submittal requirement from 90- to 180-days is an increase in planning time on the part of the owner/operator. However, this time frame is necessary to ensure the Division has time to adequately evaluate a re-application and associated materials, and determine whether existing site-specific terms and conditions are appropriate, or need to be modified, to meet the terms and conditions of this permit and the associated regulatory requirements. The Division sends multiple re-application reminders to permittees covered under a general permit prior to the permit expiration date. No change was made to the permit. 	No change
<p>ii. Comment was received requesting that the Division define “reasonable time” identified for covered discharges to seek alternate permit coverage when the Division makes a formal permit decision not to reissue this general permit; and verify whether the permittees can assume that coverage under the new permit would be automatic.</p> <ul style="list-style-type: none"> • <u>Response</u>: Please see the response to the comment on Part I.A.3 (General) above. If the Division decided not to renew permit COR090000 it is likely that another general permit would be considered the renewal of this permit. As was done for this permit, the Division would consider the renewal application under one permit number an application for coverage under the renewal permit with a different permit number, and entities would not need to seek alternate permit coverage. No change was made to the permit. 	No change
<p>4. Permit Termination Procedures</p>	
<p>a. Submitting a Notice of Termination request</p>	
<p>i. Comment was received suggesting that the Division modify the wording of this section to state that permit coverage terminates at “midnight at the beginning of the day the permit is terminated” rather than “midnight of the day that the termination is effective”. The Division typically terminates permits on the first day of the month and as stated, additional monthly reporting would be required for the one day that the permit is still in effect.</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division agrees with the comment. The Division’s current termination practice for permit certifications that require DMR reporting is to make the termination effective at 12:01 am the first day of the next reporting period. As such, reporting information for the previous period can be entered, but no additional reporting is required. The Division modified the referenced language in the permit. It is important to note that permittees are responsible for submitting all reports for the duration of the term the permit was in effect even if the permit termination effective date precedes the last routine report due date. 	Part I.A.4.a

Comment and Response		Changes
	b. Conditions for a Notice of Termination	
	<p>i. Comment was received requesting that the Division verify that the No Exposure Certification regulatory citation [5 CCR 1002-61.3(2)(h)] is correct, and if not either provide or define the criteria for the no exposure exclusion in this section.</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division verified that the regulatory citation is correct. In addition, the requirements for the condition of No Exposure are provided in the No Exposure Exclusion application form, found on the Division's website at www.coloradowaterpermits.com. No change was made to the permit. 	No change
	5. Transfer of Permit Coverage	
	<p>i. Comment was received recommending that the Division change the first sentence in subpart a) to read "within 30 days of the transfer date" instead of "at least 30 days prior to the proposed transfer date" as it is not always possible to project transfer dates and this edit allows the permittee flexibility for submitting required transfer documents.</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division notes that the suggested change would provide flexibility to the permittee; however, the Division maintains that the "at least 30 days" wording in the permit is necessary to allow sufficient time to take action on such requests. No change was made to the permit. 	No change
B. PERMIT COMPLIANCE		
	<p>i. Comment was received regarding the "double jeopardy"-like aspect of the permit compliance processes as follows:</p> <ul style="list-style-type: none"> - Part I.B describes the permit compliance process including violations and enforcement of permit terms and conditions. This process appears to be a "double jeopardy"-like function where the noncompliance with terms and conditions is considered as one violation and noncompliance with the corrective action requirements and deadlines is a second violation, all related to the same issue. The stormwater permit regulations focus primarily on practice-based control measures. Therefore, the focus of any compliance issue should be on the control measures needed to correct any conditions. Enforcement should focus on the failure to take appropriate corrective actions. The following permit language modification is suggested to resolve this issue: <p style="padding-left: 40px;">“...However, where corrective action is triggered by an event that does not itself constitute permit noncompliance, such as an exceedance of a <u>water-quality standard</u> or an applicable benchmark, there is no permit violation unless the permittee fails to take the required corrective action within the relevant deadlines established in Part I.J (Corrective Actions).”</p> <p>For example, if the permit does not contain water quality-based limits, the permit assumes that compliance with the conditions of the permit will control discharges as necessary to meet water quality standards. If subsequently there is information that the discharge causes or contributes to an exceedance of water quality standards, then the permittee must take corrective action. Under these circumstances, the water quality standards exceedance does not constitute a permit violation. However, failure to take the necessary corrective action would be a permit violation.</p> <p>On the other hand, if the permit contains water quality-based limits, the failure to meet a water quality-based effluent limit is a permit violation. The failure to take the necessary corrective action should not be an additional permit violation. To summarize, permittees</p>	No change

Comment and Response		Changes
	<p>should not be subjected to double jeopardy.</p> <ul style="list-style-type: none"> • <u>Response:</u> As the Division understands the comment, it addresses two separate issues, each requiring clarification by the Division: 1) what constitutes a permit violation(s), and 2) how water quality-based effluent limitations are applied in the permit. Response is provided in this order: <ol style="list-style-type: none"> 1) The commenter states that the permit should not allow two violations related to the same issue: one because of an initial violation of the permit (e.g., for not implementing control measures) (Part I.J.1) and then a subsequent violation for not taking appropriate corrective actions. (Part I.B). The Division disagrees with this statement. <p>The approach taken in this permit is consistent with approaches taken in other CDPS permits and the Division’s longstanding practice of making compliance determinations. For example if a permittee for a sewage treatment facility fails to properly operate and maintain their treatment system, which in turn leads to the violation of a numeric effluent limitation, the facility is expected to take corrective action and return to proper operation and maintenance of their treatment systems. Consistent with EPA’s approach in the 2008 MSGP, the Division clarified what constitutes a violation in this permit to increase understanding, i.e., Part I.B is intended to instruct the permittee of the ramifications for failure to comply with the conditions of the permit. The requirement to conduct corrective action for a permit violation is a permit condition. Failure to take corrective action when required is a permit violation - where corrective action is taken in accordance with Part I.J, an additional permit violation does not accrue.</p> <ol style="list-style-type: none"> 2) Water Quality-Based Effluent Limitations (WQBEL) apply to <u>all</u> discharges authorized by this permit. Part I.D.3.a of the permit includes a narrative WQBEL that requires <u>all</u> discharges must be controlled as necessary to meet applicable water quality standards. Although the Division expects that compliance with the conditions of the permit will control discharges as necessary to meet water quality standards, failure to do so is a permit violation, and corrective action is triggered (Part I.J.1.c). As such, the Division disagrees with the commenter’s suggested edit. As previously discussed, failure to take corrective action in accordance with Part I.J would be an additional permit violation. 	
C. CONTROL MEASURES		
General		
	<ol style="list-style-type: none"> i. Comment was received with respect to the term “control measure” replacing the term “BMP” throughout the permit. Specifically, comment indicates that: <ul style="list-style-type: none"> - permittees currently use BMPs to effectively manage stormwater and control pollutant sources at their facilities, and infers that using the term “control measure” may impose required pollution reduction practices that permittees must implement at their facilities, thereby threatening their livelihood. - throughout the country permitting authorities, including the states permitted by EPA, are operating under a BMP system. This customary system allows companies to properly train their employees and management with flexible methods for reducing storm water pollution and complying with their storm water permit requirements. While it’s recognized that the draft permit’s methodology is taken from EPA’s Multi-Sector General Permit, the department is encouraged to provide assurances that the term “Control Measures” cannot be interpreted too broadly to include procedures outside Colorado’s current BMP system. <ul style="list-style-type: none"> • <u>Response:</u> As indicated by the commenter, the term “control measure” as defined in the EPA 2008 MSGP and has a broader range of meaning than “BMP”, and includes BMPs in addition to other methods (including methods prescribed as effluent limits) used to 	<p>Fact Sheet Section III.C</p>

Comment and Response	Changes
<p>prevent or reduce the discharge of pollutants to waters of the state.</p> <p>Consistent with the stormwater permits the renewal permit replaces, the Division <u>does not</u> typically mandate specific control measures a permittee must implement to control pollutant sources at their facility. The permittee has the flexibility to select appropriate control measure that when implemented, enable the permittee to meet all applicable permit effluent limitations for stormwater discharges from their facility. No change was made to the permit. The Division added language to the Fact Sheet to clarify this point.</p>	
<p>ii. Comment was received that the proposed use of the definition of “minimize” is unreasonable, and that in particular further minimization is not required if water quality based requirements are being met.</p> <ul style="list-style-type: none"> • <u>Response:</u> The Division disagrees with the comment. The CWA requires that all point source discharges meet technology-based and water quality-based effluent limitations, therefore compliance with the water quality-based requirements of the permit alone is inadequate to meet the statutory requirements of the CWA. The Division disagrees that the “minimize” language creates unreasonable requirements. As provided in the permit, “minimize” means to reduce and/or eliminate using control measures that are technologically available and economically practicable and achievable in light of best industry practice. Control Measures can be actions (including processes, procedures, schedules of activities, prohibitions of practices or other management practices) or structure or installed devices to prevent or reduce water pollution. The Division expects that a prudent operator controls facility stormwater discharges consistent with applicable manufacturer’s specifications for control measures, industry standards, and recommended industry practices related to the discharge of stormwater associated with industrial activity. 	No change
1. Installation and implementation specifications	
<p>i. Comment was received suggesting the Division use the following sentence in lieu of the existing sentence:</p> <p>"The selection, design, installation, and implementation of all control measures must be in accordance with good engineering practices and manufacturers specifications and used by ... SWMP." The suggested edits eliminates the overly restrictive use of "each" and aligns with the MSGP.</p> <ul style="list-style-type: none"> • <u>Response:</u> The Division disagrees with the suggested modification. As provided in the Fact Sheet that accompanied the Public Notice version of permit COR900000, the Division added the requirement to retain installation and implementation specifications with the Stormwater Management Plan for each control measure used by the permittee to meet the effluent limitations contained in the permit. The Division requires this in other stormwater permits, finds that it is necessary to ensure that permittees recognize, select, and implement control measures that are appropriate for specific pollutant sources, and suggests that such installation and implementation specifications may also be a useful tool for permittees conducting facility inspections. <p>The Division made an editorial change to language in Part I.C.1 of the permit to clarify that an installation and implementation specification is required for each control measure <u>type</u>, as opposed to each control measure.</p>	Part I.C.1
<p>ii. Comment was received suggesting that the Division “grandfather” existing control measures from the installation and implementation specification requirement. Specifically, the comment indicated that:</p> <ul style="list-style-type: none"> - it is impractical to expend resources on finding or developing installation and implementation specifications for existing control measures at older facilities (i.e., >20 years old); - the Division should use this requirement for the installation and implementation of new control measures and new dischargers only. 	No change

Comment and Response	Changes
<ul style="list-style-type: none"> - the benchmark monitoring requirements in the proposed permit should determine the effectiveness of existing control measures. • <u>Response</u>: The Division disagrees with the comment and provides response in order of the statements above. <ul style="list-style-type: none"> ○ Installation and implementation specifications are required for both existing and new control measures. Control measures are the mechanisms by which a permittee achieves the effluent limitations contained in the permit. As such, control measures must be selected based on the type of pollutant to be controlled, and must be installed, maintained, and routinely evaluated. <p>The Division has determined that installation and implementation specifications (or substantively similar documentation) are required to ensure that a permittee can determine whether a control measure is installed, sized, and maintained to function as intended, and whether the control measure is appropriate for the pollutant source it is intended to control. As indicated in the Fact Sheet that accompanies permit COR900000, the Division requires installation and implementation specifications in other stormwater permits and finds that it is necessary to ensure that permittees recognize, select, and implement control measures that are appropriate for specific pollutant sources at their facilities. In addition, existing control measures at older facilities that have been in place a long time (i.e., >20 years old) should be evaluated based on the current facility operations, pollution sources etc., and revised accordingly.</p> <ul style="list-style-type: none"> ○ Consistent with the response above, the Division has determined that installation and implementation specifications are appropriate to require for existing and new control measures, and for all permittees, existing or new. ○ The Division agrees with the commenter that benchmark sampling is used as an indicator of the performance of the control measures implemented to meet the effluent limitations contained in the permit. However, not all pollutants that may be present in a facility's stormwater discharge are reflected in the benchmark parameters for a given industrial activity. As such, benchmark sampling cannot comprehensively indicate whether control measures implemented at a facility are effective for the pollutant source they are intended to control. 	
<p>2. Maintenance of Control Measures and Associated Documentation</p>	
<p>i. Comment was received regarding the phrase "immediately in most cases" at Part I.C.2.b of the permit, and suggested that either:</p> <ul style="list-style-type: none"> - the Division delete "immediately in most cases" in subpart b) as it cannot be defined and the phrase "as soon as possible" is adequate to ensure that interim controls are in place during maintenance of the primary control measure, or - the Division define both "immediately" and "most cases" , or provide guidance if this condition is intended to be enforceable. <ul style="list-style-type: none"> • <u>Response</u>: The Division agrees that this permit condition contains too many qualifiers, and modified the language by deleting the phrase "immediately in most cases". The comment regarding defining "immediately" and "most cases" is no longer relevant as this phrase was removed from the permit. The Fact Sheet was modified to clarify the Division's expectation with respect to maintaining control measures. 	<p>Fact Sheet Section III.C</p> <p>Part I.C.2.b</p>
<p>ii. Comment was received that documentation of corrective actions and SWMP revision are unnecessary:</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division disagrees with the comment. The Division has determined that documenting corrective actions is necessary for the Division and the permittee to evaluate facility compliance with respect to the technology-based and water quality-based effluent limitations, and the efficacy of practice-based approaches in meeting regulatory requirements for 	<p>No change</p>

Comment and Response		Changes
	discharges covered under this permit. The Division has also determined that SWMP revision is necessary following corrective action to ensure that the SWMP remains an up-to-date planning and compliance tool for the permittee.	
D. EFFLUENT LIMITATIONS		
1. Practice-based Effluent Limitations		
<p>i. Comment was received requesting the Division to clarify whether implementing control measures to achieve all the Practice-Based Effluent Limitations required by the permit makes a facility eligible for the no exposure exclusion as referenced in Part I.A.4.b. of the permit.</p> <ul style="list-style-type: none"> • <u>Response:</u> Facilities that comply with the Practice-Based Effluent Limitations by locating all industrial activities and materials inside <u>may</u> be eligible for the no exposure exclusion. The requirements for the condition of No Exposure are provided in the No Exposure Exclusion application form, found on the Division's website at www.coloradowaterpermits.com. The Division encourages the commenter to use the checklist associated with the application to make this determination. No change was made to the permit. 	No change	
<p>ii. Comment was received recommending that the Division move the Practice-Based Effluent Limitation categories to the SWMP. Specifically, the comment indicated that:</p> <ul style="list-style-type: none"> - The items listed under Part I.D.1.a – I of the permit are items that all operators need to address in their SWMP, which allows an operator to indicate how they will address these items specifically for that site. These items should not remain a general requirement as the language is vague and open to interpretation. - The requirement in I.D.1.e. to stabilize exposed areas and contain runoff should not be mandated, as for some operations, this may be very costly without adding much benefit. - The requirement in I.D.1.f to reuse or contain stormwater should not be mandated as it conflicts with Colorado water rights statute. <ul style="list-style-type: none"> • <u>Response:</u> The Division disagrees with the comment and provides response in order of the statements above. <ul style="list-style-type: none"> ○ The permit separates out the effluent limits (practice-based effluent limits; numeric effluent limits based on effluent limitations guidelines; and water quality-based effluent limitations) from the control measures that must be implemented to achieve these limits. As such, all control measures are not effluent limitations, but rather the mechanisms by which a permittee achieves the effluent limitations contained in the permit. <p>The SWMP is also not an effluent limitation – it is a documentation and compliance tool in which the permittee describes the controls and procedures it will use to achieve compliance with the permit. Separating the effluent limits from other permit conditions, such as control measure and SWMP requirements, is intended to assist the permittee in distinguishing between effluent limitations and these other permit conditions. As in the previous stormwater permits, the permittee continues to have flexibility in selecting control measures to meet the effluent limitations. No change was made to the permit.</p> <ul style="list-style-type: none"> ○ The Division determined the requirement to stabilize exposed areas and contain runoff (practice-based effluent limit for <i>Erosion and Sediment Controls</i>) is necessary to minimize onsite erosion and sedimentation, and the resulting discharge of pollutants. This requirement is similar to the <i>Sediment and Erosion prevention</i> requirement contained in the previous stormwater permits. No change was made to the permit. 	No change	

Comment and Response	Changes
<ul style="list-style-type: none"> ○ With respect to the requirement to reuse or contain stormwater, the Division determined that the practice-based effluent limit for <i>Management of Runoff</i> is necessary to slow stormwater transit time across a facility, thereby, decreasing pollutant loading in the run-off. The effluent limit is structured to provide options within the requirement, such that a permittee can conduct one or more of the activities (i.e., divert, infiltrate, reuse, contain <u>or</u> treat ...). The Division agrees that in some circumstances, containing or re-using stormwater may conflict with Colorado water rights; therefore, permittees are encouraged to coordinate with the State Engineers Office for their current policy with respect to water rights and stormwater detention. 	
<p>d. Spill Prevention and Response Procedures</p>	
<p>i. Comment was received indicating that it is impractical to keep a barrier between outside storage piles and traffic areas, as required by Part I.D.1.d of the permit. Specifically, the comment indicated that:</p> <ul style="list-style-type: none"> - even facilities that minimize outside materials storage do have some outside storage, - such areas are controlled with barriers surrounding them to prevent contaminated stormwater runoff from entering Water of the US, but it is impractical to keep a barrier between these storage piles and traffic areas as required by the permit because front end loaders, dump trucks, etc. must have access to these piles in order to manage the pile and complete routine inspections. - passenger traffic (e.g. employee vehicles, visitor vehicles) does not travel in the storage pile areas. <ul style="list-style-type: none"> ● <u>Response</u>: This permit provision is not intended to conflict with or prevent access to exterior material storage piles as a necessary part of the industrial activity conducted at the facility. The provision addresses the need to minimize the potential for leaks, spills, and other releases from such storage areas. This effluent limit is structured to provide options within the requirement, such that a permittee can conduct one or more of the activities (i.e., implement preventative measures <u>such as</u> barriers, secondary containment, procedures ...). No change to the permit was necessary to address this comment. 	No change
<p>e. Erosion and Sediment Controls</p>	
<p>i. Comment was received requesting the Division to change terminology in the permit, as follows:</p> <p>The sentence, “Among other actions taken to meet this effluent limit, flow velocity dissipation devices must be placed at discharge locations and within outfall channels where necessary to minimize erosion and/or settle out pollutants,” is restrictive. The term “flow velocity dissipation devices” should be replaced with “control measures” as this would allow facilities flexibility to install or implement control measures appropriate for site specific characteristics.</p> <ul style="list-style-type: none"> ● <u>Response</u>: The Division disagrees with the suggested modification. Many types of flow velocity energy dissipaters (e.g., rock , grouted riprap, or concrete apron, level-spreaders, etc.) are available to provide the requested flexibility for meeting this requirement. The existing permit language clarifies that these devices are not required to be installed when they are not necessary to reduce erosion. No change was made to the permit. 	No change
<p>l. Dust Generation and Vehicle Tracking of Industrial Materials.</p>	
<p>i. Comment was received requesting that the Division add an exception to these requirements for facilities with AQCC permits. (AQCC, Regulation No. 1, 5 CCR 1001-3, III.D) -- (also pertains to Part I.F.4.a.iv., Pat I.F.4.a.viii., and Part III.O.4.a.). Specifically, the comment indicated that:</p> <ul style="list-style-type: none"> - Several industrial facilities permitted under COR900000 have Air Quality Control Commission (AQCC) construction and operating 	No change

Comment and Response	Changes
<p>permits, which typically include control measures and requirements designed to minimize generation of fugitive particulate emissions from industrial processes (haul roads, vehicle tracking, stockpiles, material transfer, material processing, etc.).</p> <ul style="list-style-type: none"> - the requirements in the draft COR900000 regarding particulate emissions appear to be duplicative to the AQCC requirements, which could result in redundant regulation. • <u>Response</u>: The Division disagrees with the suggested modification. The purpose of the requirement to address fugitive dust as a potential pollutant source is so that re-deposition of pollutants that have the potential to be discharged in industrial stormwater are addressed. The requirement is not intended to control fugitive particulate emissions. No change was made to the permit. 	
<p>3. Water Quality-Based Effluent Limitations</p>	
<p>a. Water Quality Standards</p>	
<p>i. Comment was received requesting the Division to clarify how it will address water quality standards, which per the definition includes “a narrative and/or numeric restriction”, as follows:</p> <ul style="list-style-type: none"> - the narrative standards for nutrients in segments that exceed the Interim Nitrogen, Phosphorus, and Chlorophyll a values in Regulation #31, and - the same issues for segments below dischargers that are addressed through Regulation #85. • <u>Response</u>: The WQCC is in the midst of a rulemaking process to consider adoption of nutrient standards in Regulation 31 and a nutrient control regulation through Regulation 85. The rulemaking process is not complete. Questions regarding implementation of proposed nutrient requirements into discharge permits, is within the scope of that hearing and outside the scope of this permit action. 	<p>No change</p>
<p>ii. Comment was received stating that the requirements established in Part I.D.3 are not effluent limitations and should not be categorized as such, and that certain minimal pollutant-specific determinations and findings must be made by the permitting authority before establishing water quality-based effluent limitations in accordance with 40 CFR 122.44(d)(1).</p> <ul style="list-style-type: none"> • <u>Response</u>: The following are the water quality-based effluent limitations included in the permit: <ul style="list-style-type: none"> ○ Discharges must be controlled as necessary to meet applicable water quality standards. ○ If information in the application, required reports, or from other sources indicates that compliance with the other terms and conditions of this permit will not control the discharge as necessary to meet applicable water quality standards, the Division may include a site-specific water quality-based effluent limitation in the permit certification, or require the permittee to obtain coverage under an individual permit in accordance with Part I.A.3.c. <p>These effluent limits are as stringent as necessary to achieve water quality standards consistent with Regulation 61.8(2)(b). The Division believes this is a reasonable approach for this permit, based on the following considerations:</p> <ul style="list-style-type: none"> ○ Limited waterbody information is available about individual discharges prior to authorization. ○ Review of the application and applicable watershed documents is the appropriate forum for deriving site specific water quality-based effluent limits. ○ The Division may modify an operator’s receiving water information based on further information. 	<p>No change</p>
<p>iii. Comment was received requesting the Division to modify language requiring the control of stormwater discharges “to meet applicable water quality standards” and to replace the phrase with “to not cause or contribute to an exceedance of an applicable</p>	<p>Fact Sheet Section</p>

Comment and Response	Changes
<p>water quality standard in the receiving water.”</p> <ul style="list-style-type: none"> • <u>Response:</u> The Division determined that it was most appropriate for this provision in to be consistent with the provision in EPA’s MSGP, which requires stormwater discharges “to meet applicable water quality standards.” EPA made several changes to the water quality-based effluent limits and associated requirements between the 2000 and 2008 MSGP, some of which was specifically aligned with MSGP litigation and associated settlements. EPA states and the Division agrees that the language in the 2008 MSGP is more clear and better aligned with the associated requirements in the permitting regulations. The Division also has determined that the language “in the receiving waterbody” should not be added to the permit, because it could result in conflicting interpretations on a case-by-case basis where site-specific considerations are relevant, such as whether a water body is impaired and whether the discharge is to waters designated as critical habitat for threatened and endangered species (where mixing zones are not allowed). The Division added additional clarification to the Fact Sheet. 	III.D.3
<p>b. Additional Requirements for Discharges to Water Quality Impaired Waters</p>	
<p>i. Comment was received suggesting that the Division revise its approach to addressing stormwater discharges to impaired waters. Specifically, comment suggested that:</p> <ul style="list-style-type: none"> - The permit should require the permittee to comply with all applicable TMDL requirements, whether the discharge is new or existing. - The language that requires new discharges to impaired waters to meet applicable water quality standards at the point of discharge is an unworkable situation. <ul style="list-style-type: none"> • <u>Response:</u> The Division considered the comment and determined that the regulatory requirements for new versus existing discharges to impaired waters are significantly different, and that it remains appropriate to have differences in permit provisions for new and existing discharges. The commenter provided reference to a federal regulation also found at Regulation 61.8(1)(b)(iv), but failed to reference the complete regulatory provision, which adds significant direction for new discharges to an impaired water with a completed TMDL. As stated in the Fact Sheet, the Division has had a longstanding practice of requiring a new discharge to an impaired water to meet the water quality standard at the point of discharge. The Division would consider an alternate approach through an individual permit process, for a specific applicant, if requested. 	No change
<p>ii. Comment was received suggesting that the Division adhere to the language in the 2008 MSGP with respect to required monitoring of discharges to impaired waters. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - The 2008 EPA Multi-Sector General Permit (2008 MSGP) allows facilities with existing, covered discharges to impaired waters to monitor once per year at each outfall; if the relevant pollutants are not detected, or the discharges of pollutants are not expected to exceed background levels, the facility may discontinue annual monitoring procedures as long as proper documentation is maintained. <ul style="list-style-type: none"> • <u>Response:</u> The Division evaluated the comment, and determined the proposed approach is appropriate. Due to the variability in quality and quantity of stormwater discharges from a facility throughout a year, the Division cannot presume, on a state-wide basis, that one sample can conclusively demonstrate that the pollutant for which a receiving water is impaired will not be detected above the applicable, end-of-pipe water quality standard in any stormwater discharge. The Division includes a provision in Part I.I.4.b of the permit that allows a permittee to request modification of the water quality standards monitoring after one year of quarterly monitoring. No change was made to the permit. 	No change

Comment and Response		Changes
b.iii) New Discharge to an Impaired Water.		
<p>i. Comment was received requesting that the Division modify this permit provision as follows:</p> <ul style="list-style-type: none"> - Part I.D.3.b.iii for "New Discharge to an Impaired Water" refers to the Division's reasonable potential determination; however, no monitoring data is collected for this requirement. Monitoring data should be collected prior to application of any site-specific water quality-based effluent limitations, to characterize the discharge in relation to the specific TMDL or water impairment. • <u>Response:</u> The permit allows the Division to conduct a reasonable potential analysis that allows one of three outcomes to be determined: 1) a finding of reasonable potential, which for a new (proposed) discharge would need to be based on information other than monitoring from the proposed facility, such as monitoring information for similar sites/discharges, published scientific information, or information in the application, 2) a monitor-only reasonable potential decision, which indicates that the Division expects the pollutant to be present in the discharge, but does not have certainty that levels will cause or contribute to an exceedance of a water quality standard, or 3) a finding of no reasonable potential and no monitoring, indicating that the Division either does not expect the pollutant to be present or if expected to be present it is at levels significantly below the applicable water quality standard. 	No change	
<p>ii. Comment was received requesting that the permit explain how the Division will perform the reasonable potential analysis if there is no data from the facility.</p> <ul style="list-style-type: none"> • <u>Response:</u> Please refer to response provided at Part I.D.3.b.iii.i, above. Language was added to the Fact Sheet to clarify this information. 	Fact Sheet Section III.D.3	
c. Discharge to Waters Designated as Critical Habitat for Threatened or Endangered Species.		
<p>i. Comment was received requesting the Division remove the additional requirements for waters designated as critical habitat since the permit sufficiently protects such habitat with other provisions.</p> <ul style="list-style-type: none"> • <u>Response:</u> The Division disagrees with the comment. The Division determined that the additional requirements were necessary to meet the conditions of the Division's 2005 MOA with EPA and the U.S. Fish and Wildlife Service regarding implementation of Colorado's Mixing Zone Rule, and for transparency so that permittees covered by this permit which discharge into waters considered "critical habitat" are aware of the requirements that apply. 	No change	
d. Additional Requirements for New or Increased Discharges to Reviewable Waters		
<p>i. Comment was received requesting that the Division remove the term "increased discharges" and replace with the term "planned physical alterations or additions." Increased discharges can have varying interpretations, and the later term is more clearly defined in section Part II.A.2.</p> <ul style="list-style-type: none"> • <u>Response:</u> The Division considered the comment and determined that it was appropriate to retain the term "increased discharge to be consistent with Regulation 31.8(3)(c). For this permit, the Division expects that compliance with the other conditions of the permit will control discharges as necessary to comply with the applicable antidegradation requirements. As such the Division expects that any further analysis regarding whether site-specific terms and are necessary to meet the applicable antidegradation requirements will be a case by case situation where the Division will consider the facts available. 	No change	
<p>ii. Comment was received requesting that the Division remove the provision allowing additional requirements to be imposed for new</p>	No change	

Comment and Response	Changes
<p>or increased discharges to reviewable waters.</p> <ul style="list-style-type: none"> Response: The Division disagrees with the comment. The Division has an obligation to implement applicable antidegradation requirements in a permit. Consistent with the MSGP, the Division determined that it was appropriate to establish a process whereby the Division determines and specifies further actions for new or increased discharges to reviewable waters, rather than leaving it to the each discharger to interpret a general permit condition that discharges shall not cause degradation of state waters (as in the current industrial stormwater permits) or that they comply with antidegradation requirements (as in the 2008 MSGP). 	
E. STORMWATER MANAGEMENT PLAN (SWMP)—General SWMP Requirements	
General	
<p>i. Comment was received encouraging the Division to meet with stakeholders to develop/revise a SWMP template for the new permit</p> <ul style="list-style-type: none"> Response: The Division has participated in SWMP template development previously (Auto Recycling industry) and will attempt to incorporate this approach as part of the development and implementation of the permit, as resources allow. 	No change
<p>ii. Comment was received requesting that the Division increase the 60-day timeframe for permittees to update their SWMPs. Specifically comment suggested that:</p> <ul style="list-style-type: none"> - the Division extend the timeframe for permittees to update their SWMPs to 120 days as there will be significant changes required of the plans and maps and 60 days will not be sufficient time for companies who have a large number of facilities affected by this permit. - the Division allow an extended implementation and effective date for the permit as there will be a substantial increase in new training for employees and the current effective date is scheduled for a time when many operations will be closed for the winter. - the Division allow permittees similar extension of time to complete SWMP as it allowed itself for permit applications. - due to the additional requirements of the Air Transportation Sector (airports) to work with tenants on SWMP development, 60 days is not practical for the SWMP to be updated with the new requirements. It could take at least 60-90 days just to work with each tenant and gather additional data required to update the SWMP. <ul style="list-style-type: none"> Response: The Division agrees with the comment. The Division intends to issue the final permit in March 2012; however, the permit will not become effective until July 1, 2012. This ~4-month time lag between the issue and effective dates will enable the Division to issue the certifications under the renewal permit, and permittees to modify their facility processes and procedures to meet the requirements of the final permit. <p>The Division revised the timeframe for permittees to update their facility SWMP from 60- to 90-days. After the permit becomes effective and the permittee has received an effective permit certification, the permit provides an additional 90-days to modify the facility SWMP to meet the requirements of the renewal permit. Therefore, a total of <u>~7 months</u> is provided to modify facility SWMPs once the final permit is issued.</p>	Fact Sheet Section III.E Part I.E
<p>iii. Comment was received requesting that the Division allow electronic storage of documentation that must be retained with the SWMP. Specifically comment suggested that the Division use the language contained in the proposed National Pollution Discharge Elimination System Construction General Permit, as follows:</p> <p>“Documentation that must be retained with the SWMP may be kept at an easily accessible location, such as a downloadable file, so that it can be made available at the time of an onsite inspection or upon request by CDPHE.”</p>	No change

Comment and Response		Changes
	<ul style="list-style-type: none"> <u>Response</u>: The Division agrees with the comment. The permit does not prohibit an electronic SWMP and associated required documentation as long as all other requirements in Part I.E, Part I.F, and other pertinent sections of the permit are met. Further, the permittee must address other considerations such as ability to read in bright sunlight conditions, e.g., for use in the field, inspections, etc., and easy access to facility personnel, regulators, etc. This clarification is best addressed in a Frequently Asked Questions (FAQs) document, which the Division will develop after the permit is finalized. No change was made to the permit. 	
	<p>iv. Comment was received indicating that the intent of Part I.E is not clear, and suggests that the Division follow the format and language that the EPA's MSGP uses in Section 5. Stormwater Pollution Prevention Plan (SWPPP). The EPA's language is easier to follow and understand.</p> <ul style="list-style-type: none"> <u>Response</u>: The Division added the following language to this section to provide the reader with the intent of this section: "The General SWMP requirements contained in this section address administrative requirements of the SWMP, as opposed to the specific SWMP content requirements provided in Part I.F of the permit". 	Part I.E
3. Signatory Requirements		
	<p>i. Comment was received indicating that the signatory requirements are unnecessary; permittees are responsible for the plan with or without a signature.</p> <ul style="list-style-type: none"> <u>Response</u>: The Division disagrees with the comment. As provided in the Fact Sheet that accompanied permit COR900000, the Division added this requirement to ensure that the individual or a position with responsibility for the overall operation of the regulated facility or activity, or a duly authorized representative of that person consistent with 5 CCR 1002-61.4(1)(f), is aware of and approves changes to the SWMP. No change was made to the permit. 	No change
4. Permit Retention:		
	<p>i. Comment was received indicating that there is no benefit to maintaining the permit and certification with the SWMP.</p> <ul style="list-style-type: none"> <u>Response</u>: The Division disagrees with the comment. The Division determined that it is appropriate to require the permittee to retain a copy of this permit and the permit certification with the SWMP to allow the facility's personnel ready access to both. The Division notes that an electronic copy easily available to facility personnel is also acceptable. No change was made to the permit. 	No change
7. Required SWMP Modifications		
	<p>i. Comment was received indicating that in Part I.E.7.b.ii., there is no definition for "significantly"; a permittee can then be subject to this section for almost any change that ex post facto is deemed significant.</p> <ul style="list-style-type: none"> <u>Response</u>: The Division has not included a definition of "significant" for this or any prior permit. The Division acknowledges the concern of the commenter. This determination is largely left to a case-by-case consideration of the particular site and the type of changes that were made. No change was made to the permit. 	No change
F. STORMWATER MANAGEMENT PLAN (SWMP)—Specific SWMP Requirements		
General		
	<p>i. Comment was received suggesting that because the phrase "significant spills or leaks" in this section can have varying interpretations, the</p>	Appendix

Comment and Response	Changes
<p>Division change the phrased to “reportable spills or leaks”, or be defined in COR900000 similarly to the EPA’s MSGP, as follows:</p> <p><u>5.1.3.3, Spills and Leaks.</u> Note: Significant spills and leaks include, but are not limited to, releases of oil or hazardous substances in excess of quantities that are reportable under CWA Section 311 (see 40 CFR 110.6 and 40 CFR 117.21) or Section 102 of the Comprehensive Environment al Response, Compensation and Liability Act (CERCLA), 42 USC §9602. This permit does not relieve you of the reporting requirements of 40 CFR 110, 40 CFR 117, and 40 CFR 302 relating to spills or other releases of oils or hazardous substances.</p> <ul style="list-style-type: none"> • <u>Response:</u> The Division agrees with the comment. A definition for “significant spills or leaks” was added to Appendix C: Definitions and Abbreviations. 	C
<p>ii. Comment was received indicating that the intent of Part I.F is not clear, and suggests that the Division follow the format and language that the EPA’s MSGP uses in Section 5. Stormwater Pollution Prevention Plan (SWPPP). The EPA’s language is easier to follow and understand.</p> <ul style="list-style-type: none"> • <u>Response:</u> The Division disagrees with the suggested modification. See additional language added to the permit in the response provided above (Part I.E – General; comment iv). 	No change
2. Facility Description	
<p>i. Comment was received requesting that the Division omit the requirement to document regular business hours and seasonal variations in business hours or industrial activities as this facility description requirement as EPA’s MSGP does not require this documentation and it has no effect on water quality</p> <ul style="list-style-type: none"> • <u>Response:</u> The Division agrees with the suggested modification and has deleted this requirement from the permit. 	Part I.F.2
3. Facility Map	
<p>i. <u>3.b. - Location of all Impervious Surfaces.</u> Comment was received requesting that the requirements of the SWMP that trigger frequent updates should be limited or eliminated. Specifically, comment indicates that:</p> <ul style="list-style-type: none"> - the requirement to show all impervious surfaces on the map will result in maps which are difficult to read, and that will need to be updated frequently. Many operations covered by this permit use excess material to pave portions of the plant site to reduce dust emissions. As the paved area on site increases, the map would need to be updated. This could happen several times a month. This condition creates additional unnecessary paperwork and compliance liability for operators and should be removed. - It is impracticable for permittees to identify the locations of “all” impervious surfaces within facility property boundaries, and suggest that the Division follow the language from EPA’s MSGP: <p>“[Identify] the location and extent of significant structures and impervious surfaces.”</p> <ul style="list-style-type: none"> • <u>Response:</u> The Division recognizes that this requirement may require modification of the SWMP in accordance with Part I.E.1 and Part I.E.7 of the permit. However, the Division determined that this change in site conditions is significant with respect to the stormwater flow regime at the facility, and the increased potential to convey pollutants in stormwater runoff as compared to pervious area. Further, since the Division does not require that the SWMP be prepared by a registered engineer, modifications can be made at anytime, possibly in the field. 	Part I.F.3.b

Comment and Response	Changes
<p>The Division did change the word “all” to “significant” within the requirement. As indicated in the response to Part I.E.7.i above, the Division has not included a definition of “significant” for this or any prior permit. This determination is largely left to a case-by-case consideration of the particular site and the type of changes that were made.</p>	
<p>ii. <u>3.f. Location of Industrial Activities</u>. Comment was received stating that this requirement is too broad, may indicate industrial activities that are not exposed to precipitation, and suggests the Division use language similar to EPA’s MSGP as follows:</p> <p>“Locations of industrial activities where such activities are exposed to precipitation.”</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division agrees with the suggested modification, and has changed the permit accordingly. 	Part I.F.3.f
<p>iii. <u>3.g. Location of Pollutant Sources</u>. Comment was received stating that this requirement is too broad, may indicate pollutant sources that are not exposed to precipitation, and suggests the Division use language similar to EPA’s MSGP as follows:</p> <p>“Locations of potential pollutant sources identified under Part I.F.4.”</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division agrees with the suggested modification, and has changed the permit accordingly. 	Part I.F.3.g
<p>iv. <u>3.h. Location of Pollutant Sources</u>. Comment was received suggesting this requirement is unclear, and should not include non-structural control measures as part of the requirement. Specifically, the comment stated that:</p> <ul style="list-style-type: none"> - Non-structural control measures have historically included items such as good housekeeping, maintenance, spill prevention and response procedures, and employee training. These items are discussed in detail in COR900000, Part I.F.6. It is duplicative to include non-structural control measures on the facility map and in Part I.F.6. This section should instead state: locations of existing structural control measures. • <u>Response</u>: The renewal permit separates out the effluent limits (practice-based effluent limits; numeric effluent limits based on effluent limitations guidelines; and water quality-based effluent limitations) from the control measures that must be implemented to achieve these limits. The ‘Non-structural control measures’ as referred to by the commenter are actually practice-based effluent limits. <p>Control measures are the mechanisms by which a permittee achieves the effluent limitations contained in the permit. While non-structural control measures are often prohibitions, procedures, practices utilized at a facility to meet the effluent limitations, preserving natural vegetation is a non-structural control measure that can be documented on a site map. Therefore, the Division disagrees with the suggested edit. No change was made to the permit.</p>	No change
<p>v. <u>3.i. Location of Significant Spills</u>. Comment was received suggesting the Division require that significant spills and leaks be documented on a table as opposed to the map. Specifically, the comment indicates that:</p> <ul style="list-style-type: none"> - it is not entirely clear which spills and leaks should be included on the map and what is considered significant, - the requirement to document such spills or leaks on a map is unnecessary; such documentation could clutter the map and make the other elements on the map more difficult to read. 	No change

Comment and Response	Changes
<ul style="list-style-type: none"> • <u>Response</u>: The Division provides response in order of the statements above. <ul style="list-style-type: none"> ○ The Division added a definition for “significant spills or leaks” to Appendix C: Definitions and Abbreviations – (see response to comment at Part I.F.i, above). ○ The Division disagrees with the comment that such documentation on the site map is unnecessary. It is an important aspect of stormwater pollutant control to understand where on the site any exposure of pollutants may occur, including those pollutants that were exposed due to a past spill or leak where residuals may still be present. Because this was a requirement of the previous stormwater permits and the 2008 MSGP, it is the Division’s expectation that records of spills or leaks should be available. No change was made to the permit. 	
<p>vi. <u>3.k. Location of Emergency Fire Discharge</u>. Comment was received stating that because a permittee cannot know where an emergency fire discharge will take place, this section should be covered under the emergency fire provisions of Part I.A.I.c where such discharges are authorized.</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division agrees that until an emergency fire-fighting discharge occurs, it cannot be located on the facility map. However, because of the pollutant potential of residuals associated with a fire and the fire-fighting activity, the Division expects the permittee to add the location to the facility map after such a discharge occurs. No change was made to the permit. 	No change
<p>vii. <i>Division initiated change</i> – <u>Part I.F.3.I. Location and sources of run-on</u>. The Division inadvertently omitted a requirement from the 2008 MSGP that addresses run-on from adjacent properties. This requirement is added to Part.I.F.3.I, as follows:</p> <p>“Locations and sources of run-on to the facility from adjacent property that contains significant quantities of pollutants.”</p>	Fact Sheet Section III.F Part.I.F.3.I
4. Facility Inventory and Assessment of Pollutant Sources	
General	
<p>i. Comment was received stating that the requirement for dischargers to inventory, assess and identify pollutants that might be present for each facility activity, equipment and material goes beyond the regulatory requirements for discharges of pollutants.</p> <ul style="list-style-type: none"> • <u>Response</u>: This requirement, in a different format, was required in the previous stormwater permits, and in the 2008 MSGP. It is critical that a permittee identify all activities, equipment and materials at the facility that may contribute pollutants to stormwater discharges. No change was made to the permit. 	No change
a. Inventory of facility activities and equipment	
<p>i. Comment was received stating that several of these operations may take place inside and therefore have no impact on stormwater run-off, and that it needs to be made clear that operations that are not exposed to the elements, and therefore are not expected to impact stormwater runoff, do not need to be included in the SWMP.</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division agrees with the suggested modification, and has changed the permit accordingly. 	Part I.F.4.a
<p>ii. Comment was received requesting that the Division delete items i and ii in this section as they are duplicative with Part I.F.4.b, or incorporate Part I.F.4.b into Part I.F.4.a.</p>	No change

Comment and Response	Changes
<ul style="list-style-type: none"> <u>Response</u>: The Division disagrees with the comment. Part I.F.4.a addresses an inventory of facility <u>activities and equipment</u>; Part I.F.4.b. addresses an inventory of <u>materials</u>. No change was made to the permit. 	
<p>iii. Division initiated changes – Part I.F.4.a.v: The Division modified language in this part for clarity. Part I.F.4.a.vii: To be consistent with Regulation 61 (5 CCR 1002-61.3(2)(e)(ii)(B)), this permit is modified to specify that “immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility” should be identified in the inventory of facility activities and equipment. Previously, the permit specified simply that the inventory should include “access roads, rail cars, and tracks.”</p>	Part I.F.4.a.vii
<p>iv. Comment was received stating that an inventory of roofs (item viii) in the SWMP is not necessary in order to protect water quality and should be removed from the draft permit.</p> <ul style="list-style-type: none"> <u>Response</u>: The Division disagrees with the comment. Deposition of material from manufacturing activities or a process area may become entrained in stormwater run-off with storm events. As such, the roof is an area associated with industrial activity and must be addressed in the part of the permit. Please also see response to <u>Exempt outfalls for unique facility circumstances</u> (xxvii), above, for the regulatory exclusion from the term “stormwater associated with industrial activity”. No change was made to the permit. 	No change
<p>v. Comment was received questioning why the Division added the requirement to identify roofs and other surfaces made of materials that may be mobilized in stormwater (item ix), and requesting that the Division provide sound and supported rationale for this new requirement, or that it be removed. Specifically, the comment:</p> <ul style="list-style-type: none"> questions why the Division considers “Roofs or other surfaces composed of materials that may be mobilized by stormwater” to be a facility activity or equipment (i.e., Part I.F.4.a), and also would interpret the statement to encompass all exterior building materials. requests that the Division state specifically which exterior building materials the Division is concerned with and has determined through adequate studies and analytical testing to be pollutants to Colorado’s stormwater. is concerned that this requirement has not been thoroughly evaluated for Colorado’s watersheds. <ul style="list-style-type: none"> <u>Response</u>: As provided in the permit, this requirement is largely focused on galvanized surfaces that are exposed to precipitation. The literature is replete with references to the contribution of zinc to stormwater run-off from galvanized surfaces. Such surfaces can include ducts, HVAC units, turbines, equipment boxes on roofs, downspouts, roof gutters, roofs, chain-link fence, light poles, bay doors, steps, truck trailer panels etc. As such, this requirement in the renewal permit addresses a potentially significant pollutant source for facilities that have galvanized surfaces. The intent of the previous stormwater permits was that permittees identified all potential pollutant sources at their facilities that could contribute pollutants to stormwater discharges, including galvanized surfaces. However, the Division recognizes that the requirement as written in the renewal permit is broad, and has modified the permit language to address only galvanized surfaces exposed to stormwater associated with roofs, such as ducts, heating/air conditioning equipment, metal roofs, gutters and downspouts. 	Part I.F.4.a.ix
<p>c. Assessment of potential pollutant sources</p>	
<p>i. Comment was received stating that the Division should clarify and/or revise this section for the following reasons:</p> <ul style="list-style-type: none"> the SWMP narrative requires that the potential pollutant sources must be assessed and must be updated when “data become available to verify the presence or absence” of a pollutant. It is unclear how data will verify the absence of a pollutant if it is not detectable. 	No change

Comment and Response	Changes
<ul style="list-style-type: none"> - there is an implication that every potential pollutant must be sampled for in the run-off. This is neither economically feasible nor practicable. This section should be revised to make clear that only those pollutants expected to be present in concentrations that will have an impact on specific water quality standards need to be included in the narrative. • <u>Response:</u> The commenter misinterpreted the permit language. In accordance with Part I.F.4.a and Part I.F.4.b of the permit, permittees must identify all potential pollutant sources (industrial activities, equipment, and material) at the facility. Part I.F.4.c of the permit requires an assessment that describes the potential of a pollutant to be present in stormwater discharges for each facility activity, equipment and material identified. If, for example, a pollutant source is removed from the facility, or the permittee moves the pollutant source to an indoor location, this part of the permit requires that the permittee update the assessment. Permittees are not required to sample for every potential pollutant identified for the facility. No change was made to the permit. 	
<p>6. Additional Control Measure Requirements</p>	
<p>i. <u>6.a & 6.b Good Housekeeping and Maintenance.</u> Comment was received indicating that the requirement to include schedules for waste pick up and for preventative maintenance should be removed. Specifically, the comment indicated that:</p> <ul style="list-style-type: none"> - these items may change several times throughout the year and should not require a full SWMP update. - operators will conduct waste pickup and preventative maintenance as necessary to comply with the permit and protect water quality. - the requirement to include schedules for waste pick up and for preventative maintenance is unnecessary, will not benefit the operator, and will not protect water quality. - it is unreasonable to mandate that all preventive maintenance routines be included in the SWMP for large industrial facilities that maintain between 200 and 300 preventative maintenance routines. The routines that deal with water treatment facilities, stormwater controls, etc. should be included in the SWMP. • <u>Response:</u> The Division disagrees with the commenter's assertion that such documentation is unnecessary. The previous stormwater permits and the 2008 MSGP require such procedures and practices – this permit simply requires that the permittee to provide a copy of the documentation they have already developed with the SWMP. <p>However, as the comment pertains to maintaining documentation for good housekeeping and maintenance in the SWMP, such documentation may be electronic as long as all other requirements in Part I.E, Part I.F, and other pertinent sections of the permit are met. Further, the permittee must address other considerations such as ability to read in bright sunlight conditions, e.g., for use in the field, inspections, etc., and easy access to facility personnel, regulators, etc. (see response at Part I.E.iii above).</p>	No change
<p>ii. <u>6.d Employee Training.</u> Comment was received indicating that only training courses that contain information on water quality should be required to be listed in the SWMP in cases where a facility conducts various types of training courses(e.g., courses on environment, safety, HR, quality, manufacturing, maintenance, etc.).</p> • <u>Response:</u> The Division agrees with the comment. This requirement references the permittee to Part I.D.1.i (Employee Training), which limits the scope of the training to the following, as applicable to the trainee's activities: the site-specific control measures used to achieve the effluent limits in this Part, components and goals of the SWMP, monitoring and inspection procedures, and other applicable requirements of the permit". The Division modified Part I.F.6.d of the permit to clarify this point.	Part I.F.6.d
<p>7. Inspection Procedures and Documentation</p>	
<p>i. <u>7.a.ii & iii Inspection Procedures and Documentation.</u> Comment was received indicating that operators will develop and implement</p>	No change

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	<p>processes to fully comply with the inspection requirements of the permit voluntarily, and that to require operators to document procedures for performing inspections, developing tentative schedules, etc is unnecessary and adds a level of compliance liability for a non water quality issue</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division disagrees with the commenter's assertion that such documentation is unnecessary. The previous stormwater permits and the 2008 MSGP require such procedures and practices – this permit simply requires that the permittee to provide a copy of the documentation they have already developed with the SWMP. No change was made to the permit. 	
8. Monitoring Procedures and Documentation		
	<p>i. Comment was received that assumes that if there are no benchmarks, then testing is not required. In addition, the comment indicates that it should be clearly stated that ELGs and benchmark testing is not required unless there are published ELGs for a given sector or benchmarks are included in the permit.</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division disagrees with the comment. Permittees cannot assume that if benchmark sampling does not apply, then monitoring, in general, is not required. The types of sampling required by the permit are provided in Part I.I of the permit. This part of the permit clearly addresses the applicability of each of the five types of monitoring required by the permit. This Part further clarifies that the permit certification will identify, for each permittee, the specific type of monitoring applicable to the permittee's facility. No change was made to the permit. 	No change
	<p>ii. Comment was received indicating that all requirements to document procedures should be removed from the permit because:</p> <ul style="list-style-type: none"> - operators will implement procedures to fully comply with the various permit conditions, but these requirements of the SWMP provide another compliance liability related to paperwork rather than water quality; - operators will develop these procedures separately and will update them as necessary; - changing which lab we use should not require a SWMP modification and certification. <ul style="list-style-type: none"> • <u>Response</u>: The Division disagrees with the commenter's assertion that such documentation is unnecessary. Analytical results for samples collected as required by this permit are only valid if valid sampling and handling procedures, hold-times, preservatives, etc are used. As indicated in the response at Part I.E.iii above, the Division determined that the SWMP and associated required documentation may be electronic as long as all other requirements in Part I.E, Part I.F, and other pertinent sections of the permit are met. Further, the permittee must address other considerations such as ability to read in bright sunlight conditions, e.g., for use in the field, inspections, etc., and easy access to facility personnel, regulators, etc.. No change was made to the permit. 	No change
G. INSPECTIONS		
1. Inspection Frequency and Personnel		
	<p>i. <u>a. Inspection Frequency</u>. Comment was received indicating that the requirement to conduct monthly inspections is not appropriate. Specifically, comment indicated that (alternatives to proposed frequency are in bold text):</p> <ul style="list-style-type: none"> - while some industries do require monthly inspections, the current inspection frequency (twice per year) is more than adequate for seasonal industrial activities; - the burden on permittees and the Division to process monthly inspection reports will be overwhelming; - the monthly inspections would not pass a typical cost-benefit analysis; 	<p>Part I.G.1.a Appendix B Fact Sheet III.G</p>

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<ul style="list-style-type: none"> - the approach is far too costly for many industries; - current inspection frequency (twice per year) takes 30-days each to conduct; a monthly inspection frequency would result in inspections being conducted weekly; - both discharge monitoring and the new visual observation requirements are quarterly; the facility inspection frequency should also be changed to quarterly, which will help reduce costs to a manageable level; - the increase in frequency of inspections will shift the responsibility of the inspections from an environmental professional to a plant operator, which will affect the quality of these inspections, even with effective training. Also, as a plant operator observes an onsite BMP change slowly over time, they are less likely to see a change in its effectiveness. Fewer inspections will likely result in higher quality findings and subsequently better protection of water quality. - the 20 day spacing between inspections will result in a compliance liability for operators which may be dependent on vacation time, sick leave or the seasonal closure of an operation. The need to count days on a calendar and the compliance liability do not justify this requirement. This language should be changed to an inspection frequency more in line with the last Light Industrial General Permit. A frequency of twice per year or once per quarter would absolve the requirement to space out inspections by 20 days. - the proposed inspection frequency will require that owner/operators multiply, by six-fold, the resources necessary to perform these inspections. Increasing the frequency of inspections will not necessarily result in better stormwater pollution prevention. A combination of quarterly stormwater sampling for at least one year with quarterly visual inspections is more than adequate to evaluate stormwater pollution potential and identify necessary improvements. - in Colorado's semi-arid climate, the proposed inspection schedules are more frequent than necessary; quarterly inspections will sufficiently protect water quality. - inspection frequency should be quarterly; monthly if excessive discharges, sensitive areas or Division determines its appropriate for a specific facility. - sector-specific inspection requirements are included in Part III, therefore duplicative requirements from Part I.G.1.a should be removed. For example, Sector O requires monthly inspections of coal handling areas, loading or unloading areas, switchyards, fueling areas, bulk storage areas, ash handling areas, areas adjacent to disposal ponds and landfills, maintenance areas, liquid storage tanks, and long term and short term material storage areas. - monthly inspections are not required for all industries that would be covered by the draft permit. The existing requirement is more appropriate, i.e. that the facility identify in its SWMP the appropriate inspection schedule, based on the site characteristics, conditions and industrial activities covered by the stormwater permit. If the Division has a concern with a specific facility or group of facilities (industrial activity group) where inspections are not appropriately conducted, then a focused requirement for additional inspections should be considered for those facilities, as opposed to requiring additional inspections by all industrial facilities. - associated reporting and record keeping requirements, including quarterly Discharge Monitoring Reports (DMRs), are excessive and again unwarranted for the entire population of industrial facilities, based on the Division's concerns centered on the recycling industry. - the Division should provide additional justification as to why documented visual inspections of the facility are required on a monthly basis. It appears as though the Division is placing an undue burden on a large number of compliant facilities when there are only a few non-compliant facilities. - the Fact Sheet indicates that this permit largely emulates the structure and content of the 2008 MSGP; however, the 2008 MSGP requires a quarterly inspection frequency. The Division should adhere to the quarterly inspection frequency. - monthly inspections are overly burdensome and add little to no value to water quality. Most industrial facilities have personnel who 	

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perform daily or weekly walkthroughs to check the condition of the operating parts of the facility. To require a formal inspection and documentation does not increase stormwater protection, but rather increases time and resource requirements for the facility.

- what purpose do monthly inspections serve given all the other requirements contained in the permit.
- **Response:** The Division considered all comments received with respect to this section of the permit, and appreciates the alternatives proposed by the commenters. As a result, for this 5-year permit term, the Division changed the inspection frequency from monthly to a minimum frequency of quarterly for all permittees, but suggests that more frequent inspections may be appropriate in certain instances. More frequent inspections are required for some activities in certain sectors as indicated in the sector-specific section of the permit.

The Division will assess the compliance status of facilities it inspects within this 5-year permit term to determine whether observed site conditions warrant an increased inspection frequency in subsequent permit renewals. The Division will also use sampling data (i.e., ELG, benchmark and site-specific sampling) and corrective action summaries as the basis for increased inspection frequency for those sites where it may be warranted.

- i. **b. Rain Event Inspection.** Comment was received requesting that the Division consider removing the requirement that at least one inspection occur during a run-off event. Specifically, comment indicated that
 - the added requirement may be impracticable given the episodic and unpredictable nature of rain events.
 - given that rain events in Colorado are frequently transient, short-lived and generally unpredictable, the requirement that an inspection occur during one demands short-term scheduling and coordination by facility operators, and will translate directly into increased costs and burdens for owner/operators.
 - the rain-event stipulation unnecessarily creates additional enforceable conditions for permit holders where no benefit has been demonstrated. Inspection personnel are already lawfully bound to ensure and certify that their site complies with the terms and conditions of the SWMP and the permit: this duty clause must already be met, under all weather conditions.
 - to require an inspection during a rain event may require personnel standing by at all times day or night for the eventuality that there is a rainfall event that will provide run-off.
 - this requirement combined with the 20 day spacing restriction will be very difficult to track and comply with. In Colorado's arid climate rainfall can be sporadic, and an operator can have no way of knowing if a measurable event is going to be the last one during a quarter or during the month. This requirement combined with those in I.G.1.a will create a significant compliance liability for operators that is dependent on variables outside of their control and that are not directly related to water quality.
 - it is unlikely and unsafe for an inspection to occur during a runoff event as storm events in Colorado are unpredictable and often localized.
 - many storm events in Colorado are accompanied by lightning or high winds making it less safe to conduct the inspection, therefore, an "Adverse Weather Condition" clause should be added to this section similar to what is provided in Part I.H.8. Also, such a provision needs to be expanded to address conditions in addition to the "acts of God"-type listed conditions in the monitoring section. Conditions other than those listed in Part I.H.8 could be documented to describe the unsafe conditions that prevent inspections during runoff events.
 - the additional prescription that at least one inspection occurs during a rain event should be removed to provide the permittee flexibility

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Part I.G.1**

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<p>in meeting their permit obligations.</p> <ul style="list-style-type: none"> - the proposed requirement that one facility inspection per year be conducted when it is raining is infeasible and unsafe at large facilities with remote locations subject to flash flooding and other safety concerns during storm events; additionally, rain may not last long enough to reach such remote outfalls. This requirement should be deleted. • <u>Response</u>: The Division disagrees with the suggestion to remove the requirement from the permit. As permittees are already required to perform visual monitoring, benchmark monitoring, and effluent limitations monitoring during storm events, the Division does not believe this imposes significant additional burden on permittees. Like EPA, the Division views the rain event inspection as a potentially important tool for the permittee to be able to better identify sources of pollutants discharged in stormwater runoff from the facility, and to actively observe the effectiveness of control measures. No change was made to the permit with respect to removing this requirement. However, the Division clarified in the permit that an inspection during a runoff event for a rain event means during, or within 24 hours after the end of, a measurable storm event; and for a snowmelt event, means at a time when a measurable discharge occurs from the facility. The Division also clarified that the “Exception to Inspection Frequency for Inactive and Unstaffed Sites that meet the condition of no exposure” also applies to the rain event inspection requirement. <p>The Division also disagrees with the comment suggesting adding an “Adverse Weather Condition” clause. As indicated in Part I.H.8 of the permit, this clause allows a deviation from the relevant monitoring schedule, not from the requirement to collect the required number of samples. The Division fully expects that for at least one run-off event per year, a permittee will be able to safely conduct an inspection. No change was made to the permit.</p>	
2. Inspection Scope	
<p>i. Comment was received requesting that the Division clarify Part I.G.2.d of the permit to clarify that permitted discharges are not an illicit discharge. Suggested language is:</p> <p>“Observations for the presence of illicit discharges or other non-permitted discharges such as...”</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division agrees with the comment and has modified the permit accordingly. 	<p>Part I.G.2.d</p>
3. Inspection Documentation	
<p>i. Comment was received indicating that: 1) the entity conducting the facility inspections should not have to sign the inspection report indicating the facility's compliance or non-compliance due to liability issues, and 2) that the legally responsible party or duly authorized representative should not have to certify the inspection report. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - if the individual conducting the inspection is required to certify to the facility's compliance or non-compliance, he/she may be taking on liability which we believe is not intended by this section. Instead, the appropriate corporate certifications should be addressed in accordance with Part I.K.7 for annual reporting as noted below. - the requirement that each monthly inspection report be signed by the legally responsible party or duly authorized representative thereof is not an appropriate task for a company officer to complete nor will they have any real firsthand knowledge of the site. This requirement should be reworded to state that the person conducting the inspection shall make a determination, to the best of their knowledge that the site is in compliance. - an inspection report (which is not submitted to the State) does not need to be signed by the authorized representative as described in 	<p>Fact Sheet Section III.G</p> <p>Part I.G.3</p>

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<p>Part 1.K.7. The qualified person who conducts the inspection should be able to sign a statement similar to: <i>After adequate corrective action(s) has been taken, or where a report does not identify any incidents requiring corrective action, the report shall contain a signed statement indicating the site is in compliance with the permit to the best of the signer's knowledge and belief.</i></p> <ul style="list-style-type: none"> • Response: The Division disagrees with the comments and suggested modification. The permit requires that a qualified person conduct inspections. This individual is the most appropriate person to determine whether or not the facility is in compliance with the permit, and that the associated report is true, accurate, and complete, to the best of their knowledge and belief. The permittee, however, is the legal entity with liability associated with the permit compliance. As such, the inspection report, compliance statement, and inspector's signature are tools to ensure adequate communication between the qualified individual conducting the inspections and the permit signatory, regarding the compliance status of the facility with the permit requirements. However, the Division clarified that the statement required at Part I.G.3 of the permit that the site is in compliance or out of compliance with the permit, is limited to the Inspection Scope (Part I.G.2) evaluated by the inspector. <p>The inspection report is considered a report, subject to the certification and signature requirements pursuant to 5 CCR 1002-61.4(1)(f) and contained in Part I.K.6 of the permit, which requires that the legally responsible party or duly authorized representative thereof sign and certify the report. No change was made to the permit with respect to this comment.</p>	
<p>4. Exception to Inspection Frequency for Inactive and Unstaffed Sites that meet the condition of no exposure</p>	
<p>i. Comment was received indicating that the "Exception to Inspection Frequency for Inactive and Unstaffed Sites that meet the condition of no exposure" should be changed to exempt inactive and unstaffed sites per the definition in the last Light Industrial General Permit, i.e., from monitoring requirements and other weather related permit conditions if the permittee has evaluated the site and determined on site controls are sufficient to minimize contamination of stormwater. Specifically, the comment indicates that:</p> <ul style="list-style-type: none"> - there should be an exception for inactive and unstaffed facilities; however the new permit language will prevent many of the sites previously exempted from the regular inspection schedule from meeting this designation. Due to the current economic situation, there are many inactive facilities across the state of Colorado. These have been temporarily closed due to low demand and they likely have industrial materials (eg. stockpiles) exposed to stormwater. However, there will either be sufficient controls on site or no chance for discharge from these operations. Due to the high frequency of inspections, monitoring and weather dependent permit requirements; it will be difficult to maintain compliance at these inactive and unstaffed facilities. As there will be no employees on site or in the general area, it will not be possible to be aware when it is raining, when there may be discharge, etc. This creates compliance problems with I.G.1.b, I.H.4, I.H.5, I.H.6, etc. - This part should be revised to clarify that all inactive or unstaffed facilities are exempt from routine facility inspection requirements without qualification or the frequency should be changed to once per year. To perform routine inspections at inactive and unstaffed facilities on a more than a yearly basis would require regulated facilities to no longer be inactive and unstaffed – such facilities would have to hire personnel for no other reason than to conduct facility inspections. This would again result in unnecessary costs to the regulated community. Further, limiting the exception provided to unstaffed or inactive sites to apply only where no industrial materials or activities are exposed to stormwater is unusual, as such facilities would not require a permit in the first place. The regulatory definition of "stormwater associated with industrial activity" (see 40 C.F.R. § 122.26(b)(14)) clearly provides that stormwater associated with industrial activity includes runoff from "areas where industrial activity has taken place in the past [i.e., inactive facilities] and significant materials remain and are exposed to stormwater." In contrast, if significant materials do not remain at an 	<p>Fact Sheet Section III.H</p> <p>Part I.G.4 Part I.H.13 Part I.K.1</p>

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<p>inactive site and are not exposed to stormwater, no permit coverage is or should be required.</p> <ul style="list-style-type: none"> Response: Because the discharge of pollutants does not cease when industrial materials remain exposed to stormwater, the Division believes that elimination of exposure is a reasonable prerequisite for this monitoring/inspection exception. The Division does not agree with the commenter's suggestion that the renewal permit retain the once every two years or once every three years inspection frequencies associated with the Light Industrial stormwater permit. In the renewal permit, the inspection frequency for inactive and unstaffed sites (that meet the condition of no exposure) is reduced from quarterly to twice annually; this inspection frequency is intended to ensure that there are no industrial materials or activities exposed to stormwater, i.e., to maintain the condition of no exposure. The Division clarified in the renewal permit that the "Exception to Inspection Frequency for Inactive and Unstaffed Sites that meet the condition of no exposure" also applies to the rain event inspection requirement (see response to comment at Part I.G.1.b, above). <p>In addition, for such sites, the requirement for quarterly visual and benchmark sampling of stormwater discharges from the facility is waived. The Division determined that extending an exception for any applicable ELG or Water Quality Standards monitoring is also appropriate for such sites, due to the condition of no exposure, and revised the renewal permit and Fact Sheet language reflect this change and associated reporting convention. Lastly, facilities that do not have the potential to discharge industrial stormwater as stated by the commenter, do not require stormwater discharge permit coverage.</p> <p>Consistent with EPA, the Division agrees that facilities that are both inactive and unstaffed, when the facility no longer has industrial activities or materials exposed to stormwater, could alternatively submit a No Exposure Certification permitting under 5 CCR 1002-61.3(2)(h), terminating permit coverage. However, the Division realizes that some facilities plan to recommence industrial activity in the future and therefore may wish to keep active permit coverage.</p>	
H. GENERAL MONITORING REQUIREMENTS	
General	
<p>i. Comment(s): Comment was received indicating that Colorado is a semi-arid state and precipitation events are random and often very local. A significant rain event may occur on one side of a street while the other remains dry. This permit does not appear to take into consideration the episodic weather patterns in Colorado but rather assumes discharges occur on a more routine and controlled basis. This assumption has resulted in an increased administrative burden to the permittee over items that are out of the control of the permittee.</p> <ul style="list-style-type: none"> Response: The Division disagrees with the commenter's assertion that because storm events are irregular in Colorado, it is not feasible to collect samples of stormwater discharges. However, the Division notes that a reference to reporting requirements is not provided in Part I.H (General Monitoring) of the permit, and that this may cause some confusion for permittees. <p>The renewal permit requires permittees to collect at least four (4) stormwater samples of per year for benchmark or water quality standards monitoring, as applicable (one per year if ELG monitoring applies). If, within any one monitoring period (3 months), there is no storm that results in an actual discharge from the facility (i.e., a measurable storm event), the permittee will indicate "No discharge" on the DMR form for that monitoring period. This requirement is provided in Part I.K.1 of the permit; however, the Division has added additional reference to this requirement in Part I.H (General Monitoring) of the permit, and in Section III.H (General Monitoring) of the Fact Sheet. The Division encourages permittee's to sample stormwater run off from a measurable storm event as early in the monitoring period as possible to avoid missing the run-off opportunity.</p> <p>In addition, as currently addressed in the permit and Fact Sheet, Part I.H.9 provides the permittee responsibilities if climate conditions</p>	<p>Fact Sheet Section III.H Part I.H</p>

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do not allow sample collection according to the monitoring schedule. Requirements for collecting the required number of samples and revising the monitoring schedule are provided. No change was made to the permit with respect to this provision.

4. Measurable Storm Events.

i. Comment(s): Comment was received requesting clarification of the term “measurable storm event”. Specially, comment indicated that:

- the impression is that only one measurable storm event per quarter is required to be monitored per this section, however this is not clear. As the current draft permit is much longer and more complicated than previous permits, steps should be taken to make permit requirements as transparent as possible.
- Part I.H.a defines a "Measurable Storm Event" as any storm event that results in "actual discharge from the facility". This appears to require flow meters on every outfall to determine if there is actual discharge. Given the complexity of facilities and the distance to power sources, flow meters are not realistic on many facilities in Colorado. The commenter requests that the Division specify that flow meters are not required and instead that measurable storm events should be determined by the facility employing best professional judgment including but not limited to the facility's experience with site conditions, topography and climatology.
- there is a difference between a measurable discharge and a discharge that can be sampled. There may be an “actual discharge” that is insufficient in volume to allow for sample collection. The commenter suggests that if flow from runoff is insufficient to collect a sample that zero discharge can be recorded for that particular sampling event.

- **Response:** (in order of comments)
 - Part I.H of the permit provides general monitoring requirements. Part I.I of the permit provides specific monitoring requirements, and addresses the type of monitoring required, applicability of the monitoring and frequency. The table of contents provides direction to the permittee for this information. No change was made to the permit.
 - The Division disagrees with the suggested modification. The existing permit language does not require flow meters, and it is the permittee’s responsibility to select appropriate technology to meet the permit requirements. Some facilities may opt to install flow meters; others may use other technology or techniques. Since the existing permit language does not require flow meters, the Division does not believe the suggested text adds value to the permit. No change was made to the permit.
 - The Division disagrees with the suggested practice. The “No discharge” reporting convention is for no discharge, not low discharge. Therefore, it is inappropriate to indicate on a DMR that there was not discharge when there was a discharge, albeit, a low volume one. The Division encourages the commenter to review the sampling guidance videos on the Division’s website (www.coloradowaterpermits.com) (courtesy of the State of Minnesota) for approaches to sampling low volume discharges.

ii. Comment was received indicating that the requirement to conduct required monitoring during a storm event or following snow melt that results in an actual discharge from the facility is not clear for those facilities that have a combined stormwater collection system and process wastewater system, which typically discharges continuously. Stormwater and process wastewater is routed through settling ponds on the site prior to discharge to the stream through the permitted outfall. Runoff from a storm event that occurs today will not be discharged until 24-72 hours later. If facilities that combine stormwater with the process wastewater are expected to continue to seek coverage under this permit, there should be an exception to this requirement.

No change

No change

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- Response: This comment is addressed in the response at Part I.A.2.d above. No change was made to the permit.

iii. Comment was received indicating that it is unlikely and unsafe for an inspection to occur during a snowmelt event. It is also unreasonable for the Division to ask facilities to “watch” the snow melt for a possible discharge event. If the Division will not omit this requirement, the commenters requests that the Division use language similar to the EPA’s MSGP as follows:

**Part I.H.4
Part I.H.5.b**

All required monitoring must be performed on a storm event that results in an actual discharge from your site (“measurable storm event”) that follows the preceding measurable storm event by at least 72 hours (3 days). The 72-hour (3-day) storm interval does not apply if you are able to document that less than a 72-hour (3-day) interval is representative for local storm events during the sampling period. In the case of snowmelt, the monitoring must be performed at a time when a measurable discharge occurs at your site. For each monitoring event, except snowmelt monitoring, you must identify the date and duration (in hours) of the rainfall event, rainfall total (in inches) for that rainfall event, and time (in days) since the previous measurable storm event. For snowmelt monitoring, you must identify the date of the sampling event.

- Response: The Division believes the commenter is referring to “monitoring” and not “inspection” as indicated in the comment. The Division declines to accept the commenter’s suggested edit. Snowmelt run-off, like rain event run-off, has the potential to convey facility pollutants offsite, ultimately to the receiving water for the facility. It is for this reason that permittees are required to be cognizant of when snow melts events results in a discharge from the facility, and monitor measurable discharges of both snowmelt and rain events.

The Division’s language is substantially similar to the EPA 2008 MSGP, as provided below – the 2008 MSGP paragraph format was replaced with an enumerated format. However, the Division agrees with the comment provided at Part I.H.5.i below, that the requirement to document the duration between storm events for snowmelt monitoring is not appropriate for the reason provided, and has deleted this requirement from the permit. Also, the Division clarified the language at Part I.H.5.a. The text below reflects these changes.

4. Measurable Storm Events

- a. Rain event. Permittees must conduct all required monitoring on a storm event that results in an actual discharge from the facility (“measurable storm event”), and that follows the preceding measurable storm event by at least 72 hours (3 days).
- b. Snowmelt monitoring. The permittee must conduct snowmelt monitoring at a time when a measurable discharge occurs from the facility.

5. Storm Event Information

- a. Rain event. The permittee must document the information below for each monitored event. Such documentation is not required for events that do not meet the criteria in Part I.H.4, or that are not monitored to meet the requirements of this permit.
 - i) The date, time of the start of the discharge, time of sampling, duration (in hours) of the rainfall event, and magnitude (in inches) of the storm event sampled;
 - ii) The duration between the storm event sampled and the end of the most recent storm event that produced a discharge.
- b. Snowmelt monitoring. The permittee must document the date of the sampling event for each monitored snowmelt event.

Comment and Response

Changes

5. Storm Event Information

- i. Comment was received indicating that the requirement to document the information for rain and snowmelt event as required by this part of the permit is not appropriate. Specifically, comment indicated that:
- the information required to be collected in parts i and ii of this section create additional recordkeeping requirements and compliance liabilities for the operators which is not related to protecting water quality. This information will not be used by the permittee nor will it be useful to the CDPHE. These requirements should be removed from the permit.
 - the requirement to collect data regarding storm events implies that every storm event that causes a discharge needs to be recorded. This requirement results in the need for additional personnel to observe every rain event and period of snowmelt for the potential for run-off, or alternatively will require the installation of instantaneous flow monitoring devices at the discharge point(s). This requirement will add greatly to the cost and complexity of implementing this permit.
 - the requirement to document the duration and rainfall total of the storm event will demand additional permittee resources.
 - unless someone is standing at all of the discharge points during the rainfall event, how can someone certify when the start of the discharge occurred? Also, employees should not be required to determine the duration of rainfall events. The permittee should be required to document the date of the sampled event and the magnitude of the storm event sampled - information that can be easily obtained.
 - the rain event data required includes "time of the start of discharge", "duration (in hours) of the rainfall event", and "magnitude (in inches) of the storm event sampled." These requirements appear to require installation of a meter (flow and time) again at each outfall and a rain gauge, which is not reasonable or appropriate.
 - the expectation to record all this information is a burdensome requirement and will likely not be known by the permittee without the installation of a continuous monitoring device, automatic sampler, and/or rain gage. These types of equipment are very costly and it is not clear why this information is necessary for compliance demonstration. The commenter recommends removing storm event monitoring.
 - the requirement that data, such as duration and magnitude of the rain event, must be collected during a rain event requires local meteorological data be available for the site yet many facilities do not have meteorological stations. Data recorded at a regional meteorological station may not reflect weather/rainfall conditions at the actual facility. Therefore the requirement to collect and report meteorological data does not appear to add value. It is suggested that this requirements be removed from the permit.
 - the Division recognize that where the permit requires weather conditions, that data from the nearest, existing meteorological station are sufficient, even though it may not accurately reflect conditions at the facility.
 - The snowmelt monitoring section should be removed. Given that snowmelt happens at variable times, the condition will require operators to check outfall locations every 30 minutes to determine if enough snow has melted to leave the property. Also, the requirement to document the duration between storm events does not apply here, as the 'events' in question that would cause a discharge is warm weather and the presence of the sun.
- **Response:** The Division notes that the documentation requirements under this part of the permit are largely the same as those in the 2008 MSGP and in previous stormwater permits in which sampling is required. This permit adds the requirement to document the start of the discharge and the time of sampling for rain events, to verify that samples were taken within the first 30 minutes of the discharge, which accounts for any first flush effects that may result from a precipitation event. The highest pollutant concentrations generally occur during these first flush events and are also the times when receiving stream flows are the lowest during wet weather

Part I.H.5.b

Comment and Response	Changes
<p>events and thereby present the greatest potential pollutant impacts to aquatic species during this time.</p> <p>The storm event reporting requirements, taken together, provide the Division with a general understanding of the characteristics of the storm sampled as it may relate to the reported concentrations. The Division may also use this information for evaluating potential impacts on water quality, including impaired streams, or for targeting compliance assistance and inspections. However, the Division agrees with the comment that the requirement to document the duration between storm events for snowmelt monitoring is not appropriate for the reason provided, and has deleted this requirement from the permit.</p> <p>The Division notes that the permit requires documentation of this information for each monitored event, not every storm event that causes a discharge, as one commenter asserts. As indicated in the response to comment at Part I.H.4.i, above, the permit does not require flow meters, and it is ultimately the permittee's responsibility to select appropriate technology to meet the permit requirements. Some facilities may opt to install flow meters; others may use other technology or techniques. No change was made to the permit with respect to this comment.</p>	
6. Sample Type and Requirements	
b. Minimum of One Grab Sample from Measurable Storm Event	
<p>i. Comment was received indicating that the frequency of required monitoring should be clarified in this section of the permit.</p> <ul style="list-style-type: none"> • <u>Response:</u> Part I.H of the permit provides general monitoring requirements. Part I.I of the permit provides specific monitoring requirements, and addresses the type of monitoring required, applicability of the monitoring and frequency. The Table of Contents provides direction to the permittee for this information. No change was made to the permit. 	No change
c. Requirement to Collect Sample within 30 Minutes	
<p>i. Comment was received indicating that the requirement to collect samples within the first 30 minutes of a measurable storm event is not appropriate. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - this permit condition is not feasible as a requirement. Operations covered by these permits do not have excess staff and will not necessarily know when enough rain has fallen or snow has melted to start discharging from the site. This is also true for inactive and unstaffed sites, where no employees are nearby to know if it rained, how much it rained, when or if the site began discharging, etc. Though the permit allows for a written explanation, this condition should be rewritten as "if feasible" or as a recommendation and not a requirement. As it will be difficult to meet the 30 minute window, the permittees will need to explain why the 30 minute window was not complied with every time it rains. This adds unnecessary paperwork and compliance liability for operators and the condition should be changed or removed. - it is unrealistic to expect that grab samples collected by industry personnel will occur within the first 30 minutes of a measurable storm event. Depending on when the storm occurs there may not be a qualified/trained staff member available to collect and analyze the sample. Or if a site has more than one discharge point it may not be possible to get to each outfall to pull a sample within the first 30 minutes of a measurable storm event. We understand the Division has allowed for an exception, but if a permittee continuously misses the collection of the sample within the first 30 minutes of a storm, we are concerned that the permittee may be subject to non-compliance. - the Division should clarify how facilities are to know the exact time that flow began during a storm event to comply with the sample collection requirement when a facility is not staffed 24 hours. 	No change

Comment and Response	Changes
<ul style="list-style-type: none"> <u>Response:</u> The Division disagrees with the comment. The permit specifies that a minimum of one grab sample must be taken from the measurable storm event being monitored. The grab sample must be taken during the first 30 minutes of the discharge, except for snowmelt monitoring which has no 30 minute requirement. The permit further indicates that if the collection of a grab sample during the first 30 minutes is impractical, a grab sample can be taken as soon as practicable after the first 30 minutes, but the permittee must document and keep with the SWMP an explanation of why a grab sample during the first 30 minutes was impractical. As the permit already acknowledges that conditions may prevent the collection of a grab sample during the first 30 minutes of the discharge, additional language to this effect does not add value to the permit. No change was made to the permit. <p>Not all measurable storm events occur outside of normal business hours. Given that only one storm event must be sampled per quarter, the Division expects that permittees will be able to comply with this permit provision.</p>	
7. Analytical Requirements	
General	
<p>Comment was received indicating that Part I.H.7 provides analytical requirements including a table of practical quantitation levels (PQLs). On page 14 of the Fact Sheet, the Division explains that "this language is standard for Division permits and a supporting Division policy exists." The commenter has concerns about several issues related to this statement and the inclusion of this table in the permit, specifically:</p> <ul style="list-style-type: none"> - the PQL language is not always standard in Division permit. We understand that the Division has included the language in some permits for the last several years, but to date several permits have been amended or renewed without this language. - the commenter is not aware of a "supporting Division policy" that exists. Instead the Division has developed a guidance document that includes organic component PQLs, with the most current version available online dated July 2008. We understand that the Division is restarting efforts on a Water Quality Control Commission (WQCC) workgroup to address inorganic components through lab surveys and other venues. However, we do not believe this process is complete yet, and therefore, it is premature to include the table in this permit. - the commenter understands that the Division's basis for the listed PQLs is based on the state laboratory information; however, has two concerns: a) state laboratory PQLs represent achievement on clean QA samples, rather than stormwater matrices, which can greatly impact the ability to reach these PQLs; and b) in discussions with the state laboratory, it appears that the lab does not necessarily follow the EPA approved methods exactly, which is required under this section for any regulated entity. These considerations may make compliance with these conditions impossible and certainly impractical. Therefore, the commenter requests that the table of PQLs not be included in this permit at this time. <ul style="list-style-type: none"> <u>Response:</u> (in order of comments) <ul style="list-style-type: none"> o The Division agrees with the comment. This standard language has changed over time; therefore, it varies depending when a permit was last renewed. The final permit will reflect the most current version of that standard language. o The Division agrees with the comment, in part. Please see response to comment at Fact Sheet, <u>Analytical Requirements</u> (above). The Division does not agree that it is premature to include the PQL table in the permit, as this is current Division practice for inorganic compound PQLs; no change was made to the permit with respect to this portion of the comment. o The Division does not agree with the assertions made by the commenter with respect to state laboratory methodology for determining PQLs. First, while the state laboratory does establish MDLs using reagent grade water, the multiplier used to develop the PQLs from MDLs is intended to account for typical sample interferences, such as those found in a stormwater 	No change

Comment and Response	Changes
<p>sample from an appropriately controlled facility. Second, the Division is unclear what the commenter means with respect to the word “exactly”; however, the state laboratory is required to follow EPA approved methods (where such methods are available for a specific analyte) in developing PQLs, as in any other analysis of wastewater.</p>	
<p>c. Comment was received indicating the following:</p> <ul style="list-style-type: none"> - correct the typo in the first line - "report" should be "reported" - the language in this section of the permit is unclear. It says that a “limit is report until such time...” It should read, “limit is “report only” until such time...”] <ul style="list-style-type: none"> • <u>Response</u>: The standard language is appropriate as written, and intends to communicate that an interim effluent limitation is not a numeric limitation, and that permittees are to <u>report</u> the analytical result until the numeric effluent limitation becomes effective. 	No change
<p>d. Comment was received indicating the following:</p> <ul style="list-style-type: none"> - does TIN mean tin, the metal (Sn) or something else? It is not defined. - nitrate and nitrite are not listed on Table L-2 (i.e., have no effluent limit). Therefore, why is TIN mentioned here when only ammonia is listed on Table L-2? <ul style="list-style-type: none"> • <u>Response</u>: In this context, TIN means total inorganic nitrogen, and is applicable only to those facilities the Division has required to sample for total inorganic nitrogen in the permit. 	No change
<p>e. Comment was received indicating the following:</p> <ul style="list-style-type: none"> - the reference to "BDL" means "below detection limit" when the statement should read "BQL" or "below quantification limit." - the last two sentences appear to say the same thing and recommend the deletion of one or the other. <ul style="list-style-type: none"> • <u>Response</u>: This standard language as written is correct. The BDL nomenclature is used by in a specific context by the Division; in this instance, to reflect an analytical value that is less than or equal to the PQL. Reporting “BDL” as described, i.e., when the PQL is greater than the permit limitation, will not trigger a permit violation and further, may avert an unintended permit violation generated by the data system if this reporting convention is not used. The last two sentences in this paragraph apply to two different limitation situations, so the existing text was retained. 	No change
<p>f. Comment was received indicating the following:</p> <ul style="list-style-type: none"> - recommend using the prescribed methods and PQLs found in 40 CFR 136 thus eliminating reference to a "Guidance Document" that may or may not be enforceable. - the sentence beginning “if the analytical method” is difficult to understand. It appears that the sentence is trying to say “If the PQL of the analytical method is greater than the limits in the permit, then the analytical method or an alternative analytical method must have a PQL that meets those in Table H-1.” Please clarify. - this paragraph and the PQL table should be omitted from the permit as it conflicts with the introductory paragraph to this section and 	No change

Comment and Response	Changes
<p>paragraph (a), which states that the PQL should be at or below the numeric effluent limit utilizing the approved methods in 40 CFR Part 136.</p> <ul style="list-style-type: none"> - we understand that some of the PQLs obtained by the State Laboratory do not follow the approved methods in 40 CFR Part 136, or they have modified the methods, which permittees cannot do without prior approval. Furthermore, we have surveyed our laboratory and contract labs that typically analyze our samples and they cannot meet all of the PQLs specified in the table. • <u>Response:</u> (in order of comments) <ul style="list-style-type: none"> ○ The EPA approved methods (i.e., 40 CFR 136) define how the method detection limit (MDL) is determined and this is part of the approved methodology. Colorado requires reporting effluent data relative to the PQLs, as opposed to MDLs. The establishment and use of PQLs is left up to the NPDES authority (delegated state or EPA, as appropriate) and the “Practical Quantitation Limitations Guidance Document” (July 2008) reflects the PQLs that the Division has established. As provided by this document, it is important to emphasize that for CDPS permitting purposes, permittees must use an EPA approved method or, where there is no EPA approved method, a Division approved method, even if a non-approved method is more precise, accurate, exhibits a lower PQL, and/or considers interferences present in common wastewaters. Where the Division determines that monitoring and/or a permit limit may be necessary for an analyte for which no approved method exists, the Division will identify a method for analysis in the permit along with a required PQL. If the analyte does not have an approved method, the Division will generally select the PQL identified in this Guidance but may specify the use of a more precise PQL where the limit or calculated assimilative capacity is significantly less than the listed PQL and information indicates that there are laboratories in Colorado that are capable of achieving a lower PQL. ○ This standard language as written is correct, and the Division agrees with the interpretation provided by the commenter. ○ This standard language as written is correct and supplements, rather than conflicts with, the introductory paragraph. ○ The Division does not agree with the assertions made by the commenter with respect to state laboratory methodology for determining PQLs. See response at Part H.7 (<u>General</u>), above. Part I.H.7.f of the permit directs permittee actions with respect to attaining PQLS. Laboratories are available that can meet the Table H-1 PQL values. 	
<p>Table H-1. Comment was received indicating that some of the PQLs listed in Table H-1 are very low. It appears that the PQLs listed on the Table are for drinking water methods and not for pollutants typical of stormwater discharges. Is it the intent of the Department to use drinking water analytical methods to determine the quality of the discharge?</p> <ul style="list-style-type: none"> • <u>Response:</u> The PQLs identified on Table H-1 are determined using wastewater methods, in accordance with the first paragraph of Part I.H.7. 	<p>No change</p>
<p>8. Adverse Weather Conditions</p>	
<ul style="list-style-type: none"> i. Comment was received indicating that this provision, as it currently reads, requires the operator to sample at the next qualifying storm event. There is no clear language that allows an operator to use the same reasoning to miss the next event if it was equally as dangerous. Also, there should be language in the permit that limits monitoring or sampling only to times when the plant is operating or staffed. If the next qualifying event occurs after the plant has shut down or been idled for the season, then the operator could be out of compliance with no feasible solution. • <u>Response:</u> The Division believes that the permit language, as written, does not limit the use of the adverse weather condition provision. Consistent with the 2008 MSGP, this permit provision applies to serious weather conditions such as: lightning, flash flooding, and high winds. This provision should not be used as an excuse for not conducting sampling under conditions associated with more typical storm events. In many cases, sampling during a subsequent non-hazardous storm event may still be possible during 	<p>No change</p>

Comment and Response	Changes
<p>the reporting period. Where this is not possible, permittees are still required to report the inability to monitor indicating the basis for not sampling during the reporting period.</p> <p>With respect to when sampling can occur, the permit does not limit sampling to business hours only. Given that only one storm event must be sampled per quarter, the Division expects that permittees will be able to comply with this permit provision. No change was made to the permit.</p>	
9. <u>Climates with Irregular Stormwater Runoff</u>	
<p>i. Comment was received requesting that the Division delete or modify permit condition Part I.H.9.b. Specifically, comment indicates that:</p> <ul style="list-style-type: none"> - facilities located in climates with irregular stormwater runoff, such as Colorado's, should not be required to expend time and resources on personnel to wait for a discharge that may not occur. Requiring facilities to collect samples when it is reasonably impossible to take a substitute sample, will force several permitted facilities to be out of compliance with COR900000. - while the commenter appreciates that the Division addressed both the lack of precipitation and frozen winter conditions, there is still concern that the distribution of monitoring events in the season "when precipitation occurs or when snowmelt results in a measurable discharge" could require collection from any time a discharge occurs, including overnight conditions (when qualified personnel are unavailable), and during other unsafe conditions that do not fit exactly into the "Adverse Weather Conditions" definition currently proposed. These unsafe conditions could be documented to provide the basis for the analysis. <p>• <u>Response:</u> The Division disagrees with the comment. Only measurable storm events are subject to the monitoring provisions of this permit. Therefore, if a facility is located in an area in which storm events do not result in a discharge from the facility, the permittee will indicate "No discharge" on the DMR for that quarter, or implement a revised monitoring schedule (see also response at Part I.H.i, above).</p> <p>With respect to when sampling can occur, the permit does not limit sampling to business hours only. Given that only one storm event must be sampled per quarter, the Division expects that permittees will be able to comply with this permit provision. No change was made to the permit.</p>	No change
11. <u>Changes to Monitoring Requirements and Additional Monitoring</u>	
<p>i. Comment was received requesting that the provisions in this part of the permit that provide permittee's with the option to request monitoring changes be extended to inspection requirements and general permit conditions, since the Division intends to apply this permit to a large universe of dischargers, and such, flexibility to make appropriate modifications for terms and conditions as applicable should be allowed.</p> <p>• <u>Response:</u> This permit provision references Part II.B.5.c of the permit, which is applicable to changes/modifications to the master general permit, not to permit certifications. Because the reference to Part II.B.5.c is not clear as written, the Division deleted the reference.</p> <p>As provided in the response to comment at Part I.G.1.i, the Division has reduced the inspection frequency from <u>monthly</u> to <u>quarterly</u> for the reasons provided, and the Division does not believe an additional ability to reduce inspection frequency on a site-specific basis is warranted. Further, the permit already contains a provision to decrease benchmark sampling requirements when benchmark concentrations are met. No change was made with respect to this aspect of the comment.</p>	Part I.H.11

Comment and Response		Changes
13. Monitoring Exceptions for Inactive and Unstaffed Sites that meet the condition of no exposure		
<p>i. Comment was received requesting that the Division clarify permit requirements with respect to Inactive and Unstaffed Sites that meet the condition of no exposure. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - why is it necessary to conduct inspections at facilities that meet this requirement if there is no exposure at a facility that would otherwise qualify for a no exposure exemption? - visual assessments or any type of analytical monitoring requirements are particularly inappropriate at inactive or unstaffed sites. Any requirement to perform analytical monitoring at an inactive or unstaffed site, regardless of materials or activities exposed, would be extremely costly and completely unnecessary. Indeed, to perform such monitoring, the site would essentially have to no longer be inactive and unstaffed – regulated facilities would have to hire personnel for no other reason than to monitor stormwater discharges at these facilities. In any event, the language limiting the exception only where there is no exposure is meaningless, as a permit would not be required if there were no exposure. <ul style="list-style-type: none"> • <u>Response</u>: Facilities that hold a No Exposure certification in lieu of a stormwater permit certification must ensure that the facility continues to meet the condition of no exposure, or they must apply for permit coverage. Such facilities conduct industrial activities in a manner that prevents contact with stormwater, but since the facility is active and staffed, it can be routinely monitored to ensure the no exposure condition is maintained. <p>Inactive and unstaffed facilities that temporarily avail themselves of the exception at Part I.H.13 must conduct inspections to verify that the condition of no exposure is maintained at the facility, and re-establish the condition of no exposure if it has lapsed. This is particularly important as, unlike an active and staffed no-exposure facility, facilities that use this exception are inactive and unstaffed.</p> <p>Facilities that are both inactive and unstaffed, when the facility no longer has industrial activities or materials exposed to stormwater, could alternatively submit a No Exposure Certification, thereby terminating permit coverage. However, the Division realizes that some facilities plan to recommence industrial activity in the future and therefore may wish to keep active permit coverage. See also response to comment at Part I.G.4, above.</p>	No change	
I. SPECIFIC MONITORING REQUIREMENTS: Visual, Benchmark, Effluent Limitation and Water Quality Standards Monitoring		
General		
<p>i. Comment(s): Comment was received indicating that the quarterly visual and benchmark monitoring is excessive, and questioned whether the Division has conducted a cost-benefit analysis with respect to these requirements.</p> <ul style="list-style-type: none"> • <u>Response</u>: Based on benchmark exceedances reported to the Division for industrial stormwater discharges covered under the previous Heavy and Recycling industry stormwater permits, the Division determined that it was appropriate to include at least one year of quarterly sampling under this renewal permit to evaluate seasonal variability in discharges. Please see response to <u>Cost to business vs. Environmental benefit</u> (ix.), above. 	No change	
<p>ii. Comment(s): Comment was received questioning the practicality of collecting quarterly stormwater samples given Colorado's climate. Has any thought been given to the logistics of collecting three additional samples in a calendar year? If this is truly anticipated to be a onetime event for most facilities, would it not make more sense to target suspected problem facilities for additional sampling rather than imposing an across the board requirement?</p>	No change	

Comment and Response	Changes
<ul style="list-style-type: none"> • <u>Response:</u> This permit requires quarterly stormwater sampling, and extends flexibility for situations in which the permittee cannot collect a stormwater sample due to no discharge, adverse weather, irregular stormwater runoff, and for decreasing the frequency of monitoring to yearly for facilities that can meet associated benchmark concentrations. This approach is consistent to that taken by EPA and many of the states. The Division does not anticipate that the quarterly sampling will be a one-time event as the commenter asserts; some facility's stormwater samples will meet the benchmark concentrations, others will not. No change was made to the permit. 	
<p>iii. Comment(s): Comment was received stating that the use of numeric standards for stormwater permits is counterintuitive. Specifically, the comment indicates that:</p> <ul style="list-style-type: none"> • The stormwater program was designed to address runoff from a variety of low impact potential sources of contamination to surface waters. The use of BMP and Benchmarks allows businesses to implement measures protective of the environment without the burdens of overregulation. With the proposed use of numeric standards for stormwater discharges, the stormwater program appears no different than the NPDES program. Please explain the regulatory basis for moving towards numeric standards for stormwater. • <u>Response:</u> As indicated in the Fact Sheet, this permit does include some numeric effluent limits based on ELGs – ELGs are technology-based effluent limits that are required for all CDPS permits. Any benchmark concentration levels published with the permit are not intended to be used as numeric effluent limitations, but as a tool to assess control measure effectiveness. Likewise, any site-specific benchmark concentrations levels developed for the facility are not intended to be used as numeric effluent limitations, but as a tool to assess control measure effectiveness. <p>Consistent with the 2008 MSGP, the Division included a requirement that stormwater discharges authorized under this permit must be controlled as necessary to meet applicable water quality standards in the receiving water. While the Division expects that compliance with the other conditions in this permit will control discharges as necessary to meet applicable water quality standards in the receiving water, it included a provision in the permit that allows a site-specific water quality-based effluent limitation to be included in the certification as necessary to comply with water quality standards. No change was made to the permit.</p>	No change
<p>iv. Comment(s): Comment was received indicating that the monitoring requirements of COR900000 are burdensome and may not result in improvements to water quality, and suggests the Division focus on facilities that are out of compliance with current permits as this will have a more immediate and positive impact on water quality.</p> <ul style="list-style-type: none"> • <u>Response:</u> The intent of the monitoring required by this permit is to provide information with respect to the quality of a facility's stormwater discharge, so that a permittee can modify stormwater management at the facility to protect water quality and the Division and the public have additional information indicating the effectiveness of the control measures. Flexibility is built into the permit for facilities that demonstrate they can manage their stormwater in a manner that is protective of water quality. No change was made to the permit. 	No change
1. Visual Monitoring	
<p>i. Comment(s): Comment was received indicating that quarterly visual assessment monitoring does not seem practical, and is redundant, if quarterly monitoring of outfall samples is required; further, wouldn't the analytical data per the quarterly monitoring meet these same requirements or is visual assessment monitoring to be conducted at the time the stormwater samples are collected for the quarterly</p>	No change

Comment and Response	Changes
<p>monitoring?</p> <ul style="list-style-type: none"> Response: The permit requires that visual assessment monitoring be conducted only once per quarter. These assessments of stormwater discharges are an inexpensive and valuable part of the stormwater management and planning process, and the Division expects that permittees will be able to comply with this important permit provision. <p>As the Division understands the second aspect of the comment, the commenter asserts that all permittees must conduct stormwater sampling. This is not the case. Some permittees may only be required to conduct visual monitoring (i.e., no benchmark, ELG, or water quality standards monitoring). As such, the monitoring requirements are not redundant. Also, for permittees that must conduct visual and other monitoring, the visual monitoring may provide information not provided by sampling (e.g., a sheen that some benchmark sampling would not identify). No change was made to the permit.</p>	
<p>ii. Comment was received requesting that the Division only require visual examinations of discharges, as well as sample collections during adverse weather conditions, during daylight hours and during business/operation hours. Natural light is really the only way to see any type of sheen on the sample. Sampling at night could also create safety hazards for the operators.</p> <ul style="list-style-type: none"> Response: The permit does not limit monitoring to business hours only. Given that only one storm event must be sampled per quarter, the Division expects that permittees will be able to comply with this permit provision. No change was made to the permit. 	No change
<p>iii. Comment was received recommending that the Division allow that quarterly visual monitoring and reporting be reduced for certain sectors in a similar manner as the approach for reducing monitoring frequency under the proposed benchmark monitoring actions.</p> <ul style="list-style-type: none"> Response: The Division disagrees with the comment. The quarterly visual assessments of stormwater discharges are an inexpensive and valuable part of the stormwater management and planning process. The permit currently includes exceptions to these requirements in order to account for circumstances during which conducting quarterly visual assessments may not be feasible, namely during adverse (e.g., dangerous) weather conditions, or in climates with irregular stormwater. Where these types of conditions prevent a facility from performing the visual assessments quarterly, permittees have the ability to modify their assessment schedule such that the four assessments are conducted over the course of the year during periods when discharges, be it from rain or snow, actually occur and can be safely observed. <p>Further, permittees of inactive and unstaffed sites may invoke a visual monitoring exception if they eliminate all exposure of industrial activities and materials to stormwater, and document this in the SWMP. This waiver is available to all sectors covered under this permit. No change was made to the permit.</p>	No change
<p>iv. Comment was received requesting the Division remove the requirement to conduct Visual Monitoring. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - to date, there has been no justification provided for this new permit condition; - while the requirement is commendable, it is not practical as the sample may need to be taken during a storm event which will preclude immediate access to a well-lit area, and therefore, each assessment will be very subjective and may not be comparable to other samples; - given the other additional requirements for monthly inspections, quarterly benchmark monitoring, and annual numeric monitoring (for discharges with effluent limitation guidelines), this additional quarterly visual monitoring requirement is excessive. 	No change

Comment and Response	Changes
<ul style="list-style-type: none"> - without guidance on the terms given in i-ix, each assessment will be very subjective and may not be comparable to other samples. - several of the parameters are time-sensitive, such as clarity: a sample taken at the discharge point and then carried to a well-lit area will give a different appearance to one observed immediately after collection. - discharge points from naturally vegetated areas, especially in the semi-arid climate of much of Colorado, may yet be colored, turbid, with floating and settled solids and foam simply due to the rate of runoff which results from the intensity of the storm event. - a facility may have a number of outfalls and few rain events each quarter making it very difficult to meet this requirement without a great expense in labor costs. - a settleable solids test requires that the sample sit long enough for the solids to settle, some will settle immediately, other may take longer; the longer a sample settles, the less suspended solids there will be and the greater the clarity <ul style="list-style-type: none"> • Response: The Division disagrees with the request to remove the Visual Monitoring requirement. See response to comment at Part I.I.1.i through iii above. The Division appreciates the commenter's recommendation that additional guidance is needed to implement the visual assessment requirements, and refers readers to EPA's website for a guidance document for assisting permittees in implementing these requirements (EPA 832-B-09-003, Industrial Stormwater Monitoring and Sampling Guide, March 2009). 	
<p>v. Comment was received indicating that like the comment at Part I.H.6.c, above, the requirement at Part I.I.1.c.viii to that a permittee explain why a sample could not be taken within 30 minutes should be removed.</p> <ul style="list-style-type: none"> • Response: See response to comment at Part I.H.6.c, above. 	No change
<p>vi. Comment was received questioning how one monitors for odor, and stating that odor is a very subjective and that it is not safe for permittee staff members to sniff samples that could have potential fumes that cause injury.</p> <ul style="list-style-type: none"> • Response: The Division agrees that odor is subjective, however, it can be a useful characteristic of the water sample for the stormwater management and planning process. The Division refers readers to EPA's website for guidance that helps permittees implement the visual assessment requirements (EPA 832-B-09-003, Industrial Stormwater Monitoring and Sampling Guide, March 2009). In addition, the Division encourages the commenter to adequately train staff responsible for Visual Monitoring to avoid potential injuries. No change was made to the permit. 	No change
<p>vii. Comment was received requesting the Division remove the requirement to include a sample photograph of for the Quarterly Visual Assessment documentation because the requirement:</p> <ul style="list-style-type: none"> - is duplicative; - is subjective and will not lead to improved water quality; - would not reflect the true appearance of the sample; - is dependent on variables such as the equipment used, background conditions, photographer ability; - costs business time and money (i.e., requires the purchase of a digital camera and staff training); - is not in EPA's MSGP. <ul style="list-style-type: none"> • Response: The Division agrees with the comment. The Division included this requirement in the permit to provide visual documentation of the condition of the sample in the same way an inspector documents site conditions with photographs. However, the Division agrees that different sample containers, light conditions, equipment used etc. may cause a photograph to misrepresent the sample; therefore, this requirement was removed from the permit. 	Fact Sheet Section III.I.1 Part I.I 1.c.vi

Comment and Response	Changes
<p>2. Benchmark Monitoring</p> <p>i. Comment was received requesting that the Division insert at the end of the second sentence:</p> <p>"Benchmark monitoring data are primarily for the permittee's use to determine the overall effectiveness of the sites control measures and assist with identifying needs for corrective actions that may be necessary to comply with any effluent limitations."</p> <p>This recommended change brings requirements and expectations in line with the MSGP requirements. Delete the last sentence. By keeping the last sentence the Department is in effect making a benchmark exceedance a violation and that is not the intent of EPA, I refer you to 65 Fed. Reg. 64746, 64767 (Oct. 30, 2000) (the benchmark concentrations are not effluent limitations and should not be interpreted or adopted as such.)</p> <ul style="list-style-type: none"> • <u>Response</u>: The Division's text is consistent with Section 1.2, Permit Compliance, of the EPA 2008 MSGP (see below – emphasis added): <p>"Any noncompliance with any of the requirements of this permit constitutes a violation of the Clean Water Act. As detailed in Part 3 (Corrective Actions) of this permit, failure to take any required corrective actions constitute an independent, additional violation of this permit and the Clean Water Act. As such, any actions and time periods specified for remedying noncompliance do not absolve parties of the initial underlying noncompliance. However, where corrective action is triggered by an event that does not itself constitute permit noncompliance, such as an exceedance of an applicable benchmark, there is no permit violation provided you take the required corrective action within the relevant deadlines established in Part 3.3."</p> <p>See also response to comment at: General Comments – Benchmarks xii. No change was made to the permit.</p>	No change
<p>ii. Comment was received indicating that the Division should clearly state in the permit that if there are no benchmarks, then sampling is not required.</p> <ul style="list-style-type: none"> • <u>Response</u>: This statement is not true. Permittees that are not required to conduct benchmark sampling must still conduct Visual Monitoring, and may be required to conduct water quality standards monitoring. No change was made to the permit. 	No change
<p>iii. Comment was received stating that if there are benchmarks, such as nitrate plus nitrite nitrogen for Sector AA, but the processes do not produce any such pollutants, testing should not be required. Another example is Sector Y which requires testing for zinc only. Facilities that do not use zinc products, e.g zinc stearate to prevent clumping or zinc compounds for vulcanizing, should be exempt from the benchmark testing requirement for zinc.</p> <ul style="list-style-type: none"> • <u>Response</u>: The EPA established the sector-specific benchmark parameters based on typical concentrations in site runoff from facilities within that sector (see 60 FR 50821-50827). This permit adopted all benchmarks associated with the 2008 MSGP; therefore, permittees must sample for all identified parameters if their industrial activity requires benchmark sampling. <p>However, the commenter should note that this permit extends flexibility for situations in which the permittee cannot collect a stormwater sample due to no discharge, adverse weather, irregular stormwater runoff, and for decreasing the frequency of monitoring to yearly for facilities that can meet associated benchmark concentrations. As provided in the Fact Sheet that accompanied permit COR900000, the renewal permit allows for decreased monitoring frequency for facilities that demonstrate monitoring values below the benchmarks in stormwater discharges, i.e., after collecting 4 benchmark samples, if the average of the monitoring values for any</p>	No change

Comment and Response	Changes
parameter does not exceed the benchmark, the permittee may reduce benchmark monitoring frequency to once-per-year. No change was made to the permit.	
b. Benchmark Monitoring Schedule	
<p>i. Comment was received indicating that the quarterly benchmark sampling frequency is not appropriate. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - annual sampling unless more frequent is justified by discharges, sensitive locations, or Division requirements - quarterly benchmark monitoring would be financially burdensome and excessively resource intensive for small and large business alike and the Division has provided no documented reason for increasing monitoring frequency. - the Division should include language in the permit, as does EPA on its 2008 MSGP, that in arid or semi-arid climates, monitoring may be conducted when precipitation occurs. - quarterly benchmark monitoring is not feasible in Colorado because weather is unpredictable, there is little precipitation quantity, and there are few “measurable storm events”. - Colorado is a semi-arid state and precipitation events are random and often very local. A significant rain event may occur on one side of a street while the other remains dry. This permit does not consider the weather patterns in Colorado and thus increases the documentation, reporting and cost burden for a permittee. - one sample per year (same as ELGs) is sufficient and if an industry exceeds benchmark limits than invoke additional sample frequency in a year (i.e. semi-annually or quarterly). The additional requirements could be added to that discharger’s certification. <ul style="list-style-type: none"> • Response: The Division notes the comments received with respect to the quarterly sampling frequency; however, maintained the minimum number of required benchmark samples at <u>four per year</u>, following the schedule as established in the permit. The Division evaluated EPA’s historical approach in this area; four samples per year were required in the 1995, 2000, and 2008 MSGPs. The Division recognizes that this change equates to three additional samples per year for permittees subject to monitoring provisions, but believes that an annual sample cannot adequately represent the quality of facility stormwater discharges. As it pertains to alternate sampling schedules, the Division refers the commenter to Parts I.H.8, I.H.9, and I.H.11 of the permit. See also response to comment at Part I.H.i, above. No change was made to the permit. 	No change
<p>ii. Comment was received stating that because many sites will no longer qualify for the inspection schedule exception, it will be difficult to comply with a requirement to conduct both visual monitoring and benchmark monitoring from inactive or unstaffed sites. The exemption for inactive/unstaffed operations should be expanded to mirror the last Light Industrial Stormwater Permit.</p> <ul style="list-style-type: none"> • Response: The Division disagrees with the comment. Because the discharge of pollutants does not cease when industrial materials remain exposed to stormwater, the Division believes that elimination of exposure is a reasonable prerequisite for this monitoring/inspection exception. If the condition of no exposure exists at the facility, quarterly visual assessments and benchmark sampling is not required, and inspection frequency decreases to two times per year. The Division further expanded the monitoring waiver to include applicable ELG and water quality standards sampling at inactive and unstaffed sites that meet the condition of no exposure. Please see response to comment at Part I.G.4.i. No change was made to the permit with respect to the comment. 	No change
<p>iii. Comment was received stating that it could be argued that all of Colorado experiences irregular stormwater runoff over the course of a year. There is no guarantee that a site will receive sufficient precipitation to discharge during a given quarter or that there will be a measureable storm event when the plant is operating. Given Colorado’s arid climate, compliance with this permit should not be dependent on variables that are not within the permittee’s control.</p>	No change

Comment and Response	Changes
<ul style="list-style-type: none"> • <u>Response:</u> See response to comment at Part I.H.i, above. No change was made to the permit. 	
<p>iv. Comment was received questioning the benefit of increased sampling and monitoring to the receiving stream compared to added costs, and suggests that previous sample results be considered when determining sampling requirements. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - the Division add the following language in Part I.I.2.b: "Permit applicants with a minimum of two years of sample results for benchmark parameters that are at or below benchmark concentrations are exempt from quarterly monitoring and will be required to sample on an annual frequency. If an exceedance of a benchmark concentration is observed during annual monitoring, the permittee will be required to commence quarterly monitoring for those parameters for which the benchmark concentrations are exceeded until sampling results indicate attainment of benchmarks for at least four consecutive quarters, at which point the sampling frequency would revert to annual." - the Division waive benchmark monitoring for permittees with background sampling results that do not exceed benchmark monitoring concentrations. <ul style="list-style-type: none"> • <u>Response:</u> The Division disagrees with the comment. Two years of sampling data equates to two (2) sample results. The Division does not believe this limited data set is sufficient to characterize the quality of stormwater discharged from the facility (see response to comment at Part I.I.2.b.i, above). <p>As it pertains to waiving the benchmark sampling requirement, Part I.H.11 of the permit contains the provision whereby a permittee may request that the Division modify a permit certification monitoring condition, including monitoring frequency. This Division will address such modification requests on a site-specific basis. Part I.I.2.d of the renewal permit currently contains the mechanism by which a permittee can reduce benchmark sampling frequency if benchmark concentrations are met. No change was made to the permit.</p>	<p>No change</p>
<p>v. Comment was received stating that an operator should not have to obtain approval from the CDPHE to alter the benchmark sampling schedule. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - due to turnaround times from the CDPHE, it is a possibility that an operator would not get a timely response to the request. This adds a layer of uncertainty onto the permittee. If this condition remains in the permit it should be acceptable that if the permittee does not receive denial within 15 days, approval of the request can be assumed. - Part 1.1.2.b.i addresses "Benchmark Monitoring" for dischargers in "climates with irregular stormwater runoff". Apparently, the Division recognizes that monitoring schedules should be adjusted for this situation. However, the draft permit requires submittal of a request to the Division and specific modification to the schedule in these conditions. The commenter believes that it is more appropriate for the facility to identify this situation at the time of reporting so that it can be used to explain the lack of monitoring data. - the operator should not need to obtain approval to reduce the frequency of the benchmark sampling. If all samples are below the limit, it should be implied that the operator can adjust the schedule. If you assume the results from the 4th quarter would be received from the lab by January 15th, the operator could request a reduction in writing by January 22nd. If the CDPHE takes 45 days to respond, and denies the request, the operator then only has a few weeks left in the quarter to collect a sample, if it rains during that timeframe. The approval of the reduction in frequency should either be implied by the compliant lab results or should be deemed acceptable if no response is received by the CDPHE within 15 days from submittal of the letter. - facilities that are in climates with irregular stormwater runoff should not have to make a special request and receive special approval – the permittee should just provide justification that they are such a facility and the schedule they will use. 	<p>Fact Sheet Section III.I.2</p> <p>Part I.I.2.d</p> <p>Part I.K.1</p>

Comment and Response	Changes
<ul style="list-style-type: none"> - If there have been no exceedances during the first year, rather than requesting a reduction in the testing frequency from the Division, the reduction in testing frequency should be automatic. This will reduce the cost to the permittee and to the Division. • <u>Response:</u> The Division agrees with the comment in part, and has modified the permit requirement that Division approval is required to reduce the benchmark sampling frequency from quarterly to annual sampling. In such cases, permittees are still required to submit quarterly DMRs; however, the permittee will indicate "Benchmark Met" in the result field on the DMR for each parameter that meets the sampling frequency reduction criteria. The Division intends to modify ICIS to reflect an annual sampling frequency in such cases; however, the permittee does not need Division approval to reduce sampling for those parameters that meet the criteria for doing so. The Fact Sheet and the permit have been modified to reflect this change. <p>However, the Division has maintained the requirement that permittees must submit a request to alter the quarterly monitoring schedule for facilities located in "climates with irregular stormwater runoff" as ICIS must be modified in such cases to reflect more than one sample result in a given time frame.</p>	
<p>vi. Comment was received stating that after a period of meeting effluent limits, as shown by monitoring, a permittee's quarterly monitoring and reporting should be reduced.</p> <ul style="list-style-type: none"> • <u>Response:</u> The Division agrees with the comment. Part I.I.2.d of the permit allows for a reduced sampling frequency (i.e., annual) if, after collecting four (4) benchmark samples, the average of the monitoring values for any parameter does not exceed the benchmark. This monitoring framework allows samples to capture seasonal variations in stormwater discharges, yet relieves the permittee from quarterly sampling for the entire permit term, unless the benchmarks are exceeded. See also response to comment at Part I.I.2.b.v, above. 	No change
<p>d. Benchmark Monitoring Actions – Data not exceeding benchmarks</p>	
<p>i. Comment was received questioning the need for dischargers to collect eight (8) benchmark monitoring samples over the five-year permit term. Historically, annual samples were collected under the current permit to address benchmark monitoring. The commenter believes if annual samples indicate an issue with benchmark monitoring, then those facilities should be directed to collect additional samples. This keeps the burden for additional monitoring with those facilities that have issues with benchmark concentrations.</p> <ul style="list-style-type: none"> • <u>Response:</u> The Division disagrees with the comment. See responses to comment at Part I.I.2.b.i, iv, and vi. 	No change
<p>ii. Comment was received requesting that the permit reflect the requirements of the MSGP Sections 6.2.1.2. The permit as currently proposed in these sections is more restrictive than the MSGP requirements and incorporate unnecessary complexity and costs. Additionally, comment indicated that the proposed permit should include the MSGP section regarding "Natural background pollutant levels"; this is an extremely important section for assessing benchmark exceedances.</p> <ul style="list-style-type: none"> • <u>Response:</u> The significant differences between permit COR900000 and the 2008 MSGP with respect to benchmark sampling are two-fold: 1) permit COR900000 requires annual sampling if, after 4 quarterly samples, the average of the 4 monitoring values for any parameter does not exceed the benchmark (the 2008 MSGP indicates that no additional sampling is required for the permit term under these circumstances); and 2) permit COR900000 does not address natural background pollutant levels. Response is provided in the same order. <ul style="list-style-type: none"> ○ The Division maintains that the requirement to conduct annual sampling, after the first year results indicate that the average 	<p>Fact Sheet Sections III.I.4</p> <p>Part I.F.10 Part I.I.2.f Part I.I.4.c</p>

	Comment and Response	Changes
	<p>of the 4 monitoring values for any parameter does not exceed the benchmark, is necessary to continue to address seasonal variations in stormwater discharges, albeit with reduced sampling frequency, and to continue to provide an indication of the efficacy of the control measures implemented to meet the effluent limitations included in the permit. No change was made to the permit with respect to this provision.</p> <ul style="list-style-type: none"> ○ The Division did not include provisions that addressed natural background pollutant levels in the public notice version of the permit. Following review of comments and the 2008 MSGP and other states' approach with respect to this topic, the Division has determined that adding language that addresses natural background pollutant levels in the permit is appropriate. Therefore, the Division has added provisions addressing natural background pollutant levels to the corrective actions section, and benchmark monitoring and water quality standards monitoring sections of the final permit. See Parts I.F.10, I.I.2.f and I.I.4.c. 	
3.	Effluent Limitations Guidelines (ELG) Monitoring	
	<p>i. Comment was received requesting clarification of the appropriate sampling location for discharges subject to a federal ELG.</p> <ul style="list-style-type: none"> • <u>Response:</u> Discharges subject to a federal ELG must be sampled prior to any commingling with discharges not subject to an ELG. This means that, in some cases, an internal outfall must be sampled to comply with the ELG sampling requirement, and benchmark or impaired water sampling conducted at an outfall location(s) where the discharge exits the facility property. Clarification was added to the Fact Sheet. 	Fact Sheet Section III.I.3
	a. ELG Monitoring Schedule	
	<p>i. Comment was received requesting that the Division apply the “substantially identical outfall” concept to ELG monitoring since such outfalls would generally have consistent effluent concentrations, and the requirement to sample all outfalls subject to an ELG is inappropriate and unnecessary.</p> <ul style="list-style-type: none"> • <u>Response:</u> Technology-based effluent limitations are in many cases established by EPA in regulations known as effluent limitations guidelines, or “ELGs.” EPA establishes these regulations for specific industry categories or subcategories after conducting an in-depth analysis of that industry. All CDPS permits are required to contain technology-based limitations, including ELGs, for discharges associated with that specific industry category or subcategory. Review of the previous stormwater discharge permits this permit replaces indicates that the “substantially identical outfall” concept was allowed for discharges subject to ELGs; therefore, the Division determined this provision was also appropriate for the renewal permit, and the language prohibiting the permittee from sampling a “substantially identical outfall” to represent other outfalls subject to ELGs was deleted from the permit. Note that for any required corrective action associated with an outfall that represents other substantially identical outfalls, the permittee’s review must assess the need for corrective action for each outfall represented by the outfall that triggered the review. 	Fact Sheet Section III.I.3 Part I.H.3 Part I.I.3
	b. Follow-up Actions if Discharge Exceeds Numeric Effluent Limit	
	<p>i. Comment was received indicating that the reporting and follow-up sampling for an exceedance of a numeric effluent limitation associated with an ELG is burdensome and duplicative in some cases. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - Part I.I.3.b refers to the follow-up actions necessary for discharges that exceed numeric effluent limitations. Part I.K.3 requires the submittal of an Exceedance Report "no later than 30 days from the date the permittee receives the lab results." The requirement for submittal of the Exceedance Report is duplicative given the noncompliance notification already required in Part II.A.4. - the stormwater permits issued by EPA and Colorado focus primarily on practice-based control measures. Therefore, the focus of any 	Part I.I.3.b Part I.K.3

Comment and Response	Changes
<p>exceedance should be on the control measures needed to correct any conditions determined to cause the numeric effluent limitation exceedance. Instead, the data should be reported with the next monitoring report along with the explanation of the corrective actions taken.</p> <ul style="list-style-type: none"> - the requirement that the permittee must conduct follow-up monitoring during the next qualifying storm event requires facilities to accurately predict the weather so they know when the next qualifying rain event will occur. They will need to know when the next rain occurs that is more than 72 hours since the last rain that will have a measurable discharge that can be sampled. This is impracticable in a state where the weather can fluctuate substantially across very short distances. • <u>Response:</u> The Division agrees with the comment, in part. Because the exceedance report required under Part I.I.3.b and Part I.K.3 (Exceedance Report for Numeric Effluent Limits) of the permit is largely addressed in Part I.J.3 (Corrective Actions Reports and Deadlines) and Part II.A.4 (Noncompliance Notification) of the permit, the Division removed this requirement from the permit. <p>As the comment pertains to the follow up monitoring required for an exceedance of a numeric effluent limitation, the Division does not agree that this additional monitoring is not practicable, as the commenter asserts. Consistent with minimum monitoring requirements for CDPS permits established at 61.8(4), monitoring for effluent limitation parameters must be conducted at least once each year for the duration of permit coverage. However, the Division applied this minimum requirement only for facilities that do not exceed an applicable numeric effluent limitation(s). An exceedance of an effluent limit constitutes a violation of the permit, and corrective action and follow-up monitoring is required to demonstrate that the condition causing the exceedance is eliminated. Permittees are not required to predict the next qualifying storm event, but must be prepared to sample when it occurs. No change was made to the permit with respect to this comment.</p>	
<p>4. Water Quality Standards Monitoring</p>	
<p>b. Initial monitoring schedule and modification</p>	
<p>i. Comment was received requesting the Division consider including the EPA 2008 MSGP provision that allows facilities with existing, covered discharges to impaired waters to monitor once per year at each outfall; and if the relevant pollutants are not detected, or the discharges of pollutants are not expected to exceed background levels, the facility may discontinue annual monitoring procedures as long as proper documentation is maintained.</p> <ul style="list-style-type: none"> • <u>Response:</u> The Division disagrees with the commenter's assertion that annual monitoring of discharges to impaired waters is an adequate frequency to demonstrate the discharge is not further impairing the receiving water. <p>Further, Part I.I.4.b of the permit (Initial Monitoring schedule and modification) contains a provision for decreasing the frequency of monitoring based on one year (4 samples) of monitoring results. No change was made to the permit.</p>	<p>No change</p>
<p>5. Additional Monitoring Required by the Division</p>	
<p>i. Comment was received recommending the Division delete the last sentence as it is very prescriptive and the intent of the section is to notify the permittee that additional monitoring requirements may be required.</p> <ul style="list-style-type: none"> • <u>Response:</u> The Division agrees that this language clearly identifies the type of additional monitoring the permittee may be required to conduct. However, the Division believes that such language is appropriate to ensure the permit is transparent with respect to this issue. No change was made to the permit. 	<p>No change</p>

Comment and Response	Changes
J. CORRECTIVE ACTIONS	
<p>i. Comment was received indicating that practical experience in implementing the 2008 EPA MSGP in states without NPDES primacy has demonstrated that it is unclear what actually triggers corrective action requirements.</p> <ul style="list-style-type: none"> <u>Response</u>: The Division believes the existing permit provisions with respect to the conditions that trigger corrective action are clear. 	No change
1. Conditions that must be Eliminated	
<p>i. Comment was received stating that the requirement (Part I.J.1.a) to conduct corrective action in the event of any “unauthorized release or discharge,” regardless of impact or location, is overly broad and should be removed. If retained, the provision should be limited to unauthorized discharges to waters of the United States and to releases that can be reasonably expected to adversely affect the quality of stormwater discharges.</p> <ul style="list-style-type: none"> <u>Response</u>: To clarify, permittees are required to conduct corrective action for an unauthorized release or discharge, which includes the discharge of such non-stormwater that is not specifically authorized under Parts I.A.1.a and I.A.1.b of the renewal permit, or under any other CDPS or NPDES permit currently effective at the site. These references were added to the renewal permit. The Division disagrees with the additional qualifications suggested by the commenter. Unauthorized releases or discharges are potential pollutant sources for stormwater run-off. Consistent with EPA’s approach, the renewal permit is clear that the permittee is expected to assess why such a problem occurred and eliminate the problem. 	Part I.J.1.a
<p>ii. Comment was received stating that the requirement (Part I.J.1.c) to conduct corrective action in the event facility control measures are not stringent enough for the discharge to meet applicable water quality standards should be removed or at least changed to clarify that corrective action is triggered only if the permittee or the agency becomes aware that the facility’s discharges cause or contribute to an exceedance of applicable water quality standards in the receiving water. The current language suggests that the discharge itself must meet applicable surface water quality standards.</p> <ul style="list-style-type: none"> <u>Response</u>: The Division disagrees with the suggested deletion or modification of this requirement. Please see response to comment at Part I.D.3.a.iii, above. 	No change
<p>iii. Comment was received stating that the requirement (Part I.J.1.d) to conduct corrective action when modifications to facility control measures are necessary to meet “practice-based effluent limits” is especially problematic and reemphasizes the inflexible and mandatory stormwater management control approach proposed in the draft permit. Not only is the reference to “practice-based effluent limits” entirely inappropriate, this concept should be replaced with the current approach that allows permittees with flexibility to implement stormwater management controls appropriate for their respective sites.</p> <ul style="list-style-type: none"> <u>Response</u>: Please see response to comments at General Comments-Practice-Based Effluent Limits (xi) and Part I.C.i, above. 	No change
<p>iv. Comment was received stating that the requirement (Parts I.J.1.e and I.J.2.b) to conduct corrective action in the event that control measures are found to not be properly operated and/or maintained should be removed. It is unclear when these requirements might be triggered. For instance, if one control measure is determined during a facility inspection to need maintenance, would such a finding trigger corrective action (including all the associated reporting obligations) or would the permittee simply need to perform the necessary maintenance? At the very least a distinction would need to be made between routine maintenance and a fundamental failure of a control measure.</p>	Part I.J.2.b

Comment and Response	Changes
<ul style="list-style-type: none"> <u>Response</u>: The permit language currently identifies the requisite permittee actions for any of the triggering conditions under Parts J.1 and J.2 of the permit. The Division notes, however, that Part I.J.2.b is redundant with Part I.J.1.e and has removed Part I.J.2.b from the permit. 	
<p>v. Comment was received stating that none of the conditions found in Part I.J.2 should be used to trigger corrective action. In particular, as noted above in the General Observation section of these comments, benchmark concentrations should be removed from this permit and clearly should not be used to trigger corrective action. As noted, the proposed benchmark concentrations have no correlation to stormwater management control effectiveness or impacts to receiving water quality. Consequently, if corrective action were triggered for an exceedance of applicable benchmarks, what would be the purpose of the action and what would it really accomplish other than create additional costs and burdens?</p> <ul style="list-style-type: none"> <u>Response</u>: Please see response to comment at General Comments-Permit (Benchmarks and Corrective Actions). 	No change
2. Conditions that Require Review and Modification	
<p>i. Comment was received recommending the Division delete subsection c. as the requirement is addressed in previous sections. Further, notification is required for a benchmark exceedance in Section J.3 and an implied violation.</p> <ul style="list-style-type: none"> <u>Response</u>: The Division agrees that the corrective actions provided in Part I.J.2.c are also stated in Part I.I.2.e. As the corrective actions are more appropriate to state in the <u>Corrective Action</u> section of the permit, they were removed from Part I.I.2.e. With respect to reporting benchmark exceedances, as provided in Part I.I.2, benchmark concentrations are not effluent limitations; a benchmark exceedance, therefore, is not a permit violation as long as the permittee conducts the applicable corrective actions. 	Part I.I.2.e
3. Corrective Action Reports and Deadlines	
<p>i. Comment was received stating that in Part I.J.3, documentation is required “within 24 hours and 5 days.” That means six days. The following phrase is more correct; “24 hours or 5 days as described below.”</p> <ul style="list-style-type: none"> <u>Response</u>: The language as written is correct. Part I.J.3.a and Part I.J.3.b indicate the starting point for the 24-hour and 5–day documentation requirements, respectively. Note that <u>both</u> 24-hour and 5–day documentation is required. No change was made to the permit. 	No change
a. 24 hour documentation requirement and b. Five (5) day documentation requirement:	
<p>i. Comment was received requesting the Division change the 24 hour and Five (5) day documentation requirement in this part of the permit. Specifically, comment requested that:</p> <ul style="list-style-type: none"> - the Division consider adopting the EPA 2008 MSGP timeline for documenting corrective actions, i.e., 14 days to document corrective actions that are necessary to maintain compliance with the permit, including correcting improperly maintained or operating control measures. - the Division change "5" to "14", as five days is an extremely short time frame to assess any exceedance and develop the required documentation in subsection b. of this section. - the Division use the time frames listed in the EPA 2008 Multi-Sector General Permit for Stormwater Discharges (Section 3.3) for 24-hour discovery documentation and 14-day corrective action documentation are more appropriate. The new permit's 24-hour and 5-day documentation requirements may in many cases be impossible to comply with and provide accurate documentation on the actions planned and completed. Instead, these deadlines may result in speculative or erroneous information documentation, which is 	No change

Comment and Response	Changes
<p>not helpful for the facility or agency.</p> <ul style="list-style-type: none"> <u>Response:</u> The 24 hour and five (5) day documentation requirement is consistent with the Noncompliance Notification requirements and associated time-lines identified in Part II.A.4 of the permit. Note that the previous stormwater permits relied solely on the Part II Noncompliance Notification requirements. <p>The Division disagrees that permittees cannot appropriately document the condition(s) that lead to noncompliance with the permit, or summarize the corrective action taken or to be taken to correct the situation, within the time frames required by the permit. This is particularly true for triggering conditions tied to inadequate control measures since Part I.C. of the permit requires that corrective actions associated with maintaining control measures be conducted with due diligence, as soon as possible after the need is discovered, and not within 5 days as the commenter proposes. No change was made to the permit.</p>	
K. REPORTING AND RECORD KEEPING	
1. Routine Reporting of Data - Discharge Monitoring Report	
<p>i. Comment was received stating a concern associated with making DMR data available to the public. Specifically comment indicated that:</p> <ul style="list-style-type: none"> - such information may include confidential and security data, and may result in third-party lawsuits used as legal extortion, not as a mechanism to enforce the Clean Water Act. - there are significant consequences for the regulated community associated with COR900000's proposed reporting procedures which do not provide any protections for discharge monitoring reports and other reported information. Though both the regulated community and the Department are fully aware that the benchmarks are used as notification that a facility will need to alter its management practices in terms of specific substances, this is not always the case with the public. Throughout the country we have seen automotive recyclers sued under Section 505 of the Clean Water Act's (CWA) citizen suit enforcement provision when there is not adequate protection given to this information. Although these lawsuits may ultimately be dismissed, there is an unnecessary and costly legal battle required when drinking water and other standards are wrongfully applied to storm water management systems and baseless lawsuits are brought against auto recyclers in the courts. See San Francisco Baykeeper v. Pinole-Rodeo Auto Wreckers, 1997 U.S. Dist. LEXIS 5016 (N.D. Cal. Jan. 23, 1997). - due to provisions of the CWA that allow for the award of attorney's fees in these actions, many automotive recyclers have been intimidated into settling matters before judicial resolution to avoid the negative public image and exorbitant legal expenses. Litigation only negatively impacts the productive efforts of permitting authorities and the regulated community to work together for cleaner discharges and ultimately encourages unlicensed and unregulated automobile dismantling by those seeking to gain a competitive advantage by avoiding the high cost of compliance. <ul style="list-style-type: none"> <u>Response:</u> Including sampling data in a database is critical in that it allows the Division to track the information and conduct compliance oversight activities more efficiently. All data reported to the Division is subject to the Colorado Open Records Act (CORA), whether or not the data is placed in ICIS, EPA's database of record. 	No change
<p>ii. Comment was received stating that quarterly DMRs are excessive and unnecessary, and that annual DMRs are a reasonable frequency. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - the requirement to submit all specific monitoring requirement data (visual assessment monitoring, benchmark monitoring and numeric effluent limitation guideline monitoring) on a quarterly basis is unnecessary. The addition of four (4) quarterly reports, plus more substantial annual and exceedance reporting, will not assist facilities in complying with the intent of stormwater permitting, i.e. the 	No change

Comment and Response	Changes
<p>evaluation and improvement of control measures (previously called best management practices or BMPs). Given the Division's limited resources, the additional paperwork would appear to only create a further backlog of data management.</p> <ul style="list-style-type: none"> Response: The Division disagrees with the comment. Appendix B of the permit provides a summary of the permit required reports and submittals. As provided by this summary, the only regular submittals required by the permit are quarterly DMRs and an annual report. The permit does not require permittees to submit visual assessment monitoring reports or inspection reports, and the Division removed the exceedance reporting requirement (see response to comment at Part I.I.3.b), so this comment no longer relevant. <p>Further, the annual reporting requirements are less than that required by the previous stormwater permits, unless the facility has corrective actions to document. The Division maintains, consistent with the 2008 MSGP, that quarterly reporting is appropriate for quarterly monitoring. Note that the Division has recently implemented electronic reporting, i.e., NetDMR, that may reduce the burden of reporting even further.</p>	
<p>iii. Comment was received suggesting that Part I.K of the permit should be changed to allow for electronic signatures as well as signed, paper copies.</p> <ul style="list-style-type: none"> Response: The Division accepts electronic signatures to the extent it has the databases needed to facilitate this. Net DMR is an example of this capability, as discussed in the response to comment at Part I.K.ii, above. As EPA moves forward with its electronic reporting rule, the Division hopes to have more tools available to accept more electronic signatures, such as for permit applications. <p>To this end, the Division modified Part I.K of the permit to remove the word "original" from the phrase "original signed copy" to prepare for the ability to accept electronic signatures, as previously discussed. This change will allow acceptance of electronic signatures as the Division implements additional electronic processes, with no further change to the permit language.</p>	<p>Part I.K.1 Part I.K.2</p>
<p>2. Annual Report</p>	
<p>i. Comment was received indicating that the due date for the annual report should be moved from 2/15 to 3/31 every year. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - while comment supports the idea of annual reporting, the excessive paperwork will create further data backlogs without improvement of facility conditions to minimize stormwater contamination. Therefore, the commenter suggests summaries of data collected, inspections conducted, and corrective actions undertaken, on an annual basis. In terms of timing, the commenter requests that the annual report deadline be moved to the end of the first quarter (March 31) given the extensive data submittal. - comment agrees with modifying the reporting period from the previous permit to January 1 through December 31; however, the Division should allow for additional time to compile these annual reports and submittal, and recommends the annual reports be due at the end of the first quarter, March 31 of each year. - the Annual report should be a summary and not the submittal all of the corrective documentation. <ul style="list-style-type: none"> Response: As provided by Part I.K.2 of the permit, the only information required in the annual report, other than permittee and facility information, is a summary of inspection dates, and corrective action documentation. As such, the annual reporting requirements are less than that required by the previous stormwater permits, unless the facility has corrective actions to document. <p>However, the Division agrees that the current 1.5 months allowed by the permit to generate the annual report may be insufficient in some circumstances, and has changed the annual submittal date from 2/15 to 3/31 as suggested by the commenter.</p>	<p>Part I.K.2</p>

Comment and Response		Changes
Exceedance Report for Numeric Effluent Limits		
	<p>i. Comment was received recommending the Division to change the sentence to read as follows, "If follow-up monitoring conducted pursuant to Part I I (Specific Monitoring Requirements) exceeds a numeric effluent limit the permittee must submit an Exceedance Report to the Division no later than 30 days from the date the permittee receives the lab results." The statement as proposed is confusing and the requirement not clear.</p> <ul style="list-style-type: none"> • <u>Response:</u> The Division removed this requirement from the permit (see response to comment at Part I.I.3.b, above), so the comment is no longer relevant. 	Part I.K.3
	<p>ii. Comment was received recommending the Division either delete the exceedance reporting or require that this information be reported in the annual report. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - the automatic review and improvement, as necessary, of control measures or BMPs should be focus of any exceedance data collection. Reporting of this data, if required, should be included with the annual report. In addition, the noncompliance notification is duplicative with this exceedance reporting. - this is a duplicative requirement as exceedances would be reported to the Division on Discharge Monitoring Reports (DMRs). The other information to be included as noted in this section would also be provided in the 5-day noncompliance letter as required in Part II.A.4. <ul style="list-style-type: none"> • <u>Response:</u> The Division removed this requirement from the permit (see response to comment at Part I.I.3.b, above), so the comment is no longer relevant. 	Part I.K.3
3. Additional Reporting		
	<p>i. Comment was received recommending the Division allow any additional reporting information (as required by this section) to be included with the annual report, along with descriptions of the actions taken to address the conditions necessitating additional reporting.</p> <ul style="list-style-type: none"> • <u>Response:</u> This provision refers to reporting pursuant to Part II of the permit, which in most cases specifies reporting requirements the permittee must adhere to. As such, allowing such information to be reported with the annual report would conflict with Part II requirements. No change was made to the permit. 	No change
5. Sampling Records		
	<p>i. Comment was received recommending the Division change the language in Part I.K.6.d to allow either the "individual or company" that performed the analysis to be recorded, as opposed to just the "individual" who performed the analysis, since few companies will conduct their own analysis.</p> <ul style="list-style-type: none"> • <u>Response:</u> The individual who performs the analysis can be company staff (for appropriate analyses), or the individual who performs the analysis at the laboratory used by the permittee. This information is typically available on the analytical report provided to the permittee. No change was made to the permit. 	No change
6. Signatory and Certification Requirements		
	<p>i. Comment was received indicating that in the case corporations, it is appropriate to expand the definition of the "responsible corporate officer" to include the "individual or position having overall responsibility for environmental matters for the company" to allow flexibility in corporate organizational structures that are not covered by the description in Part I.K.7.a.i.</p>	No change

Comment and Response		Changes
	<ul style="list-style-type: none"> <u>Response</u>: The flexibility referred to by the commenter is already provided in the permit at Part I.K.6.a.v. No change was made to the permit. 	
PART II		
	<p>i. Comment was received suggesting that the Division completely re-write Appendix B Standard Permit Conditions as it appears to apply more to Wastewater treatment facilities rather than stormwater discharges. If the Division elects not to rewrite this Part, they should consider editing it to reflect the applicability to holders of a CDPS General Permit.</p> <ul style="list-style-type: none"> <u>Response</u>: The Division is required by 40 CFR 123.25 and 5 CCR 1002-61.8 to include standard terms and conditions in all CDPS permits. No change was made to the permit. 	No change
A. NOTIFICATION REQUIREMENTS		
2. Change in Discharge		
	<p>i. (2.a) Comment was received suggesting that the Division delete or modify this section of the permit. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - Based on the new requirement for Benchmark Sampling, the commenter can understand the intent behind this permit condition. However, we believe it should be limited and what triggers a change that "significantly change the nature of...pollutants discharge". The typical change a Light Industrial operation would make would likely not fit this definition (eg adding new admixture, motor oil, etc) and should not require notice to the Department. This will dramatically increase the paperwork processed by the Department and will add compliance liability on operators. The commenter requests that if the benchmark sampling requirement can not be removed, that a clear definition be added to this section. This definition should allow a permittee to continue to operate the facility in a reasonable manner without requiring prior approval for a change. <u>Response</u>: The Division is required by 40 CFR 123.25 and 5 CCR 1002-61.8 to include standard terms and conditions in all CDPS permits. This Division will provide assistance to permittees on a case-by-case basis with respect to this provision. No change was made to the permit. 	No change
	<p>ii. (2.b) Comment was received suggesting that this permit language is not applicable to this permit, and recommends omitting it.</p> <ul style="list-style-type: none"> <u>Response</u>: The Division is required by 40 CFR 123.25 and 5 CCR 1002-61.8 to include standard terms and conditions in all CDPS permits. No change was made to the permit. 	No change
	<p>iii. Comment was received indicating that while contact information for the Colorado Department of Public Health and Environment is listed in Part II.A.4.a of the permit, contact information for EPA is not. Contact information for EPA should be listed.</p> <ul style="list-style-type: none"> <u>Response</u>: The requirement to provide EPA with non-compliance information is no longer required. EPA coordinates directly with the Division when they need permit information for facilities permitted by the Division. The Division modified the permit accordingly. 	Part II.A.4.a
	<p>iv. Comment was received indicating that the Noncompliance Notification requirements in Part II.A.4.b require that the written report be submitted to the Division within "five (5) calendar days"; however, the Colorado Water Quality Control Commission (WQCC) Regulation 61.8(5)(e), indicates that the written report is required to be submitted within "five (5) working days".</p>	Part II.A.4.b

Comment and Response		Changes
	<ul style="list-style-type: none"> <u>Response</u>: The Division agrees with the comment and corrected the language in the permit. 	
	<p>v. Comment was received indicating that in Part II.A.5 of the permit, the reference to mining discharges is not applicable to this permit and should be omitted.</p> <ul style="list-style-type: none"> <u>Response</u>: The Division is required by 40 CFR 123.25 and 5 CCR 1002-61.8 to include standard terms and conditions in all CDPS permits. No change was made to the permit. 	No change
B. RESPONSIBILITIES		
	<p>i. Comment was received indicating that in Part II.B.1.a, the right of entry “at reasonable times” as used in the subsequent paragraph or “during normal business hours” should also be included here.</p> <ul style="list-style-type: none"> <u>Response</u>: Section 25-8-306 of the Colorado Water Quality Control Act provides the Division the authority to enter and inspect premises and records. Part II.B.1.a of the permit reflects this authority. As practical matter, inspectors may need to make prior arrangements before conducting an inspection due to security or access concerns. However, the Division does not believe that a change to the permit is warranted. 	No change
PART III		
Sector-Specific Requirements for Industrial Activity		
Sector A – Timber Products		
	<p>i. -Comment was received requesting that the Division:</p> <ul style="list-style-type: none"> - amend the arsenic and copper benchmark levels to reflect what is “technically available and economically achievable”, as treatment technology is not available to meet the anticipated benchmark concentrations for these parameters in certain hardness ranges; - explain the rationale for the arsenic and copper benchmark levels and the consequences for consistently exceeding these levels due to treatment technology constraints; - consider adjusting the exceedance criteria for arsenic and copper benchmark levels. <ul style="list-style-type: none"> <u>Response</u>: The Division adopted all of the Sector A - Timber Products provisions, including all benchmarks and benchmark concentrations, as published in EPA’s 2008 MSGP, and as such, does not contemplate amending the copper benchmark concentration prior to issuing the permit, as requested by the commenter. <p>As previously indicated in this document, the benchmark concentration levels published with the permit are to be used as a tool to assess control measure effectiveness in meeting the effluent limitations contained in this permit. Failure to achieve benchmark values in samples of stormwater discharges requires review and modification of the permittee’s stormwater management program to attain the effluent limits in the permit. This iterative corrective action process allows the permittee to evaluate the effectiveness of the changes they made on the resulting quality of stormwater discharges from their facility.</p> <p>It is important to note that the sector-specific provisions for this industrial sector do not allow coverage of stormwater discharges from areas where there may be contact with the chemical formulations sprayed to provide surface protection; such discharges must be covered by a separate CDPS permit. Therefore, while the copper benchmark concentration for this industrial sector is low in low hardness ranges, this permit only provides coverage of stormwater discharges from areas of the facility where there is <u>not</u> contact with the chemical formulations sprayed to provide surface protection. The Division also added language to the renewal permit to</p>	<p>Fact Sheet Section III.I.2</p> <p>Part I.I.2.e</p>

Comment and Response	Changes
<p>address natural background pollutant levels– see response to comment at Part I.I.2.d.ii.</p> <p>If through the iterative corrective action process required by the permit, the permittee demonstrates that applicable benchmark concentrations are not attainable due to natural or irreversible human caused conditions, the Division may waive the requirement for additional monitoring and corrective action while it evaluates other permitting alternatives for the facility, the appropriateness of the national benchmarks, whether the benchmark warrants a change, etc.. The Division added language to the renewal permit and the Fact Sheet to address this situation.</p>	
<p>ii. Comment was received indicating that levels of copper in the natural ground water in the South Platte Basin Region of Colorado are above the benchmark values.</p> <ul style="list-style-type: none"> • <u>Response:</u> The Division did not include provisions that addressed natural background pollutant levels in the public notice version of the permit. Following review of comments and the 2008 MSGP and other states' approach with respect to this topic, the Division has determined that adding language that addresses natural background pollutant levels for surface water, not groundwater, in the permit is appropriate. Therefore, the Division has added provisions addressing natural background pollutant levels to the benchmark monitoring and water quality standards monitoring sections of the final permit. See Parts I.I.2.f and I.I.4.c. 	Parts I.I.2.f and I.I.4.c.
<p>iii. Comment was received requesting that the Division review the State of Oregon's General Storm Water Permit efforts, which adopted a technology-based approach for copper benchmark levels. The approach sets levels that are technically available and economically achievable.</p> <ul style="list-style-type: none"> • <u>Response:</u> The Sector A – Timber Products copper benchmark value is only associated with SIC code 2491. As provided by the State of Oregon, stormwater discharges from industrial activities described by SIC code 2491 are not eligible for coverage under their general industrial stormwater permit, and requires individual permit coverage. <p>As stated above, the Division adopted all of the benchmarks and benchmark concentrations as published in EPA's 2008 MSGP, including those for copper. For this 5-year permit term, the Division does not contemplate amending the copper benchmark value. At this time, the Division has insufficient data for stormwater discharges from this sector to establish a Colorado sector-specific copper benchmark for stormwater discharges from SIC code 2491 activities. Please also see response at Sector A.i, above. No change was made to the permit.</p>	No change
<p>iv. Comment was received requesting that the Division amend the benchmark monitoring for SIC code 2491 industrial activities such that the monitoring is only applicable to permittees that use a wood preservative with copper or arsenic in the chemical formulation.</p> <ul style="list-style-type: none"> • <u>Response:</u> Consistent with Part I.H.11 of the permit, a permittee may request that the Division modify permit monitoring conditions, (i.e., monitoring parameters and frequency, and sample type). No change was made to the permit. 	No change
Sector C – Chemical and Allied Products Manufacturing, and Refining	
<p>i. Comment was received stating that the title of Appendix A, page 104 implies that the Subject permit provides coverage for listed SIC codes. However, based on Part I, A.2.e. (page 7) it is evident that certain dischargers subject to Effluent Limit Guidelines (ELGs) under 40 CFR Subchapter N are not eligible for coverage, and the Division has provided no rationale with regard to why some regulated activities with ELGs (per Table A-1) are covered under the subject General Permit, while others are not. Specifically, SIC code 2911 facilities are subject to the ELGs outlined in 40 CFR Subchapter N. The currently active permit (COR020000) applies these</p>	No change

Comment and Response	Changes
<p>corresponding limits.</p> <ul style="list-style-type: none"> Response: The Division agrees with the commenter that the previous stormwater permit (COR020000) authorized stormwater discharges from SIC code 2911 facilities, subject to the terms and condition of the permit, which includes numeric effluent limitations aligned with the ELGs found at 40 CFR Subchapter N, Part 419. In the renewal permit, the Division adopted EPA's approach as provided in the 1995, 2000 and 2008 MSGPs with respect to the specific stormwater discharges subject to ELGs that are authorized by the permit. As a result, the renewal permit does not authorize the discharge of stormwater from petroleum refining facilities that is subject to the ELGs found at 40 CFR Subchapter N, Part 419. <p>The renewal permit does, however, authorize stormwater discharges from petroleum refining facilities that are <u>not</u> subject to national ELGs, i.e., "runoff" as opposed to "contaminated runoff" as defined in 40 CFR Subchapter N, Part 419. The Division will continue to coordinate with permittees at SIC code 2911 facilities to ensure that all discharges are appropriately permitted, and in a manner that prevents a gap in permit coverage.</p>	
Sector E – Glass, Clay, Cement, Concrete, and Gypsum Products	
<p>i. Comment was received regarding the Additional Practice Based Effluent Limits at E.2.a. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> these specific practices with required frequencies should not be required by this permit. These should be categories to be addressed in the SWMP, leaving the operator the flexibility to develop and implement the most effective and cost efficient controls for their operation. The current language requires sweeping at least once per week. The frequency of sweeping should be at the discretion of the permittee depending on site specific factors. There should also be an exemption for inactive or rarely operated plants. Weekly sweeping will cost an operation approximately \$10,000 a year when it may not be necessary or may not be the best solution for that specific plant. the commenter currently uses a sweeper to clean paved portions of the plant in order to keep up with plant housekeeping. Instead of mandating a once per week sweeping schedule, housekeeping schedules, and more specifically sweeping schedules, should be determined by the plant in order to meet the stormwater effluent standards established by the Department. Housekeeping schedules should be written into the site SWMP, and the Department can review compliance with the SWMP. Response: The Division notes that the weekly sweeping requirement referred to for Sector E activities is specifically applicable "if cement, aggregate, kiln dust, fly ash or settled dust are being handled or processed", which should not occur at inactive plants, and would apply only when the "rarely operated plants" are conducting such activities. However, the Division agrees that a weekly sweeping frequency may not be warranted at all facilities based on site-specific variables (such as other control measures implemented at the facility). Therefore, the Division changed this requirement from weekly to monthly in Part III.E of the permit. 	Part III.E
<p>ii. Comment was received regarding the Additional SWMP Requirements at E.3.a (<u>Drainage Area Site Map</u>). Specifically, comment indicated that:</p> <ul style="list-style-type: none"> The Portland Plant operates more than 100 point source dust collectors in order to control dust emissions from the plant processes and hundreds of enclosure panels to prevent dust emissions. Given the number of pieces of equipment, the commenter finds it impractical to try to document these locations on a map. The commenter requests that the language "baghouse or other dust control device" be removed from this condition. As these devices do not have an impact on water quality, it is unnecessary to be required to document each location in the SWMP. This type of information is not even required in the plant's operating manuals required by the 	No change

Comment and Response	Changes
<p>air permit.</p> <ul style="list-style-type: none"> • <u>Response:</u> Deposition of material from Sector E plant processes, including those controlled by baghouses or other dust control devices, may become entrained in stormwater run-off from storm events. The sector-specific requirement identified by the commenter requires that permittees identify such potential pollutant sources and their associated control measures on the SWMP Site Map. This requirement elaborates on, but is no different than the requirement contained in Part I.F.3.g and Part I.F.3.h. of the renewal permit, that requires permittees to identify all pollutant sources (actual or potential) and associated control measures on the Site Map. The Division recognizes that an individual building may have multiple (e.g., > 10) associated dust controls devices. In such cases the Division does not expect that <u>each</u> dust control device is identified, rather, that the building is identified on the SWMP Site Map as having dust controls devices associated with its industrial activities. No change was made to the permit. 	
Sector L – Landfills, Land Application Sites, and Open Dumps	
<p>i. Comment was received indicating that:</p> <ul style="list-style-type: none"> - Industrial waste has not been defined and the commenter suggests using the definition found in the CDPHE Regulations Pertaining to Solid Waste Sites and Facilities: <p style="margin-left: 40px;">"Industrial wastes" means all solid wastes, including mill tailings and mining wastes, resulting from the manufacture of products or goods by mechanical or chemical processes that are not a hazardous waste regulated under 6 CCR 1007-3, the Colorado Hazardous Waste Regulations. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and 11 July 1, 2007 miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include oil and gas wastes regulated by the Colorado Oil and Gas Conservation Commission.</p> - Clarification is needed for the last sentence implying the permit does not cover discharges from landfills that receive only municipal waste. There is no other Sector that applies to our non-hazardous waste/industrial landfills. The commenter believes this carry over from the MSGP is inaccurate. The preceding sentences does say sites that are subject to regulation under Subtitle D of RCRA are covered, these are MSW facilities. • <u>Response:</u> Response is provided in the order of comments. <ul style="list-style-type: none"> ○ The Division appreciates the suggested definition; however, the term “industrial waste” as it applies to Sector L facilities (i.e., landfills, land application sites, and open dumps) is already defined in 5 CCR 1002-61.3(2)(e)(iii)(E) as “waste that is received from any of the facilities described under this subsection”. The Division added this regulatory citation to Sector L for clarity. ○ Consistent with the definition of “industrial waste” provided above, a stormwater discharge permit is not required for landfills that do not receive waste from facilities described under subsection 5 CCR 1002-61.3(2)(e)(iii). 	Part III.L
<p>ii. Comment was received requesting that the sector-specific requirement to conduct inspections every seven-days should be reduced to a monthly inspection frequency. Specifically:</p>	Part III.L

Comment and Response	Changes
<ul style="list-style-type: none"> - the inspection frequency of 7 days is excessive and creates an unnecessary burden and cost on an already heavily regulated industry. The monthly requirement in Part I.G adequately addresses potential issues. Operationally landfills are required to implement stormwater mitigation measures by their permit and Design and Operations Plan. • <u>Response:</u> The Division agrees with the suggested change, and has modified the permit language in Part III.L of the renewal permit accordingly. 	
Sector M – Automobile Salvage Yards	
<p>i. Comment was received asking the Division to make the changes provided below to this sector. The suggested language is intended to ensure proper removal, handling and recycling of vehicle mercury switches, thereby reducing the risk of switch breakage and the spilling of mercury. The suggested language is intended to improve the rate of removal and recycling of mercury switches from scrap automobiles in Colorado. Autobody scrap is a common feedstock for electric arc furnaces in the production of steel. Electric arc furnaces rely upon delivery of mercury-free scrap to limit mercury air emissions from their facilities and to demonstrate compliance with the Electric Arc Furnace Rule. An electric arc furnace is located in Colorado at the Evraz Rocky Mountain Steel Mill in Pueblo. The suggested language will place no additional burden upon these sectors, as the National Vehicle Mercury Switch Removal Program has been providing a free service for the shipping and recycling of mercury switches in Colorado since 2008 through the End-of-Life Vehicle Solutions Corporation (ELVS). The ELVS website displays educational materials describing the location of mercury switches in various vehicle makes and models and provides instructions for their proper removal.</p> <p>The suggested language is also intended to ensure proper removal and recycling of vehicle fluids, vehicle batteries and wheel weights from scrap automobiles. These materials can cause significant adverse impact to the environment if not properly managed. Due to the existing infrastructure for recycling these materials, the suggested language should place no significant burden upon these sectors.</p> <ul style="list-style-type: none"> - Add following requirement language to Additional Practice-Based Effluent Limits (M.2): <u>Mercury Switch, Vehicle Battery and Lead Wheel Weight Removal.</u> Remove mercury switches, vehicle batteries and lead wheel weights upon arrival at the site (or as soon thereafter as feasible). - Add following requirement language to Additional SWMP Requirements (M.3): <u>Mercury Switch, Vehicle Fluids, Vehicle Batteries and Lead Wheel Weight Removal, Storage and Recycling Procedures.</u> Mercury switches, vehicle fluids, vehicle batteries and lead wheel weights must be removed in a manner that minimizes the potential for releases onto the ground. Place mercury switches in a covered container labeled “Universal Waste Mercury Switches,” then manage in compliance with applicable Universal Waste regulations. Use a mercury spill kit for any release of mercury from switches. Place vehicle fluids in closed containers that are in good condition and not leaking. Do not mix different types of vehicle fluids in one container. Reuse, or manage in compliance with the Colorado Hazardous Waste Regulations. Store vehicle batteries away from equipment and vehicle traffic. Reuse or take to a battery retailer or recycling center for recycling. Place lead wheel weights in a container that is in good condition and labeled “Scrap Metal – Lead.” Take to a metal recycler for recycling. - Modify last sentence of Section M.4: “...including, but not limited to, mercury switches, brake fluid, transmission fluid, used oil, fuels, radiator water, and antifreeze.” • <u>Response:</u> The Division agrees with the commenter that mercury switches are pollutant sources for both Sector M and N industrial activities. However, because facilities in Sectors M and N have the option to participate in, or to purchase car hulks that have come 	Part III.M

	Comment and Response	Changes
	<p>through, the National Vehicle Mercury Switch Recovery Program (NVMSRP), the Division did not modify the renewal permit to mandate mercury switch removal, or establish removal procedures, for this permit term. The renewal permit currently addresses battery and fluid pollutant sources in a general sense; wheel weights containing lead or mercury are not specifically addressed.</p> <p>The Division recognizes the pollutant potential associated with mercury switches, batteries and wheel weights containing lead or mercury; therefore, an additional Practice-Based Effluent Limit was added to this sector, which does not mandate removal of these pollutants sources, but requires that permittees consider removal as an exposure minimization practice.</p>	
Sector N – Scrap Recycling and Waste Recycling Facilities		
	<p>i. Comment was received asking the Division to make the changes provided below to this sector. The justification for the changes is the same as provided in Sector M – Automobile Salvage Yards.</p> <ul style="list-style-type: none"> - Modify Section N.3.a.i to correct reference to scrap lead-acid battery program: “... (additional requirements for handling, storage, and disposal or recycling of batteries are contained in the scrap lead-acid battery program provisions in Part N.3.a.vi)” - Insert as new Section N.3.a.i.(f): Establish procedures for inspection and removal of mercury switches from vehicles delivered to the permittee’s facility. - Modify Section N.3.a.vi so paragraph reads: “Scrap Lead-Acid Battery Program. Properly handle, store, and recycle scrap lead-acid batteries. Following are some control measure options (a) segregate scrap lead-acid batteries from other scrap materials; (b) properly handle, store, and recycle cracked or broken batteries; (c) collect and dispose of leaking lead-acid battery fluid as hazardous waste; (d) minimize or eliminate (if possible) exposure of scrap lead-acid batteries to precipitation or runoff; and (e) provide employee training for the management of scrap batteries.” - Insert as new Section N.4.c: Mercury Switch Removal, Storage and Recycling Procedures. Mercury switches in vehicles delivered to the permittee’s facility must be removed in a manner minimizing the chances for breakage. Place mercury switches in a covered container labeled “Universal Waste Mercury Switches,” then manage in compliance with applicable Universal Waste regulations. Use a mercury spill kit for any release of mercury from switches. • <u>Response:</u> As described in response to comment at Part III Sector M, above, the Division added an additional Practice-Based Effluent Limit to this sector, which does not mandate removal of mercury switches from inbound materials, but requires that permittees consider removal as an exposure minimization practice. With respect to the suggested edit at Part III.N.3.a.vi, the Division believes that the permit language as written in is adequate. 	Part III.N
Sector O – Steam Electric Generating Facilities		
	<p>i. Comment was received requesting clarification for Sector O facilities. Specifically, comment indicated that:</p> <ul style="list-style-type: none"> - Sector O provides several limitations on coverage of the industrial stormwater permit. Item "ii" exempts from permit coverage "gas turbine facilities (providing the facility is not a dual-fuel facility that includes a steam boiler) and combined-cycle facilities where no 	Part III.O.6.a

Comment and Response	Changes
<p>supplemental fuel oil is burned (and the facility is not a dual-fuel facility that includes a steam boiler)".</p> <p>The commenter agrees with this exemption as combustion turbine and combined-cycle facilities that burn natural gas without supplemental fuel oil do not meet the intent of this sector of industrial activities, i.e. do not have coal pile runoff. The potential for any stormwater contamination from a gas turbine or combined-cycle facility is minimal, due to the general lack of raw materials and chemicals, and limited maintenance activities. Furthermore, other regulations such as the Oil Pollution Act already require the installation and maintenance of secondary containments and other control measures that also serve to protect stormwater runoff. Therefore, the commenter supports this exemption from the industrial stormwater permit.</p> <ul style="list-style-type: none"> - Previously under the stormwater requirements, gas turbine facilities that included steam generation for electricity were required to obtain coverage under an industrial stormwater permit. Paragraph (ii) in this section confuses this understanding and appears to conflict with the requirement that steam electric generating facilities obtain coverage under this permit (see Appendix A, Subsector O1). In addition, the previous section states that the industrial activities that are covered by Sector) include, "steam electric power generation using coal, natural gas, oil, nuclear energy, etc., to produce a steam source, including coal handling areas". Please clarify the requirement. - Part III.O.4.b: The commenter agrees that there should be procedures in place to deal with any leaks or spills from vehicles or containers. However, the requirement to inspect delivery vehicles is burdensome and unnecessary as they are not on site for an extended period of time and trained facility staff may not be available at time of delivery. - Part III.O.6.a: See comment 9 above (inspection frequency) - Part III.O.7 and Part III.O.8: The frequency of monitoring of the parameters shown in Table O-1 and O-2 should be included. - Part III.O.8: The sampling requirements from coal storage piles are unclear. Does sampling occur if the discharge is to State waters? Is sampling from the coal pile required if it's comingled with other stormwater and process wastewater (permitted under an individual process wastewater discharge permit) and then flows through a treatment <ul style="list-style-type: none"> • <u>Response:</u> Response is provided in the order of comments. <ul style="list-style-type: none"> ○ <u>Applicability and Limitations:</u> The Division agrees that further clarification of the applicability and limitations of coverage for this sector is warranted. A summary, consistent with the 2008 MSGP Fact Sheet and as further explained in the Response to Comments for Arizona's MSGP, of the types of facilities covered by the renewal permit is provided in this response. The Division refers the commenter to the Fact Sheets for EPA's 2008 MSGP, Sector O – Steam Electric Generating Facilities and the December 20, 2010 Response to Comments for Arizona's MSGP, for an in-depth discussion of this topic. <p>First, for this permit, any facility generating power using steam may be eligible for coverage under the permit, as indicated in the following section Sector O.2. language:</p> <p>This permit authorizes stormwater discharges from the following industrial activities at Sector O facilities:</p> <ol style="list-style-type: none"> a. steam electric power generation using coal, natural gas, oil, nuclear energy, etc., to produce a steam source, including coal handling areas; b. coal pile runoff, including effluent limitations established by 40 CFR Part 423; and c. dual fuel facilities that could employ a steam boiler. 	

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<p>Sector O is not subject to the stormwater permitting regulations because of “coal pile runoff” as suggested by the commenter, but due the entirety of pollutant sources at such facilities, which may also include coal piles. Note that for dual-fuel facilities, the option to burn fossil fuel for use in a steam boiler is sufficient to cause the facility to need permit coverage (regardless of whether the gas turbine alone is actually used).</p> <p>The Limitations on Coverage section identifies those types of facilities that do not need permit coverage (i.e., they do not have a steam component in their power generation). The following list of facilities elaborates on the permit language, consistent with the Fact Sheet for the 2008 MSGP:</p> <ul style="list-style-type: none"> - <u>simple-cycle gas turbine facilities</u>, provided no supplemental fuel oil is burned in the heat recovery steam generator (HRSG) and the facility is not otherwise a dual-fuel facility which uses a steam boiler. - <u>configuration 2-type gas turbine cogeneration facilities</u>, provided no supplemental fuel oil is burned in the HRSG and the facility is not otherwise a dual-fuel facility which uses a steam boiler (a configuration 2- type is a gas turbine, followed by a HRSG which may include a duct burner for supplemental firing, followed by a steam turbine). - <u>combined-cycle generation facilities</u>, provided no supplemental fuel oil is burned in the HRSG and the facility is not otherwise a dual-fuel facility which uses a steam boiler. - <u>gas turbine cogeneration facilities</u> (only those that do not have an oil-fired steam boiler as a back up). <p>Note that if the facilities listed above do not meet all conditions for exclusion from coverage, permit coverage is required.</p> <ul style="list-style-type: none"> ○ Part III.O.4.b: The language referred to by the commenter does not mandate inspections of delivery vehicles; therefore, no change was made to the permit. ○ Part III.O.6.a: The Division agrees with the suggested modification, and changed the required inspection frequency from monthly to quarterly. ○ Part III.O.7 and Part III.O.8: Frequencies associated with the different types of monitoring required by the permit are located in Part I.I – no change was made to the permit. ○ Part III.O.8: Please see response to comment at Part I.I.3.i, above. 	
<p>Sector S – Air Transportation</p>	
<ul style="list-style-type: none"> i. Comment was received asking the Division to clarify the following language in the Air Transportation Sector, as follows: <ul style="list-style-type: none"> - the language under 5(b) discusses Comprehensive Site Inspections and uses the identical language from the EPA’s MSGP; however comprehensive site inspections are not defined anywhere in the proposed permit as in the MSGP. - if a comprehensive site inspection is to be done annually, the MSGP also states “your annual comprehensive site inspection may also 	<p>Part III S.5</p>

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	<p>be used as one of the routine inspections, as long as all components of both types of inspections are included.”</p> <ul style="list-style-type: none"> <u>Response</u>: The Division modified the Sector S permit language with respect to inspection frequency and scope to be consistent with the remainder of the permit. 	
APPENDICES		
Appendix C		
	<p>i. Division initiated change – the Division added a definition for “good engineering hydrologic and pollution control practices” to Appendix C.</p>	Appendix C
Appendix D		
	<p>i. Comment was received requesting that the Division remove Appendix D. Control measure selection is discussed extensively in Part I and Part III of the proposed permit; therefore, it is unnecessary and duplicative to include Appendix D. Additionally, Control Measure Selection and Design Considerations are more appropriately placed in a CDPHE guidance document.</p> <ul style="list-style-type: none"> <u>Response</u>: The Division agrees with the comment, and has deleted Appendix D. 	Appendix D