



Dedicated to protecting and improving the health and environment of the people of Colorado

**CDPS GENERAL PERMIT COR400000**  
**STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY**  
**AUTHORIZATION TO DISCHARGE UNDER THE**  
**COLORADO DISCHARGE PERMIT SYSTEM (CDPS)**

In compliance with the provisions of the Colorado Water Quality Control Act, (25-8-101 et seq., CRS, 1973 as amended) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.; the "Act"), this permit authorizes the discharge of stormwater associated with construction activities, as defined in this permit, to be certified under this permit from those locations authorized to discharge from authorized locations throughout the State of Colorado to specified surface waters of the state, in accordance with the eligibility and permit application requirements, effluent limitations, monitoring requirements, inspection requirements, and other conditions set forth in this general permit.

This permit specifically authorizes the facility listed on the certification to discharge in accordance with permit requirements and conditions set forth in Parts I and II hereof. All discharges authorized herein must be consistent with the terms and conditions of this permit.

This permit becomes effective on, 04/01/2024 and will expire at midnight 03/31/2029.

Issued and signed this 31st day of January, 2024 and Effective April 1, 2024.

Andrew Sayers-Fay, Permits Section Manager Water Quality Control Division  
COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

**PERMITS ACTION SUMMARY**

Issued January 31, 2024, Effective April 1, 2024

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## PART I

**Note:** At the first mention of terminology that has a specific connotation for the purposes of this permit, the terminology is electronically linked to the definitions section of the permit in Part I.E.

### A. COVERAGE UNDER THIS PERMIT

#### 1. Authorized Discharges

This general permit authorizes permittee(s) to discharge the following to state waters: stormwater associated with construction activity and specified non-stormwater associated with construction activity. The following types of stormwater and non-stormwater discharges are authorized under this permit:

##### a. Stormwater Discharges

- i. Stormwater discharges associated with construction activity.
- ii. Stormwater discharges associated with producing earthen materials, such as soils, sand, and gravel dedicated to providing material to a single contiguous site, or within ¼ mile of the construction site covered by this permit (e.g. borrow or fill areas).
- iii. Stormwater discharges associated with [dedicated asphalt, concrete batch plants, and masonry mixing stations](#) (Coverage under this permit is not required if alternative coverage has been obtained).

##### b. Non-Stormwater Discharges

The following non-stormwater discharges are allowable under this permit if the discharges are identified in the stormwater management plan in accordance with [Part I.C](#) and if they have appropriate [control measures](#) in accordance with [Part I.B.1](#).

- i. Discharges from uncontaminated springs that do not originate from an area of land disturbance.
- ii. Discharges to the ground of concrete or masonry washout water associated with the washing of concrete or masonry tools and concrete or masonry mixer chutes, and water used to wash vehicles, equipment and external buildings. Discharges of concrete or masonry washout water must not leave the site as surface runoff or reach receiving waters as defined by this permit. The addition of soaps, solvents and detergents is prohibited. Concrete or masonry on-site waste disposal is not authorized by this permit except in accordance with [Part I.B.1.a.ii\(c\)](#).
- iii. Discharges of landscape irrigation return flow.
- iv. Discharges from [diversions](#) of state waters within the permitted site.

##### c. Emergency Fire Fighting

Discharges resulting from emergency firefighting activities during the active emergency response are authorized by this permit.

#### 2. Limitations on Coverage

Discharges not authorized by this permit include, but are not limited to, the discharges and activities listed below. Permittees may seek individual or alternate general permit coverage for the discharges, or utilize low risk discharge guidance (i.e. Surface Cosmetic Power Washing Operations to Land) or clean water policy documents (i.e. Clean Water Policy #14) as appropriate and available.

##### a. Discharges of non-stormwater

Discharges of non-stormwater, except the authorized non-stormwater discharges listed in Part I.A.1.b., are not eligible for coverage under this permit. Note: The prohibited discharges listed here are not an exhaustive list.

- i. Discharges to surface water from water used to wash vehicles, equipment and external building washdown water. The addition of soaps, solvents and detergents is prohibited.
- ii. Discharges from washout water for paint, form release oils, curing compounds, or other similar

construction materials. See [Part I.B.1.a.ii\(f\)](#).

- iii. Discharges of fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance.
- iv. Discharges of reclaimed water, as defined in Regulation 84, that are approved for the use of construction dust suppression but are not applied in accordance with Regulation 84.
- v. Discharges related to the application of potable water for dust suppression. See [Part I.B.1.a.i\(j\)](#).
- b. Discharges currently covered by another individual or general permit.
- c. Discharges currently covered by a Water Quality Control Division (division) Low Risk Guidance document or Clean Water Policy.
- d. Discharges to outstanding waters that are long-term and/or have no or only short-term ecological or water quality benefit or clear public interest. See [Part I.B.2.b](#).
- e. Chemical additions.

Any chemical addition for the treatment of stormwater associated with construction activities is not authorized. This includes but is not limited to flocculants, polymers, and coagulants.

### 3. Permit Certification and Submittal Procedures

#### a. Duty to Apply

The owner(s)/operator(s) must apply for coverage under this permit for discharges from the following activities:

- i. Construction activity that will disturb one acre or more; or
- ii. Construction activity that is part of a [common plan of development or sale](#); or
- iii. Stormwater discharges that are designated by the division as needing a stormwater permit because the discharge:
  - (a) Contributes to a violation of a water quality standard; or
  - (b) Is a significant contributor of [pollutants](#) to state waters.

#### b. Application Requirements

To obtain authorization to discharge under this permit, applicants applying for coverage following the effective date of the renewal permit must meet the following requirements:

- i. Owners and operators submitting an application for permit coverage will be co-permittees subject to the same benefits, duties, and obligations under this permit.
- ii. Signature requirements: Both the [owner](#) and [operator](#) (permittees) of the construction site, as defined in Part I.E., must agree to the terms and conditions of the permit and submit a completed application that includes the signature of both the owner and the operator. In cases where the duties of the owner and operator are managed by the owner, both application signatures may be completed by the owner. Both the owner and operator are responsible for ensuring compliance with all terms and conditions of the permit, including implementation of the stormwater management plan.
- iii. The applicant(s) must develop a stormwater management plan in accordance with the requirements of Part I.C. The applicant(s) must also certify that the stormwater management plan is complete, or will be complete, prior to commencement of any construction activity.
- iv. In order to apply for certification under this general permit, the applicant(s) must submit a complete, accurate, and signed permit application form as provided by the division by electronic delivery at least 10 days prior to the commencement of construction activity, except those construction activities that are in response to a [public emergency related site](#). Public emergency related sites must apply for coverage no later than 14 days after the commencement of construction activities. The provisions of this part in no way remove a violation of the Colorado Water Quality Control Act if a [point source](#) discharge occurs prior to the issuance of a CDPS permit.

- v. The application in its entirety must 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, including signatures by both the owner and operator, must be submitted to:

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

- vi. The applicant(s) must receive written notification that the division granted permit coverage prior to conducting construction activities, except for construction activities that are in response to a public emergency related site.

c. Division Review of Permit Application

Within 10 days of receipt of the application, and following review of the application, the division may:

- i. Issue a certification of coverage under this general permit;
- ii. Request additional information necessary to evaluate the discharge;
- iii. Delay the authorization to discharge pending further review;
- iv. Notify the applicant that additional terms and conditions are necessary; or
- v. Deny the authorization to discharge under this general permit.

d. Alternative Permit Coverage

i. Division Required Alternative Permit Coverage:

The division may require an applicant or permittee to apply for an individual permit or an alternative general permit if it determines the discharge does not fall under the scope of this general permit, including if any additional terms and conditions are necessary in order to ensure that discharges authorized by this permit will not cause, have the reasonable potential to cause, or measurably contribute to an exceedance of any applicable water quality standard, including narrative standards for water quality. In this case, the division will notify the applicant or permittee that an individual permit application is required.

ii. Permittee Request for Alternative Permit Coverage:

A permittee authorized to discharge stormwater under this permit may request to be excluded from coverage under this general permit by applying for an individual permit. In this case, the permittee must submit an individual application, with reasons supporting the request, to the division at least 180 days prior to any discharge. When an individual permit is issued, the permittee's authorization to discharge under this permit is terminated on the effective date of the individual permit.

e. Submittal Signature Requirements

Documents required for submittal to the division in accordance with this permit, including applications for permit coverage and other documents as requested by the division, must include signatures by **both** the owner and the operator, except for instances where the duties of the owner and operator are managed by the owner.

Signatures on all documents submitted to the division as required by this permit must meet the Standard Signatory Requirements in [Part II.K](#) of this permit in accordance with 40 C.F.R.122.41(k).

i. Signature Certification

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.”

f. Field Wide Permit Coverage for Oil and Gas Construction

At the discretion of the division, a single permit certification may be issued to a single oil and gas permittee to cover construction activity related discharges from an oil and gas field at multiple locations that are not necessarily contiguous.

g. Permit Coverage without Application

**Qualifying Local Program:** When a small construction site is within the jurisdiction of a qualifying local program, the owner and operator of the construction activity are authorized to discharge stormwater associated with [small construction activity](#) under this general permit without the submittal of an application to the division. Sites covered by a qualifying local program are exempt from the following sections of this general permit: Part I.A.3.a.; Part I.A.3.b. (division application requirements); Part I.A.3.c. (division review); Part I.A.3.d. (division alternate permit coverage); Part I.A.3.f. (oil and gas field wide coverage); Part I.A.3.h. (permittee initiated actions); Part I.A.3.i. (residential lot coverage); Part I.A.3.j. (permit expiration and continuation of coverage); Part II.L.3 (transfer of ownership or control); II.W (fees).

Sites covered by a qualifying local program are subject to the following requirements:

- i. **Local Agency Authority:** This permit does not pre-empt or supersede the authority of local agencies to prohibit, restrict, or control discharges of stormwater to storm drain systems or other water courses within their jurisdiction.
- ii. **Permit Coverage Termination:** When a site under a Qualifying Local Program is finally stabilized, coverage under this permit is automatically terminated.
- iii. **Compliance with Qualifying Local Program:** Qualifying Local Program requirements that are equivalent to the requirements of this permit are incorporated by reference. Permittees authorized to discharge under this permit must comply with the equivalent requirements of the Qualifying Local Program that has jurisdiction over the site as a condition of this permit.
- iv. **Compliance with Remaining Permit Conditions.** Requirements of this permit that are in addition to or more stringent than the requirements of the Qualifying Local Program apply in addition to the requirements of the Qualifying Local Program.
- v. **Written Authorization of Coverage:** The division or local municipality may require any owner/operator within the jurisdiction of a Qualifying Local Program covered under this permit to apply for, and obtain written authorization of coverage under this permit. The permittee must be notified in writing that an application for written authorization of coverage is required.

h. Permittee Initiated Permit Actions

Permittee initiated permit actions, including but not limited to modifications, contact changes, transfers, and terminations, must be conducted following [Part II.L](#), [Part I.A.3.e](#), division guidance and using appropriate division-provided forms.

- i. When a permittee modifies or terminates all or portions of permit coverage to another permittee, the “old” permittee completing the modification or termination must provide to the division the new permittee’s certification number(s) (ie. a land developer selling lots to home builders, etc.).
- ii. When a permittee transfers permit coverage to another permittee, the “new” permittee completing the transfer must provide to the division an agreement completed and signed by the “old” permittee.

iii. When a permittee transfers permit coverage or modifies or terminates all or portions of permit coverage to another permittee, the “old” permittee completing the transfer, modification, or termination must provide to the division documentation of due diligence when the new permittee is not obtaining permit coverage. Documentation of due diligence may include certified letters, multiple attempts at email and phone contact.

i. Sale of Residence to Homeowner

**Residential construction sites only:** The permittee may remove residential lots from permit coverage once the lot(s) meets all of the following criteria:

- i. The residential lot(s) has(have) been sold to the homeowner(s) for private residential use;
- ii. A certificate of occupancy, or equivalent, is maintained on-site or electronically and is available during division inspections;
- iii. The lot(s) is (are) less than one acre of disturbance;
- iv. All construction activity conducted on the lot(s) by the permittee is complete, including the installation of sediment or erosion control measures that minimize sediment from exiting the lot, or the installation of temporary stabilization on remaining disturbance where the permittee is not responsible for final stabilization (i.e. backyard of single family home, etc.);
- v. The permittee is not responsible for final stabilization of the lot(s); and
- vi. The stormwater management plan was modified to indicate the lot(s) is (are) no longer part of the construction activity.

If the residential lot(s) meets the criteria listed above, then activities occurring on the lot(s) are no longer considered to be construction activities with a duty to apply and maintain permit coverage. Therefore, the permittee is not required to meet the final stabilization requirements and may terminate permit coverage for the lot(s).

j. Permit Expiration and Continuation of Permit Coverage

Authorization to discharge under this general permit will expire at midnight on March 31, 2029. While Regulation 61.4 requires the permittee to submit an application for continuing permit coverage 180 days before the permit expires, the division requires that a permittee or permittees desiring continued coverage under this general permit must reapply at least 90 days in advance of this permit expiration. The division will determine if the permittee(s) may continue to discharge stormwater under the terms of the general permit. An individual permit may be required for any facility not reauthorized to discharge under the reissued general permit.

If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued and remain in force and effect. For permittees that have applied for continued permit coverage, discharges authorized under this permit prior to the expiration date will automatically remain covered by this permit until the earliest of:

- i. An authorization to discharge 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 new permit. (Note: the division may not reissue a permit certification if there are outstanding past due fees per Regulation 61.15(d)); or
- ii. The issuance and effect of a termination issued by the division; or
- iii. The issuance or denial of an individual permit for the facility’s discharges; or
- iv. 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
- v. The division has informed the permittee that discharges previously authorized under this permit are no longer covered under this permit.

## B. EFFLUENT LIMITATIONS

### 1. Requirements for Control Measures Used to Meet Effluent Limitations

The permittee must implement control measures to [minimize](#) the discharge of pollutants from all potential pollutant sources at the site which, if applicable, includes run-on. Control measures used to meet effluent limitations must be installed prior to commencement of construction activities and prior to each phase of construction that introduces new potential pollutant sources. Control measures must be selected, designed, installed and maintained in accordance with [good engineering, hydrologic and pollution control practices](#). Control measures implemented at the site must be designed to prevent pollution or degradation of state waters.

#### a. Stormwater Pollution Prevention

The permittee must implement structural and/or nonstructural control measures that effectively minimize erosion, sediment transport, and the release of other pollutants related to construction activity.

##### i. Control Measures for Erosion and Sediment Control

Structural and non-structural control measures for erosion and sediment control may include, but are not limited to, wattles/sediment control logs, silt fences, earthen dikes, drainage swales, sediment traps, filter bags, subsurface drains, pipe slope drains, inlet protection, outlet protection, gabions, sediment basins, temporary vegetation, permanent vegetation, mulching, geotextiles, sod stabilization, and slope roughening, maintaining existing vegetation, preserving native topsoil, protection of trees, preservation of mature vegetation, phasing of site development, preserving natural topography, minimizing soil compaction in areas of vegetative final stabilization, and minimizing site access.

Specific control measures must meet the requirements listed below.

- (a) Vehicle tracking controls must be implemented to minimize vehicle tracking of sediment from disturbed areas. Vehicle tracking controls must include a structural control measure (e.g. tracking pad or wash rack) and may include a non-structural control measure (e.g. sweeping or restricting vehicle traffic to paved areas).
- (b) Stormwater runoff from all disturbed areas and soil storage areas must utilize or flow to one or more control measures to minimize erosion or sediment in the discharge. The control measure(s) must be selected, designed, installed and adequately sized in accordance with good engineering, hydrologic and pollution control practices for the intended application. The control measure(s) must contain or filter flows in order to prevent the [bypass](#) of flows without treatment and must be appropriate for stormwater runoff from disturbed areas and for the expected flow rate, duration, and flow conditions (e.g. sheet or concentrated flow).
- (c) Selection of control measures should prioritize the use of control measures that minimize the potential for erosion (i.e. covering materials). Selection should also prioritize phasing construction activities to minimize the amount of soil disturbance at any point in time throughout the duration of construction.
- (d) Outlets that withdraw water from or near the surface must be installed when discharging from basins and impoundments, unless [infeasible](#).
- (e) Maintain pre-existing vegetation for areas within 50 horizontal feet of receiving waters as defined by this permit, unless infeasible. In addition to maintaining 50 horizontal feet of pre-existing vegetation upgradient of a receiving water (unless infeasible), the permittee must install control measures upgradient of the vegetative buffer that meets the requirements of this section, Part I.B.1.a.i.
- (f) Soil compaction must be minimized for areas where infiltration control measures are implemented or where [final stabilization](#) will be achieved through vegetative cover. If compaction does occur in areas where final stabilization will be achieved through vegetative cover, then decompaction of the soil must be completed prior to planting.



- (g) Unless infeasible, topsoil must be preserved for those areas of a site that will utilize vegetative final stabilization. Preserved topsoil can be left in place or stockpiled.
  - (h) Minimize the amount of soil exposed during construction activity, including the disturbance of [steep slopes](#).
  - (i) Diversion control measures used for clean water diversions must minimize soil transport and erosion within the entire diversion, minimize erosion during discharge, and minimize run-on into the diversion. The permittee must minimize the discharge of pollutants throughout the installation, implementation and removal of the diversion. Diversions must meet one or more of the following conditions:
    - (1) Lined or piped structures that result in no erosion for anticipated flow conditions.
    - (2) Diversion channels, berms, and coffer dams must be lined or composed of a material that minimizes potential for soil loss in the entire wetted perimeter during anticipated flow conditions (e.g. vegetated swale, non-erosive soil substrate). The entire length of the diversion channel must be designed such that the maximum flow velocity for the type of material(s) exposed to the anticipated flows ensures the calculated maximum shear stress of flows in the channel is not expected to result in physical damage to the channel or liner nor result in discharge of pollutants. Additionally, the conditions relied on to minimize soil loss must be maintained for the projected life of the diversion (e.g. use of a vegetated swale must be limited to a period of time that ensures vegetative growth, minimizes erosion and maintains stable conditions).
    - (3) An alternative diversion criteria, approved by the division prior to implementation. The diversion method must be designed to minimize the discharge of pollutants and to prevent the potential for pollution or degradation to state waters as a result of the diverted flow through the diversion structure. In addition, the alternative diversion method must minimize the discharge of pollutants throughout the installation, implementation and removal of the diversion.
  - (j) Minimize dust. On areas of exposed soil, minimize dust through the appropriate application of water or other dust suppression techniques. Water application must be conducted in a manner to prevent discharge offsite unless authorized by a separate CDPS or NPDES permit.
  - (k) Control stormwater discharges, including both peak flowrates and total stormwater volume, to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points.
- ii. Practices for Other Common Pollutants
- (a) Bulk storage (individual containers of 55 gallons or greater) for petroleum products and other liquid chemicals must have secondary containment, or equivalent protection, in order to contain [spills](#) and to prevent spilled material from entering state waters.
  - (b) Spills and leaks must be minimized. Upon identification, spills and leaks must immediately be contained and mitigated per the spill prevention and response plan, as applicable (i.e. oil, grease, fluids associated with vehicle and equipment maintenance, toxic chemicals, hazardous substances, etc.).
  - (c) Control measures designed for concrete washout waste, masonry operations, stucco waste, vehicle/equipment washing, and external building washdown must be implemented. This includes washout waste discharged to the ground as authorized under this permit and washout waste from concrete trucks and masonry operations contained on site. The permittee must ensure washing activities do not contribute pollutants to stormwater runoff, or receiving waters in accordance [Part I.A.1.b.ii](#). Discharges that may reach groundwater must flow through soil that has buffering capacity prior to reaching groundwater, as necessary to meet the effluent limits in this permit, including [Part I.B.3.a](#). The concrete or masonry washout location (including vehicle/equipment and external building washdown water, if applicable) must not be located in an area where shallow groundwater may be present and would result in buffering capacity not being adequate, such as near natural drainages, springs, or wetlands. This permit authorizes discharges to the ground of

concrete washout waste, but does not authorize on-site waste disposal per [Part I.B.3.d.](#)

- (d) In the event that water remains onsite and contains pollutants either from firefighting activities or picked up from the site (i.e. in a gutter, sediment basin, etc.) after active emergency response is complete, the permittee must ensure the remaining water containing pollutants is properly removed and disposed of in order to minimize pollutants from discharging from the site, unless infeasible.
- (e) Minimize the exposure of fertilizers, pesticides, and herbicides to stormwater during storage. Store and apply fertilizers, pesticides, and herbicides per manufacturer's directions.
- (f) For washing applicators and containers used for paint, form release oils, curing compounds, or other similar construction materials, the wash water must be directed into a leak-proof container or leak-proof and lined pit designed so no discharges to groundwater occur or overflows occur due to inadequate sizing or precipitation. Liquid and hardened wastes must be appropriately disposed.

### iii. Stabilization Requirements

The following requirements must be implemented for each site.

- (a) Temporary stabilization must be implemented for earth disturbing activities on any portion of the site where ground disturbing construction activity has permanently ceased, or temporarily ceased for more than 14 calendar days. Temporary stabilization methods may include, but are not limited to, tarps, soil tackifier, and hydromulch. The permittee may exceed the 14-day schedule when either the function of the specific area of the site requires it to remain disturbed or physical characteristics of the terrain and climate prevent stabilization. The stormwater management plan must document the constraints necessitating the alternative schedule, provide the alternate stabilization schedule, and identify all locations where the alternative schedule is applicable on the site map. Minimum inspection frequency and scope, as directed in Part I.D., must be followed for temporarily stabilized areas.
- (b) Final stabilization must be implemented for all construction sites covered under this permit. Final stabilization is reached when the following are complete:
  - (1) All construction activities are complete.
  - (2) Permanent stabilization methods are complete. Permanent stabilization methods include, but are not limited to, permanent pavement or concrete, hardscape, xeriscape, stabilized driving surfaces and storage areas, vegetative cover, or equivalent permanent alternative stabilization methods. The division may approve alternative final stabilization criteria for specific operations. Vegetative cover must include the following criteria:
    - a. Evenly distributed perennial vegetation, which may include trees and shrubs;
    - b. Vegetation coverage, at a minimum, equal to 70 percent of what would have been provided by native vegetation in a local, undisturbed area or adequate reference site; and
    - c. If applicable, adherence to stabilization requirements does not negate the permittee's requirement to comply with the local jurisdiction's plant species requirements.
- (c) Final stabilization must be designed and installed as a permanent feature. All control measures must be removed from the construction site, except when the control measure specifications allow the control measure to be left in place (i.e. bio-degradable control measures, permanent sedimentation basin, etc). Final stabilization measures for obtaining a vegetative cover or alternative stabilization methods include, but are not limited to, the following as appropriate:
  - (1) Seed mix selection and application methods;
  - (2) Soil preparation and amendments;
  - (3) Soil stabilization methods to provide adequate protection to minimize erosion (e.g. crimped straw, hydro mulch or rolled erosion control products);
  - (4) Appropriate sediment control measures as needed until final stabilization is achieved;

- (5) Permanent pavement, hardscape, xeriscape, stabilized driving surfaces;
- (6) Conversion of construction site back to prior cropland use. The permittee is not required to plant the crop prior to termination; and
- (7) Other alternative stabilization practices as applicable.

b. Routine Maintenance

The permittee must ensure that all control measures remain in effective operating condition and are protected from activities that would reduce their effectiveness. Control measures must be routinely maintained in accordance with good engineering, hydrologic and pollution control practices. Observations leading to the required routine maintenance of control measures can be made during a site inspection, or during general observations of site conditions. The necessary repairs or modifications to a [control measure requiring routine maintenance](#), as defined in Part I.E., must be conducted to maintain an effective operating condition. Control measures requiring routine maintenance are not subject to the requirements in [Part I.B.1.c](#) below.

c. Corrective Actions

The permittee must assess the adequacy of control measures at the construction site, and the need for changes to those control measures, to ensure continued effective performance.

When an [inadequate control measure](#), as defined in Part I.E., is identified, the following corrective action requirements apply. The permittee is not in compliance with the permit until the inadequate control measure is replaced or corrected and returned to effective operating condition in compliance with [Part I.B.1](#) and the general requirements in [Part I.B.3](#). If the inadequate control measure results in noncompliance that meets the conditions of [Part II.L](#), the permittee must also meet the requirements of that section.

- i. The permittee must take all necessary steps to minimize or prevent the discharge of pollutants from the permitted area and manage any stormwater run-on onto the site until a control measure is implemented and made operational and/or an inadequate control measure is replaced or corrected and returned to effective operating condition. If it is infeasible to install or repair the control measure immediately after discovering the deficiency, the following must be documented in the stormwater management plan in [Part I.D.5.c](#) and kept on record in accordance with the recordkeeping requirements in Part II.
  - (a) Describe why it is infeasible to initiate the installation or repair immediately; and
  - (b) Provide a schedule for installing or repairing the control measure and returning it to an effective operating condition as soon as possible.
- ii. If applicable, the permittee must remove and properly dispose of any unauthorized release or discharge within and from the permitted area (e.g., discharge of non-stormwater, untreated stormwater containing pollutants such as sediment, spill, or leak not authorized by this permit.) The permittee must clean up any contaminated surfaces, if feasible, to minimize discharges of the material in subsequent storm events, including water remaining from the response that contains pollutants after active emergency firefighting response is complete. Permittees are prohibited from hosing down an area to clean surface spills or leaks unless the wash water is adequately captured to not discharge off the site or to land and the captured water is properly disposed. In addition, the permittee must mitigate any accumulation of sediment outside of the site boundaries.

2. Discharges to an Impaired Waterbody or Outstanding Water

a. [Total Maximum Daily Load](#) (TMDL)

If the discharge from the site of permit coverage flows to or could reasonably be expected to flow to any water body for which a TMDL has been approved, and stormwater discharges associated with construction activity were assigned a pollutant-specific Wasteload Allocation (WLA) under the TMDL, the division may:

- i. Ensure the WLA is implemented properly through alternative local requirements, such as by a municipal stormwater permit; or

- ii. Notify the permittee of the WLA and amend the permittee's certification to add specific effluent limits, other requirements, and compliance schedules, as necessary and appropriate. The permittee may be required to do the following:
  - (a) Under the permittee's stormwater management plan, implement specific control measures based on requirements of the WLA, and evaluate whether the requirements are met through implementation of existing stormwater control measures or if additional control measures are necessary. Document the calculations or other evidence demonstrating that the requirements are expected to be met; and
  - (b) If the evaluation shows that additional or modified control measures are necessary, describe the type and schedule for the control measure additions or modifications.
- iii. Discharge monitoring may also be required. The permittee may maintain coverage under the general permit provided they comply with the applicable requirements outlined above.
- b. Outstanding Waters
  - i. Discharges to outstanding waters must be short-term and have a long-term ecological or water quality benefit or clear public interest. A state outstanding waters map can be found [here](#).
  - ii. Sites that discharge to outstanding waters are required to have an increased inspection frequency found in [Part I.D.3](#).
- c. The division may require individual or alternate general permit coverage per [Part I.A.3.d.i](#).

### 3. General Requirements

- a. Discharges authorized by this permit must not cause, have the reasonable potential to cause, or measurably contribute to an exceedance of any applicable water quality standard, including narrative standards for water quality.
- b. The division may require sampling and testing, on a case-by-case basis, in the event that there is reason to suspect that the stormwater management plan is not adequately minimizing pollutants in stormwater or in order to measure the effectiveness of the control measures in removing pollutants in the effluent. Such monitoring may include Whole Effluent Toxicity testing.
- c. The permittee must comply with the lawful requirements of federal agencies, municipalities, counties, drainage districts and other local agencies including applicable requirements in Municipal Stormwater Management Programs developed to comply with CDPS permits. The permittee must comply with local stormwater management requirements, policies and guidelines including those for erosion and sediment control.
- d. The division may include additional requirements as specified in the applicable watershed protection Control Regulations 71-74.
- e. All construction site wastes must be properly managed to prevent potential pollution of state waters. This permit does not authorize on-site waste disposal.
- f. This permit does not relieve the permittee of the reporting requirements in 40 CFR 110, 40 CFR 117 or 40 CFR 302. Any discharge of hazardous material must be handled in accordance with the division's Noncompliance Notification Requirements (see [Part II.L](#) of the permit).

## C. STORMWATER MANAGEMENT PLAN REQUIREMENTS

### 1. Stormwater Management Plan General Requirements

- a. The permittee must develop, implement, and maintain a stormwater management plan for each construction site listed under [Part I.A.3.a](#), including, but not limited to, construction activity that will disturb one acre or more and/or are part of a common plan of development or sale covered by this permit.
  - i. The plan must be prepared in accordance with good engineering, hydrologic and pollution control practices.

- ii. For [public emergency related sites](#), the plan must be created no later than 14 days after the commencement of construction activities.
- b. The permittee must implement the provisions of the plan as written and updated, from commencement of construction activity until final stabilization is complete. The division may review the plan.
- c. A copy of the plan must be retained onsite or be onsite when construction activities are occurring at the site unless the permittee specifies another location and obtains written approval from the division. The plan and inspection reports may be prepared, signed, and kept electronically, rather than in paper form, if the records are:
  - i. In a format that can be read in a similar manner as a paper record; and
  - ii. Immediately accessible to the inspector during an inspection to the same extent as a paper copy stored at the site would be.

## 2. Stormwater Management Plan Content

The stormwater management plan, at a minimum, must include the following elements.

- a. Qualified Stormwater Manager. The plan must list individual(s) by title and name who are designated as responsible for implementing the stormwater management plan in its entirety and meet the definition of a [Qualified Stormwater Manager](#). This role may be filled by more than one individual.
- b. Other Permits. The plan must list the applicable CDPS permits and low-risk discharge guidance documents associated with the permitted site (including the COR400000 general permit and the certification associated with the site) and the activities occurring on the permitted site (e.g. a CDPS Dewatering Permit). The plan must also list applicable US Army Corps of Engineers Section 404 permits. A copy of this general permit, applicable permit certification, and any applicable low-risk discharge guidance documents must be included in the stormwater management plan for each construction site.
- c. Site Description. The plan must include a site description which includes, at a minimum, the following:
  - i. The nature of the construction activity at the site, including if it is a public emergency related site;
  - ii. The proposed schedule for the sequence for major construction activities and the planned implementation of control measures for each phase. (e.g. clearing, grading, utilities, vertical, etc.);
  - iii. Estimates of the total acreage of the site, and the acreage expected to be disturbed by clearing, excavation, grading, or any other construction activities;
  - iv. A summary of any existing data and sources used in the development of the construction site plans or stormwater management plan that describe the soil types found in the permitted area and the erodibility of the identified soil types;
  - v. A description of the percent cover from native vegetation on the site if the site is undisturbed, or the percent cover from native vegetation in a similar, local undisturbed area or adequate reference area if the site is disturbed. Include the source or methodology for determining the percentage. If a percent cover is not appropriate for the site location (i.e. arid), describe the technique and justification for the identified cover of native vegetation;
  - vi. A description of any allowable non-stormwater discharges at the site, including those being discharged under a separate CDPS permit, discharges under [Part I.A.1.b](#), or a division low risk discharge guidance, and applicable control measures installed;
  - vii. A description of the general flow direction and where or how the discharge leaves the site, including a description of the immediate conveyance or area receiving the discharge and the receiving water(s) of the discharge, if different than the immediate conveyance or area. If the stormwater discharge is to a [municipal separate storm sewer system](#), include the name of the entity owning that system, the location(s) of the stormwater discharge, and the receiving water(s);
  - viii. A description of all stream crossings located within the construction site boundary, if applicable;
  - ix. A description of the alternate temporary stabilization schedule, if applicable ([Part I.B.1.a.iii\(a\)](#)); and

- x. A description of the alternative diversion criteria as approved by the division, if applicable ([Part I.B.1.a.i\(i\)\(3\)](#)).
  - xi. A description of any effluent limitations that the permittees determines are infeasible and why they are infeasible, if applicable ([Part I.B.1.a.i.\(d, e, and g\)](#) and [I.B.1.a.ii.\(d\)](#)).
- d. Site Map. The plan must include a site map which includes, at a minimum, the following:
- i. Construction site boundaries;
  - ii. Flow arrows that depict stormwater flow directions on and off-site;
  - iii. All areas of ground disturbance including areas of borrow and fill;
  - iv. Areas used for storage of soil;
  - v. Locations of all waste accumulation areas, including areas for liquid, concrete, masonry, and asphalt;
  - vi. Locations of dedicated asphalt, concrete batch plants and masonry mixing stations;
  - vii. Locations of other potential sources of pollution not listed in iii. through vi.
  - viii. Locations of all structural control measures;
  - ix. Locations of all non-structural control measures (e.g. temporary stabilization);
  - x. Locations and names, as listed in [Part I.C.2.c.vii](#), of springs, streams, wetlands, diversions and other state waters within or bordering the site, including areas that require pre-existing vegetation be maintained within 50 feet of a receiving water, where determined feasible in accordance with [Part I.B.1.a.i\(e\)](#) (e.g. MS4 to unnamed tributary to the South Platte River);
  - xi. Locations of all stream crossings located within the construction site boundary;
  - xii. Locations where alternative temporary stabilization schedules apply; and
- e. Potential Sources of Pollution. The plan must list all potential sources of pollution which may reasonably be expected to affect the quality of stormwater discharges associated with construction activity from the site.
- i. The plan must include the following pollutant sources as these pollutants relate to every construction site:
    - (a) Disturbed and stored soils;
    - (b) Vehicle tracking of sediments;
    - (c) On-site waste management practices (waste piles, liquid wastes, dumpsters);
  - ii. The plan may include, but is not limited to, the following pollutant sources:
    - (a) Management of contaminated soils (contaminated soils may also occur from onsite spills or leaks), if known to be present, or if contaminated soils are found during construction;
    - (b) Loading and unloading operations;
    - (c) Outdoor storage activities (erodible building materials, fertilizers, chemicals, etc.);
    - (d) Vehicle and equipment maintenance and fueling;
    - (e) Significant dust or particulate generating processes (e.g., saw cutting material, including dust);
    - (f) Routine maintenance activities involving fertilizers, pesticides, herbicides, detergents, fuels, solvents, oils, etc.;
    - (g) Concrete/masonry truck/equipment washing, including washing of the concrete truck chute and associated fixtures and equipment;
    - (h) Dedicated asphalt, concrete batch plants and masonry mixing stations;
    - (i) Non-industrial waste sources such as worker trash and portable toilets; and



(j) Reclaimed water approved for use in construction dust suppression.

- f. Materials Handling. The plan must describe handling procedures of all control measures implemented at the site to minimize impacts from handling **significant materials** that could contribute pollutants to runoff. These handling procedures can include control measures for pollutants and activities such as, exposed storage of building materials, paints and solvents, landscape materials, fertilizers or chemicals, sanitary waste material, trash and equipment maintenance or fueling procedures.
- g. Spill Prevention and Response Plan. The plan must have a spill prevention and response plan. The plan may incorporate by reference any part of a Spill Prevention Control and Countermeasure (SPCC) plan under section 311 of the Clean Water Act (CWA) or a Spill Prevention Plan required by a separate CDPS permit. The relevant sections of any referenced plans must be available as part of the stormwater management plan consistent with [Part I.C.4](#).
- h. Implementation of Control Measures. The plan must include design specifications that contain information on the implementation of all the control measures in use on the site in accordance with good engineering, hydrologic and pollution control practices; including, as applicable, drawings, dimensions, installation information, materials, implementation processes, control measure-specific inspection expectations, and maintenance requirements.
- i. The plan must include a documented use agreement between the permittee and the owner or operator of any control measures located outside of the permitted area that are utilized by the permittee's construction site for compliance with this permit, but not under the direct control of the permittee. The permittee is responsible for ensuring that all control measures located outside of their permitted area, that are being utilized by the permittee's construction site, are properly maintained and in compliance with all terms and conditions of the permit. The plan must include all information required of and relevant to any such control measures located outside the permitted area, including location, installation specifications, design specifications and maintenance requirements.
- j. Temporary Stabilization, Final Stabilization and Long Term Stormwater Management.
  - i. The plan must document the constraints necessitating an alternative temporary stabilization schedule, as referenced in [Part I.B.1.a.iii\(a\)](#), provide the alternate stabilization schedule, and identify all locations where the alternative schedule is applicable on the site map.
  - ii. The plan must document all residential lots that utilize the Sale of Residence to Homeowner, as referenced in [Part I.A.3.i](#), the lots that received temporary stabilization and meet all the requirements under Part I.A.3.i, and identify all the lot locations where Part I.A.3.i is applicable on the site map.
  - iii. The plan must describe or locate where all final stabilization methods are used and what methods are used to achieve final stabilization of all disturbed areas at the site (e.g. pavement, vegetative cover, etc), as listed in [Part I.B.1.a.iii\(b\)](#).
  - iv. The plan must describe how the permittee will establish final stabilization through vegetative cover or alternative stabilization method, as referenced in [Part I.B.1.a.iii\(c\)](#), and describe and locate any temporary control measures in place during the process of final stabilization (e.g. seed mix, soil amendments, final stabilization methods, return to cropland, etc.).
  - v. The plan must describe and locate any planned permanent control measures to control pollutants in stormwater discharges that will occur after construction operations are completed, including but not limited to, detention/retention ponds, rain gardens, stormwater vaults, etc.
- k. Inspection Reports. The plan must include documented inspection reports in accordance with [Part I.D.5.c](#).

### 3. Stormwater Management Plan Review and Revisions

Permittees must keep the stormwater management plan current and maintain a record of changes made that includes the date and identification of the changes. The plan must be amended when the following occurs:

- a. A change in design, construction, operation, or maintenance of the site requiring implementation of new or revised control measures;
- b. The plan proves ineffective in controlling pollutants in stormwater runoff in compliance with the permit conditions;
- c. Control measures identified in the plan are no longer necessary and are removed;
- d. Corrective actions are taken onsite that result in a change to the plan; and
- e. The site or areas of the site qualifying for reduced frequency inspections under [Part I.D.4](#).

For stormwater management plan revisions made prior to or following a change(s) onsite, including revisions to sections addressing site conditions and control measures, a notation must be included in the plan that identifies the date of the site change, the control measure removed, or modified, the location(s) of those control measures, and any changes to the control measure(s). The methods for notation may include notations on site maps, a log of changes, redline changes in the, or other measures. The permittee must ensure the site changes are reflected in the plan. The permittee is noncompliant with the permit until the plan revisions have been made.

#### 4. Stormwater Management Plan Availability

A copy of the stormwater management plan must be provided upon request to the division, EPA, and any local agency with authority for approving sediment and erosion plans, grading plans or stormwater management plans within the time frame specified in the request. If the plan is required to be submitted to any of these entities, the submission must include a signed certification in accordance with [Part I.A.3.e](#), certifying that the plan is complete and compliant with all terms and conditions of the permit.

All stormwater management plans required under this permit are considered reports that must be available to the public under Section 308(b) of the CWA and Section 61.5(4) of the CDPS regulations. The permittee must make plans available to members of the public upon request. However, the permittee may claim any portion of a stormwater management plan as confidential in accordance with 40 CFR Part 2.

### D. SITE INSPECTIONS

Site inspections must be conducted in accordance with the following requirements. The required inspection schedules are a minimum frequency and do not affect the permittee's responsibility to implement control measures in effective operating condition as prescribed in the stormwater management plan, [Part I.C.2.a.vi](#), as proper maintenance of control measures may require more frequent inspections. Site inspections must start within 7 calendar days of the commencement of construction activities on site.

#### 1. Person Responsible for Conducting Inspections

The person(s) inspecting the site may be on the permittee's staff or a third party hired to conduct stormwater inspections under the direction of the permittee(s). The permittee is responsible for ensuring that the inspector meets the definition of a Qualified Stormwater Manager. The inspector may be different than the individual(s) listed in [Part I.C.2.a](#).

#### 2. Inspection Frequency

Permittees must conduct site inspections in accordance with one of the following minimum frequencies, unless the site meets the requirements of [Part I.D.3](#). All inspections must be recorded per [Part I.D.5.c](#).

- a. At least one inspection every 7 calendar days; or
- b. At least one inspection every 14 calendar days, if post-storm event inspections are conducted within 24 hours after the end of any precipitation or snowmelt event that causes surface erosion. Post-storm inspections may be used to fulfill the 14-day routine inspection requirement.
- c. When site conditions make the schedule required in this section impractical, the permittee may petition the division to grant an alternate inspection schedule. The alternative inspection schedule must not be implemented prior to written approval by the division and incorporation into the stormwater management plan.



### 3. Inspection Frequency for Discharges to Outstanding Waters

Permittees must conduct site inspections at least once every 7 calendar days for sites that discharge to a water body designated as an Outstanding Water by the Water Quality Control Commission. In order to determine if the immediate receiving water is to an Outstanding Water, the permittee can use this [map of Outstanding Waters](#).

### 4. Reduced Inspection Frequency

The permittee may perform site inspections at the following reduced frequencies when one of the following conditions exists:

#### a. Post-Storm Inspections at Temporarily Idle Sites

For permittees choosing an inspection frequency pursuant to [Part I.D.2.b](#) and if no construction activities will occur following a storm event, post-storm event inspections must be conducted prior to re-commencing construction activities, and no later than 72 hours after the end of any precipitation or snowmelt event that causes surface erosion. If the post-storm event inspection qualifies under this section, the inspection delay must be documented in the inspection record per [Part I.D.5.c](#). Routine inspections must still be conducted at least every 14 calendar days.

#### b. Inspections at Sites Awaiting Final Stabilization

When the site, or portions of a site, are awaiting establishment of a vegetative ground cover and final stabilization, the permittee must conduct a thorough inspection of the construction site and control measures at least once every 30 days. Post-storm event inspections are not required under this schedule. This reduced inspection schedule is allowed if all of the following criteria are met:

- i. All construction activities resulting in ground disturbance are complete;
- ii. All activities required for final stabilization, in accordance with [Part I.B.1.a.iii\(b\) & \(c\)](#) and with the stormwater management plan, have been completed, with the exception of the application of sod or seed that has not occurred due to seasonal conditions or the necessity for additional seed application to augment previous efforts; and
- iii. The stormwater management plan has been amended to locate those areas to be inspected in accordance with the reduced schedule allowed for in this paragraph.

#### c. Winter Conditions Inspections Exclusion

Typically, this exclusion applies to elevations or locations where snow melt does not occur in the winter months. Inspections are not required for sites that meet all of the following conditions:

- i. Construction activities are temporarily halted for the winter season (e.g. December - February due to site being inaccessible);
- ii. Snow cover exists over the entire site for an extended period (i.e. high-elevation winter season); and
- iii. Melting conditions posing a risk of surface erosion do not exist.

This inspection exception is applicable only during the period where melting conditions do not exist, and applies to the routine 7-day, 14-day and monthly inspections, as well as the post-storm-event inspections. When this inspection exclusion is implemented, the following information must be documented in accordance with the requirements in [Part I.C.3](#) and [Part I.D.5.c](#):

- (a) Dates when snow cover existed;
- (b) Date when construction activities ceased; and
- (c) Date melting conditions began.

### 5. Inspection Scope

#### a. Areas to Be Inspected

When conducting a site inspection the following areas, if applicable, must be inspected for evidence of, or

the potential for, pollutants leaving the construction site boundaries, entering the stormwater drainage system, or discharging to state waters:

- i. Construction site perimeter;
- ii. All disturbed areas, including areas that are temporarily stabilized;
- iii. Locations of installed control measures;
- iv. Designated haul routes;
- v. Material and waste storage areas exposed to precipitation;
- vi. Locations of pumped stormwater;
- vii. Locations where stormwater has the potential to discharge offsite, including visible erosion and sedimentation; and
- viii. Locations where vehicles exit the site.

b. Inspection Requirements

Inspections must assess the following components:

- i. Visually verify whether all implemented control measures are in effective operational condition and are working as designed in their specifications to minimize pollutant discharges.
  - (a) For pumped stormwater, assessment may include sediment plume, suspended solids, unusual color, decreased clarity, presence of odor or foam, etc.
- ii. Determine if there are new potential sources of pollutants.
- iii. Assess the adequacy of control measures at the site to identify areas requiring new or modified control measures to minimize pollutant discharges.
- iv. Identify all areas of non-compliance with the permit requirements and, if necessary, implement corrective action(s) in accordance with [Part I.B.1.c.](#)

c. Inspection Reports

The permittee must keep a record of all inspections conducted for each permitted site. Inspection reports must identify any incidents of noncompliance with the terms and conditions of this permit. All inspection reports must be signed and dated in accordance with [Part I.D.5.c.xiii and xiv](#) below. Inspection records must be retained in accordance with [Part II.J.](#) At a minimum, the inspection report must include:

- i. The inspection date;
- ii. Name(s) and title(s) of personnel conducting the inspection;
- iii. Weather conditions at the time of inspection;
- iv. Phase of construction at the time of inspection;
- v. Estimated acreage of disturbance at the time of inspection;
- vi. Location(s) and identification of control measures requiring routine maintenance;
- vii. Location(s) and identification of discharges of sediment or other pollutants from the site;
- viii. Location(s) and identification of inadequate control measures;
- ix. Location(s) and identification of additional control measures needed that were not in place at the time of inspection;
- x. Description of corrective action(s) for items vii, viii, ix, above, dates corrective action(s) were completed, including requisite changes to the stormwater management plan, as necessary;
- xi. Description of the minimum inspection frequency (either in accordance with [Part I.D.2](#), [Part I.D.3](#) or [Part I.D.4.](#)) utilized when conducting each inspection;

- xii. Deviations from the minimum inspection schedule as required in [Part I.D.2](#). This would include documentation of division approval for an alternate inspection schedule outlined in [Part I.D.2.c](#);
- xiii. After adequate corrective action(s) have been taken, or where a report does not identify any incidents requiring corrective action, the report must contain the following statement and provide the date of the statement:
 

“I verify that, to the best of my knowledge and belief, that if any corrective action items were identified during the inspection, those corrective actions are complete, and the site is currently in compliance with the permit.”; and
- xiv. Inspection reports must be signed by the individual(s) designated as a [Qualified Stormwater Manager](#), as defined in Part I.E.

## E. DEFINITIONS

For the purposes of this permit:

- (1) Bypass the intentional diversion of waste streams from any portion of a treatment facility in accordance with 40 CFR 122.41(m)(1)(i) and Regulation 61.2(12).
- (2) Common Plan of Development or Sale - A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules, but remain related. The division has determined that “contiguous” means construction activities located in close proximity to each other (within ¼ mile). Construction activities are considered to be “related” if they share the same development plan, builder or contractor, equipment, storage areas, etc. “Common plan of development or sale” includes construction activities that are associated with the construction of field wide oil and gas permits for facilities that are related.
- (3) Construction Activity - Ground surface disturbing and associated activities (land disturbance), 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. Construction does not include routine maintenance to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. Activities to conduct repairs that are not part of routine maintenance or for replacement are construction activities and are not routine maintenance. Repaving activities where underlying and/or surrounding soil is exposed as part of the repaving operation are considered construction activities. Construction activity is from initial ground breaking to final stabilization regardless of ownership of the construction activities.
- (4) Construction Site - The location where construction activity is occurring and associated discharges are covered by this permit, including offsite locations for storage, staging, etc. For use in this permit, the terms construction site, site, and facility are used interchangeably.
- (5) Control Measure - Any best management practice or other method used to prevent or reduce the discharge of pollutants to state waters. Control measures include, but are not limited to, best management practices. Control measures can include other methods such as the installation, operation, and maintenance of structural controls and treatment devices.
- (6) Control Measure Requiring Routine Maintenance - Any control measure that is still operating in accordance with its design and the requirements of this permit, but requires preventative maintenance to prevent a breach of the control measure in subsequent storms.
- (7) Dedicated Asphalt, Concrete Batch Plants and Masonry Mixing Stations - Are batch plants or mixing stations located on, or within ¼ mile of, a construction site and that provide materials only to that specific construction site.
- (8) Disturbed area - Any ground disturbance prior to final stabilization.
- (9) Diversion - Discharges of state waters that are temporarily routed through channels or structures (e.g. in-stream, uncontaminated springs, non-pumped groundwater, temporary rerouting of surface waters, fords). For purposes of this permit, these diversions can also be referred to as clean water diversions.

- (10) Final Stabilization - The condition reached when construction activities at the site have been completed, permanent stabilization methods are complete, and temporary control measures are removed. Areas being stabilized with a vegetative cover must have evenly distributed perennial vegetation. The vegetation coverage must be, at a minimum, equal to 70 percent of what would have been provided by native vegetation in a local, undisturbed area or adequate reference site.
- (11) Good Engineering, Hydrologic and Pollution Control Practices: are 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.
  - d. Provide appropriate solutions to meet the associated permit requirements, including practice based effluent limits.
- (12) Inadequate Control Measure - Any control measure that is not designed or implemented in accordance with the requirements of the permit and/or any control measure that is not implemented to operate in accordance with its design.
- (13) Infeasible - Not technologically possible, or not economically practicable and achievable in light of best industry practices.
- (14) Minimize - Reduce or eliminate to the extent achievable using control measures that are technologically available and economically practicable and achievable in light of best industry practice.
- (15) Municipality - A city, town, county, district, association, or other public body created by, or under, State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or a designated and approved management agency under section 208 of CWA (1987).
- (16) Municipal Separate Storm Sewer System (MS4) - A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):
  - a. Owned or operated by a State, city, town, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the CWA that discharges to state waters;
  - b. Designed or used for collecting or conveying stormwater;
  - c. Are not a combined sewer; and
  - d. Are not part of a Publicly Owned Treatment Works (POTW). See 5 CCR 1002-61.2(62).
- (17) Municipal Stormwater Management Program - A stormwater program operated by a municipality, typically to meet the requirements of the municipality's MS4 discharge certification.
- (18) Native Vegetation - Plant species that are naturally occurring for the particular area (or region) and have adapted to and are well suited for the soil, temperature, nutrients, and precipitation of the particular area (region).
- (19) Operator - The party that has operational control over day-to-day activities at a project site which are necessary to ensure compliance with the permit. This party is authorized to direct individuals at a site to carry out activities required by the permit (i.e. the general contractor).
- (20) Outstanding Waters - Waters designated as outstanding waters pursuant to Regulation 31, Section 31.8(2)(a). The highest level of water quality protection applies to certain waters that constitute an outstanding state or national resource.
- (21) Owner - The party that has overall control of the activities and that has funded the implementation of the construction plans and specifications. This is the party that may have ownership of, a long term lease of, or easements on the property on which the construction activity is occurring (e.g. the developer).

- (22) Permittee(s) - The owner and operator named in the discharge certification issued under this general permit for the construction site specified in the certification.
- (23) Point Source - Any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. Point source does not include irrigation return flow. See 5 CCR 102-61.2(75).
- (24) Pollutant - Dredged spoil, dirt, slurry, solid waste, incinerator residue, sewage, sewage sludge, garbage, trash, chemical waste, biological nutrient, biological material, radioactive material, heat, wrecked or discarded equipment, rock, sand, or any industrial, municipal or agricultural waste. See 5 CCR 1002-61.2(76).
- (25) Presentation of credentials - A government issued form of identification, if in person; or (ii) providing name, position and purpose of inspection if request to enter is made via telephone, email or other form of electronic communication. A permittee's non-response to a request to enter upon presentation of credentials constitutes a denial to such request, and may result in violation of the permit.
- (26) Process Water - Any water which, during manufacturing or processing, comes into contact with or results from the production of any raw material, intermediate product, finished product, by product or waste product.
- (27) Public Emergency Related Site - A project initiated in response to an unanticipated emergency (e.g., mud slides, earthquake, extreme flooding conditions, disruption in essential public services), for which the related work requires immediate authorization to avoid imminent endangerment to human health or the environment, or to reestablish essential public services.
- (28) Qualified Stormwater Manager - An individual knowledgeable in the principles and practices of erosion and sediment control and pollution prevention, and with the skills to assess conditions at construction sites that could impact stormwater quality and to assess the effectiveness of stormwater control measures implemented to meet the requirements of this permit.
- (29) Qualifying Local Program - A municipal program for stormwater discharges associated with small construction activity that was formally approved by the division as a qualifying local program (Regulation 61.8(12)).
- (30) Receiving Water - Any surface state water into which stormwater associated with construction activities discharges. Examples include all water courses, even if they are usually dry, such as borrow ditches, arroyos, and other unnamed waterways.
- (31) Severe Property Damage - 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).
- (32) Significant Materials - Include, but not limited to, raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of CERCLA; any chemical the permittee is required to report under section 313 of Title III of the Superfund Amendments and Reauthorization Act (SARA); fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharges.
- (33) Small Construction Activity - The discharge of stormwater from construction activities that result in land disturbance of equal to, or greater than, one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale, if the larger common plan ultimately disturbs equal to, or greater than, one acre and less than five acres.
- (34) Spill - An unintentional release of solid or liquid material which may pollute state waters.
- (35) State Waters - Any and all surface and 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.

- (36) Steep Slopes - Where a local government, or industry technical manual (e.g. stormwater BMP manual) has defined what is to be considered a “steep slope”, this permit’s definition automatically adopts that definition. Where no such definition exists, steep slopes are automatically defined as those that are 3:1 or greater.
- (37) Stormwater - Precipitation runoff, snow melt runoff, and surface runoff and drainage. See 5 CCR 1002-61.2(103).
- (38) Total Maximum Daily Loads (TMDLs) - The sum of the individual wasteload allocations (WLA) for point sources and load allocations (LA) for nonpoint sources and natural background. For the purposes of this permit, a TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the pollutant’s sources. A TMDL includes WLAs, LAs, and must include a margin of safety (MOS), and account for seasonal variations. See section 303(d) of the CWA and 40 C.F.R. 130.2 and 130.7.
- (39) Upset - An exceptional incident in which there is unintentional and temporary noncompliance with permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation in accordance with 40 CFR 122.41(n) and Regulation 61.2(114).

#### **F. MONITORING**

The division may require sampling and testing, on a case-by-case basis. If the division requires sampling and testing, the division will send a notification to the permittee. Sampling and reporting procedures for any monitoring data collected will be included in the notification.

If monitoring is required, the following applies:

The thirty (30) day average must be determined by the arithmetic mean of all samples collected during a thirty (30) consecutive-day period; and

A grab sample, for monitoring requirements, is a single “dip and take” sample.

#### **G. OIL AND GAS CONSTRUCTION**

Stormwater discharges associated with construction activities directly related to oil and gas exploration, production, processing, and treatment operations or transmission facilities are regulated under the Colorado Discharge Permit System Regulations (5 CCR 1002-61), and require coverage under this permit in accordance with that regulation. However, references in this permit to specific authority under the CWA do not apply to stormwater discharges associated with these oil and gas related construction activities, to the extent that the references are limited by the federal Energy Policy Act of 2005.

## 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.

### 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 2 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 180 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): 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.

1. 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.
2. 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 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.
7. Documentation required by this permit, including records of all data used to complete the application for permit coverage to be covered by this permit, stormwater management plans, inspection reports, etc., must be retained for at least three years from the date that permit coverage expires or is terminated. This period may be extended by request of EPA or the division at any time.

#### 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. The responsible official may be a project manager if the project manager has level of control at a corporation as required in this subpart a.

- 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), and at the city, municipal, state or other government entity it typically will include a program director (e.g. Director of Public Works, Director of Transportation, Director of Parks and Recreation, etc.). 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. 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, ten (10) calendar days in advance of a proposed transfer of the permit. The notice must include a written agreement between the existing and new permittee(s) containing a specific date for transfer of permit responsibility, coverage and liability between them. 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 or before 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 on the Division's submission form within twenty-four (24) hours from the time the permittee becomes aware of the circumstances, and shall submit 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;
    - iii. Circumstances leading to any upset which causes an exceedance of any effluent limitation in the permit; or
    - iv. Daily maximum violations for any of the pollutants limited by Part I.A of this permit as specified in Part III of this permit. This includes any toxic pollutant or hazardous substance or any pollutant specifically identified as the method to control any toxic pollutant or hazardous substance.
  - 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 Division.
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(113).
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(113). 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.*

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.

#### **Q. 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 application information submitted using the CEOS portal or twenty-four hour reporting via the submission form, 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

## **5. 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.