



**COLORADO DISCHARGE PERMIT SYSTEM (CDPS)
GENERAL PERMIT COG080000
FOR DISCHARGES FROM SHORT-TERM CONSTRUCTION DEWATERING ACTIVITIES**

**AUTHORIZATION TO DISCHARGE UNDER
COLORADO DISCHARGE PERMIT SYSTEM**

In compliance with the provisions of the Colorado Water Quality Control Act, (25-8-101 et seq., CRS, 1973 as amended) and the Federal Water Pollution Control Act, as amended (33 USC 1251 et seq.; the "Act"), facilities engaged in construction dewatering activities are authorized to discharge from authorized locations throughout the State of Colorado to specified waters of the state. Such discharges shall be in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I and II hereof. All discharges authorized herein shall be consistent with the terms and conditions of this permit.

The permittee may request an adjudicatory hearing within thirty (30) calendar days of the date of issuance of the final permit determination, under 5 CCR 1002-61 (Colorado Discharge Permit System Regulations), Regulation 61.7. Any request must comply with the Water Quality Control Act, 24-4-101, C.R.S., et seq. and the Water Quality Control Commission's regulations, including Regulation 61.7 and 5 CCR 1002-21 (Procedural Rules), Regulation 21.4(B). Failure to contest any term and condition of the permit in this request for an adjudicatory hearing constitutes consent to the condition by the permittee.

This permit specifically authorizes the entity identified in the certification issued under this permit to discharge dewatering wastewaters at the specific locations and to waters of the state identified in the certification.

The authorization to discharge under this permit is in effect from the date of the certification until the expiration date identified below.

This permit becomes effective on June 1, 2020 and shall expire at midnight May 31, 2025.

Issued and Signed this 31st of March, 2020.

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Meg Parish

Meg Parish, Permits Section Manager
Water Quality Control Division

PERMIT ACTION SUMMARY

Originally Issued and Signed March 31, 2020; Effective June 1, 2020

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PART I

A. COVERAGE UNDER THIS PERMIT

1. Activities Covered

This general permit is to authorize short-term (less than two year) discharges of groundwater, surface water, and/or stormwater commingled with groundwater or surface water (herein referred to as “source water”) that comes in contact with short-term construction activities to waters of the state. The permit authorizes direct discharges to surface water and discharges to surface water via hydrologically connected groundwater. In cases where the source water is not permitted by the Environmental Protection Agency (EPA) nor subject to regulation by an implementing agency under Subsection 25-8-202(7) of the 1989 amendments to the Colorado Water Quality Control Act (Senate Bill 89-181), the permit also authorizes discharges of this source water to groundwater-only.

This permit authorizes the discharge of source water from only the specific area(s) identified in the permittee’s application, or in subsequent notifications to the division in accordance with the terms and conditions of the permit.

2. Limitations on Coverage

There are some discharges from construction dewatering activities that cannot be covered under this general permit and may apply for coverage under another general permit or under an individual permit. Limitations on coverage include, but are not limited to, the following:

- a. Discharges from long-term (two years or more) construction dewatering to waters of the state.
- b. Discharges where the division has determined that there is a reasonable potential for a pollutant to be present in the source water at a concentration greater than a numeric water quality standard of the receiving water, except as provided in the permit for arsenic (in discharges to non-water supply segments), iron, manganese, selenium, *E. coli*, and total coliform. Note that permit coverage is available for discharges that require treatment to meet numeric technology-based limitations in this permit. A discharge subject to this limitation on coverage following the effective date of the permit authorization shall be determined to be inconsistent with the conditions of the permit and the division shall require a new or revised permit application and shall follow the procedures specified in Sections 61.5 through 61.6, and 61.15 of the Colorado Discharge Permit System (Regulation 61).
- c. Discharges to receiving waters designated as “outstanding waters.”
- d. Discharges where the division determines that receiving stream and discharge are subject to temperature requirements in The Basic Standards and Methodologies for Surface Water (Regulation 31).
- e. Discharges where the permittee requests consideration of dilution in the calculation of effluent limitations.
- f. Discharges to “groundwater-only” permitted under the Environmental Protection Agency (EPA) Underground Injection Control (UIC) Program. This exclusion does not apply to discharges to surface water, including discharges to groundwater that is hydrologically

connected to surface water and for which the division determines that the requirements to protect surface waters in accordance with the provisions of Regulation 61 apply.

- g. Discharges to “groundwater-only” subject to regulation by implementing agencies under Subsection 25-8-202(7) of the 1989 amendments to the Colorado Water Quality Control Act (Senate Bill 89-181). This exclusion does not apply to discharges to surface water, including discharges to groundwater that is hydrologically connected to surface water and for which the division determines that the requirements to protect surface waters in accordance with the provisions of Regulation 61 apply.

3. Application Requirements

In order to apply for certification under this general permit, the applicant shall submit an application form as provided by the division by electronic delivery **at least 30 days before the anticipated date of discharge**. The application in its entirety shall be submitted via the division’s online permitting system unless a waiver is granted by the division. If a waiver is granted, the application in its entirety shall be submitted to:

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

Following review of the application, the division may request additional information or deny the authorization to discharge under this general permit. If the division determines that a new facility does not fall under the authority of the general permit, then the applicant may apply for coverage under an alternative general permit or an individual permit, and the applicant shall be notified of such a determination.

A permittee desiring continued coverage under this general permit must reapply **at least 90 days in advance of the expiration date of this general permit**. If this general permit is not reissued or replaced prior to its expiration date, it will be administratively continued and remain in force and effect. If a permittee was authorized to discharge under this general permit prior to the expiration date, any discharges authorized under this permit will automatically remain covered by this permit until the earliest of:

- a. Authorization for coverage under a reissued permit or a replacement of this permit following the timely and appropriate submittal of a complete application requesting authorization to discharge under the new permit and compliance with the requirements of the application;
- b. The issuance and effect of a termination issued by the division;
- c. The issuance or denial of an individual permit for the facility’s discharges;
- d. A formal permit decision by the division not to reissue this general permit, at which time the division will identify a reasonable time period for covered dischargers to seek coverage under an alternative general permit or an individual permit. Coverage under this permit will cease when coverage under another permit is granted/authorized; or
- e. The division has informed the permittee that they are no longer covered under this permit.

4. Terminating Coverage

To terminate permit coverage, the legal permit applicant or duly authorized agent must electronically submit a complete and accurate notice of termination request via the division's online permitting system, or to the address listed in Part I.A.3 if a waiver has been granted by the division. The authorization to discharge under this permit terminates at midnight of the day that the termination is approved and effective as notified by the division. The permittee is responsible for meeting the terms of this permit until the authorization is terminated. The notice of termination request must be signed in accordance with Part II.K of this permit.

Coverage under this general permit is limited to two years. Permittees are required to submit a notice of termination request to the division prior to the required two-year termination date specified in the permit certification.

Note that for the construction of fixed facilities, the request for termination must indicate whether long-term subterranean dewatering will be required at the site and, as applicable, must identify the alternate authorization to discharge (e.g., permit number, alternate regulatory program) intended to cover the continued long-term discharge. The division reserves the authority to deny the termination of short-term discharge permit coverage associated with the construction of a fixed facility where a proposed discharge remains, unless alternate, appropriate permit coverage is in place for the proposed discharge.

5. Modifying Existing Permit Coverage

To modify an existing permit certification, the legal permit contact or duly authorized agent must electronically submit a complete and accurate modification request via the division's online permitting system, or to the address listed in Part I.A.3 if a waiver has been granted by the division. This request must be submitted to the division at least 30 days prior to implementing any requested modifications that result in a discharge to state waters. The permittee is not authorized to discharge under the modified conditions until the modified certification is issued and effective. Modifications include but are not limited to: adding or removing discharge outfalls, adding new or additional chemicals to the treatment process or effluent, modifying treatment in a manner that would result in a new or altered discharge in terms of location or effluent quality, and extending the required two-year termination date specified in the permit certification (e.g., based on a delayed initial discharge). The modification form must be signed in accordance with Part II.K of this permit.

B. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. Permitted Features

Permitted features are the physical locations where limits and monitoring requirements are applied. Under this general permit, effluent permitted features are referred to as "outfalls." Beginning no earlier than the effective date listed on the permit certification and lasting through the expiration date of this permit, the permittee identified on the permit certification is authorized to discharge from the outfall(s) listed on the permit certification in accordance with the conditions and limitations of this permit. The permittee is required to conduct monitoring at all outfall locations as provided in the permit and specified in the permit certification.

If requested in the permit application, the permit certification may identify an outfall as an undefined outfall, and the final location (i.e., latitude, longitude) of the undefined discharge outfall will not be imposed on the permit certification. For all undefined outfalls, the permittee must comply with the record keeping requirements in Part I.C.1 (Discharge Log), reporting requirements in Part I.D.2 (Reporting for Undefined Outfalls), and the outfall location shall not be changed after a

discharge has occurred except through a modification in accordance with Part I.A.5.

In order to keep permit certifications, discharge monitoring reports, and administration manageable, the division is limiting the number of outfalls per permit certification to twenty (20), unless otherwise granted by the division on a case-by case basis and provided in the permit certification.

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

In accordance with the Regulations for Effluent Limitations (Regulation 62) Section 62.4, and Regulation 61 Section 61.8(2), the permitted discharge shall not exceed the specified flow limitation or contain effluent parameter concentrations that exceed the limitations identified in Tables B.1 and B.2 below, as applicable to the outfall permitted feature(s) and specified in the permit certification. For parameters where the applicable note states that the monitoring requirements or effluent limitations will be included in the permit certification based on meeting specific conditions, monitoring requirements and effluent limitations are applicable only if identified in the permit certification for the specified outfall permitted feature.

The permittee must monitor at all permitted outfalls for all listed parameters at the locations, frequency and sample types identified in Table B.1 and B.2 as specified in the permit certification.

Monitoring requirements for additional site-specific parameters may be included in the permit certification. Such additional monitoring may be required where this information is deemed necessary to evaluate or predict actual effluent concentrations.

All required monitoring will begin upon the effective date of the permit certification and last for the life of the permit certification unless otherwise noted. The results of such monitoring must be reported on the Discharge Monitoring Report (DMR) form (See Part I.D.1). Facilities may request a reduction in the monitoring frequency through the modification process. The division will evaluate if a reduction in monitoring frequency can be made in accordance with the division’s Baseline Monitoring Frequency, Sample Type, and Reduced Monitoring Frequency Policy and best professional judgement.

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

Parameter ICIS Code	Note (below)	Discharge Limitations ¹			Monitoring Conditions ²		
		30-Day Average	7-Day Average	Daily Maximum	Monitoring Frequency	Sample Type	
General Permit Requirements							
Flow, MGD	50050	3	Report Monthly Avg	-----	Limitation in Certification	Continuous or Instantaneous	Recorder, In-situ, or Calculated
Flow, Total Volume, MGM	51500	3	Report Total per Month	-----	-----	Continuous or Instantaneous	Recorder, In-situ, or Calculated
Flow, Duration, Hours/Month	81381	3	Report Total per Month	-----	-----	Continuous or Instantaneous	Recorder, In-situ, or Calculated
Total Suspended Solids, mg/l	00530	4	30	45	-----	Weekly	Grab
Oil and Grease	84066	5	-----	-----	-----	Weekly	Visual

Parameter ICIS Code	Note (below)	Discharge Limitations ¹			Monitoring Conditions ²	
		30-Day Average	7-Day Average	Daily Maximum	Monitoring Frequency	Sample Type
Oil and Grease, mg/l 03582	5	-----	-----	10	Weekly	Grab
pH, s.u <i>classified surface water</i> <i>unclassified surface water</i> 00400		-----	-----	6.5 - 9.0 6.0 - 9.0	Weekly	In-situ or Grab
Site-specific Requirements						
Total Dissolved Solids, mg/l 70295	6	Various	-----	Various	Monthly	Grab
Total Phosphorus, mg/l, as P 00665	7	Various	-----	Various	Monthly	Grab
<i>E. coli</i> bacteria, per 100 ml 51040	8	Various	Various	----	Weekly	Grab
Arsenic (Total recoverable), µg/l 00978	9	Report	-----	Report	Monthly	Grab
Iron (Total recoverable), µg/l 00980	9	Report	-----	Report	Monthly	Grab
Iron (Dissolved), µg/l 01046	9	Report	-----	Report	Monthly	Grab
Manganese (Dissolved), µg/l 01056	9	Report	-----	Report	Monthly	Grab
Selenium (Potentially Dissolved), µg/l 01323	9	Report	-----	Report	Monthly	Grab
Uranium (Total recoverable), µg/l 22708	9	Report	-----	Report	Monthly	Grab
Site Specific Parameters (e.g., Metals, Organics, Inorganics, RADs, PFAS)	10	Various	-----	Various	Weekly	Grab

Footnotes follow Table B.2.

Table B.2, Numeric Effluent Limitations and Monitoring Requirements for Discharges to Groundwater

Parameter ICIS Code	Note (below)	Discharge Limitations ¹			Monitoring Conditions ²		
		30-Day Average	7-Day Average	Daily Maximum	Monitoring Frequency	Sample Type	
General Permit Requirements							
Flow, MGD	50050	3	Report Monthly Avg	----	Limitation in Certification	Continuous or Instantaneous	Recorder, In-situ or Calculated
Flow, Total Volume, MGM	51500	3	Report Total per Month	----	----	Continuous or Instantaneous	Recorder, In-situ, or Calculated
Flow, Duration, Hours/Month	81381	3	Report Total per Month	----	----	Continuous or Instantaneous	Recorder, In-situ, or Calculated
Oil and Grease	84066	5	----	----	----	Weekly	Visual
Oil and Grease, mg/l	03582	5	----	----	10	Contingent	Grab
pH, s.u.	00400		----	----	6.5 - 8.5	Weekly	In-situ or Grab
Site-Specific Requirements							
Total Dissolved Solids, mg/l	70295	6	Various	----	Various	Monthly	Grab
Total Phosphorus, mg/l, as P	00665	7	Various	----	Various	Monthly	Grab
Total Coliform, per 100 ml	74056	8	Various	----	Various	Weekly	Grab
Site Specific Parameters (e.g., Metals, Organics, Inorganics, RADs, PFAS)		10	Various	----	Various	Weekly	Grab

Footnotes:

1 Discharge Limitations – See Part I.E for definitions related to the application of discharge limitations, including Thirty (30)-Day Average, Seven (7)-Day Average, and Daily Maximum.

“Various” means that the monitoring requirements or effluent limitations for the specified permitted feature will be included in the permit certification based on meeting specific conditions, and that monitoring requirements and effluent limitation are applicable *only* if identified in the permit certification. If the source water requires treatment to meet a numeric effluent limitation for one of these parameters, the discharge is not eligible for coverage under this permit.

2 Monitoring Conditions – See Part I.E for definitions of sample types. The required sample types will be specified in the permit certification. See Part I.D.1 for information on the required frequency for submitting analytical results to the division on Discharge Monitoring Report (DMR) forms.

3 Flow Limitations –The method for measuring flow rates, volume, and duration can occur in-situ and authorizes estimates.

“Flow, MGD” means effluent flow rate measured in million gallons per day (MGD). The daily maximum flow limit will be equal to twice the maximum flow rate provided in the permit application, or equal to the maximum flow rate provided in subsequent applications for modification, and will be stated on the certification.

“Flow, Total Volume, MGM” means total volume of effluent discharged in million gallons per month (MGM).

“Flow, Duration, Hours per Month” means the total hours of actual discharge per month. This requirement will be waived where requested by the permittee and where a continuous flow measuring device and recorder are used to obtain the required information on daily discharge flow rate and total monthly volume of effluent flow discharged at the outfall.

4 Total Suspended Solids - For indirect discharges to surface water via seepage from a wastewater settling pond and for discharges to groundwater-only, monitoring requirements and effluent limitations for TSS will not be applied to the discharge. The division has made this determination because pond settling and filtration through the soil matrix is the usual and accepted method of treatment for this parameter.

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

6 Total Dissolved Solids (TDS) – For discharges to surface water in the Colorado River Watershed, permittees certified under this permit may have TDS monitoring requirements or concentration limitation placed in the permit certification. For discharges to groundwater, TDS concentration limitations will be placed in the permit certification where the discharge is to a different aquifer from which the ground water was pulled. If the discharge is to the same aquifer from which it was pulled, monitoring for TDS will not be required.

7 Total Phosphorus – Analysis for Total Phosphorus, as P, will be included in the permit certification for all discharges to state waters within a control regulation for phosphorus. Monitoring requirements and effluent limitations vary depending on the applicable control regulation (Regulations 71 through 74).

If the construction dewatering operation is considered in-stream, monitoring and reporting for Total Phosphorus will not be required.

8 E coli and Total Coliform – Analysis and limitations for *E. coli* and/or Total Coliform will be included in the permit certification for discharges from construction dewatering activities that involve replacing or repairing existing sanitary sewer lines and/or that are in proximity to septic disposal systems or other sewage disposal conveyances or vessels, where the division has made a qualitative reasonable potential determination that *E. coli* or Total Coliform may be present in the discharge.

If the construction dewatering activity is considered in-stream, monitoring and reporting for *E. coli* or Total Coliform will not be required, unless the dewatering activity has the potential to introduce this pollutant (e.g., the in-stream work involves repairing active sewer lines).

9 Arsenic, Iron, Manganese, Selenium, and Uranium - Monitoring and reporting for these parameters, which are commonly present in groundwater, will be added to the permit certification for discharges to surface water unless the discharge is determined to be in-stream. If the dewatering activity is considered in-stream, monitoring and reporting for these parameters will not be required.

10 Site Specific Parameters (e.g., Metals, Organics, Inorganics, RADs, PFAS) - Monitoring and reporting for additional parameters may be added to the permit certification in accordance with Part I.B.2.

If the construction dewatering operation is considered in-stream, monitoring and reporting for metals, organics, inorganics, RADs, and PFAS will not be required unless the dewatering activity has the potential to introduce these pollutants.

C. TERMS AND CONDITIONS

1. Discharge Log

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

- a. the dates and times when an authorized discharge initially commences and finally terminates under the permit certification at each outfall;
- b. records for monitoring as required by Part II.J;
- c. prior to the start of any discharge from an undefined discharge outfall(s) (see Part I.B.1), the receiving water for the discharge and the location of the outfall must be documented, including the latitude and longitude in decimal degrees to six decimal places for the outfall, and general description of the discharge location;
- d. A site map depicting at a minimum: discharge outfall locations, permit compliance sampling locations, control measures for dewatering, and receiving waters,
- e. a description of the pollutant control measure used during construction dewatering, including:
 - i. for all filter devices- document the pollutant control filter maximum flow rate that will maintain compliance with the permit effluent limits and a drawing, sketch, and/or written description of the installation and implementation specifications.
 - ii. for all settling devices- document the residence time and maximum flow rate that will maintain compliance with the permit effluent limits and a drawing, sketch, and/or written description of the installation and implementation specifications.
 - iii. for all other techniques and methods implemented to remove pollutants prior to discharge, such as but not limited to pump in gravel-packs, sump conditions, and well screens- document the technique used and its intended purpose, the maximum flow rate for operation that will maintain compliance with the permit effluent limits, and a drawing, sketch, and/ or written description of the installation and implementation specifications;
 - iv. if no treatment has been determined necessary to remove pollutants prior to discharge in order to maintain compliance with the permit effluent limits- a statement identifying that no treatment will be provided; and
- f. The method used to measure flow, in accordance with I.D.6.

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

2. Pollutant Control Measures

The permittee shall implement pollutant control measures to meet the effluent limitations contained in this permit. The pollutant control measures must be selected, designed, installed, implemented and maintained in accordance with good engineering, hydrologic, pollution control practices, and the manufacturer's specifications including installation and implementation specifications, where applicable. Control measures may include treatment, schedules of activities,

prohibitions of practices, maintenance procedures, monitoring practices used to document the capability of the treatment practices to remove pollutants, handling and disposal practices, and other management practices necessary to meet the effluent limitations contained in this permit.

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

The division expects that compliance with the eligibility requirements and conditions of this permit will control discharges as necessary to meet applicable water quality standards. If at any time the permittee becomes aware that at the permitted outfall, pollutant concentrations for an effluent parameter **not subject to a report-only monitoring requirement and/or effluent limitation** in Part I.B and the permit certification exceeds any applicable water quality standard for the receiving water, the permittee shall conduct the following steps:

- a. Halt or reduce any activity if necessary to prevent the discharge of an effluent parameter(s), at the permitted outfall, in concentrations which exceed the applicable water quality standards for the receiving water (see Part II.S), and
- b. Report any noncompliance as required in Part II.L.7.

For any noncompliance associated with a parameter subject to a numeric effluent limitation in the permit certification, the permittee shall report the noncompliance as required in Part II.

Coverage under this general permit may be modified, suspended, or terminated by the division if necessary to effectively implement protection of waters of the state. If the division finds that such new or altered discharge might be inconsistent with the conditions of the permit, the division shall require a new or revised permit application, or require coverage under an individual permit, and shall follow the procedures specified in Sections 61.5 through 61.6, and 61.15 of Regulation 61.

4. Chemical Additions

No chemicals or substances are to be added that have the potential to be present in the permitted discharge, including, but not limited to, chemical additions at any point in the treatment process, unless the permittee provides advance notice to the division of the planned changes in accordance with Part II.L, provides any additional information needed by the division to evaluate the proposed chemical addition, and the division confirms that the new or altered discharge is appropriate for coverage under this permit. The permit applicant must submit a list of any proposed chemicals (including potable water which may contain chlorine) and proposed dosage rates to be used in the treatment process. A safety data sheet (SDS) for each chemical proposed for use must be provided to the division. The addition of chemicals may require permitting under an alternate general permit or an individual permit.

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

5. Discharge Point

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

6. Discharges to Conveyances

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

7. Mixing Zone

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

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

Discharges to state waters for which an approved or established TMDL has been developed for a specified pollutant(s) that has the potential to be in the construction dewatering discharge may be authorized provided there are sufficient remaining waste load allocations in the approved or established TMDL. If sufficient remaining waste load allocations are not available, coverage under an individual permit may be required.

If additional effluent limitations or other terms and conditions not included in this permit are required for discharges to segments for which a TMDL has been completed, the discharge cannot be covered under this general permit and must apply for coverage under another general permit or under an individual permit. Factors that will be taken into consideration when making this determination include the plausibility that the pollutant for which the TMDL was developed will be in the discharge, and duration and frequency of the discharge.

9. Discharges to 303(d) Listed Waters

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

D. GENERAL MONITORING, SAMPLING AND REPORTING REQUIREMENTS

1. Routine Reporting of Data

Reporting of data collected in compliance with Part I.B.2 shall be on a monthly basis (or as provided in the certification). Reporting of all data collected shall comply with the requirements of this Part I.D. (General Requirements).

Monitoring results shall be summarized for each calendar month via the EPA's NetDMR service unless a waiver is granted in compliance with 40 CFR 127. If a waiver is granted, monitoring results shall be reported on division issued discharge monitoring report (DMR) forms or, if division issued paper forms are not available, using EPA form 3320-1.

Reporting No Discharge: DMRs for all permitted features must be submitted for each reporting period as long as the certification is in effect. DMRs must be submitted for each outfall even if there was not a discharge from the outfall in a given reporting period. For each outfall where no discharge occurs in a given reporting period, the permittee shall indicate no discharge on the DMR form(s) for that outfall as appropriate. If reporting no discharge on paper DMRs, "No Discharge" shall be indicated on the paper form. If reporting electronically use the No Data Code (NODI) "C" for No Discharge in NetDMR. The permittee shall provide the division with any additional monitoring data on the permitted discharge collected for entities other than the division.

When submitting monitoring results via NetDMR, the Copy of Record shall reflect that the DMR was signed and submitted no later than the 28th day of the month following the monitoring period. If submitting DMRs by mail, which is only allowed if a waiver has been granted, one copy of the DMR form shall be mailed to the division at the address provided below, so that the DMR is received no later than the 28th day of the month following the monitoring period.

If mailing, the original signed copy of each DMR shall be submitted to the division at the following address:

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

The Discharge Monitoring Report paper and electronic forms shall be filled out accurately and completely in accordance with the requirements of this permit and the instructions on the forms; and signed by an authorized person as identified in Part II.K.

2. Reporting for Undefined Outfalls

Where undefined outfalls are identified in the permit certification, the location for each undefined outfall must be defined and established by the permittee prior to the discharge commencing. The permittee is responsible for assigning each undefined outfall number identified in the permit certification to a specific location before discharge at that outfall commences in the field. Undefined discharge outfalls, including the latitude and longitude in decimal degrees to six decimal places, general description of the location, and a map showing the discharge locations must be documented in the discharge log in accordance with permit Part I.C.1 of the permit.

Once an undefined outfall number is assigned by the permittee to a specific outfall location in the field, the permittee is responsible for ensuring that the pairing of the specific outfall *number* and *location* is not changed. Any change in outfall location would require the assignment of a new outfall number. In addition, a single outfall number (e.g., 001-AU) cannot be used for multiple discharge locations in the field.

The permit certification may limit which undefined outfall numbers may be applied to any given receiving stream. The permittee must assign undefined outfall numbers within the limitations provided in the permit certification.

3. Representative Sampling

Discharge points shall be designed or modified so that a sample of the effluent can be obtained at a point after the final treatment process and prior to discharge to state waters. Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring points specified in this permit

and, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points shall not be changed without notification to and approval by the division. The permittee shall provide access to the division to sample the discharge at these points.

4. Analytical and Sampling Methods for Monitoring and Reporting

The permittee shall install, calibrate, use and maintain monitoring methods and equipment, including biological and indicated pollutant monitoring methods. All sampling shall be performed by the permittee according to specified methods in 40 CFR Part 136; methods approved by EPA pursuant to 40 CFR Part 136; or methods approved by the division in the absence of a method specified in or approved pursuant to 40 CFR Part 136. Division-approved methods may include methods in approved division or Water Quality Control Commission policies.

The permittee may use an equivalent and acceptable alternative to an EPA-approved method without EPA review where the requirements of 40 CFR Part 136.6 are met and documented. The permittee may use an Alternative Test Procedure (ATP). An ATP is defined as a way in which an analyte is identified and quantified that is reviewed and approved by EPA in accordance with 40 CFR Part 136.4 for nationwide use, or a modification to a 40 CFR 136 approved method that is reviewed and approved by EPA in accordance with 40 CFR Part 136.5 for limited use.

- a. The permittee must select a test procedure that is “sufficiently sensitive” as defined in Part I.E for all monitoring conducted in accordance with this permit.
- b. Division established minimum practical quantitation limits (PQLs) for specific parameters are listed in the most current edition of the division’s Practical Quantitation Limits Policy. If the division’s Practical Quantitation Limits Policy does not provide a 40 CFR 136 based PQL for a parameter, then the analytical method used must have a minimum level (ML) that is less than or equal to the applicable water quality criteria (AWQC) or otherwise approved by the division.
- c. The division established minimum PQLs for select parameters are listed in the table below.
- d. If the permit contains an interim effluent limitation (e.g., a limit is report until such time as a numeric effluent limit becomes effective) for a parameter, the final numeric effluent limit shall be considered the AWQC for the purpose of determining whether a test method is sufficiently sensitive.
- e. When the analytical method which complies with the above requirements has an ML greater than the permit limit, and the permittee’s analytical result is less than the ML, the permittee shall report “BDL” on the DMR. Such reports will not be considered as violations of the permit limit, as long as the method is sufficiently sensitive. For parameters that have a report only limitation, and the permittee’s analytical result is less than the ML, (where X = the ML) “< X” shall be reported on the DMR.
- f. In the calculation of average concentrations (i.e. 7- day, 30-day average, 2-year rolling average) any individual analytical result that is less than the ML shall be considered to be zero for the calculation purposes. When reporting:

If all individual analytical results are less than the ML, the permittee shall report either “BDL” or “<X” (where X = the ML), following the guidance above.

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

Table D.1 - PQLs - Metals, Inorganics, Radiological Parameters, and Nonylphenol*

Parameter	Reporting Units	PQL	Parameter	Reporting Units	PQL
Aluminum	µg/L ¹	15	Ammonia Nitrogen	mg/L ² N	0.2
Antimony	µg/L	2	Nitrate+Nitrite Nitrogen	mg/L N	0.1
Arsenic	µg/L	1	Nitrate Nitrogen	mg/L N	0.1
Barium	µg/L	1	Nitrite Nitrogen	mg/L N	0.05
Beryllium	µg/L	2	Total Kjeldahl Nitrogen	mg/L N	0.5
Boron	µg/L	20	Total Nitrogen	mg/L N	0.5
Cadmium	µg/L	0.5	Total Inorganic Nitrogen	mg/L N	0.2
Calcium	µg/L	120	Phosphorus	mg/L P	0.05 ³
Chromium	µg/L	20	BOD/CBOD	mg/L	2
Chromium, Trivalent	µg/L	---	Chloride	mg/L	2
Chromium, Hexavalent	µg/L	20 ^{3, 4}	Total Residual Chlorine, DPD	mg/L	0.5
Copper	µg/L	2	Total Residual Chlorine, Amperimetric	mg/L	0.05
Iron	µg/L	20 ³	Cyanide	µg/L	10 ³
Lead	µg/L	0.5	Fluoride	mg/L	0.5
Magnesium	µg/L	35	Phenols	µg/L	30
Manganese	µg/L	2	Sulfate	mg/L	2
Mercury	µg/L	0.2 ³	Sulfide	mg/L H ₂ S	0.1
Mercury, Low Level	µg/L	0.002	Total Dissolved Solids (TDS)	mg/L	10
Molybdenum	µg/L	0.5	Total Suspended Solids (TSS)	mg/L	5
Nickel	µg/L	1	Radium-226	pCi/L	1
Selenium	µg/ L	1 ³	Radium-228	pCi/L	1
Silver	µg/ L	0.5	Uranium	µg/ L	1
Sodium	µg/ L	150	Nonylphenol, ASTM D7065	µg/ L	10
Thallium	µg/ L	0.5			
Zinc	µg/ L	10			

* The PQLs included in this table were listed in the division's Practical Quantitation Limits Policy (CW-6) at the time of the permit effective date. In accordance with Regulation 61, division established minimum PQLs are those listed in the most current edition of CW-6.

¹ µg/L = micrograms per liter

² mg/L = milligrams per liter

³ PQL established based on parameter specific evaluation

⁴ For hexavalent chromium, samples must be unacidified so dissolved concentrations will be measured rather than potentially dissolved concentrations.

5. **Additional Monitoring by Permittee**

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

6. **Flow Monitoring**

Flow may be measured directly or determined from estimates (e.g., based on volume of fill water, dimension of the pipeline, capacity of the pump, pump hour meter, or discharge duration) or using another method documented in accordance with I.C.1 of the general permit (Discharge Log).

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

E. DEFINITIONS OF TERMS

1. **“Applicable water quality criterion (AWQC)”** is the quantitation target level or goal. The AWQC may be one of the following:

Where an effluent limit has been established,

- i. The AWQC is the effluent limit.

Where an effluent limit has not been established, the AWQC may be

- ii. An applicable technology based effluent limit (TBEL);
iii. Half of a water quality standard;
iv. Half of a water quality standard as assessed in the receiving water, or potential WQBEL; or
v. Half of a potential antidegradation based effluent limitation, which can be an antidegradation based average concentration or a potential non-impact limit.
2. **“Construction Activities”** refers to ground surface disturbing activities, which include, but are not limited to, clearing, grading, excavation, demolition, installation of new or improved haul roads and access roads, staging areas, stockpiling of fill materials, and borrow areas.
3. **“Continuous”** measurement, is a measurement obtained from an automatic recording device which continually measures the effluent for the parameter in question, or that provides measurements at specified intervals.
4. **“Daily Maximum limitation”** - The “Daily Maximum Limitation” for all parameters (except pH, total residual chlorine, oil & grease, and dissolved oxygen) means the limitation is applied as an average of all samples collected in a calendar day or any 24-hour period that reasonably represents the calendar day. For DMR purposes, the highest daily average calculated in the month should be reported as the daily maximum value. If only one measurement or sample is taken during a calendar day or representative 24-hour period, the single measured value for a pollutant will be considered the daily maximum measurement for that calendar day or representative 24-hour period.

For pH, total residual chlorine, oil & grease, and dissolved oxygen, the daily maximum limitation (and/or minimum) is an instantaneous maximum (and/or instantaneous minimum) value. The instantaneous value is defined as the analytical result of any individual sample. For DMR purposes,

the maximum (and/or minimum) instantaneous value for pH, total residual chlorine, oil and grease, and dissolved oxygen measured within the calendar month should be reported as the daily maximum (and/or minimum) value.

5. "**Dissolved (D) metals fraction**" is defined in Regulation 31, as that portion of a water and suspended sediment sample which passed through a 0.40 or 0.45 UM (micron) membrane filter. Determinations of "dissolved" constituents are made using the filtrate. This may include some very small (colloidal) suspended particles which passed through the membrane filter as well as the amount of substance present in true chemical solution.

6. "**Geometric mean**" for *E. coli* bacteria concentrations, the thirty (30) day and seven (7) day averages shall be determined as the geometric mean of all samples collected in a thirty (30) day period and the geometric mean of all samples taken in a seven (7) consecutive day period respectively. The geometric mean may be calculated using two different methods. For the methods shown, a, b, c, d, etc. are individual sample results, and n is the total number of samples.

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

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

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

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

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

- i. A minimum of two samples shall be collected for coliform analysis within the next sampling period.

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

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

7. "**Good Engineering, Hydrologic and Pollution Control Practices**" means methods, procedures, and practices that a) are based on basic scientific fact(s); b) reflect best industry practices and

standards; c) are appropriate for the conditions and pollutant sources; and d) provide appropriate solutions to meet the associated permit requirements, including all effluent limitations.

8. "Grab" sample, is a single "dip and take" sample so as to be representative of the parameter being monitored.
9. "Groundwater" means any water not visible on the surface of the ground under natural conditions.
10. "In-situ" measurement is defined as a single reading, observation or measurement taken in the field at the point of discharge.
11. "Instantaneous" measurement is a single reading, observation, or measurement performed on site using existing monitoring facilities.
12. To be considered an "Intermittent Discharge" one of the following must apply:
 - i. the maximum discharge frequency is less than 3 consecutive days (72 hours), and less than 3 days per 7 day period, and less than 10 days total per month
 - ii. the maximum discharge frequency is less than 5 consecutive days (120 hours) and less than 5 total days per month
 - iii. It can be shown that discharge frequency and duration is tied solely to precipitation events, where the discharge starts and stops shortly after the precipitation event starts/stops.
13. "Minimum level (ML)" means the lowest concentration of an analyte that can be accurately and precisely quantified using a given method, as determined by the laboratory (the ML may sometimes be referred to as the laboratory PQL, minimum reporting limit, or reporting limit).
14. "Monthly measurement frequency" means samples may be collected at any time during the calendar month if a continual discharge occurs. If the discharge is intermittent, then samples shall be collected anytime during the month that the discharge occurs. Where a monthly measurement frequency is required, a minimum of one sample must be collected for each calendar month where a discharges occurs.
15. "Outstanding Waters" means waters designated as outstanding waters pursuant to Regulation 31, Section 31.892)(a). The highest level of water quality protection applies to certain waters that constitute an outstanding state or national resource.
16. "Potentially dissolved (PD) metals fraction" is defined in Regulation 31, as that portion of a constituent measured from the filtrate of a water and suspended sediment sample that was first treated with nitric acid to a pH of 2 or less and let stand for 8 to 96 hours prior to sample filtration using a 0.40 or 0.45-UM (micron) membrane filter. Note the "potentially dissolved" method cannot be used where nitric acid will interfere with the analytical procedure used for the constituent measured.
17. "Practical Quantification Limit (PQL)" means the minimum concentration of an analyte (substance) that can be measured with a high degree of confidence that the analyte is present at or above that concentration. The use of PQL in this document may refer to those PQLs established in the most recent edition of the division's Practical Quantitation Limits Policy or the PQLs of an individual laboratory.

18. "**Quarterly measurement frequency**" means samples may be collected at any time during the calendar quarter if a continual discharge occurs. If the discharge is intermittent, then samples shall be collected anytime during the quarter that the discharge occurs. Calendar quarters are defined as January-March, April-June, July- September, and October-December. Where a quarterly measurement frequency is required, a minimum of one sample must be collected for each calendar quarter where a discharges occurs.
19. "**Recorder**" requires the continuous operation of an automatic data retention device for providing required records such as a data logger, a chart and/or totalizer (or pump hour meters where previously approved.)
20. "**Seven (7) day average**" means, with the exception of fecal coliform or *E. coli* bacteria (see geometric mean), the arithmetic mean of all samples collected in a seven (7) consecutive day period. Such seven (7) day averages shall be calculated for all calendar weeks, which are defined as beginning on Sunday and ending on Saturday. If the calendar week overlaps two months (i.e. the Sunday is in one month and the Saturday in the following month), the seven (7) day average calculated for that calendar week shall be associated with the month that contains the Saturday. Samples may not be used for more than one (1) reporting period. (See the "Analytical and Sampling Methods for Monitoring and Reporting Section in Part I.D.4 for guidance on calculating averages and reporting analytical results that are less than the ML).
21. "**State Waters**" means any and all surface or subsurface waters which are contained in or flow in or through this state, but does not include waters in sewage systems, waters in treatment works of disposal systems waters in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed.
22. "**Stormwater**" means precipitation induced stormwater runoff, snow melt runoff, and surface runoff and drainage.
23. "**Sufficiently sensitive test procedure**":
 - i. An analytical method is "sufficiently sensitive" when the method detects and accurately and precisely quantifies the amount of the analyte. In other words there is a valid positive result; or
 - ii. An analytical method is "sufficiently sensitive" when the method accurately and precisely quantifies the result to the applicable water quality criteria (AWQC), as demonstrated by the ML is less than or equal to the AWQC. In other words, the level of precision is adequate to inform decision making; or
 - iii. An analytical method is "sufficiently sensitive" when the method achieves the required level of accuracy and precision, as demonstrated by the ML is less than or equal to the division established minimum PQL. In other words, the most sensitive method is being used and properly followed. Note that if the ML and the division established minimum PQL are above the AWQC, then the analytical method with the lowest available ML should be used for the analysis.
24. "**Surface Water**" means all surface waters that meet the definition of "State Waters" but does not meet the definition of "stormwater runoff."
25. "**Thirty (30) day average**" means, except for fecal coliform or *E. coli* bacteria (see geometric mean), the arithmetic mean of all samples collected during a thirty (30) consecutive-day period. The permittee shall report the appropriate mean of all self-monitoring sample data collected during the calendar month on the Discharge Monitoring Reports. Samples shall not be used for more than

one (1) reporting period. (See the “Analytical and Sampling Methods for Monitoring and Reporting Section in Part I.D.4 for guidance on calculating averages and reporting analytical results that are less than the ML).

26. **“Threatened and Endangered Waters”** means waters affecting critical habitat for threatened and endangered (T&E) species in accordance with the federal Endangered Species Act.

27. **“Total Metals”** means the concentration of metals determined on an unfiltered sample following vigorous digestion, or the sum of the concentrations of metals in both the dissolved and suspended fractions, as described in Manual of Methods for Chemical Analysis of Water and Wastes, U.S. Environmental Protection Agency, March 1979, or its equivalent.

28. **“Total Recoverable Metals”** means that portion of a water and suspended sediment sample measured by the total recoverable analytical procedure described in Methods for Chemical Analysis of Water and Wastes, U.S. Environmental Protection Agency, March 1979 or its equivalent.

29. **“Visual”** observation is observing the discharge to check for the presence of a visible sheen or floating oil.

30. **“Water Quality Control Division”** or “division” means the state Water Quality Control Division as established in 25-8-101 et al.)

31. **“Weekly measurement frequency”** means samples may be collected at any time during the week as defined as beginning on Sunday and ending on Saturday. If the discharge is intermittent, a sample must be collected for each week (as defined above) that the discharge occurs. Where a weekly measurement frequency is required, a minimum of one sample must be collected for discharges lasting less than one week. For example, if an intermittent discharge begins on Wednesday, February 2nd and ends on Friday, February 4th, one sample must be collected on the 2nd, 3rd, or 4th. If the discharge resumes on Sunday, February 13 and is intermittent through Monday, February 14th an additional sample must be collected on the 13th or 14th.

Additional relevant definitions are found in the Colorado Water Quality Control Act, CRS §§ 25-8-101 et seq., Regulation 61, and other applicable regulations.

PART II

Part II contains standard conditions required by federal regulation to be included in all NPDES permits (see 40 C.F.R. 122.41). Part I contains permit specific requirements. To the extent that Part I conflicts with the standard terms and conditions of Part II, the requirements of Part I shall control.

A. DUTY TO COMPLY

1. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Colorado Water Quality Control Act and is grounds for: 1) enforcement action; 2) permit termination, revocation and reissuance, or modification; or 3) denial of a permit renewal application.
2. Federal Enforcement:
 - a. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal (see 40 CFR 122.2) established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.
 - b. The Clean Water Act provides that any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$25,000 per day for each violation. The Clean Water Act provides that any person who *negligently* violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than two years, or both. Any person who *knowingly* violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.
 - c. Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed \$10,000 per violation, with

the maximum amount of any Class I penalty assessed not to exceed \$25,000. Penalties for Class II violations are not to exceed \$10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$125,000.

B. DUTY TO REAPPLY

If the permittee plans to continue an activity regulated by this permit after the expiration date of this permit, the permittee must submit a permit application at least 90 days before this permit expires as required by Regulations 61.4 and 61.10.

C. NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE

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

D. DUTY TO MITIGATE

The permittee must take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. PROPER OPERATION AND MAINTENANCE

The permittee must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of this permit. See 40 C.F.R. §122.41(e).

F. PERMIT ACTIONS

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. Any request for modification, revocation, reissuance, or termination under this permit must comply with all terms and conditions of Regulation 61.8(8). See also 40 C.F.R. § 122.41(f).

G. PROPERTY RIGHTS

In accordance with 40 CFR §122.41(g) and Regulation 61.8(9):

1. The issuance of a permit does not convey any property or water rights in either real or personal property, or stream flows or any exclusive privilege.
2. The issuance of a permit does not authorize any injury to person or property or any invasion of personal rights, nor does it authorize the infringement of federal, state, or local laws or regulations.
3. Except for any toxic effluent standard or prohibition imposed under Section 307 of the Clean Water Act or any standard for sewage sludge use or disposal under Section 405(d) of the Federal act, compliance with a permit during its term constitutes compliance, for purposes of enforcement, with

Sections 301, 302, 306, 318, 403, and 405(a) and (b) of the Clean Water Act. However, a permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in Section 61.8(8) of the Colorado Discharge Permit System Regulations. See 61.8(9)(c).

H. DUTY TO PROVIDE INFORMATION

The permittee shall furnish to the division, within a reasonable time, any information which the division may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the division, upon request, copies of records required to be kept by this permit in accordance with 40 C.F.R. §122.41(h) and/or Regulation 61.8(3)(q).

I. INSPECTION AND ENTRY

The permittee shall allow the division and the authorized representative, including U.S. EPA, and/or their authorized representatives (including an authorized contractor acting as their representative), upon the presentation of credentials as required by law, to conduct inspections in accordance with 40 C.F.R. §122.41(i), Regulation 61.8(3), and Regulation 61.8(4):

1. To enter upon the permittee's premises where a regulated facility or activity is located or conducted in which any records are required to be kept under the terms and conditions of this permit;
2. At reasonable times to have access to and copy any records required to be kept under the terms and conditions of this permit and to inspect any facilities, equipment (including monitoring and control equipment), practices, operations or monitoring method regulated or required in the permit;
3. To enter upon the permittee's premises in a reasonable manner and at a reasonable time to inspect or investigate, any actual, suspected, or potential source of water pollution, or to ascertain compliance or noncompliance with the Colorado Water Quality Control Act or any other applicable state or federal statute or regulation or any order promulgated by the division, and;
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

J. MONITORING AND RECORDS

1. Samples and measurements taken for the purpose of monitoring must be representative of the volume and nature of the monitored activity. See 40 C.F.R. § 122.41(j)(1).
2. Monitoring must be conducted according to test procedures approved under 40 C.F.R. part 136 for the analyses of pollutants unless another method is required under 40 C.F.R. subchapters N or O. In the case of pollutants for which there are no approved methods under 40 C.F.R. part 136 or otherwise required under 40 C.F.R. subchapters N or O, monitoring must be conducted according to a test procedure specified in this permit for such pollutants. See 40 C.F.R. § 122.41(j)(4); 122.44(i)(1)(iv)(A).
3. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period of

retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or when requested by the division or Regional Administrator.

4. Records of monitoring information must include:
 - a. The date, exact place, and time of sampling or measurements;
 - b. The individual(s) who performed the sampling or measurements;
 - c. The date(s) analyses were performed
 - d. The individual(s) who performed the analyses;
 - e. The analytical techniques or methods used; and
 - f. The results of such analyses.
5. The permittee shall install, calibrate, use and maintain monitoring methods and equipment, including biological and indicated pollutant monitoring methods. See Regulation 61.8(4)(b)(iii). All sampling shall be performed by the permittee according to sufficiently sensitive test procedures required by 40 C.F.R. 122.44(i)(1)(iv) or methods approved by the division, in the absence of a method specified in or approved pursuant to 40 C.F.R. Part 136.
6. The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than two years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

K. SIGNATORY REQUIREMENTS

1. Authorization to Sign: All documents required to be submitted to the division by the permit must be signed in accordance with 40 CFR §122.22, Regulation 61.4, and the following criteria:
 - a. For a corporation: By a responsible corporate officer. For the purpose of this subsection, a responsible corporate officer means: (i) a president, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - b. For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or
 - c. For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this subsection, a principal executive officer of a federal agency includes (i) the chief or principal executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency. (e.g., Regional Administrator of EPA). For purposes of this section, a principal executive officer has responsibility for the overall operation of the facility from which the discharge originates.
 - d. By a duly authorized representative in accordance with 40 C.F.R. 122.22(b), only if:

- i. the authorization is made in writing by a person described in Part II.K.1.a, b, or c above;
 - ii. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and,
 - iii. The written authorization is submitted to the division.
2. Any person(s) signing documents required for submittal to the division must make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”
3. Electronic Signatures For persons signing applications for coverage under this permit electronically, in addition to meeting other applicable requirements stated above, such signatures must meet the same signature, authentication, and identity-proofing standards set forth at 40 CFR § 3.2000(b) for electronic reports (including robust second-factor authentication). Compliance with this requirement can be achieved by submitting the application using the Colorado Environmental Online Service (CEOS) system.
4. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both. See 40 C.F.R. §122.41(k)(2).

L. REPORTING REQUIREMENTS

1. Planned Changes: The permittee shall give advance notice to the division, in writing, of any planned physical alterations or additions to the permitted facility in accordance with 40 CFR §122.41(l) and Regulation 61.8(5)(a) and Part II.O. of this permit. Notice is required only when:
 - a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR §122.29(b); or
 - b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR §122.41(a)(1).
 - c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application

process or not reported pursuant to an approved land application plan. See 40 C.F.R. §122.41(l)(1)(iii).

2. Anticipated Non-Compliance: The permittee shall give advance notice to the division, in writing, of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements. The timing of notification requirements differs based on the type of non-compliance as described below.
3. Transfer of Ownership or Control: The permittee shall notify the division, in writing, thirty (30) calendar days in advance of a proposed transfer of the permit. This permit is not transferable to any person except after notice to the division. The division may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act. See Regulation 61.8(6); 40 C.F.R. §§ 122.41(l)(iii) and 122.61.
4. Monitoring reports: Monitoring results must be reported at the intervals specified in this permit.
 - a. If the permittee monitors any pollutant at the approved monitoring locations listed in Part I more frequently than that required by this permit using test procedures approved under 40 CFR Part 136, or another method required for an industry-specific waste stream under 40 CFR subchapters N or O, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the division. See 40 CFR 122.41(l)(4).
 - b. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the division in the permit.
5. Submission of Discharge Monitoring Reports (DMRs): DMRs shall be submitted electronically through NetDMR system unless the permittee requests and is granted a waiver of the electronic reporting requirement by the division pursuant to Regulation 61.8(4)(d).
6. Compliance Schedules: Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule in the permit, shall be submitted on the date listed in the compliance schedule section. The fourteen (14) calendar day provision in Regulation 61.8(4)(n)(i) has been incorporated into the due date.
7. Twenty-four hour reporting:
 - a. In addition to the reports required elsewhere in this permit, the permittee shall report the following circumstances orally within twenty-four (24) hours from the time the permittee becomes aware of the circumstances, and shall mail to the division a written report containing the information requested within five (5) working days after becoming aware of the following circumstances:
 - i. Circumstances leading to any noncompliance which may endanger health or the environment regardless of the cause of the incident;
 - ii. Circumstances leading to any unanticipated bypass which exceeds any effluent limitations in the permit; or
 - iii. Circumstances leading to any upset which causes an exceedance of any effluent limitation in the permit.
 - b. The report shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
 - c. For noncompliance events related to combined sewer overflows, sanitary sewer overflows, or bypass events, these reports must include the data described above (with the exception of time of discovery) as well as the type of event (combined sewer overflows, sanitary sewer

overflows, or bypass events), type of sewer overflow structure (e.g., manhole, combine sewer overflow outfall), discharge volumes untreated by the treatment works treating domestic sewage, types of human health and environmental impacts of the sewer overflow event, and whether the noncompliance was related to wet weather. See 40 CFR 122.41(l)(6)(i).

- i. As of December 21, 2020 all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient, as defined in 40 CFR 127.2(b), in compliance with 40 CFR part 3 (including, in all cases, subpart D to part 3), § 122.22, and 40 CFR part 127. See 40 CFR 122.41(l)(6)(i).
8. Other non-compliance: A permittee must report all instances of noncompliance at the time monitoring reports are due. These reports may be submitted annually in accordance with Regulation 61.8(4)(p) and/or 61.8(5)(f), but may be submitted at a more frequent interval.

M. BYPASS

1. Definitions:
 - a. “Bypass” means the intentional diversion of waste streams from any portion of a treatment facility in accordance with 40 CFR §122.41(m)(1)(i) and/or Regulation 61.2(12).
 - b. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production. See 40 CFR §122.41(m)(1)(ii).
2. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of 40 CFR 122.41(m)(3) and (m)(4). See 40 CFR §122.41(m)(2).
3. Notice of bypass:
 - a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, the permittee shall submit prior notice, if possible, at least ten (10) days before the date of the bypass. See 40 CFR §122.41(m)(3)(i) and/or Regulation 61.9(5)(c).
 - b. Unanticipated bypass. You must submit notice of an unanticipated bypass as required in Part II.L.7. See also 40 CFR §122.41(m)(3)(ii).
4. Prohibition of Bypass: Bypasses are prohibited and the division may take enforcement action against the permittee for bypass, unless:
 - a. the bypass is unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - c. Proper notices were submitted to the division.
 - i. The division may approve an anticipated bypass, after considering its adverse effects, if the division determines that it will meet the three conditions listed.

N. UPSET

1. Definition: “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
See 40 CFR §122.41(n) and Regulation 61.2(114),
2. Effect of an upset: An upset constitutes an affirmative defense to an action brought for noncompliance with permit effluent limitations if the requirements of section 3 are met. A determination made during administrative review of claims that noncompliance was caused by upset is final administrative action subject to judicial review in accordance with Regulation 61.8(3)(j).

***special note:** this provision is consistent with the definition of “Upset” as codified in Regulation 61.2(114). However, the Colorado regulatory definition of upset is less stringent than the federal code of regulations, which restricts the use of an upset defense to noncompliance with technology-based permit effluent limitations only. Colorado’s regulatory definition of bypass is less stringent than the requirements of the federal Clean Water Act.*

3. Conditions necessary for demonstration of an Upset: A permittee who wishes to establish the affirmative defense of upset shall demonstrate through properly signed contemporaneous operating logs, or other relevant evidence that:
 - a. an upset occurred and the permittee can identify the cause(s) of the upset;
 - b. the permitted facility was at the time being properly maintained; and
 - c. the permittee submitted notice of the upset as required in Part II.L.7 (24-hour notice); and
 - d. The permittee complied with any remedial measure necessary to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. See also 40 C.F.R. 122.41(n)(3)(i)-(iv).

***special note:** this provision is consistent with the definition of “Conditions necessary for demonstration of upset” as codified in Regulation 61.8(3)(j)(ii). However, the Colorado regulatory definition of upset is less stringent than the federal code of regulations, which restricts the use of an upset defense to demonstrate that a facility was properly operated and maintained. Colorado’s regulatory definition of “Conditions necessary for demonstration of upset” is less stringent than the requirements of the federal Clean Water Act.*

4. In addition to the demonstration required above, a permittee who wishes to establish the affirmative defense of upset for a violation of effluent limitations based upon water quality standards shall also demonstrate through monitoring, modeling or other methods that the relevant standards were achieved in the receiving water.
5. Burden of Proof: In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

O. REOPENER CLAUSE

Procedures for modification or revocation. Permit modification or revocation of this permit or coverage under this permit will be conducted according to Regulation 61.8(8). This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations (and compliance schedule, if necessary), or other appropriate requirements if one of the following events occurs, including but not limited to:

1. **Water Quality Standards:** The water quality standards of the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
2. **Wasteload Allocation:** A wasteload allocation is developed and approved by the State of Colorado and/or EPA for incorporation in this permit.
3. **Discharger-specific variance:** A variance is adopted by the Water Quality Control Commission.

P. OTHER INFORMATION

When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the division or U.S. EPA, the Discharger shall promptly submit such facts or information. See 40 C.F.R. § 122.41(l)(8).

Q. SEVERABILITY

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

R. NOTIFICATION REQUIREMENTS

1. **Notification to Parties:** All notification requirements, excluding information submitted using the Colorado Environmental Online Service (CEOS) portal, shall be directed as follows:

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

CDPHE-Emergency Reporting Line: 1-877-518-5608; or

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

After hours notifications should be made to the CDPHE-Emergency Reporting Line: 1-877-518-5608.

- b. Written notification shall be to:
Water Quality Protection Section - Compliance Program
Water Quality Control Division
Colorado Department of Public Health and Environment
WQCD-WQP-B2
4300 Cherry Creek Drive South
Denver, CO 80246-1530

S. RESPONSIBILITIES

Reduction, Loss, or Failure of Treatment Facility: The permittee has the duty to halt or reduce any activity if necessary to maintain compliance with the effluent limitations of the permit. It shall not be a defense for a permittee in an enforcement action that it would be necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

T. OIL AND HAZARDOUS SUBSTANCES LIABILITY

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

U. EMERGENCY POWERS

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

V. CONFIDENTIALITY

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

W. FEES

The permittee is required to submit payment of an annual fee as set forth in the 2016 amendments to the Water Quality Control Act. Section 25-8-502 (1.1) (b), and the Regulation 61.15 as amended. Failure to submit the required fee when due and payable is a violation of the permit and will result in enforcement action pursuant to Section 25-8-601 et. seq., C.R.S.1973 as amended.

X. DURATION OF PERMIT

The duration of a permit shall be for a fixed term and shall not exceed five (5) years. If the permittee desires to continue to discharge, a permit renewal application shall be submitted at least one hundred eighty (180) calendar days before this permit expires. Filing of a timely and complete application shall cause the expired permit to continue in force to the effective date of the new permit. The permit's duration may be extended only through administrative extensions and not through interim modifications. If the permittee anticipates there will be no discharge after the expiration date of this permit, the division should be promptly notified so that it can terminate the permit in accordance with Regulation 61.

Y. SECTION 307 TOXICS

If a toxic effluent standard or prohibition, including any applicable schedule of compliance specified, is established by regulation pursuant to Section 307 of the Clean Water Act for a toxic pollutant which is

present in the permittee's discharge and such standard or prohibition is more stringent than any limitation upon such pollutant in the discharge permit, the division shall institute proceedings to modify or revoke and reissue the permit to conform to the toxic effluent standard or prohibition.

PART III- Pollutants Required to Be Tested if Expected to be Present

**Conventional and Nonconventional Pollutants Required To Be Tested by Existing Dischargers
if Expected to be Present**

Toxic Pollutants

Bromide
Chlorine, Total Residual
Color
Fecal Coliform
Fluoride
Nitrate -Nitrite
Nitrogen, Total Organic
Oil and Grease

Phosphorus, Total
Radioactivity
Sulfate
Sulfide
Sulfite
Surfactants
Aluminum, Total
Barium, Total

Boron, Total
Cobalt, Total
Iron, Total
Magnesium, Total
Molybdenum, Total
Manganese, Total
Tin, Total
Titanium, Total

Toxic Pollutants

Asbestos

Hazardous Substances

<p>Allyl alcohol Allyl chloride Amyl acetate Aniline Benzonitrile Benzyl chloride Butyl acetate Butylamine Captan Carbaryl Carbofuran Carbon disulfide Chlorpyrifos Coumaphos Cresol Crotonaldehyde Cyclohexane 2,4-D (2,4-Dichlorophenoxy acetic acid) Diazinon Dicamba Dichlobenil Dichlone 2,2-Dichloropropionic acid Dichlorvos Diethyl amine Dimethyl amine Dinitrobenzene Diquat Disulfoton Diuron Epichlorohydrin Ethion Ethylene diamine Ethylene dibromide Formaldehyde Furfural Guthion Isoprene</p>	<p>Isopropanolamine Dodecylbenzenesulfonate Kelthane Kepone Malathion Mercaptodimethur Methoxychlor Methyl mercaptan Methyl methacrylate Methyl parathion Mevinphos Mexacarbate Monoethyl amine Monomethyl amine Naled Napthenic acid Nitrotoluene Parathion Phenolsulfanate Phosgene Propargite Propylene oxide Pyrethrins Quinoline Resorcinol Strontium Strychnine Styrene 2,4,5-T (2,4,5-Trichlorophenoxy acetic acid) TDE (Tetrachlorodiphenylethane) 2,4,5-TP [2-(2,4,5-Trichlorophenoxy) propanoic acid] Trichlorofan Triethanolamine dodecylbenzenesulfonate Triethylamine Trimethylamine Uranium Vanadium Vinyl acetate Xylene Xylenol Zirconium</p>
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