



Certification Page Regular and Emergency Rules

Revised May 2014

Emergency Rules *(After completing all of Sections 1 and 2, proceed to Section 5 below)*

Regular Rules

1. General Information

a. Agency/Board Name Department of Environmental Quality		
b. Agency/Board Address 122 W 25th St	c. City Cheyenne	d. Zip Code 82002
e. Name of Contact Person Bill DiRienzo	f. Contact Telephone Number 307-777-7081	
g. Contact Email Address bill.dirienzo@wyo.gov	h. Adoption Date January 14, 2015	
i. Program Water Quality		

2. Rule Type and Information: For each chapter listed, indicate if the rule is New, Amended, or Repealed.

If "New," provide the Enrolled Act numbers and years enacted:

c. Provide the Chapter Number, Short Title, and Rule Type of Each Chapter being Created/Amended/Repealed
(Please use the Additional Rule Information form for more than 10 chapters, and attach it to this certification)

Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
2	PERMIT REGULATIONS FOR DISCHARGES TO WYOMING SURFACE WATERS	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
6	SALINITY STANDARDS, CRITERIA FOR THE COLORADO RIVER BASIN	<input type="checkbox"/> New <input type="checkbox"/> Amended <input checked="" type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
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		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed

d. The Statement of Reasons is attached to this certification.

e. If applicable, describe the emergency which requires promulgation of these rules without providing notice or an opportunity for a public hearing:

3. State Government Notice of Intended Rulemaking

a. Date on which the Notice of Intent containing all of the information required by W.S. 16-3-103(a) was filed with the Secretary of State:	November 13, 2014
b. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the Legislative Service Office:	November 13, 2014
c. Date on which the Notice of Intent and proposed rules in strike and underscore format and a clean copy were provided to the Attorney General:	November 13, 2014

4. Public Notice of Intended Rulemaking

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
b. A public hearing was held on the proposed rules. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

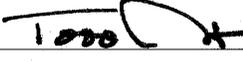
If "Yes:"	Date: January 14, 2015	Time: 1:30 pm	City: Cheyenne, Wyoming	Location: Wyoming State Library
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5. Final Filing of Rules

a. Date on which the Certification Page with original signatures and final rules were sent to the Attorney General's Office for the Governor's signature:	January 15, 2015
b. Date on which final rules were sent to the Legislative Service Office:	January 15, 2015
c. Date on which a PDF of the final rules was electronically sent to the Secretary of State:	January 15, 2015

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual (Blue ink as per Rules on Rules, Section 7)	
Printed Name of Signatory	Todd Parfitt
Signatory Title	Director
Date of Signature	January 15, 2015

7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature	
Date of Signature	

Attorney General: 1. Statement of Reasons; 2. Original Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; and 5. Memo to Governor documenting emergency (for emergency rules only).

LSO: 1. Statement of Reasons; 2. Copy of Certification Page; 3. Summary of Comments (regular rules); 4. Hard copy of rules: clean and strike/underscore; 5. Electronic copy of rules (PDFs) emailed to Criss.Carlson@wyoleg.gov: clean and strike/underscore; and 6. Memo to Governor documenting emergency (for emergency rules only).

SOS: 1. PDF of clean copy of rules; and 2. Hard copy of Certification Page as delivered by the AG.

**BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING**

IN THE MATTER OF REVISIONS TO)	
WATER QUALITY RULES AND)	STATEMENT OF
REGULATIONS: CHAPTER 2, PERMIT)	PRINCIPAL REASONS
REGULATIONS FOR DISCHARGES)	FOR ADOPTION
TO WYOMING SURFACE WATERS;)	
AND CHAPTER 6, SALINITY)	
STANDARDS, CRITERIA FOR THE)	
COLORADO RIVER BASIN)	

INTRODUCTION

The Environmental Quality Council, pursuant to the authority vested in it by Wyoming Statute 35-11-112 (a)(i), has adopted revisions to the following chapters and sections of the Wyoming Water Quality Rules and Regulations: Chapter 2, Permit Regulations for Discharges to Wyoming Surface Waters; and Chapter 6, Salinity Standards, Criteria for the Colorado River Basin. Chapter 2 contains procedures for applying for, drafting, issuing and complying with Wyoming Pollutant Discharge Elimination System (WYPDES) permits. Chapter 6 contains provisions for the control of salinity in permitted point source discharges in the Colorado River System. This proposal constitutes a ministerial revision of Chapter 2 and Chapter 6 by incorporating the relevant contents of Chapter 6 into Chapter 2.

Section 35-11-302 (a) of the Environmental Quality Act (Act) states that the administrator, after receiving public comment and after consultation with the advisory board, shall recommend to the director rules, regulations, standards and permit systems to promote the purposes of the Act. Such rules, regulations, standards and permit systems shall prescribe:

- (ii) Effluent standards and limitations specifying the maximum amounts or concentrations of pollution and wastes which may be discharged into the waters of the state; ...

- (vi) In recommending any standards, rules, regulations, or permits, the administrator and advisory board shall consider all the facts and circumstances bearing upon the reasonableness of the pollution involved including:
 - (A) The character and degree of injury to or interference with the health and well being of the people, animals, wildlife, aquatic life and plant life affected;
 - (B) The social and economic value of the source of pollution;
 - (C) The priority of location in the area involved;
 - (D) The technical practicability and economic reasonableness of reducing or eliminating the source of pollution; and
 - (E) The effect upon the environment.

Chapter 2 - Discharges, Permit Regulations for Wyoming

The Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act of 1977 and the Water Quality Act of 1987 (collectively, the CWA), gives the Environmental Protection Agency (EPA) the authority to regulate the discharge of pollutants to waters of the United States. The CWA establishes the National Pollutant Discharge Elimination System (NPDES) Permit Program and grants EPA the authority to define pollution control technologies, establish effluent limitations, obtain information through reporting and compliance inspections, and take enforcement actions when violations occur.

The Code of Federal Regulations, Chapter 40 Part 123, establishes procedures for states to assume responsibility for implementing the NPDES Permit Program and related program authorities. On

November 1, 1974, Wyoming Governor Stan Hathaway submitted a request to the EPA seeking authorization for Wyoming to implement a state program. On January 30, 1975, pursuant to Section 402 (c) of the CWA, the EPA approved the Wyoming Department of Environmental Quality (WDEQ) NPDES program (referred to as the WYPDES permit program) and suspended the issuance of NPDES permits by EPA, with a few exceptions. Wyoming's WYPDES program authority was amended on September 24, 1991 to include state authority for the issuance of general permits.

The WYPDES program must be implemented by WDEQ in accordance with Section 402 of the CWA, all guidelines promulgated pursuant to Section 304 (h) (2) of the CWA, and the Memorandum of Agreement between the EPA Regional Administrator and the Director of the WDEQ. The Wyoming discharges/permit regulations are contained in Chapter 2 of the Wyoming Water Quality Rules and Regulations. The existing discharges/permit regulations were originally approved in 1974 and were substantially revised in 2004.

Chapter 6 – Salinity Standards/Criteria for the Colorado River Basin

Wyoming is a member of the Colorado River Basin Salinity Control Forum, an organization composed of water quality and water resource representatives of the states of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming. The Colorado River Basin Salinity Control Forum is responsible for developing salinity standards and criteria for the waters of the Colorado River Basin. Wyoming Water Quality Rules and Regulations Chapter 6 provides the authority to condition permits for point source discharges in the Colorado River Basin in conformance with policies agreed to among the seven member states for control of salinity through the NPDES permit program. Chapter 6 was originally adopted in 1981 and has never been revised.

Purpose and Intent of this Proposed Revision

The purpose of this rule revision is to move the permitting requirements of Chapter 6 into Chapter 2, which currently contains all of the WYPDES permit program requirements except for those relating to the special conditions for discharges in the Colorado River Basin. The revision consolidates all of the state point source discharge regulations under a single chapter, consistent with the intent of the Governor's rule streamlining initiative.

Proposed Revisions to Chapter 2 of the Wyoming Water Quality Rules and Regulations

To Chapter 2 a new Appendix O is added which incorporates the existing Chapter 6 in its entirety except:

1. Definitions for the terms "Total Dissolved Solids" and "Salinity" have been deleted as being unnecessary. Both terms are used elsewhere in the chapter. Defining these terms separately in Appendix O would imply that the terms, as used in Appendix O, have additional or separate meanings other than the commonly understood meanings, which is not the intent; and
2. Reference is made to the three specific Salinity Forum policies intended to be implemented rather than the general policy reference in the existing Chapter 6.

Cross-reference and formatting corrections were made to the following section and appendices:

1. Section 10(f): Corrected "14" to "15";
2. Appendix E
 - (a) Subsection (c)(iii)(C)(II): Corrected Arabic numerals to Roman numerals;
 - (b) Subsection (c)(iii)(D): Corrected Roman numerals to Arabic numerals;
 - (c) Subsection (c)(v)(E)(I) Clarified cross reference.
3. Appendix G
 - (a) Subsection (k)(ii): Corrected "(iii)" to "(ii)";
 - (b) Subsection (l)(iii): Corrected "(iv)" to "(ii)";

- (c) Subsection (m)(ii): Corrected “(iii)” to “(ii)”;
4. Appendix H, Subsection (c)(iii): Corrected “(b)(i)” and “(b)(ii)” to “(c)(i)” and “(c)(ii),” respectively.

Effect of the Rule Revision

This rule revision is purely an administrative action. It does not create any new or substantive regulatory requirements. This action simply incorporates the substantive provisions of Chapter 6 into Chapter 2 and reserves Chapter 6. It also makes minor typographically corrections to other limited sections of Chapter 2.

The Council finds that these regulations are reasonable and necessary to accomplish the policy and purpose of the Act, as stated in W.S. 35-11-102, and that they have been promulgated in accordance with rulemaking provisions of the Wyoming Administrative Procedure Act.

Dated this 14th day of January, 2015.

Dr. Dave Boyley
Hearing Examiner – *Printed Name*
Wyoming Environmental Quality Council


Hearing Examiner – *Signed Name*
Wyoming Environmental Quality Council

Response to Comments for Water Quality Division Rulemakings Before the Environmental Quality Council (EQC) on January 14, 2015

The Wyoming Department of Environmental Quality Water Quality Division's proposed rulemaking involves revising Wyoming Water Quality Rules and Regulations Chapter 2, Permit Regulations for Discharges to Wyoming Surface Waters; and Chapter 6, Salinity Standards for the Colorado River Basin.

No written comments were received during the 45 day public comment period

CHAPTER 2

PERMIT REGULATIONS FOR DISCHARGES TO WYOMING SURFACE WATERS

Table of Contents

Section 1. General Provisions..... 1

Section 2. Applicability..... 1

Section 3. Definitions..... 3

Section 4. General Permits..... 15

Section 5. Effluent Permits..... 25

Section 6. Storm Water Discharges..... 46

Section 7. Isolated Wetlands-Mitigation Requirements..... 70

Section 8. Variance Requests..... 72

Section 9. Issuance or Denial of Permits or Authorizations..... 76

Section 10. Renewal of Permits, and Renewal of Coverage Under Expiring General Permits..... 77

Section 11. Continuation of Expiring Permits..... 78

Section 12. Permit or Authorization Modifications..... 78

Section 13. Permit and Authorization Terminations..... 83

Section 14. Signatory Requirements..... 84

Section 15. Public Participation..... 85

Section 16. Public Meeting..... 90

Section 17. Hearing..... 91

Section 18. Public Information..... 91

Section 19. Transfer of Permits..... 92

APPENDIX A: Explanation of Standard Industrial Classification (SIC) Codes Regulated by the
Industrial Storm Water Program A-1

APPENDIX B: Additional Requirements Applicable to Existing Manufacturing, Commercial,
Mining and Silviculture Discharges B-1

APPENDIX C: Additional Requirements Applicable to New Manufacturing, Commercial,
Mining and Silvicultural Discharges C-1

APPENDIX D: Additional Requirements Applicable to Manufacturing, Commercial, Mining and
Silvicultural Facilities Discharging Only Non-process Waste Water D-1

APPENDIX E: Additional Requirements Applicable to New and Existing Publicly owned
Treatment Works (POTWs) E-1

APPENDIX F: Additional Requirements Applicable to New and Existing Aquatic Animal
Production Facilities F-1

APPENDIX G: Criteria for Determining a Concentrated Animal Feeding Operation and
Additional Requirements Applicable to New and Existing Concentrated Animal Feeding
Operations G-1

APPENDIX H: Additional Requirements Applicable to Produced Water Discharges from Oil and
Gas Production Facilities H-1

APPENDIX I: RESERVED I-1

APPENDIX J: Additional Requirements Applicable to Coal Mining Operations J-1

APPENDIX K: RESERVED K-1

APPENDIX L: Criteria and Standards for Determining Fundamentally Different Factors L-1

APPENDIX M: Criteria for Determining Alternative Effluent Limitations M-1

APPENDIX N: Toxic Pollutant Effluent Standards and Prohibitions N-1

APPENDIX O: Additional Requirements Applicable to Colorado River Basin Salinity Control
..... O-1

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CHAPTER 2
PERMIT REGULATIONS
FOR DISCHARGES TO WYOMING SURFACE WATERS

Section 1. General Provisions.

(a) Authority. This regulation is promulgated pursuant to Wyoming Statute 35-11-101 through 35-11-1803, and specifically 35-11-301(a) (i), (ii), and (iv), and 35-11-302 (a) (ii), (iii) and (v) and regulations adopted pursuant to Section 402 (b) of the Federal Water Pollution Control Act (Clean Water Act) and amendments to that Act through July 1, 2004 for the purpose of instituting a permit issuance program in conformity with the requirements of the Environmental Quality Act and the National Pollutant Discharge Elimination System (NPDES), for point source discharges into surface waters of the state. Nothing in these regulations is intended to expand the scope of the Environmental Quality Act, as limited in W.S. 35-11-1104 nor do these regulations supersede or abrogate the authority of the state to appropriate quantities of water for beneficial uses.

(b) Incorporation by reference. Throughout these regulations, standards and requirements promulgated by the US Environmental Protection Agency (EPA) have been adopted and incorporated by reference. All references are from the Code of Federal Regulations dated July 1, 2004, unless otherwise noted. This incorporation does not include later amendments or editions of the incorporated material.

Applicable federal regulations related to the states NPDES primacy include: 40 CFR Parts 122, 123, 124, 125, 129, 133, 136 and Subchapter N (parts 400 through 471). State program authority does not include pretreatment or biosolids requirements. Implementation of and authority over the pretreatment and biosolids requirements remain with the U.S. EPA.

(c) Purpose. The purpose of these rules and regulations is to establish a permitting system for the issuance of permits as authorized pursuant to Section 402 (b) of the Clean Water Act (CWA), 33 U.S.C. ' 1342(b), as amended in 1987. This permitting system provides the mechanism for establishing effluent limitations in WYPDES permits which specify maximum amounts or concentrations of pollution and wastes which may be discharged into surface waters of the state.

Section 2. Applicability.

(a) Discharges required to be permitted. All discharges into surface waters of the state as defined in (i), (ii), (iii) and (iv) below shall be permitted as described in these regulations.

(i) All effluent discharges not described in (ii), (iii) and (iv) below;

(ii) All storm water discharges from industrial, construction, and municipal facilities as described in Section 6 of these regulations;

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(iii) Point source discharges of dredged or fill material into isolated wetlands which are:

(A) Not subject to regulation by the Army Corps of Engineers under Section 404 of the CWA; or,

(B) Not subject to a permit or authorization from the Wyoming Department of Environment Quality, Land Quality Division for mining activities.

(iv) Silvicultural point sources, as defined in Section 3 (b) (lxxxv), are point sources subject to the applicable provisions of these regulations.

(b) Exclusions. The following discharges do not require WYPDES permits:

(i) Discharges of dredged or fill material into waters of the United States which are regulated under Section 404 of the CWA.

(ii) The introduction of sewage, industrial wastes or other pollutants into publicly owned treatment works by indirect dischargers.

(iii) Any discharge in compliance with the instructions of an On-Scene Coordinator pursuant to 40 CFR 300 (The National Oil and Hazardous Substances Pollution Contingency Plan) or 33 CFR 153.10 (e) (Pollution by Oil and Hazardous Substances).

(iv) Any introduction of pollutants from non-point source agricultural and silvicultural activities.

(v) Return flows from irrigated agriculture.

(vi) Discharges into privately owned treatment works.

(vii) Discharges of dredge or fill material

(A) from normal farming, silviculture, and ranching activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

(B) for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, headwaters, causeways, and bridge abutments or approaches, and transportation structures;

(C) for the purpose of construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches;

90 (D) for the purposes of construction of temporary sedimentation
91 basins on a construction site which does not include placement of fill material into surface waters
92 of the state;

93
94 (E) for the purpose of construction or maintenance of farm roads or
95 forest roads, or temporary roads for moving mining equipment, where such roads are constructed
96 and maintained, in accordance with best management practices, to assure that flow and
97 circulation patterns and chemical and biological characteristics of surface waters of the state are
98 not impaired, that the surface water of the state is not reduced, and that any adverse effect on the
99 aquatic environment will be otherwise minimized;

100
101 (F) resulting from any activity with respect to which is in accordance
102 with the requirements of section 208 (b) (4) (B) and (C) of the CWA.

103
104 (c) No conveyance of property rights or exclusive privilege. The issuance of a
105 permit does not convey any property rights of any sort, or any exclusive privilege. The issuance
106 of a permit does not authorize any injury to persons or property or invasion of other private rights,
107 or any infringement of state or local law or regulations. Except for any toxic effluent standards
108 and prohibitions imposed under Section 307 of the CWA, compliance with a permit during its
109 term constitutes compliance, for purposes of enforcement, with Sections 301, 302, 306, 307, 318,
110 and 405 (a) of the CWA.

111
112 (d) Interpretation of “waters of the United States” All references to the CWA where
113 there is reference to the phrase “water(s) of the United States” shall be interpreted as “surface
114 waters of the state” for purposes of this rule. This interpretation does not expand the CWA
115 implementation authorities of federal agencies.

116 **Section 3. Definitions.**

117 (a) Definitions in W.S. 35-11-103 (a) and (c). Definitions in W.S. 35-11-103 (a) and
118 (c) which are applicable to these rules are reiterated in this section.

119
120 (i) “Department” means the Wyoming Department of Environmental
121 Quality.

122
123 (ii) “Director” means the director of the Department of Environmental
124 Quality.

125
126 (iii) “Discharge” means any addition of any pollution or wastes to any waters
127 of the state.

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129 (iv) “Ecological function” means the ability of an area to support vegetation
130 and fish and wildlife populations, recharge aquifers, stabilize base flows, attenuate flooding, trap
131 sediment and remove or transform nutrients and other pollutants.

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133 (v) “Mitigation” means all actions to avoid, minimize, restore and
134 compensate for ecological functions or wetland values lost.

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(vi) “Nonpoint source” means any source of pollution other than a point source. For purposes of W.S. 16-1-201 through 16-1-207 only, nonpoint source includes leaking underground storage tanks as defined by W.S. 35-11-1415 (a) (ix) and aboveground storage tanks as defined by W.S. 35-11-1415 (a) (xi).

(vii) “Person” means an individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, municipality or any other political subdivision of the state, or any interstate body or any other legal entity.

(viii) “Point source” means 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.

(ix) “Pollution” means contamination or other alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity or odor of the waters or any discharge of any acid or toxic material, chemical or chemical compound, whether it be liquid, gaseous, solid, radioactive or other substance, including wastes, into any waters of the state which creates a nuisance or renders any waters harmful, detrimental or injurious to public health, safety or welfare, to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses, or to livestock, wildlife or aquatic life, or which degrades the water for its intended use, or adversely affects the environment. This term does not mean water, gas or other material which is injected into a well to facilitate production of oil, or gas or water, derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the state, and if the state determines that such injection or disposal well will not result in the degradation of ground or surface or water resources.

(x) “Wastes” means sewage, industrial waste and all other liquid, gaseous, solid, radioactive, or other substances which may pollute any waters of the state.

(xi) “Waters of the state” means all surface and groundwater, including waters associated with wetlands, within Wyoming.

(xii) “Wetlands” means those areas in Wyoming having all three (3) essential characteristics:

- (A) Hydrophytic vegetation;
- (B) Hydric soils; and
- (C) Wetland hydrology.

180 (xiii) "Wetland value" means those socially significant attributes of wetlands
181 such as uniqueness, heritage, recreation, aesthetics and a variety of economic values.
182

183 (b) Supplemental definitions. The following definitions supplement those
184 definitions contained in W.S. 35-11-103.
185

186 (i) "Administrator of the EPA" means the chief executive officer of the U.S.
187 Environmental Protection Agency.
188

189 (ii) "Administrator" means the administrator of the Water Quality Division,
190 Wyoming Department of Environmental Quality.
191

192 (iii) "Affected land" means the area of land from which overburden is
193 removed, or upon which overburden, development waste rock or refuse is deposited, or both,
194 access roads, haul roads, mineral stockpiles, mill tailings, impoundment basins, and all other
195 lands whose natural state has been or will be disturbed as a result of mining operations.
196

197 (iv) "Animal feeding operation" is defined in Appendix G.
198

199 (v) "Applicable effluent standards and limitations" means all state and
200 federal effluent standards and limitations to which a discharge is subject to under the
201 Environmental Quality Act, or the CWA, including, but not limited to, effluent limitations,
202 standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.
203

204 (vi) "Applicable water quality standards" means all water quality standards to
205 which a discharge is subject under Wyoming Water Quality Rules and Regulations, Chapter 1.
206

207 (vii) "Applicant" means the person responsible for submitting a completed
208 application form for a WYPDES permit and the person who will have primary responsibility for
209 meeting the requirements of the permit. Applicant is usually the owner of the facility from which
210 discharge is or will be occurring; however, when a facility is operated by someone other than the
211 owner, the operator is the applicant.
212

213 (viii) "Application" means an application form upon which the applicant has
214 provided the requested information in order to obtain a WYPDES permit, modification to a
215 WYPDES permit or renewal of a WYPDES permit.
216

217 (ix) "Application form" means the uniform state or national forms, including
218 subsequent revisions or modifications, for application for a new, modified or reissued individual
219 WYPDES permit.
220

221 (x) "Aquaculture project" means a defined managed water area which uses
222 discharges of pollutants into that designated area for the maintenance or production of harvestable
223 freshwater plants or animals.
224

225 (xi) "Authorization" means the written approval granted by the department to
226 a person or facility which states that a discharge from the facility is permitted under a general
227 permit and which is subject to the conditions set forth in the general permit. "Authorization" also
228 means the modifications to a previously issued authorization that are made to accommodate an
229 alteration in the conditions under a previous authorization or an extension of the allowed time for
230 discharge to occur that was established under a previous authorization.

231
232 (xii) "Best Management Practices (BMPs)" means schedules of activities,
233 prohibitions of practices, maintenance procedures, and/or other management practices to prevent
234 or reduce the pollution of "waters of the state." BMPs also include treatment requirements,
235 operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste
236 disposal, or drainage from raw material storage.

237
238 (xiii) "Bypass" means the intentional diversion of waste streams from any
239 portion of a treatment facility.

240
241 (xiv) "CFR" means Code of Federal Regulations. All references to the Code
242 refer to the CFR dated July 1, 2004.

243
244 (xv) "Compliance schedule" means a schedule of remedial measures included
245 in a permit that establishes an enforceable sequence of actions or operations leading to
246 compliance with an effluent limitation, other limitation, prohibition, or standard.

247
248 (xvi) "Concentrated animal feeding operation" means an animal feeding
249 operation (other than an aquatic animal production facility) which meets the criteria in Appendix
250 G of these regulations.

251
252 (xvii) "Concentrated aquatic animal production facility" means a hatchery, fish
253 farm, or other facility which meets the criteria as defined in Appendix F of these regulations, or
254 an aquatic animal production facility that is designated as concentrated by the department as a
255 result of its significant contribution of pollution to surface waters of the state.

256
257 (xviii) "Co-permittee" means a permittee to a WYPDES permit that is only
258 responsible for permit conditions relating to the discharge for which it is operator.

259
260 (xix) "CWA" means the federal Clean Water Act.

261
262 (xx) "Daily average" means the average concentration determined by the
263 arithmetic mean of all samples collected within a calendar day.

264
265 (xxi) "Daily maximum" means the highest single reading from any grab or
266 composite sample collected during the reporting period, except in the case of Coal Mining
267 Operations, where the definition means the value determined by an analysis of a properly
268 preserved composite sample composed of a minimum of four grab samples collected at equally
269 spaced two hour intervals and proportioned according to flow at the time of sampling.

270

271 (xxii) "Designated project areas" means the portions of surface waters of the
272 state within which the permittee or permit applicant plans to confine the cultivated species, using
273 a method, plan or operation (including, but not limited to, physical confinement) which, on the
274 basis of reliable scientific evidence, is expected to ensure that specific individual organisms
275 comprising an aquaculture crop will experience increased growth attributable to the discharge of
276 pollutants, and be harvested within a defined geographic area.
277
278 (xxiii) "Designated uses" means those uses specified in water quality standards
279 for each water body or segment whether or not they are being attained.
280
281 (xxiv) "Duly authorized representative" means an individual or position having
282 responsibility for the overall operation of the regulated facility or activity, or an individual or
283 position having overall responsibility for environmental matters for the regulated facility who has
284 been designated by a person described in Section 14 (a) of these regulations, through the
285 submittal to the administrator of a written notification, as the individual or position authorized to
286 sign reports required by the permits or certify other information requested by the administrator.
287
288 (xxv) "Effluent" means the pollutant or waste stream from a facility that is
289 being or is proposed to be discharged.
290
291 (xxvi) "Effluent limitation" means any restriction established by the state or by
292 the Administrator of the EPA on quantities, rates and/or concentrations of chemical, physical,
293 biological, and other constituents which are discharged from point sources into surface waters of
294 the state.
295
296 (xxvii) "EPA" means the United States Environmental Protection Agency.
297
298 (xxviii) "Facility" means any WYPDES point source or collection of point
299 sources or any other facility or activity (including land or appurtenances thereto associated with
300 the operation of the facility) that is subject to regulation under the WYPDES program.
301
302 (xxix) "Fact sheet" means the application materials, a draft copy of the permit, a
303 statement of basis and the public notice.
304
305 (xxx) "Federal Act" means the Federal Water Pollution Control Act (Clean
306 Water Act) as amended in 1987, 33 U.S.C. 1251 et seq. as amended.
307
308 (xxxi) "Fill material" means any material used for the primary purpose of
309 replacing an aquatic area with dry land or of changing the bottom elevation of a waterbody. The
310 term does not include any pollutant discharged into the water primarily to dispose of waste, as
311 that activity is regulated under Section 5 of these regulations.
312
313 (xxxii) "Flow monitoring station" means a designated point where stream flow
314 is measured.
315

316 (xxxiii) “Form” means any issued permit and any uniform state or national form
317 developed for use in the WYPDES system or these regulations.

318
319 (xxxiv) “General permit” means a permit to discharge which authorizes a
320 category of discharges within a specified geographic area.

321
322 (xxxv) “Grab sample” means a single “dip and take” sample collected at a
323 representative point in the discharge stream.

324
325 (xxxvi) “Hydric soil” means a soil that formed under conditions of saturation,
326 flooding or ponding long enough during the growing season to develop anaerobic conditions in
327 the upper part.

328
329 (xxxvii) “Hydrophytic vegetation” means a community of plants where, under
330 normal circumstances more than 50 percent of the composition of the dominant species from all
331 strata are obligate wetland (OBL), facultative wetland (FACW), and/or facultative (FAC) species;
332 or a frequency analysis of all species within the community yields a prevalence index value of
333 less than 3.0 (where OBL = 1.0, FACW = 2.0, FAC = 3.0, FACU (facultative upland) = 4.0, and
334 UPL (upland species) = 5.0).

335
336 (xxxviii) “Illicit discharge” means any discharge to a municipal separate
337 storm sewer that is not composed entirely of storm water except discharges pursuant to a
338 WYPDES permit (other than the WYPDES permit for discharges from the municipal separate
339 storm sewer) and discharges resulting from fire fighting activities.

340
341 (xxxix) “Incorporated place” means a city, town, township or village that
342 is incorporated under the laws of the State of Wyoming.

343
344 (xl) “Individual permit” means a permit to discharge to surface waters of the
345 state issued to a facility for specific activities in accordance with the regulations contained herein.

346
347 (xli) “Industrial user” means those industries identified in the Standard
348 Industrial Classification Manual, Bureau of the Budget, 1967, as amended and supplemented,
349 under the category 'Division D - Manufacturing' and such other classes of significant waste
350 producers as, by regulation, the administrator deems appropriate.

351
352 (xlii) “Instantaneous maximum” means the value determined by an analysis of
353 a single properly preserved grab sample.

354
355 (xlili) “Irrigation compliance point” means a point downstream of the outfall
356 but before the first irrigation diversion where, when indicated in the permit, specified effluent
357 limitations must be met.

358
359 (xliv) “Isolated wetlands” means wetlands as defined by the Environmental
360 Quality Act and Section 3 of these regulations which do not meet the federal definition of waters

361 of the United States but meet the state=s definition of waters of the state as defined in the
362 Environmental Quality Act.

363
364 (xlv) "Major facility" means:

365
366 (A) For municipal wastewater treatment facilities, 1) those facilities
367 with design flows greater than one million gallons per day or with an approved industrial
368 pretreatment program and 2) which have been designated by the director and Regional
369 Administrator of the EPA as a major facility.

370
371 (B) For industrial facilities, those facilities that 1) have a potential to
372 discharge a total volume of greater than 50,000 gallons per day and 2) which have been
373 designated by the director and Regional Administrator of the EPA as a major facility.

374
375 (xlvi) "Major modification" means any modification that is not defined as a
376 minor modification.

377
378 (xlvii) "Main stem" means the major channel of a river or stream as shown on
379 the latest and most detailed records of the Wyoming State Engineer.

380
381 (xlviii) "MGD" means million gallons per day.

382
383 (xlix) "Micrograms per liter ($\mu\text{g/l}$)" means micrograms of solute per liter of
384 solution equivalent to parts per billion (ppb) in liquids, assuming unit density.

385
386 (l) "Milligrams per liter (mg/l)" means milligrams of solute per liter of
387 solution equivalent to parts per million (ppm) in liquids, assuming unit density.

388
389 (li) "Minor facility" means any discharge which is not identified by the
390 director and the Regional Administrator of the EPA, as a major facility.

391
392 (lii) "Minor modification" means

393
394 (A) correcting typographical errors; or

395
396 (B) increasing the frequency of monitoring or reporting by the
397 permittee; or

398 (C) changing an interim date in a schedule of compliance, provided
399 the new date of compliance is not more than 120 days after the date specified in the existing
400 permit and does not interfere with attainment of the final compliance date requirement; or

401
402 (D) allowing for a transfer in ownership or operational control of a
403 facility where the division determines that no other change in the permit is necessary, provided
404 that a written agreement containing a specific date for transfer of permit responsibility, coverage
405 and liability between the current and new permittees has been submitted to the department; or

406

407 (E) changing the construction schedule for a discharger which is a
408 new source, but no such change shall affect a discharger's obligation to have all pollution control
409 equipment installed and in operation prior to discharge; or
410
411 (F) deleting a point source outfall when the discharge from that
412 outfall is terminated and does not result in discharge of pollutants from other outfalls except in
413 accordance with permit limits; or
414
415 (G) adding additional wells to an existing permitted outfall provided
416 that the flow volume specified in the permit is not exceeded, the source or quality of the effluent
417 is similar in nature and consists of similar pollutants and the additional effluent will comply with
418 all of the existing permit conditions.
419
420 (liii) "Mixing zone" means limited area or volume of a surface water body
421 within which an effluent becomes thoroughly mixed with the water body.
422
423 (liv) "Modification" means adjustments in permit conditions which result
424 from alterations in the configuration or operation of a facility from what was identified in the
425 application for the permit most recently noticed or authorized.
426
427 (lv) "MS4" means a municipal separate storm sewer system.
428
429 (lvi) "Municipal separate storm sewer" means a conveyance or system of
430 conveyances (including roads with drainage systems, municipal streets, catch basins, curbs,
431 gutters, ditches, man-made channels, or storm drains):
432
433 (A) Owned or operated by the United States, a state, city, town,
434 county, district, association, or other public body (created by or pursuant to state law) having
435 jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including
436 special districts under state law such as a sewer district, flood control district or drainage district,
437 or similar entity, or a designated and approved management agency under section 208 of the
438 CWA that discharges to surface waters of the state;
439
440 (B) Designed or used for collecting or conveying storm water;
441
442 (C) Which is not a combined sewer; and
443
444 (D) Which is not part of a publicly owned treatment works (POTWs)
445 as defined at 40 CFR 403.3.
446
447 (lvii) "Municipality" means a city, town, county, district, association, or other
448 public body created by or under state law and having jurisdiction over disposal of sewage,
449 industrial wastes, or other wastes, or a designated and approved management agency under
450 section 208 of the CWA (1987).
451

452 (lviii) “National Pollutant Discharge Elimination System” means the federal
453 program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing
454 permits and imposing and enforcing pretreatment requirements, under section 307, 318, 402, and
455 405 of the CWA.

456

457 (lix) “Natural” means that condition which would exist without the
458 measurable effects or measurable influence of man's activities.

459

460 (lx) “Natural water quality” means that quality of water which would exist
461 without the measurable effects or measurable influence of man's activities.

462

463 (lxi) “Net oil and grease” means the results from a 1664-Cu analysis which
464 represents the oil and grease concentration corrected for elemental sulphur.

465

466 (lxii) “New discharger” means any building, structure, facility, or installation:
467

468 (A) from which there is or may be a discharge of pollution or wastes;
469

470 (B) that did not commence the discharge of pollution or wastes at a
471 particular “site” prior to August 13, 1979;
472

473 (C) which is not a new source; and
474

475 (D) which has never received a finally effective NPDES or
476 WYPDES permit for discharges at that site.

477

478 (lxiii) “New facility” means a facility for which a discharge is being proposed
479 but is not yet occurring, or a facility from which a discharge is occurring, where no permit or
480 authorization for such discharge has been issued by the department.

481

482 (lxiv) “New source” means any source, the construction of which is
483 commenced after publication by the Administrator of the EPA of a proposed standard of
484 performance, which will be applicable to such source if promulgated.

485

486 (lxv) “Non-process wastewater” means any water which, during
487 manufacturing or processing is not defined as process wastewater.

488

489 (lxvi) “Notice” means the announcement to the public, in accordance with the
490 provisions of Section 15 of this regulation, of the intention of the department to issue, reissue,
491 modify, terminate, deny or revoke a permit, or hold a public hearing.

492

493 (lxvii) “Notice of intent” means the form which is used to apply for new,
494 modified, or extended authorization to discharge as sanctioned by a general permit.

495

496 (lxviii) “NPDES” means National Pollutant Discharge Elimination System.

497

498 (lxix) “Outfall” means the point at which a discharge exits the final treatment
499 unit, if any, associated with a facility prior to entering surface waters of the state.

500
501 (lxx) “Overburden” means any material of any nature, consolidated or
502 unconsolidated, that overlies a mineral deposit, excluding topsoil or similar naturally occurring
503 surface materials that are not disturbed by mining operations.

504
505 (lxxi) “Owner or operator” means the owner or operator of any facility or
506 activity subject to regulation under the WYPDES program. The owner or operator is the person
507 applying for a WYPDES permit or authorization who will be responsible for complying with the
508 requirements of the permit or authorization.

509
510 (lxxii) “Permit” means any permit issued by the Administrator of the EPA under
511 the NPDES program or by the administrator of the Water Quality Division in accordance with
512 these regulations.

513
514 (lxxiii) “pH” means a term used to express the intensity of acid or alkaline
515 conditions. pH is a measure of the hydrogen ion activity in a water sample. It is mathematically
516 related to hydrogen ion activity according to the expression: $pH = -\log_{10} (H^+)$, where (H^+) is the
517 hydrogen ion activity. A pH value of 7 at 25 degrees C is neutral, with pHs of less than seven (7)
518 progressively more acid and pHs of greater than seven (7) progressively more basic (alkaline).

519
520 (lxxiv) “Point of compliance” means a point downstream from the outfall where
521 effluent limitations specified in a permit must be achieved.

522
523 (lxxv) “Pollutant” means dredged spoil, solid waste, incinerator residue, filter
524 backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials,
525 radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended
526 [42 U.S.C. 2011 et seq.]), heat, wrecked or discarded equipment, rock, sand, cellar dirt and
527 industrial, municipal, and agricultural waste discharged into water. It does not mean sewage from
528 vessels; or water, gas, or other material which is injected into a well to facilitate production of oil
529 or gas, or water derived in association with oil and gas production and disposed of in a well, if the
530 well used either to facilitate production or for disposal purposes is approved by authority of the
531 state and if the state determines that the injection or disposal will not result in the degradation of
532 ground or surface water resources.

533
534 (lxxvi) “POTW” means a publicly owned treatment work.

535
536 (lxxvii) “Pretreatment standards” means standards for that level of treatment
537 required of waste before introduction into a publicly owned treatment works so that it neither
538 interferes with, passes through, or otherwise is incompatible with such works.

539
540 (lxxviii) “Primary industrial facility” means a facility that falls into one of
541 the defined primary industrial categories listed in 40 CFR Part 122 Appendix A.

542

543 (lxxix) "Process wastewater" means any water which during
544 manufacturing or processing, comes into direct contact with or results from the production or use
545 of any raw material, intermediate product, finished product, byproduct, or waste product.

546
547 (lxxx) "Produced water" means underground water which surfaces through oil
548 and/or gas wells.

549
550 (lxxxii) "Regional Administrator" means the EPA Region VIII Administrator.

551
552 (lxxxiii) "Reporting form" means the uniform state or national forms, including
553 subsequent revision and modification, for reporting data and information pursuant to monitoring
554 and other conditions of WYPDES permits.

555
556 (lxxxiv) "Severe property damage" means substantial physical damage to
557 property, damage to the treatment facilities which causes them to become inoperable, or
558 substantial and permanent loss of natural resources which can reasonably be expected to occur in
559 the absence of a bypass. Severe property damage does not mean economic loss caused by delays
560 in production.

561
562 (lxxxv) "Significant materials" includes, but is not limited to: raw materials;
563 fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as
564 metallic products; raw materials used in food processing or production; hazardous substances
565 designated under section 101(14) of CERCLA; any chemical the facility is required to report
566 pursuant to Section 313 of title III of SARA; fertilizers; pesticides; and waste products such as
567 ashes, slag and sludge that have the potential to be released with storm water discharges.

568
569 (lxxxvi) "Silvicultural point source" means any discernible, confined and discrete
570 conveyance related to rock crushing and gravel washing as defined in 40 CFR Part 436, subpart B
571 and, log sorting, or log storage facilities as defined in 40 CFR Part 429, subpart I which are
572 operated in connection with silvicultural activities and from which pollutants are discharged into
573 surface waters of the state. The term does not include nonpoint source silvicultural activities such
574 as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning,
575 prescribed burning, pest and fire control, harvesting operations, surface drainage, or road
576 construction and maintenance from which there is natural runoff. However, some of these
577 activities may involve point source discharges of dredged or fill material which may require a
578 permit under Section 404 of the CWA or Section 7 of these regulations.

579
580 (lxxxvii) "Site" means the land or water area where any facility or activity
581 is physically located or conducted, including adjacent land used in connection with the facility or
582 activity.

583
584 (lxxxviii) "Skim ponds" means earthen ponds usually used in conjunction
585 with heater treaters and/or free water knockout units and/or skim tanks, into which produced
586 water is discharged with the purpose of providing gravity separation of oil and water. Skim
587 ponds are usually designed with a "stand pipe" which discharges relatively oil-free water from

588 near the bottom of the pond while the majority of the oil is allowed to float to the top of the pond
589 where it is collected.

590
591 (lxxxviii) “Standard Industrial Classification (SIC) Code” means the statistical
592 classification standard for industrial establishments developed by the Office of Management and
593 Budget and published in the Standard Industrial Classification Manual, Executive Office of the
594 President, Office of Management and Budget (1987).

595
596 (lxxxix) “Storm water” means storm water runoff, snow melt runoff, and surface
597 runoff and drainage.

598
599 (xc) “Storm water discharge associated with industrial activity” is defined in
600 Section 6 (g) of these regulations.

601
602 (xci) “Surface waters of the state” means surface waters of the state as defined
603 in Wyoming Water Quality Rules and Regulations Chapter 1, Wyoming Surface Water Quality
604 Standards.

605
606 (xcii) “Technology-based effluent limit” means a permit limit for a pollutant
607 that has been adopted pursuant to Section 5 (c) (iii) (A) and (B) of these regulations and 304 (b)
608 of the CWA that is based on the capability of a treatment method(s) to reduce the pollutant to a
609 certain concentration.

610
611 (xciii) “Toxic materials” means those materials, or combination of materials,
612 including disease causing agents, which, after discharge and upon exposure, ingestion, inhalation,
613 or assimilation into any organism, either directly from the environment or indirectly by ingestion
614 through food chains, will, on the basis of information available to the director of the Wyoming
615 Department of Environmental Quality, cause death, disease, behavioral abnormalities, cancer,
616 genetic malfunctions, physiological malfunctions (including malfunctions in reproduction), or
617 physical deformations in such organisms or their offspring.

618
619 (xciv) “Toxicity reduction evaluation” means a site-specific study conducted in
620 a step-wise process designed to identify the causative agent(s) of effluent toxicity, isolate the
621 sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the
622 reduction in effluent toxicity.

623
624 (xcv) “Tributary” means those streams or stream segments which flow into or
625 contribute water to another stream, stream segment, downstream reach of the same stream, or
626 other water body.

627
628 (xcvi) “Uncontrolled sanitary landfill” means a landfill or open dump, whether
629 in operation or closed, that does not meet the requirements for runoff or runoff controls
630 established pursuant to RCRA Subtitle D.

631
632 (xcvii) “Upset” means an exceptional incident in which there is unintentional
633 and temporary noncompliance with technology based permit effluent limitations because of

634 factors beyond the reasonable control of the permittee. An upset does not include noncompliance
635 to the extent caused by operational error, improperly designed treatment facilities, inadequate
636 treatment facilities, lack of preventive maintenance, or careless or improper operation.

637

638 (xcviii) “Variance” means any mechanism or provision under section 301 or 316
639 of the CWA or under Section 8 of these regulations, or in the applicable effluent guidelines
640 pursuant to Section 5 (c) (iii) of these regulations which allows modification to or waiver of the
641 generally applicable effluent limitation requirements or time deadlines of the CWA. This
642 includes provisions which allow the establishment of alternative limitations based on
643 fundamentally different factors or on Sections 301 (c), 301 (g), 301 (h), 301 (i), or 316 (a) of the
644 CWA.

645

646 (xcix) “Water quality based effluent limit” means a permit effluent limit
647 derived by selecting the most stringent of the effluent limits calculated using all applicable water
648 quality criteria as set forth in Wyoming Water Quality Rules and Regulations, Chapter 1 for a
649 specific point source to a specific receiving water for a given pollutant.

650

651

652 (c) “Water quality monitoring station” means a point downstream from the
653 outfall on the tributary just prior to the confluence with the main stem of the drainage and/or on
654 the mainstream above and below the confluence with the tributary where certain water quality
655 monitoring data is to be collected when specified in the permit.

656

657 (ci) “Water quality standard” means the regulations as established by
658 Wyoming Water Quality Rules and Regulations, Chapter 1 which describe the designated uses of
659 surface waters of the state, the numeric and narrative criteria that are necessary to protect the uses
660 of surface waters of the state, and an antidegradation provision which protects the natural water
661 quality of surface waters of the state.

662

663 (cii) “Wetland hydrology” means the presence of water on or near the land
664 surface at a frequency and duration to cause the formation of hydric soils and support a
665 prevalence of vegetation typically adapted to saturated and/or inundated conditions.

666

667 (ciii) “Whole effluent toxicity” means the total toxic effect of an effluent
668 measured directly with a toxicity test.

669

670 (civ) “Wyoming Pollution Discharge Elimination System (WYPDES)” means
671 the state program for issuing, modifying and reissuing, terminating, monitoring and enforcing
672 permits for discharging pollutants into surface waters of the state under the provisions of these
673 rules, W.S. 35-11- 101 through 35-11-1803 and the CWA.

674

Section 4. General Permits.

675 Provisions for the issuance of general permits are described in this section. Additional
676 requirements specific to effluent permits, storm water permits and isolated wetlands are contained
677 in sections 5, 6 and 7 of these regulations.

678

679 (a) Coverage. The department may issue a general permit to cover a category of
680 discharges, except those covered by individual permits, within a geographic area which shall
681 correspond to existing geographic or political boundaries. The general permit may be written to
682 regulate:

683
684 (i) Storm water point sources except;

685
686 (A) Storm water discharges associated with industrial activities (as
687 defined in Section 6 (g) (ii) (A) through (K)) that have a potential to reach surface waters of the
688 state that are listed as being Class 1 in Appendix A of Chapter 1, Wyoming Water Quality Rules
689 and Regulations. These facilities must apply for an individual storm water permit in accordance
690 with the requirements of Section 6 (b).

691
692 (B) Storm water discharges from large or small construction activity
693 as defined in Section 6 (f) are not included in the exception of Section 4 (a) (i) (A).

694
695 (ii) Point source discharges of dredged or fill material into isolated wetlands;

696
697
698 (iii) Effluent discharges, other than discharges described in (i) and (ii) above,
699 if the sources all:

700
701 (A) Involve the same or substantially similar types of operations;

702
703 (B) Discharge the same types of pollution or wastes;

704
705 (C) Require the same effluent limitations or operating conditions;

706
707 (D) Require the same or similar monitoring; and

708
709 (E) In the opinion of the administrator, are more appropriately
710 controlled under a general permit than under individual permits. In making such a finding, the
711 administrator shall consider: the types of discharges; the expected nature of the discharges; the
712 potential for toxic and conventional pollutants in the discharges; the expected volumes of the
713 discharges; and the estimated number of discharges to be covered by the permit. The
714 administrator shall provide in the public notice of the general permit the rationale for utilizing a
715 general permit rather than individual permits for the permitted activity.

716
717 (b) Authorization to discharge.

718
719 (i) Except as otherwise provided in these regulations, any person seeking
720 coverage under a general permit shall submit to the department a complete notice of intent,
721 supplied by the administrator, to be covered by the general permit. Any person who fails to
722 submit a notice of intent in accordance with the terms of the general permit is not authorized to
723 discharge under the terms of the permit unless the general permit, in accordance with Section 4
724 (b) (v), contains a provision that a notice of intent is not required.

725
726 (ii) The minimum requirements of the notice of intent shall be specified in
727 the general permit and shall require the submission of information necessary for adequate
728 program implementation. All notices of intent shall be signed as described in Section 14 of these
729 regulations.

730
731 (iii) General permits shall specify the deadlines for submitting notices of
732 intent and the date(s) when a discharge is authorized under the permit unless otherwise specified
733 in the authorization.

734
735 (A) In any event, no person shall commence a discharge without
736 having obtained written authorization from the department, and no authorization shall be issued
737 without full compliance by the permittee with all requirements of these regulations.

738
739 (B) In any event, no person shall change or alter the conditions of an
740 authorized discharge without having obtained an authorization from the department, and no
741 authorization for the modification shall be issued without full compliance by the permittee with
742 all requirements of these regulations.

743
744 (C) In any event, no person shall continue to discharge beyond the
745 expiration date of an authorization without having obtained an extension or renewal of the
746 authorization from the department, and no extension or renewal shall be granted without full
747 compliance by the permittee with all requirements of these regulations.

748
749 (iv) General permits shall specify eligibility requirements for coverage under
750 the permit and procedures for submitting notices of intent and granting authorization.

751
752 (v) Discharges other than discharges from publicly owned treatment works,
753 combined sewer overflows, MS4s, primary industrial facilities, and storm water discharges
754 associated with industrial activity and large construction activities may be authorized to discharge
755 under a general permit without submitting a notice of intent where the administrator finds that a
756 notice of intent requirement would be inappropriate. In making such a finding, the administrator
757 shall consider: the types of discharges, the expected nature of the discharges; the potential for
758 toxic and conventional pollutants in the discharges; the expected volumes of the discharges; and
759 the estimated number of discharges to be covered by the permit. The administrator shall provide
760 in the public notice of the general permit the reasons for not requiring a notice of intent, if so
761 allowed.

762
763 (vi) The administrator may notify a discharger that it is subject to the
764 conditions and requirements of a general permit, even if the discharger has not submitted a notice
765 of intent to be covered.

766
767 (c) Water quality-based limits. Where sources within a specific category or
768 subcategory of dischargers are subject to water quality-based limits imposed pursuant to Section
769 5 of these regulations, the source in that specific category or subcategory shall be subject to the
770 same water quality-based effluent limitations, when applicable.

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(d) Applicable conditions. The general permit must clearly identify the applicable conditions for each category or subcategory of dischargers or treatment works treating domestic sewage covered by the permit.

(e) Exclusions. The general permit may exclude specified sources or areas from coverage.

(f) Processing procedures for notices of intent.

(i) The administrator shall review each notice of intent and make a completeness determination within 30 days of receipt of the notice of intent. If the notice of intent and supplemental information are deemed to be complete, processing of the notice of intent shall proceed in accordance with Section 4 (f) (ii). If the administrator determines that the notice of intent is incomplete, a notice shall be provided to the applicant, describing the additional information needed in order to complete the processing of the notice of intent, within 45 days of receipt of the notice of intent. The completeness of any notice of intent shall be judged independently of the status of any other notice of intent for the same facility or activity.

(ii) Upon determination of completeness or as specified in the general permit, the administrator, or his authorized representative, shall make a determination on issuance or denial of the authorization for coverage under the general permit. If the administrator, or his authorized representative, proposes that the discharge be authorized, the administrator, or his authorized representative, will also identify any conditions of authorization.

(g) Modification, revocation, renewal, extension, or termination of general permits. General permits may be issued, modified, revoked, renewed, extended, or terminated in accordance with provisions of Sections 9, 10, 11, and 12 of these regulations. Termination may apply to individual owners or operators, to several owners or operators, or to an entire general permit protection area. In cases where the termination does not affect all owners and operators, the general permit shall remain in effect with respect to those unaffected owners and operators.

(h) Permit term. General permits may be issued for a term not to exceed five (5) years, unless extended in accordance with the provisions of Section 11 of these regulations.

(i) Requiring an individual permit.

(i) The administrator, for good cause, may require any person authorized by a general permit or seeking coverage under a general permit to apply for and obtain an individual permit. Cases where an individual WYPDES permit may be required include, but are not limited to, the following:

(A) The permittee is not in compliance with the conditions of the general WYPDES permit;

- 816 (B) A change has occurred in the availability of demonstrated
817 technology or practices for the control or abatement of pollutants applicable to the point source;
818
- 819 (C) Effluent limitation guidelines are promulgated for point sources
820 covered by the general WYPDES permit;
821
- 822 (D) A water quality management plan containing requirements
823 applicable to such point sources is approved;
824
- 825 (E) Circumstances have changed since the time of the request to be
826 covered so that the discharger is no longer appropriately controlled under the general permit, or
827 either a temporary or permanent reduction or elimination of the authorized discharge is necessary;
828
- 829 (F) The discharge(s) is a significant contributor of pollutants. In
830 making this determination, the administrator may consider the following factors:
831
- 832 (I) The location of the discharge with respect to surface
833 waters of the state;
834
- 835 (II) The size of the discharge;
836
- 837 (III) The quantity and nature of the pollutants discharged to
838 surface waters of the state; and
839
- 840 (IV) Any other relevant factors.
841
- 842 (ii) Any interested person may petition the administrator to require any
843 person authorized by a general permit or seeking coverage under a general permit to apply for and
844 obtain an individual permit.
845
- 846 (iii) Any owner or operator authorized by a general permit may request to be
847 excluded from the coverage of the general permit by applying for an individual permit in
848 accordance with Section 5 (a) of these regulations.
849
- 850 (iv) When an individual permit is issued to an owner or operator otherwise
851 subject to a general permit, the applicability of the general permit to the individual permittee is
852 automatically terminated on the effective date of the individual permit.
853
- 854 (j) General permit coverage for discharges already covered by an individual permit.
855 A discharge excluded from a general permit solely because it already has an individual permit
856 may request that the individual permit be terminated, and that it be covered by the general permit.
857
- 858 (k) Application for coverage. Any owner or operator shall apply for coverage in a
859 general permit category by completing the notice of intent supplied by the administrator.
860
- 861 (l) Permit conditions.

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(i) General permits will include all conditions determined necessary by the state for protection of the surface waters of the state.

(ii) General permits will require a copy of the authorization letter be posted at the physical location of the permitted site in a prominent and safe place for public viewing.

(iii) General permits will require the permittee to notify all landowners, on whose property an outfall associated with the general permit is located, prior to submitting the Notice of Intent to the administrator.

(m) Application requirements for isolated wetlands. A notice of intent submitted for coverage of mitigation for activities that cause the destruction, damage or impairment of naturally occurring isolated wetlands shall contain the information as required in Section 7 (b) of these regulations.

(n) Application requirements for effluent discharges. Application requirements for effluent discharges, except for storm water discharges and isolated wetlands as described in Sections 6 and 7 respectively of these regulations.

(i) A notice of intent submitted for coverage of discharge from a new facility under a general permit shall contain, at a minimum, the following information unless the administrator determines that certain items are unnecessary:

- (A) Name of company, entity, or individual seeking authorization;
- (B) Identification of the facility name, location, and telephone number if applicable;
- (C) Mailing address and telephone number of company, entity, or individual seeking authorization;
- (D) Applicant status as federal, state, private, public, or other entity;
- (E) Name and signature of responsible person;
- (F) Authorization of a duly authorized representative under the Signatory Requirements of Section 14 of these rules, where applicable;
- (G) Type and location, expressed in latitude and longitude to the nearest 15 seconds, of the facility from which discharge will occur;
- (H) A description of the activities conducted by the applicant which require it to obtain coverage under a WYPDES permit;

907 (I) Expected quality and quantity of effluent (including maximum
908 design capacity in million gallons per day) proposed for discharge, flow rate in million gallons
909 per day or cubic feet per second and whether the proposed discharge will be continuous or
910 intermittent;

911
912 (J) Description of treatment process that will be used to reduce
913 pollutant concentrations in effluent;

914
915 (K) Outfall number(s) and latitude and longitude of each outfall
916 location to the nearest 15 seconds;

917
918 (L) Outfall number(s) and legal description(s) of each outfall
919 location to the nearest quarter/quarter of a section;

920
921 (M) Names and addresses of landowners where outfall(s) will be
922 located, if property owner is other than the applicant;

923
924 (N) Outfall number(s) and names of surface waters of the state that
925 would or potentially would directly receive any portion of the discharge for each outfall,
926 including, where applicable, a description of the tributary system from the outfall location to the
927 main stem;

928
929 (O) A topographic map extending one mile beyond the property
930 boundaries of the source, showing the location of the facility, intake structures and associated
931 outfalls and proposed monitoring and/or compliance points; each of its hazardous waste
932 treatment, storage, or disposal facilities; each well where fluids from the facility are injected
933 underground; and those wells, springs, other surface water bodies, and drinking water wells listed
934 in public records or otherwise known by the applicant in the map area. The map scale must be at
935 least 1:24,000 unless otherwise approved by the administrator.

936
937 (P) Where applicable, additional requirements as
938 specified in Appendices A through M of these regulations.

939
940 (Q) Any other information the administrator may request in order to
941 identify potential impacts to designated uses of surface waters of the state, by the proposed
942 discharge and to determine whether to issue authorization under a general permit. The additional
943 information may include additional quantitative data and bioassays to assess the relative toxicity
944 of discharges to aquatic life and requirements to determine the cause of the toxicity.

945
946 (ii) Information in addition to that described in Section 4 (n) (i) may be
947 established based on needs specific to a general permit.

948
949 (iii) A notice of intent submitted by a permittee for modification or extension
950 of existing authorization under a general permit shall identify any changes or additions to the
951 information listed in (i) and (ii) above that was provided in the notice of intent submitted for the
952 authorization most recently granted.

953
954 (iv) A notice of intent and other documents required to accompany said
955 notice of intent when submitted to the department must be signed and certified in accordance with
956 the provisions of Section 14 of these regulations.
957
958 (o) Application requirements for storm water discharges.
959
960 (i) Deadlines to apply.
961
962 (A) Facilities proposing a new discharge of storm water associated
963 with industrial activity or large construction activity shall submit a notice of intent in accordance
964 with the provisions of Section 4 (o) (ii) of these regulations.
965
966 (B) Except as provided in Section 4 (o) (i), for any storm water
967 discharge associated with large construction activity as described in Section 6 (f) (i) or industrial
968 activity as identified in Section 6 (g) in place prior to the effective date of this rule, should have
969 made application to the administrator by October 1, 1992; prior to initiation of the activity; or as
970 specified in the applicable general permit.
971
972 (C) For any storm water discharge associated with industrial activity
973 from a facility that is owned or operated by a municipality with a population of less than 100,000
974 that is not authorized by a general or individual permit other than an airport, powerplant, or
975 uncontrolled sanitary landfill, the permit application must be submitted to the administrator by
976 March 10, 2003 or as specified in the applicable general permit.
977
978 (D) For storm water discharges associated with small construction
979 activity as described in Section 6 (f) (ii), that are not already authorized by a storm water general
980 or individual permit, require permit authorization as of March 10, 2003, except;
981
982 (I) Storm water discharges subject to Section 4 (b) (v)
983 which are not required to submit a NOI for coverage in accordance with the provisions of the
984 applicable general permit, and
985
986 (II) Storm water discharges associated with small
987 construction activity at oil and gas exploration, production, processing, and treatment operations
988 or transmission facilities subject to the provisions of, Section 4 (o) (i) (E) of these regulations.
989
990 (E) For storm water discharges associated with small construction
991 activity at oil and gas exploration, production, processing, and treatment operations or
992 transmission facilities, require permit authorization as of March 10, 2005.
993
994 (F) A notice of intent shall be submitted to the administrator within
995 60 days of notice of a storm water discharge which the administrator determines contributes to a
996 violation of a water quality standard or is a significant contributor of pollutants to surface waters
997 of the state or where the administrator determines that storm water controls are needed for the
998 discharge based on wasteload allocations that are part of “total maximum daily loads” (TMDLs)

999 that address the pollutant(s) of concern; unless permission for a later date is granted by the
1000 administrator.

1001
1002 (G) For any existing storm water discharge from a regulated small
1003 MS4 for which a storm water permit application was not previously required under federal law or
1004 regulation, the permit application made under Section 4 (o) (iii) must be submitted to the
1005 administrator:

1006
1007 (I) By March 10, 2003 for any storm water discharge
1008 associated with a regulated small MS4 in an urbanized area as described in Section 6 (h) (i) (A)
1009 and (B) and that is not already authorized by a storm water general or individual permit,

1010
1011 (II) Within 180 days of notice of designation, unless the
1012 administrator grants a later date, under Section 6 (h) (i) (C) or (D).

1013
1014 (ii) Application requirements for storm water discharges associated with
1015 industrial activity and large construction activity. Dischargers of storm water associated with
1016 industrial activity and large construction activity are required to apply for an individual permit or
1017 seek coverage under a storm water general permit.

1018
1019 A notice of intent requesting coverage under a general permit must be completed in
1020 accordance with the requirements of this section and the applicable general permit. Unless the
1021 administrator determines that certain items are unnecessary, the notice of intent shall contain, at a
1022 minimum:

1023
1024 (A) General requirements applicable to all notices of intent:
1025
1026 (I) Name of the company, entity, or individual seeking a
1027 permit;
1028
1029 (II) Mailing address and telephone number of company,
1030 entity, or individual seeking a permit;
1031
1032 (III) The facility name, location, and telephone number if
1033 applicable;
1034
1035 (IV) Applicant status as federal, state, private, public, or other
1036 entity;
1037
1038 (V) Name and signature in accordance with the requirements
1039 of Section 14 of these regulations;
1040
1041 (VI) Authorization of a duly authorized representative under
1042 the Signatory Requirements of Section 14 of these regulations, where applicable;
1043

1044 (VII) Location, expressed in latitude and longitude to the
1045 nearest 15 seconds, of the facility to be covered under the permit;
1046
1047 (VIII) Location, expressed as quarter/quarter section, township,
1048 and range in the applicable Public Land Survey (PLS), of the facility to be covered under the
1049 permit;
1050
1051 (IX) A description of the activities conducted by the applicant
1052 which require it to obtain a WYPDES storm water discharge permit;
1053
1054 (X) For industrial activities only, up to four SIC codes which
1055 best reflect the principal products or services provided by the facility;
1056
1057 (B) Applicants shall provide such other information the
1058 administrator may reasonably require to determine whether to issue an authorization. The
1059 additional information may include additional quantitative data and bioassays to assess the
1060 relative toxicity of discharges to aquatic life and requirements to determine the cause of the
1061 toxicity.
1062
1063 (iii) Application requirements for regulated small municipal separate storm
1064 sewer discharges.
1065
1066 (A) The notice of intent for general permit coverage must include the
1067 following information, at a minimum:
1068
1069 (I) Name of the municipality seeking a permit;
1070
1071 (II) Mailing address, contact name, and telephone number of
1072 the municipality seeking a permit;
1073
1074 (III) A general description of the best management practices
1075 (BMPs) that the permittee or another municipality will implement for each of the storm water
1076 minimum control measures required by Section 6 (j) (i);
1077
1078 (IV) The measurable goals for each of the selected BMPs
1079 including, as appropriate, the months and years in which the permittee will undertake required
1080 actions, including interim milestones and the frequency of the action;
1081
1082 (V) The person or persons responsible for implementing or
1083 coordinating the permittee=s storm water management program. A position, rather than an
1084 individual, may also be designated;
1085
1086 (VI) A description of the funding sources expected for
1087 implementation of the permittee=s program; and
1088

1089 (VII) Other information the administrator may reasonably
1090 require to determine whether to issue an authorization.

1091
1092
1093 (B) The permittee may file a separate application for coverage under
1094 a general permit, or may jointly submit an application with other municipalities or governmental
1095 entities. If the permittee wants to share responsibilities for meeting the minimum control
1096 measures with other municipalities or governmental entities, the application (whether separate or
1097 joint) must describe which minimum control measures the permittee will implement and identify
1098 the entities that will implement the other minimum control measures within the area served by the
1099 permittee=s MS4.

1100
1101 (C) If authorized by the administrator, the permittee may file a
1102 separate application for coverage under an individual permit. The application must include the
1103 information required under Section 4 (o) (iii) and Section 6 (b) (i), an estimate of square mileage
1104 served by the small MS4, and any additional information that the administrator requests. The
1105 administrator=s authorization will be contingent upon the regulated entity providing adequate
1106 justification for the need for an individual permit.

1107
1108 (D) If authorized by the administrator, two (2) or more regulated
1109 entities may jointly apply under Section 4 (o) (iii) (C) to be co-permittees under an individual
1110 permit. The administrator=s authorization will be contingent upon the regulated entities
1111 providing adequate justification for the need for an individual permit.

1112 **Section 5. Effluent Permits.**

1113 The following process shall be used in the application for, development of, and issuance
1114 of effluent permits, except for storm water permits which are addressed under Sections 4 and 6 of
1115 these regulations.

1116
1117 (a) Application for individual permits. Completed application forms shall be
1118 submitted to the department for permits for new facilities, modifications to existing permits, and
1119 permit renewals.

1120
1121 (i) Permits for new facilities. The owner or operator of any point source
1122 within the State of Wyoming who proposes to discharge pollution or wastes into surface waters of
1123 the state must file with the administrator a complete application form either (1) no less than 180
1124 days in advance of the date on which it is desired to commence the discharge of pollution or
1125 wastes, unless otherwise approved by the administrator, or (2) in sufficient time prior to any
1126 discharge of pollutants to insure compliance with the requirements of Section 306 of the Federal
1127 Act, or with any applicable zoning or siting requirements established pursuant to Section 208 (b)
1128 (2) (c) of the Federal Act, and any other applicable water quality standards and limitations. In
1129 any event, no person shall commence a discharge without having obtained a permit from the
1130 department, and no permit shall be issued without full compliance by the permittee with all
1131 requirements of these regulations.

1132
1133 (ii) Modification of permits. (Refer to Section 12 of these regulations.)

1134
1135 (iii) Renewal of permits. (Refer to Section 10 of these regulations.)
1136
1137 (iv) Application for individual permits. Application for individual permits
1138 shall be made using forms provided or specified by the administrator. Completed application
1139 forms shall be submitted to the department for permits for new facilities, modifications to existing
1140 permits, and permit renewals.
1141
1142 (v) General information requirements. An application form for all new
1143 individual permits shall contain the following information unless the administrator determines
1144 that specific items are unnecessary:
1145
1146 (A) Name of company, entity, or individual seeking a permit;
1147
1148 (B) Identification of the facility name, location, and telephone
1149 number if applicable;
1150
1151 (C) Mailing address and telephone number of company, entity, or
1152 individual seeking a permit;
1153
1154 (D) Applicant status as federal, state, private, public, or other entity
1155 and status of applicant as owner, operator or both;
1156
1157 (E) Name and signature of responsible person as required by Section
1158 14 of these regulations;
1159
1160 (F) Authorization of a duly authorized representative under the
1161 Signatory Requirements of Section 14 of these rules, where applicable;
1162
1163 (G) Names, addresses, and telephone numbers of landowners where
1164 outfalls will be located, if property owner is other than applicant;
1165
1166 (H) Type and location, expressed in latitude and longitude to the
1167 nearest 15 seconds, of the facility from which discharge will occur;
1168
1169 (I) A description of the activities conducted by the applicant which
1170 require it to obtain an WYPDES permit and where the activity includes treatment facilities
1171 associated with the discharge, a site diagram of the treatment facilities associated with the
1172 discharge and the outfall locations;
1173
1174 (J) Up to four (4) SIC codes which best reflect the principal
1175 products or services provided by the facility;
1176
1177 (K) Expected quality and quantity (including maximum design
1178 capacity in million gallons per day and, except for POTWs, the average daily flow rate in million

1179 gallons per day) of effluent proposed for discharge, flow rate in million gallons per day or cubic
1180 feet per second, and whether the proposed discharge will be continuous or intermittent;
1181
1182
1183 (L) Description of each treatment process that will be used to reduce
1184 pollutant concentrations in effluent;
1185
1186 (M) Outfall numbers and latitude and longitude of each outfall
1187 location to the nearest 15 seconds;
1188
1189 (N) Outfall numbers, the county where each outfall is located and
1190 legal description of each outfall location to the nearest quarter/quarter of a section;
1191
1192 (O) Distance from shore and depth below water surface;
1193
1194 (P) Whether the discharge will be continuous or periodic. If the
1195 discharge is to be periodic the following information for each outfall shall be provided:
1196
1197 (I) Number of times per year the discharge is to occur.
1198
1199 (II) Anticipated duration of each discharge.
1200
1201 (III) Anticipated flow of each discharge.
1202
1203 (IV) Months in which discharge is expected to occur.
1204
1205 (Q) Whether any outfall is or will be equipped with a diffuser and the
1206 type of diffuser used.
1207
1208 (R) Outfall number(s) and names of surface waters of the state that
1209 would or potentially would directly receive any portion of the discharge for each outfall,
1210 including where applicable, a description of the tributary system from the outfall location to the
1211 main stem;
1212
1213 (S) A topographic map extending one mile beyond the property
1214 boundaries of the source, showing the location of the facility, intake structures and associated
1215 outfalls and proposed monitoring and/or compliance points; each of its hazardous waste
1216 treatment, storage, or disposal facilities; each well where fluids from the facility are injected
1217 underground; and those wells, springs, other surface water bodies, and drinking water wells listed
1218 in public records or otherwise known by the applicant in the map area.
1219
1220 (T) A listing of all active permits or construction approvals received
1221 or applied for by the applicant for the site under any of the following programs:
1222
1223 (I) Hazardous Waste Management program under the
1224 Resource Conservation and Recovery Act.

1225
1226 (II) Underground Injection Control program under the Safe
1227 Drinking Water Act.
1228
1229 (III) NPDES program under the CWA.
1230
1231 (IV) WYPDES program under these regulations.
1232
1233 (V) Prevention of Significant Deterioration program under
1234 the Clean Air Act.
1235
1236 (VI) Non-attainment program under the Clean Air Act.
1237
1238 (VII) National Emission Standards for Hazardous Pollutants
1239 under the Clean Air Act.
1240
1241 (VIII) Section 404 of the CWA.
1242
1243 (IX) Impoundments and/or Appropriation of Surface Water
1244 under the State Engineer=s Office.
1245
1246 (X) Reservoirs under the Oil and Gas Conservation
1247 Commission.
1248
1249 (XI) Other relevant local, state, or federal environmental
1250 permits.
1251
1252 (U) Any additional information required in accordance with
1253 appendices B through M of these regulations.
1254
1255 (V) Any other information the administrator may request in order to
1256 assess potential impacts to designated uses of surface waters of the state as a result of the
1257 proposed discharge, to develop permit conditions in compliance with regulations adopted
1258 pursuant to Section 304 of the CWA, or to determine whether to issue a WYPDES permit. The
1259 additional information may include additional quantitative data and bioassays to assess the
1260 relative toxicity of discharges to aquatic life and requirements to determine the cause of the
1261 toxicity.
1262
1263 (vi) Signature requirement. A permit application and other documents
1264 required to accompany said application when submitted to the department must be signed and
1265 certified in accordance with the provisions of Section 14 of these regulations.
1266
1267 (vii) Records retention. Applicants shall keep records of all data used to
1268 complete permit applications and any supplemental information submitted under this section for a
1269 period of three (3) years from the date the application is signed.
1270

1271 (b) Processing procedures applicable to all individual permit applications.
1272
1273 (i) Permit issuance or denial determination. Within 180 days of the receipt
1274 of an application and requested supplemental information, the director shall make a tentative
1275 determination with respect to the issuance or denial of a permit. If the director, with the advice of
1276 the administrator, determines that the permit should be issued, then tentative determinations will
1277 also be made with respect to the following:
1278
1279 (A) Proposed effluent limitations, which in the absence of federal
1280 guidelines adopted pursuant to Section 304 of the CWA, will comply with 40 CFR 125.3 (c) (2)
1281 and (3);
1282
1283 (B) Proposed effluent limitations that will ensure that water quality
1284 standards promulgated in Wyoming Water Quality Rules and Regulations, Chapter 1 will not be
1285 violated as a result of the proposed discharge;
1286
1287 (C) A proposed schedule of compliance, where appropriate; and
1288
1289 (D) Conditions and restrictions in addition to those specified in these
1290 regulations that are necessary in order for the requirements of the CWA or the Wyoming
1291 Environmental Quality Act to be upheld.
1292
1293 (ii) Completeness review. The administrator shall provide a notice of
1294 completeness or deficiency within 45 days of receipt of the application. If a notice of
1295 completeness or deficiency is not issued to the applicant within 45 days of receipt of the
1296 application, the administrator shall issue a letter of explanation to the applicant which specifies
1297 the expected date of the completeness determination.
1298
1299 (iii) Completeness determination. The director shall not process or issue a
1300 permit before receiving a complete application for a permit and all requirements of this section
1301 have been met. An application for a permit is complete when it has been submitted to the
1302 department, and includes all of the information required in Section 5 (a) (v) and Appendices A
1303 through M of these regulations and any applicable federal effluent guidelines of 40 CFR Parts
1304 405 through 411, 413 through 433, 436, 437, 439, 440, 442 through, 447, 454, 455, 457 through
1305 461, 463 through 469, and 471, such that the administrator deems that adequate information has
1306 been provided to make a determination in accordance with Section 5 (b) (i). The completeness of
1307 any application for a permit shall be judged independently of the status of any other permit
1308 application or permit for the same facility or activity.
1309
1310 (iv) Permit denial. If the director determines that the permit should be
1311 denied, he shall give written notice of this action to the applicant and to the Regional
1312 Administrator of the EPA within 30 days after making the tentative determination.
1313
1314
1315 (v) Draft permits. For each proposed discharge for which an application
1316 determined to be complete has been received and for which none of the conditions under which

1317 permits must be prohibited exist, the administrator shall prepare a draft permit that embodies the
1318 tentative determinations reached relative to Section 5 (b) (i) above. Draft permits shall be
1319 available to the public for inspection, copying and public comment.

1320
1321 (vi) Public participation and public meetings. The requirements for public
1322 participation and public meetings contained in these regulations shall be complied with for every
1323 permit proposed for issuance by the director.

1324
1325 (c) Terms and conditions of permits. All issued permits will contain, as a minimum,
1326 authorization for discharge subject to the conditions of the permit, effluent limitations, standards
1327 of performance for any new source, standard conditions, special conditions (when applicable),
1328 monitoring requirements where discharge is allowed, and reporting requirements that comply
1329 with these regulations.

1330
1331 The permittee shall comply with effluent standards or prohibitions established under
1332 section 307(a) of the CWA for toxic pollutants within the time provided in the regulations that
1333 establish these standards or prohibitions.

1334
1335 (i) Standard conditions. All issued permits shall contain standard conditions
1336 consisting of, but not limited to, the following:

1337
1338 (A) The permittee must comply with all conditions of the permit.
1339 Any noncompliance is a violation of the CWA and the Wyoming Environmental Quality Act and
1340 is grounds for enforcement action; for permit termination, revocation and reissuance, or
1341 modification; or denial of a permit reissuance or extension of authorization.

1342
1343 (B) Any planned sewerage system, treatment works, or disposal
1344 system expansions, production increases, process modifications, or new source additions which
1345 will result in a new or increased discharge or the inclusion of additional criteria for a new source
1346 shall be reported by submission of an application or, if such discharge will not violate effluent
1347 limitations specified in the permit, by submission to the administrator of notification of such new
1348 or increased discharge.

1349
1350 (C) The discharge of pollution and/or wastes into surface waters of
1351 the state more frequently than, or at a level in excess of, that identified and authorized by a permit
1352 shall constitute a violation of the conditions of the permit.

1353
1354 (D) After notice and opportunity for a hearing, a permit may be
1355 modified, in whole or in part, revoked and reissued, or terminated during its term. The filing of a
1356 request by the permittee for a modification, revocation, reissuance, termination, or notification of
1357 planned changes or anticipated noncompliance does not halt any permit condition. Cause for
1358 such permit actions, includes, but are not limited to, any of the following:

1359
1360 (I) Violation of any conditions of the permit;

1361

1362 (II) Obtaining a permit by misrepresentations or failure to
1363 fully disclose all relevant facts;
1364
1365 (III) A change in any condition that requires either a
1366 temporary or permanent reduction or elimination of the discharge; and
1367
1368 (IV) A failure or refusal by the permittee to comply with the
1369 monitoring and reporting requirements of a permit and Sections 35-11-109 (a) (iv) and 35-11-110
1370 (a) (vii) Wyoming Statutes.
1371
1372 (E) A permit may be modified in whole or in part during its term in
1373 order to apply any more stringent toxic effluent standard or prohibition, for a toxic substance
1374 present in the permittee's discharge, that is promulgated by the Administrator of the EPA.
1375
1376 (F) A requirement that the permittee allow the administrator or his
1377 authorized representative upon presentation of his credentials to:
1378
1379 (I) Enter the premises where a permittee=s regulated facility
1380 or activity is located or conducted or where records must be kept under the conditions of the
1381 permit;
1382
1383 (II) Sample or monitor at reasonable times, for the purposes
1384 of assuring permit compliance or as otherwise authorized by these rules, the Wyoming
1385 Environmental Quality Act or the CWA, any substances or parameters at any location;
1386
1387 (III) Have access to and copy, at reasonable times, any
1388 records required by the permit to be kept;
1389
1390 (IV) Inspect at reasonable times any facilities, equipment
1391 (including monitoring and control equipment), practices, or operations regulated or required
1392 under the permit; and
1393
1394 (V) Take any other action authorized by 35-11-109 (a) (v),
1395 (vi) and (vii) Wyoming Statutes, or these regulations.
1396
1397 (G) A requirement that, if requested by the administrator or the
1398 administrator=s authorized agent, the permittee shall provide access to physical locations
1399 associated with this permit including, but not limited to, well heads, discharge points, reservoirs,
1400 monitoring locations, and any waters of the state associated with the permit at the point of
1401 discharge.
1402
1403
1404 (H) A requirement that, if the permittee wishes to continue an
1405 activity regulated by a permit after the expiration date of the perit, the permittee must apply for
1406 and obtain a new permit in accordance with Section 10 of these regulations, unless an extension is
1407 granted under Section 11 of these regulations.

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(I) It is not 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 a permit.

(J) The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

(K) The permit does not convey any property rights of any sort, or any exclusive privilege.

(L) A requirement that the permittee shall furnish to the administrator, within a reasonable time, any information which the administrator or his authorized representative may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit.

(M) A requirement that the permittee shall furnish to the administrator or his authorized representative, copies of records required to be kept by the permit.

(N) The permittee must properly operate and maintain all equipment and treatment systems used by the permittee to achieve compliance with the terms of the permit. The permittee must provide appropriate laboratory controls and quality assurance procedures, where applicable. Backup systems are required when needed to ensure compliance. However, each main line unit treatment process must be operated as a minimum.

(O) To assure compliance with permit limitations, the permittee shall monitor:

(I) The mass (or other measurement specified in the permit) for each pollutant limited in the permit.

(II) The volume of effluent discharged from each outfall.

(P) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. Records must be retained for three (3) years subject to extension by the director. Monitoring records shall include but are not limited to the following:

(I) The date, location, and time of the sampling;

(II) The dates and by whom analyses were performed;

(III) Analytical techniques used;

- 1454 (IV) The results of such analyses;
1455
1456 (V) Name of the person collecting the sample(s);
1457
1458 (VI) Sampling handling and preservation conducted; and
1459
1460 (VII) Detection limits for analyses conducted.
1461

1462 Wastewater measurements must be conducted in accordance with methods and
1463 procedures prescribed in 40 CFR Part 136 or other specified procedures.
1464

1465 (Q) Pollutants for which the permittee must report violations of daily
1466 maximum discharge limitations under Section 5 (c) (i) (W) (24-hour reporting) shall be listed in
1467 the permit. This list shall include any toxic pollutant or hazardous substance, or any pollutant
1468 specifically identified as the method to monitor a toxic pollutant or hazardous substance.
1469

1470 (R) Applications, reports, or information submitted to the
1471 administrator must be signed and certified. Knowingly making false statements, representations,
1472 or certifications is a violation of the permit, Wyoming Water Quality Rules and Regulations
1473 Chapter 2 and the Wyoming Environmental Quality Act and is subject to enforcement.
1474

1475 (S) The permittee shall give advance notification to the administrator
1476 of any planned changes in the permitted facility or activity which may result in noncompliance
1477 with permit requirements.
1478

1479 (T) The permit is not transferrable except after written notification is
1480 provided to the administrator and such request is approved by the administrator. The
1481 administrator may require modification, or revocation and reissuance, as necessary.
1482

1483 (U) Monitoring reports must be submitted on a discharge monitoring
1484 report form provided by the department or on a form with an identical format as the form
1485 provided by the department, with prior approval by the administrator. Monitoring results shall be
1486 reported to the department at the intervals specified in the permit. If monitoring is conducted at a
1487 frequency greater than that required by the permit, the results of the additional monitoring must
1488 be reported. In reporting effluent limits based on average concentrations, the permittee must
1489 report the results using an arithmetic mean, except for fecal coliform. Average results for fecal
1490 coliform monitoring shall be reported as a geometric mean.
1491

1492 (V) Reporting of compliance or noncompliance with specified dates
1493 contained in a compliance schedule of the permit shall be submitted to the administrator no later
1494 than 14 days following each scheduled date.
1495

1496 (W) For any noncompliance which may endanger human health or
1497 the environment, an oral notification must be made by the permittee to the administrator within
1498 24-hours of the permittee becoming aware of the noncompliance. Within five (5) days, the
1499 permittee must provide a written notification of the noncompliance which describes the

1500 noncompliance and its cause; the period and duration of noncompliance including exact dates and
1501 times; and, if the noncompliance has not been corrected, the anticipated time it is expected to
1502 continue and steps planned or taken to reduce, eliminate, and prevent recurrences of the
1503 noncompliance. Circumstances that must be reported within 24-hours of becoming aware of the
1504 noncompliance include, but are not limited to, any unanticipated bypass or upset which exceeds
1505 any effluent limit in the permit; or violation of a daily maximum discharge limitation for any of
1506 the pollutants listed by the administrator in the permit to be reported within 24-hours of becoming
1507 aware of the noncompliance.

1508
1509 (X) For noncompliance other than as reported in (S),(V), and (W)
1510 above, the permittee shall report all instances at the time monitoring reports are submitted. The
1511 reports shall contain the information listed in (W) above.

1512
1513 (Y) Where the permittee becomes aware that it failed to submit any
1514 relevant facts in a permit application, or submitted incorrect information in a permit application
1515 or in any report to the administrator, it shall promptly submit such facts or information.

1516
1517 (Z) The permittee may allow any bypass to occur which does not
1518 cause effluent limitations to be exceeded, but only if it is for essential maintenance to assure
1519 efficient operation. If the permittee knows in advance of the need for a bypass, it shall submit
1520 prior notification, if possible at least ten (10) days before the date of the bypass. If an
1521 unanticipated bypass occurs, notice shall be provided in accordance with (W) above. Bypass is
1522 prohibited except in instances where it is necessary to prevent loss of life, personal injury or
1523 severe property damage; or where there are no feasible alternatives to bypass, such as the use of
1524 auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods
1525 of equipment downtime. The condition of no feasible alternative is not satisfied if adequate back-
1526 up equipment should have been installed in the exercise of reasonable engineering judgement to
1527 prevent a bypass which occurred during normal periods of equipment downtime or preventive
1528 maintenance. The administrator may approve an anticipated bypass, after receiving notification,
1529 if the conditions for the allowance of bypass as described in this paragraph have been met.

1530
1531
1532 (AA) An upset constitutes an affirmative defense to an action brought
1533 for noncompliance with technology based permit effluent limitations if the permittee can
1534 demonstrate that: an upset occurred and that the permittee can identify the cause(s) of the upset;
1535 the permitted facility was, at the time of the upset, being properly operated; the permittee
1536 submitted notice of the upset as required in (W) above; In any enforcement proceeding, the
1537 permittee seeking to establish the occurrence of an upset has the burden of proof.

1538
1539 (BB) A reopener clause which states that additional or more stringent
1540 permit requirements may be imposed, after following the procedures outlined in this regulation
1541 for permit modifications, if any of the following conditions is found to be present:

1542
1543 (I) The water quality standards of the receiving water(s) to
1544 which the permittee discharges are modified in such a manner as to require effluent limits
1545 different than those contained in the permit;

1546
1547 (II) A TMDL or watershed management plan is developed
1548 and approved by the department which calls for different effluent limitations than those contained
1549 in the permit;
1550
1551 (III) A TMDL or watershed management plan is revised and
1552 approved by the department which calls for different effluent limitations than those contained in
1553 the permit;
1554
1555 (IV) The use(s) of the receiving surface water of the state is
1556 impaired and the permitted facility is contributing to the impairment;
1557
1558 (V) Water quality standards in the receiving surface waters
1559 of the state are no longer achieved as a result of the discharge and the effluent limitations
1560 established by the permit are being met;
1561
1562 (VI) The effluent limitations in the permit do not address a
1563 pollutant that has the potential to cause or contribute to a violation of a water quality standard;
1564
1565 (VII) Applicable technology based effluent limits are
1566 promulgated which are more stringent than those imposed by the permit; or
1567
1568 (VIII) An interstate compact or agreement on potential
1569 receiving waters is established.
1570
1571 (CC) A reopener provision for toxicity limitations which states that
1572 additional or more stringent permit requirements, a new compliance schedule, revisions to
1573 compliance dates set forth in the permit, changes to the whole effluent toxicity protocol, or any
1574 other conditions related to the control of toxicants may be imposed, following the procedures
1575 outlined in this regulation for permit modifications, if one or more of the following events occurs:
1576
1577 (I) Effluent toxicity was detected late in the life of the
1578 permit near or past the deadline for compliance;
1579
1580 (II) The results of a toxicity reduction evaluation indicate
1581 that compliance with the toxic limitations contained in the permit will require an implementation
1582 schedule past the date for compliance and the department agrees with the conclusion;
1583
1584 (III) The results of a toxicity reduction evaluation indicate
1585 that the toxicant(s) represent pollutant(s) that may be controlled with specific numeric effluent
1586 limitations and the department agrees that numeric controls are the most appropriate approach to
1587 controlling toxicity;
1588
1589 (IV) Following the implementation of numeric controls for a
1590 toxicant, the department agrees that a modified whole effluent toxicity protocol is necessary to
1591 compensate for those toxicants that are controlled numerically;

1592
1593 (V) Other conditions or characteristics are identified through
1594 a toxicity reduction evaluation which justifies the incorporation of special conditions in the
1595 permit to address effluent toxicity.

1596
1597 (DD) For permits which do not require the submittal of monitoring
1598 result reports at least annually, the permittee shall report all instances of non-compliance not
1599 reported under the Section 5 (c) (i) (B), (P), (U), (V) or (W) at least annually.

1600
1601 (ii) Special conditions. In addition to conditions required in all permits, the
1602 administrator shall establish conditions, as required on a case-by-case basis, to provide for and
1603 assure compliance with all applicable requirements of the CWA, the Wyoming Environmental
1604 Quality Act, and applicable Wyoming Water Quality Rules and Regulations which have taken
1605 effect prior to final administrative disposition of the permit. Such conditions may include but are
1606 not limited to the following.

1607
1608 (A) Toxic effluent standards which, as a minimum, comply with
1609 those established under the CWA and may be modified in accordance with Section 5 (c) (i) (E),
1610 (BB) and (CC) and Section 12.

1611
1612 (B) Additional limitation(s) that may be required in order for the
1613 permittee to meet state water quality and treatment standards, implement TMDL requirements,
1614 achieve compliance with a plan approved pursuant to Section 208 (b) of the CWA, or attain or
1615 maintain a specified water quality through water quality related effluent limits established under
1616 Section 302 of the CWA.

1617
1618 (C) Any other requirements, including but not limited to monitoring
1619 points of compliance, water quality monitoring stations, flow monitoring stations and irrigation
1620 compliance points, that the administrator determines are necessary to carry out the provisions of
1621 W.S. 35-11-302 et seq. and to insure that water quality standards are met and waste load
1622 allocations prepared when required by the CWA.

1623
1624 (D) Where a compliance schedule is required in order to achieve any
1625 of the conditions described in Section 5 (c) (ii) (A), (B), or (C) above or to achieve compliance
1626 with an effluent limitation established as set forth in Section 5 (c) (iii), the following specific
1627 requirements will be met.

1628
1629 (I) Such schedule will, as a minimum, conform to any
1630 legally applicable schedule contained in any applicable effluent standard or water quality standard
1631 promulgated under federal or state authority. In the absence of any such legally applicable
1632 schedule, the administrator and permittee shall comply in the shortest reasonable period of time.

1633
1634 (II) In any case where the period of time for compliance
1635 exceeds nine (9) months, the schedule of compliance specified in the permit will set forth interim
1636 requirements and the dates for their achievement. In no event shall more than nine (9) months

1637 elapse between interim dates. To the extent practicable, the interim and final dates shall fall on
1638 the last day of the months of March, June, September, and December.

1639
1640 (III) The permittee will provide the administrator with written
1641 notice of the permittee's compliance or non-compliance with each interim and final date either
1642 before, or within 14 days after, such compliance date is reached.

1643
1644 (IV) If the permittee fails or refuses to comply with an
1645 interim or final requirement in a permit, such non-compliance shall constitute a violation of the
1646 permit, and the administrator may modify, or revoke the permit to take direct enforcement action.

1647
1648
1649 (V) Upon request of the permittee, the administrator may
1650 revise or modify a schedule of compliance for good and valid cause (such as an act of God, strike,
1651 flood, material shortage, or other event over which the permittee has little or no control).

1652
1653 (VI) On the last day of the month of February, May, August
1654 and November, the administrator shall transmit to the Regional Administrator of the EPA, a list
1655 of all instances, as of 30 days prior to the date of such report, of failure or refusal of a permittee to
1656 comply with an interim or final compliance requirement. Such list shall be available to the public
1657 for inspection and copying and include:

- 1658
1659 (1.) The name and address of non-complying
1660 permittee;
1661
1662 (2.) A short description of each instance of non-
1663 compliance;
1664
1665 (3.) Short description of any action proposed by the
1666 permittee or the administrator to achieve compliance; and
1667
1668 (4.) Any details that tend to explain or mitigate the
1669 non-compliance.

1670
1671 (E) Alternative schedules of compliance. A WYPDES permit
1672 applicant or permittee may cease conducting regulated activities (by terminating direct discharge
1673 for WYPDES sources) rather than continuing to operate and meet permit requirements as follows:

1674
1675 (I) If the permittee decides to cease conducting regulated
1676 activities at a given time within the term of a permit which has already been issued:

- 1677
1678 (1.) The permit may be modified to contain a new or
1679 additional schedule leading to timely cessation of activities; or
1680

1681 (2.) The permittee shall cease conducting permitted
1682 activities before non-compliance with any interim or final compliance schedule requirement
1683 already specified in the permit.

1684
1685 (II) If the decision to cease conducting regulated activities is
1686 made before issuance of a permit whose term will include the termination date, the permit shall
1687 contain a schedule leading to termination which will ensure timely compliance with applicable
1688 requirements no later than the statutory deadline.

1689
1690 (III) If the permittee is undecided whether to cease
1691 conducting regulated activities, the director may issue or modify a permit to contain two
1692 schedules as follows:

1693
1694 (1.) Both schedules shall contain an identical interim
1695 deadline requiring a final decision on whether to cease conducting regulated activities no later
1696 than a date which ensures sufficient time to comply with applicable requirements in a timely
1697 manner if the decision is to continue conducting regulated activities;

1698
1699 (2.) One schedule shall lead to timely compliance
1700 with applicable requirements, no later than the statutory deadline;

1701
1702 (3.) The second schedule shall lead to cessation of
1703 regulated activities by a date which will ensure timely compliance with applicable requirements
1704 no later than the statutory deadline.

1705
1706 (4.) Each permit containing two schedules shall
1707 include a requirement that after the permittee has made a final decision under Section 5 (c) (ii)
1708 (E) (III) the permittee shall follow the schedule leading to compliance if the decision is to
1709 continue conducting regulated activities, and follow the schedule leading to termination if the
1710 decision is to cease conducting regulated activities.

1711
1712 (F) Best management practices. Best management practices to
1713 control or abate the discharge of pollutants when:

1714
1715 (I) Authorized under Section 304 (e) of the CWA for the
1716 control of toxic pollutants and hazardous substances from ancillary industrial activities;

1717
1718 (II) Numeric effluent limitations are infeasible; or

1719
1720 (III) The practices are reasonably necessary to achieve
1721 effluent limitations and standards or to carry out the purposes and intent of these regulations.

1722
1723 (G) Grants. Any conditions imposed in federal grants to POTWs
1724 under Sections 201 and 204 of the CWA which are reasonably necessary for the achievement of
1725 effluent limitations required in accordance with these regulations.

1726

1727 (iii) Effluent limitations. Effluent limitations shall be determined for all
1728 permits based on the following considerations.

1729
1730 (A) Technology-based effluent limitations. Technology-based
1731 effluent limits shall be determined in accordance with 40 CFR 122.44 (a), 40 CFR 122.50, 40
1732 CFR 125, Subpart A, I and J and, for categorical industries adopted by EPA, 40 CFR Parts 405
1733 through 411, 413 through 433, 436, 437, 439, 440, 442 through, 447, 454, 455, 457 through 461,
1734 463 through 469, and 471.

1735
1736 (B) In addition to the technology-based effluent limitations described
1737 in Section 5 (c) (iii) (A), technology-based effluent limits shall be determined as follows:

- 1738
1739 (I) For discharges from new and existing POTWs as
1740 described in Appendix E.
1741
1742 (II) For CAFO point sources as described in Appendix G.
1743
1744 (III) For discharges from oil and gas production facilities as
1745 described in Appendix H.
1746
1747 (IV) For discharges from coal mines as described in
1748 Appendix J.
1749
1750 (V) For discharges containing toxic pollutants as described
1751 in Appendix N.

1752
1753 (C) Water quality based effluent limitations. For facilities where
1754 discharge to surface waters of the state is not prohibited subject to the provisions of technology
1755 based effluent limitations as determined in Section 5 (c) (iii) (A) and (B), water quality-based
1756 effluent limits shall be determined when requirements in addition to, or more stringent, than
1757 technology based effluent limitations are necessary to ensure that violations of water quality
1758 standards do not occur. Such effluent limitations shall be determined based on standards adopted
1759 pursuant to Wyoming Water Quality Rules and Regulations, Chapter 1 and the applicable
1760 provisions of Wyoming Water Quality Rules and Regulations, Chapter 6.

1761
1762 (I) Water quality based effluent limitations shall be
1763 established for constituents in discharges determined to have a reasonable potential of adversely
1764 impacting uses of surface waters of the state or of causing violations of water quality standards.
1765 When making reasonable potential determinations, the administrator shall consider the following:

1766
1767 (1.) Existing controls on point and non-point sources
1768 of pollution;

1769
1770 (2.) The variability of the pollutant or pollutant
1771 parameter in the effluent;

1772

1773 (3.) For evaluating whole effluent toxicity, the
1774 sensitivity of the species to toxicity testing; and
1775
1776 (4.) Where appropriate, the dilution of the effluent in
1777 the receiving water.
1778
1779 (5.) Applicable designated uses and water quality
1780 standards.
1781
1782 (II) Where numeric criteria are promulgated for the receiving
1783 surface waters of the state, the administrator will determine, using the most stringent numeric
1784 standard appropriate to the receiving surface waters of the state, water quality based effluent
1785 limitations based on one of the following methods:
1786
1787 (1.) Effluent limitations described in Section 5 (c)
1788 (iii) (C) (II) (2.) and (3.) shall be established only after having taken into account the following
1789 requirements of Wyoming Water Quality Rules and Regulations, Chapter 1:
1790
1791 a. Mixing zones; and
1792
1793 b. Antidegradation
1794
1795 (2.) Where loading limitations can be instituted on
1796 the receiving surface waters of the state through the implementation of limitations on effluent
1797 volumes and concentrations for discharges to the receiving surface waters of the state, effluent
1798 limitations shall be determined based on mass balance calculations where dilution by water in the
1799 receiving surface waters of the state is considered.
1800
1801 (3.) Where the administrator determines that it is
1802 impractical to establish limitations on effluent volumes for discharges to receiving surface waters
1803 of the state, concentration-based effluent limitations shall be established. In no case shall a
1804 concentration-based effluent limitation be established which exceeds the most stringent of the
1805 numeric water quality standards established to protect the designated uses of the receiving surface
1806 waters of the state.
1807
1808 (III) Where an evaluation for reasonable potential indicates
1809 limitations based on narrative water quality standards promulgated under Wyoming Water
1810 Quality Rules and Regulations, Chapter 1, effluent limitations addressing the limitations of the
1811 narrative standards will be included in the permit.
1812
1813 (IV) Where the administrator determines that an effluent
1814 constituent has the reasonable potential to adversely impact a designated use of receiving surface
1815 waters of the state and no numeric standard has been promulgated in Wyoming Water Quality
1816 Rules and Regulations, Chapter 1 for the constituent, the administrator may establish a numeric
1817 effluent limitation based on values derived from appropriate scientific methods.
1818

1819 (D) In the case of POTWs, permit effluent limitations, standards, or
1820 prohibitions shall be calculated based on design flow.

1821
1822 (E) Except in the case of POTWs or as provided in Section 5 (c) (i)
1823 (E), calculation of any permit limitations, standards, or prohibitions which are based on
1824 production (or other measure of operation) shall be based not upon the designed production
1825 capacity but rather upon a reasonable measure of actual production of the facility. For new
1826 sources or new dischargers, actual production shall be estimated using projected production. The
1827 time period of the measure of production shall correspond to the time period of the calculated
1828 permit limitations; for example, monthly production shall be used to calculate average monthly
1829 discharge limitations.

1830
1831
1832 (F) All permit effluent limitations, standards, or prohibitions for a
1833 metal shall be expressed in terms of “total recoverable metal” as defined in 40 CFR Part 136
1834 unless;

1835
1836 (I) The applicable water quality standard described in
1837 Wyoming Water Quality Rules and Regulations, Chapter 1 is based on the dissolved form;

1838
1839 (II) An applicable effluent standard or limitation has been
1840 promulgated under these regulations and specifies the limitation for the metal in the dissolved or
1841 valenti or total form;

1842
1843 (III) In establishing permit limitations on a case-by-case basis
1844 under Section 5 (c) (iii) of these regulations it is necessary to express the limitation on the metal
1845 in the dissolved or valenti or total form to carry out the provisions of these regulations; or

1846
1847 (IV) All approved analytical methods for the metal inherently
1848 measure only its dissolved form (e.g., hexavalent chromium).

1849
1850 (G) For continuous discharges (discharges that occur without
1851 interruption throughout the operating hours of the facility, except for infrequent shutdowns for
1852 maintenance, process changes, or other similar activities) all permit effluent limitations,
1853 standards, and prohibitions, including those necessary to achieve water quality standards, shall
1854 unless impracticable be stated as:

1855
1856 (I) Daily maximum and average monthly discharge
1857 limitations for all dischargers other than POTWs; and

1858
1859 (II) Average weekly and average monthly discharge
1860 limitations for POTWs.

1861
1862 (H) Discharges which are not continuous shall be particularly
1863 described and limited, considering the following factors as appropriate:

1864

1865 (I) Frequency (for example, a batch discharge shall not
1866 occur more than once every three (3) weeks);
1867
1868 (II) Total mass (for example, not to exceed 100 kilograms of
1869 zinc and 200 kilograms of chromium per batch discharge);
1870
1871 (III) Maximum rate of discharge of pollutants during the
1872 discharge (for example, not to exceed two (2) kilograms of zinc per minute); and
1873
1874
1875 (IV) Prohibition or limitation of specified pollutants by mass,
1876 concentration or other appropriate measure (for example, shall not contain at any time more than
1877 0.1 mg/l zinc or more than 250 grams (1/4 kilogram) of zinc in any discharge).
1878
1879 (I) Mass limitations.
1880
1881 (I) All pollutants limited in permits shall have limitations,
1882 standards or prohibitions expressed in terms of mass except:
1883
1884 (1.) For pH, temperature, radiation, or other
1885 pollutants which cannot appropriately be expressed by mass;
1886
1887 (2.) When applicable standards and limitations are
1888 expressed in terms of other units of measurement; or
1889
1890 (3.) If an applicable effluent standard or limitation
1891 has been promulgated under these regulations and limitations expressed in terms of mass are
1892 infeasible because the mass of the pollutant discharged cannot be related to a measure of
1893 operation (for example, discharges of total suspended solids [TSS] from certain mining
1894 operations), and permit conditions ensure that dilution will not be used as a substitute for
1895 treatment.
1896
1897 (II) Pollutants limited in terms of mass additionally may be
1898 limited in terms of other units of measurement, and the permit shall require the permittee to
1899 comply with both limitations.
1900
1901 (J) Pollutants in intake water.
1902
1903 (I) Credit shall be granted only if the discharger
1904 demonstrates that the intake water is drawn from the same body of water into which the discharge
1905 is made.
1906
1907 (II) Upon request of the discharger, technology-based
1908 effluent limitations or standards shall be adjusted to reflect credit for pollutants in the
1909 discharger=s intake water if:
1910

1911 (1.) The applicable effluent limitations and standards
1912 contained in Section 5 (c) (iii) of these regulations provide that they shall be applied on a net
1913 basis; or

1914
1915 (2.) The discharger demonstrates that the control
1916 system it proposes or uses to meet applicable technology-based limitations and standards would,
1917 if properly installed and operated, meet the limitations and standards in the absence of pollutants
1918 in the intake waters.

1919
1920 (III) Credit for generic pollutants such as biochemical oxygen
1921 demand (BOD5) or TSS shall not be granted unless the permittee demonstrates that the
1922 constituents of the generic measure in the effluent are substantially similar to the constituents of
1923 the generic measure in the intake water or unless appropriate additional limits are placed on
1924 process wastewater pollutants either at the outfall or elsewhere.

1925
1926 (IV) Credit shall be granted only to the extent necessary to
1927 meet the applicable limitation or standard, up to a maximum value equal to the influent value.
1928 Additional monitoring may be necessary to determine eligibility for credits and compliance with
1929 permit limits.

1930
1931 (K) Internal waste streams.

1932
1933 (I) When permit effluent limitations or standards imposed at
1934 the point of discharge are impractical or infeasible, effluent limitations or standards for discharges
1935 or pollutants may be imposed on internal waste streams before mixing with other waste streams
1936 or cooling water streams. In those instances, the monitoring required by Section 5 (c) or other
1937 applicable provisions of these regulations shall also be applied to the internal waste streams.

1938
1939 (II) Limits on internal waste streams will be imposed only
1940 when the fact sheet sets forth the exceptional circumstances which make such limitations
1941 necessary, such as when the final discharge point is inaccessible (for example, under ten [10]
1942 meters of water), the wastes at the point of discharge are so diluted as to make monitoring
1943 impracticable, or the interferences among pollutants at the point of discharge would make
1944 detection or analysis impracticable.

1945
1946 (L) After making the considerations described in Section 5 (c) (iii)
1947 (A), (B) and (C), the administrator shall establish in the draft permit the most stringent of the
1948 effluent limitations of those derived.

1949
1950 (M) Effluent limitations cannot be incorporated into modified or
1951 reissued permits which violate anti-backsliding provisions of Section 402 (o) of the CWA.

1952
1953 (N) If any applicable toxic effluent standard or prohibition (including
1954 any schedule of compliance specified in such effluent standard or prohibition) is promulgated
1955 under W.S.35-11-302 or Wyoming Water Quality Rules and Regulations, Chapters 1 and 2 for a
1956 toxic pollutant and that standard or prohibition is more stringent than any limitation on the

1957 pollutant in the permit, the director shall institute proceedings under these regulations to modify
1958 or revoke and reissue the permit to conform to the toxic effluent standard or prohibition.

1959
1960 (O) When the department determines, using the procedures in
1961 Section 5 (c) (iii) (C) (I) and (II), that a discharge causes, has the reasonable potential to cause, or
1962 contributes to an in-stream excursion above the numeric standard for whole effluent toxicity, if
1963 any such criterion has been adopted, the permit must contain effluent limits for whole effluent
1964 toxicity.

1965
1966 (P) Except as provided in this subparagraph, when the department
1967 determines, using the procedures in Section 5 (c) (iii) (C), toxicity testing data, or other
1968 information, that a discharge causes, has the reasonable potential to cause, or contributes to an in-
1969 stream violation of a narrative water quality standard, the permit shall contain limitations, which
1970 include effluent limits, for whole effluent toxicity. Such limitations are to be derived by the
1971 department and based upon the department=s determination of what constitutes an acceptable
1972 level of whole effluent toxicity. Limits on whole effluent toxicity are not necessary where the
1973 department determines, using the procedures in Section 5 (c) (iii) (C), that chemical-specific
1974 limits for the effluent are sufficient to attain and maintain applicable numeric and narrative water
1975 quality standards.

1976
1977 (Q) Unless otherwise stated in the permit, effluent limitations shall
1978 be met at the outfall from the final treatment unit prior to admixture with water in the receiving
1979 surface waters of the state or with effluent from other outfalls.

1980
1981 (iv) Application of standards.

1982
1983 (A) In the application of those standards described in Section 5 (c)
1984 (ii) (B) and (C), and Section 5 (c) (iii), the administrator shall specify:

1985
1986 (I) The daily average and maximum quantitative limitations
1987 for the level of allowable pollution and/or waste in an authorized discharge in terms of weight,
1988 where applicable;

1989
1990 (II) The basis for calculation of effluent limitations;

1991
1992 (III) Self-monitoring, reporting, and recording requirements
1993 for each authorized discharge as promulgated in Section 5 (c) (v).

1994
1995 (B) The owner of a publicly owned treatment works shall require any
1996 industrial user of such works to comply with the following:

1997
1998 (I) Any system of user charges instituted by the owner
1999 (permittee) shall insure that each recipient of waste treatment services will pay its proportionate
2000 share of the costs of the operation and maintenance of the publicly owned treatment works;

2001

2002 (II) Any toxic or pretreatment standards established under
2003 Sections 5 (c) (ii) (A) and 5 (c) (iii) (O) and (P) of these regulations and any schedule required to
2004 achieve compliance with those standards; and
2005
2006 (III) Shall allow the permittee and the administrator or his
2007 designated representative the same rights of entry, inspection, sampling, and copying provided for
2008 in Section 5 (c) (i) (F).
2009
2010 (v) Monitoring, recording, and reporting.
2011
2012 (A) All permits shall specify required monitoring including type,
2013 intervals, and frequency sufficient to yield data which are representative of the monitored activity
2014 including, when appropriate, continuous monitoring. Monitoring results required by the permit
2015 shall be reported on a discharge monitoring report (DMR) or other forms provided or specified by
2016 the division.
2017
2018 (B) Any discharge authorized by a permit shall be subject to such
2019 monitoring requirements as may be required by the administrator including the installation, use,
2020 and maintenance of monitoring equipment.
2021
2022 (C) Any major facility authorized by a permit, or for which
2023 monitoring is requested in writing by the Regional Administrator of the EPA, or which contains
2024 toxic pollutants for which an effluent standard has been promulgated pursuant to these
2025 regulations, shall be monitored at intervals sufficiently frequent to characterize the discharge, for
2026 the following:
2027
2028 (I) Flow;
2029
2030 (II) All of the following pollutants:
2031
2032 (1.) Pollutants which are subject to reduction or
2033 elimination by the terms of the permit;
2034
2035 (2.) Pollutants which the administrator finds could
2036 have an impact on the surface waters of the state;
2037
2038 (3.) Pollutants specified by the Administrator of the
2039 EPA as subject to monitoring; and
2040
2041 (4.) Any pollutants, in addition to those above, that
2042 the Regional Administrator of the EPA requests in writing be monitored.
2043
2044 (D) The permittee shall maintain records of all information resulting
2045 from monitoring activities required by his permit for a period of three (3) years, or for a longer
2046 period if so requested by the administrator, or Regional Administrator of the EPA. Such records
2047 shall include, but are not limited to, the following:

- 2048
2049 (I) The date, location, and time of the sampling;
2050
2051 (II) The dates and by whom analyses were performed;
2052
2053 (III) Analytical techniques used;
2054
2055 (IV) The results of such analyses;
2056
2057 (V) Name of the person collecting the sample(s);
2058
2059 (VI) Sampling handling and preservation conducted; and
2060
2061 (VII) Detection limits for analyses conducted.
2062
2063 (E) Unless otherwise approved by the administrator, the permittee
2064 shall be required to periodically report, at a frequency of not less than once per year, to the
2065 administrator, on the proper forms, the results of any monitoring required by the permit. In
2066 addition, the administrator may require the submission of such additional monitoring information
2067 he may consider necessary. Where applicable, the procedures specified will be consistent with
2068 any national program specified by the Administrator of the EPA in regulations promulgated under
2069 the CWA.
2070
2071 (F) All reports required by permits and other information requested
2072 by the administrator shall be signed and certified as described in Section 14 of these regulations.
2073
2074 (G) Sample collection and analyses shall be conducted in accordance
2075 with 40 CFR 136, unless otherwise specified in these regulations.
2076
2077 (H) Any person falsifying, tampering with, or knowingly rendering
2078 inaccurate any monitoring device or method required to be maintained under this permit is a
2079 violation of the permit, these regulations and the Wyoming Environmental Quality Act.

2080 **Section 6. Storm Water Discharges.**

2081 The following process shall be used in the application for development of and issuance of
2082 storm water discharge permits and for identifying storm water discharges covered by this rule.

2083
2084 (a) Deadlines to apply.

2085
2086 (i) Except as provided in Section 6 (b), for any storm water discharge
2087 associated with large construction activity as described in Section 6 (f) (i) or industrial activity as
2088 identified in Section 6 (g) in place prior to the effective date of this rule, should have made
2089 application to the administrator by October 1, 1992; prior to initiation of the activity or in
2090 accordance with Section 4 (o) (i) (B) of these regulations.
2091

2092 (ii) For any storm water discharge associated with large or small
2093 construction activities or industrial activities from a facility that is owned or operated by a
2094 municipality with a population of less than 100,000 that is not authorized by a general or
2095 individual permit, other than an airport, power plant, or sanitary landfill, a permit application
2096 must be submitted to the administrator by March 10, 2003.

2097
2098 (iii) Storm water discharges associated with small construction activity as
2099 described in Section 6 (f) (ii), that are not already authorized by a storm water general or
2100 individual permit, require permit authorization as of March 10, 2003, except;

2101
2102 (A) Storm water discharges subject to Section 4 (b) (v) which are not
2103 required to submit a NOI for coverage in accordance with the provisions of the applicable general
2104 permit, and

2105
2106 (B) Storm water discharges associated with small construction
2107 activity at oil and gas exploration, production, processing, and treatment operations or
2108 transmission facilities subject to the provisions of, Section 6 (a) (iv) of these regulations.

2109
2110 (iv) Storm water discharges associated with small construction activity at oil
2111 and gas exploration, production, processing, and treatment operations or transmission facilities,
2112 require permit authorization as of March 10, 2005.

2113
2114 (v) For any storm water discharge associated with regulated small MS4 as
2115 described in Section 6 (h) (i) and that is not authorized by a storm water general or individual
2116 permit, a permit application made pursuant to Section 6 (b) (iv) must be submitted to the
2117 administrator by March 10, 2003 or within 180 days of notice, unless the administrator grants a
2118 later date, if designated under Section 6 (h) (i) (C) or (D).

2119
2120 (vi) A permit application shall be submitted to the administrator within 60
2121 days of notice of a storm water discharge which the administrator determines contributes to a
2122 violation of a water quality standard or is a significant contributor of pollutants to surface waters
2123 of the state or where the administrator determines that storm water controls are needed for the
2124 discharge based on wasteload allocations that are part of TMDLs that address the pollutant(s) of
2125 concern; unless permission for a later date is granted by the administrator.

2126
2127 (b) Individual permit application. A complete application for an individual permit
2128 must contain, at a minimum, the following information, unless the administrator determines that
2129 certain items are unnecessary in accordance with Section 6 (c):

2130
2131 (i) General requirements of all applications:

2132
2133 (A) Name of the company, entity, or individual seeking a permit;

2134
2135 (B) Mailing address and telephone number of company, entity, or
2136 individual seeking permit;

2137

- 2138 (C) The facility name, location, and telephone number if applicable;
2139
2140 (D) Applicant status as federal, state, private, public, or other entity;
2141
2142 (E) Name and signature in accordance with the requirements of
2143 Section 14 of this chapter;
2144
2145 (F) Authorization of a duly authorized representative under the
2146 Signatory Requirements of Section 14 of these rules, where applicable;
2147
2148 (G) Location, expressed in latitude and longitude to the nearest 15
2149 seconds, of the facility to be covered under the permit;
2150
2151 (H) Location, expressed as quarter/quarter, section, township, and
2152 range, in the applicable Public Land Survey (PLS), of the facility to be covered under the permit;
2153
2154 (I) A description of the activities conducted by the applicant which
2155 require it to obtain an WYPDES permit;
2156
2157 (ii) Individual permit application requirements for industrial activities.
2158 Individual permit application requirements for industrial activities (not including large or small
2159 construction activities as described in Section 6 (f). Except as provided in Section 6 (b) (iii) and
2160 in Section 6 (g) (iv) (M) and (N), the operator of a storm water discharge associated with
2161 industrial activity subject to this section shall provide, at a minimum:
2162
2163 (A) Up to four (4) SIC codes which best reflect the principal
2164 products or services provided by the facility;
2165
2166 (B) A site map showing topography (or indicating the outline of
2167 drainage areas served by the outfall(s) covered in the application if a topographic map is
2168 unavailable) of the facility including: each of its drainage and discharge structures; the drainage
2169 area of each storm water outfall; paved areas and buildings within the drainage area of each storm
2170 water outfall; each past or present area used for outdoor storage or disposal of significant
2171 materials; each existing structural control measure to reduce pollutants in storm water runoff;
2172 materials loading and access areas; areas where pesticides, herbicides, soil conditioners and
2173 fertilizers are applied; each of its hazardous waste treatment, storage or disposal facilities
2174 (including each area not required to have a RCRA permit which is used for accumulating
2175 hazardous waste under 40 CFR 262.34); each well where fluids from the facility are injected
2176 underground; springs, and other surface water bodies which receive storm water discharges from
2177 the facility;
2178
2179 (C) An estimate of the area of impervious surfaces (including paved
2180 areas and building roofs), the total area drained by each outfall and a narrative description of the
2181 following: significant materials that in the three (3) years prior to the submittal of this application
2182 have been treated, stored or disposed in a manner to allow exposure to storm water; method of
2183 treatment, storage or disposal of such materials; materials management practices employed, in the

2184 three (3) years prior to the submittal of this application to minimize contact by these materials
2185 with storm water runoff; materials loading and access areas; the location, manner and frequency
2186 in which pesticides, herbicides, soil conditioners and fertilizers are applied; the location and a
2187 description of existing structural and non-structural control measures to reduce pollutants in storm
2188 water runoff; and, a description of the treatment the storm water receives, including the ultimate
2189 disposal of any solid or fluid wastes other than by discharge;

2190
2191 (D) A certification that all outfalls that should contain storm water
2192 discharges associated with industrial activity have been tested or evaluated for the presence of
2193 non storm water discharges which are not covered by a permit. Tests for such non storm water
2194 discharges may include smoke tests, fluorometric dye tests, analysis of accurate schematics, as
2195 well as other appropriate tests. The certification shall include a description of the method used,
2196 the date of any testing, and the on site drainage points that were directly observed during a test;

2197
2198 (E) Existing information regarding significant leaks or spills of toxic
2199 or hazardous pollutants at the facility that have taken place within the three (3) years prior to the
2200 submittal of this application;

2201
2202 (F) Quantitative data based on samples collected during storm events
2203 and collected in accordance with Section 6 (b) (ii) (G) from all outfalls containing storm water
2204 discharge associated with industrial activity for the following parameters, except when waived by
2205 the administrator under the provisions of Section 6 (c) of these regulations.

2206
2207 (I) Any pollutant limited in an effluent guideline to which
2208 the facility is subject;

2209
2210 (II) Any pollutant listed in the facility's WYPDES permit for
2211 its process wastewater (if the facility is operating under an existing WYPDES permit);

2212
2213 (III) Oil and grease, pH, BOD5, COD, TSS, total phosphorus,
2214 total Kjeldahl nitrogen, and nitrate plus nitrite nitrogen;

2215
2216 (IV) Information on the discharge required under Appendix B
2217 (a) (vi) of these regulations;

2218
2219 (V) Flow measurements or estimates of the flow rate, the
2220 total amount of discharge for the storm event(s) sampled, and the method of flow measurement or
2221 estimation; and

2222
2223 (VI) The date and duration (in hours) of the storm event(s)
2224 sampled, rainfall measurements or estimates of the storm event (in inches) which generated the
2225 sampled runoff and the duration between the storm event sampled and the end of the previous
2226 measurable (greater than 0.1 inch rainfall) storm event (in hours).

2227
2228 (G) Sampling storm water discharges.

2229

2230 (I) All samples shall be collected from the discharge
2231 resulting from a storm event that is greater than 0.1 inch and at least 72 hours from the previously
2232 measurable (greater than 0.1 inch rainfall) storm event. Where feasible, the variance in the
2233 duration of the event and the total rainfall of the event should not exceed 50 percent from the
2234 average or median rainfall event in that area.

2235
2236 (II) For all applicants, a flow weighted composite shall be
2237 taken for either the entire discharge or for the first three hours of the discharge. The flow
2238 weighted composite sample for a storm water discharge may be taken with a continuous sampler
2239 or as a combination of a minimum of three sample aliquots taken in each hour of discharge for the
2240 entire discharge or for the first three (3) hours of the discharge, with each aliquot being separated
2241 by a minimum period of 15 minutes.

2242
2243 (III) A minimum of one grab sample may be taken for storm
2244 water discharges from holding ponds or other impoundments with a retention period greater than
2245 24-hours.

2246
2247 (IV) For a flow weighted composite sample, only one
2248 analysis of the composite of aliquots is required.

2249
2250 (V) For storm water discharge samples taken from
2251 discharges associated with industrial activities, quantitative data must be reported for the grab
2252 sample taken during the first thirty minutes (or as soon thereafter as practicable) of the discharge
2253 for all pollutants specified in Section 6 (b) (ii) (F).

2254
2255 (VI) The director may allow or establish appropriate site
2256 specific sampling procedures or requirements, including sampling locations, the season in which
2257 the sampling takes place, the minimum duration between the previous measurable storm event
2258 and the storm event sampled, the minimum or maximum level of precipitation required for an
2259 appropriate storm event, the form of precipitation sampled (snow melt or rain fall), protocols for
2260 collecting samples under 40 CFR136 of federal regulations, and additional time for submitting
2261 data on a case by case basis.

2262
2263 (VII) An applicant is expected to “know or have reason to
2264 believe” that a pollutant is present in an effluent based on an evaluation of the expected use,
2265 production, or storage of the pollutant, or on any previous analyses for the pollutant. (For
2266 example, any pesticide manufactured by a facility may be expected to be present in contaminated
2267 storm water runoff from the facility.)

2268
2269 (H) Operators of new sources or new discharges (as defined in
2270 Section 3) which are composed entirely of storm water must include estimates for the pollutants
2271 or parameters listed in Section 6 (b) (ii) (F) instead of actual sampling data, along with the source
2272 of each estimate. Operators of new sources or new discharges composed in part or entirely of
2273 storm water must provide quantitative data for the parameters listed in paragraph Section 6 (b) (ii)
2274 (F) of this section within two (2) years after commencement of discharge, unless such data has

2275 already been reported under the monitoring requirements of the WYPDES permit for the
2276 discharge.

2277

2278 (iii) Individual permit application requirements for large and small
2279 construction activities. When required to obtain coverage under an individual WYPDES storm
2280 water permit, the operator of an existing or new storm water discharge that is associated with
2281 large construction activity under Section 6 (f) (i) or small construction activity under Section 6 (f)
2282 (ii) shall, at a minimum, provide a narrative description of:

2283

2284 (A) The location (including a map) and the nature of the construction
2285 activity;

2286

2287 (B) The total area of the site and the area of the site that is expected
2288 to undergo excavation during the life of the permit;

2289

2290 (C) Proposed measures, including best management practices, to
2291 control pollutants in storm water discharges during construction, and a brief description of
2292 applicable state and local erosion and sediment control requirements;

2293

2294 (D) Proposed measures to control pollutants in storm water
2295 discharges that will occur after construction operations have been completed, including a brief
2296 description of applicable state or local erosion and sediment control requirements;

2297

2298 (E) The increase in impervious area after the construction addressed
2299 in the permit application is completed, the nature of fill material and existing data describing the
2300 soil or the quality of the discharge; and

2301

2302 (F) The name of the receiving water.

2303

2304 (iv) Individual permit application requirements for regulated small MS4s.

2305

2306 (A) The application requirements of Section 4 (o) (iii); and

2307

2308 (B) The operator of an existing or new storm water discharge from a
2309 regulated small MS4 under Section 6 (h) shall, at a minimum, provide a narrative description of:

2310

2311 (I) A general description of the best management practices
2312 (BMPs) that the permittee or another municipality will implement for each of the storm water
2313 minimum control measures at Section 6 (j) (i);

2314

2315 (II) The measurable goals for each of the selected BMPs
2316 including, as appropriate, the months and years in which the permittee will undertake required
2317 actions, including interim milestones and the frequency of the action;

2318

2319 (III) The person or persons responsible for implementing or
2320 coordinating the permittee=s storm water management program. A position, rather than an
2321 individual, may also be designated; and

2322
2323 (IV) A description of the funding sources expected for
2324 implementation of the permittee=s program.

2325
2326 (v) Additional information requirements. Applicants shall provide
2327 such other information the administrator may reasonably require to determine whether to issue a
2328 permit and the administrator may require any facility subject to Section 6 (b) (iii) to comply with
2329 Section 6 (b) (ii). The additional information may include additional quantitative data and
2330 bioassays to assess the relative toxicity of discharges to aquatic life and requirements to
2331 determine the cause of the toxicity.

2332
2333 (c) Waiver of application requirements. The administrator may waive any part of
2334 the application requirements contained in Section 6 (b) (ii) (F) and (H) when the applicant makes
2335 a conclusive demonstration to the administrator that certain parameters listed in Section 6 (b) (ii)
2336 (F) are not reasonably likely to be present in storm water discharges associated with the industrial
2337 activity.

2338
2339 (d) Reporting requirements.

2340
2341 (i) Requirements to report monitoring results for storm water discharges
2342 associated with industrial activity or large or small construction activity which are subject to an
2343 effluent guideline shall be established on a case-by-case basis with a frequency dependent on the
2344 nature and effect of the discharge, but in no case less than one (1) a year.

2345
2346 (ii) Requirements to report monitoring results for storm water discharges
2347 associated with industrial activity or large or small construction activity (other than those required
2348 in Section 6 (d) (i)) shall be established on a case-by-case basis with a frequency dependent on
2349 the nature and effect of the discharge. At a minimum, a permit for such a discharge must require:

2350
2351 (A) The discharger to conduct an annual inspection of the facility site
2352 to identify areas contributing to a storm water discharge associated with industrial activity or
2353 large or small construction activity and evaluate whether measures to reduce pollutant loadings
2354 identified in a storm water pollution prevention plan are adequate and properly implemented in
2355 accordance with the terms of the permit or whether additional control measures are needed;

2356
2357 (B) The discharger to maintain for a period of three years a record
2358 summarizing the results of the inspection, a certification that the facility is in compliance with the
2359 plan and the permit, and identification of any incidents of non-compliance;

2360
2361 (C) Such report and certification be signed in accordance with
2362 Section 14; and

2363
2364

2365 (D) Permits for storm water discharges associated with industrial
2366 activity from inactive mining operations may, where annual inspections are impracticable, require
2367 certification once every three years, that the facility is in compliance with the permit, or
2368 alternative requirements.

2369
2370 (iii) Permits which do not require the submittal of monitoring result
2371 reports at least annually shall require that the permittee report all instances of non- compliance
2372 with the terms and conditions of the permit under which the storm water discharges are covered at
2373 least annually.

2374
2375 (e) General permit application requirements. See Section 4 for
2376 general permit application requirements for storm water discharges.

2377
2378 (f) Regulated construction activities. The following discharges, composed entirely
2379 of storm water and associated with construction activities, are point sources requiring an
2380 WYPDES permit.

2381
2382 (i) Storm water discharge associated with large construction activity means
2383 the discharge of storm water from construction activities, including clearing, grading, and
2384 excavating, that result in land disturbance of five (5) or more acres of total land area. Large
2385 construction activity also includes the disturbance of less than five (5) acres of total land area that
2386 is a part of a larger common plan of development or sale if the larger common plan will
2387 ultimately disturb five (5) acres or more.

2388
2389 (ii) A storm water discharge associated with small construction activity.

2390
2391 (A) Storm water discharge associated with small construction
2392 activity means the discharge of storm water from construction activities, including clearing,
2393 grading, and excavating, that result in land disturbance of equal to or greater than one (1) acre and
2394 less than five (5) acres. Small construction activity also includes the disturbance of less than one
2395 (1) acre of total land area that is part of a larger common plan of development or sale, if the larger
2396 common plan will ultimately disturb equal to or greater than one and less than five (5) acres.
2397 Small construction activity does not include routine maintenance that is performed to maintain
2398 the original line and grade, hydraulic capacity, or original purpose of the facility.

2399
2400 (B) The administrator, at his discretion, may waive the otherwise
2401 applicable requirements in a general permit, as described in Section 4, for a storm water discharge
2402 from a small construction activity that disturbs less than five (5) acres where the value of the
2403 rainfall erosivity factor ($>R$ = in the Revised Universal Soil Loss Equation) is less than five (5)
2404 during the period of construction activity. The rainfall erosivity factor must be determined in
2405 accordance with Chapter 2 of the *Agriculture Handbook Number 703, Predicting Soil Erosion by*
2406 *Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation*
2407 *(RUSLE)*, pages 21-64, dated January 1997 or a similar state-approved method. The operator or
2408 owner must certify to the administrator that the construction activity will only take place during a
2409 period when the value of the rainfall erosivity factor is less than five (5). If unforeseeable
2410 conditions occur that are outside of the control of the applicant for a waiver, and that will extend

2411 the construction activity beyond the dates initially applied for, the owner or operator must reapply
2412 for the waiver or obtain coverage under a general permit for storm water discharges. The waiver
2413 re-application or permit application must be submitted within two (2) business days after the
2414 unforeseeable condition becomes known. This waiver does not relieve the operator or owner
2415 from complying with requirements of local agencies.

2416

2417 (iii) Any construction activity designated by the administrator, based on the
2418 potential for contribution to a violation of a water quality standard or for significant contribution
2419 of pollutants to surface waters of the state or where the administrator determines that storm water
2420 controls are needed for the discharge based on wasteload allocations that are part of TMDLs that
2421 address the pollutants of concern.

2422

2423 (iv) A storm water discharge associated with small or large construction
2424 activities that are owned or operated by a municipality with a population of less than 100,000
2425 (based on the 1990 census).

2426

2427 (v) For storm water discharges associated with large and/or small
2428 construction activities from point sources which discharge through a non-municipal or non-
2429 publicly owned separate storm sewer system, the director, at his discretion, may issue: a single
2430 WYPDES permit, with each discharger a co permittee to a permit issued to the operator of the
2431 portion of the system that discharges into surface waters of the state; or, individual permits to
2432 each discharger of storm water associated with large and/or small construction activity through
2433 the non municipal conveyance system.

2434

2435 (A) Each facility with a storm water discharge to a storm water
2436 discharge system that is not an MS4 shall be covered by a WYPDES permit, or a permit issued to
2437 the operator of the portion of the system that discharges to surface waters of the state, with each
2438 discharger to the non municipal conveyance a co permittee to that permit.

2439

2440 (B) Where there is more than one (1) operator of a single system of
2441 such conveyances, all operators of storm water discharges associated with industrial activity must
2442 submit applications.

2443

2444 (C) Any permit covering more than one (1) operator shall identify
2445 the effluent limitations, or other permit conditions, if any, that apply to each operator.

2446

2447 (g) Regulated industrial activities. Discharges composed entirely of storm water and
2448 associated with industrial activities are point sources requiring a WYPDES permit.

2449

2450 (i) "Storm water discharge associated with industrial activity" means the
2451 discharge from any conveyance which is used for collecting and conveying storm water and
2452 which is directly related to manufacturing, processing, or raw materials storage areas at an
2453 industrial plant. The term does not include discharges from facilities or activities excluded from
2454 the WYPDES program under these regulations.

2455

2456

2457 (A) For the categories of industries identified in Section 6 (g) (ii) (A)
2458 through (I), the term "storm water discharge associated with industrial activity" includes, but is
2459 not limited to, storm water discharges from industrial plant yards; immediate access roads and rail
2460 lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-
2461 products used or created by the facility; material handling sites; refuse sites; sites used for the
2462 application or disposal of process waste waters; sites used for the storage and maintenance of
2463 material handling equipment; sites used for residual treatment, storage, or disposal; shipping and
2464 receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials,
2465 and intermediate and final products; and areas where industrial activity has taken place in the past
2466 and significant materials remain and are exposed to storm water. For the purposes of Section 6
2467 (g), material handling activities include the storage, loading and unloading, transportation, or
2468 conveyance of any raw material, intermediate product, final product or waste product.

2469
2470 (B) The term excludes areas located on a plant site separate from the
2471 plant=s industrial activities, such as office buildings and accompanying parking lots, as long as
2472 the drainage from the excluded areas is not mixed with storm water drained from the industrial
2473 areas described above.

2474
2475 (ii) The following categories of facilities are considered to be engaging in
2476 "industrial activity" for purposes of these regulations. (See Appendix A of these regulations for a
2477 brief description of the SIC codes identified in this section.)
2478

2479 (A) Facilities subject to federal storm water effluent limitations
2480 guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR
2481 Subchapter N (except facilities with toxic pollutant effluent standards which are excluded under
2482 the "no exposure" provisions of Section 6 (g) (iii));
2483

2484 (B) Facilities classified as Standard Industrial Classifications (SICs)
2485 20 through 39 and 4221-25;
2486

2487 (C) Facilities classified as Standard Industrial Classifications 10 and
2488 12 through 14 including active or inactive mining operations and oil and gas exploration,
2489 production, processing, or treatment operations, or transmission facilities that discharge storm
2490 water that has come into contact with any overburden, raw material, intermediate products,
2491 finished products, byproducts or waste products located on the site of such operations; (inactive
2492 mining operations are mining sites that are not being actively mined, but which have an
2493 identifiable owner/operator. Inactive mining sites do not include sites where mining claims are
2494 being maintained prior to disturbances associated with the extraction, beneficiation, or processing
2495 of mined materials, nor sites where minimal activities are undertaken for the sole purpose of
2496 maintaining a mining claim);
2497

2498 Areas of coal mining operations no longer meeting the definition of a reclamation area
2499 under 40 CFR 434.11 (1) because the performance bond issued to the facility by the appropriate
2500 SMCRA (Surface Mining Control and Reclamation Act, 1977) authority has been released, or
2501 areas of non-coal mining operations which have been released from applicable state or federal

2502 reclamation requirements after December 17, 1990 are not considered to be engaged in “industrial
2503 activity” and do not require coverage under a WYPDES storm water permit;

2504
2505 (D) Hazardous waste treatment, storage, or disposal facilities,
2506 including those that are operating under interim status or a permit under Wyoming Hazardous
2507 Waste Rules and Regulations;

2508
2509 (E) Landfills, land application sites, and open dumps that receive or
2510 have received any industrial wastes (waste that is received from activities associated with large or
2511 small construction activity as described in Sections 6 (f) (i) and 6 (f) (ii) and industrial activities
2512 as described in Section 6 (g) (ii)) including those that are subject to regulation under subtitle D of
2513 RCRA;

2514
2515 (F) Facilities involved in the recycling of materials, including metal
2516 scrap yards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to
2517 those classified as Standard Industrial Classification 5015 and 5093;

2518
2519 (G) Steam electric power generating facilities, including coal
2520 handling sites;

2521
2522 (H) Transportation facilities classified as Standard Industrial
2523 Classifications 40, 41, 42 (except 4221 25), 43, 44, 45, and 5171 which have vehicle maintenance
2524 shops, equipment cleaning operations, or airport deicing operations. Only those portions of the
2525 facility that are either involved in vehicle maintenance (including vehicle rehabilitation,
2526 mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport
2527 deicing operations, or which are otherwise identified under Section 6 (g) (ii) (A through G or I)
2528 are associated with industrial activity;

2529
2530 (I) Treatment works treating domestic sewage or any other sewage
2531 sludge or wastewater treatment device or system, used in the storage treatment, recycling, and
2532 reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage
2533 sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more,
2534 or required to have an approved pretreatment program under 40 CFR 403. Not included are farm
2535 lands, domestic gardens or lands used for sludge management where sludge is beneficially reused
2536 and which are not physically located in the confines of the facility, or areas that are in compliance
2537 with section 405 of the CWA;

2538
2539 (J) A storm water discharge associated with industrial activity from
2540 a facility that is owned or operated by a municipality with a population of less than 100,000
2541 (based on the 1990 census);

2542
2543 (K) For storm water discharges associated with industrial activity
2544 from point sources which discharge through a non-municipal or non-publicly owned separate
2545 storm sewer system, the director, at his discretion, may issue: a single WYPDES permit, with
2546 each discharger a co permittee to a permit issued to the operator of the portion of the system that

2547 discharges into surface waters of the state; or, individual permits to each discharger of storm
2548 water associated with industrial activity through the non-municipal conveyance system.

2549
2550 (I) Each facility with a storm water discharge to a storm
2551 water discharge system that is not an MS4 shall be covered by a WYPDES permit, or a permit
2552 issued to the operator of the portion of the system that discharges to surface waters of the state,
2553 with each discharger to the non-municipal conveyance a co permittee to that permit.

2554
2555 (II) Where there is more than one (1) operator of a single
2556 system of such conveyances, all operators of storm water discharges associated with industrial
2557 activity must submit applications.

2558
2559 (III) Any permit covering more than one (1) operator shall
2560 identify the effluent limitations, or other permit conditions, if any, that apply to each operator;
2561

2562 (L) A WYPDES permit is not required for discharges of storm water
2563 runoff from mining operations or oil and gas exploration, production, processing or treatment
2564 operations or transmission facilities, composed entirely of flows which are from conveyances or
2565 systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used
2566 for collecting and conveying precipitation runoff and which are not contaminated by contact with
2567 or that has not come into contact with, any overburden, raw material, intermediate products,
2568 finished product, byproduct or waste products located on the site of such operations. This
2569 paragraph applies only to the operation of these facilities. Construction of such facilities may
2570 require a permit to discharge storm water as specified in Sections 6 (f) (i) and (ii);
2571

2572 (M) The operator of an existing or new discharge composed entirely
2573 of storm water from an oil or gas exploration, production, processing, or treatment operation, or
2574 transmission facility is not required to submit a notice of intent in accordance with Section 4 or a
2575 permit application in accordance with Section 6 (b), unless the facility:
2576

2577 (I) Has had a discharge of storm water resulting in the
2578 discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR
2579 117.21 or 40 CFR 302.6 at anytime since November 16, 1987; or
2580

2581 (II) Has had a discharge of storm water resulting in the
2582 discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR
2583 110.6 at any time since November 16, 1987; or
2584

2585 (III) Contributes to a violation of a water quality standard; or
2586

2587 (IV) Has been determined by the administrator that storm
2588 water controls are needed for the discharge based on wasteload allocations that are part of
2589 TMDLs that address the pollutants of concern.

2590
2591 (V) The construction of such facilities may still qualify for
2592 permit coverage under Section 6 (f).

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(N) The operator of an existing or new discharge composed entirely of storm water from a mining operation is not required to submit a permit application unless the discharge has come into contact with any overburden, raw material, intermediate products, finished product, byproduct or waste products located on the site of such operations; and

(O) Facilities that have been determined, by the administrator, to have the potential to contribute to a violation of a water quality standard or contribute pollutants to surface waters of the state that are part of a TMDL that address the pollutant(s) of concern.

(iii) Discharges composed entirely of storm water are conditionally excluded from storm water permitting by way of not meeting the definition of “storm water discharges associated with industrial activity” if there is “no exposure” of industrial materials and/or activities to precipitation, snowmelt and/or runoff, and the discharger satisfies the conditions in Section 6 (g) (iii) (A through D). “No exposure” means that all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to precipitation, snowmelt, and/ or runoff. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product.

(A) To qualify for this exclusion, the operator must:

(I) Provide a storm resistant shelter to protect industrial materials and activities from exposure to precipitation, snow melt, and runoff;

(II) Complete and sign, in accordance with Section 14 of these regulations, a certification that there are no discharges of storm water contaminated by exposure to industrial materials and activities from the entire facility, except as provided in Section 6 (g) (iii) (B);

(III) Submit the signed, updated certification to the administrator once every five (5) years;

(IV) Allow the administrator, and/or his authorized representative, upon the presentation of credentials, to inspect the facility to determine compliance with the “no exposure” conditions;

(V) Allow the administrator to make any “no exposure” inspection reports available to the public upon request;

(VI) For facilities that discharge through an MS4, submit a copy of the certification of “no exposure” to the MS4 operator, as well as allow inspection and public reporting by the MS4 operator, upon request; and

2639 (VII) Have adequate protections in place to assure that storm
2640 water discharges associated with industrial activity do not occur from secondary containment
2641 facilities.

2642
2643 (B) To qualify for this exclusion, a storm resistant shelter is not
2644 required for:

2645
2646 (I) Drums, barrels, tanks, and similar containers intended
2647 for the outdoor storage of the contained material, that are tightly sealed, provided those containers
2648 are not deteriorated and do not leak (“sealed” means banded or otherwise secured and without
2649 operational taps or valves), and are not otherwise a source of industrial pollutants;

2650
2651 (II) Adequately maintained vehicles used in material
2652 handling, that are not otherwise a source of industrial pollutants; and

2653
2654 (III) Final products, other than products that would be
2655 mobilized in storm water discharge (e.g., rock salt).

2656
2657 (C) The exclusion is subject to the following limitations:

2658
2659 (I) Storm water discharges from construction activities
2660 identified as small or large in Section 6 (f) are not eligible for this conditional exclusion.

2661
2662 (II) This conditional exclusion from the requirement for a
2663 state WYPDES permit is available on a facility-wide basis only, not for individual outfalls.

2664
2665 (III) If circumstances change and industrial materials or
2666 activities become exposed to precipitation, snow melt, and/or runoff, the conditions for this
2667 exclusion no longer apply. In such cases, the discharge becomes subject to enforcement for
2668 unpermitted discharge. Any conditionally excluded discharger who anticipates such a change in
2669 circumstances must apply for and obtain permit authorization prior to the change of
2670 circumstances.

2671
2672 (IV) Notwithstanding the provisions of this paragraph, the
2673 administrator retains the authority to require permit authorization (and deny this exclusion) upon
2674 making a determination that the discharge causes, has a reasonable potential to cause, or
2675 contributes to an instream excursion above an applicable water quality standard, including
2676 designated uses.

2677
2678 (D) The “no exposure” certification requires the submission of the
2679 following information, at a minimum, to aid the administrator in determining if the facility
2680 qualifies for the no exposure exclusion:

2681
2682 (I) The legal name, address and phone number of the
2683 discharger;

2684

2685 (II) The facility name and address, the county name and the
2686 location description using the public land survey system quarter/quarter, section, township, and
2687 range where the facility is located;
2688

2689 (III) The certification must indicate that none of the following
2690 materials or activities are, or will be in the foreseeable future, exposed to precipitation, snow
2691 melt, and/or runoff:
2692

2693 (1.) Using, storing or cleaning industrial machinery
2694 or equipment, and areas where residuals from using, storing or cleaning industrial machinery or
2695 equipment remain and are exposed to storm water;
2696

2697 (2.) Materials or residuals on the ground or in storm
2698 water inlets from spills/leaks;
2699

2700 (3.) Materials or products from past industrial
2701 activity;
2702

2703 (4.) Material handling equipment (except adequately
2704 maintained vehicles);
2705

2706 (5.) Materials or products during loading/unloading
2707 or transporting activities;
2708

2709 (6.) Materials or products stored outdoors (except
2710 final products intended for outside use, e.g., new cars, where exposure to storm water does not
2711 result in the discharge of pollutants);
2712

2713 (7.) Materials contained in open, deteriorated or
2714 leaking storage drums, barrels, tanks, and similar containers;
2715

2716 (8.) Materials or products handled/stored on roads or
2717 railways owned or maintained by the discharger;
2718

2719 (9.) Waste material (except waste in covered, non-
2720 leaking containers, e.g., dumpsters);
2721

2722 (10.) Application or disposal of process wastewater
2723 (unless otherwise permitted); and
2724

2725 (11.) Particulate matter or visible deposits of residuals
2726 from roof stacks/vents not otherwise regulated, i.e., under an air quality control permit, and
2727 evident in the storm water outflow.
2728

2729 (IV) All “no exposure” certifications must include the
2730 following certification statement, and be signed in accordance with the signatory requirements of
2731 Section 14 of these regulations:
2732

2733 “I certify under penalty of law that I have read and understand the eligibility requirements
2734 for claiming a condition of “no exposure” and obtaining an exclusion from state WYPDES storm
2735 water permitting; and that there are no discharges of storm water contaminated by exposure to
2736 industrial activities or materials from the industrial facility identified in this document (except as
2737 allowed under Wyoming Water Quality Rules and Regulations, Chapter 2 Section 6 (g) (iii) (B)).
2738 I understand that I am obligated to submit a no exposure certification form once every five (5)
2739 years to the administrator and, if requested, to the operator of the local MS4 into which this
2740 facility discharges (where applicable). I understand that I must allow the administrator, or MS4
2741 operator where the discharge is into the local MS4, to perform inspections to confirm the
2742 condition of no exposure and to make such inspection reports publicly available upon request. I
2743 understand that I must obtain coverage under a state WYPDES permit prior to any point source
2744 discharge of storm water from the facility. I certify under penalty of law that this document and
2745 all attachments were prepared under my direction or supervision in accordance with a system
2746 designed to assure that qualified personnel properly gathered and evaluated the information
2747 submitted. Based upon my inquiry of the person or persons who manage the system, or those
2748 persons directly involved in gathering the information, the information submitted is to the best of
2749 my knowledge and belief true, accurate and complete. I am aware there are significant penalties
2750 for submitting false information, including the possibility of fine and imprisonment for knowing
2751 violations.”
2752

2753 (h) Regulated small municipal separate storm sewer systems. Discharges composed
2754 entirely of storm water from regulated small municipal separate storm sewer systems (MS4s) are
2755 point sources requiring a WYPDES permit.
2756

2757 (i) Regulated small MS4s include:
2758

2759 (A) Systems located in an urbanized area as determined by the latest
2760 Decennial Census by the Bureau of the Census. (If the small MS4 is not located entirely within
2761 an urbanized area, only the portion that is within the urbanized area is regulated);
2762

2763 (B) Publicly owned systems similar to MS4s in municipalities, such
2764 as:
2765

2766 (I) Systems at military bases, and large education, hospital
2767 or prison complexes, if they are designed for a maximum daily user population (residents and
2768 individuals who come there to work or use the facilities) of at least 1,000, and are located in an
2769 urbanized area.
2770

2771 (II) Separate storm sewer systems associated with highways
2772 and thoroughfares within the boundary of an urbanized area.
2773

2774 (C) Small MS4s designated by the administrator, where the
2775 designation is pursuant to the following:

2776
2777 (I) The administrator shall evaluate, at a minimum, any
2778 small MS4 located outside of an urbanized area serving a jurisdiction with a population density of
2779 at least 1,000 people per square mile and a population of at least 10,000 (based on the latest
2780 Decennial Census by the Bureau of the Census), to determine whether or not storm water
2781 discharges from the MS4 result in or have the potential to result in exceedances of water quality
2782 standards, including impairment of designated uses, or other significant water quality impacts,
2783 including habitat and biological impacts. The evaluation shall use the following elements, at a
2784 minimum:

2785
2786 (1.) Relationship to sensitive waters. For purposes
2787 of this section, sensitive waters means any class 1, 2AB, 2A or any impaired or threatened waters
2788 listed on the most recent 303 (d) list;

2789
2790 (2.) High growth potential. For purposes of this
2791 section a growth rate of 10% per decade or more will be considered a high rate of growth, the
2792 administrator may also consider other factors such as, but not limited to, sustainability of
2793 population increase, future projected growth, initial population size and population density.

2794
2795 (3.) Size of population and population density.
2796 Whether the MS4 is an MS4 that is not in an urbanized area and has a population of at least
2797 10,000 and a population density of 1,000 people per square mile;

2798
2799 (4.) Contiguity to an urbanized area; and

2800
2801 (5.) Significant contribution of pollutants, based on
2802 credible data, to surface waters of the state.

2803
2804 Based on this evaluation, if the administrator determines that storm water discharges
2805 from the MS4 result in or have the potential to result in exceedances of water quality standards,
2806 including impairment of designated uses, or other significant water quality impacts, including
2807 habitat and biological impacts, the administrator shall designate the MS4 as a regulated small
2808 MS4 to be covered under a state WYPDES storm water discharge permit. However, the MS4
2809 may provide information to the administrator on its existing storm water quality control
2810 programs, including any that are analogous to the six (6) minimum control measures under
2811 Section 6 (j) (i) (B). If the administrator determines that the MS4 has adequate controls for its
2812 storm water discharges, (i.e., is already implementing the applicable portions of the six (6)
2813 minimum measures), it will not be designated as a regulated small MS4 at that time.

2814
2815 (II) Other MS4s. The administrator may evaluate any other
2816 small MS4s other than those described in subsections (I) and (III) of this section, in order to
2817 determine whether or not storm water discharges from a small MS4 result in or have the potential
2818 to result in exceedances of water quality standards, including impairment of designated uses, or
2819 other significant water quality impacts, including habitat and biological impacts. The

2820 administrator will place a high priority on evaluating small MS4s with a combined permanent and
2821 seasonal population (as determined by the official Census population plus the number of
2822 commercially advertised bed accommodations that will allow for an overnight stay, as listed
2823 through the chamber of commerce, or any local resort or property management companies) of
2824 over 10,000. Based on this evaluation, the administrator may designate the small MS4 as a
2825 regulated small MS4 to be covered under a state WYPDES storm water discharge permit at any
2826 time, as appropriate, using the elements shown in Section 6 (h) (i) (C) (I) above.
2827

2828 (III) The administrator shall designate any small MS4 that
2829 contributes substantially to the pollutant loadings of a physically interconnected municipal
2830 separate storm sewer that is designated as a regulated small MS4 to be covered under a state
2831 WYPDES storm water discharge permit.
2832

2833 (IV) Small MS4s may be designated by the administrator
2834 based upon Section 6 (h) (ii) (C).
2835

2836 (V) For any small MS4 that has been evaluated as per
2837 subsections (I) or (II) above, the administrator reserves the right to re-evaluate the MS4 if
2838 circumstances change or new information becomes available.
2839

2840 (D) A storm water discharge that the administrator determines
2841 contributes to a violation of a water quality standard or is a significant contributor of pollutants to
2842 surface waters of the state. This designation may include a discharge from any conveyance or
2843 system of conveyances used for collecting and conveying storm water runoff or a system of
2844 discharges from municipal separate storm sewers, except for those discharges from conveyances
2845 which do not require a permit under Section 6 (g) (iii) (L) or irrigation return flow which is
2846 exempted from the definition of point source in this regulation.
2847

2848 The administrator may designate discharges from a MS4 on a system-wide or
2849 jurisdiction-wide basis. In making this determination the administrator may consider the
2850 following factors:
2851

2852 (I) The location of the discharge with respect to surface
2853 waters of the state;
2854

2855 (II) The size of the discharge;
2856

2857 (III) The quantity and nature of the pollutants discharged to
2858 surface waters of the state; and
2859

2860 (IV) Other relevant factors.
2861

2862 (E) The administrator may designate discharges from municipal
2863 separate storm sewers where the administrator determines that storm water controls are needed
2864 for the discharge based on wasteload allocations that are part of TMDLs that address the
2865 pollutants of concern.

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(F) The administrator may issue permits for municipal separate storm sewer systems designated in Section 6 (h) (i) (C) (D) or (E) on a system-wide basis, jurisdiction-wide basis, watershed basis or other appropriate basis, or may issue permits for individual discharges.

(ii) The administrator may waive permit coverage for a small MS4 with a population under 1,000 within the urbanized area where both of the following criteria have been met:

(A) Its discharges are not known to be contributing substantially to the pollutant loadings of a physically interconnected regulated MS4 (see Section 6 (h) (i) (C) (III)); and

(B) The small MS4 does not discharge any pollutant(s) that have been identified as a cause of impairment of any water body to which it discharges and storm water controls are not needed based on wasteload allocations that are part of a local watershed plan or an EPA approved TMDL that addresses the pollutant(s) of concern.

(C) A small MS4 waived under this section may be designated if circumstances change or new information becomes available.

(iii) Whether or not a discharge from a municipal separate storm sewer is subject to regulation under this Section 6 (h) shall have no bearing on whether the owner or operator of the discharge is eligible for funding under Title II, Title III or Title VI of the CWA.

(i) Petitions.

(i) Any operator of a municipal separate storm sewer system may petition the director to require a separate WYPDES permit for any discharge into the municipal separate storm sewer system.

(ii) Any person may petition the director to require a WYPDES permit, where one does not already exist, for a discharge which is composed entirely of storm water which contributes to a violation of a water quality standard or is a significant contributor of pollutants to surface waters of the state.++

(iii) Any person may petition the director for the designation of a small MS4 as defined in these regulations.

(iv) The owner or operator of a municipal separate storm sewer system may petition the director to reduce the Census estimates of the population served by such separate system to account for storm water discharged to combined sewers as defined by 40 CFR 35.2005 (b) (11) that is treated in a publicly owned treatment works. In municipalities in which combined sewers are operated, the Census estimates of population may be reduced proportional to the fraction, based on estimated lengths, of the length of combined sewers over the sum of the length

2912 of combined sewers and municipal separate storm sewers where an applicant has submitted the
2913 WYPDES permit number associated with each discharge point and a map indicating areas served
2914 by combined sewers and the location of any combined sewer overflow discharge point.

2915
2916 (v) The director shall make a final determination on any petition received
2917 under this section within 90 days after receiving the petition with the exception of petitions to
2918 designate a small MS4, in which case the director shall make a final determination on the petition
2919 within 180 days after receipt of the petition.

2920
2921 (j) Conditions for municipal storm water permits.

2922
2923 (i) An individual permit issued under Section 6 or general permit
2924 authorization issued under Section 4 to a regulated small MS4 shall contain the following
2925 requirements, at a minimum:

2926
2927 (A) The MS4 permit will require that the regulated small MS4
2928 develop, implement, and enforce a storm water management program designed to reduce the
2929 discharge of pollutants from the MS4 to the maximum extent practicable, to protect water quality,
2930 and to satisfy the appropriate water quality requirements of the Wyoming Environmental Quality
2931 Act (W.S. 35-11-301 to 35-11-311). The storm water management program must include the
2932 minimum control measures described in Section 6 (j) (i) (B). Implementation of BMPs consistent
2933 with the provisions of the storm water discharge permit required pursuant to this section
2934 constitutes compliance with the standard of reducing pollutants to the maximum extent
2935 practicable.

2936
2937 The initial permit for the regulated small MS4 will specify a time period of up to five (5)
2938 years from the date of permit issuance for development and implementation of the program.

2939
2940 (B) Minimum control measures.

2941
2942 (I) Public education and outreach on storm water impacts.
2943 The permittee must implement a public education program to:

2944
2945 (1.) Distribute educational materials to the
2946 community or conduct equivalent outreach activities about the impacts of storm water discharges
2947 on water bodies and the steps that the public can take to reduce pollutants in storm water runoff;
2948 and

2949
2950 (2.) Inform public employees, businesses and the
2951 general public of impacts associated with illegal discharges and improper disposal of waste.

2952
2953 (II) Public involvement/participation. The permittee must, at
2954 a minimum, comply with any applicable state and local public notice requirements when
2955 implementing the storm water management programs required under the permit. Notice of all
2956 public hearings should be published in a community publication or newspaper of general

2957 circulation, to provide opportunities for public involvement that reach a majority of citizens
2958 through the notification process.

2959

2960 (III) Illicit discharge detection and elimination. The
2961 permittee must develop, implement and enforce a program to detect and eliminate illicit
2962 discharges (as defined in Section 3) into the permittee=s small MS4.

2963

2964 (1.) The permittee must:

2965

2966 a. Develop, if not already completed, a
2967 storm sewer system map, showing the location of all municipal storm sewer outfalls and the
2968 names and location of all surface waters of the state that receive discharges from those outfalls;

2969

2970 b. To the extent allowable under state or
2971 local law, effectively prohibit, through ordinance or other regulatory mechanism, non-storm water
2972 discharges into the storm sewer system, and implement appropriate enforcement procedures and
2973 actions; and

2974

2975 c. Develop and implement a plan to detect
2976 and address non-storm water discharges, including illicit discharges and illegal dumping, to the
2977 system. The plan must include the following three components: procedures for locating priority
2978 areas likely to have illicit discharges; procedures for tracing the source of an illicit discharge; and
2979 procedures for removing the source of the discharge.

2980

2981 (2.) The permittee shall address the following
2982 categories of non-storm water discharges or flows (i.e., illicit discharges) only if the permittee
2983 identifies them as significant contributors of pollutants to the permittee=s small MS4 discharges:
2984 landscape irrigation, lawn watering, diverted stream flows, irrigation return flow, rising
2985 groundwaters, groundwater infiltration (as defined at 40 CFR 35.2005(20)), pumped
2986 groundwater, springs, flows from riparian habitats and wetlands, water line flushing, discharges
2987 from potable water sources, foundation drains, air conditioning condensation, water from crawl
2988 space pumps, footing drains, individual residential car washing, dechlorinated swimming pool
2989 discharges, and street wash water (discharges or flows from fire fighting activities are excluded
2990 from the effective prohibition against non-storm water and need only be addressed where they are
2991 identified as significant sources of pollutants to surface waters of the state).

2992

2993 (IV) Construction site storm water runoff control.

2994

2995 (1.) The permittee must develop, implement, and
2996 enforce a program to reduce pollutants in any storm water runoff to the MS4 from construction
2997 activities that result in a land disturbance of greater than or equal to one acre. Reduction of
2998 pollutants in storm water discharges from construction activity disturbing less than one acre must
2999 be included in the program if that construction activity is part of a larger common plan of
3000 development or sale that would disturb one acre or more. If the administrator waives
3001 requirements for storm water discharges associated with a small construction activity in

3002 accordance with Section 6 (f) (ii) (B), the permittee is not required to develop, implement, and/or
3003 enforce its program to reduce pollutant discharges from such a site.

3004
3005 (2.) The program must be developed and
3006 implemented to assure adequate design, implementation, and maintenance of BMPs at
3007 construction sites within the MS4 to reduce pollutant discharges and protect water quality. The
3008 program must include the development and implementation of, at a minimum:

3009
3010 a. An ordinance or other regulatory
3011 mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to
3012 the extent allowable under state or local law;

3013
3014 b. Requirements for construction site
3015 operators to implement appropriate erosion and sediment control BMPs;

3016
3017 c. Requirements for construction site
3018 operators to control waste such as discarded building materials, concrete truck washout,
3019 chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to
3020 water quality;

3021
3022 d. Procedures for site plan review which
3023 incorporate consideration of potential water quality impacts;

3024
3025 e. Procedures for receipt and consideration
3026 of information submitted by the public, and

3027
3028 f. Procedures for site inspection and
3029 enforcement of control measures.

3030
3031 (V) Post-construction storm water management in new
3032 development and redevelopment.

3033
3034
3035 (1.) The permittee must develop, implement, and
3036 enforce a program to address storm water runoff from new development and redevelopment
3037 projects that disturb greater than or equal to one acre, including projects less than one acre that
3038 are part of a larger common plan of development or sale, that discharge into the small MS4. The
3039 program must ensure that controls are in place that would prevent or minimize water quality
3040 impacts.

3041
3042 (2.) The permittee must:

3043
3044 a. Develop and implement strategies which
3045 include a combination of structural and/or non-structural BMPs appropriate for the community;

3046

3047 b. Use an ordinance or other regulatory
3048 mechanism to address post-construction runoff from new development and redevelopment
3049 projects to the extent allowable under state or local law; and
3050

3051 c. Ensure adequate long-term operation
3052 and maintenance of BMPs.
3053

3054 (VI) Pollution prevention/good housekeeping for municipal
3055 operations. The permittee must develop and implement an operation and maintenance program
3056 that includes an employee training component and has the ultimate goal of preventing or reducing
3057 pollutant runoff from municipal operations. The program must also inform public employees of
3058 impacts associated with illegal discharges and improper disposal of waste from municipal
3059 operations. The program must prevent and/or reduce storm water pollution from facilities such as
3060 streets, roads, highways, municipal parking lots, maintenance and storage yards, fleet or
3061 maintenance shops with outdoor storage areas, salt/sand storage locations and snow disposal
3062 areas operated by the permittee, waste transfer stations, and from activities such as park and open
3063 space maintenance, fleet and building maintenance, street maintenance, new construction of
3064 municipal facilities, and storm water system maintenance, as applicable.
3065

3066 (C) If an existing qualifying local program requires the permittee to
3067 implement one or more of the minimum control measures of Section 6 (j) (i) (B), the
3068 administrator may include conditions in the permit that direct the permittee to follow that
3069 qualifying program=s requirements rather than the requirements of Section 6 (j) (i) (B). A
3070 qualifying local program is a local or state municipal storm water management program that
3071 imposes, at a minimum, the relevant requirements of Section 6 (j) (i) (B). The permit may be
3072 reopened and modified to include the requirement to implement a minimum control measure if
3073 the other entity fails to implement it.
3074

3075 (D) The permittee must comply with any more stringent effluent
3076 limitations in the permit, including permit requirements that modify, or are in addition to, the
3077 minimum control measures, based on an approved TMDL or equivalent analysis. The
3078 administrator may include more stringent limitations based on a TMDL or equivalent analysis
3079 that determines such limitations are needed to protect water quality.
3080

3081 (E) The permittee must comply with other applicable state WYPDES
3082 permit requirements, standards and conditions established in the individual or general permit,
3083 developed consistent with the provisions of Section 6 (b) or Section 4, as appropriate.
3084

3085 (F) A permittee may rely on another entity to satisfy its state
3086 WYPDES permit obligations to implement a minimum control measure, or component thereof if:
3087

3088 (I) The other entity, in fact, implements the control
3089 measure;
3090

3091 (II) The particular control measure, or component thereof, is
3092 at least as stringent as the corresponding WYPDES permit requirement; and

3093
3094 (III) The other entity agrees to implement the control measure
3095 on behalf of the permittee. The permittee must specify in reports submitted under Section 6 (j) (i)
3096 (G) (iii), that it relies on another entity to satisfy some of its permit obligations. If the permittee
3097 is relying on another entity, subject to these regulations, to meet all of its permit obligations,
3098 including the obligation to file periodic reports, it must note that fact in its NOI. The permittee
3099 remains responsible for compliance with its permit obligations if the other entity fails to
3100 implement the control measure (or component thereof).

3101
3102 (G) Evaluation and assessment.

3103
3104 (I) Evaluation. The permittee shall evaluate program
3105 compliance, the appropriateness of its identified BMPs, and progress towards achieving its
3106 identified measurable goals. A summary of this evaluation shall be included in the permittee=s
3107 annual report.

3108
3109 (II) Record keeping. The permittee must keep records
3110 required by the permit for at least three (3) years. The permittee must submit their records to the
3111 administrator only when specifically asked to do so. The permittee must make the records,
3112 including a description of the permittee=s storm water management program, available to the
3113 public at reasonable times during regular business hours. (The permittee may assess a reasonable
3114 charge for copying. The permittee may require a member of the public to provide advance
3115 notice.)

3116
3117 (III) Reporting. The permittee shall submit annual reports to
3118 the administrator for the permittee=s first permit term. For subsequent permit terms, reports must
3119 be submitted in years two (2) and four (4) unless the administrator requires more frequent
3120 reporting. The permittee=s report must include:

3121
3122 (1.) The status of compliance with permit conditions,
3123 an assessment of the appropriateness of the permittee=s identified BMPs and progress towards
3124 achieving the permittee=s identified measurable goals for each of the minimum control measures;

3125
3126 (2.) Results of information collected and analyzed,
3127 including monitoring data, if any, during the reporting period;

3128
3129 (3.) A summary of the storm water activities the
3130 permittee plans to undertake during the next reporting cycle;

3131
3132 (4.) A change in any identified BMPs or measurable
3133 goals for any of the minimum control measures; and

3134
3135 (5.) Notice that the permittee is relying on another
3136 governmental entity to satisfy some of the permittee=s permit obligations (if applicable).

3137

3138 (H) Any additional requirements as determined to be necessary by
3139 the administrator.

3140
3141 (ii) The administrator may determine monitoring requirements for the
3142 permittee in accordance with state monitoring plans appropriate to the permittee's watershed.

3143
3144 (k) Qualifying programs. Qualifying state or local programs associated with
3145 municipal storm water permits.

3146
3147 (i) For storm water discharges associated with small construction activity
3148 identified in Section 6 (f) (ii) (A), the administrator may include permit conditions that
3149 incorporate qualifying state or local erosion and sediment control program requirements by
3150 reference. A qualifying state or local erosion and sediment control program is one that includes:

3151
3152 (A) Requirements for construction site operators to implement
3153 appropriate erosion and sediment control best management practices;

3154
3155 (B) Requirements for construction site operators to control waste
3156 such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste
3157 at the construction site that may cause adverse impacts to water quality;

3158
3159 (C) Requirements for construction site operators to develop and
3160 implement a storm water pollution prevention plan. (A storm water pollution prevention plan
3161 includes site descriptions, descriptions of appropriate control measures, copies of approved local
3162 requirements, maintenance procedures, inspection procedures, and identification of non-storm
3163 water discharges); and

3164
3165 (D) Requirements to submit a site plan for review that incorporates
3166 consideration of potential water quality impacts.

3167
3168 (ii) For storm water discharges from large construction activity identified in
3169 Section 6 (f) (i), the administrator may include permit conditions that incorporate qualifying state
3170 or local erosion and sediment control program requirements by reference. A qualifying state or
3171 local erosion and sediment control program is one that includes the elements listed in Section 6
3172 (k) (i), and any additional requirements necessary to achieve the applicable technology-based
3173 standards of "best available technology" and "best conventional technology" based on the best
3174 professional judgment of the permit writer.

3175 **Section 7. Isolated Wetlands-Mitigation Requirements.**

3176 This section applies to the process for approving mitigation for activities that cause the
3177 destruction, damage, or impairment of naturally occurring isolated wetlands or man-made
3178 isolated wetlands used to mitigate the loss of naturally occurring wetlands.

3179
3180 (a) Point source discharge activities required to file mitigation plans. Any person
3181 who proposes a point source discharge of dredged or fill material into a naturally occurring
3182 isolated wetland or man-made isolated wetlands used to mitigate the loss of a naturally occurring

3183 wetland in such a manner that causes the loss or destruction of greater than a cumulative one (1)
3184 acre of wetland habitat for the total project shall file with the administrator a notice of intent for
3185 coverage under an isolated wetlands mitigation general permit and a mitigation plan designed to
3186 offset the loss of wetland functions and values. Such notices of intent and mitigation plans must
3187 be filed and approved by the administrator prior to the commencement of the activity which will
3188 cause the wetland loss. Those activities which are subject to a permit or authorization from the
3189 U.S. Army Corps of Engineers pursuant to Section 404 of the CWA or mining activities subject
3190 to a permit or authorization from the Wyoming Department of Environmental Quality, Land
3191 Quality Division are exempt from this requirement.

3192

3193 (b) Mitigation plan contents and area of impact. Mitigation plans submitted to the
3194 administrator under this section shall contain the following information:

3195

3196 (i) Name and address of the applicant;

3197

3198 (ii) Location and description of the isolated wetland that will be impacted,
3199 including the area of impact in acres, type of wetland, probable functional values, and source of
3200 water;

3201

3202 (iii) Delineation of the impacted wetland using the U.S. Army Corps of
3203 Engineer=s 1987 wetland delineation manual including maps, drawings, data sheets and
3204 conclusions;

3205

3206 (iv) Name(s) and address(s) of adjacent property owners who may be
3207 affected by the activity;

3208

3209 (v) Description of the activity causing the wetland impact;

3210

3211 (vi) Description of actions to be taken to fully offset damage to the impacted
3212 wetland;

3213

3214 (vii) Where the proposed mitigation involves the construction of replacement
3215 wetlands or the enhancement of existing wetlands the location and description of the mitigation
3216 area including the name and address of the landowner, construction plans, maps, water sources
3217 and construction time tables;

3218

3219 (viii) Where the proposed mitigation involves the use of wetland credits
3220 recorded in the “Wyoming Statewide Wetland Mitigation Bank” a written authorization signed by
3221 the credit owner referencing the wetland credit file number and the amount of credit authorized
3222 for use;

3223

3224 (ix) List of related permissions and/or authorizations necessary to
3225 successfully complete the planned mitigation including but not limited to water rights, easements,
3226 and associated federal, state or local permits.

3227

3228 (c) Access to physical locations associated with the permit. If requested by the
3229 administrator or the administrator=s authorized agent, the permittee shall provide access to,
3230 physical locations associated with this permit including, but not limited to, any waters of the state
3231 associated with the permit at the point of discharge.

3232
3233 (d) Criteria for approval of mitigation plans under a general permit.

3234
3235 (i) The administrator shall approve all mitigation plans utilizing Wyoming
3236 Wetland Banked Credits in accordance with the “Wyoming Statewide Wetland Mitigation Bank -
3237 Guidelines for Interpretation and Implementation,” April 1995;

3238
3239 (ii) The administrator shall approve all mitigation plans involving the
3240 creation of new replacement wetlands, the restoration of degraded wetlands, or the enhancement
3241 of existing wetlands that are not recorded in the Statewide Wetland Mitigation Bank but meet the
3242 substantial elements of the wetland banking guidelines;

3243
3244 (iii) The administrator may approve types of mitigation other than those
3245 described in the April 1995 Wetland Mitigation Bank Guidelines on a case-by-case basis after
3246 consideration of the ecological function and wetland value of the impacted wetlands and the net
3247 environmental benefit of the proposed mitigation. Such types of mitigation may include but are
3248 not limited to the acquisition of conservation easements, contributions to specific private or
3249 public habitat improvement projects, or modifications to the geographic and ecological
3250 limitations expressed in the wetland banking guidelines.

3251
3252 (e) Processing of notices of intent. Processing of notices of intent shall be in
3253 accordance with the procedures outlined in Section 4 (f) of these regulations.

3254
3255 (f) Permit by rule. Discharges of dredged or fill material into naturally occurring
3256 isolated wetlands or man-made isolated wetlands used to mitigate the loss of naturally occurring
3257 wetlands which cause the loss or destruction of one acre or less of wetland habitat for the total
3258 project are permitted by rule in accordance with the following requirements:

3259
3260 (i) There shall be no discharge of solid wastes (as defined in Chapter 1,
3261 Section 1 [f] of the Department=s Hazardous Waste Management Rules and Regulations),
3262 hazardous wastes, hazardous materials, hazardous constituents, radioactive material or any toxic
3263 substance.

3264
3265 (ii) This permit by rule is not applicable to those activities which are subject
3266 to a permit or authorization from the U.S. Army Corps of Engineers pursuant to Section 404 of
3267 the CWA or mining activities subject to a permit or authorization from the Wyoming Department
3268 of Environmental Quality, Land Quality Division.

3269 **Section 8. Variance Requests.**

3270 (a) Variance requests by non-POTWs.
3271

3272 (i) A discharger which is not a publicly owned treatment works (POTW)
3273 may request a variance from otherwise applicable effluent limitations under any of the following
3274 statutory or regulatory provisions within the times specified in this section:

3275
3276 (A) Fundamentally different factors.

3277
3278 (I) A request for a variance based on the presence of
3279 “fundamentally different factors” from those on which the effluent limitations guideline was
3280 based shall be filed as follows:

3281
3282 (1.) For a request from best practicable control
3283 technology (BPT) currently available, at the time of application.

3284
3285 (2.) For a request from best available technology
3286 (BAT) economically achievable and/or best conventional pollutant control technology (BCT), by
3287 no later than 180 days after the date on which an effluent limitation guideline is published in the
3288 federal register for a request based on an effluent limitation guideline promulgated on or after
3289 February 4, 1987.

3290
3291 (II) The request shall explain how the applicable
3292 requirements of Wyoming Water Quality Rules and Regulations Chapter 1 - Surface Water
3293 Quality Standards, the Environmental Quality Act and the provisions of these regulations have
3294 been met.

3295
3296 (B) Non-conventional pollutants. Request for a variance from the
3297 BAT requirements for CWA Section 301 (b) (2) (F) pollutants (commonly called “non-
3298 conventional” pollutants) pursuant to Section 301 (c) of the CWA because of the economic
3299 capability of the owner or operator, or pursuant to Section 301 (g) of the CWA provided however
3300 that a § 301 (g) variance may only be requested for ammonia, chlorine, color, iron, total phenols
3301 (when determined by the Regional Administrator to be a pollutant covered by Section 301 (b) (2)
3302 (F) and any other pollutant which the Regional Administrator lists under Section 301 (g) (4) of
3303 the CWA) and must be made as follows:

3304
3305 (I) For those requests for a variance from an effluent
3306 limitation based upon an effluent limitation guideline by:

3307
3308 (1.) Submitting an initial request to the director and
3309 the Regional Administrator stating the name of the discharger, the permit number, the outfall
3310 number(s), the applicable effluent guideline, and whether the discharger is requesting a Section
3311 301 (c) or Section 301 (g) modification or both. This request must have been filed not later than
3312 270 days after promulgation of an applicable effluent limitation guideline for guidelines
3313 promulgated after December 27, 1977; and

3314
3315 (2.) Submitting a completed request no later than the
3316 close of the public comment period under Section 15 of these regulations demonstrating that the
3317 applicable requirements of Section 5 (c) (iii) (A) and (B) and Appendices F, L and M have been

3318 met. Notwithstanding this provision, the complete application for a request under section 301 (g)
3319 shall be filed 180 days before the director must make a decision (unless the director establishes a
3320 shorter or longer period).

3321
3322 (II) For those requests for a variance from effluent
3323 limitations not based on effluent limitation guidelines, the request need only comply with Section
3324 8 (a) (i) (B) (I) (b) and need not be preceded by an initial request under Section 8 (a) (i) (B) (I)
3325 (a).

3326
3327 (C) Water quality related effluent limitations. A modification under
3328 CWA Section 302 (b) (2) of requirements under CWA Section 302 (a) for achieving water quality
3329 related effluent limitations may be requested no later than the close of the public comment period
3330 under Section 15 of these regulations on the permit from which the modification is sought.

3331
3332 (D) Thermal discharges. A variance under the CWA Section 316 (a)
3333 for the thermal component of any discharge must be filed with a timely application for a permit
3334 under this section, except that if thermal effluent limitations are established under the CWA
3335 Section 402 (a) (1) or are based on water quality standards the request for a variance may be filed
3336 by the close of the public comment period under Section 15 of these regulations. A copy of the
3337 request as required under Appendix M of these regulations, shall be sent simultaneously to the
3338 director.

3339
3340 (b) Variance requests by POTWs. A discharger which is a publicly owned treatment
3341 works (POTW) may request a variance from otherwise applicable effluent limitations as follows:

3342
3343 Water quality based effluent limitation. A modification under CWA Section 302 (b) (2)
3344 of the requirements under Section 302 (a) for achieving water quality based effluent limitations
3345 shall be requested no later than the close of the public comment period under Section 15 of these
3346 regulations on the permit from which the modification is sought.

3347
3348 (c) Expedited variance procedures and time extensions.

3349
3350 (i) Notwithstanding the time requirements in Section 8 (a) and (b), the
3351 director may notify a permit applicant before a draft permit is issued under Section 5 that the draft
3352 permit will likely contain limitations which are eligible for variances. In the notice the director
3353 may require the applicant as a condition of consideration of any potential variance request to
3354 submit a request explaining how the requirements of Section 5 (c) (iii) (A) and (B) and
3355 Appendices F, L and M applicable to the variance have been met and may require its submission
3356 within a specified reasonable time after receipt of the notice. The notice may be sent before the
3357 permit application has been submitted. The draft or final permit may contain the alternative
3358 limitations which may become effective upon final granting of the variance.

3359
3360 (d) Decisions on variances.

3361
3362 (i) The director may grant or deny requests for the following variances:

3363

3364 (A) Extensions under CWA Section 301 (i) based on delay in
3365 completion of a publicly owned treatment works;
3366
3367 (B) After consultation with the Regional Administrator, extensions
3368 under CWA Section 301 (k) based on the use of innovative technology; or
3369
3370 (C) Variances under CWA Section 316 (a) for thermal pollution.
3371
3372 (ii) The director may deny or forward to the Regional Administrator with a
3373 written concurrence, or submit to EPA without recommendation a completed request for:
3374
3375 (A) A variance based on the economic capability of the applicant
3376 under CWA Section 301 (c); or
3377
3378 (B) A variance based on water quality related effluent limitations
3379 under CWA Section 302 (b) (2).
3380
3381 (iii) EPA may approve or deny any variance request. If EPA approves the
3382 variance, the director may prepare a draft permit incorporating the variance.
3383
3384 (iv) The director may deny or forward to the Administrator of the EPA (or
3385 his delegate) with a written concurrence a completed request for:
3386
3387 (A) A variance based on the presence of “fundamentally different
3388 factors” from those on which an effluent limitation guideline was based and in accordance with
3389 Appendix M of these regulations;
3390
3391 (B) A variance based upon certain water quality factors under CWA
3392 Section 301 (g).
3393
3394 (v) The Administrator of the EPA (or his delegate) may grant or deny a
3395 request for a variance listed in Section 8 (e) (iv) of these regulations. If the Administrator of the
3396 EPA (or his delegate) approves the variance, the director may prepare a permit incorporating the
3397 variance.
3398
3399 (vi) Any public notice of a draft permit for which a variance has been
3400 approved or denied shall identify the applicable procedures for appealing that decision.
3401
3402 (e) When the director issues a permit on which EPA has made a variance decision,
3403 separate appeals of the permit and of the EPA variance decision are possible.
3404
3405 (i) Variance decisions made by EPA may be appealed under the provisions
3406 of 40 CFR 124.19.
3407
3408 (ii) Decisions by the director regarding the issuance or denial of a WYPDES
3409 permit may be appealed in accordance with the provisions of Section 17 of these regulations.

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Section 9. Issuance or Denial of Permits or Authorizations.

Once the requirements of Sections 4 (b) and (c), 5 (a) and (b), and 6 (b) or 7 (a) and (b) of these regulations have been met, a final determination regarding issuance or denial of a permit or authorization shall be made.

(a) Denial of permits or authorizations. No permit or authorization shall be issued which would authorize any of the following discharges:

(i) The discharge of any radiological, chemical, or biological warfare agent, or high level radioactive waste into surface waters of the state;

(ii) Any discharge which the Secretary of the Army, acting through the Chief of Engineers, finds would substantially impair anchorage and navigation;

(iii) Any discharge to which the Regional Administrator of the EPA has objected pursuant to the provisions of 40 CFR Part 123.44;

(iv) Any discharge from a point source which is in conflict with a plan or amendment thereto approved pursuant to Section 208 (b) of the Federal Act;

(v) Any discharge that, after imposition of permit conditions, cannot ensure compliance with the applicable water quality requirements of all affected states; and

(vi) No permit may be issued when conditions of the permit do not provide compliance with applicable requirements of W.S. 35-11-302 and of these regulations.

(b) Issuance of permits or authorizations. The permit or authorization shall be issued if all the requirements of appropriate sections of W.S. 35-11-302 and these regulations have been met and the issuance of the permit or authorization is not denied under Section 9 (a). In this regard, the term "reasonableness" as used in W.S. 35-11-302 (a) (vi) shall be considered to mean, as a minimum, compliance with applicable effluent standards and applicable water quality standards.

(c) Incorporation of permit conditions. All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements must be given in the permit.

(d) Term of permits. A permit issued pursuant to these regulations shall have a fixed term not to exceed five (5) years unless extended under Section 11 of these regulations. Reissuance of a permit issued pursuant to these regulations shall be in accordance with the requirements of Sections 5 (a) and (b), and 9.

3454 **Section 10. Renewal of Permits, and Renewal of Coverage Under Expiring General**
3455 **Permits.**

3456 (a) Deadlines for permit renewal application. The owner or operator of any point
3457 source within the state who proposes to continue a permitted discharge into surface waters of the
3458 state beyond the expiration date of a permit must file with the administrator a complete
3459 application form either 1) no less than 180 days in advance of the permit expiration date, unless
3460 otherwise approved by the administrator, or 2) in sufficient time to insure compliance with the
3461 requirements of Section 306 of the Federal Act, or with any applicable zoning or siting
3462 requirements established pursuant to Section 208 (b) (2) (c) of the Federal Act, and any other
3463 applicable water quality standards and limitations or in the case of general permits, in accordance
3464 with the terms specified in the applicable general permit. Except as authorized under Section 11
3465 of these regulations, no person shall continue to discharge beyond the expiration date of a permit
3466 without having obtained a reissued permit from the department.

3467
3468 (b) Renewal application requirements. An application for renewal of an existing
3469 permit shall identify any changes or additions to the information, listed in Section 5 (a) (v), that
3470 was provided in the application form or additional requested information for the permit most
3471 recently noticed.

3472
3473 (c) Review of renewal applications. The administrator shall have each request for
3474 renewal reviewed in light of the existing permit or authorization, information provided by the
3475 permittee with the request for renewal, and all other information available to the administrator
3476 bearing on the subject permit or authorization to insure that the following conditions exist:

3477
3478 (i) That the permittee is in compliance with or has substantially complied
3479 with all the terms and conditions of the expiring permit or authorization;

3480
3481 (ii) That the discharge is consistent with applicable effluent standards and
3482 compliance schedules, water quality standards, and other legally applicable requirements imposed
3483 under these regulations; and

3484
3485 (iii) That the administrator has up-to-date information on the permittee's
3486 discharge, either pursuant to the submission of new forms or pursuant to monitoring records and
3487 reports submitted to the administrator by the permittee.

3488
3489 (d) Determination of permit or authorization renewal. Following the review of the
3490 request for renewal of a permit or renewal authorization and the other considerations described in
3491 paragraph (c) above, the administrator shall:

3492
3493 (i) Make a determination to renew or deny renewal of an authorization for
3494 coverage under a general permit; and

3495
3496 (ii) For individual permits, the administrator shall make a recommendation
3497 to the director for permit renewal or denial of permit renewal.

3498

3499 (e) Notification of determination not to renew. In the event that the administrator
3500 determines that a permit shall not be renewed or that an authorization shall not be renewed,
3501 notification of such determination will be provided to the permittee prior to the expiration of the
3502 existing permit or authorization or in accordance with Section 11 of these regulations.

3503

3504 (f) Processing and public notice procedures for permit renewals. The processing and
3505 public notice procedures in Sections 5 (b) and 15 shall be followed for every permit that is
3506 renewed and the processing procedures in Section 4 (f) shall be followed for every authorization
3507 that is renewed.

3508

3509 (g) Commencement of public notice for permit renewals. Public notice for permits
3510 being proposed for renewal shall commence not later than 30 days prior to the expiration date of
3511 the permit. In the event that permit renewals are not public noticed within 30 days prior to the
3512 permit expiration date, the permit may be continued in accordance with the provisions of Section
3513 11 of these regulations.

3514

3515 (h) Renewal of authorizations. Renewal of coverage authorized under an expiring
3516 general permit shall be conducted in accordance with the provisions established under the general
3517 permit.

3518

Section 11. Continuation of Expiring Permits.

3519 (a) Conditions. For WYPDES permits issued under the provisions of these rules, the
3520 conditions of an expired permit shall remain in force until the effective date of a new permit
3521 provided the following conditions are met:

3522

3523 (i) The permittee has submitted a timely and complete application for
3524 renewal in accordance with the provisions of Section 10 of these regulations; and

3525

3526 (ii) The director, through no fault of the permittee, does not issue a renewal
3527 permit with an effective date on or before the expiration date of the previous permit.

3528

3529 (b) Final determination. The administrator will make a final determination on the
3530 renewal application within 180 days of the permit extension.

3531

3532 (c) Effectiveness and enforceability. Permits continued under this section remain
3533 fully effective and enforceable.

3534

Section 12. Permit or Authorization Modifications.

3535 (a) Deadlines for permit or authorization modification application. The owner or
3536 operator of any point source within the state who proposes a major modification to an existing
3537 permit or a modification to an authorization must file a complete application form with the
3538 administrator either 1) no less than 180 days in advance of the date on which it is desired to
3539 change or alter the discharge unless otherwise approved by the administrator; or 2) in sufficient
3540 time prior to the alteration of the discharge to insure compliance with the requirements of Section
3541 306 of the CWA, or with any applicable zoning or siting requirements established pursuant to

3542 Section 208 (b) (2) (c) of the CWA, and any other applicable water quality standards and
3543 limitations. In any event, no person shall change or alter the conditions of a permitted discharge
3544 without having obtained a modification from the department and no modification shall be issued
3545 without full compliance by the permittee with all requirements of these regulations.

3546
3547 (b) Modification application requirements. An application for modification of an
3548 existing permit or authorization shall identify any changes or additions to the information, listed
3549 in Section 5 (a) (v) or Section 4 (m), (n) or (o), that was provided in the application form or
3550 additional requested information for the permit most recently noticed.

3551
3552
3553 (c) Request for modification. Permits or authorizations may be modified, revoked
3554 and reissued, or terminated either at the request of any interested person or upon the
3555 administrator=s initiative. However, permits or authorizations may only be modified, revoked
3556 and reissued, or terminated for the reasons specified in Sections 12 and 13. All requests shall be
3557 in writing and shall contain facts or reasons supporting the request.

3558
3559 (d) Reasons for permit modification. A permit may be modified in whole or in part
3560 when:

3561
3562 (i) There are material and substantial alterations or additions to the
3563 permitted facility or activity which occurred after permit issuance which justify the application of
3564 permit conditions that are different or absent in the existing permit.

3565
3566 (ii) The administrator has received new information which was not available
3567 at the time of permit issuance (other than revised regulations, guidance, or test methods) and
3568 which would have justified different permit conditions at the time of issuance, including
3569 information derived from effluent testing required under Section 5 (c) (v). This provision allows
3570 modification of a permit to include conditions that may be less stringent than the existing permit
3571 to the extent allowed under Section 12 (d) (iii).

3572
3573 (iii) The standards or regulations on which the permit was based have been
3574 changed by promulgation of amended standards or regulations or by judicial decision after the
3575 permit was issued. Permits may be modified during their terms for this cause only as follows:

3576
3577 (A) The permit condition requested to be modified was based on a
3578 promulgated effluent limitation guideline, secondary treatment regulations specified in Appendix
3579 E, or water quality standard; and

3580
3581 (B) EPA or the department has revised, withdrawn, or modified that
3582 portion of the federal regulation on which the permit condition was based, or the Environmental
3583 Quality Council has approved a revised water quality standard or effluent limitation on which the
3584 permit condition was based; and

3585
3586 (C) The permittee requests modification as required in this
3587 regulation, within 90 days after the notice of final action by which the EPA effluent limitation

3588 guideline, water quality standard, or effluent limitation is revised, withdrawn, or modified or
3589 upon the administrator=s initiative; or

3590
3591 (D) For judicial decisions, a court of competent jurisdiction
3592 has remanded and stayed EPA promulgated regulations or effluent limitation guidelines, if the
3593 remand and stay concern that portion of the regulations or guidelines on which the permit
3594 condition was based and a request is filed by the permittee in accordance with this regulation,
3595 within 90 days of judicial remand.

3596
3597 (iv) The administrator determines that good cause exists to modify a permit
3598 condition because of events over which the permittee has no control and for which there is no
3599 reasonable available remedy.

3600
3601 (v) When required to incorporate applicable toxic effluent limitation or
3602 standards adopted pursuant to Section 307 (a) of the CWA.

3603
3604 (vi) When required by the reopener conditions in the permit.

3605
3606 (vii) When the level of discharge of any pollutant which is not limited in the
3607 permit exceeds the level which can be achieved by the technology-based treatment requirements
3608 appropriate to the facility.

3609
3610 (viii) To establish a pollutant notification level required in Section 5 (c) (i) (B),
3611 (W), (X), (Y) or Appendix B.

3612
3613 (ix) To correct technical mistakes, such as errors in calculation, or mistaken
3614 interpretations of law made in determining permit conditions, to the extent allowed in Section 5
3615 (c) (iii) (M).

3616
3617 (x) Discharge volume will increase above what was described in the most
3618 current application or permit.

3619
3620 (xi) Outfalls will be added, deleted or moved.

3621
3622 (xii) The receiving surface waters of the state will change from what was
3623 described in the most current application.

3624
3625 (xiii) The time of discharge will be changed where seasonal or time-limited
3626 conditions for discharge may be established.

3627
3628 (xiv) The administrator determines good cause exists for modification of a
3629 compliance schedule, such as an act of God, strike, flood, or materials shortage or other events
3630 over which the permittee has little or no control and for which there is no reasonably available
3631 remedy. However, in no case may a WYPDES compliance schedule be modified to extend
3632 beyond an applicable CWA statutory deadline.

3633

3634 (xv) When a discharger is no longer eligible for net limitations, as provided in
3635 Section 5 (c) of these regulations.
3636
3637 (xvi) To modify a schedule of compliance to reflect the time lost during
3638 construction of an innovative or alternative facility, in the case of a POTW which has received a
3639 grant under Section 202 (a) (3) of the CWA for 100 percent of the costs to modify or replace
3640 facilities constructed with a grant for innovative and alternative wastewater technology under
3641 Section 202 (a) (2). In no case shall the compliance schedule be modified to extend beyond an
3642 applicable CWA statutory deadline for compliance.
3643
3644 (xvii) For a small MS4, to include an effluent limitation requiring
3645 implementation of a minimum control measure or measures specified in Section 6 of these
3646 regulations when:
3647
3648 (I) The permit does not include such measure(s) based upon the
3649 determination that another entity was responsible for implementation of the requirements(s); and
3650
3651 (II) The other entity fails to implement measure(s) that satisfy the
3652 requirement(s).
3653
3654 (xviii) Cause exists for termination under Section 13 of these regulations, and
3655 the administrator determines that modification or revocation and reissuance is appropriate.
3656
3657 (xix) Other changes to information described in Section 5 (c) (i) (B).
3658
3659 (xx) When a downstream state was not properly notified
3660 of a proposed permit.
3661
3662 (e) Reasons for authorization modification. An authorization may be modified in
3663 whole or in part when:
3664
3665 (i) There are material and substantial alterations or additions to the
3666 permitted facility or activity which occurred after issuance of an authorization.
3667
3668 (ii) The administrator has received new information which was not available
3669 at the time of permit issuance.
3670
3671 (iii) To correct technical mistakes, such as errors in calculation, or mistaken
3672 interpretations of law made in determining authorization conditions.
3673
3674 (iv) Discharge volume will increase above what was described in the most
3675 current application or authorization.
3676
3677 (v) Conditions described in Section 12 (d) (v) through (vii) and (xiii) exist.
3678

3679 (vi) For a small MS4, to include an effluent limitation requiring
3680 implementation of a minimum control measure or measures specified in Section 6 of these
3681 regulations when:

3682 (A) The authorization does not include such measure(s) based upon
3683 the determination that another entity was responsible for implementation of the requirements(s);
3684 and

3685 (B) The other entity fails to implement measure(s) that satisfy the
3686 requirement(s).
3687
3688

3689 (f) Permit revocation and reissuance. When a permit is revoked and reissued under
3690 this section, the entire permit is reopened just as if the permit had expired and was being reissued.
3691 During any revocation and reissuance proceeding, the permittee shall comply with all conditions
3692 of the existing permit until a new final permit is reissued.
3693

3694 (g) Processing procedures for major modifications. Major modifications for permits
3695 and authorizations will be subjected to the processing procedures described in Sections 4, 5 and 6
3696 of these regulations.
3697

3698 (h) Processing procedures for minor modifications. Minor modifications to permits
3699 and authorizations shall not be subject to the processing procedures of Sections 4, 5 and 6. Minor
3700 modifications to permits and authorizations will be processed according to the following
3701 procedures:
3702

3703 (i) Where a modification to an individual permit is initiated by the
3704 permittee, notification that the modification has been incorporated into the permit will be
3705 provided to the permittee within 30 days of the permittee's submittal of a complete application
3706 for modification to the administrator;
3707

3708 (ii) Where an application for modification to an authorization is submitted by
3709 the permittee and the administrator determines that the modification can be authorized, a revised
3710 authorization reflecting the modification will be provided to the permittee within 30 days of the
3711 permittee's submittal of a complete notice of intent for modification to the department, or as
3712 described in the general permit under which coverage is provided;
3713

3714 (iii) Where an application for modification to an authorization is submitted by
3715 the permittee and the administrator determines that the modification can not be authorized, a
3716 notification shall be provided to the permittee of such determination within 30 days of the
3717 permittee's submittal of a complete notice of intent for modification to the department, or as
3718 described in the general permit under which coverage is provided.
3719

3720 (i) Conditions subject to modification. When a permit is modified, only the
3721 conditions subject to modification are reopened. The term of the modified permit will not be
3722 extended beyond the term of the permit being modified.
3723

3724 (j) No stay of permit conditions. The filing of a request by the permittee for a
3725 permit modification does not stay any permit condition.

3726
3727 (k) Antibalancing. All effluent permit modifications and reissuances are subject to
3728 the antibalancing provisions set forth in Section 5 (c) (iii) (M).

3729
3730 (l) Draft permits and authorization notification. For major modifications to permits,
3731 the administrator will prepare a summary describing the proposed modification(s). Copies of the
3732 modification summary will be provided to permittees for review at the time of public notice. For
3733 modifications to authorizations, copies of the issued authorizations will be provided to permittees
3734 within ten (10) days of issuance.

3735
3736 (m) Denial of permit or authorization modification requests. Except for denial based
3737 upon incompleteness of an application, if the director proposes to deny issuance of a permit or
3738 authorization modification, the applicant shall be notified by registered or certified mail of the
3739 intent to deny and the reason for denial.

3740 **Section 13. Permit and Authorization Terminations.**

3741 (a) Reasons for permit or authorization termination. A permit or authorization may
3742 be terminated during its term for reasons determined by the department including, but not limited
3743 to, the following:

3744
3745 (i) Violation of any terms or conditions of the permit;

3746
3747 (ii) Obtaining a permit by misrepresentation or failing to disclose any fact
3748 which is material to the granting or denial of a permit or to the establishment of terms or
3749 conditions of the permit;

3750
3751 (iii) Materially false or inaccurate statements or information in the permit
3752 application or the permit; or

3753
3754 (iv) A determination that the permitted activity endangers human health or
3755 the classified or existing uses of surface waters of the state and can only be regulated to
3756 acceptable levels by permit modifications or termination.

3757
3758 (b) Public notice of permit terminations or revocations. Public notice shall be given
3759 of the intent to terminate or revoke a permit in accordance with the provisions of Section 15 of
3760 these regulations.

3761
3762 (c) Notification of authorization termination. Notification shall be sent to the
3763 permittee of an authorization that is being terminated stating the reasons for termination and the
3764 effective date of termination.

3765
3766
3767

3768

Section 14. Signatory Requirements.

3769

(a) Signatures for applications and notices of intent (NOI). Applications, NOIs, and other documents required to accompany said applications or NOI when submitted to the department must be signed as follows:

3770

3771

3772

3773

(i) In the case of corporations, by a principal executive officer of at least the level of vice president, or the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the overall operation of the facility from which the discharge originates as described in the application, NOI or other required documentation;

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(ii) In the case of a partnership, by a general partner;

3780

3781

(iii) In the case of a sole proprietorship, by the proprietor; and

3782

3783

(iv) In the case of a municipal, state, federal, or other public facility, by either a principal executive officer or ranking elected official.

3784

3785

3786

(b) Signatures for reports and other required information. Except for NOI and permit applications which must be signed in accordance with paragraph (a) of this section, all reports required by permits, and other information requested by the administrator must be signed as described in paragraph (a) of this section or by a duly authorized representative. A person is only a duly authorized representative if:

3787

3788

3789

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3791

(i) The authorization is made in writing by a person described in paragraph (a) of this Section; and

3792

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3795

(ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity.

3796

3797

3798

(c) Certification. Any person signing a document under paragraph (a) or (b) of this Section shall make the following certification, unless otherwise set forth in these regulations:

3799

3800

3801

"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."

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(d) Change in signatory authorization. If an authorization under paragraph (b) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the regulated facility or activity, a new authorization satisfying the

3810

3811

3812 requirements of paragraph (b) of this section must be submitted to the administrator prior to or
3813 together with any reports or other information to be signed by the authorized representative.

3814

3815 (e) Violations. Any person who knowingly makes any false statement,
3816 representation, or certification in any record or other document submitted or required to be
3817 maintained under this permit, including monitoring reports or reports of compliance or
3818 noncompliance shall be in violation of the permit, these regulations and the Environmental
3819 Quality Act.

3820

Section 15. Public Participation.

3821 Major modifications, issuance, or reissuance of every draft permit; or where the
3822 administrator proposes to terminate coverage under an individual permit; or where the
3823 administrator proposes to conduct a public meeting in accordance with Section 16 of these
3824 regulations, the following procedures shall be used.

3825

3826 (a) Public notice. Public notice of every draft permit, public meeting being held
3827 pursuant to Section 16 of the regulations, or granting of an appeal shall be given in the following
3828 manner:

3829

3830 (i) In addition to the applicable provisions of Section 15 (a) (ii) through (v),
3831 notice shall be circulated by one or more of the following methods:

3832

3833 (A) For individual permits, posting in the post office and other public
3834 places of the municipality nearest the location(s) of the proposed discharge(s);

3835

3836 (B) For individual permits, posting near the entrance to the
3837 applicant's premises;

3838

3839 (C) For individual permits, publication in newspapers of general
3840 circulation in the locations of the proposed discharges;

3841

3842 (D) For individual and general permits, publication in a newspaper
3843 with statewide distribution;

3844

3845 (E) For general permits, publication in a newspaper with circulation
3846 in the geographic area defined in the general permit.

3847

3848 (ii) For individual permits, where a proposed outfall would occur on
3849 property that is not owned by the applicant, a copy of the public notice will be provided to the
3850 owner of the property.

3851

3852

3853 (iii) For general permits, in accordance with applicable provisions of the
3854 general permit.

3855

3856 (iv) For major permits, publication in a daily or weekly newspaper within the
3857 area affected by the facility or activity.

3858

3859 (v) In addition to Section 15 (a) (i) through (iv), publication on the
3860 Wyoming Department of Environmental Quality Internet Website (<http://deq.state.wy.us>).

3861

3862 (vi) No public notice is required when a request for permit modification,
3863 revocation and reissuance, or termination, or coverage or modification under a general permit is
3864 denied.

3865

3866 (vii) The applicant shall be mailed a copy of the fact sheet, which includes the
3867 public notice, a draft copy of the permit, and the statement of basis. The applicant will not be
3868 mailed a copy of the application materials, which is also part of the fact sheet.

3869

3870 (viii) Notice shall be mailed to any person upon request, and the administrator
3871 shall upon request add the name of any person to a list of persons or parties designated to receive
3872 copies of public notices.

3873

3874 (ix) The administrator shall provide a period of not less than 30 days
3875 following the date of public notice during which interested persons may submit their comments
3876 on draft permits.

3877

3878 (x) The contents of the public notices for draft permits shall include the
3879 following:

3880

3881 (A) Name, address, phone number, and internet address of the Water
3882 Quality Division;

3883

3884 (B) For individual permits:

3885

3886 (I) Names and addresses of the applicants;

3887

3888 (II) A brief description of each activity or operation resulting
3889 in the discharge described in each application;

3890

3891 (III) The name of the water course to which such discharge is
3892 made and a general description of the location of each outfall;

3893

3894 (IV) A statement of the tentative determination to issue the
3895 permit;

3896

3897 (C) For general permits:

3898

3899 (I) A brief description of the activity or operation resulting
3900 in the discharges for which the permit will provide coverage and a description of effluent
3901 limitations and monitoring requirements that are being proposed;

3902
3903 (II) A description of the geographic area covered by the
3904 general permit.
3905
3906 (D) The end date of the 30 day comment period; and
3907
3908 (E) A statement that a copy of the draft permit, fact sheet (if
3909 prepared), and other information is available at the address specified in paragraph (A) above.
3910
3911 (xi) The contents of a public notice announcing a public meeting shall be in
3912 accordance with Section 16 (c) of these regulations.
3913
3914 (b) Minor facilities. For every minor facility, the administrator shall prepare a
3915 statement of basis to accompany the draft permit. The statement of basis, draft permit and permit
3916 application shall be available for public inspection during the public comment period.
3917
3918 (c) Major facilities. For every major facility, the administrator shall prepare and,
3919 following public notice, shall make available, to any person so requesting, a fact sheet with
3920 respect to the application described in the notice. The administrator shall also add the name of
3921 any person so requesting to a list of those parties or persons designated to be given notice of fact
3922 sheets published, and such fact sheet shall consist of, at a minimum, the statement of basis and
3923 application, including the following information when applicable:
3924
3925 (i) A sketch or description of the discharge described in the permit
3926 application;
3927
3928 (ii) A quantitative description of the discharge which shall include the rate or
3929 frequency of discharge, the average summer and winter temperatures, and the average daily
3930 discharge in pounds per day and/or kilograms per day of any types of waste in the discharge;
3931
3932 (iii) Any tentative determinations reached by the administrator concerning the
3933 application;
3934
3935 (iv) A brief citation of any water quality standards and effluent standards that
3936 apply to the proposed discharge;
3937
3938 (v) A comprehensive description of the procedures for formulating a final
3939 decision with respect to the application including;
3940
3941 (A) The beginning and ending dates of the public comment period
3942 and the address where comments will be received;
3943
3944 (B) Procedures for requesting a meeting and the nature of that
3945 meeting; and
3946

3947 (C) Any other procedures by which the public may participate in the
3948 final decision.

3949
3950 (vi) Any calculations or other necessary explanation of the derivation of
3951 specific effluent limitations and conditions, including a citation to applicable effluent guidelines
3952 or performance standards and reasons why they are applicable or an explanation of how
3953 alternative effluent limitations were developed.

3954
3955 (vii) For permits to be issued to a treatment works owned by a person other
3956 than a state or municipality, an explanation of the administrator=s decision to issue a permit with
3957 no conditions applicable to any user, to impose conditions on one or more users, to issue separate
3958 applications, and the basis for that decision.

3959
3960 (viii) When the draft permit contains any of the following conditions, an
3961 explanation of the reasons that such conditions are applicable:

3962 (A) Limitations to control toxic pollutants;

3963 (B) Limitations on internal waste streams;

3964 (C) Limitations on indicator pollutants;

3965 (D) Limitations set on a case-by-case basis;

3966 (E) Limitations to meet the criteria for permit issuance; or

3967 (F) Waivers from monitoring requirements.

3968
3969 (ix) Reasons why any requested variances or alternatives to required
3970 standards do or do not appear justified.

3971 (x) Justification for waiver for any application requirements where such a
3972 waiver is allowed under the provisions of these regulations.

3973
3974 (d) Governmental agency mailing list. The following governmental agencies shall
3975 be included on a mailing list for receipt of fact sheets unless such agency requests not to be
3976 included on the mailing list, and each will be provided an opportunity to comment upon the draft
3977 permit(s).

3978 (i) United States Environmental Protection Agency.

3979 (ii) Second Coast Guard District.

3980 (iii) United States Bureau of Reclamation.

3981 (iv) Natural Resources Conservation Service.

- 3993
- 3994 (v) United States Forest Service.
- 3995
- 3996 (vi) United States Bureau of Land Management.
- 3997
- 3998 (vii) United States Fish and Wildlife Service.
- 3999
- 4000 (viii) United States Army Corps of Engineers.
- 4001
- 4002 (ix) Wyoming Game and Fish Department.
- 4003
- 4004 (x) Wyoming Oil and Gas Conservation Commission.
- 4005
- 4006 (xi) Wyoming State Historic Preservation Office.
- 4007
- 4008 (xii) Wyoming State Engineer.
- 4009
- 4010 (xiii) Any other state or federal agency requesting to be placed on the mailing
- 4011 list.
- 4012

4013 (e) Notification to affected states. Any state whose waters may be affected by the
4014 issuance of a permit shall be provided with a copy of the public notice and any other relevant
4015 documents that are requested. Each state whose waters may be affected shall be afforded an
4016 opportunity to comment on the draft permit, and the administrator shall take these comments into
4017 account in preparing the final permit, or the administrator shall provide the affected state, and the
4018 Regional Administrator of the EPA, a written explanation of his reasons for failing to accept any
4019 of the comments.

4020

4021 (f) Written comments request for public meeting. During the public comment
4022 period provided in paragraph (a) (v) of this section, any interested person may submit written
4023 comments on a draft permit and may request a public meeting. A request for public meeting shall
4024 be made in writing in accordance with Section 16.

4025

4026

4027 (g) Response to comments. Before a final permit decision is considered, the
4028 administrator shall prepare a response to comments which is subject to the following conditions:

4029

4030 (i) A response to all comments received within the time frame specified in
4031 paragraph (b) (v) of this Section shall be prepared and provided to the parties submitting
4032 comments;

4033

4034 (ii) The response shall specify which provisions, if any, of the draft permit
4035 have been changed in the final permit decision, and the reasons for the change; and

4036

4037 (iii) The response shall provide the reasons why any comments did not
4038 result in a change to the draft permit; and

4039
4040 (iv) The response to comments shall be made available to the public; and

4041
4042 (v) Responses to comments from other governmental agencies shall be
4043 addressed in accordance with 40 CFR 124.59.

4044
4045 (h) Alternative effluent limitations. Public notice for any request made under
4046 Appendix M of these regulations shall include the following:

4047
4048 (i) A statement that the thermal component of the discharge is subject to
4049 effluent limitations under Sections 301 or 306 of the CWA and a brief description, including a
4050 quantitative statement, or the thermal effluent limitations proposed under Sections 301 or 306;

4051
4052 (ii) A statement that an Appendix M request has been filed and that
4053 alternative less stringent effluent limitations may be imposed on the thermal component of the
4054 discharge under Appendix M and a brief description, including a quantitative statement, of the
4055 alternative effluent limitations, if any, included in the request; and

4056
4057 (iii) If the applicant has filed an early screening request under Appendix M of
4058 these regulations, a statement that the applicant has submitted such a plan.

4059 **Section 16. Public Meeting.**

4060 (a) Reason for public meeting.

4061
4062 (i) Request for public meeting. The administrator shall provide an
4063 opportunity for the applicant or any interested person or state to request a public meeting, with
4064 the administrator, with respect to any draft permit. Any such request shall be filed in writing
4065 during the comment period specified in Section 15 (a) (ix) above, and shall indicate the interest of
4066 the party and the reasons why a meeting is warranted. If the administrator finds that there is a
4067 significant degree of public interest in holding such a meeting, hold such a meeting in the
4068 geographic area where the proposed discharge is located, or other appropriate area. If the
4069 administrator determines that a public meeting is not warranted, he shall provide written
4070 notification of his decision to the party requesting the meeting.

4071
4072 (ii) Public meetings to provide clarification. The administrator may also
4073 hold a public meeting at his discretion, whenever, for instance, such a meeting might clarify one
4074 or more issues involved in the permit decision.

4075
4076 (b) Purpose. The purpose of holding public meetings is to seek information and
4077 facilitate clarification in order for the administrator to make a more informed decision.

4078
4079 (c) Public notice of a public meeting. Public notice of a public meeting held
4080 pursuant to paragraph (a) of this section, will be utilizing all of the methods available for notice of
4081 the permit application set out in paragraph b. given as described in Section 15 (a) (i) of these
4082 regulations, and such notice will be provided no less than 30 days in advance of the meeting. The
4083 contents of the public notice will consist of the following:

- 4084
4085 (i) Name, address, and phone number of the Wyoming Water Quality
4086 Division;
4087
4088 (ii) Name, and address of each applicant whose draft permit will be
4089 considered at the meeting;
4090
4091 (iii) Name of waterway to which each discharge is made and a short
4092 description of the location of each discharge on the waterway associated with the draft permit(s);
4093
4094 (iv) Brief reference to the public notice issued for each draft permit,
4095 including identification number and date of issuance.
4096
4097 (v) Information regarding the date, time, and location of the meeting;
4098
4099 (vi) A brief description of the nature and purpose of the meeting, including
4100 the applicable rules and procedures to be followed;
4101
4102 (vii) A concise statement of the issues raised by the persons requesting the
4103 meeting;
4104
4105 (viii) A statement that a copy of the draft permit, statement of basis, and other
4106 information is available at the address specified in paragraph (a) of this section.
4107
4108 (d) Submittal of statements and data. Any person may submit written or oral
4109 statements and data concerning the draft permit. Reasonable limits may be set upon the time
4110 allowed for oral statements, and the submission of written statements may be requested. The
4111 public comment period under Section 15 (a) shall be automatically extended to the close of any
4112 public meeting under this section.
4113
4114 (e) Documentation of the public meeting. An audio or video tape recording or
4115 written transcript of the public meeting shall be made available to the public.

4116 **Section 17. Hearing.**

4117 In any case where the director makes a decision to issue, modify, or terminate a permit or
4118 MS4 storm water permit authorization, or where the director makes a decision to deny issuance or
4119 modification of a permit or MS4 storm water permit authorization, any interested person may
4120 request a hearing before the Environmental Quality Council. A request for hearing shall be made
4121 in accordance with the applicable Department of Environmental Quality's Rules of Practice and
4122 Procedure.

4123 **Section 18. Public Information.**

4124 (a) Availability of information. All information required on or attached to permit
4125 application forms, notices of intent, reporting forms, draft or issued permits, authorizations, or
4126 related correspondence shall be made available to the public for inspection and copying, subject

4127 to W.S. 35-11-1101 and all other applicable state laws. The administrator shall provide facilities
4128 for inspection of all non-confidential documents.

4129

4130 (b) Applicability of trade secrets. The following information may not be considered
4131 to constitute trade secrets and must be made available to the public:

4132

4133 (i) Name and address of any permit applicant or permittee;

4134

4135 (ii) Permit applications, permits and effluent data.

4136

Section 19. Transfer of Permits.

4137

4138 (a) Permits may be transferred by a permittee to a new owner or operator if:

4139

4140 (i) Conditional transfers. The permit has been modified or revoked and
4141 reissued to identify the new permittee and to incorporate such other requirements as may be
4142 necessary under these regulations.

4143

4144 (ii) Automatic transfers. A permit may be automatically transferred to a new
4145 permittee if:

4146

4147 (A) The current permittee notifies the director in writing at least 30
4148 days in advance of the proposed transfer date in paragraph (b) (ii) of this Section;

4149

4150 (B) The notice includes a written agreement between the existing
4151 and new permittees on a form provided by the administrator. The form shall contain a specific
4152 date for transfer of permit responsibility, coverage and liability between the two parties; and

4153

4154 (C) The director does not notify the existing permittee and the
4155 proposed new permittee of its intent to modify or revoke and reissue the permit.

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4156 **APPENDIX A: Explanation of Standard Industrial Classification (SIC) Codes Regulated by**
 4157 **the Industrial Storm Water Program**

4158

Industry Type	SIC Code	Comments
Metal mining and milling	10	(a)
Coal mining	12	(a)
Oil and Gas Extraction	13	
Mining and quarrying of nonmetallic minerals except fuels	14	(a)
Food and kindred products	20	
Tobacco products	21	
Textile mill products	22	
Apparel and other finished products made from fabric and similar materials	23	
Lumber and wood products except furniture	24	
Furniture and fixtures	25	
Paper and allied products	26	
Printing, publishing, and allied products	27	
Chemicals and allied products	28	
Petroleum refining and related industries	29	
Rubber and miscellaneous plastics products	30	
Leather and leather products	31	
Stone, clay, glass and concrete products	32	
Primary metal industries	33	
Fabrication of metal products, except machinery and transportation equipment	34	
Industrial and commercial machinery and computer equipment	35	
Electronic and other electrical equipment and components, except compute equipment	36	
Transportation equipment	37	
Measuring analyzing, and controlling instruments; Photographic, medical, and optical goods; watches and clocks	38	
Miscellaneous manufacturing industries	39	
Railroad transportation	40	(b)
Local and suburban transit and interurban highway passenger transportation	41	(b)
Motor freight transportation and warehousing	42 (except 4221, 4222, and 4225)	(b)
Farm product warehousing and storage	4221	
Refrigerated warehousing and storage	4222	
General warehousing and storage	4225	
US Postal facilities	43	(b)
Water transportation	44	(b)
Transportation by air	45	(b)
Motor vehicle parts, used	5015	
Scrap and waste materials	5093	
Petroleum bulk stations and terminals	5171	(b)

4159

Comments:

4160

(a) For this SIC Code, a storm water permit is required only if runoff contacts overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations.

4161

4162

4163

(b) In this SIC Code, only facilities with vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning, or airport deicing need a storm water permit.

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4166 **APPENDIX B: Additional Requirements Applicable to Existing Manufacturing,**
4167 **Commercial, Mining and Silviculture Discharges**

4168
4169 (a) Application requirements. Existing manufacturing, commercial, mining, and
4170 silviculture discharges applying for permits, except for those facilities which discharge only non-
4171 process wastewater, shall provide the following information, in addition to that described in
4172 Section 5 (a) (v), to the administrator, using the application forms provided by the administrator.
4173

4174 (i) A line drawing of the water flow through the facility with a water
4175 balance, showing operations contributing wastewater to the effluent and treatment units. Similar
4176 processes, operations, or production areas may be indicated as a single unit, labeled to correspond
4177 to the more detailed identification required in paragraph (a) (ii) of this appendix. The water
4178 balance must show approximate average flows at intake and discharge points and between units,
4179 including treatment units. If a water balance cannot be determined (for example, for certain
4180 mining activities), the applicant may provide instead a pictorial description of the nature and
4181 amount of any sources of water and any collection and treatment measures.
4182

4183 (ii) Average flows and treatment. A narrative identification of each type of
4184 process, operation, or production area which contributes wastewater to the effluent for each
4185 outfall, including process wastewater, cooling water, and storm water runoff; the average flow
4186 which each process contributes; and a description of the treatment the wastewater receives,
4187 including the ultimate disposal of any solid or fluid wastes other than by discharge. Processes,
4188 operations, or production areas may be described in general terms (for example, "dye-making
4189 reactor," "distillation tower") For a privately owned treatment works, this information shall
4190 include the identity of each user of the treatment works. The average flow of point sources
4191 composed of storm water may be estimated. The basis for the rainfall event and the method of
4192 estimation must be indicated.
4193

4194 (iii) Intermittent flows. If any of the discharges described in paragraph (a)
4195 (ii) of this appendix are intermittent or seasonal, a description of the frequency, duration and flow
4196 rate of each discharge occurrence (except for storm water runoff, spillage or leaks).
4197

4198 (iv) Maximum production. If an effluent guideline listed in Section 5 (c) of
4199 these regulations applies to the applicant and is expressed in terms of production (or other
4200 measure of operation), a reasonable measure of the applicant's actual production reported in the
4201 units used in the applicant effluent limitation. The reported measure must reflect the actual
4202 production of the facility.
4203

4204 (v) Improvements. If the applicant is subject to any present requirements or
4205 compliance schedules for construction, upgrading or operation of waste treatment equipment, an
4206 identification of the abatement requirement, a description of the abatement project and projected
4207 final compliance dates.
4208

4209 (vi) Quantitative data. At a minimum, the applicant shall submit quantitative
4210 data for pollutants in the discharge as provided in this paragraph and in paragraph (a) (vi) (G) of

4211 this appendix. For purposes of this paragraph, an applicant is expected to know or have reason to
4212 believe that a pollutant is present in an effluent based on an evaluation of the expected use,
4213 production, or storage of the pollutant, or on any previous analyses for the pollutant.

4214
4215 (A) Every applicant must report quantitative data for every outfall
4216 for the following pollutants:

- 4217
4218 (I) Biochemical Oxygen Demand (BOD5),
4219
4220 (II) Chemical Oxygen Demand,
4221
4222 (III) Total Organic Carbon,
4223
4224 (IV) Total Suspended Solids,
4225
4226 (V) Ammonia (as N),
4227
4228 (VI) Temperature (both winter and summer), and
4229
4230 (VII) pH.

4231
4232 (B) The administrator may waive the reporting requirements for
4233 individual point sources or for a particular industry category for one or more of the pollutants
4234 listed in paragraph (a) (vi) (A) of this appendix if the applicant has demonstrated that such a
4235 waiver is appropriate because information adequate to support issuance of a permit can be
4236 obtained with less stringent requirements.

4237
4238 (C) Each applicant with processes in one or more primary industry
4239 category (see Appendix A to 40 CFR Part 122) contributing to a discharge must report
4240 quantitative data for the following pollutants in each outfall containing process wastewater:

4241
4242 (I) The organic toxic pollutants in the fractions designated
4243 in 40 CFR Part 122, Table I of Appendix D for the applicant's industrial category or categories.
4244 Table II of Appendix D lists the organic toxic pollutants in each fraction. The fractions result
4245 from the sample preparation required by the analytical procedure which uses gas
4246 chromatography/mass spectrometry. A determination that an applicant falls within a particular
4247 industrial category for the purposes of selecting fractions for testing is not conclusive as to the
4248 applicant's inclusion in that category for any other purposes.

4249
4250 (II) The pollutants listed in 40 CFR Part 122, Table III of
4251 Appendix D (the toxic metals, cyanide, and total phenols).

4252
4253 (D) Each applicant must indicate whether they know or have reason
4254 to believe that any of the pollutants as described in (I) or (II) below is discharged from each
4255 outfall.

4256

4257 (I) Any of the pollutants in Table IV of Appendix D (certain
4258 conventional and non-conventional pollutants) of 40 CFR Part 122. If an applicable effluent
4259 limitations guideline either directly limits the pollutant or, by its express terms, indirectly limits
4260 the pollutant through limitations on an indicator, the applicant must report quantitative data. For
4261 every pollutant discharged which is not so limited in an effluent limitations guideline, the
4262 applicant must either report quantitative data or briefly describe the reasons the pollutant is
4263 expected to be discharged.

4264
4265 (II) Any of the pollutants listed in Table II or Table III of
4266 Appendix D (the toxic pollutants and total phenols) of 40 CFR Part 122 for which quantitative
4267 data are not otherwise required under paragraph (a) (vi) (C) of this appendix. For every pollutant
4268 expected to be discharged in concentrations of 10 ppb or greater the applicant must report
4269 quantitative data For acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4,6 dinitrophenol,
4270 where any of these four pollutants are expected to be discharged in concentrations of 100 ppb or
4271 greater, the applicant must report qualitative data. For every pollutant expected to be discharged
4272 in concentrations less than 10 ppb, or in the case of acrolein, acrylonitrile, 2,4 dinitrophenol, and
4273 2-methyl-4,6 dinitrophenol, in concentrations less than 100 ppb, the applicant must either submit
4274 quantitative data or briefly describe the reasons the pollutant is expected to be discharged.

4275
4276 (E) Each applicant must indicate whether they know or have reason
4277 to believe that any of the pollutants in Table V of Appendix D of 40 CFR Part 122 (certain
4278 hazardous substances and asbestos) are discharged from each outfall. For every pollutant
4279 expected to be discharged, the applicant must briefly describe the reasons the pollutant is
4280 expected to be discharged, and report any quantitative data it has for any pollutant.

4281
4282 (F) For purposes of paragraphs (C) and (D) above, the applicant
4283 need not provide quantitative data if the pollutant is present in the discharge solely as a result of
4284 the presence in intake water. However, the applicant must report such pollutant as present.

4285
4286 (G) Each applicant must report qualitative data, generated using a
4287 screening procedure not calibrated with analytical standards, for 2,3,7,8-tetrachlorodibenzo-p-
4288 dioxin (TCDD) if they:

4289
4290 (I) Use or manufacture 2,4,5-trichlorophenoxy acetic acid
4291 (2,4,5,-T); 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,-TP); 2-(2,4,5-
4292 trichlorophenoxy) ethyl, 2,2-dichloropropionate (Erbon); O,O-dimethyl O-(2,4,5-trichlorophenyl)
4293 phosphorothioate (Ronnel); 2,4,5-trichlorophenol (TCP); or hexachlorophene (HCP); or

4294
4295 (II) Know or have reason to believe that TCDD is or may be
4296 present in an effluent.

4297
4298 (vii) When quantitative data for a pollutant are required, the applicant must
4299 collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods
4300 approved under 40 CFR Part 136. When no analytical method is approved the applicant may use
4301 any suitable method but must provide a description of the method.

4302

4303 (A) When an applicant has two (2) or more outfalls with
4304 substantially identical effluents, the department may allow the applicant to test only one (1)
4305 outfall and report that the quantitative data also apply to the substantially identical outfalls.

4306
4307 (B) Grab samples must be used for pH, temperature, cyanide, total
4308 phenols, residual chlorine, oil and grease, fecal coliform and fecal streptococcus.

4309
4310 (C) For all other pollutants, 24-hour composite samples must be
4311 used. However, a minimum of one (1) grab sample may be taken for effluents from holding
4312 ponds or other impoundments with a retention period greater than 24-hours. In addition, for
4313 discharges other than storm water discharges, the administrator may waive composite sampling
4314 for any outfall for which the applicant demonstrates that the use of an automatic sampler is
4315 infeasible and that the minimum of four (4) grab samples will be a representative sample of the
4316 effluent being discharged.

4317
4318 (viii) Used or manufactured toxins. A listing of any toxic pollutant which the
4319 applicant currently uses or manufactures as an intermediate or final product or byproduct. The
4320 administrator may waive or modify this requirement for any applicant who demonstrates that it
4321 would be unduly burdensome to identify each toxic pollutant if the administrator has adequate
4322 information to issue the permit.

4323
4324 (ix) An identification of any whole effluent toxicity tests which the applicant
4325 knows or has reason to believe has been made within the last three (3) years on any of the
4326 applicant's discharges or on a receiving water in relation to a discharge.

4327
4328 (x) Contract analyses. If a contract laboratory or consulting firm performed
4329 any of the analyses required in paragraphs (a) (vi) or (a) (vii) of this appendix, the applicant shall
4330 identify each laboratory or firm and the analyses performed.

4331
4332 (xi) Small business exemption. An applicant which qualifies as a small
4333 business under one of the following criteria is exempt from the requirements in Appendix B (a)
4334 (vi) (C) (I) and the Table II quantitative requirement of Appendix B (a) (vi) (D) (II):

4335
4336 (A) For coal mines, the probable total annual production is less than
4337 100,000 tons per year.

4338
4339 (B) For all other applicants, the gross total annual sales average less
4340 than \$100,000 per year (in second quarter 1980 dollars).

4341
4342 (b) Notification of routine toxic discharges not limited in the permit. Permits for
4343 existing manufacturing, commercial, mining and silvicultural discharges shall require that the
4344 permittee report to the administrator as soon as the permittee knows or has reason to believe that
4345 any activity has occurred or will occur which would result in the discharge, on a routine or
4346 frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will
4347 exceed the highest of the following notification levels:

4348

- 4349 (i) One hundred micrograms per liter (100 µg/l);
4350
- 4351 (ii) Two hundred micrograms per liter (200 µg/l) for acrolein and
4352 acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-
4353 4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
4354
- 4355 (iii) Five (5) times the maximum concentration value reported for that
4356 pollutant in the permit application; or
4357
- 4358 (iv) The notification level established by the director in accordance with
4359 Section 5 (c) of these regulations.
4360
- 4361 (c) Notification of non-routine toxic discharges not limited in the permit Permits for
4362 existing manufacturing, commercial, mining and silvicultural discharges shall require that the
4363 permittee report to the director as soon as the permittee knows or has reason to believe that any
4364 activity has occurred or will occur which would result in any discharge, on a non-routine or
4365 infrequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will
4366 exceed the highest of the following notification levels:
4367
- 4368 (i) Five hundred micrograms per liter (500 µg/l);
4369
- 4370 (ii) One milligram per liter (1 mg/l) for antimony;
4371
- 4372 (iii) Ten (10) times the maximum concentration value reported for that
4373 pollutant in the permit application; or
4374
- 4375 (iv) The notification level established by the administrator in accordance with
4376 Section 5 (c) of these regulations.

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4377 **APPENDIX C: Additional Requirements Applicable to New Manufacturing, Commercial,**
4378 **Mining and Silvicultural Discharges**

4379
4380 (a) New manufacturing, commercial, mining and silvicultural dischargers applying
4381 for permits (except for new discharges of facilities subject to the requirements of Appendix D of
4382 these regulations), shall provide the following information, in addition to that described in
4383 Section 5 (a) (iv), to the administrator, using the application form provided by the administrator.
4384

4385 (i) Discharge dates. The expected date of commencement of discharge.
4386

4387 (ii) Flows, sources of pollution, and treatment technologies.
4388

4389 (A) Expected treatment of wastewater. Description of the treatment
4390 that the wastewater will receive, along with all operations contributing wastewater to the effluent,
4391 average flow contributed by each operation, and the ultimate disposal of any solid or liquid
4392 wastes not discharges.
4393

4394 (B) Line drawing. A line drawing of the water flow through the
4395 facility with a water balance as described in Appendix B (a) (i).
4396

4397 (C) Intermittent flows. If any of the expected discharges will be
4398 intermittent or seasonal, a description of the frequency, duration and maximum daily flow rate of
4399 each discharge occurrence (except for storm water runoff, spillage, or leaks).
4400

4401 (iii) Production. If a new source performance standard promulgated under
4402 Section 306 of the CWA or an effluent limitation guideline applies to the applicant and is
4403 expressed in terms of production (or other measure of operation), a reasonable measure of the
4404 applicant's expected actual production reported in the units used in the applicable effluent
4405 guideline or new source performance standard for each of the first three (3) years. Alternative
4406 estimates may also be submitted if production is likely to vary.
4407

4408 (iv) Effluent characteristics.
4409

4410 (A) Each applicant must report estimated daily maximum, daily
4411 average, and source of information for each outfall for the following pollutants or parameters.
4412

4413 (I) Biochemical Oxygen Demand (BOD5),
4414

4415 (II) Chemical Oxygen Demand (COD),
4416

4417 (III) Total Suspended Solids (TSS),
4418

4419 (IV) Flow,
4420

4421 (V) Ammonia (as N),

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(VI) Temperature (winter and summer),

(VII) pH, and

(VIII) Total Organic Carbon (TOC).

(B) The administrator may waive the reporting requirements for any of the pollutants and parameters in Appendix C (a) (iv) (A) if the applicant submits a request for such a waiver before or with the application which demonstrates that information adequate to support issuance of the permit can be obtained through less stringent reporting requirements.

(C) Each applicant must report estimated daily maximum, daily average, and source of information for each outfall for all pollutants in Table IV of Appendix D 40 CFR Part 122 (certain conventional and non-conventional pollutants) if the applicant knows or has reason to believe the pollutants will be present or if the pollutants are limited by an effluent limitation guideline or new source performance standard either directly or indirectly through limitations on an indicator pollutant.

(D) Each applicant must report estimated daily maximum, daily average and source of information for the following pollutants if they know or have reason to believe that the pollutant will be present in the discharges from any outfall:

(I) The pollutants listed in Table III of Appendix D (the toxic metals, in the discharge from any outfall: Total cyanide, and total phenols) of 40 CFR Part 122;

(II) The organic toxic pollutants in Table II of Appendix D (except bis (chloromethyl) ether, dichlorofluoromethane and trichlorofluoromethane) of 40 CFR Part 122. This requirement is waived for applicants qualifying for the small business exemption as specified in Appendix B (a) (xi).

(E) The applicant is required to report that 2,3,7,8 Tetrachlorodibenzo-P-Dioxin (TCDD) may be discharged if he uses or manufactures one of the following compounds, or if he knows or has reason to believe that TCDD will or may be present in an effluent:

(I) 2,4,5-trichlorophenoxy acetic acid (2,4,5-T) (CAS #93-76-5);

(II) 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5-TP) (CAS #93-72-1);

(III) 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate (Erbon) (CAS #136-25-4);

4468 (IV) 0,0-dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate
4469 (Ronnel) (CAS #299-84-3);

4470
4471 (V) 2,4,5-trichlorophenol (TCP) (CAS #95-95-4); or
4472

4473 (VI) Hexachlorophene (HCP) (CAS #70-30-4).
4474

4475 (F) Each applicant must report any pollutants listed in Table V of
4476 Appendix D (certain hazardous substances) of 40 CFR Part 122 if they believe the pollutants will
4477 be present in any outfall (no quantitative estimates are required unless they are already available).
4478

4479 (G) No later than two (2) years after the commencement of the
4480 discharge from a proposed facility, the applicant must submit analytical results which
4481 characterize the actual effluent discharged. The applicant need not submit this information to the
4482 extent the analytical results are reported by the applicant under the discharge monitoring
4483 requirements of the applicant's permit.
4484

4485 (v) Engineering report. Each applicant must report the existence of any
4486 technical evaluation concerning the applicant's wastewater treatment, along with the name and
4487 location of similar plants of which the applicant has knowledge.
4488

4489 (vi) Other information. Any optional information the permittee wishes to
4490 have considered.
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APPENDIX D: Additional Requirements Applicable to Manufacturing, Commercial, Mining and Silvicultural Facilities Discharging Only Non-process Waste Water

(a) Application requirements. Application requirements for manufacturing, commercial, mining and silvicultural facilities which discharge only non-process wastewater. Except for storm water discharges, all manufacturing, commercial, mining, and silvicultural dischargers applying for permits which discharge only non-process wastewater not regulated by an effluent limitation guideline or new source performance standard shall provide the following information, in addition to that described in Section 5 (a) (iv), to the administrator, using application forms provided by the administrator.

(i) Discharge date (for new dischargers). Date of expected commencement of discharge.

(ii) Type of waste. An identification of the general type of waste discharged, or expected to be discharged upon commencement of operations, including sanitary wastes, restaurant or cafeteria wastes, or noncontact cooling water. An identification of cooling water additives (if any) that are used or expected to be used upon commencement of operations, along with their composition if existing composition is available.

(iii) Effluent characteristics.

(A) Quantitative data for the pollutants or parameters listed below, unless testing is waived by the administrator.

- (I) Biochemical Oxygen Demand (BOD₅),
- (II) Total Suspended Solids (TSS),
- (III) Fecal Coliform (if believed present or if sanitary waste is or will be discharged),
- (IV) Total Residual Chlorine (if chlorine is used),
- (V) Oil and Grease,
- (VI) Chemical Oxygen Demand (COD)(if non-contact cooling water is or will be discharged),
- (VII) Ammonia (as N),
- (VIII) Discharge Flow,
- (IX) pH,

4543 (X) Temperature (Winter and Summer), and

4544

4545 (XI) Total Organic Carbon (TOC).

4546

4547 (B) The quantitative data in Appendix D (a) (iii) (A) may be data
4548 collected over the past 365 days, if they remain representative of current operations, and must
4549 include daily maximum value, daily average value, and number of measurements taken. The
4550 applicant must collect and analyze samples in accordance with 40 CFR Part 136. Grab samples
4551 must be used for pH, temperature, oil and grease, total residual chlorine, and fecal coliform. For
4552 all other pollutants, 24-hour composite samples must be used. New dischargers must include
4553 estimates for the pollutants or parameters listed below instead of actual sampling data, along with
4554 the source of each estimate. All levels must be reported or estimated as concentration and as total
4555 mass, except for flow, pH, and temperature.

4556

4557 (C) The administrator may waive the testing and reporting
4558 requirements for any of the pollutants or flow listed in paragraph (a) (iii) of this appendix if the
4559 applicant submits a request for such a waiver before or with the permit application which
4560 demonstrates that information adequate to support issuance of a permit can be obtained through
4561 less stringent requirements.

4562

4563 (D) If the applicant is a new discharger, the applicant must provide
4564 quantitative data in accordance with paragraph (a) (iii) of this appendix no later than two (2) years
4565 after commencement of discharge. However, the applicant need not perform tests which they
4566 have already performed and reported under the discharge monitoring requirements of the
4567 applicant's permit.

4568

4569 (E) The requirements of paragraph (a) (iii) of this appendix do not
4570 apply for pollutants present in a discharge solely as a result of their presence in intake water.
4571 However, an applicant must report such pollutants as present. Net credit may be provided for the
4572 presence of pollutants in intake water if the requirements are met.

4573

4574 (iv) Flow. A description of the frequency of flow and duration of any
4575 seasonal or intermittent discharge (except for storm water runoff, leaks, or spills).

4576

4577 (v) Treatment system. A brief description of any system used or to be used.

4578

4579 (vi) Optional information. Any additional information the applicant wishes
4580 to be considered.

4581 **APPENDIX E: Additional Requirements Applicable to New and Existing Publicly owned**
4582 **Treatment Works (POTWs)**

4583
4584 (a) Application requirements for new and existing POTWs. POTWs shall provide
4585 the following information, in addition to that described in Section 5 (a) (v), to the administrator,
4586 using the application form provided by the administrator.

4587
4588 (i) Name of State Management/River Basin and 12 digit hydrologic
4589 cataloging unit code.

4590
4591 (ii) Critical flow of the receiving surface waters of the state and total
4592 hardness of the receiving surface waters of the state at critical low flow.

4593
4594 (iii) The following POTWs shall provide to the administrator the results of
4595 whole effluent toxicity testing conducted in accordance with EPA approved methods:

4596
4597 (A) All POTWs with design influent flows equal to or greater than
4598 one million gallons per day; and

4599
4600 (B) All POTWs with approved pretreatment programs or POTWs
4601 required to develop a pretreatment program.

4602
4603 (iv) Effluent monitoring for specific parameters.

4604
4605 (A) All applicants must submit to the administrator effluent
4606 monitoring information for samples taken from each outfall through which effluent is discharged
4607 to surface waters of the state, except for CSOs. The administrator may allow applicants to submit
4608 sampling data for only one (1) outfall on a case-by-case basis, where the applicant has two (2) or
4609 more outfalls with substantially identical effluent. The administrator may also allow applicants to
4610 composite samples from one or more outfalls that discharge into the same mixing zone.

4611
4612 (B) Unless otherwise indicated, all applicants must sample and
4613 analyze for the pollutants listed in Table E1 of this Appendix.

4614
4615 (C) Unless otherwise indicated, all applicants with a design flow
4616 greater than or equal to 0.1 mgd must sample and analyze for the pollutants listed in Table E2 of
4617 this Appendix. Facilities are not required to sample and analyze for chlorine if they do not use
4618 chlorine for disinfection, do not use chlorine elsewhere in the treatment process, and have no
4619 reasonable potential to discharge chlorine in their effluent.

4620
4621
4622 (D) The following applicants must sample and analyze for the
4623 pollutants listed in 40 CFR 122 Appendix J Table 2 and for any other pollutants for which state
4624 surface water quality standards have been established for the receiving waters:

4625

- 4626 (I) All POTWs with a design flow rate equal to or greater
4627 than one million gallons per day.
4628
- 4629 (II) All POTWs with approved pretreatment programs or
4630 POTWs required to develop a pretreatment program.
4631
- 4632 (III) Any other POTW as required by the administrator.
4633
- 4634 (E) Unless otherwise indicated, all applicants must provide data
4635 from a minimum of three (3) samples taken within four and one-half (4.5) year prior to the date of
4636 the permit application. Samples must be representative of seasonal variation in the discharge
4637 from each outfall. Existing data may be used, if available, in lieu of sampling done solely for the
4638 purpose of this application.
4639
- 4640 (F) All existing data for pollutants specified in this Appendix that is
4641 collected within four and one-half (4.5) years of the application must be included in the pollutant
4642 data summary submitted by the applicant. If, however, the applicant samples for a specific
4643 pollutant on a monthly or more frequent basis, it is only necessary, for such pollutant, to
4644 summarize all data collected within one (1) year of the application.
4645
- 4646 (G) Unless otherwise indicated, all applicants must collect samples
4647 of effluent and analyze such samples for pollutants in accordance with analytical methods
4648 approved und 40 CFR Part 136 unless an alternative is specified in the existing WYPDES permit.
4649 Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and
4650 grease, and fecal coliform. For all other pollutants, 24-hour composite samples must be used.
4651 For a composite sample, only one analysis of the composite of aliquots is required.
4652
- 4653 (H) The effluent monitoring data provided must include at least the
4654 following information for each parameter.
4655
- 4656 (I) daily maximum discharge, expressed as concentration or
4657 mass, based upon actual sample values;
4658
- 4659 (II) daily average discharge for all samples, expressed as
4660 concentration or mass, and the number of samples used to obtain this value;
4661
- 4662 (III) The analytical method used; and
4663
- 4664 (IV) The practical quantitation limit for the analytical method
4665 used.
4666
- 4667
- 4668 (I) Unless otherwise required by the administrator, metals
4669 must be reported as dissolved or total recoverable as applicable in accordance with Wyoming
4670 Water Quality Rules and Regulations Chapter 1.
4671

4672 (v) In addition to the POTWs listed in paragraph (a) (i) of this appendix, the
4673 division may require other POTWs to submit the results of toxicity tests with their permit
4674 applications, based on consideration of the following factors:
4675

4676 (A) The variability of the pollutants or pollutant parameters in the
4677 POTW effluent (based on chemical-specific information, the type of treatment facility, and types
4678 of industrial contributors);
4679

4680 (B) The dilution of the effluent in the receiving water (ratio of
4681 effluent flow to receiving surface waters of the state flow);
4682

4683 (C) Existing controls on point or nonpoint sources, including TMDL
4684 calculations for the waterbody segment and the relative contribution of the POTW;
4685

4686 (D) Receiving water characteristics, including possible or known
4687 water quality impairment, and whether the POTW discharges to waters designated as Class 1 in
4688 accordance with Wyoming Water Quality Rules and Regulations Chapter 1; or
4689

4690 (E) Other considerations (including but not limited to the history of
4691 toxic impact and compliance problems at the POTW), which the administrator determines could
4692 cause or contribute to adverse water quality impacts.
4693

4694 (vi) For POTWs required under paragraph (a) (i) or (a) (ii) of this appendix to
4695 conduct toxicity testing, POTWs shall use methods approved by the administrator.
4696

4697 (vii) Effluent monitoring for whole effluent toxicity.
4698

4699 (A) All applicants must provide an identification of any whole
4700 effluent toxicity tests conducted during the four and one half (4.5) years prior to the date of the
4701 application on any of the applicant=s discharges or on any receiving water near the discharge.
4702

4703 (B) Where the POTW has two or more outfalls with substantially
4704 identical effluent discharging to the same receiving water segment, the administrator may allow
4705 applicants to submit whole effluent toxicity data for only one (1) outfall on a case-by-case basis.
4706 The administrator may also allow applicants to composite samples from one (1) or more outfalls
4707 that discharge into the same mixing zone.
4708

4709 (C) Each applicant required to perform whole effluent toxicity
4710 testing pursuant to paragraph (a) (iii) of this Appendix must provide:
4711

4712 (I) Results of a minimum of four (4) quarterly tests for a
4713 year, from the year preceding the permit application; or
4714

4715 (II) Results from four tests performed at least annually in the
4716 four and one half (4.5) year period prior to the application, provided the results show no
4717 appreciable toxicity using a safety factor determined by the permitting authority.

4718
4719 (D) Applicants must conduct tests with multiple species (no less than
4720 two (2) species; e.g., fish invertebrate, plant) and test for acute or chronic toxicity, depending on
4721 the range of receiving water dilution. It is recommended that applicants conduct acute or chronic
4722 testing based on the following dilutions.

4723
4724 (I) Acute toxicity testing if the dilution of the effluent is
4725 greater than 1,000:1 at the edge of the mixing zone.

4726
4727 (II) Acute or chronic toxicity testing if the dilution of the
4728 effluent is between 100:1 and 1000:1 at the edge of the mixing zone. Acute testing may be more
4729 appropriate at the higher end and chronic testing may be more appropriate towards the lower end.

4730
4731 (III) Chronic testing if the dilution of the effluent is less than
4732 100:1 at the edge of the mixing zone.

4733
4734 (E) Unless otherwise directed by the administrator, each applicant
4735 required to perform whole effluent toxicity testing pursuant to paragraph (a) (i) of this appendix
4736 must provide the number of chronic or acute whole effluent toxicity tests that have been
4737 conducted since the last permit reissuance.

4738
4739 (F) Applicants must provide the results using a form provided by the
4740 administrator, or test summaries if available and comprehensive, for each whole effluent toxicity
4741 test conducted pursuant to this appendix for which such information has not been reported
4742 previously to the administrator.

4743
4744 (G) For the purposes of these regulations whole effluent toxicity
4745 testing for must be conducted using methods approved under 40 CFR Part 136.

4746
4747 (H) For whole effluent toxicity data submitted to the administrator
4748 within four and one half (4.5) years prior to the date of the application applicants must provide
4749 the dates on which the data were submitted and a summary of the results, unless otherwise
4750 directed by the administrator.

4751
4752 (I) Each POTW required to perform whole effluent toxicity
4753 testing in accordance with these regulations must provide any information on the cause of toxicity
4754 and written details of any toxicity reduction evaluation conducted, if any whole effluent toxicity
4755 test conducted within the past four and one-half years revealed toxicity.

4756
4757 (viii) POTWs receiving Resource Conservation and Recovery Act (RCRA),
4758 Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or
4759 RCRA Corrective Action wastes or wastes generated at another type of environmental cleanup or
4760 remediation site must provide the following information.
4761

4762 (A) If the POTW receives, or has been notified that it will receive,
4763 by truck, rail, or dedicated pipe any wastes that are regulated as RCRA hazardous wastes
4764 pursuant to 40 CFR Part 261, the applicant must report the following:
4765

4766 (I) The method by which the waste is received (i.e., whether
4767 by truck, rail, or dedicated pipe); and
4768

4769 (II) The hazardous waste number amount received annually
4770 of each hazardous waste.
4771

4772 (B) If the POTW receives, or has been notified that it will receive
4773 wastewaters that originate from remedial activities, including those undertaken pursuant to
4774 CERCLA and sections 3004(u) or 3008(h) of RCRA, the applicant must report the following:
4775

4776 (I) The identity and description of the site(s) or facility(ies)
4777 at which the wastewater originates.
4778

4779 (II) The identities of the wastewater=s hazardous
4780 constituents, as listed in Appendix VIII of 40 CFR Part 261, if known.
4781

4782 (III) The extent of treatment, if any, the wastewater receives
4783 or will receive before entering the POTW.
4784

4785 (C) Applicants are exempt from the requirements of paragraph (e)(ii)
4786 of this Appendix if they receive no more than fifteen kilograms per month of hazardous wastes as
4787 specified in 40 CFR 261.30 (d) and 261.33 (e).
4788

4789 (ix) Each applicant with combined sewer systems must provide the following
4790 information.
4791

4792 (A) Combined sewer system information:
4793

4794 (I) System map. A map indicating the location of the
4795 following:
4796

4797 (1.) All combined sewer overflow (CSO) discharge
4798 points.
4799

4800 (2.) Sensitive use areas potentially affected by CSOs.
4801

4802 (3.) Waters supporting threatened or endangered
4803 species potentially affected by CSOs.
4804

4805 (II) System diagram. A diagram of the combined sewer
4806 collection system that includes:
4807

- 4808
4809 (1.) The location of major sewer trunk lines, both
4810 combined and separate sanitary.
4811
4812 (2.) The locations of points where separate sanitary
4813 sewers feed into the combined sewer system.
4814
4815 (3.) In-line and off-line storage structures.
4816
4817 (4.) The locations of flow regulating devices.
4818
4819 (5.) The location of pump stations.
4820
4821 (B) Information on combined sewer outfalls:
4822
4823 (I) Description of the outfall, including:
4824
4825 (1.) Outfall number.
4826
4827 (2.) State, county, and city or town in which outfall
4828 is located.
4829
4830 (3.) Latitude and longitude, to the nearest 15
4831 seconds.
4832
4833 (4.) Distance from shore and depth below surface.
4834
4835 (5.) Whether the applicant monitored any of the
4836 following in the past year for the CSO:
4837
4838 a. Rainfall.
4839
4840 b. CSO flow volume.
4841
4842 c. CSO pollutant concentrations.
4843
4844 d. Receiving water quality.
4845
4846 e. CSO frequency.
4847
4848 (6.) The number of storm events monitored in the
4849 last year.
4850
4851 (II) CSO events. The following information about CSO
4852 overflows from each outfall.
4853

- 4854 (1.) The number of events in the past year.
4855
4856 (2.) The average duration per event, if available.
4857
4858 (3.) The average volume per CSO event if available.
4859
4860 (4.) The minimum rainfall that caused a CSO event,
4861 if available, in the last year.
4862
4863 (III) Description of receiving waters. The following
4864 information about receiving water.
4865
4866 (1.) Name of the receiving water.
4867
4868 (2.) Name of watershed/stream system and the State
4869 watershed (12-digit) code (if known).
4870
4871 (IV) CSO operations. A description of any known water
4872 quality impacts on the receiving water caused by the CSO (e.g., permanent or intermittent beach
4873 closings, permanent or intermittent fish kills, fish advisories, other recreational loss, or
4874 exceedance of any applicable state water quality standard.
4875
4876 (x) Contractors. All applicants must provide the name, mailing address,
4877 telephone number, and responsibilities of all contractors responsible for any operational or
4878 maintenance aspects of the facility.
4879
4880 (b) A permit application shall not be considered complete if the administrator has
4881 waived application requirements under this Appendix or Section 5 of these regulations and the
4882 Regional Administrator of the EPA has disapproved the waiver. If a waiver request has been
4883 submitted to the Regional Administrator of the EPA more than 210 days prior to permit
4884 expiration and the Regional Administrator has not disapproved the waiver application 181 days
4885 prior to permit expiration, the permit application lacking the information subject to the waiver
4886 request shall be considered complete.
4887
4888 (c) Secondary treatment requirements. This part provides information
4889 on the level of effluent quality that shall be obtained through the application of secondary or
4890 equivalent treatment.
4891
4892 (i) Terms used in this appendix are defined as follows:
4893
4894 (A) 7-day average. The arithmetic mean of pollutant parameter
4895 values for samples collected in a period of seven (7) consecutive days.
4896
4897 (B) 30-day average. The arithmetic mean of pollutant parameter
4898 values of samples collected in a period of 30 consecutive days.
4899

- 4900 (C) BOD₅. The five day measure of the pollutant parameter
4901 biochemical oxygen demand (BOD₅).
4902
- 4903 (D) CBOD₅. The five day measure of the pollutant parameter
4904 carbonaceous biochemical oxygen demand (CBOD₅).
4905
- 4906 (E) Effluent concentrations consistently achievable through proper
4907 operation and maintenance.
4908
- 4909 (I) For a given pollutant parameter, the 95th percentile value for the
4910 30-day average effluent quality achieved by a treatment works in a period of at least two years,
4911 excluding values attributable to upsets, bypasses, operational errors, or other unusual conditions;
4912 and,
4913
- 4914 (II) A 7-day average value equal to 1.5 times the value derived under
4915 paragraph (c) (i) (E) (I) of this appendix.
4916
- 4917 (F) Facilities eligible for treatment equivalent to secondary
4918 treatment. Treatment works shall be eligible for consideration for effluent limitations described
4919 for treatment equivalent to secondary treatment (133.105) if:
4920
- 4921 (I) The BOD₅ and TSS effluent concentrations consistently
4922 achievable through proper operation and maintenance of the treatment works exceed the
4923 minimum level of effluent quality set forth in 133.02(a) and (b).
4924
- 4925 (II) A trickling filter or waste stabilization pond is used as
4926 the principal process; and,
4927
- 4928 (III) The treatment works provide significant biological
4929 treatment of municipal wastewater.
4930
- 4931 (G) Percent removal. A percentage expression of the removal
4932 efficiency across a treatment plan for a given pollutant parameter, as determined from the 30-day
4933 average values of the raw wastewater influent pollutant concentrations to the facility and the 30-
4934 day average values of the raw wastewater influent pollutant concentrations to the facility and the
4935 30-day average values of the effluent pollutant concentrations for a given time period.
4936
4937
- 4938 (H) Significant biological treatment. The use of an aerobic or
4939 anaerobic biological treatment process in a treatment works to consistently achieve a 30-day
4940 average of at least 65 percent removal of BOD₅.
4941
- 4942 (I) TSS. The pollutant parameter total suspended solids.
4943
- 4944 (J) Significantly more stringent limitation means BOD₅ and TSS
4945 limitations necessary to meet the percent removal requirements of at least 5 mg/l more stringent

4946 than the otherwise applicable concentration-based limitations (e.g., less than 25 mg/l in the case
4947 of the secondary treatment limits for BOD5 and TSS), or the percent removal limitations in
4948 paragraphs (c) (ii) and (c) (v) of this appendix, if such limits would, by themselves, force
4949 significant construction or other significant capital expenditure.

4950

4951 (ii) Secondary Treatment. The following paragraphs describe the minimum
4952 level of effluent quality attainable by secondary treatment in terms of the parameters BOD5, TSS,
4953 and pH. All requirements for each parameter shall be achieved except as provided for in
4954 paragraphs (c) (iii) and (c) (v) of this appendix.

4955

4956 (A) BOD₅.

4957

4958 (I) The 30-day average shall not exceed 30 mg/l.

4959

4960 (II) The 7-day average shall not exceed 45 mg/l.

4961

4962 (III) The 30-day average percent removal shall not be less

4963 than 85 percent.

4964

4965 (IV) At the option of the administrator, in lieu of the
4966 parameter BOD₅ and the levels of the effluent quality specified in paragraphs (c) (ii) (A) (I) (II)
4967 and (III), the parameter C BOD₅ may be substituted with the following levels of the CBOD₅
4968 effluent quality provided:

4969

4970 (1.) The 30-day average shall not exceed 25 mg/l.

4971

4972 (2.) The 7-day average shall not exceed 40 mg/l.

4973

4974 (3.) The 30-day average percent removal shall not be

4975 less than 85 percent.

4976

4977 (B) TSS.

4978

4979 (I) The 30-day average shall not exceed 30 mg/l.

4980

4981 (II) The 7-day average shall not exceed 45 mg/l

4982

4983 (III) The 30-day average percent removal shall not be less

4984 than 85 percent.

4985

4986 (C) pH. The effluent values for pH shall be maintained within the
4987 limits of 6.0 to 9.0 unless the publicly owned treatment works demonstrates that: (1) Inorganic
4988 chemicals are not added to the waste stream as part of the treatment process; and (2) contributions
4989 from industrial sources do not cause the pH of the effluent to be less than 6.0 or greater than 9.0.

4990

4991 (iii) Special considerations.

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(A) Combined sewers. Treatment works subject to this part may not be capable of meeting the percentage removal requirements established under 102 (a) (3) and (b) (3) or 105 (a) (3) and (b) (3) during wet weather where the treatment works receive flows from combined sewers (i.e., sewers which are designed to transport both storm water and sanitary sewage). For such treatment works, the decision must be made on a case-by-case basis as to whether any attainable percentage removal level can be defined, and if so, what the level should be.

(B) Industrial waste. For certain industrial categories, the discharge to surface waters of the state of BOD₅ and TSS permitted under Sections 301 (b) (1) (A) (i), (b) (2) (E) or 306 of the CWA may be less stringent than the values given in paragraphs (c) (ii) (A) (I) and (IV) (i), (c) (ii) (B) (I), (c) (v) (A) (I), (c) (v) (B) (I) and (c) (v) (E) (I) (i) of this appendix. In cases when wastes would be introduced from such an industrial category into a publicly owned treatment works, the values for BOD₅ and TSS in paragraphs (c) (ii) (A) (I) and (IV) (i), (c) (ii) (B) (I), (c) (v) (A) (I), (c) (v) (B) (I) and (c) (v) (E) (I) (i) of this appendix may be adjusted upwards provided that: (1) The permitted discharge of such pollutants attributable to the industrial category, would not be greater than that which would be permitted under Sections 301 (b) (1) (A) (i), (b) (2) (E) or 306 of the CWA if such industrial category were to discharge directly into the surface waters of the state, and (2) the flow or loading of such pollutants introduced by the industrial category exceeds 10 percent of the design flow or loading of the publicly owned treatment works. When such an adjustment is made, the values for BOD₅ or TSS in paragraphs (c) (ii) (A) (II) and (IV) (ii), (c) (ii) (B) (II), (c) (v) (A) (II), (c) (v) (B) (II) and (c) (v) (E) (I) (ii) of this appendix. should be adjusted proportionately.

(C) Waste stabilization ponds. The administrator, may authorize adjusting the minimum levels of effluent quality set forth in paragraphs (c) (v) (B) (1), (2) and (3) of this appendix for treatment works subject to this part, to conform to the TSS concentrations achievable with waste stabilization ponds, provided that:

(I) Waste stabilization ponds are the principal process used for secondary treatment; and

(II) Operation and maintenance data indicate that the TSS values specified in paragraphs (c) (v) (B) (I), (II) and (III) of this appendix cannot be achieved. The term "TSS concentrations achievable with waste stabilization ponds" means a TSS value, determined by the administrator, which is equal to the effluent concentration achieved 90 percent of the time within a state or appropriate contiguous geographical area by waste stabilization ponds that are achieving the levels of effluent quality for BOD₅ specified in paragraphs (c) (v) (A) (I) of this appendix.

(D) Less concentrated influent wastewater for separate sewers. The administrator may authorize substituting either a lower percent removal requirement or a mass loading limit for the percent removal requirements set forth in paragraphs (c) (ii) (A) (III) and (IV) (3), (c) (ii) (B) (III), (c) (v) (A) (III), (c) (v) (B) (III) and (c) (v) (E) (I) (3) of this appendix provided that the permittee satisfactorily demonstrates that:

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(I) The treatment works is consistently meeting, or will consistently meet, its permit effluent concentration limits but its percent removal requirements cannot be met due to less concentrated influent wastewater;

(II) To meet the percent removal requirements, the treatment works would have to achieve significantly more stringent limitations than would otherwise be required by the concentration-based standards; and

(III) The less concentrated influent wastewater is not the result of excessive I/I. The determination of whether the less concentrated I/I will use the definition of excessive I/I in 40 CFR 35.2005 (b) (16) plus the additional criterion that inflow is non-excessive if the total flow to the POTW (i.e., wastewater plus inflow plus infiltration) is less than 25 gallons per capita per day.

(E) Less concentrated influent wastewater for combined sewers during dry weather. The administrator may substitute either a lower percent removal requirement or a mass loading limit for the percent removal requirements set forth in paragraphs (c) (ii) (A) (III) and (IV) (iii), (c) (ii) (B) (III), (c) (v) (A) (III), (c) (v) (B) (III) and (c) (v) (E) (I) (iii) of this appendix provided that the permittee satisfactorily demonstrates that:

(I) The treatment works is consistently meeting, or will consistently meet, its permit effluent concentration limits, but the percent removal requirements cannot be met due to less concentrated influent wastewater;

(II) To meet the percent removal requirements, the treatment works would have to achieve significantly more stringent effluent concentrations than would otherwise be required by the concentration-based standards; and

(III) The less concentrated influent wastewater does not result from either excessive infiltrations or clear water industrial discharges during dry weather periods. The determination of whether the less concentrated wastewater results from excessive infiltration is discussed in 40 CFR 35 2005 (b) (28), plus the additional criterion that either 40 gallons per capita per day or 1500 gallons per inch diameter per mile of sewer may be used as the threshold value for that portion of the dry weather base flow attributed to infiltration. If the less concentrated influent wastewater is the result of clear water industrial discharges, then the treatment works must control such discharges pursuant to 40 CFR Part 403.

(iv) Sampling and test procedures.

(A) Sampling and test procedures for pollutants listed in this part shall be in accordance with guidelines in 40 CFR Part 136.

(B) Chemical oxygen demand (COD) or total organic carbon (TOC) may be substituted for BOD₅ when a long-term BOD₅, COD or BOD₅ TOC correlation has been demonstrated.

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(v) Treatment equivalent to secondary treatment. This section describes the minimum level of effluent quality attainable by facilities eligible for treatment equivalent to secondary treatment under paragraph (c) (i) (F) of this appendix in terms of the parameters BOD₅, TSS and pH. All requirements for the specified parameters in paragraphs (c) (v) (A), (B) and (C) of this appendix shall be achieved except as provided for in paragraph (c) (iii), or paragraphs (c) (v) (D), (E) or (F) of this appendix.

(A) BOD₅.

(I) The 30-day average shall not exceed 45 mg/l.

(II) The 7-day average shall not exceed 65 mg/l.

(III) The 30-day average percent removal shall not be less than 65 percent.

(B) TSS. Except where TSS values have been adjusted in accordance with paragraph (c) (iii) (C) of this appendix:

(I) The 30-day average shall not exceed 45 mg/l.

(II) The 7-day average shall not exceed 65 mg/l.

(III) The 30-day average percent removal shall not be less than 65 percent.

(C) pH. The requirements of paragraph (c) (ii) (C) of this appendix shall be met.

(D) Alternative requirements. Except as limited by paragraph (c) (v) (F) of this appendix, and after public notice and opportunity for public comment, the administrator may adjust the minimum levels of effluent quality set forth in paragraphs (c) (v) (A) (I), (A) (II), (B) (I) and (B) (II) of this appendix for trickling filter facilities and in paragraphs (c) (v) (A) (I) and (A) (II) of this section for waste stabilization pond facilities, to conform to the BOD₅ and TSS effluent concentrations consistently achievable through proper operation and maintenance by the median (50th percentile) facility in a representative sample of facilities within the state or an appropriate contiguous geographical area that meet the definition of facilities eligible for treatment equivalent to secondary treatment.

(E) CBOD₅ limitations.

(I) Where data are available to establish CBOD₅ limitations for a treatment works subject to this Section, the administrator may substitute the parameter CBOD₅ for the parameter BOD₅. In paragraph (c) (v) (A) (I)-(III) of this appendix, on a case-by-

5129 case basis provided that the levels of CBOD₅ effluent quality are not less stringent than the
5130 following:

- 5131
- 5132 (1.) The 30-day average shall not exceed 40 mg/l.
- 5133
- 5134 (2.) The 7-day average shall not exceed 60 mg/l.
- 5135
- 5136 (3.) The 30-day average percent removal shall not be
5137 less than 65 percent.

5138

5139 (II) Where data are available, the parameter CBOD₅ may be
5140 used for effluent quality limitations established under paragraph (c) (v) (D) of this appendix.
5141 Where concurrent BOD₅ effluent data are available, they must be submitted with the CBOD₅ data
5142 as part of the approval process outlined in paragraph (c) (v) (D) of this appendix.

5143

5144 (F) Permit adjustments. Any permit adjustment made pursuant to
5145 this part may not be any less stringent than the limitations required pursuant to paragraph (c) (v)
5146 (A) through (E) of this appendix. Furthermore, more stringent limitations shall be required when
5147 adjusting permits if:

5148

5149 (I) For existing facilities, the administrator determines that
5150 the 30-day average and 7-day average BOD₅ and TSS effluent values that could be achievable
5151 through proper operation and maintenance of the treatment works, based on an analyses of the
5152 past performance of the treatment works to achieve more stringent limitations;, or

5153

5154 (II) For new facilities, the administrator determines that the
5155 30-day average and 7-day average BOD₅ and TSS effluent values that could be achievable
5156 through proper operation and maintenance of the treatment works, considering the design
5157 capability of the treatment process and geographical and climatic conditions, would enable the
5158 treatment works to achieve more stringent limitations.

5159

5160 (d) Permits for publicly owned treatment works will require that the permittee must
5161 provide adequate notification to the administrator of the following:

5162

5163 (i) Any new introduction of pollutants into the publicly owned treatment
5164 works from an indirect discharger which would be subject to Sections 301 or 306 of the CWA if
5165 it were directly discharging those pollutants, and

5166

5167 (ii) Any substantial change in the volume or character of pollutants being
5168 introduced into that publicly owned treatment works by a source introducing pollutants into the
5169 publicly owned treatment works at the time of issuance of the permit.

5170

5171 (iii) For the purposes of Appendix E (d) (i) and (ii), adequate notification
5172 shall include information on the quality and quantity of effluent introduced into the publicly
5173 owned treatment works; and any anticipated impact of the change on the quantity or quality of
5174 effluent to be discharged from the publicly owned treatment works.

5175
5176
5177

Table E1 Effluent Parameters for All POTWs
Biological oxygen demand (BOD ₅ or CBOD ₅)
Fecal Coliform
pH
Temperature
Total Suspended Solids

5178
5179
5180

Table E2 Effluent Parameters for Selected POTWS
Ammonia (as N)
Chlorine (total residual, TRC)
Dissolved oxygen
Nitrate/Nitrite
Kjeldahl nitrogen
Oil and grease
Phosphorus
Total dissolved solids

5181
5182

5183 **APPENDIX F: Additional Requirements Applicable to New and Existing Aquatic Animal**
5184 **Production Facilities**

5185
5186 (a) Discharges into aquaculture projects, as defined in Section 3 (b) of these
5187 regulations, are subject to the WYPDES permit program in accordance with these regulations.
5188

5189 (b) A hatchery, fish farm, or other facility is a concentrated aquatic animal
5190 production facility for purposes of these regulations if it contains, grows, or holds aquatic animals
5191 in either of the following categories:
5192

5193 (i) Cold water fish species or other cold water aquatic animals in ponds,
5194 raceways, or other similar structures which discharge at least 30 days per year but does not
5195 include:
5196

5197 (A) Facilities which produce less than 9,090 harvest weight
5198 kilograms (approximately 20,000 pounds) of aquatic animals per year; and
5199

5200 (B) Facilities which produce less than 2,272 kilograms
5201 (approximately 5,000 pounds) of food during the calendar month of maximum feeding.
5202

5203 (ii) Warm water fish species, or other warm water aquatic animals in ponds,
5204 raceways, or other similar structures which discharge at least 30 days per year, but does not
5205 include:
5206

5207 (A) Closed ponds which discharge only during periods of excess
5208 runoff; or
5209

5210 (B) Facilities which produce less than 45,454 harvest weight
5211 kilograms (approximately 100,000 pounds) of aquatic animals per year.
5212

5213 (iii) "Cold water aquatic animals" include, but are not limited to the
5214 Salmonidae family of fish: e.g., trout and salmon.
5215

5216 (iv) "Warm water aquatic animals" include but are not limited to, the
5217 Ameiuridae, Centrarchidae and Cyprinidae families of fish; e.g. respectively, catfish, sunfish and
5218 minnows.
5219

5220 (c) Application requirements for new and existing aquatic animal production
5221 facilities. New and existing concentrated aquatic animal production facilities shall provide the
5222 following information, in addition to that described in Section 5 (a) (v), to the administrator,
5223 using the application form provided by the administrator.
5224

5225 (d) The maximum daily and average monthly flow from each outfall.
5226

5227 (e) The number of ponds, raceways, and similar structures.

- 5228
- 5229 (f) The name of the receiving water and the source of intake water.
- 5230
- 5231 (g) For each species of aquatic animals, the total yearly and maximum harvestable
- 5232 weight.
- 5233
- 5234 (h) The calendar month of maximum feeding and the total mass of food fed during
- 5235 that month.
- 5236
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5253 **APPENDIX G: Criteria for Determining a Concentrated Animal Feeding Operation and**
5254 **Additional Requirements Applicable to New and Existing Concentrated Animal Feeding**
5255 **Operations**

5256

5257 (a) Applicability and permit requirement for concentrated animal feeding operations
5258 (CAFOs). In accordance with W.S. 35-11-103 (a) (xi) and 35-11-302 (a) (v), CAFOs, as defined
5259 in Appendix G (b) of these regulations, are point sources that require WYPDES permits for
5260 discharges or potential discharges. Once an operation is defined as a CAFO, the WYPDES
5261 requirements for CAFOs apply with respect to all animals in confinement at the operation and all
5262 manure, litter and process wastewater generated by those animals or the production of those
5263 animals, regardless of the type of animal. All CAFOs have a duty to apply to seek coverage
5264 under a WYPDES permit as described in these regulations.

5265

5266 (b) Definitions applicable to this appendix:

5267

5268 (i) Analytical methods. The parameters that are regulated or referenced in
5269 this appendix and listed with approved methods of analysis in Table 1B at 40 CFR 136.3 are
5270 defined as follows:

5271

5272 (A) “Ammonia (as N)” means ammonia reported as nitrogen.

5273

5274 (B) “BOD₅” means 5-day biochemical oxygen demand.

5275

5276 (C) “Nitrate (as N)” means nitrate reported as nitrogen.

5277

5278 (D) “Total dissolved solids” means nonfilterable residue.

5279

5280 (ii) Analytical methods. The parameters that are regulated or referenced in
5281 this part and listed with approved methods of analysis in Table 1A at 40 CFR 136.3 are defined as
5282 follows:

5283

5284 (A) “Fecal coliform” means fecal coliform bacteria.

5285

5286 (B) “Total coliform” means all coliform bacteria.

5287

5288 (iii) “Animal feeding operation” (AFO) means a lot or facility (other than an
5289 aquatic animal production facility) where the following conditions are met:

5290

5291 (A) Animals have been, are, or will be stabled or confined and fed or
5292 maintained for a total of 45 days or more in any 12-month period; and

5293

5294 (B) Crops, vegetation forage growth or post harvest residues are not
5295 sustained in the normal growing season over any portion of the lot or facility.

5296

5297

5298 Two (2) or more animal feeding operations under common ownership are considered, for
5299 purposes of these regulations, to be a single animal feeding operation if they adjoin each other or
5300 if they use a common area or system for the disposal of wastes.

5301

5302 (iv) "Land application area" means land under the control of an AFO owner
5303 or operator, whether it is owned, rented, or leased, to which manure, litter or process wastewater
5304 from the production area is or may be applied.

5305

5306 (v) "Large concentrated animal feeding operation" (large CAFO). An AFO
5307 is defined as a large CAFO if it stables or confines as many as or more than the numbers of
5308 animals specified in any of the following categories.

5309

5310 (A) 700 mature dairy cows, whether milked or dry;

5311

5312 (B) 1,000 veal calves;

5313

5314 (C) 1,500 buffalo (Bison bison);

5315

5316 (D) 1,000 cattle other than mature dairy cows or veal calves. Cattle
5317 includes but is not limited to heifers, steers, bulls and cow/calf pairs;

5318

5319 (E) 2,500 swine each weighing 55 pounds or more;

5320

5321 (F) 10,000 swine each weighing less than 55 pounds;

5322

5323 (G) 500 horses;

5324

5325 (H) 10,000 sheep or lambs;

5326

5327 (I) 55,000 turkeys;

5328

5329 (J) 30,000 laying hens or broilers, if the AFO uses a liquid manure
5330 handling system;

5331

5332 (K) 125,000 chickens (other than laying hens), if the AFO uses other
5333 than a liquid manure handling system;

5334

5335 (L) 82,000 laying hens, (if the AFO uses other than a liquid manure
5336 handling system);

5337

5338 (M) 30,000 ducks (if the AFO uses other than a liquid manure
5339 handling system); or

5340

5341 (N) 5,000 ducks (if the AFO uses a liquid manure handling system).

5342

5343 (vi) “Manure” is defined to include animal excreta or other commonly
5344 associated wastes of animal husbandry including but not limited to bedding, compost and raw
5345 materials or other materials commingled with manure or set aside for disposal.
5346

5347 (vii) “Medium concentrated animal feeding operation” (medium CAFO)
5348 means any AFO with the type and number of animals that fall within any of the ranges listed in
5349 Appendix G (b) (vii) (A) and which has been defined or designated as a CAFO. An AFO is
5350 defined as a medium CAFO if:
5351

5352 (A) The type and number of animals that it stables or confines falls
5353 within any of the following ranges:
5354

5355 (I) 200 to 699 mature dairy cattle, whether milked or dry;
5356

5357 (II) 300 to 999 veal calves;
5358

5359 (III) 450 to 1499 buffalo (Bison bison);
5360

5361 (IV) 300 to 999 cattle other than mature dairy cows or veal
5362 calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs;
5363

5364 (V) 750 to 2,499 swine each weighing 55 pounds or more;
5365

5366 (VI) 3,000 to 9,999 swine each weighing less than 55 pounds;
5367

5368 (VII) 150 to 499 horses;
5369

5370 (VIII) 3,000 to 9,999 sheep or lambs;
5371

5372 (IX) 16,500 to 54,999 turkeys;
5373

5374 (X) 9,000 to 29,999 laying hens or broilers, (if the AFO uses
5375 a liquid manure handling system);
5376

5377 (XI) 37,500 to 124, 999 chickens (other than laying hens), (if
5378 the AFO uses other than a liquid manure handling system);
5379

5380 (XII) 25,000 to 81,999 laying hens, (if the AFO uses other
5381 than a liquid manure handling system);
5382

5383 (XIII) 10,000 to 29,999 ducks (if the AFO uses other than a
5384 liquid manure handling system); or
5385

5386 (XIV) 1,500 to 4,999 ducks (if the AFO uses a liquid manure
5387 handling system); and
5388

5389 (B) Either one of the following conditions are met:
5390
5391 (I) Pollutants are discharged into surface waters of the state
5392 through a man-made ditch, flushing system, or other similar man-made device; or
5393
5394 (II) Pollutants are discharged directly into surface waters of
5395 the state which originate outside of and pass over, across, or through the facility or otherwise
5396 come into direct contact with the animals confined in the operation.
5397
5398 (viii) "New source" means any building, structure, facility or installation from
5399 which there is or may be the discharge of pollutants, the construction of which is commenced
5400 after the effective date of these regulations.
5401
5402 (ix) "Overflow" means the discharge of manure or process wastewater
5403 resulting from the filling of wastewater or manure storage structures beyond the point at which no
5404 more manure, process wastewater, or storm water can be contained by the structure.
5405
5406 (x) "Process wastewater" means water directly or indirectly used in the
5407 operation of the AFO for any or all of the following: spillage or overflow from animal or poultry
5408 watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO
5409 facilities; direct contact swimming, washing, or spray cooling of animals; or dust control.
5410 Process wastewater also includes any water which comes into contact with any raw materials,
5411 products, or byproducts including manure, litter, feed, milk, eggs or bedding.
5412
5413 (xi) "Production area" means that part of an AFO that includes the animal
5414 confinement area, the manure storage area, the raw materials storage area, and the waste
5415 containment areas. The animal confinement area includes but is not limited to open lots, housed
5416 lots, feedlots, confinement houses, stall barns, free stall barns, milk rooms, milking centers,
5417 cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure
5418 storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stock piles, under
5419 house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials
5420 storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The
5421 waste containment area includes but is not limited to settling basins, and areas within berms and
5422 diversions which separate uncontaminated storm water. Also included in the definition of
5423 production area is any egg washing or egg processing facility, and any area used in the storage,
5424 handling, treatment, or disposal of mortalities.
5425
5426 (xii) "Twenty-five-year, 24-hour rainfall event" and 100-year, 24-hour rainfall
5427 event mean precipitation events with a probable recurrence interval of once in 25 years, or 100
5428 years, respectively, as defined by the National Weather Service in Technical Paper No. 40,
5429 "Rainfall Frequency Atlas of the United States," May, 1961, or equivalent regional or state
5430 rainfall probability information developed from this source.
5431
5432 (c) CAFO designation. The director may designate any AFO as a CAFO upon
5433 determining that it is a significant contributor of pollutants to surface waters of the state. The
5434 director may also designate an AFO as a CAFO at the request of the Regional Administrator, but

5435 only where the Regional Administrator has determined that one or more pollutants in the AFOs
5436 discharge contributes to an impairment in a downstream or adjacent state water that is impaired
5437 for that pollutant.

5438
5439 (i) In making this designation, the director shall consider the following
5440 factors:

5441
5442 (A) The size of the AFO and the amount of wastes reaching surface
5443 waters of the state;

5444
5445 (B) The location of the AFO relative to surface waters of the state;

5446
5447 (C) The means of conveyance of animal wastes and process waste
5448 waters into surface waters of the state;

5449
5450 (D) The slope, vegetation, rainfall, and other factors affecting the
5451 likelihood or frequency of discharge of animal wastes manure and process waste waters into
5452 surface waters of the state; and

5453
5454 (E) Other relevant factors.
5455

5456 (ii) No AFO shall be designated under these regulations unless the director
5457 or the Regional Administrator has conducted an on-site inspection of the operation and
5458 determined that the operation should and could be regulated under the WYPDES permit program.
5459 In addition, no AFO with numbers of animals below the minimum numbers established in
5460 Appendix G (b) (vii) (A) may be designated as a CAFO unless:

5461
5462 (A) Pollutants are discharged into surface waters of the state through
5463 a manmade ditch, flushing system, or other similar manmade device; or

5464
5465 (B) Pollutants are discharged directly into surface waters of the state
5466 which originate outside of the facility and pass over, across, or through the facility or otherwise
5467 come into direct contact with the animals confined in the operation.

5468
5469 (d) Application for permit and exceptions.
5470

5471 (i) All CAFO owners and operators must seek coverage under a WYPDES
5472 permit, except as provided in Appendix G (d) (ii) of these regulations. If the director has not
5473 made a general permit available, the CAFO owner or operator must submit an application for an
5474 individual permit to the director.

5475
5476 (ii) Exception. An owner or operator of a large CAFO does not need to seek
5477 coverage under a WYPDES permit otherwise required by this section once the owner or operator
5478 has received from the director notification of a determination under Appendix G (f) of these
5479 regulations that the CAFO has “no potential to discharge” manure, litter or process wastewater.

5480

5481 (iii) New and existing concentrated animal feeding operations shall provide
5482 the following information, in addition to that described in Section 5 (a) (v) for individual permits,
5483 to the administrator, using an application form provided by the administrator.
5484

5485 (A) The type and number of animals in open confinement and
5486 housed under roof;

5487
5488 (B) The type of containment and storage (anaerobic lagoon, roofed
5489 storage shed, storage ponds, underfloor pits, above ground storage tanks, below ground storage
5490 tanks, concrete pad, impervious soil pad, other) and total capacity for manure, litter, and process
5491 wastewater storage (tons/gallons);

5492
5493 (C) The total number of acres under control of the applicant
5494 available for land application of manure, litter, or process wastewater;

5495
5496 (D) The number of acres used for confinement feeding;

5497
5498 (E) Estimated amounts of manure, litter and process wastewater
5499 generated per year (tons/gallons);

5500
5501 (F) Estimated amounts of manure, litter and process wastewater
5502 transferred to other persons per year (tons/gallons);

5503
5504 (G) The design basis for the runoff diversion and controls system, if
5505 one exists, including the number of acres of contributing drainage, the storage capacity, and the
5506 design safety factor to ensure no discharge except under conditions of a 25-year 24-hour, or
5507 greater, storm event; and

5508
5509 (H) A nutrient management plan, in accordance with Appendix G (i)
5510 developed and implemented upon the date of coverage.

5511
5512 (e) Land application discharges from a CAFO are subject to WYPDES requirements.
5513 The discharge of manure, litter or process wastewater to surface waters of the state from a CAFO
5514 as a result of the application of that manure, litter or process wastewater by the CAFO to land
5515 areas under its control is a discharge from that CAFO subject to WYPDES permit requirements,
5516 except where it is an agricultural storm water discharge as provided in 33 U.S.C. 1362(14). For
5517 purposes of Appendix G (e), where the manure, litter or process wastewater has been applied in
5518 accordance with site specific nutrient management practices that ensure appropriate agricultural
5519 utilization of the nutrients in the manure, litter or process wastewater, as specified in Appendix G
5520 (i) (ii) (F) - (H) a precipitation related discharge of manure, litter or process wastewater from land
5521 areas under the control of a CAFO is an agricultural storm water discharge.

5522
5523 (f) “No potential to discharge” determination for large CAFOs.
5524
5525

5526 (i) Determination by the director. The director, upon request, may make a
5527 case-specific determination that a large CAFO has “no potential to discharge” pollutants to
5528 surface waters of the state. In making this determination, the director must consider the potential
5529 for discharges from both the production area and any land application areas. The director must
5530 also consider any record of prior discharges by the CAFO. In no case may the CAFO be
5531 determined to have “no potential to discharge” if it has had a discharge within the five (5) years
5532 prior to the date of the request submitted under Appendix G (f) (ii). For purposes of this section,
5533 the term “no potential to discharge” means that there is no potential for any CAFO manure, litter
5534 or process wastewater to be added to surface waters of the state under any circumstances or
5535 climatic condition. A determination that there is “no potential to discharge” for purposes of this
5536 section only relates to discharges of manure, litter and process wastewater covered by this
5537 appendix.

5538
5539 (ii) Information to support a “no potential to discharge request”. In
5540 requesting a determination of “no potential to discharge,” the CAFO owner or operator must
5541 submit any information that would support such a determination, within the time frame provided
5542 by the director and in accordance with Appendix G (g) and (h) of these regulations. Such
5543 information must include all of the information specified in Appendix G (f) and (i) (i) and Section
5544 5 (a) of these regulations. The director has discretion to require additional information to
5545 supplement the request, and may also gather additional information through on-site inspection of
5546 the CAFO.

5547
5548 (iii) Process for making a “no potential to discharge” determination. Before
5549 making a final decision to grant a “no potential to discharge” determination, the director must
5550 issue a notice to the public stating that a “no potential to discharge” request has been received.
5551 This notice must be accompanied by a fact sheet which includes, when applicable:

5552
5553 (A) A brief description of the type of facility or activity which is the
5554 subject of the “no potential to discharge” determination;

5555
5556 (B) A brief summary of the factual basis, upon which the request is
5557 based, for granting the “no potential to discharge” determination; and

5558
5559 (C) A description of the procedures for reaching a final decision on
5560 the “no potential to discharge” determination.

5561
5562 (iv) The director must base the decision to grant a “no potential to discharge”
5563 determination on the administrative record, which includes all information submitted in support
5564 of a “no potential to discharge” determination and any other supporting data gathered by the
5565 administrator. The director must notify any CAFO seeking a “no potential to discharge”
5566 determination of its final determination within 90 days of receiving the request.

5567
5568 (v) Deadline for requesting a “no potential to discharge” determination. The
5569 owner or operator must request a “no potential to discharge” determination by the applicable
5570 permit application date specified in Appendix G (g) of these regulations. If the director’s final

5571 decision is to deny the “no potential to discharge” determination, the owner or operator must seek
5572 coverage under a permit within 30 days after the denial.

5573
5574 (vi) The “no potential to discharge” determination does not relieve the CAFO
5575 from the consequences of an actual discharge. Any unpermitted CAFO that discharges pollutants
5576 into surface waters of the state is in violation of the CWA, the Environmental Quality Act and
5577 these regulations even if it has received a “no potential to discharge” determination from the
5578 director. Any CAFO that has received a determination of “no potential to discharge,” but who
5579 anticipates changes in circumstances that could create the potential for a discharge, should contact
5580 the director, and apply for and obtain permit authorization prior to the change of circumstances.

5581
5582 (vii) The director retains authority to require a permit. Where the director has
5583 issued a determination of “no potential to discharge,” the director retains the authority to
5584 subsequently require WYPDES permit coverage if circumstances at the facility change, if new
5585 information becomes available, or if there is other reason for the director to determine that the
5586 CAFO has a potential to discharge.

5587
5588 (g) Deadlines to apply.

5589
5590 (i) For operations that are defined as CAFOs under regulations that were in
5591 operation prior to April 14, 2003, the owner or operator must have or sought to obtain coverage
5592 under a WYPDES permit as of April 14, 2003, and comply with all applicable WYPDES
5593 requirements, including the duty to maintain permit coverage in accordance with Appendix G (h)
5594 of these regulations.

5595
5596 (ii) Owners or operators of operations defined as CAFOs as of April 14,
5597 2003, who were not defined as CAFOs prior to that date must seek to obtain coverage under a
5598 WYPDES permit by a date specified by the director, but no later than February 13, 2006.

5599
5600 (iii) Operations that become defined as CAFOs after April 14, 2003, but
5601 which are not new sources. For AFOs that make changes to their operations that result in
5602 becoming defined as CAFOs for the first time, after April 14, 2003, but are not new sources, the
5603 owner or operator must seek to obtain coverage under a WYPDES permit, as follows:

5604
5605 (A) Facilities defined as CAFOs resulting from operational changes
5606 (e.g. resulting from an increase in the number of animals), as soon as possible but no later than 90
5607 days after becoming defined as a CAFO; except that

5608
5609 (B) If an operational change that makes the operation a CAFO would
5610 not have made it a CAFO prior to April 14, 2003, the operation has at least until April 13, 2006,
5611 or 90 days after becoming defined as a CAFO, whichever is later.

5612
5613 (iv) New sources. New sources must seek to obtain coverage under a permit
5614 at least 180 days prior to the time that the CAFO commences operation, unless otherwise
5615 approved by the administrator.

5616

5617 (v) Operations that are designated as a CAFO in accordance with Appendix
5618 G (c) of these regulations, the owner or operator must seek to obtain coverage under a permit no
5619 later than 90 days after receiving notice of the designation.
5620

5621 (vi) "No potential to discharge." Notwithstanding any other provision of this
5622 section, a CAFO that has received a "no potential to discharge" determination in accordance with
5623 Appendix G (f) of these regulations is not required to seek coverage under a WYPDES permit
5624 that would otherwise be required by this section. If circumstances materially change at a CAFO
5625 that has received a "no potential to discharge" determination, such that the CAFO has a potential
5626 for a discharge, the CAFO shall immediately notify the director, and seek coverage under a
5627 WYPDES permit within 30 days after the change in circumstances.
5628

5629 (h) Duty to maintain permit coverage. Not later than 180 days before the expiration
5630 of the permit, the permittee must submit an application to renew its permit, in accordance with
5631 Section 9 of these regulations. However, the permittee need not continue to seek continued
5632 permit coverage or reapply for a permit if:
5633

5634 (i) The facility has ceased operation or is no longer a CAFO; and
5635

5636 (ii) The permittee has demonstrated to the satisfaction of the director that
5637 there is no remaining potential for a discharge of manure, litter or associated process wastewater
5638 that was generated while the operation was a CAFO, other than agricultural stormwater from land
5639 application areas; or
5640

5641 (i) Permit conditions applicable to all CAFOs. Any permit issued to a CAFO shall
5642 include:
5643

5644 (i) Nutrient management plan development and implementation
5645 requirements. At a minimum, a nutrient management plan must include best management
5646 practices and procedures necessary to implement applicable effluent limitations and standards.
5647

5648 (A) Permitted CAFOs must have their nutrient management plans
5649 developed (or updated if a nutrient management plan was required in the existing permit) and
5650 implemented by December 31, 2006.
5651

5652 (B) CAFOs that seek to obtain coverage under a permit after
5653 December 31, 2006 must have a nutrient management plan developed and implemented upon the
5654 date of permit coverage.
5655

5656 (ii) The nutrient management plan must, to the extent applicable:
5657

5658 (A) Ensure adequate storage of manure, litter, and process
5659 wastewater, including procedures to ensure proper operation and maintenance of the storage
5660 facilities;
5661

5662 (B) Ensure proper management of mortalities (i.e., dead animals) so
5663 they are not disposed of in a liquid manure, storm water, or process wastewater storage or
5664 treatment system that is not specifically designed to treat animal mortalities;
5665
5666 (C) Ensure that stormwater runoff is diverted, as appropriate, from
5667 the production area;
5668
5669 (D) Prevent direct contact of confined animals with surface waters of
5670 the state;
5671
5672 (E) Ensure that chemicals and other contaminants handled on-site,
5673 are not disposed of in any manure, litter, process wastewater, or storm water storage or treatment
5674 system unless specifically designed to treat such chemicals and other contaminants;
5675
5676 (F) Identify appropriate site specific conservation practices to be
5677 implemented, including as appropriate buffers or equivalent practices, to control runoff of
5678 pollutants to surface waters of the state;
5679
5680 (G) Identify protocols for appropriate testing of manure, litter,
5681 process wastewater and soil;
5682
5683 (H) Establish protocols to land apply manure, litter or process
5684 wastewater in accordance with site specific nutrient management practices that ensure appropriate
5685 agricultural utilization of the nutrients in the manure, litter or process wastewater; and
5686
5687 (I) Identify specific records that will be maintained to document the
5688 implementation and management of the minimum elements described in Appendix G (i) (ii) (A
5689 through H).
5690
5691 (iii) Record keeping requirements.
5692
5693 (A) The permittee must create, maintain for five (5) years, and make
5694 available to the director, upon request, the following records:
5695
5696 (I) All applicable records identified pursuant to Appendix G
5697 (i) (i) (I) of these regulations.
5698
5699 (II) All CAFOs subject to these regulations must comply
5700 with the record keeping requirements of Appendix G (i) (iii) (B) and (C).
5701
5702 (B) Record keeping requirements for the production area. Each
5703 CAFO must maintain on-site for a period of five (5) years from the date they are created a
5704 complete copy of the information required by Appendix G (d) (iii) and Appendix G (i) (ii) (I) and
5705 the records specified in Appendix G (i) (iii) (I) through (VI) of these regulations. The CAFO
5706 must make these records available to the director and or his designee upon request.
5707

5708 (I) Records documenting the inspections required under
5709 Appendix G (m) (ii) (C) (I) of these regulations.
5710
5711 (II) Weekly records of the depth of the manure and process
5712 wastewater in the liquid impoundment as indicated by the depth marker under Appendix G (m)
5713 (ii) (C) (II) of these regulations.
5714
5715 (III) Records documenting any actions taken to correct
5716 deficiencies required under Appendix G (m) (ii) (C) (III) of these regulations. Deficiencies not
5717 corrected within 30 days must be accompanied by an explanation of the factors preventing
5718 immediate correction.
5719
5720 (IV) Records of mortalities management and practices used
5721 by the CAFO to meet the requirements of Appendix G (m) (ii) (C) (IV) of these regulations.
5722
5723 (V) Records documenting the current design of any manure
5724 or litter storage structures, including volume for solids accumulation design treatment volume,
5725 total design volume, and approximate number of days of storage capacity.
5726
5727 (VI) Records of the date, time, and estimated volume of any
5728 overflow.
5729
5730 (C) Record keeping requirements of the land application area. Each
5731 CAFO must maintain on-site a copy of its site-specific nutrient management plan. Each CAFO
5732 must maintain on-site for a period of five (5) years from the date they created a complete copy of
5733 the information required by Appendix G (j) (ii), Appendix G (i) (i) and (ii), and the records
5734 specified in Appendix G (i) (iii) (C) (I through IX) of these regulations. The CAFO must make
5735 these records available to the director or his designee, for review upon request.
5736
5737 (I) The date(s) manure, litter, or process waste water is
5738 applied to each field;
5739
5740 (II) Weather conditions at time of application and for 24-
5741 hours prior to and following application;
5742
5743 (III) Test methods used to sample and analyze manure, litter,
5744 process waste water, and soil;
5745
5746 (IV) Results from manure, litter, process waste water, and
5747 soil sampling;
5748
5749 (V) Explanation of the basis for determining manure
5750 application rates;
5751
5752 (VI) Calculations showing the total nitrogen and phosphorus
5753 to be applied to each field, including sources other than manure, litter, or process wastewater;

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(VII) Total amount of nitrogen and phosphorus actually applied to each field, including documentation of calculations for the total amount applied;

(VIII) The method used to apply the manure, litter, or process wastewater;

(IX) Date(s) of manure application equipment inspection.

(D) A copy of the CAFO=s site-specific nutrient management plan must be maintained on site and made available to the director upon request.

(iv) Requirements relating to transfer of manure or process wastewater to other persons. Prior to transferring manure, litter or process wastewater to other persons. Large CAFOs must provide the recipient of the manure, litter or process wastewater with the most current nutrient analysis. The analysis provided must be consistent with requirements of this appendix. Large CAFOs must retain for five (5) years records of the date, recipient name and address, and approximate amount of manure, litter or process wastewater transferred to another person.

(v) Annual reporting requirements for CAFOs. The permittee must submit an annual report to the administrator. The annual report must include:

(A) The number and type of animals, whether in open confinement or housed under roof (buffalo, beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);

(B) Estimated amount of total manure, litter and process wastewater generated by the CAFO in the previous 12 months (tons/gallons);

(C) Estimated amount of total manure, litter and process waste water transferred to other person(s) by the CAFO in the previous 12 months (ton/gallons);

(D) Total number of acres for land application covered by the nutrient management plan developed in accordance with Appendix G (i) (i) of these regulations;

(E) Total number of acres under control of the CAFO that were used for land application of manure, litter, and process wastewater in the previous 12 months;

(F) Summary of all manure, litter and process wastewater discharges from the production area that have occurred in the previous 12 months, including date, time, and approximate volume; and

5800 (G) A statement indicating whether the current version of the
5801 CAFO=s nutrient management plan was developed or approved by a certified nutrient
5802 management planner.
5803

5804 (j) This paragraph applies to manure, litter, and/or process wastewater discharges
5805 resulting from CAFOs.
5806

5807 (i) General pretreatment standards. Any source subject to Appendix G (j)
5808 that introduces process wastewater pollutants into a publicly owned treatment works (POTW)
5809 must comply with the general pretreatment regulations of 40 CFR 403.
5810

5811 (ii) Best Management Practices (BMPs) for land application of manure,
5812 litter, and process wastewater.
5813

5814 (A) Appendix G (j) (ii) applies to any CAFO subject to Appendix G
5815 (m) of these regulations (buffalo, dairy and beef cattle other than veal calves) Appendix G (n) of
5816 these regulations (swine, poultry, and veal calves).
5817

5818 (B) Specialized definitions.
5819

5820 (I) “Setback” means a specified distance from surface
5821 waters of the state or potential conduits to surface water where manure, litter, and process
5822 wastewater may not be land applied. Examples of conduits to surface waters of the state include
5823 but are not limited to: open tile line intake structures, sinkholes, and agricultural well heads.
5824

5825 (II) “Vegetated buffer” means a narrow, permanent strip of
5826 dense perennial vegetation established parallel to the contours of and perpendicular to the
5827 dominant slope of the field for the purposes of slowing water runoff, enhancing water infiltration,
5828 and minimizing the risk of any potential nutrients or pollutants from leaving the field and
5829 reaching surface waters of the state.
5830

5831 (III) “Multi-year phosphorus application” means phosphorus
5832 applied to a field in excess of the crop needs for that year. In multi-year phosphorus applications,
5833 no additional manure, litter, or process wastewater is applied to the same land in subsequent years
5834 until the applied phosphorus has been removed from the field via harvest and crop removal.
5835

5836 (C) Requirement to develop and implement best management
5837 practices. Each CAFO subject to Appendix G (j) (ii) that land applies manure, litter, or process
5838 wastewater, must do so in accordance with the following practices:
5839

5840 (I) Nutrient management plan. The CAFO must develop
5841 and implement a nutrient management plan that incorporates the requirements of Appendix G (j)
5842 (ii) (C) (II) through (VI) of these regulations based on field-specific assessment of the potential
5843 for nitrogen and phosphorus transport from the field and that addresses the form, source, amount,
5844 timing, and method of application of nutrients on each field to achieve realistic production goals,
5845 while minimizing nitrogen and phosphorus movement to surface waters of the state.

5846
5847 (II) Determination of application rates. Application rates for
5848 manure, litter, and other process wastewater applied to land under the ownership or operation
5849 control of the CAFO must minimize phosphorus and nitrogen transport from the field to surface
5850 and groundwaters of the state in compliance with technical standards, established by the director,
5851 for nutrient management. These shall include:

5852
5853 (1.) A field-specific assessment of the potential for
5854 nitrogen and phosphorus transport from the field to surface waters of the state, and address the
5855 form, source, amount, timing, and method of application of nutrients of each field to achieve
5856 realistic production goals, while minimizing nitrogen and phosphorus movement to surface
5857 waters of the state; and

5858
5859 (2.) Appropriate flexibilities for any CAFO to
5860 implement nutrient management practices to comply with technical standards, including
5861 considerations of multi-year phosphorus application on fields that do not have a high potential for
5862 phosphorus runoff to surface water, phased implementation of phosphorus-based nutrient
5863 management, and other components.

5864
5865 (C) The director shall establish technical standards for nutrient
5866 management plans by April 12, 2004.

5867
5868 (III) Manure and soil sampling.

5869
5870 (1.) Manure must be analyzed for nitrogen and
5871 phosphorus content a minimum of once annually, and

5872
5873 (2.) The soil profile shall be analyzed a minimum of
5874 once every five (5) years for phosphorus content. The results of these analyses are to be used in
5875 determining application rates for manure, litter, and other process wastewater.

5876
5877 (IV) Inspect land application equipment for leaks. The
5878 operator must periodically inspect equipment used for land application of manure, litter, or
5879 process wastewater.

5880
5881 (V) Setback requirements. Unless the CAFO exercises one
5882 of the compliance alternatives provided for in Appendix G (j) (ii) (V) (i) or (j) (ii) (V) (ii) of these
5883 regulations, manure, litter, and process wastewater may not be applied closer than 100 feet to any
5884 down-gradient surface waters of the state, open tile line intake structures, sinkholes, agricultural
5885 well heads, or other conduits to surface waters of the state.

5886
5887 (1.) Vegetated buffer compliance alternative. As a
5888 compliance alternative, the CAFO may substitute the 100-foot setback with a 35 foot wide
5889 vegetated buffer where applications of manure, litter, or process wastewater are prohibited.

5890

5891 (2.) As a compliance alternative, the CAFO may
5892 demonstrate that a setback or buffer is not necessary because implementation of alternative
5893 conservation practices or field-specific conditions will provide pollutant reductions equivalent or
5894 better than the reductions that would be achieved by the 100 foot setback.

5895
5896 (k) Effluent Limitations Applicable to Horses and Sheep.

5897
5898 (i) This paragraph applies to discharges resulting from the production areas
5899 at horse and sheep CAFOs.

5900
5901 (ii) Except as provided in Section 8 of these regulations and subject to the
5902 provisions of Appendix G (j) (ii) (C), any point source subject to this source must have no
5903 discharge of process waste water pollutants to surface waters of the state.

5904
5905 (iii) Process waste pollutants in the overflow may be discharged to surface
5906 waters of the state whenever rainfall events, either chronic or catastrophic, cause an overflow of
5907 process waste water from a facility designed, constructed and operated to contain all process
5908 generated waste waters plus the runoff from a 25-year, 24-hour rainfall event for the location of
5909 the point source.

5910
5911 (l) Effluent limitations applicable to ducks.

5912
5913 (i) This paragraph applies to discharges resulting from the production areas
5914 at dry lot and wet lot duck CAFOs.

5915
5916 (ii) Special definitions.

5917
5918 (A) "Dry lot" means a facility for growing ducks in confinement
5919 with a dry litter floor cover and no access to swimming areas.

5920
5921 (B) "Wet lot" means a confinement facility for raising ducks which
5922 is open to the environment, has a small number of sheltered areas, and with open water runs and
5923 swimming areas to which ducks have free access.

5924
5925 (iii) Except as provided in Section 8 of these regulations and subject to the
5926 provisions of Appendix G (j) (ii) (C), any point source subject to this source must have no
5927 discharge of process waste water pollutants to surface waters of the state.

5928
5929 (iv) Process waste pollutants in the overflow may be discharged to surface
5930 waters of the state whenever rainfall events, either chronic or catastrophic, cause an overflow of
5931 process waste water from a facility designed, constructed and operated to contain all process
5932 generated waste waters plus the runoff from a 25-year, 24-hour rainfall event for the location of
5933 the point source.

5934
5935 (m) Effluent limitations applicable to buffalo, dairy cows and cattle other than veal
5936 calves.

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(i) This paragraph applies to discharges resulting from the production areas at the following types of CAFOs:

(A) Mature dairy cows (either milking or dry).

(B) Cattle other than mature dairy cows which includes, but is not limited to heifers, steers, and bulls.

(C) Buffalo.

(ii) Except as provided in Section 8 of these regulations and subject to the provisions of Appendix G (j) (ii) (C), any point source subject to this source must meet the following limitations:

(A) There shall be no discharge of manure, litter, or process wastewater pollutants into surface waters of the state from the CAFO production area, except under the following conditions:

(I) Whenever precipitation causes an overflow of manure, litter, or process wastewater, pollutants in the overflow may be discharged to surface waters of the state provided:

(1.) The production area is designed, constructed, operated and maintained to contain all manure, litter, and process wastewater including the runoff and the direct precipitation from a 25-year, 24-hour rainfall event.

(2.) The production area is operated in accordance with the additional measures and records required by Appendix G (i) (iii) (B) and Appendix G (m) (ii) (C) of these regulations.

(II) Voluntary alternative performance standards. Any CAFO subject to Appendix G (m) of these regulations may request the administrator to establish WYPDES permit effluent limitations based upon site-specific alternative technologies that achieve a quantity of pollutants discharged from the production area equal to or less than the quantity of pollutants that would be discharged under the baseline performance standards as provided by Appendix G (m) (ii) (A) of these regulations.

(1.) Supporting information. In requesting site-specific effluent limitations to be included in the WYPDES permit, the CAFO owner or operator must submit a supporting technical analysis and any other relevant information and data that would support such site-specific effluent limitations within the time frame provided by the director. The supporting technical analysis must include calculation of the quantity of pollutants discharged, on a mass basis where appropriate, based on a site specific analysis of a system designed, constructed, operated, and maintained to contain all manure, litter, and process

5982 wastewater, including the runoff from a 25-year, 24-hour rainfall event. The technical analysis of
5983 the discharge of pollutants must include:

5984
5985 (a.) All daily inputs to the storage system,
5986 including manure, litter, all process waste waters, direct precipitation, and runoff.

5987
5988 (b.) All daily outputs from the storage
5989 system, including losses due to evaporation, sludge removal, and the removal of waste water for
5990 use on cropland at the CAFO or transport off site.

5991
5992 (c.) A calculation determining the predicted
5993 median annual overflow volume based on a 25-year period of actual rainfall data applicable to the
5994 site.

5995
5996 (d.) Site-specific pollutant data, including N,
5997 P, BOD5, TSS, for the CAFO from representative sampling and analysis of all sources of input to
5998 the storage system, or other appropriate pollutant data.

5999
6000 (e.) Predicted annual average discharge of
6001 pollutants, expressed where appropriate as a mass discharge on a daily basis (lbs/day), and
6002 calculated considering (A through D above).

6003
6004 (2.) The administrator has the discretion to request
6005 additional information to supplement the supporting technical analysis, including inspection of
6006 the CAFO.

6007
6008 (III) The CAFO shall attain the limitations and requirements of this
6009 paragraph as of the date of permit coverage.

6010
6011 (B) Discharges from land application areas are subject to the
6012 following requirements:

6013
6014 (I) Develop and implement the best management
6015 practices specified in Appendix G (j) (ii) of these regulations.

6016
6017 (II) Maintain the records specified in Appendix G (i)
6018 (iii) (C) of these regulations.

6019
6020 (III) Attain the limitations and requirements for
6021 discharges form land application areas as of the date of permit coverage.

6022
6023 (C) Additional measures. Each CAFO subject Appendix G
6024 (m) of these regulations must implement the following requirements:

6025

6026 (I) Visual Inspections. There must be routine visual
6027 inspections of the CAFO production area. At a minimum, the following must be visually
6028 inspected:

6029
6030 (1.) Weekly inspections of all storm water
6031 diversion devices, runoff diversion structures, and devices channeling contaminated storm water
6032 to the wastewater and manure storage and containment structure;

6033
6034 (2.) Daily inspection of water lines,
6035 including drinking water or cooling water lines and documented weekly at a minimum, for the
6036 purpose of identifying leaks, corrosion, mechanical defects or other conditions that may result in
6037 an inadvertent discharge from the facility;

6038
6039 (3.) Weekly inspections of the manure, litter,
6040 and process wastewater impoundments; the inspection will note the level in liquid impoundments
6041 as indicated by the depth marker in paragraph (E) (II) of this appendix; and

6042
6043 (4.) The visual inspection requirements may
6044 be waived if insurmountable or dangerous weather conditions exist and the weather conditions
6045 justifying the waiver are documented.

6046
6047 (II) Depth marker. All open surface liquid
6048 impoundments must have a depth marker which clearly indicates the minimum capacity
6049 necessary to contain the runoff and direct precipitation of the 25-year, 24-hour rainfall event.

6050
6051 (III) Corrective actions. Any deficiencies found as a
6052 result of these inspections must be corrected as soon as possible.

6053
6054 (IV) Mortality handling. Mortalities must not be
6055 disposed of in any liquid manure or process wastewater system, and must be handled in such a
6056 way as to prevent the discharge of pollutants to surface water, unless alternative technologies
6057 pursuant to Appendix G (m) (ii) (II) and approved by the director are designed to handle
6058 mortalities.

6059
6060 (n) Effluent limitations applicable to swine, poultry, and veal calves.

6061
6062 (i) This paragraph applies to discharges resulting from the production areas
6063 at the following types of CAFOs:

- 6064
6065 (A) Swine,
6066
6067 (B) Chickens,
6068
6069 (C) Turkeys, and
6070
6071 (D) Veal calves.

6072
6073 (ii) Except as provided in Section 8 of these regulations, any point source
6074 subject to this source must meet the following limitations.
6075
6076 (iii) There shall be no discharge of manure, litter, or process wastewater
6077 pollutants into surface waters of the state from the CAFO production area, except under the
6078 following conditions.
6079
6080 (A) Waste management and storage facilities are designed,
6081 constructed, operated, and maintained to contain all manure, litter, and process wastewater
6082 including the runoff and the direct precipitation from a 100-year, 24-hour rainfall event and
6083 operated in accordance with the additional measures and records required by Appendix G (i) (iii)
6084 (B) and Appendix G (n) (vi) (A) of these regulations.
6085
6086 (B) The production area is operated in accordance with additional
6087 measures required by Appendix G (i) (iii) (B) and Appendix G (n) (vi) of these regulations.
6088
6089 (C) The discharge is an upset/bypass consistent with the provisions
6090 for upset/bypass, as provided in Section 5 (c) (i) (Z) and (AA) of these regulations.
6091
6092 (iv) Discharges from land application areas are subject to the following
6093 requirements.
6094
6095 (A) Develop and implement the best management practices specified
6096 in Appendix G (j) (ii) of these regulations.
6097
6098 (B) Maintain the records specified in Appendix G (i) (iii) (C) of
6099 these regulations.
6100
6101 (C) Attain the limitations and requirements for discharges from land
6102 application areas as of the date of permit coverage.
6103
6104 (v) Voluntary superior environmental performance standards. Any new
6105 source CAFO subject to Appendix (G) (n) may request the director to establish alternative
6106 WYPDES permit limitations based upon a demonstration that site-specific innovative
6107 technologies will achieve overall environmental performance across all media which is equal to
6108 or superior to the reductions achieved by baseline standards as provided by Appendix G (n) (iii).
6109 The quantity of pollutants discharged from the production area must be accompanied by an
6110 equivalent or greater reduction in the quantity of pollutants released to other media from the
6111 production area (e.g., air emissions from housing and storage) and/or land application areas for all
6112 manure, litter, and process wastewater at on-site and off-site locations. The comparison of
6113 quantity of pollutants must be made on a mass basis where appropriate. The director has the
6114 discretion to request supporting information to supplement such a request.
6115
6116 (vi) Additional measures. Each CAFO subject to Appendix G (n) of these
6117 regulations must implement the following requirements:

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(A) Visual inspections. There must be routine visual inspections of the CAFO production area. At a minimum, the following must be visually inspected:

(I) Weekly inspections of all storm water diversion devices, runoff diversion structures, and devices channeling contaminated storm water to the wastewater and manure storage and containment structure;

(II) Daily inspection of water lines, including drinking water or cooling water lines;

(III) Weekly inspections of the manure, litter, and process wastewater impoundments; the inspection will note the level in liquid impoundments as indicated by the depth marker in paragraph (E) (II) of this appendix.

(B) Depth marker. All open surface liquid impoundments must have a depth marker which clearly indicates the minimum capacity necessary to contain the runoff and direct precipitation of the 100-year, 24-hour rainfall event.

(C) Corrective actions. Any deficiencies found as a result of these inspections must be corrected as soon as possible.

(D) Mortality handling. Mortalities must not be disposed of in any liquid manure or process wastewater system, and must be handled in such a way as to prevent the discharge of pollutants to surface water, unless alternative technologies pursuant to Appendix G (n) (v) and approved by the director are designed to handle mortalities.

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APPENDIX H: Additional Requirements Applicable to Produced Water Discharges from Oil and Gas Production Facilities

(a) Application requirements specific to all produced water discharges from oil and gas production facilities must provide the following information in addition to that described in Section 5 (a) (v), to the administrator, using the application form provided by the administrator.

(i) The produced water discharged into surface waters of the state shall have use in agriculture or wildlife propagation. The produced water shall be of good enough quality to be used for wildlife or livestock watering or other agricultural uses and actually be put to such use during periods of discharge.

(b) Permits for all produced water discharges from oil and gas production facilities shall include the following conditions and limitations:

(i) In no case shall any produced water discharge contain toxic materials in concentrations or combinations which are toxic to human, animal or aquatic life.

(ii) Diffuse discharges. Water shall not be discharged in a diffuse manner such that damage to land and/or vegetation occurs.

(iii) Facility identification. All facilities authorized to discharge produced water shall be clearly identified with an all-weather sign posted at a visually prominent location. The sign shall be securely mounted and maintained to prevent the sign from being knocked down by livestock or wind. In the case where multiple outfalls are permitted or authorized, a sign shall be posted to identify each outfall. Signs shall, as a minimum, convey the following information:

(A) The name of the company, corporation, person or persons who hold(s) the discharge permit;

(B) The name of the facility (lease, tank battery number, etc.) as identified by the discharge permit; and

(C) The WYPDES permit number assigned to the facility and outfall identification number assigned to each outfall.

(iv) Measures must be implemented to minimize erosion of the drainage at the point of discharge.

(v) Discharges of produced water will not contain substances that will settle to form sludge, bank or bottom deposits in quantities sufficient to result in significant aesthetic degradation, significant degradation of habitat for aquatic life or adversely affect public water supplies, agricultural or industrial water use, plant life or wildlife.

6190 (vi) Discharges of produced water may not result in the formation of a visible
6191 hydrocarbon sheen on the receiving water.

6192
6193 (vii) The following effluent limitations are protective for stock and wildlife
6194 consumption. Limitations on additional parameters or limitations more stringent will be imposed
6195 when such limitations are necessary to assure compliance with Wyoming Water Quality Rules
6196 and Regulations, Chapter 1.

6197
6198 (A) Chlorides. The chloride content of any produced water
6199 discharge shall not exceed 2,000 mg/l in any single properly preserved grab sample except in
6200 those cases where a modification is granted in accordance with paragraph (c) of this appendix.

6201
6202 (B) Sulfates. The sulfate content of any produced water discharge
6203 shall not exceed 3,000 mg/l in any single properly preserved grab sample except in those cases
6204 where a modification is granted in accordance with paragraph (c) of this appendix.

6205
6206 (C) Total dissolved solids and specific conductance. The total
6207 dissolved solids content of any produced water discharge shall not exceed 5,000 mg/l for total
6208 dissolved solids or 7500 μ mhos/cm for specific conductance in any single properly preserved
6209 grab sample except in those cases where a modification has been granted in accordance with
6210 paragraph (c) of this appendix.

6211
6212 (D) pH. In no case shall the pH of any produced water discharge be
6213 less than 6.5 or greater than 9.0 standard units as measured by a single grab sample.

6214
6215 (viii) Samples collected to demonstrate compliance with effluent limitations
6216 specified in this appendix shall be collected as grab samples and reported as an instantaneous
6217 maximum, unless otherwise specified.

6218
6219 (Ix) There shall be no discharge of waste pollutants into surface waters of the
6220 state from any source (other than produced water) associated with production, field exploration,
6221 drilling, well completion, or well treatment (i.e., drilling muds, drill cuttings, and produced
6222 sands). These materials shall be managed in accordance with applicable state and federal
6223 regulations.

6224
6225 (x) All water quality samples collected by the Department and discharge
6226 permit holders subject to this Appendix shall be taken from the free fall of water from the last
6227 treatment unit which is located out of the natural drainage. The sample must not be mixed with
6228 waters of any other surface water or with water from another discharge point.

6229
6230 (c) Additional Permit Conditions and Limitations Specific to Oil and Natural Gas
6231 (other than coal bed natural gas) Production Facilities.

6232
6233 (i) For existing permits where the original permit application was submitted
6234 prior to September 5, 1978, modification of the effluent limits described in paragraphs (b) (vii) of
6235 this appendix may be granted on a case-by-case basis if a signed "letter of beneficial use" from

6236 the land owner was provided specifically requesting that the discharge in question be allowed to
6237 continue; or a signed statement by the Wyoming Game and Fish Department was provided in
6238 which it was stated that the discharge in question is of value to fish or wildlife; or documentation
6239 was provided by the owner or operator of the discharging facility that, because of extenuating
6240 circumstances (volume of discharge, individual chemical constituents, nature of the area in which
6241 the discharge occurs, etc.), an exemption should be considered. The user must have indicated the
6242 exact beneficial use of the water (stock watering, irrigation, etc.) and the history of such use. No
6243 action taken by the department under this paragraph or any other paragraph of these regulations
6244 shall be interpreted as the granting of a water right or any other water use authority.

6245
6246 (ii) For discharge permit applications filed after the date of adoption of these
6247 regulations, modification of effluent limits described in paragraph (b) (vii) of this appendix may
6248 be granted on a case-by-case basis. The Water Quality Administrator shall review all requests for
6249 modification of effluent limits submitted under this section and make a determination based upon
6250 the technical merits of a Use Attainability Analysis. Such requests shall also provide a signed
6251 “letter of agricultural or wildlife use” by the land owner specifically requesting that the discharge
6252 will serve a specific agricultural or wildlife use.

6253
6254 (iii) In no case will a modification as described in paragraph (c) (i) or (c) (ii)
6255 of this appendix be permitted which would result in a violation of Wyoming Water Quality Rules
6256 and Regulations, Chapter 1.

6257
6258 (iv) Location of skim ponds and disposal pits. Location of skim ponds and
6259 disposal pits shall be managed in accordance with applicable state (e.g. Oil and Gas Conservation
6260 Commission) and federal (e.g. Bureau of Land Management) regulations.

6261
6262 (v) An effluent limitation of 10 mg/l for oil and grease as measured by EPA
6263 method 1664 or 10 mg/l for net oil and grease as measured by alternate test procedure method
6264 1664-Cu.

6265
6266 (d) Additional Permit Conditions and Limitations Specific to Coal Bed Natural Gas
6267 Production Facilities.

6268
6269 (i) Where discharge water is accessible to livestock and/or wildlife; meets
6270 the effluent limitations as specified in this appendix; and meets the criteria for the protection of
6271 livestock and wildlife as specified in Wyoming Water Quality Rules and Regulations Chapter 1,
6272 Wyoming Surface Water Quality Standards, the discharge will be considered in compliance with
6273 the requirements of Appendix H (a) (i) of these regulations.

6274
6275 (ii) For discharge permit applications filed after the date of adoption of these
6276 regulations, modification of effluent limits described in paragraph (b) (vii) of this appendix may
6277 be granted on a case by case basis. The Water Quality Administrator shall review all requests for
6278 modification of effluent limits submitted under this section and make a determination based upon
6279 the technical merits of a Use Attainability Analysis. Such requests shall also provide a signed
6280 “letter of agricultural or wildlife use” by the land owner specifically requesting that the discharge

6281 will serve a specific agricultural or wildlife use or a demonstration that the conditions of
6282 Appendix (H) (d) (i) have been met.

6283
6284 (iii) Location of disposal pits. Location of disposal pits shall be managed in
6285 accordance with applicable state (e.g. Oil and Gas Conservation Commission) and federal (e.g.
6286 Bureau of Land Management) regulations.

6287
6288 (iv) The permittee shall take all reasonable measures to prevent downstream
6289 erosion that would be attributable to the discharge of produced water.

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APPENDIX I: RESERVED

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APPENDIX J: Additional Requirements Applicable to Coal Mining Operations

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(a) General definitions applicable to Appendix J.

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(i) “Abandoned mine” means a mine where mining operations have occurred in the past and:

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6338

(A) The applicable reclamation bond or financial assurance has been released or forfeited; or

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6340

(B) If no reclamation bond or other financial assurance has been posted, no mining operations have occurred for five years or more.

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(ii) “Acid or ferruginous mine drainage” means mine drainage which, before any treatment, either has a pH of less than 6.0 or a total iron concentration equal to or greater than 10 mg/l.

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(iii) “Active mining area” means the area, on and beneath land, used or disturbed in activity related to the extraction, removal, or recovery of coal from its natural deposits. This term excludes coal preparation plants, coal preparation plant associated areas and post-mining areas.

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6353

(iv) “Alkaline, mine drainage” means mine drainage which, before any treatment, either has a pH of greater than 6.0 or a total iron concentration less than 10 mg/l.

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(v) “Bond release” means the time at which the appropriate regulatory authority returns a reclamation or performance bond based upon its determination that reclamation work (including, in the case of underground mines, mine sealing, and abandonment procedures) has been satisfactorily completed.

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(vi) “Coal preparation plant” means a facility where coal is subjected to cleaning, concentrating, or other processing or preparation in order to separate coal from its impurities and then is loaded for transit to a consuming facility.

6362

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(vii) “Coal preparation plant associated areas” means the coal preparation plant yards, immediate access roads, coal refuse piles, and coal storage piles and facilities.

6366

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(viii) “Coal preparation plant water circuit” means all pipes, channels, basins, tanks, and all other structures and equipment that convey, contain, treat, or process any water that is used in coal preparation processes within a coal preparation plant.

6370

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6372

(ix) “Coal refuse disposal pile” means any coal refuse deposited on the earth and intended as permanent disposal or long-term storage (greater than 180 days) of such material,

6373 but does not include coal refuse deposited within the active mining area or coal refuse never
6374 removed from the active mining area.

6375
6376 (x) "Controlled surface mine drainage" means any surface mine drainage
6377 that is pumped or siphoned from the active mining area.

6378
6379 (xi) "Mine drainage" means any drainage, and any water pumped or
6380 siphoned, from any active mining area or a post mining area.

6381
6382 (xii) "ml/l" means milliliters per liter.

6383
6384 (xiii) "New source coal mine" means a coal mine (excluding coal preparation
6385 plants and coal preparation plant associated areas) including an abandoned mine which is being
6386 reminded:

6387
6388 (A) The construction of which is commenced after May 4, 1984; or
6389

6390 (B) Which is determined by the administrator to constitute a "major
6391 alteration." In making this determination, the administrator shall take into account whether one
6392 or more of the following events resulting in a new, altered or increased discharge of pollutants
6393 has occurred after May 4, 1984 in connection with the mine for which the WYPDES permit is
6394 being considered:

6395
6396 (I) Extraction of a coal seam not previously extracted at the
6397 mine;

6398
6399 (II) Discharge into a drainage area not previously affected by
6400 wastewater discharge from the mine;

6401
6402 (III) Extensive new surface disruption at the mining
6403 operation;

6404
6405 (IV) A construction of a new shaft, lope, or drift; and
6406

6407 (V) Such other factors as the administrator deems relevant.
6408

6409 (xiv) "One year, 2-year, and 10-year, 24-hour precipitation events" means the
6410 maximum 24-hour precipitation event with a probable recurrence interval of once in one (1), two
6411 (2), and ten (10) years respectively as defined by the National Weather Service Technical Paper
6412 No. 40, "Rainfall Frequency Atlas of the U.S." May 1961, or equivalent regional or rainfall
6413 probability information developed therefrom.

6414
6415 (xv) "Post-mining area" means:

6416
6417 (A) A reclamation area; or
6418

6419 (B) The underground workings of an underground coal mine after
6420 the extraction, removal, or recovery of coal from its natural deposit has ceased and prior to bond
6421 release.

6422
6423 (xvi) "Reclamation area" means the surface area of a coal mine which has
6424 been returned to required contour and on which revegetation (specifically, seeding, or planting)
6425 work has commenced.

6426
6427 (xvii) "Settleable solids" is that matter measured by the volumetric method
6428 specified in Appendix J (f).

6429
6430 (xvii) "Treatment facility" and "treatment system" mean all structures which
6431 contain, convey, and as necessary, chemically or physically treat coal fine drainage, coal
6432 preparation plant process wastewater, or drainage from coal preparation plant associated areas,
6433 which remove pollutants regulated by this part from such waters. This includes all pipes,
6434 channels, ponds, basins, tanks, and all other equipment serving such structures.

6435
6436 (b) Application requirements specific to discharges from coal mines must provide
6437 the following information, in addition to that described in Section 5 (a) (v), and where applicable
6438 the information described in Appendix B, Appendix C, and/or Appendix D, to the administrator,
6439 using an application form provided by the administrator.

6440
6441 (i) Construction application requirements. A permit application, which may
6442 include an approved sedimentation structure control plan, in accordance with the provisions
6443 outlined in Wyoming Water Quality Rules and Regulations, Chapter 3, is required for the
6444 construction of any sedimentation ponds or runoff control facilities associated with surface coal
6445 mining operations. By agreement between the Land Quality Division and the Water Quality
6446 Division, this may take the form of one consolidated application for surface coal mining
6447 operations.

6448
6449 (ii) Minimum design standards for sedimentation control facilities. The
6450 minimum design standards for runoff control facilities of surface coal mining operations are set
6451 forth in this subparagraph. The department reserves the right to impose more stringent design
6452 requirements to ensure compliance with the effluent limitations contained in Section 5 (c) (iii) of
6453 these regulations.

6454
6455 (A) Scope. These standards pertain only to permits for surface coal
6456 mining sedimentation control facilities required pursuant to Wyoming Water Quality Rules and
6457 Regulations, Chapter 3.

6458
6459 (B) Sedimentation ponds and sedimentation control structures.

6460
6461 (I) Design.

6462

6463 (1.) Inlet ditches or structures shall be designed to
6464 minimize erosion, disturbance of the pond bottom, and resuspension of silts or colloidal soil
6465 particles.

6466 (2.) Outlet structures, if used, shall have an overflow
6467 device, minimize short-circuiting, minimize floating solids from discharging and shall not erode
6468 or disturb the dike. All pipe protruding through a dike shall have adequate seepage control. The
6469 point of discharge into a channel shall be protected against erosion and erosion control devices
6470 shall be designed based on flow velocities.
6471

6472 (3.) The design, construction and maintenance of a
6473 sedimentation pond or other sediment control measures shall not relieve the person from
6474 compliance with applicable effluent limitations.
6475

6476 (4.) Computations showing the facility volume to
6477 include runoff from a 10-year 24-hour precipitation event shall be provided. The pond treatment
6478 or containment volume shall be in addition to sediment storage required by Land Quality Division
6479 regulations. A lesser design event may be approved by the administrator based on terrain,
6480 climate, other site-specific conditions and on a demonstration by the applicant that the effluent
6481 limitations of Section 5 (c) (iii) will be met. The design for the runoff control facilities shall
6482 contain all supportive documentation, calculations and drawings necessary to determine
6483 compliance with the effluent limitations of Section 5 (c) (iii) of these regulations.
6484

6485 (5.) Each person who conducts surface mining
6486 activities shall design, construct and maintain sedimentation ponds to minimize short-circuiting
6487 where the facility is not designed to contain the 10-year 24-hour precipitation runoff.
6488

6489 (II) Construction. This paragraph pertains only to
6490 impoundments not defined as major impoundments by the State Engineer's regulations. Below
6491 grade sedimentation ponds may be exempted provided site specific contours indicate a slope that
6492 will provide wall structure stability and minimize seepage.
6493

6494 (1.) Where pond bottoms and sidewalls are made of
6495 fill material, the soils used shall be relatively incompressible, have a low permeability, and be
6496 free from organic material and trash. The soil shall be compacted at a water content that will
6497 ensure structural stability, minimize hydraulic seepage, and minimize settling.
6498

6499 Fill material containing rocks larger than six (6) inches in the longest dimension shall not
6500 be placed within five (5) feet of the interior slope surface of any pond embankment. Material
6501 containing by volume less than 25 percent of rock larger than six (6) inches and less than 12 inch
6502 in the longest dimension may be placed in the remainder of the embankment.
6503

6504 (2.) Outer dike slopes shall not be steeper than one
6505 vertical to two (2) horizontal. Flatter slopes may be required to maintain slope stability. Inner
6506 dike slopes shall be sloped one vertical to three horizontal or flatter.
6507

6508

6509 (3.) The minimum top dike width shall be sufficient
6510 to provide structural stability.

6511
6512 (4.) The application shall contain an evaluation of
6513 the need for riprap. This evaluation shall address site specific conditions such as surrounding
6514 topography, predominant wind directions, highest predicted peak wind velocity, calculation of
6515 predicted wave heights, data on windy months versus potential of water and water depths in the
6516 impoundment, impoundment life or any other relevant parameters. If necessary, riprap or other
6517 acceptable erosion control shall be installed on the inner dike slopes at all anticipated levels of
6518 water. Sedimentation control structures shall be exempted from requirements of this appendix.

6519
6520 (III) Dewatering. The storage resulting from inflow shall be
6521 removed by a nonclogging dewatering device or a spillway as soon as possible but not prior to the
6522 time that the discharge will comply with the effluent standards of these regulations. The
6523 application shall contain documentation that equipment or outlet structures are available for
6524 draining the pond.

6525
6526 (C) Discharge structures. Outfall structures and related equipment
6527 which is sufficient to meet the self-monitoring requirements of the WYPDES permit shall be
6528 properly installed, maintained, operated, and shall be removed when no longer required.

6529
6530 (c) Permit condition. Identification of outfalls. Point source discharges which
6531 consist of process wastewater or a combination of process wastewater and water from affected
6532 lands shall be identified as specific points of discharge in the discharge permit for each mine.
6533 Point source discharges which consist of water discharged from affected lands only may not be
6534 required to be identified as specific points of discharge in the discharge permit for each mine.
6535 Even if a discharge is not designated as a specific point of discharge, such discharges shall be
6536 required to meet the applicable self-monitoring and effluent requirements of the permit.

6537
6538 (d) Effluent limitations.

6539
6540 (i) The following types of mine discharges are subject to the effluent
6541 limitations of Appendix J (d) (ii):

6542
6543 (A) Coal preparation plants and coal preparation plant associated
6544 areas, as indicated, including discharges which are pumped, siphoned, or drained from the coal
6545 preparation plant water circuit and coal storage, refuse storage, and ancillary areas related to the
6546 cleaning or beneficiation of coal of any rank including, but not limited to, bituminous, lignite, and
6547 anthracite.

6548
6549 (B) Acid or ferruginous mine drainage from an active mining area
6550 resulting from the mining of coal of any rank including, but not limited to, bituminous, lignite,
6551 and anthracite.
6552

6553 (C) Alkaline mine drainage from an active mining area resulting
 6554 from the mining of coal of any rank including, but not limited to, bituminous, lignite, and
 6555 anthracite.

6556
 6557 (D) Post-mining underground mine drainage from the underground
 6558 workings of underground mines until Surface Mining Control and Reclamation Act (SMCRA)
 6559 bond release.

6560
 6561 (ii) All point source mine discharges, as described in Appendix J (d) (i),
 6562 which enter or will directly affect surface waters of the state shall meet the following effluent
 6563 limitations except during a precipitation event of any duration within any 24-hour period which
 6564 results in a rainfall depth greater than the 10-year, 24-hour precipitation amount (or snowmelt of
 6565 equivalent volume). During such precipitation events only the limitation on pH shall apply:
 6566

Effluent Characteristic	30 Day Average	Daily Maximum	Instantaneous Maximum
Total Suspended Solids (mg/l)	35	70	90
Total Iron (mg/l)	3.0	6.0	9.0
Total Manganese* (mg/l)	2.0	4.0	6.0
pH (standard units)	N/A	N/A	6.0 to 9.0

6567 *Applicable only when pH of the discharge, prior to any treatment, is less than 6.0 standard units.

6568
 6569 (iii) Post-Mining Areas. The provisions of this paragraph are applicable to
 6570 discharges from post mining areas, except as provided in Appendix J (h).

6571
 6572 (A) Reclamation Areas. The following limitations apply to
 6573 discharges from reclamation areas until the performance bond issued to the facility by the
 6574 appropriate SMCRA authority has been released. The following limitations establish the
 6575 concentration or quality of pollutants which may be discharged.

Pollutant or Pollutant Property	Limitations
Settleable Solids	0.5 ml/l maximum not to be exceeded
pH	Within the range of 6.0 and 9.0 at all times

6577
 6578 (iv) Co-mingling of waste streams. Where waste streams from any facility
 6579 covered by this appendix are combined for treatment or discharge with waste streams from
 6580 another facility covered by this part, the concentration of each pollutant in the combined
 6581 discharge may not exceed the most stringent limitations for that pollutant applicable to any
 6582 component waste stream of the discharge.

6583
 6584 (v) Alternate effluent limitation for pH. Where the application of
 6585 neutralization and sedimentation treatment technology results in inability to comply with the
 6586 otherwise applicable manganese limitations, the permit issuer may allow the pH level in the final
 6587 effluent to exceed 9.0 to a small extent in order that the manganese limitations can be achieved,

6588 provided that the pH of the receiving surface water of the state does not exceed water quality
 6589 standards of Wyoming Water Quality Rules and Regulations Chapter 1, Wyoming Surface Water
 6590 Quality Standards.

6591
 6592 (e) Effluent limitations for precipitation events.

6593
 6594 (i) The alternate limitations specified in Appendix J (e) (ii) apply with
 6595 respect to:

6596
 6597 (A) All discharges of alkaline mine drainage except discharges from
 6598 underground workings of underground mines that are not commingled with other discharges
 6599 eligible for these alternate limitations;

6600
 6601 (B) All discharges from steep slope areas, (as defined in Section 515
 6602 (d) (4) of the SMCRA of 1977, as amended), and from mountaintop removal operations
 6603 (conducted pursuant to Section 515 (c) of SMCRA);

6604
 6605 (C) Discharges from coal preparation plants and preparation plant
 6606 associated areas (excluding acid or ferruginous mine drainage from coal refuse disposal piles).

6607
 6608 (ii) Any discharge or increase in the volume of a discharge caused by
 6609 precipitation within any 24-hour period less than or equal to the 10-year, 24-hour precipitation
 6610 event (or snowmelt of equivalent volume) may comply with the following limitations instead of
 6611 the otherwise applicable limitations:

6612
 6613
 6614

Pollutant or Pollutant Property	Limitations
Settleable Solids	0.5 ml/l maximum not to be exceeded
pH	Within the range 6.0 to 9.0 at all times

6615
 6616 (iii) The following alternate limitations apply with respect to acid or
 6617 ferruginous drainage from coal refuse disposal piles: Any discharge or increase in the volume of a
 6618 discharge caused by precipitation within any 24-hour period greater than the 1-year, 24-hour
 6619 precipitation event, but less than or equal to the 10-year, 24-hour precipitation event (or snowmelt
 6620 of equivalent volume) may comply with the following limitations instead of the otherwise
 6621 applicable limitations:

6622

Pollutant or Pollutant Property	Limitations
Settleable Solids	0.5 ml/l maximum not to be exceeded
pH	Within the range 6.0 to 9.0 at all times

6623
 6624 (iv) The following alternate limitations apply with respect to acid or
 6625 ferruginous mine drainage, except for discharges addressed in: Appendix J (e) (i) (B)
 6626 (mountaintop removal and steep slope areas) and Appendix J (e) (vii) (discharges from
 6627 underground workings of underground mines):

6628
6629
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6633

(A) Any discharge or increase in the volume of a discharge caused by precipitations within any 24-hour period or less or equal to the 2-year, 24-hour precipitation event (or snowmelt of equivalent volume) may comply with the following limitations instead of the otherwise applicable limitations:

Pollutant or Pollutant Property	Limitations
Total Iron	7.0 mg/l maximum for any one day
Settleable Solids	0.5 ml/l maximum not to exceed
pH	Within the range 6.0 to 9.0 at all times

6634
6635
6636
6637
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6640

(B) Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 2-year, 24-hour precipitation event, but less than or equal to the 10-year, 24-hour precipitations event (or snowmelt of equivalent volume) may comply with the following limitations instead of the otherwise applicable limitations:

Pollutant or Pollutant Property	Limitations
Settleable Solids	0.5 ml/l maximum not to be exceeded
pH	Within the range 6.0 to 9.0 at all times

6641
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(v) Any discharge which occurs during a precipitation event of any duration within any 24-hour period which results in a rainfall depth greater than the 10- year, 24-hour precipitation amount (or snowmelt of equivalent volume) shall be required to meet an instantaneous maximum pH limitation of 6.0 - 9.0 only.

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6653
6654

(vi) The operator shall have the burden of proof that the discharge or increase in discharge was caused by the applicable precipitation event described Appendix J (e) (ii), (iii), (iv) and (v).

(vii) Discharges of mine drainage from underground workings or underground mines which are not commingled with discharges eligible for alternate limitations set forth in Appendix J (e) shall in no event be eligible for the alternate limitations set forth in Appendix J (e).

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6659

(f) If effluent limitations more stringent than those given in paragraph (c) (i) or (ii) of this appendix are necessary to assure compliance with Wyoming Water Quality Rules and Regulations, Chapter 1, such limitations shall be established in accordance with Section 5 (c) (iii) (C).

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6666

(g) Procedure and method detection limit for measurement of settleable solids. For the purposes of this appendix, the following procedure shall be used to determine settleable solids: Fill an Imhoff cone to the one-liter mark with a thoroughly mixed sample. Allow to settle undisturbed for 45 minutes. Gently stir along the inside surface of the cone with a stirring rod. Allow to settle undisturbed for 15 minutes longer. Record the volume of settled material in the cone as milliliters per liter. Where a separation of settleable and floating materials occurs, do not

6667 include the floating material in the reading. Notwithstanding any provision of 40 CFR Part 136,
6668 the method detection limit for measuring settleable solids under this part shall be 0.4 ml/l.

6669

6670 (h) Western alkaline coal mining.

6671

6672 (i) Applicable to alkaline mine drainage at western coal mining operations
6673 from reclamation areas, brushing and grubbing areas, topsoil stockpiling areas, and regraded
6674 areas where the discharge, before any treatment, meets all of the following requirements:

6675

6676 (A) pH is equal to or greater than 6.0,

6677

6678 (B) Dissolved iron concentration is less than 10 mg/l, and

6679

6680 (C) Net alkalinity is greater than zero.

6681

6682 (ii) Special definitions.

6683

6684 (A) "Brushing and grubbing" area means the area where woody plant
6685 materials that would interfere with soil salvage operations have been removed or incorporated
6686 into the soil that is being salvaged.

6687

6688 (B) "Regraded area" means the surface area of a coal mine that has
6689 been returned to required contour.

6690

6691 (C) "Sediment" means undissolved organic and inorganic material
6692 transported or deposited by water.

6693

6694 (D) "Sediment yield" means the sum of the soil losses from a surface
6695 minus deposition in macro-topographic depressions, at the toe of the hillslope, along field
6696 boundaries, or in terraces and channels sculpted into the hillslope.

6697

6698 (E) "Topsoil stockpiling area" means the area outside the mined-out
6699 area where topsoil is temporarily stored for use in reclamation, including containment berms.

6700

6701 (F) "Western coal mining operation" means a surface or
6702 underground coal mining operation located in the interior western United States, west of the
6703 100th meridian, west longitude, in an arid or semiarid environment with an average annual
6704 precipitation of 26 inches or less.

6705

6706 (iii) The effluent limitations of Appendix J (h) (iv) apply until the appropriate
6707 SMCRA authority has authorized bond release.

6708

6709 (iv) Effluent limitations.

6710

6711 (A) The operator must submit a site specific sediment control plan to
6712 the permitting authority that is designed to prevent an increase in the average annual sediment

6713 yield from pre-mined, undisturbed conditions. The sediment control plan must be approved by
6714 the administrator and be incorporated into the permit as an effluent limitation. The sediment
6715 control plan must identify best management practices (BMPs) and also must describe design
6716 specifications, construction specifications, maintenance schedules, criteria for inspection, as well
6717 as expected performance and longevity of the best management practices.

6718
6719 (B) Using watershed models, the operator must demonstrate that
6720 implementation of the sediment control plan will result in average annual sediment yields that
6721 will not be greater than the sediment yield levels from pre-mined, undisturbed conditions. The
6722 operator must use the same watershed model that was, or will be, used to acquire the SMCRA
6723 permit.

6724
6725 (C) The operator must design, implement, and maintain BMPs in the
6726 manner specified in the sediment control plan.

6727
6728 (l) Coal remining. Applicable to pre-existing discharges that are located within or
6729 are hydrologically connected to pollution abatement areas of a coal mining operation.

6730
6731 (i) Specialized definitions.

6732
6733 (A) "Coal remining operation" means a coal mining operation at a
6734 site on which coal mining was previously conducted and where the site has been abandoned or
6735 the performance bond has been forfeited.

6736
6737 (B) "Pollution abatement area" means the part of the permit area that
6738 is causing or contributing to the baseline pollution load of pre-existing discharges. The pollution
6739 abatement area must include, to the extent practicable, areas adjacent to and nearby the remining
6740 operation that also must be affected to reduce the pollution load of the pre-existing discharges and
6741 may include the immediate location of the pre-existing discharges.

6742
6743 (C) "Pre-existing discharge" means any discharge resulting from
6744 mining activities that have been abandoned prior to the time of a remining permit application.
6745 The term shall include a pre-existing discharge that is relocated as a result of the implementation
6746 of BMPs contained in the Pollution Abatement Plan.

6747
6748 (D) "Steep slope" means any slope above 20 degrees or such lesser
6749 slope as may be defined by the administrator after consideration of soil, climate, and other
6750 characteristics of the State. The term does not apply to those situations in which an operator is
6751 mining on flat or gently rolling terrain, on which an occasional steep slope is encountered and
6752 through which the mining operation is to proceed, leaving a plain or predominantly flat area.

6753
6754 (E) "New source remining operation" means a remining operation at
6755 a coal mine where mining first commences after February 22, 2002 and subsequently becomes an
6756 abandoned mine.

6757

6758 (ii) A pre-existing discharge that is intercepted by active mining or that is
6759 commingled with waste streams from active mining areas for treatment is subject to the
6760 provisions of Appendix J (d) (iv) of these regulations only during the time when the pre-existing
6761 discharge is intercepted by active mining or is commingled with active mine wastewater for
6762 treatment or discharge. After commingling has ceased, the pre-existing discharge is subject to the
6763 provisions of Appendix J (i) of these regulations.

6764 (iii) In situations where coal remining operations seek reissuance of an
6765 existing remining permit with BPJ limitations and the administrator determines that it is not
6766 feasible for a remining operator to re-establish baseline pollutant levels in accordance with the
6767 statistical procedures contained in 40 CFR Part 434 Appendix B pre-existing discharge
6768 limitations at existing remining operations shall remain subject to baseline pollutant levels
6769 established during the original permit application.

6770 (iv) The effluent limitations of Appendix J (i) apply to pre-existing
6771 discharges until the appropriate SMCRA authority has authorized bond release.

6772 (v) Effluent limitations applicable to coal remining.

6773 (A) The operator must submit a site-specific pollution abatement
6774 plan to the administrator for the pollution abatement area. The plan must be approved by the
6775 administrator and incorporated into the permit as an effluent limitation. The Pollution Abatement
6776 Plan must identify characteristics of the pollution abatement area and the pre-existing discharges.
6777 The Pollution Abatement Plan must be designed to reduce pollution load from pre-existing
6778 discharges and must identify the selected BMPs to be used. The plan must describe the design
6779 specifications, construction specifications, maintenance schedules, criteria for monitoring and
6780 inspection, and expected performance of the BMPs. The BMPs must be implemented as
6781 specified in the plan.

6782 (B) Except as provided in Appendix J (h) (v) (C) of these
6783 regulations, the following effluent limits shall apply to pre-existing discharges:

6784 (I) Total iron may not exceed baseline loadings (as defined
6785 40 CFR Part 434 Appendix B).

6786 (II) Total manganese may not exceed baseline loadings (as
6787 defined 40 CFR Part 434 Appendix B).

6788 (III) Net acidity may not exceed baseline loadings (as defined
6789 40 CFR Part 434 Appendix B).

6790 (IV) TSS, during remining and reclamation, may not exceed
6791 baseline loadings (as defined 40 CFR Part 434 Appendix B).

6792 (V) Prior to bond release, the pre-existing discharge must
6793 meet the applicable standards for TSS or SS contained in Appendix J (d) (iii).

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(VI) A pre-existing discharge is exempt from meeting standards in Subpart E for TSS and SS when the administrator determines that Subpart E standards are infeasible or impractical based on the site-specific conditions of soil, climate, topography, steep slopes, or other baseline conditions provided that the operator demonstrates that significant reductions of TSS and SS will be achieved through the incorporation of sediment control BMPs into the Pollution Abatement Plan as required by Appendix J (i) (v) of these regulations.

(C) If the administrator determines that it is infeasible to collect samples for establishing the baseline pollutant levels pursuant to Appendix J (i) (v) (B) of these regulations and that reminging will result in significant improvement that would not otherwise occur, the numeric effluent limitations in Appendix J (i) (v) (B) of these regulations do not apply.

(D) Pre-existing discharges for which it is infeasible to collect samples for determination of baseline pollutant levels include, but are not limited to:

(I) Discharges that exist as a diffuse groundwater flow that cannot be assessed via sample collection;

(II) A base flow to a receiving surface water of the state that can not be monitored separate from the receiving surface waters of the state;

(III) A discharge on a steep or hazardous slope that is inaccessible for sample collection; or

(IV) A number of pre-existing discharges so extensive that monitoring of individual discharges is infeasible.

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APPENDIX K: RESERVED

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6855 **APPENDIX L: Criteria and Standards for Determining Fundamentally Different Factors**

6856

6857 (a) Purpose and scope.

6858

6859 (i) This appendix establishes the criteria and standards to be used in
6860 determining whether effluent limitations alternative to those required by promulgated EPA
6861 effluent limitations guidelines under sections 301 and 304 of the CWA (hereinafter referred to as
6862 “national limits”) should be imposed on a discharger because factors relating to the discharger=s
6863 facilities, equipment, processes or other factors related to the discharger are fundamentally
6864 different from the factors considered by EPA in development of the national limits. This subpart
6865 applies to all national limitations promulgated under sections 301 and 304 of the CWA, except for
6866 the BPT limits contained in 40 CFR 423.12 (steam electric generating point source category).

6867

6868 (ii) In establishing national limits, EPA takes into account all the information
6869 it can collect, develop and solicit regarding the factors listed in section 304 (b) of the CWA. In
6870 some cases, however, data which could affect these national limits as they apply to a particular
6871 discharge may not be available or may not be considered during their development. As a result, it
6872 may be necessary on a case-by-case basis to adjust the national limits, and make them either more
6873 or less stringent as they apply to certain dischargers within an industrial category or subcategory.
6874 This will only be done if data specific to that discharger indicates it presents factors
6875 fundamentally different from those considered by EPA in developing the limit at issue. Any
6876 interested person believing that factors relating to a discharger=s facilities, equipment, processes
6877 or other facilities related to the discharger are fundamentally different from the factors considered
6878 during development of the national limits may request a fundamentally different factors variance
6879 under Section 8 of these regulations. In addition, such a variance may be proposed by the
6880 director in the draft permit.

6881

6882 (b) Criteria.

6883

6884 (i) A request for the establishment of effluent limitations under this
6885 appendix shall be forwarded to the Administrator of the EPA (or his delegate) with a written
6886 concurrence only if:

6887

6888 (A) There is an applicable national limit which is applied in the
6889 permit and specifically controls the pollutant for which alternative effluent limitations or
6890 standards have been requested; and

6891

6892 (B) Factors relating to the discharge controlled by the permit are
6893 fundamentally different from those considered by EPA in establishing the national limits; and

6894

6895 (C) The request for alternative effluent limitations or standards is
6896 made in accordance with the requirements of Section 8 of these regulations.

6897

6898 (ii) A request for the establishment of effluent limitations less stringent than
6899 those required by national limits guidelines shall be forwarded to the Administrator of the EPA
6900 (or his delegate) with a written concurrence only if:
6901
6902 (A) The alternative effluent limitation or standard requested is no
6903 less stringent than justified by the fundamental difference; and
6904
6905 (B) The alternative effluent limitation or standard will ensure
6906 compliance with Sections 208 (e) and 301 (b) (1) (C) of the CWA; and
6907
6908 (C) Compliance with the national limits (either by using the
6909 technologies upon which the national limits are based or by other control alternatives) would
6910 result in:
6911
6912 (I) A removal cost wholly out of proportion to the removal
6913 cost considered during development of the national limits; or
6914
6915 (II) A non-water quality environmental impact (including
6916 energy requirements) fundamentally more adverse than the impact considered during
6917 development of the national limits.
6918
6919 (iii) Factors which may be considered fundamentally different are:
6920
6921 (A) The nature of quality of pollutants contained in the raw waste
6922 load of the applicant=s process wastewater;
6923
6924 (B) The volume of the discharger=s process wastewater and effluent
6925 discharged;
6926
6927 (C) Non-water quality environmental impact of control and
6928 treatment of the discharger=s raw waste load;
6929
6930 (D) Energy requirements of the application of control and treatment
6931 technology;
6932
6933 (E) Age, size, land availability, and configuration as they relate to
6934 the discharger=s equipment or facilities, processes employed, process changes, and engineering
6935 aspects of the application of control technology;
6936
6937 (F) Cost of compliance with required control technology.
6938
6939 (iv) A variance request or portion of such a request under this section shall
6940 not be forwarded to the Administrator of the EPA (or his delegate) with a written concurrence on
6941 any of the following grounds:
6942

6943 (A) The infeasibility of installing the required waste treatment
6944 equipment within the time the CWA allows.
6945
6946 (B) The assertion that the national limits cannot be achieved with
6947 appropriate waste treatment facilities installed, if such assertion is not based on factor(s) listed in
6948 Appendix L (iv);
6949
6950 (C) The discharger's ability to pay for the required waste treatment;
6951 or
6952
6953 (D) The impact of a discharge on local receiving water quality.
6954
6955 (v) Nothing in this appendix shall be construed to impair the right of any
6956 locality under Section 510 of the CWA to impose more stringent limitations than those required
6957 by federal law.
6958
6959 (c) Method of application.
6960
6961 (i) A written request for a variance under this appendix shall be submitted in
6962 triplicate to the director in accordance with Section 8 of these regulations.
6963
6964 (ii) The burden is on the person requesting the variance to explain that:
6965
6966 (A) Factor(s) listed in Appendix L (b) (ii) of these regulations
6967 regarding the discharger's facility are fundamentally different from the factors EPA considered in
6968 establishing the national limits. The requester should refer to all relevant material and
6969 information, such as the published guideline regulations development document, all associated
6970 technical and economic data collected for use in developing each national limit, all records of
6971 legal proceedings, and all written and printed documentation including records of
6972 communication, etc., relevant to the regulations which are kept on public file by the EPA;
6973
6974 (B) The alternative limitations requested are justified by the
6975 fundamental difference alleged in Appendix L (c) (ii) (A) of these regulations; and
6976
6977 (C) The appropriate requirements of Appendix L (b) of these
6978 regulations have been met.
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APPENDIX M: Criteria for Determining Alternative Effluent Limitations

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(a) With respect to any point source otherwise subject to the provisions of Section 301 or Section 306 of the CWA, whenever the owner or operator of any such source, after opportunity for public hearing can demonstrate to the satisfaction of the administrator that any effluent limitation proposed for the control of the thermal component of any discharge from such source will require effluent limitations more stringent than necessary to assure the protection and propagation of shellfish, fish and wildlife in and on the body of water into which the discharge is to be made, the administrator may impose an effluent limitation on such plant, with respect to the thermal component of such discharge (taking into account the interaction of such thermal component with other pollutants), that will assure the protection and propagation of a balanced indigenous population of shellfish, fish and wildlife in and on that body of water. This appendix describes the factors, criteria and standards for the establishment of alternative thermal effluent limitations.

(b) Definitions.

(i) "Alternative effluent limitations" means all effluent limitations or standards of performance for the control of the thermal component of any discharge which are established under this appendix.

(ii) "Representative important species" means species which are representative, in terms of their biological needs, of a balanced, indigenous community of shellfish, fish and wildlife in the body of water into which a discharge of heat is made.

(iii) The term "balanced, indigenous community" is synonymous with the term "balanced, indigenous population" in the CWA and means a biotic community typically characterized by diversity, the capacity to sustain itself through cyclic seasonal changes, presence of necessary food chain species and by a lack of domination by pollution tolerant species. Such a community may include historically non-native species introduced in connection with a program of wildlife management and species whose presence or abundance results from substantial, irreversible environmental modifications. Normally, however, such a community will not include species whose presence or abundance is attributable to the introduction of pollutants that will be eliminated by compliance by all sources with section 301 (b) (2) of the CWA; and may not include species whose presence or abundance is attributable to alternative effluent limitations imposed pursuant to this appendix.

(c) Early screening of applications.

(i) Any initial application for an alternative effluent limitation under this appendix shall include the following early screening information:

(A) A description of the alternative effluent limitation requested;

7034 (B) A general description of the method by which the applicant
7035 proposes to demonstrate that the otherwise applicable thermal discharge effluent limitations are
7036 more stringent than necessary;

7037
7038 (C) A general description of the type of data, studies, experiments
7039 and other information which the applicant intends to submit for the demonstration; and

7040
7041 (D) Such data and information as may be available to assist the
7042 administrator in selecting the appropriate representative important species.

7043
7044 (ii) After submitting the early screening information under Appendix M (c),
7045 the applicant shall consult with the administrator at the earliest practicable time (but not later than
7046 30 days after the application is filed) to discuss the applicant's early screening information.
7047 Within 60 days after the application is filed, the applicant shall submit for the administrator's
7048 approval a detailed plan of study which the applicant will undertake to support its demonstration
7049 under this appendix. The applicant shall specify the nature and extent of the following type of
7050 information to be included in the plan of study: biological, hydrographical and meteorological
7051 data; physical monitoring data; engineering or diffusion models; laboratory studies; representative
7052 important species; and other relevant information. In selecting representative important species,
7053 special consideration shall be given to species mentioned in applicable water quality standards.
7054 After the applicant submits its detailed plan of study, the administrator shall either approve the
7055 plan or specify any necessary revisions to the plan. The applicant shall provide any additional
7056 information or studies which the administrator subsequently determines necessary to support the
7057 demonstration, including such studies or inspections as may be necessary to select representative
7058 important species. The applicant may provide any additional information or studies which the
7059 applicant feels are appropriate to support the demonstration.

7060
7061 (iii) Any application for the renewal of an alternative effluent limitation
7062 under this appendix shall include only such information described in Appendix M (c) (i) and (ii)
7063 as the administrator requests within 60 days after receipt of the permit application.

7064
7065 (iv) The administrator shall promptly notify the Regional Administrator of
7066 the EPA and any affected state of the filing of the request and shall consider any timely
7067 recommendations they submit.

7068
7069 (v) In making the demonstration, the applicant shall consider any
7070 information or guidance published by EPA to assist in making such demonstrations.

7071
7072 (vi) If an applicant desires a ruling on an application under this appendix,
7073 before the ruling on any other necessary permit terms and conditions, the applicant shall so
7074 request upon filing its application under Appendix M (c) (i). This request shall be granted or
7075 denied at the discretion of the administrator.

7076
7077 (d) Criteria and standards for the determination of alternative effluent limitations
7078 under this appendix.

7079

7080 (i) Thermal discharge effluent limitations or standards established in permits
7081 may be less stringent than those required by applicable standards and limitations if the applicant
7082 demonstrates to the satisfaction of the administrator that such effluent limitations are more
7083 stringent than necessary to assure the protection and propagation of a balanced, indigenous
7084 community of shellfish, fish and wildlife in and on the body of water into which the discharge is
7085 made. This demonstration must show that the alternative effluent limitation desired by the
7086 applicant, considering the cumulative impact of its thermal discharge together with all other
7087 significant impacts on the species affected, will assure the protection and propagation of a
7088 balanced indigenous community of shellfish, fish and wildlife in and on the body of water into
7089 which the discharge is to be made.

7090

7091 (ii) In determining whether or not the protection and propagation of the
7092 affected species will be assured, the administrator may consider any information contained or
7093 referenced in any applicable thermal water quality criteria and thermal water quality information
7094 published by the Administrator of the EPA under Section 304 (a) of the CWA, or any other
7095 information the administrator deems relevant.

7096

7097 (iii) Demonstration upon the absence of prior appreciable harm.

7098

7099 (A) Existing permittees may base their demonstration upon the
7100 absence of prior appreciable harm in lieu of predictive studies. Any such demonstrations shall
7101 show:

7102

7103 (I) That no appreciable harm has resulted from the normal
7104 component of the discharge, taking into account the interaction of such thermal component with
7105 other pollutants and the additive effect of other thermal sources to a balanced, indigenous
7106 community of shellfish, fish and wildlife in and on the body of water into which the discharge has
7107 been made; or

7108

7109 (II) That despite the occurrence of such previous harm, the
7110 desired alternative effluent limitations (or appropriate modifications thereof) will nevertheless
7111 assure the protection and propagation of a balanced, indigenous community of shellfish, fish and
7112 wildlife in and on the body of water into which the discharge is made.

7113

7114 (iv) In determining whether or not prior appreciable harm has occurred, the
7115 administrator shall consider the length of time in which the applicant has been discharging and
7116 the nature of the discharge.

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APPENDIX N: Toxic Pollutant Effluent Standards and Prohibitions

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(a) Scope and purpose.

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(i) The provisions of this appendix apply to owners or operators of specified facilities discharging into surface waters of the state.

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(ii) The effluent standards or prohibitions for toxic pollutants established in this appendix shall be applicable to the sources and pollutants hereinafter set forth, and may be incorporated in any WYPDES permit, modification or renewal thereof, in accordance with the provisions of this appendix.

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(iii) The provisions of these regulations shall apply to any WYPDES permit proceedings for any point source discharge containing any toxic pollutant for which a standard or prohibition is established under this appendix.

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(b) Definitions. All terms not defined herein shall have the meaning given them in the CWA or in Section 3 of these regulations. As used in this appendix, the term:

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7146

(i) "Effluent standard" means any restriction established by the administrator on quantities, rates, and concentrations of chemical, physical, biological, and other concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into surface waters of the state but does not include a schedule of compliance.

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(ii) "Prohibited" means that the constituent shall be absent in any discharge subject to these standards, as determined by any analytical method.

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(iii) "Working day" means the hours during a calendar day in which a facility discharges effluents subject to this part.

7155

7156

7157

(iv) "Ambient water criterion" means that concentration of a toxic pollutant in a surface water of the state that, based upon available data, will not result in adverse impact on important aquatic life, or on consumers of such aquatic life, after exposure of that aquatic life for periods of time exceeding 96 hours and continuing at least through one reproductive cycle; and will not result in a significant risk of adverse health effects in a large human population based on available information such as mammalian laboratory toxicity data, epidemiological studies of human occupational exposures, or human exposure data, or any other relevant data.

7160

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(v) "New source" means any source discharging a toxic pollutant, the construction of which is commenced after proposal of an effluent standard or prohibition applicable to such source if such effluent standard or prohibition is thereafter promulgated in accordance with Section 307 of the CWA.

7166

7167

7168

7169

7170 (vi) "Existing source" means any source which is not a new source as defined
7171 in Appendix N (b) (v).

7172
7173 (vii) "Source" means any building, structure, facility, or installation from
7174 which there is or may be the discharge of toxic pollutants designated as such by the administrator.

7175
7176 (viii) "Owner or operator" means any person who owns, leases, operates,
7177 controls, or supervises a source as defined in Appendix N (b) (vii).

7178
7179 (ix) "Construction" means any placement, assembly, or installation of
7180 facilities or equipment (including contractual obligations to purchase such facilities or equipment)
7181 at the premises where such equipment will be used, including preparation work at such premises.

7182
7183 (x) "Manufacturer" means any establishment engaged in the mechanical or
7184 chemical transformation of materials or substances into new products, including but not limited
7185 to, the blending of materials such as pesticidal products, resins, or liquors.

7186
7187 (xi) "Process wastes" means any designated toxic pollutant, whether in
7188 wastewater or otherwise present, which is inherent to or unavoidably resulting from any
7189 manufacturing process, including that which comes into direct contact with or results from the
7190 production or use of any raw material, intermediate product, finished product, by product or
7191 waste product and is discharged into surface waters of the state.

7192
7193 (xii) "Air emissions" means the release or discharge of a toxic pollutant by an
7194 owner or operator into the ambient air either 1) by means of a stack or 2) as a fugitive dust, mist
7195 or vapor as a result inherent to the manufacturing or formulating process.

7196
7197 (xiii) "Fugitive dust, mist or vapor" means dust, mist or vapor containing a
7198 toxic pollutant regulated under this part which is emitted from any source other than through a
7199 stack.

7200
7201 (xiv) "Stack" means any chimney, flue, conduit, or duct arranged to conduct
7202 emissions to the ambient air.

7203
7204 (xv) "Ten year 24-hour rainfall event" means the maximum precipitation
7205 event with a probable recurrence interval of once in ten (10) years as defined by the National
7206 Weather Service in Technical Paper No. 40, Rainfall Frequency Atlas of the United States, May
7207 1961, and subsequent amendments or equivalent regional or state rainfall probability information
7208 developed therefrom.

7209
7210 (c) Abbreviations. The abbreviations used in this part represent the following terms:

7211
7212 (i) lb=pound (or pounds)

7213
7214 (ii) g=gram

7215

7216 (iii) ug/l=micrograms per liter (1 one millionth gram/liter)

7217

7218 (iv) kg=kilogram(s) kkg=1000 kilogram(s)

7219

7220 (d) Toxic pollutants. The following are the pollutants subject to regulation under the
7221 provisions of this appendix:

7222

7223 (i) Aldrin/Dieldrin - Aldrin means the compound aldrin as identified by the
7224 chemical name, 1,2,3,4,10,10 hexachloro -1,4,4a,5,8,8a hexahydro -1,4 -endo 5,8 -exo-
7225 dimethanonaphthalene; "Dieldrin" means the compound the dieldrin as identified by the chemical
7226 name 1,2,3,4,10,10 -hexachloro-6,7 - epoxy -1,4,4a,5,6,7,8,8a octahydro-1,4 -endo 5,8 -exo-
7227 dimethanonaphthalene.

7228

7229 (ii) DDT - DDT means the compounds DDT, DDD, and DDE as identified
7230 by the chemical names:(DDT)-1,1,1 -trichloro -2,2 - bis(p- chlorophenyl) ethane and someo,p'
7231 isomers; (DDD) or (TDE) -1,1 -dichloro -2,2- bis(p-chlorophenyl) ethane and some o,p'-
7232 isomers; (DDE) -1,1-dichloro -2,2-bis(p-chlorophenyl) ethylene.

7233

7234 (iii) Endrin - Endrin means the compound endrin as identified by the
7235 chemical name 1,2,3,4,10,10-hexachloro-6,7 epoxy - 1,4,4a,5,6,7,8,8a -octahydro -1,4-endo 5,8-
7236 endodimethanonaphthalene.

7237

7238 (iv) Toxaphene - Toxaphene means a material consisting of technical grade
7239 chlorinated camphene having the approximate formula of C₁₀H₁₀Cl₈ and normally containing 67-
7240 69 percent chlorine by weight.

7241

7242 (v) Benizidine - Benizidine means the compound benizidine and its salts as
7243 identified by the chemical name 4,4'-diaminobiphenyl.

7244

7245 (vi) Polychlorinated Biphenyls (PCBs) - Polychlorinated biphenyls (PCBs)
7246 means a mixture of compounds composed of the biphenyl molecule which has been chlorinated to
7247 varying degrees. [42 FR 2613, Jan. 12, 1977, as amended at 42 FR 2620, Jan. 12, 1977; 42 FR
7248 6555, Feb. 2, 1977]

7249

7250 (e) Compliance.

7251

7252 (i) Within 60 days from the date of promulgation of any toxic pollutant
7253 effluent standard or prohibition each owner or operator with a discharge subject to that standard
7254 or prohibition must notify the director of such discharge. Such notification shall include such
7255 information and follow such procedures as the director may require.

7256

7257 (ii) Any owner or operator who does not have a discharge subject to any
7258 toxic pollutant effluent standard at the time of such promulgation but who thereafter commences
7259 or intends to commence any activity which would result in such a discharge shall first notify the
7260 director in the manner herein provided at least 60 days prior to any such discharge.

7261

7262
7263 (iii) Upon receipt of any application for issuance or reissuance of a permit or
7264 for a modification of an existing permit for a discharge subject to a toxic pollutant effluent
7265 standard or prohibition the permitting authority shall proceed thereon in accordance with these
7266 regulations.

7267
7268 (iv) Every permit which contains limitations based upon a toxic pollutant
7269 effluent standard or prohibition under this appendix is subject to revision following the
7270 completion of any proceeding revising such toxic pollutant effluent standard or prohibition
7271 regardless of the duration specified on the permit.

7272
7273 (v) For purposes of this section, all toxic pollutants for which standards are
7274 set under this appendix are deemed to be injurious to human health within the meaning of Section
7275 402 (k) of the CWA unless otherwise specified in the standard established for any particular
7276 pollutant.

7277
7278 (vi) Upon the compliance date for any toxic pollutant effluent standard or
7279 prohibition, under Section 307 (a) of the CWA, each owner or operator of a discharge subject to
7280 such standard or prohibition shall comply with such monitoring, sampling, recording, and
7281 reporting conditions as the director may require for that discharge. Notice of such conditions shall
7282 be provided in writing to the owner or operator.

7283
7284 (vii) In addition to any conditions required pursuant to Appendix N (e) (vi)
7285 and to the extent not required in conditions contained in WYPDES permits, within 60 days
7286 following the close of each calendar year each owner or operator of a discharge subject to any
7287 toxic standard or prohibition shall report to the director concerning the compliance of such
7288 discharges. Such report shall include, as a minimum, information concerning 1) relevant
7289 identification of the discharger such as name, location of facility, discharge points, receiving
7290 waters, and the industrial process or operation emitting the toxic pollutant; 2) relevant conditions
7291 (pursuant to Appendix N (e) (vi) or to an WYPDES permit) as to flow, toxic pollutant
7292 concentrations under Section 307 (a) of the CWA, and toxic pollutant mass emission rate under
7293 Section 307 (a) of the CWA; and 3) compliance by the discharger with such conditions.

7294
7295 (viii) When samples collected for analysis are composited, such samples shall
7296 be composited in proportion to the flow at time of collection and preserved in compliance with
7297 requirements of the director, but shall include at least five (5) samples, collected at approximately
7298 equal intervals throughout the working day.

7299
7300 (ix) Nothing in these regulations shall preclude the director from requiring in
7301 any permit a more stringent effluent limitation or standard pursuant to Section 301 (b) (1) (C) of
7302 the CWA and implemented pursuant to the provisions of these regulations.

7303
7304 (x) Any owner or operator of a facility which discharges a toxic pollutant to
7305 surface waters of the state and to a publicly owned treatment system shall limit the summation of
7306 the mass emissions from both discharges to the less restrictive standard, either the direct
7307 discharge standard or the pretreatment standard; but in no case will this paragraph allow a

7308 discharge to surface waters of the state greater than the toxic pollutant effluent standard
7309 established for a direct discharge to the surface waters of the state.

7310
7311 (xi) In any permit hearing or other administrative proceeding relating to the
7312 implementation or enforcement of these standards, the parties thereto may not contest the validity
7313 of any national standards established in this appendix, or the ambient water criterion established
7314 herein for any toxic pollutant.

7315
7316 (f) Adjustment of effluent standard for presence of toxic pollutant in the intake
7317 water.

7318
7319 (i) Upon the request of the owner or operator of a facility discharging a
7320 pollutant subject to a toxic pollutant effluent standard or prohibition, the director shall give credit,
7321 and shall adjust the effluent standard(s) in such permit to reflect credit for the toxic pollutant(s) in
7322 the owner's or operator's water supply if 1) the source of the owner's or operator's water supply is
7323 the same body of water into which the discharge is made, and if 2) it is demonstrated to the
7324 director that the toxic pollutant(s) present in the owner's or operator's intake water will not be
7325 removed by any wastewater treatment systems whose design capacity and operation were such as
7326 to reduce toxic pollutants to the levels required by the applicable toxic pollutant effluent
7327 standards in the absence of the toxic pollutant in the intake water.

7328
7329 (ii) Effluent limitations established pursuant to this section shall be
7330 calculated on the basis of the amount of the toxic pollutant(s) under Section 307(a) of the CWA
7331 present in the water after any water supply treatment steps have been performed by or for the
7332 owner or operator.

7333
7334 (iii) Any permit which includes toxic pollutant effluent limitations
7335 established pursuant to this appendix shall also contain conditions requiring the permittee to
7336 conduct additional monitoring in the manner and locations determined by the director for those
7337 toxic pollutants for which the toxic pollutant effluent standards have been adjusted.

7338
7339 (g) Requirement and procedure for establishing a more stringent effluent limitation.

7340
7341 (i) In exceptional cases:

7342
7343 (A) Where the director determines that the ambient water criterion
7344 established in these regulations is not being met or will not be met in the receiving water as a
7345 result of one or more discharges at levels allowed by these regulations, and

7346
7347 (B) Where the director further determines that this is resulting in or
7348 may cause or contribute to significant adverse effects on aquatic or other organisms usually or
7349 potentially present, or on human health, the director may issue to an owner or operator a permit or
7350 a permit modification containing a toxic pollutant effluent limitation at a more stringent level than
7351 that required by these regulations. In any proceeding in connection with such action the burden of
7352 proof and burden of going forward with evidence with regard to such more stringent effluent
7353 limitation shall be upon the director as the proponent of such more stringent effluent limitation.

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(C) Evidence in such proceeding shall include at a minimum: An analysis using data and other information to demonstrate receiving water concentrations of the specified toxic pollutant, projections of the anticipated effects of the proposed modification on such receiving water concentrations, and the hydrologic and hydrographic characteristics of the receiving waters including the occurrence of dispersion of the effluent.

(ii) Any effluent limitation in a WYPDES permit proposed to be issued which is more stringent than the toxic pollutant effluent standards promulgated by the director is subject to review by the Administrator of the EPA under Section 402 (d) of the CWA. The Administrator of the EPA may approve or disapprove such limitation(s) or specify another limitation(s) upon review of any record of any proceedings held in connection with the permit issuance or modification and any other available evidence. If the Administrator of the EPA takes no action within 90 days of receipt of the notification of the action of the director and any record thereof, the action of the director shall be deemed to be approved.

(h) Aldrin/Dieldrin.

(i) Specialized definitions.

(A) "Aldrin/Dieldrin manufacturer" means a manufacturer, excluding any source which is exclusively an aldrin/dieldrin formulator, who produces, prepares or processes technical aldrin or dieldrin or who uses aldrin or dieldrin as a material in the production, preparation or processing of another synthetic organic substance.

(B) "Aldrin/Dieldrin formulator" means a person who produces, prepares or processes a formulated product comprising a mixture of either aldrin or dieldrin and inert materials or other diluents, into a product intended for application in any use registered under the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135, et seq.).

(C) The ambient water criterion for aldrin/dieldrin in surface waters of the state is 0.003 ug/l.

(ii) Aldrin/Dieldrin manufacturer.

(A) Applicability.

(I) These standards or prohibitions apply to:

(1.) All discharges of process wastes; and

(2.) All discharges from the manufacturing areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by aldrin/dieldrin as a result of the manufacturing process, including but not limited to:

7400 a. Storm water and other runoff except as
7401 hereinafter provided in Appendix N (h) (ii) (A) (II); and

7402
7403 b. Water used for routine cleanup or
7404 cleanup of spills.

7405
7406 (II) These standards do not apply to storm water
7407 runoff or other discharges from areas subject to contamination solely by fallout from air
7408 emissions of aldrin/dieldrin; or to storm water runoff that exceeds that from the 10-year 24 hour
7409 rainfall event.

7410
7411 (B) Analytical method acceptable. EPA method specified in 40 CFR
7412 Part 136, except that a 1 liter sample size is required to increase the analytical sensitivity.

7413
7414 (C) Effluent standard.

7415
7416 (I) Existing sources. Aldrin or dieldrin is prohibited in any
7417 discharge from any aldrin/dieldrin manufacturer.

7418
7419 (II) New Sources. Aldrin or dieldrin is prohibited in any
7420 discharge from any aldrin/dieldrin manufacturer.

7421
7422 (iii) Aldrin/Dieldrin formulator.

7423
7424 (A) Applicability.

7425
7426 (I) These standards or prohibitions apply to:

7427
7428 (1.) All discharges of process wastes; and

7429
7430 (2.) All discharges from the formulating areas,
7431 loading and unloading areas, storage areas and other areas which are subject to direct
7432 contamination by aldrin/dieldrin as a result of the formulating process, including but not limited
7433 to:

7434
7435 a. Storm water and other runoff except as
7436 hereinafter provided in Appendix N (h) (iii) (A) (II); and

7437
7438 b. Water used for routine cleanup or
7439 cleanup of spills.

7440
7441 (II) These standards do not apply to storm water runoff or
7442 other discharges from areas subject to contamination solely by fallout from air emissions of
7443 aldrin/dieldrin; or to storm water runoff that exceeds that from the 10-year 24 hour rainfall event.

7444

7445 (B) Analytical method acceptable. EPA method specified in 40 CFR
7446 Part 136, except that a 1 liter sample size is required to increase the analytical sensitivity.
7447
7448 (C) Effluent standard.
7449
7450 (I) Existing sources. Aldrin or dieldrin is prohibited in any
7451 discharge from any aldrin/dieldrin formulator.
7452
7453 (II) New sources. Aldrin or dieldrin is prohibited in any
7454 discharge from any aldrin/dieldrin formulator.
7455
7456 (i) DDT, DDD, and DDE.
7457
7458 (i) Specialized definitions.
7459
7460 (A) "DDT manufacturer" means a manufacturer, excluding any
7461 source which is exclusively a DDT formulator, who produces, prepares or processes technical
7462 DDT, or who uses DDT as a material in the production, preparation or processing of another
7463 synthetic organic substance.
7464
7465 (B) "DDT formulator" means a person who produces, prepares or
7466 processes a formulated product comprising a mixture of DDT and inert materials or other diluents
7467 into a product intended for application in any use registered under the Federal Insecticide,
7468 Fungicide and Rodenticide Act, as amended (7 U.S.C. 135, et seq.). The ambient water criterion
7469 for DDT in surface waters of the state is 0.001 ug/l.
7470
7471 (ii) DDT manufacturer.
7472
7473 (A) Applicability.
7474
7475 (I) These standards or prohibitions apply to:
7476
7477 (1.) All discharges of process wastes; and
7478
7479 (2.) All discharges from the manufacturing areas,
7480 loading and unloading areas, storage areas and other areas which are subject to direct
7481 contamination by DDT as a result of the manufacturing process, including but not limited to:
7482
7483 a. Storm water and other runoff except as
7484 hereinafter provided in Appendix N (i) (ii) (A) (II); and
7485
7486 b. Water used for routine cleanup or
7487 cleanup of spills.
7488
7489

7490 (II) These standards do not apply to storm water runoff or
7491 other discharges from areas subject to contamination solely by fallout from air emissions of DDT;
7492 or to storm water runoff that exceeds that from the 10-year 24 hour rainfall event.
7493

7494 (B) Analytical method acceptable. EPA method specified in 40 CFR
7495 Part 136, except that a 1 liter sample size is required to increase the analytical sensitivity.
7496

7497 (C) Effluent standard.
7498

7499 (I) Existing sources. DDT is prohibited in any discharge
7500 from any DDT manufacturer.
7501

7502 (II) New sources. DDT is prohibited in any discharge from
7503 any DDT manufacturer.
7504

7505 (iii) DDT formulator.
7506

7507 (A) Applicability.
7508

7509 (I) These standards or prohibitions apply to:
7510

7511 (1.) All discharges of process wastes; and
7512

7513 (2.) All discharges from the formulating areas,
7514 loading and unloading areas, storage areas and other areas which are subject to direct
7515 contamination by DDT as a result of the formulating process, including but not limited to:
7516

7517 a. Storm water and other runoff except as
7518 hereinafter provided in Appendix N (i) (iii) (A) (II); and
7519

7520 b. Water used for routine cleanup or
7521 cleanup of spills.
7522

7523 (II) These standards do not apply to storm water runoff or
7524 other discharges from areas subject to contamination solely by fallout from air emissions of DDT
7525 or to storm water runoff that exceeds that from the 10-year 24 hour rainfall event.
7526

7527 (B) Analytical method acceptable. EPA method specified in 40 CFR
7528 Part 136, except that a 1 liter sample size is required to increase the analytical sensitivity.
7529

7530 (C) Effluent standard.
7531

7532 (I) Existing sources. DDT is prohibited in any discharge
7533 from any DDT formulator.
7534

7535 (II) New Sources. DDT is prohibited in any discharge from
7536 any DDT formulator.
7537
7538 (j) Endrin.
7539
7540 (i) Specialized definitions.
7541
7542 (A) "Endrin manufacturer" means a manufacturer, excluding any
7543 source which is exclusively an endrin formulator, who produces, prepares or processes technical
7544 endrin, or who uses endrin as a material in the production, preparation or processing of another
7545 synthetic organic substance.
7546
7547 (B) "Endrin formulator means" a person who produces, prepares or
7548 processes a formulated product comprising a mixture of endrin and inert materials or other
7549 diluents into a product intended for application in any use registered under the Federal
7550 Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135 et seq.).
7551
7552 (C) The ambient water criterion for endrin in surface waters of the
7553 state is 0.004 ug/l.
7554
7555 (ii) Endrin manufacturer.
7556
7557 (A) Applicability.
7558
7559 (I) These standards or prohibitions apply to:
7560
7561 (1.) All discharges of process wastes; and
7562
7563 (2.) All discharges from the manufacturing areas,
7564 loading and unloading areas, storage areas and other areas which are subject to direct
7565 contamination by endrin as a result of the manufacturing process, including but not limited to:
7566
7567 a. Storm water and other runoff except as
7568 hereinafter provided in Appendix N (j) (ii) (A) (II); and
7569
7570 b. Water used for routine cleanup or
7571 cleanup of spills.
7572
7573 (II) These standards do not apply to storm water runoff or
7574 other discharges from areas subject to contamination solely by fallout from air emissions of
7575 endrin or to storm water runoff that exceeds that from the 10-year 24 hour rainfall event.
7576
7577 (B) Analytical method acceptable. EPA method specified in 40 CFR
7578 Part 136.
7579
7580 (C) Effluent standard.

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(I) Existing sources. Discharges from an endrin manufacturer shall not contain endrin concentrations exceeding an average per working day of 1.5 ug/l calculated over any calendar month; and shall not exceed a monthly average daily loading of 0.0006 kg/kg of endrin produced; and shall not exceed 7.5 ug/l in a sample(s) representing any working day.

(II) New sources. Discharges from an endrin manufacturer shall not contain endrin concentrations exceeding an average per working day of 0.1 ug/l calculated over any calendar month; and shall not exceed a monthly average daily loading of 0.00004 kg/kg of endrin produced; and shall not exceed 0.5 ug/l in a sample(s) representing any working day.

(III) Mass emission standard during shutdown of production. In computing the allowable monthly average daily loading figure required under the preceding Appendix N (j) (ii) (C) (I) and (II), for any calendar month for which there is no endrin being manufactured at any plant or facility which normally contributes to the discharge which is subject to these standards, the applicable production value shall be deemed to be the average monthly production level for the most recent preceding 360 days of actual operation of the plant or facility.

(iii) Endrin formulator.

(A) Applicability.

(I) These standards or prohibitions apply to:

(1.) All discharges of process wastes; and

(2.) All discharges from the formulating areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by endrin as a result of the formulating process, including but not limited to:

a. Storm water and other runoff except as hereinafter provided in Appendix N (j) (iii) (A) (II); and
b. water used for routine cleanup or cleanup of spills.

(II) These standards do not apply to storm water runoff or other discharges from areas subject to contamination solely by fallout from air emissions of endrin, or to storm water runoff that exceeds that from the 10-year 24 hour rainfall event.

(B) Analytical method acceptable. EPA method specified in 40 CFR Part 136, except that a 1 liter sample size is required to increase the analytical sensitivity.

7627

7628 (C) Effluent standard.

7629

7630 (I) Existing sources. Endrin is prohibited in any discharge

7631 from any endrin formulator.

7632

7633 (II) New sources. Endrin is prohibited in any discharge from

7634 any endrin formulator.

7635

7636 (iv) The standards set forth in this section shall apply to the total combined

7637 weight or concentration of endrin, excluding any associated element or compound.

7638

7639 (k) Toxaphene.

7640

7641 (i) Specialized definitions.

7642

7643 (A) "Toxaphene manufacturer" means a manufacturer, excluding any

7644 source which is exclusively a toxaphene formulator, who produces, prepares or processes

7645 toxaphene or who uses toxaphene as a material in the production, preparation or processing of

7646 another synthetic organic substance.

7647

7648 (B) "Toxaphene formulator" means a person who produces, prepares

7649 or processes a formulated product comprising a mixture of toxaphene and inert materials or other

7650 diluents into a product intended for application in any use registered under the Federal

7651 Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135, et seq.).

7652

7653 (C) The ambient water criterion for toxaphene in surface waters of

7654 the state is 0.005 ug/l.

7655

7656 (ii) Toxaphene manufacturer.

7657

7658 (A) Applicability.

7659

7660 (I) These standards or prohibitions apply to:

7661

7662 (1.) All discharges of process wastes; and

7663

7664 (2.) All discharges from the manufacturing areas,

7665 loading and unloading areas, storage areas and other areas which are subject to direct

7666 contamination by toxaphene as a result of the manufacturing process, including but not limited to:

7667

7668 a. Storm water and other runoff except as

7669 hereinafter provided in Appendix N (k) (ii) (A) (II); and

7670

7671 b. Water used for routine cleanup or

7672 cleanup of spills.

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(II) These standards do not apply to storm water runoff or other discharges from areas subject to contamination solely by fallout from air emissions of toxaphene or to storm water runoff that exceeds that from the 10-year 24 hour rainfall event.

(B) Analytical method acceptable. EPA method specified in 40 CFR Part 136.

(C) Effluent standard.

(I) Existing sources. Discharges from a toxaphene manufacturer shall not contain toxaphene concentrations exceeding an average per working day of 1.5 ug/l calculated over any calendar month; and shall not exceed a monthly average daily loading of 0.00003 kg/kkg of toxaphene produced, and shall not exceed 7.5 ug/l in a sample(s) representing any working day.

(II) New sources. Discharges from a toxaphene manufacturer shall not contain toxaphene concentrations exceeding an average per working day of 0.1 ug/l calculated over any calendar month; and shall not exceed a monthly average daily loading of 0.000002 kg/kkg of toxaphene produced, and shall not exceed 0.5 ug/l in a sample(s) representing any working day.

(III) Mass emission during shutdown of production. In computing the allowable monthly average daily loading figure required under the preceding Appendix N (k) (ii) (C) (I) and (II), for any calendar month for which there is no toxaphene being manufactured at any plant or facility which normally contributes to the discharge which is subject to these standards, the applicable production value shall be deemed to be the average monthly production level for the most recent preceding 360 days of actual operation of the plant or facility.

(iii) Toxaphene formulator.

(A) Applicability.

(I) These standards or prohibitions apply to:

(1.) All discharges of process wastes; and

(2.) All discharges from the formulating areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by toxaphene as a result of the formulating process, including but not limited to:

a. Storm water and other runoff except as hereinafter provided in Appendix N (k) (iii) (A) (II); and

7718 b. Water used for routine cleanup or
7719 cleanup of spills.
7720
7721 (II) These standards do not apply to storm water runoff or
7722 other discharges from areas subject to contamination solely by fallout from air emissions of
7723 toxaphene, or to storm water runoff that exceeds that from the 10-year 24 hour rainfall event.
7724
7725 (B) Analytical method acceptable. EPA method specified in 40 CFR
7726 Part 136, except that a 1 liter sample size is required to increase the analytical sensitivity.
7727
7728 (C) Effluent standards.
7729
7730 (I) Existing sources. Toxaphene is prohibited in any
7731 discharge from any toxaphene formulator.
7732
7733 (II) New sources. Toxaphene is prohibited in any discharge
7734 from any toxaphene formulator.
7735
7736 (iv) The standards set forth in this section shall apply to the total combined
7737 weight or concentration of toxaphene, excluding any associated element or compound.
7738
7739 (I) Benzidine.
7740
7741 (i) Specialized definitions.
7742
7743 (A) "Benzidine manufacturer" means a manufacturer who produces
7744 benzidine or who produces benzidine as an intermediate product in the manufacture of dyes
7745 commonly used for textile, leather and paper dyeing.
7746
7747 (B) "Benzidine based dye applicator" means an owner or operator
7748 who uses benzidine based dyes in the dyeing of textiles, leather or paper.
7749
7750 (C) The ambient water criterion for benzidine in surface waters of
7751 the state is 0.1 ug/l.
7752
7753 (ii) Benzidine manufacturer.
7754
7755 (A) Applicability.
7756
7757 (I) These standards apply to:
7758
7759 (1.) All discharges into the surface waters of the
7760 state of process wastes, and
7761
7762 (2.) All discharges into the surface waters of the
7763 state of wastes containing benzidine from the manufacturing areas, loading and unloading areas,

7764 storage areas, and other areas subject to direct contamination by benzidine or benzidine
7765 containing product as a result of the manufacturing process, including but not limited to:
7766
7767 a. Storm water and other runoff except as
7768 hereinafter provided in Appendix N (I) (ii) (A) (II), and
7769
7770 b. Water used for routine cleanup or
7771 cleanup of spills.
7772
7773 (II) These standards do not apply to storm water runoff or
7774 other discharges from areas subject to contamination solely by fallout from air emissions of
7775 benzidine or to storm water runoff that exceeds that from the 10-year 24 hour rainfall event.
7776
7777 (B) Analytical method acceptable. EPA method specified in 40 CFR
7778 Part 136.
7779
7780 (C) Effluent standards.
7781
7782 (I) Existing sources. Discharges from a benzidine
7783 manufacturer shall not contain benzidine concentrations exceeding an average per working day of
7784 10 ug/l calculated over any calendar month, and shall not exceed a monthly average daily loading
7785 of 0.130 kg/kkg of benzidine produced, and shall not exceed 50 ug/l in a sample(s) representing
7786 any working day.
7787
7788 (II) New sources. Discharges from a benzidine
7789 manufacturer shall not contain benzidine concentrations exceeding an average per working day of
7790 10 ug/l calculated over any calendar month, and shall not exceed a monthly average daily loading
7791 of 0.130 kg/kkg of benzidine produced, and shall not exceed 50 ug/l in a sample(s) representing
7792 any working day.
7793
7794 (D) The standards set forth in Appendix N (I) (ii) shall apply to the
7795 total combined weight or concentration of benzidine, excluding any associated element or
7796 compound.
7797
7798 (iii) Benzidine based dye applicators.
7799
7800 (A) Applicability.
7801
7802 (I) These standards apply to:
7803
7804 (1.) All discharges into the surface waters of the
7805 state of process wastes, and
7806
7807 (2.) All discharges into the surface waters of the
7808 state of wastes containing benzidine from the manufacturing areas, loading and unloading areas,

7809 storage areas, and other areas subject to direct contamination by benzidine or benzidine
7810 containing product as a result of the manufacturing process, including but not limited to:
7811
7812 a. Storm water and other runoff except as
7813 hereinafter provided in Appendix N (I) (iii) (A) (II), and
7814
7815 b. Water used for routine cleanup or
7816 cleanup of spills.
7817
7818 (II) These standards do not apply to storm water runoff or
7819 other discharges from areas subject to contamination solely by fallout from air emissions of
7820 benzidine or to storm water that exceeds that from the 10-year 24 hour rainfall event.
7821
7822 (B) Analytical method acceptable.
7823
7824 (I) EPA method specified in 40 CFR Part 136; or
7825
7826 (II) Mass balance monitoring approach which requires the
7827 calculation of the benzidine concentration by dividing the total benzidine contained in dyes used
7828 during a working day (as certified in writing by the manufacturer) by the total quantity of water
7829 discharged during the working day.
7830
7831 (C) Effluent standards.
7832
7833 (I) Existing sources. Discharges from benzidine based dye
7834 applicators shall not contain benzidine concentrations exceeding an average per working day of
7835 10 ug/l calculated over any calendar month; and shall not exceed 25 ug/l in a sample(s) or
7836 calculation(s) representing any working day.
7837
7838 (II) New sources. Discharges from benzidine based dye
7839 applicators shall not contain benzidine concentrations exceeding an average per working day of
7840 10 ug/l calculated over any calendar month; and shall not exceed 25 ug/l in a sample(s) or
7841 calculation(s) representing any working day.
7842
7843 (D) The standards set forth in Appendix N (I) (iii) shall apply to the
7844 total combined concentrations of benzidine, excluding any associated element or compound [42
7845 FR 2620, Jan. 12, 1977].
7846
7847 (m) Polychlorinated biphenyls (PCBs).
7848
7849 (i) Specialized definitions.
7850
7851 (A) "PCB manufacturer" means a manufacturer who produces
7852 polychlorinated biphenyls.
7853

7854 (B) "Electrical capacitor manufacturer" means a manufacturer who
7855 produces or assembles electrical capacitors in which PCB or PCB containing compounds are part
7856 of the dielectric.

7857
7858 (C) "Electrical transformer manufacturer" means a manufacturer
7859 who produces or assembles electrical transformers in which PCB or PCB containing compounds
7860 are part of the dielectric.

7861
7862 (D) The ambient water criterion for PCBs in surface waters of the
7863 state is 0.001 ug/l.

7864
7865 (ii) PCB manufacturer.

7866
7867 (A) Applicability.

7868
7869 (I) These standards or prohibitions apply to:

7870
7871 (1.) All discharges of process wastes;

7872
7873 (2.) All discharges from the manufacturing or
7874 incinerator areas, loading and unloading areas, storage areas, and other areas which are subject to
7875 direct contamination by PCBs as a result of the manufacturing process, including but not limited
7876 to:

7877
7878 a. Storm water and other runoff except as
7879 hereinafter provided in Appendix N (m) (ii) (A) (II); and

7880
7881 b. Water used for routine cleanup or
7882 cleanup of spills.

7883
7884 (II) These standards do not apply to storm water runoff or
7885 other discharges from areas subject to contamination solely by fallout from air emissions of
7886 PCBs, or to storm water runoff that exceeds that from the 10 year 24 hour rainfall event.

7887
7888 (B) Analytical Method Acceptable. EPA method specified in 40
7889 CFR Part 136 except that a 1 liter sample size is required to increase analytical sensitivity.

7890
7891 (C) Effluent standards.

7892
7893 (I) Existing sources. PCBs are prohibited in any discharge
7894 from any PCB manufacturer;

7895
7896 (II) New sources. PCBs are prohibited in any discharge
7897 from any PCB manufacturer.

7898
7899 (iii) Electrical capacitor manufacturer.

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(A) Applicability.

(I) These standards or prohibitions apply to:

(1.) All discharges of process wastes; and

(2.) All discharges from the manufacturing or incineration areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by PCBs as a result of the manufacturing process, including but not limited to:

a. Storm water and other runoff except as hereinafter provided in Appendix N (m) (iii) (A) (II); and

b. Water used for routine cleanup or cleanup of spills.

(II) These standards do not apply to storm water runoff or other discharges from areas subject to contamination solely by fallout from air emissions of PCBs or to storm water runoff that exceeds that from the 10 year 24 hour rainfall event.

(B) Analytical method acceptable. EPA method specified in 40 CFR Part 136, except that a 1 liter sample size is required to increase analytical sensitivity.

(C) Effluent standards.

(I) Existing sources. PCBs are prohibited in any discharge from any electrical capacitor manufacturer;

(II) New sources. PCBs are prohibited in any discharge from any electrical capacitor manufacturer.

(iv) Electrical transformer manufacturer.

(A) Applicability.

(I) These standards or prohibitions apply to:

(1.) All discharges of process wastes; and

(2.) All discharges from the manufacturing or incineration areas, loading and unloading areas, storage areas, and other areas which are subject to direct contamination by PCBs as a result of the manufacturing process, including but not limited to:

7946 a. Storm water and other runoff except as
7947 hereinafter provided in Appendix N (m) (iv) (A) (II); and

7948
7949 b. Water used for routine cleanup or
7950 cleanup of spills.

7951
7952 (II) These standards do not apply to storm water runoff or
7953 other discharges from areas subject to contamination solely by fallout from air emissions of PCBs
7954 or to storm water runoff that exceeds that from the 10 year 24 hour rainfall event.

7955
7956 (B) Analytical method acceptable. EPA method specified in 40 CFR
7957 Part 136, except that a 1 liter sample size is required to increase analytical sensitivity.

7958
7959 (C) Effluent standards.

7960
7961 (I) Existing sources. PCBs are prohibited in any discharge
7962 from any electrical transformer manufacturer;

7963
7964 (II) New sources. PCBs are prohibited in any discharge
7965 from any electrical transformer manufacturer.

7966
7967 (v) Adjustment of effluent standard for presence of PCBs in intake water.
7968 Whenever a facility which is subject to these standards has PCBs in its effluent which result from
7969 the presence of PCBs in its intake waters, the owner may apply to the director, for a credit
7970 pursuant to Appendix N (f), where the source of the water supply is the same body of water into
7971 which the discharge is made. The requirement of Appendix N (f) (i), relating to the source of the
7972 water supply, shall be waived, and such facility shall be eligible to apply for a credit under
7973 Appendix N (f), upon a showing by the owner or operator of such facility to the director that the
7974 concentration of PCBs in the intake water supply of such facility does not exceed the
7975 concentration of PCBs in the receiving water body to which the plant discharges its effluent. [42
7976 FR 6555, Feb. 2, 1977]

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APPENDIX O: Additional Requirements Applicable to Colorado River Basin Salinity Control

(a) Definitions. The following definitions supplement those definitions contained in Section 35-11-103 of the Wyoming Environmental Quality Act.

(i) Colorado River Basin Salinity Control Forum - The organization composed of water quality and water resource representatives of the states of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming, with the responsibility for developing salinity standards and criteria for the waters of the Colorado River Basin.

(b) Salinity Standards/Criteria. The State of Wyoming shall cooperate with the other states of the Colorado River Basin and the government of the United States to maintain salinity levels in the main stem of the Colorado River at or below the following:

<u>Location</u>	<u>Salinity in mg/L of total dissolved solids</u>
Below Hoover Dam	723
Below Parker Dam	747
Imperial Dam	879

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The above are flow-weighted average annual values and temporary increases above these values are allowed provided that with completion of salinity control projects, salinity concentrations would return to or below criteria level. These increases above the numeric criteria are provided for in order to allow development projects to be completed before control measures are brought on line, and to allow for unfavorable reservoir conditions or periods of below normal annual river flows.

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(c) Point Source Discharges to Surface Waters. Point source discharges to the surface waters in the Colorado River Basin of Wyoming shall be controlled as described in the following policies adopted by the Colorado River Basin Salinity Control Forum:

8005
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(i) "Policy for Implementation of the Colorado River Basin Salinity Standards through the NPDES Permit Program", October 30, 2002;

8008
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8011

(ii) "Policy for Implementation of the Colorado River Basin Salinity Standards through the NPDES Permit Program for Intercepted Groundwater, October 20, 1980"; and

8012
8013
8014

(iii) "Policy for Implementation of the Colorado River Basin Salinity Standards through the NPDES Permit Program for Fish Hatcheries, October 28, 1988"

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(d) Interstate Compacts, Court Decrees and Water Rights. It is the policy of the Department that the adoption and enforcement of these regulations is not intended to prevent the utilization of water apportioned to the State of Wyoming through any interstate compact or court decree or to prevent the diversion of water under future or existing water rights.

CHAPTER 2

PERMIT REGULATIONS FOR DISCHARGES TO WYOMING SURFACE WATERS

Table of Contents

Section 1. General Provisions..... 1

Section 2. Applicability..... 1

Section 3. Definitions..... 3

Section 4. General Permits..... 15

Section 5. Effluent Permits..... 25

Section 6. Storm Water Discharges..... 46

Section 7. Isolated Wetlands-Mitigation Requirements..... 70

Section 8. Variance Requests..... 72

Section 9. Issuance or Denial of Permits or Authorizations..... 76

Section 10. Renewal of Permits, and Renewal of Coverage Under Expiring General Permits..... 77

Section 11. Continuation of Expiring Permits..... 78

Section 12. Permit or Authorization Modifications..... 78

Section 13. Permit and Authorization Terminations..... 83

Section 14. Signatory Requirements..... 84

Section 15. Public Participation..... 85

Section 16. Public Meeting..... 90

Section 17. Hearing..... 91

Section 18. Public Information..... 91

Section 19. Transfer of Permits..... 92

APPENDIX A: Explanation of Standard Industrial Classification (SIC) Codes Regulated by the
Industrial Storm Water Program A-1

APPENDIX B: Additional Requirements Applicable to Existing Manufacturing, Commercial,
Mining and Silviculture Discharges B-1

APPENDIX C: Additional Requirements Applicable to New Manufacturing, Commercial,
Mining and Silvicultural Discharges C-1

APPENDIX D: Additional Requirements Applicable to Manufacturing, Commercial, Mining and
Silvicultural Facilities Discharging Only Non-process Waste Water D-1

APPENDIX E: Additional Requirements Applicable to New and Existing Publicly owned
Treatment Works (POTWs) E-1

APPENDIX F: Additional Requirements Applicable to New and Existing Aquatic Animal
Production Facilities F-1

APPENDIX G: Criteria for Determining a Concentrated Animal Feeding Operation and
Additional Requirements Applicable to New and Existing Concentrated Animal Feeding
Operations G-1

APPENDIX H: Additional Requirements Applicable to Produced Water Discharges from Oil and
Gas Production Facilities..... H-1

APPENDIX I: RESERVED I-1

APPENDIX J: Additional Requirements Applicable to Coal Mining OperationsJ-1

APPENDIX K: RESERVED..... K-1

APPENDIX L: Criteria and Standards for Determining Fundamentally Different FactorsL-1

APPENDIX M: Criteria for Determining Alternative Effluent LimitationsM-1

APPENDIX N: Toxic Pollutant Effluent Standards and Prohibitions..... N-1

[APPENDIX O: Additional Requirements Applicable to Colorado River Basin Salinity Control.....](#)
[..... O-1](#)

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CHAPTER 2
PERMIT REGULATIONS
FOR DISCHARGES TO WYOMING SURFACE WATERS

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Section 1. General Provisions.

(a) Authority. This regulation is promulgated pursuant to Wyoming Statute 35-11-101 through 35-11-1803, and specifically 35-11-301(a) (i), (ii), and (iv), and 35-11-302 (a) (ii), (iii) and (v) and regulations adopted pursuant to Section 402 (b) of the Federal Water Pollution Control Act (Clean Water Act) and amendments to that Act through July 1, 2004 for the purpose of instituting a permit issuance program in conformity with the requirements of the Environmental Quality Act and the National Pollutant Discharge Elimination System (NPDES), for point source discharges into surface waters of the state. Nothing in these regulations is intended to expand the scope of the Environmental Quality Act, as limited in W.S. 35-11-1104 nor do these regulations supersede or abrogate the authority of the state to appropriate quantities of water for beneficial uses.

(b) Incorporation by reference. Throughout these regulations, standards and requirements promulgated by the US Environmental Protection Agency (EPA) have been adopted and incorporated by reference. All references are from the Code of Federal Regulations dated July 1, 2004, unless otherwise noted. This incorporation does not include later amendments or editions of the incorporated material.

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Applicable federal regulations related to the states NPDES primacy include: 40 CFR Parts 122, 123, 124, 125, 129, 133, 136 and Subchapter N (parts 400 through 471). State program authority does not include pretreatment or biosolids requirements. Implementation of and authority over the pretreatment and biosolids requirements remain with the U.S. EPA.

(c) Purpose. The purpose of these rules and regulations is to establish a permitting system for the issuance of permits as authorized pursuant to Section 402 (b) of the Clean Water Act (CWA), 33 U.S.C. ' 1342(b), as amended in 1987. This permitting system provides the mechanism for establishing effluent limitations in WYPDES permits which specify maximum amounts or concentrations of pollution and wastes which may be discharged into surface waters of the state.

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Section 2. Applicability.

(a) Discharges required to be permitted. All discharges into surface waters of the state as defined in (i), (ii), (iii) and (iv) below shall be permitted as described in these regulations.

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(i) All effluent discharges not described in (ii), (iii) and (iv) below;

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(ii) All storm water discharges from industrial, construction, and municipal facilities as described in Section 6 of these regulations;

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(iii) Point source discharges of dredged or fill material into isolated wetlands which are:

(A) Not subject to regulation by the Army Corps of Engineers under Section 404 of the CWA; or,

(B) Not subject to a permit or authorization from the Wyoming Department of Environment Quality, Land Quality Division for mining activities.

(iv) Silvicultural point sources, as defined in Section 3 (b) (lxxxv), are point sources subject to the applicable provisions of these regulations.

(b) Exclusions. The following discharges do not require WYPDES permits:

(i) Discharges of dredged or fill material into waters of the United States which are regulated under Section 404 of the CWA.

(ii) The introduction of sewage, industrial wastes or other pollutants into publicly owned treatment works by indirect dischargers.

(iii) Any discharge in compliance with the instructions of an On-Scene Coordinator pursuant to 40 CFR 300 (The National Oil and Hazardous Substances Pollution Contingency Plan) or 33 CFR 153.10 (e) (Pollution by Oil and Hazardous Substances).

(iv) Any introduction of pollutants from non-point source agricultural and silvicultural activities.

(v) Return flows from irrigated agriculture.

(vi) Discharges into privately owned treatment works.

(vii) Discharges of dredge or fill material

(A) from normal farming, silviculture, and ranching activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

(B) for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, headwaters, causeways, and bridge abutments or approaches, and transportation structures;

(C) for the purpose of construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches;

90 (D) for the purposes of construction of temporary sedimentation
91 basins on a construction site which does not include placement of fill material into surface waters
92 of the state;

93
94 (E) for the purpose of construction or maintenance of farm roads or
95 forest roads, or temporary roads for moving mining equipment, where such roads are constructed
96 and maintained, in accordance with best management practices, to assure that flow and
97 circulation patterns and chemical and biological characteristics of surface waters of the state are
98 not impaired, that the surface water of the state is not reduced, and that any adverse effect on the
99 aquatic environment will be otherwise minimized;

100
101 (F) resulting from any activity with respect to which is in accordance
102 with the requirements of section 208 (b) (4) (B) and (C)of the CWA.

103
104 (c) No conveyance of property rights or exclusive privilege. The issuance of a
105 permit does not convey any property rights of any sort, or any exclusive privilege. The issuance
106 of a permit does not authorize any injury to persons or property or invasion of other private rights,
107 or any infringement of state or local law or regulations. Except for any toxic effluent standards
108 and prohibitions imposed under Section 307 of the CWA, compliance with a permit during its
109 term constitutes compliance, for purposes of enforcement, with Sections 301, 302, 306, 307, 318,
110 and 405 (a) of the CWA.

111
112 (d) Interpretation of “waters of the United States” All references to the CWA where
113 there is reference to the phrase “water(s) of the United States” shall be interpreted as “surface
114 waters of the state” for purposes of this rule. This interpretation does not expand the CWA
115 implementation authorities of federal agencies.

116 **Section 3. Definitions.**

117 (a) Definitions in W.S. 35-11-103 (a) and (c). Definitions in W.S. 35-11-103 (a) and
118 (c) which are applicable to these rules are reiterated in this section.

119
120 (i) “Department” means the Wyoming Department of Environmental
121 Quality.

122
123 (ii) “Director” means the director of the Department of Environmental
124 Quality.

125
126 (iii) “Discharge” means any addition of any pollution or wastes to any waters
127 of the state.

128
129 (iv) “Ecological function” means the ability of an area to support vegetation
130 and fish and wildlife populations, recharge aquifers, stabilize base flows, attenuate flooding, trap
131 sediment and remove or transform nutrients and other pollutants.

132
133 (v) “Mitigation” means all actions to avoid, minimize, restore and
134 compensate for ecological functions or wetland values lost.

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(vi) “Nonpoint source” means any source of pollution other than a point source. For purposes of W.S. 16-1-201 through 16-1-207 only, nonpoint source includes leaking underground storage tanks as defined by W.S. 35-11-1415 (a) (ix) and aboveground storage tanks as defined by W.S. 35-11-1415 (a) (xi).

(vii) “Person” means an individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, municipality or any other political subdivision of the state, or any interstate body or any other legal entity.

(viii) “Point source” means 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.

(ix) “Pollution” means contamination or other alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity or odor of the waters or any discharge of any acid or toxic material, chemical or chemical compound, whether it be liquid, gaseous, solid, radioactive or other substance, including wastes, into any waters of the state which creates a nuisance or renders any waters harmful, detrimental or injurious to public health, safety or welfare, to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses, or to livestock, wildlife or aquatic life, or which degrades the water for its intended use, or adversely affects the environment. This term does not mean water, gas or other material which is injected into a well to facilitate production of oil, or gas or water, derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the state, and if the state determines that such injection or disposal well will not result in the degradation of ground or surface or water resources.

(x) “Wastes” means sewage, industrial waste and all other liquid, gaseous, solid, radioactive, or other substances which may pollute any waters of the state.

(xi) “Waters of the state” means all surface and groundwater, including waters associated with wetlands, within Wyoming.

(xii) “Wetlands” means those areas in Wyoming having all three (3) essential characteristics:

- (A) Hydrophytic vegetation;
- (B) Hydric soils; and
- (C) Wetland hydrology.

180 (xiii) “Wetland value” means those socially significant attributes of wetlands
181 such as uniqueness, heritage, recreation, aesthetics and a variety of economic values.

182

183 (b) Supplemental definitions. The following definitions supplement those
184 definitions contained in W.S. 35-11-103.

185

186 (i) “Administrator of the EPA” means the chief executive officer of the U.S.
187 Environmental Protection Agency.

188

189 (ii) “Administrator” means the administrator of the Water Quality Division,
190 Wyoming Department of Environmental Quality.

191

192 (iii) “Affected land” means the area of land from which overburden is
193 removed, or upon which overburden, development waste rock or refuse is deposited, or both,
194 access roads, haul roads, mineral stockpiles, mill tailings, impoundment basins, and all other
195 lands whose natural state has been or will be disturbed as a result of mining operations.

196

197 (iv) “Animal feeding operation” is defined in Appendix G.

198

199 (v) “Applicable effluent standards and limitations” means all state and
200 federal effluent standards and limitations to which a discharge is subject to under the
201 Environmental Quality Act, or the CWA, including, but not limited to, effluent limitations,
202 standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.

203

204 (vi) “Applicable water quality standards” means all water quality standards to
205 which a discharge is subject under Wyoming Water Quality Rules and Regulations, Chapter 1.

206

207 (vii) “Applicant” means the person responsible for submitting a completed
208 application form for a WYPDES permit and the person who will have primary responsibility for
209 meeting the requirements of the permit. Applicant is usually the owner of the facility from which
210 discharge is or will be occurring; however, when a facility is operated by someone other than the
211 owner, the operator is the applicant.

212

213 (viii) “Application” means an application form upon which the applicant has
214 provided the requested information in order to obtain a WYPDES permit, modification to a
215 WYPDES permit or renewal of a WYPDES permit.

216

217 (ix) “Application form” means the uniform state or national forms, including
218 subsequent revisions or modifications, for application for a new, modified or reissued individual
219 WYPDES permit.

220

221 (x) “Aquaculture project” means a defined managed water area which uses
222 discharges of pollutants into that designated area for the maintenance or production of harvestable
223 freshwater plants or animals.

224

225 (xi) "Authorization" means the written approval granted by the department to
226 a person or facility which states that a discharge from the facility is permitted under a general
227 permit and which is subject to the conditions set forth in the general permit. "Authorization" also
228 means the modifications to a previously issued authorization that are made to accommodate an
229 alteration in the conditions under a previous authorization or an extension of the allowed time for
230 discharge to occur that was established under a previous authorization.

231
232 (xii) "Best Management Practices (BMPs)" means schedules of activities,
233 prohibitions of practices, maintenance procedures, and/or other management practices to prevent
234 or reduce the pollution of "waters of the state." BMPs also include treatment requirements,
235 operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste
236 disposal, or drainage from raw material storage.

237
238 (xiii) "Bypass" means the intentional diversion of waste streams from any
239 portion of a treatment facility.

240
241 (xiv) "CFR" means Code of Federal Regulations. All references to the Code
242 refer to the CFR dated July 1, 2004.

243
244 (xv) "Compliance schedule" means a schedule of remedial measures included
245 in a permit that establishes an enforceable sequence of actions or operations leading to
246 compliance with an effluent limitation, other limitation, prohibition, or standard.

247
248 (xvi) "Concentrated animal feeding operation" means an animal feeding
249 operation (other than an aquatic animal production facility) which meets the criteria in Appendix
250 G of these regulations.

251
252 (xvii) "Concentrated aquatic animal production facility" means a hatchery, fish
253 farm, or other facility which meets the criteria as defined in Appendix F of these regulations, or
254 an aquatic animal production facility that is designated as concentrated by the department as a
255 result of its significant contribution of pollution to surface waters of the state.

256
257 (xviii) "Co-permittee" means a permittee to a WYPDES permit that is only
258 responsible for permit conditions relating to the discharge for which it is operator.

259
260 (xix) "CWA" means the federal Clean Water Act.

261
262 (xx) "Daily average" means the average concentration determined by the
263 arithmetic mean of all samples collected within a calendar day.

264
265 (xxi) "Daily maximum" means the highest single reading from any grab or
266 composite sample collected during the reporting period, except in the case of Coal Mining
267 Operations, where the definition means the value determined by an analysis of a properly
268 preserved composite sample composed of a minimum of four grab samples collected at equally
269 spaced two hour intervals and proportioned according to flow at the time of sampling.

270

271 (xxii) “Designated project areas” means the portions of surface waters of the
272 state within which the permittee or permit applicant plans to confine the cultivated species, using
273 a method, plan or operation (including, but not limited to, physical confinement) which, on the
274 basis of reliable scientific evidence, is expected to ensure that specific individual organisms
275 comprising an aquaculture crop will experience increased growth attributable to the discharge of
276 pollutants, and be harvested within a defined geographic area.

277
278 (xxiii) “Designated uses” means those uses specified in water quality standards
279 for each water body or segment whether or not they are being attained.

280
281 (xxiv) “Duly authorized representative” means an individual or position having
282 responsibility for the overall operation of the regulated facility or activity, or an individual or
283 position having overall responsibility for environmental matters for the regulated facility who has
284 been designated by a person described in Section 14 (a) of these regulations, through the
285 submittal to the administrator of a written notification, as the individual or position authorized to
286 sign reports required by the permits or certify other information requested by the administrator.

287
288 (xxv) “Effluent” means the pollutant or waste stream from a facility that is
289 being or is proposed to be discharged.

290
291 (xxvi) “Effluent limitation” means any restriction established by the state or by
292 the Administrator of the EPA on quantities, rates and/or concentrations of chemical, physical,
293 biological, and other constituents which are discharged from point sources into surface waters of
294 the state.

295
296 (xxvii) “EPA” means the United States Environmental Protection Agency.

297
298 (xxviii) “Facility” means any WYPDES point source or collection of point
299 sources or any other facility or activity (including land or appurtenances thereto associated with
300 the operation of the facility) that is subject to regulation under the WYPDES program.

301
302 (xxix) “Fact sheet” means the application materials, a draft copy of the permit, a
303 statement of basis and the public notice.

304
305 (xxx) “Federal Act” means the Federal Water Pollution Control Act (Clean
306 Water Act) as amended in 1987, 33 U.S.C. 1251 et seq. as amended.

307
308 (xxxi) “Fill material” means any material used for the primary purpose of
309 replacing an aquatic area with dry land or of changing the bottom elevation of a waterbody. The
310 term does not include any pollutant discharged into the water primarily to dispose of waste, as
311 that activity is regulated under Section 5 of these regulations.

312
313 (xxxii) “Flow monitoring station” means a designated point where stream flow
314 is measured.

315

316 (xxxiii) “Form” means any issued permit and any uniform state or national form
317 developed for use in the WYPDES system or these regulations.

318

319 (xxxiv) “General permit” means a permit to discharge which authorizes a
320 category of discharges within a specified geographic area.

321

322 (xxxv) “Grab sample” means a single “dip and take” sample collected at a
323 representative point in the discharge stream.

324

325 (xxxvi) “Hydric soil” means a soil that formed under conditions of saturation,
326 flooding or ponding long enough during the growing season to develop anaerobic conditions in
327 the upper part.

328

329 (xxxvii) “Hydrophytic vegetation” means a community of plants where, under
330 normal circumstances more than 50 percent of the composition of the dominant species from all
331 strata are obligate wetland (OBL), facultative wetland (FACW), and/or facultative (FAC) species;
332 or a frequency analysis of all species within the community yields a prevalence index value of
333 less than 3.0 (where OBL = 1.0, FACW = 2.0, FAC = 3.0, FACU (facultative upland) = 4.0, and
334 UPL (upland species) = 5.0).

335

336 (xxxviii) “Illicit discharge” means any discharge to a municipal separate
337 storm sewer that is not composed entirely of storm water except discharges pursuant to a
338 WYPDES permit (other than the WYPDES permit for discharges from the municipal separate
339 storm sewer) and discharges resulting from fire fighting activities.

340

341 (xxxix) “Incorporated place” means a city, town, township or village that
342 is incorporated under the laws of the State of Wyoming.

343

344 (xl) “Individual permit” means a permit to discharge to surface waters of the
345 state issued to a facility for specific activities in accordance with the regulations contained herein.

346

347 (xli) “Industrial user” means those industries identified in the Standard
348 Industrial Classification Manual, Bureau of the Budget, 1967, as amended and supplemented,
349 under the category 'Division D - Manufacturing' and such other classes of significant waste
350 producers as, by regulation, the administrator deems appropriate.

351

352 (xlii) “Instantaneous maximum” means the value determined by an analysis of
353 a single properly preserved grab sample.

354

355 (xlili) “Irrigation compliance point” means a point downstream of the outfall
356 but before the first irrigation diversion where, when indicated in the permit, specified effluent
357 limitations must be met.

358

359 (xliv) “Isolated wetlands” means wetlands as defined by the Environmental
360 Quality Act and Section 3 of these regulations which do not meet the federal definition of waters

361 of the United States but meet the state=s definition of waters of the state as defined in the
362 Environmental Quality Act.

363
364 (xlv) "Major facility" means:

365
366 (A) For municipal wastewater treatment facilities, 1) those facilities
367 with design flows greater than one million gallons per day or with an approved industrial
368 pretreatment program and 2) which have been designated by the director and Regional
369 Administrator of the EPA as a major facility.

370
371 (B) For industrial facilities, those facilities that 1) have a potential to
372 discharge a total volume of greater than 50,000 gallons per day and 2) which have been
373 designated by the director and Regional Administrator of the EPA as a major facility.

374
375 (xlvi) "Major modification" means any modification that is not defined as a
376 minor modification.

377
378 (xlvii) "Main stem" means the major channel of a river or stream as shown on
379 the latest and most detailed records of the Wyoming State Engineer.

380
381 (xlviii) "MGD" means million gallons per day.

382
383 (xlix) "Micrograms per liter ($\mu\text{g/l}$)" means micrograms of solute per liter of
384 solution equivalent to parts per billion (ppb) in liquids, assuming unit density.

385
386 (l) "Milligrams per liter (mg/l)" means milligrams of solute per liter of
387 solution equivalent to parts per million (ppm) in liquids, assuming unit density.

388
389 (li) "Minor facility" means any discharge which is not identified by the
390 director and the Regional Administrator of the EPA, as a major facility.

391
392 (lii) "Minor modification" means

393
394 (A) correcting typographical errors; or

395
396 (B) increasing the frequency of monitoring or reporting by the
397 permittee; or

398 (C) changing an interim date in a schedule of compliance, provided
399 the new date of compliance is not more than 120 days after the date specified in the existing
400 permit and does not interfere with attainment of the final compliance date requirement; or

401
402 (D) allowing for a transfer in ownership or operational control of a
403 facility where the division determines that no other change in the permit is necessary, provided
404 that a written agreement containing a specific date for transfer of permit responsibility, coverage
405 and liability between the current and new permittees has been submitted to the department; or

406

407 (E) changing the construction schedule for a discharger which is a
408 new source, but no such change shall affect a discharger's obligation to have all pollution control
409 equipment installed and in operation prior to discharge; or

410

411 (F) deleting a point source outfall when the discharge from that
412 outfall is terminated and does not result in discharge of pollutants from other outfalls except in
413 accordance with permit limits; or

414

415 (G) adding additional wells to an existing permitted outfall provided
416 that the flow volume specified in the permit is not exceeded, the source or quality of the effluent
417 is similar in nature and consists of similar pollutants and the additional effluent will comply with
418 all of the existing permit conditions.

419

420 (liii) "Mixing zone" means limited area or volume of a surface water body
421 within which an effluent becomes thoroughly mixed with the water body.

422

423 (liv) "Modification" means adjustments in permit conditions which result
424 from alterations in the configuration or operation of a facility from what was identified in the
425 application for the permit most recently noticed or authorized.

426

427 (lv) "MS4" means a municipal separate storm sewer system.

428

429 (lvi) "Municipal separate storm sewer" means a conveyance or system of
430 conveyances (including roads with drainage systems, municipal streets, catch basins, curbs,
431 gutters, ditches, man-made channels, or storm drains):

432

433 (A) Owned or operated by the United States, a state, city, town,
434 county, district, association, or other public body (created by or pursuant to state law) having
435 jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including
436 special districts under state law such as a sewer district, flood control district or drainage district,
437 or similar entity, or a designated and approved management agency under section 208 of the
438 CWA that discharges to surface waters of the state;

439

440 (B) Designed or used for collecting or conveying storm water;

441

442 (C) Which is not a combined sewer; and

443

444 (D) Which is not part of a publicly owned treatment works (POTWs)
445 as defined at 40 CFR 403.3.

446

447 (lvii) "Municipality" means a city, town, county, district, association, or other
448 public body created by or under state law and having jurisdiction over disposal of sewage,
449 industrial wastes, or other wastes, or a designated and approved management agency under
450 section 208 of the CWA (1987).

451

452 (lviii) “National Pollutant Discharge Elimination System” means the federal
 453 program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing
 454 permits and imposing and enforcing pretreatment requirements, under section 307, 318, 402, and
 455 405 of the CWA.

456
 457 (lix) “Natural” means that condition which would exist without the
 458 measurable effects or measurable influence of man's activities.

459
 460 (lx) “Natural water quality” means that quality of water which would exist
 461 without the measurable effects or measurable influence of man's activities.

462
 463 (lxi) “Net oil and grease” means the results from a 1664-Cu analysis which
 464 represents the oil and grease concentration corrected for elemental sulphur.

465
 466 (lxii) “New discharger” means any building, structure, facility, or installation:
 467
 468 (A) from which there is or may be a discharge of pollution or wastes;
 469
 470 (B) that did not commence the discharge of pollution or wastes at a
 471 particular “site” prior to August 13, 1979;
 472
 473 (C) which is not a new source; and
 474
 475 (D) which has never received a finally effective NPDES or
 476 WYPDES permit for discharges at that site.

477
 478 (lxiii) “New facility” means a facility for which a discharge is being proposed
 479 but is not yet occurring, or a facility from which a discharge is occurring, where no permit or
 480 authorization for such discharge has been issued by the department.

481
 482 (lxiv) “New source” means any source, the construction of which is
 483 commenced after publication by the Administrator of the EPA of a proposed standard of
 484 performance, which will be applicable to such source if promulgated.

485
 486 (lxv) “Non-process wastewater” means any water which, during
 487 manufacturing or processing is not defined as process wastewater.

488
 489 (lxvi) “Notice” means the announcement to the public, in accordance with the
 490 provisions of Section 15 of this regulation, of the intention of the department to issue, reissue,
 491 modify, terminate, deny or revoke a permit, or hold a public hearing.

492
 493 (lxvii) “Notice of intent” means the form which is used to apply for new,
 494 modified, or extended authorization to discharge as sanctioned by a general permit.

495
 496 (lxviii) “NPDES” means National Pollutant Discharge Elimination System.

497

498 (lxix) “Outfall” means the point at which a discharge exits the final treatment
499 unit, if any, associated with a facility prior to entering surface waters of the state.

500

501 (lxx) “Overburden” means any material of any nature, consolidated or
502 unconsolidated, that overlies a mineral deposit, excluding topsoil or similar naturally occurring
503 surface materials that are not disturbed by mining operations.

504

505 (lxxi) “Owner or operator” means the owner or operator of any facility or
506 activity subject to regulation under the WYPDES program. The owner or operator is the person
507 applying for a WYPDES permit or authorization who will be responsible for complying with the
508 requirements of the permit or authorization.

509

510 (lxxii) “Permit” means any permit issued by the Administrator of the EPA under
511 the NPDES program or by the administrator of the Water Quality Division in accordance with
512 these regulations.

513

514 (lxxiii) “pH” means a term used to express the intensity of acid or alkaline
515 conditions. pH is a measure of the hydrogen ion activity in a water sample. It is mathematically
516 related to hydrogen ion activity according to the expression: $\text{pH} = -\log_{10}(\text{H}^+)$, where (H+) is the
517 hydrogen ion activity. A pH value of 7 at 25 degrees C is neutral, with pHs of less than seven (7)
518 progressively more acid and pHs of greater than seven (7) progressively more basic (alkaline).

519

520 (lxxiv) “Point of compliance” means a point downstream from the outfall where
521 effluent limitations specified in a permit must be achieved.

522

523 (lxxv) “Pollutant” means dredged spoil, solid waste, incinerator residue, filter
524 backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials,
525 radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended
526 [42 U.S.C. 2011 et seq.]), heat, wrecked or discarded equipment, rock, sand, cellar dirt and
527 industrial, municipal, and agricultural waste discharged into water. It does not mean sewage from
528 vessels; or water, gas, or other material which is injected into a well to facilitate production of oil
529 or gas, or water derived in association with oil and gas production and disposed of in a well, if the
530 well used either to facilitate production or for disposal purposes is approved by authority of the
531 state and if the state determines that the injection or disposal will not result in the degradation of
532 ground or surface water resources.

533

534 (lxxvi) “POTW” means a publicly owned treatment work.

535

536 (lxxvii) “Pretreatment standards” means standards for that level of treatment
537 required of waste before introduction into a publicly owned treatment works so that it neither
538 interferes with, passes through, or otherwise is incompatible with such works.

539

540 (lxxviii) “Primary industrial facility” means a facility that falls into one of
541 the defined primary industrial categories listed in 40 CFR Part 122 Appendix A.

542

543 (lxxix) "Process wastewater" means any water which during
 544 manufacturing or processing, comes into direct contact with or results from the production or use
 545 of any raw material, intermediate product, finished product, byproduct, or waste product.

546
 547 (lxxx) "Produced water" means underground water which surfaces through oil
 548 and/or gas wells.

549
 550 (lxxxix) "Regional Administrator" means the EPA Region VIII Administrator.

551
 552 (lxxxii) "Reporting form" means the uniform state or national forms, including
 553 subsequent revision and modification, for reporting data and information pursuant to monitoring
 554 and other conditions of WYPDES permits.

555
 556 (lxxxiii) "Severe property damage" means substantial physical damage to
 557 property, damage to the treatment facilities which causes them to become inoperable, or
 558 substantial and permanent loss of natural resources which can reasonably be expected to occur in
 559 the absence of a bypass. Severe property damage does not mean economic loss caused by delays
 560 in production.

561
 562 (lxxxiv) "Significant materials" includes, but is not limited to: raw materials;
 563 fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as
 564 metallic products; raw materials used in food processing or production; hazardous substances
 565 designated under section 101(14) of CERCLA; any chemical the facility is required to report
 566 pursuant to Section 313 of title III of SARA; fertilizers; pesticides; and waste products such as
 567 ashes, slag and sludge that have the potential to be released with storm water discharges.

568
 569 (lxxxv) "Silvicultural point source" means any discernible, confined and discrete
 570 conveyance related to rock crushing and gravel washing as defined in 40 CFR Part 436, subpart B
 571 and, log sorting, or log storage facilities as defined in 40 CFR Part 429, subpart I which are
 572 operated in connection with silvicultural activities and from which pollutants are discharged into
 573 surface waters of the state. The term does not include nonpoint source silvicultural activities such
 574 as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning,
 575 prescribed burning, pest and fire control, harvesting operations, surface drainage, or road
 576 construction and maintenance from which there is natural runoff. However, some of these
 577 activities may involve point source discharges of dredged or fill material which may require a
 578 permit under Section 404 of the CWA or Section 7 of these regulations.

579
 580 (lxxxvi) "Site" means the land or water area where any facility or activity
 581 is physically located or conducted, including adjacent land used in connection with the facility or
 582 activity.

583
 584 (lxxxvii) "Skim ponds" means earthen ponds usually used in conjunction
 585 with heater treaters and/or free water knockout units and/or skim tanks, into which produced
 586 water is discharged with the purpose of providing gravity separation of oil and water. Skim
 587 ponds are usually designed with a "stand pipe" which discharges relatively oil-free water from

588 near the bottom of the pond while the majority of the oil is allowed to float to the top of the pond
 589 where it is collected.

590

591 (lxxxviii) “Standard Industrial Classification (SIC) Code” means the statistical
 592 classification standard for industrial establishments developed by the Office of Management and
 593 Budget and published in the Standard Industrial Classification Manual, Executive Office of the
 594 President, Office of Management and Budget (1987).

595

596 (lxxxix) “Storm water” means storm water runoff, snow melt runoff, and surface
 597 runoff and drainage.

598

599 (xc) “Storm water discharge associated with industrial activity” is defined in
 600 Section 6 (g) of these regulations.

601

602 (xci) “Surface waters of the state” means surface waters of the state as defined
 603 in Wyoming Water Quality Rules and Regulations Chapter 1, Wyoming Surface Water Quality
 604 Standards.

605

606 (xcii) “Technology-based effluent limit” means a permit limit for a pollutant
 607 that has been adopted pursuant to Section 5 (c) (iii) (A) and (B) of these regulations and 304 (b)
 608 of the CWA that is based on the capability of a treatment method(s) to reduce the pollutant to a
 609 certain concentration.

610

611 (xciii) “Toxic materials” means those materials, or combination of materials,
 612 including disease causing agents, which, after discharge and upon exposure, ingestion, inhalation,
 613 or assimilation into any organism, either directly from the environment or indirectly by ingestion
 614 through food chains, will, on the basis of information available to the director of the Wyoming
 615 Department of Environmental Quality, cause death, disease, behavioral abnormalities, cancer,
 616 genetic malfunctions, physiological malfunctions (including malfunctions in reproduction), or
 617 physical deformations in such organisms or their offspring.

618

619 (xciv) “Toxicity reduction evaluation” means a site-specific study conducted in
 620 a step-wise process designed to identify the causative agent(s) of effluent toxicity, isolate the
 621 sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the
 622 reduction in effluent toxicity.

623

624 (xcv) “Tributary” means those streams or stream segments which flow into or
 625 contribute water to another stream, stream segment, downstream reach of the same stream, or
 626 other water body.

627

628 (xcvi) “Uncontrolled sanitary landfill” means a landfill or open dump, whether
 629 in operation or closed, that does not meet the requirements for runoff or runoff controls
 630 established pursuant to RCRA Subtitle D.

631

632 (xcvii) “Upset” means an exceptional incident in which there is unintentional
 633 and temporary noncompliance with technology based permit effluent limitations because of

634 factors beyond the reasonable control of the permittee. An upset does not include noncompliance
 635 to the extent caused by operational error, improperly designed treatment facilities, inadequate
 636 treatment facilities, lack of preventive maintenance, or careless or improper operation.

637

638 (xcviii) “Variance” means any mechanism or provision under section 301 or 316
 639 of the CWA or under Section 8 of these regulations, or in the applicable effluent guidelines
 640 pursuant to Section 5 (c) (iii) of these regulations which allows modification to or waiver of the
 641 generally applicable effluent limitation requirements or time deadlines of the CWA. This
 642 includes provisions which allow the establishment of alternative limitations based on
 643 fundamentally different factors or on Sections 301 (c), 301 (g), 301 (h), 301 (i), or 316 (a) of the
 644 CWA.

645

646 (xcix) “Water quality based effluent limit” means a permit effluent limit
 647 derived by selecting the most stringent of the effluent limits calculated using all applicable water
 648 quality criteria as set forth in Wyoming Water Quality Rules and Regulations, Chapter 1 for a
 649 specific point source to a specific receiving water for a given pollutant.

650

651

652 (c) “Water quality monitoring station” means a point downstream from the
 653 outfall on the tributary just prior to the confluence with the main stem of the drainage and/or on
 654 the mainstream above and below the confluence with the tributary where certain water quality
 655 monitoring data is to be collected when specified in the permit.

656

657 (ci) “Water quality standard” means the regulations as established by
 658 Wyoming Water Quality Rules and Regulations, Chapter 1 which describe the designated uses of
 659 surface waters of the state, the numeric and narrative criteria that are necessary to protect the uses
 660 of surface waters of the state, and an antidegradation provision which protects the natural water
 661 quality of surface waters of the state.

662

663 (cii) “Wetland hydrology” means the presence of water on or near the land
 664 surface at a frequency and duration to cause the formation of hydric soils and support a
 665 prevalence of vegetation typically adapted to saturated and/or inundated conditions.

666

667 (ciii) “Whole effluent toxicity” means the total toxic effect of an effluent
 668 measured directly with a toxicity test.

669

670 (civ) “Wyoming Pollution Discharge Elimination System (WYPDES)” means
 671 the state program for issuing, modifying and reissuing, terminating, monitoring and enforcing
 672 permits for discharging pollutants into surface waters of the state under the provisions of these
 673 rules, W.S. 35-11- 101 through 35-11-1803 and the CWA.

674

Section 4. General Permits.

675 Provisions for the issuance of general permits are described in this section. Additional
 676 requirements specific to effluent permits, storm water permits and isolated wetlands are contained
 677 in sections 5, 6 and 7 of these regulations.

678

679 (a) Coverage. The department may issue a general permit to cover a category of
 680 discharges, except those covered by individual permits, within a geographic area which shall
 681 correspond to existing geographic or political boundaries. The general permit may be written to
 682 regulate:

- 683
- 684 (i) Storm water point sources except;
- 685
- 686 (A) Storm water discharges associated with industrial activities (as
 687 defined in Section 6 (g) (ii) (A) through (K)) that have a potential to reach surface waters of the
 688 state that are listed as being Class 1 in Appendix A of Chapter 1, Wyoming Water Quality Rules
 689 and Regulations. These facilities must apply for an individual storm water permit in accordance
 690 with the requirements of Section 6 (b).
- 691
- 692 (B) Storm water discharges from large or small construction activity
 693 as defined in Section 6 (f) are not included in the exception of Section 4 (a) (i) (A).
- 694
- 695 (ii) Point source discharges of dredged or fill material into isolated wetlands;
- 696
- 697
- 698 (iii) Effluent discharges, other than discharges described in (i) and (ii) above,
 699 if the sources all:
- 700
- 701 (A) Involve the same or substantially similar types of operations;
- 702
- 703 (B) Discharge the same types of pollution or wastes;
- 704
- 705 (C) Require the same effluent limitations or operating conditions;
- 706
- 707 (D) Require the same or similar monitoring; and
- 708
- 709 (E) In the opinion of the administrator, are more appropriately
 710 controlled under a general permit than under individual permits. In making such a finding, the
 711 administrator shall consider: the types of discharges; the expected nature of the discharges; the
 712 potential for toxic and conventional pollutants in the discharges; the expected volumes of the
 713 discharges; and the estimated number of discharges to be covered by the permit. The
 714 administrator shall provide in the public notice of the general permit the rationale for utilizing a
 715 general permit rather than individual permits for the permitted activity.

716

717 (b) Authorization to discharge.

718

719 (i) Except as otherwise provided in these regulations, any person seeking
 720 coverage under a general permit shall submit to the department a complete notice of intent,
 721 supplied by the administrator, to be covered by the general permit. Any person who fails to
 722 submit a notice of intent in accordance with the terms of the general permit is not authorized to
 723 discharge under the terms of the permit unless the general permit, in accordance with Section 4
 724 (b) (v), contains a provision that a notice of intent is not required.

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(ii) The minimum requirements of the notice of intent shall be specified in the general permit and shall require the submission of information necessary for adequate program implementation. All notices of intent shall be signed as described in Section 14 of these regulations.

(iii) General permits shall specify the deadlines for submitting notices of intent and the date(s) when a discharge is authorized under the permit unless otherwise specified in the authorization.

(A) In any event, no person shall commence a discharge without having obtained written authorization from the department, and no authorization shall be issued without full compliance by the permittee with all requirements of these regulations.

(B) In any event, no person shall change or alter the conditions of an authorized discharge without having obtained an authorization from the department, and no authorization for the modification shall be issued without full compliance by the permittee with all requirements of these regulations.

(C) In any event, no person shall continue to discharge beyond the expiration date of an authorization without having obtained an extension or renewal of the authorization from the department, and no extension or renewal shall be granted without full compliance by the permittee with all requirements of these regulations.

(iv) General permits shall specify eligibility requirements for coverage under the permit and procedures for submitting notices of intent and granting authorization.

(v) Discharges other than discharges from publicly owned treatment works, combined sewer overflows, MS4s, primary industrial facilities, and storm water discharges associated with industrial activity and large construction activities may be authorized to discharge under a general permit without submitting a notice of intent where the administrator finds that a notice of intent requirement would be inappropriate. In making such a finding, the administrator shall consider: the types of discharges, the expected nature of the discharges; the potential for toxic and conventional pollutants in the discharges; the expected volumes of the discharges; and the estimated number of discharges to be covered by the permit. The administrator shall provide in the public notice of the general permit the reasons for not requiring a notice of intent, if so allowed.

(vi) The administrator may notify a discharger that it is subject to the conditions and requirements of a general permit, even if the discharger has not submitted a notice of intent to be covered.

(c) Water quality-based limits. Where sources within a specific category or subcategory of dischargers are subject to water quality-based limits imposed pursuant to Section 5 of these regulations, the source in that specific category or subcategory shall be subject to the same water quality-based effluent limitations, when applicable.

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(d) Applicable conditions. The general permit must clearly identify the applicable conditions for each category or subcategory of dischargers or treatment works treating domestic sewage covered by the permit.

(e) Exclusions. The general permit may exclude specified sources or areas from coverage.

(f) Processing procedures for notices of intent.

(i) The administrator shall review each notice of intent and make a completeness determination within 30 days of receipt of the notice of intent. If the notice of intent and supplemental information are deemed to be complete, processing of the notice of intent shall proceed in accordance with Section 4 (f) (ii). If the administrator determines that the notice of intent is incomplete, a notice shall be provided to the applicant, describing the additional information needed in order to complete the processing of the notice of intent, within 45 days of receipt of the notice of intent. The completeness of any notice of intent shall be judged independently of the status of any other notice of intent for the same facility or activity.

(ii) Upon determination of completeness or as specified in the general permit, the administrator, or his authorized representative, shall make a determination on issuance or denial of the authorization for coverage under the general permit. If the administrator, or his authorized representative, proposes that the discharge be authorized, the administrator, or his authorized representative, will also identify any conditions of authorization.

(g) Modification, revocation, renewal, extension, or termination of general permits. General permits may be issued, modified, revoked, renewed, extended, or terminated in accordance with provisions of Sections 9, 10, 11, and 12 of these regulations. Termination may apply to individual owners or operators, to several owners or operators, or to an entire general permit protection area. In cases where the termination does not affect all owners and operators, the general permit shall remain in effect with respect to those unaffected owners and operators.

(h) Permit term. General permits may be issued for a term not to exceed five (5) years, unless extended in accordance with the provisions of Section 11 of these regulations.

(i) Requiring an individual permit.

(i) The administrator, for good cause, may require any person authorized by a general permit or seeking coverage under a general permit to apply for and obtain an individual permit. Cases where an individual WYPDES permit may be required include, but are not limited to, the following:

(A) The permittee is not in compliance with the conditions of the general WYPDES permit;

816 (B) A change has occurred in the availability of demonstrated
817 technology or practices for the control or abatement of pollutants applicable to the point source;

818
819 (C) Effluent limitation guidelines are promulgated for point sources
820 covered by the general WYPDES permit;

821
822 (D) A water quality management plan containing requirements
823 applicable to such point sources is approved;

824
825 (E) Circumstances have changed since the time of the request to be
826 covered so that the discharger is no longer appropriately controlled under the general permit, or
827 either a temporary or permanent reduction or elimination of the authorized discharge is necessary;

828
829 (F) The discharge(s) is a significant contributor of pollutants. In
830 making this determination, the administrator may consider the following factors:

831
832 (I) The location of the discharge with respect to surface
833 waters of the state;

834
835 (II) The size of the discharge;

836
837 (III) The quantity and nature of the pollutants discharged to
838 surface waters of the state; and

839
840 (IV) Any other relevant factors.

841
842 (ii) Any interested person may petition the administrator to require any
843 person authorized by a general permit or seeking coverage under a general permit to apply for and
844 obtain an individual permit.

845
846 (iii) Any owner or operator authorized by a general permit may request to be
847 excluded from the coverage of the general permit by applying for an individual permit in
848 accordance with Section 5 (a) of these regulations.

849
850 (iv) When an individual permit is issued to an owner or operator otherwise
851 subject to a general permit, the applicability of the general permit to the individual permittee is
852 automatically terminated on the effective date of the individual permit.

853
854 (j) General permit coverage for discharges already covered by an individual permit.
855 A discharge excluded from a general permit solely because it already has an individual permit
856 may request that the individual permit be terminated, and that it be covered by the general permit.

857
858 (k) Application for coverage. Any owner or operator shall apply for coverage in a
859 general permit category by completing the notice of intent supplied by the administrator.

860
861 (l) Permit conditions.

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(i) General permits will include all conditions determined necessary by the state for protection of the surface waters of the state.

(ii) General permits will require a copy of the authorization letter be posted at the physical location of the permitted site in a prominent and safe place for public viewing.

(iii) General permits will require the permittee to notify all landowners, on whose property an outfall associated with the general permit is located, prior to submitting the Notice of Intent to the administrator.

(m) Application requirements for isolated wetlands. A notice of intent submitted for coverage of mitigation for activities that cause the destruction, damage or impairment of naturally occurring isolated wetlands shall contain the information as required in Section 7 (b) of these regulations.

(n) Application requirements for effluent discharges. Application requirements for effluent discharges, except for storm water discharges and isolated wetlands as described in Sections 6 and 7 respectively of these regulations.

(i) A notice of intent submitted for coverage of discharge from a new facility under a general permit shall contain, at a minimum, the following information unless the administrator determines that certain items are unnecessary:

- (A) Name of company, entity, or individual seeking authorization;
- (B) Identification of the facility name, location, and telephone number if applicable;
- (C) Mailing address and telephone number of company, entity, or individual seeking authorization;
- (D) Applicant status as federal, state, private, public, or other entity;
- (E) Name and signature of responsible person;
- (F) Authorization of a duly authorized representative under the Signatory Requirements of Section 14 of these rules, where applicable;
- (G) Type and location, expressed in latitude and longitude to the nearest 15 seconds, of the facility from which discharge will occur;
- (H) A description of the activities conducted by the applicant which require it to obtain coverage under a WYPDES permit;

907 (I) Expected quality and quantity of effluent (including maximum
908 design capacity in million gallons per day) proposed for discharge, flow rate in million gallons
909 per day or cubic feet per second and whether the proposed discharge will be continuous or
910 intermittent;

911
912 (J) Description of treatment process that will be used to reduce
913 pollutant concentrations in effluent;

914
915 (K) Outfall number(s) and latitude and longitude of each outfall
916 location to the nearest 15 seconds;

917
918 (L) Outfall number(s) and legal description(s) of each outfall
919 location to the nearest quarter/quarter of a section;

920
921 (M) Names and addresses of landowners where outfall(s) will be
922 located, if property owner is other than the applicant;

923
924 (N) Outfall number(s) and names of surface waters of the state that
925 would or potentially would directly receive any portion of the discharge for each outfall,
926 including, where applicable, a description of the tributary system from the outfall location to the
927 main stem;

928
929 (O) A topographic map extending one mile beyond the property
930 boundaries of the source, showing the location of the facility, intake structures and associated
931 outfalls and proposed monitoring and/or compliance points; each of its hazardous waste
932 treatment, storage, or disposal facilities; each well where fluids from the facility are injected
933 underground; and those wells, springs, other surface water bodies, and drinking water wells listed
934 in public records or otherwise known by the applicant in the map area. The map scale must be at
935 least 1:24,000 unless otherwise approved by the administrator.

936
937 (P) Where applicable, additional requirements as
938 specified in Appendices A through M of these regulations.

939
940 (Q) Any other information the administrator may request in order to
941 identify potential impacts to designated uses of surface waters of the state, by the proposed
942 discharge and to determine whether to issue authorization under a general permit. The additional
943 information may include additional quantitative data and bioassays to assess the relative toxicity
944 of discharges to aquatic life and requirements to determine the cause of the toxicity.

945
946 (ii) Information in addition to that described in Section 4 (n) (i) may be
947 established based on needs specific to a general permit.

948
949 (iii) A notice of intent submitted by a permittee for modification or extension
950 of existing authorization under a general permit shall identify any changes or additions to the
951 information listed in (i) and (ii) above that was provided in the notice of intent submitted for the
952 authorization most recently granted.

953

954 (iv) A notice of intent and other documents required to accompany said
955 notice of intent when submitted to the department must be signed and certified in accordance with
956 the provisions of Section 14 of these regulations.

957

958 (o) Application requirements for storm water discharges.

959

960 (i) Deadlines to apply.

961

962 (A) Facilities proposing a new discharge of storm water associated
963 with industrial activity or large construction activity shall submit a notice of intent in accordance
964 with the provisions of Section 4 (o) (ii) of these regulations.

965

966 (B) Except as provided in Section 4 (o) (i), for any storm water
967 discharge associated with large construction activity as described in Section 6 (f) (i) or industrial
968 activity as identified in Section 6 (g) in place prior to the effective date of this rule, should have
969 made application to the administrator by October 1, 1992; prior to initiation of the activity; or as
970 specified in the applicable general permit.

971

972 (C) For any storm water discharge associated with industrial activity
973 from a facility that is owned or operated by a municipality with a population of less than 100,000
974 that is not authorized by a general or individual permit other than an airport, powerplant, or
975 uncontrolled sanitary landfill, the permit application must be submitted to the administrator by
976 March 10, 2003 or as specified in the applicable general permit.

977

978 (D) For storm water discharges associated with small construction
979 activity as described in Section 6 (f) (ii), that are not already authorized by a storm water general
980 or individual permit, require permit authorization as of March 10, 2003, except;

981

982 (I) Storm water discharges subject to Section 4 (b) (v)
983 which are not required to submit a NOI for coverage in accordance with the provisions of the
984 applicable general permit, and

985

986 (II) Storm water discharges associated with small
987 construction activity at oil and gas exploration, production, processing, and treatment operations
988 or transmission facilities subject to the provisions of, Section 4 (o) (i) (E) of these regulations.

989

990 (E) For storm water discharges associated with small construction
991 activity at oil and gas exploration, production, processing, and treatment operations or
992 transmission facilities, require permit authorization as of March 10, 2005.

993

994 (F) A notice of intent shall be submitted to the administrator within
995 60 days of notice of a storm water discharge which the administrator determines contributes to a
996 violation of a water quality standard or is a significant contributor of pollutants to surface waters
997 of the state or where the administrator determines that storm water controls are needed for the
998 discharge based on wasteload allocations that are part of "total maximum daily loads" (TMDLs)

999 that address the pollutant(s) of concern; unless permission for a later date is granted by the
1000 administrator.

1001
1002 (G) For any existing storm water discharge from a regulated small
1003 MS4 for which a storm water permit application was not previously required under federal law or
1004 regulation, the permit application made under Section 4 (o) (iii) must be submitted to the
1005 administrator:

1006
1007 (I) By March 10, 2003 for any storm water discharge
1008 associated with a regulated small MS4 in an urbanized area as described in Section 6 (h) (i) (A)
1009 and (B) and that is not already authorized by a storm water general or individual permit,

1010
1011 (II) Within 180 days of notice of designation, unless the
1012 administrator grants a later date, under Section 6 (h) (i) (C) or (D).

1013
1014 (ii) Application requirements for storm water discharges associated with
1015 industrial activity and large construction activity. Dischargers of storm water associated with
1016 industrial activity and large construction activity are required to apply for an individual permit or
1017 seek coverage under a storm water general permit.

1018
1019 A notice of intent requesting coverage under a general permit must be completed in
1020 accordance with the requirements of this section and the applicable general permit. Unless the
1021 administrator determines that certain items are unnecessary, the notice of intent shall contain, at a
1022 minimum:

1023
1024 (A) General requirements applicable to all notices of intent:

1025
1026 (I) Name of the company, entity, or individual seeking a
1027 permit;

1028
1029 (II) Mailing address and telephone number of company,
1030 entity, or individual seeking a permit;

1031
1032 (III) The facility name, location, and telephone number if
1033 applicable;

1034
1035 (IV) Applicant status as federal, state, private, public, or other
1036 entity;

1037
1038 (V) Name and signature in accordance with the requirements
1039 of Section 14 of these regulations;

1040
1041 (VI) Authorization of a duly authorized representative under
1042 the Signatory Requirements of Section 14 of these regulations, where applicable;

1043

1044 (VII) Location, expressed in latitude and longitude to the
1045 nearest 15 seconds, of the facility to be covered under the permit;

1046
1047 (VIII) Location, expressed as quarter/quarter section, township,
1048 and range in the applicable Public Land Survey (PLS), of the facility to be covered under the
1049 permit;

1050
1051 (IX) A description of the activities conducted by the applicant
1052 which require it to obtain a WYPDES storm water discharge permit;

1053
1054 (X) For industrial activities only, up to four SIC codes which
1055 best reflect the principal products or services provided by the facility;

1056
1057 (B) Applicants shall provide such other information the
1058 administrator may reasonably require to determine whether to issue an authorization. The
1059 additional information may include additional quantitative data and bioassays to assess the
1060 relative toxicity of discharges to aquatic life and requirements to determine the cause of the
1061 toxicity.

1062
1063 (iii) Application requirements for regulated small municipal separate storm
1064 sewer discharges.

1065
1066 (A) The notice of intent for general permit coverage must include the
1067 following information, at a minimum:

1068
1069 (I) Name of the municipality seeking a permit;

1070
1071 (II) Mailing address, contact name, and telephone number of
1072 the municipality seeking a permit;

1073
1074 (III) A general description of the best management practices
1075 (BMPs) that the permittee or another municipality will implement for each of the storm water
1076 minimum control measures required by Section 6 (j) (i);

1077
1078 (IV) The measurable goals for each of the selected BMPs
1079 including, as appropriate, the months and years in which the permittee will undertake required
1080 actions, including interim milestones and the frequency of the action;

1081
1082 (V) The person or persons responsible for implementing or
1083 coordinating the permittee=s storm water management program. A position, rather than an
1084 individual, may also be designated;

1085
1086 (VI) A description of the funding sources expected for
1087 implementation of the permittee=s program; and

1088

1089 (VII) Other information the administrator may reasonably
1090 require to determine whether to issue an authorization.

1091

1092

1093 (B) The permittee may file a separate application for coverage under
1094 a general permit, or may jointly submit an application with other municipalities or governmental
1095 entities. If the permittee wants to share responsibilities for meeting the minimum control
1096 measures with other municipalities or governmental entities, the application (whether separate or
1097 joint) must describe which minimum control measures the permittee will implement and identify
1098 the entities that will implement the other minimum control measures within the area served by the
1099 permittee=s MS4.

1100

1101 (C) If authorized by the administrator, the permittee may file a
1102 separate application for coverage under an individual permit. The application must include the
1103 information required under Section 4 (o) (iii) and Section 6 (b) (i), an estimate of square mileage
1104 served by the small MS4, and any additional information that the administrator requests. The
1105 administrator=s authorization will be contingent upon the regulated entity providing adequate
1106 justification for the need for an individual permit.

1107

1108 (D) If authorized by the administrator, two (2) or more regulated
1109 entities may jointly apply under Section 4 (o) (iii) (C) to be co-permittees under an individual
1110 permit. The administrator=s authorization will be contingent upon the regulated entities
1111 providing adequate justification for the need for an individual permit.

1112 **Section 5. Effluent Permits.**

1113 The following process shall be used in the application for, development of, and issuance
1114 of effluent permits, except for storm water permits which are addressed under Sections 4 and 6 of
1115 these regulations.

1116

1117 (a) Application for individual permits. Completed application forms shall be
1118 submitted to the department for permits for new facilities, modifications to existing permits, and
1119 permit renewals.

1120

1121 (i) Permits for new facilities. The owner or operator of any point source
1122 within the State of Wyoming who proposes to discharge pollution or wastes into surface waters of
1123 the state must file with the administrator a complete application form either (1) no less than 180
1124 days in advance of the date on which it is desired to commence the discharge of pollution or
1125 wastes, unless otherwise approved by the administrator, or (2) in sufficient time prior to any
1126 discharge of pollutants to insure compliance with the requirements of Section 306 of the Federal
1127 Act, or with any applicable zoning or siting requirements established pursuant to Section 208 (b)
1128 (2) (c) of the Federal Act, and any other applicable water quality standards and limitations. In
1129 any event, no person shall commence a discharge without having obtained a permit from the
1130 department, and no permit shall be issued without full compliance by the permittee with all
1131 requirements of these regulations.

1132

1133 (ii) Modification of permits. (Refer to Section 12 of these regulations.)

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(iii) Renewal of permits. (Refer to Section 10 of these regulations.)

(iv) Application for individual permits. Application for individual permits shall be made using forms provided or specified by the administrator. Completed application forms shall be submitted to the department for permits for new facilities, modifications to existing permits, and permit renewals.

(v) General information requirements. An application form for all new individual permits shall contain the following information unless the administrator determines that specific items are unnecessary:

(A) Name of company, entity, or individual seeking a permit;

(B) Identification of the facility name, location, and telephone number if applicable;

(C) Mailing address and telephone number of company, entity, or individual seeking a permit;

(D) Applicant status as federal, state, private, public, or other entity and status of applicant as owner, operator or both;

(E) Name and signature of responsible person as required by Section 14 of these regulations;

(F) Authorization of a duly authorized representative under the Signatory Requirements of Section 14 of these rules, where applicable;

(G) Names, addresses, and telephone numbers of landowners where outfalls will be located, if property owner is other than applicant;

(H) Type and location, expressed in latitude and longitude to the nearest 15 seconds, of the facility from which discharge will occur;

(I) A description of the activities conducted by the applicant which require it to obtain an WYPDES permit and where the activity includes treatment facilities associated with the discharge, a site diagram of the treatment facilities associated with the discharge and the outfall locations;

(J) Up to four (4) SIC codes which best reflect the principal products or services provided by the facility;

(K) Expected quality and quantity (including maximum design capacity in million gallons per day and, except for POTWs, the average daily flow rate in million

1179 gallons per day) of effluent proposed for discharge, flow rate in million gallons per day or cubic
1180 feet per second, and whether the proposed discharge will be continuous or intermittent;

1181

1182

1183 (L) Description of each treatment process that will be used to reduce
1184 pollutant concentrations in effluent;

1185

1186 (M) Outfall numbers and latitude and longitude of each outfall
1187 location to the nearest 15 seconds;

1188

1189 (N) Outfall numbers, the county where each outfall is located and
1190 legal description of each outfall location to the nearest quarter/quarter of a section;

1191

1192 (O) Distance from shore and depth below water surface;

1193

1194 (P) Whether the discharge will be continuous or periodic. If the
1195 discharge is to be periodic the following information for each outfall shall be provided:

1196

1197 (I) Number of times per year the discharge is to occur.

1198

1199 (II) Anticipated duration of each discharge.

1200

1201 (III) Anticipated flow of each discharge.

1202

1203 (IV) Months in which discharge is expected to occur.

1204

1205 (Q) Whether any outfall is or will be equipped with a diffuser and the
1206 type of diffuser used.

1207

1208 (R) Outfall number(s) and names of surface waters of the state that
1209 would or potentially would directly receive any portion of the discharge for each outfall,
1210 including where applicable, a description of the tributary system from the outfall location to the
1211 main stem;

1212

1213 (S) A topographic map extending one mile beyond the property
1214 boundaries of the source, showing the location of the facility, intake structures and associated
1215 outfalls and proposed monitoring and/or compliance points; each of its hazardous waste
1216 treatment, storage, or disposal facilities; each well where fluids from the facility are injected
1217 underground; and those wells, springs, other surface water bodies, and drinking water wells listed
1218 in public records or otherwise known by the applicant in the map area.

1219

1220 (T) A listing of all active permits or construction approvals received
1221 or applied for by the applicant for the site under any of the following programs:

1222

1223 (I) Hazardous Waste Management program under the
1224 Resource Conservation and Recovery Act.

- 1225
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1227 Drinking Water Act.
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1234 the Clean Air Act.
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1239 under the Clean Air Act.
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1243
1244 under the State Engineer=s Office.
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1246
1247 Commission.
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1249
1250 permits.
1251
1252 (U) Any additional information required in accordance with
1253 appendices B through M of these regulations.
1254
1255 (V) Any other information the administrator may request in order to
1256 assess potential impacts to designated uses of surface waters of the state as a result of the
1257 proposed discharge, to develop permit conditions in compliance with regulations adopted
1258 pursuant to Section 304 of the CWA, or to determine whether to issue a WYPDES permit. The
1259 additional information may include additional quantitative data and bioassays to assess the
1260 relative toxicity of discharges to aquatic life and requirements to determine the cause of the
1261 toxicity.
1262
1263 (vi) Signature requirement. A permit application and other documents
1264 required to accompany said application when submitted to the department must be signed and
1265 certified in accordance with the provisions of Section 14 of these regulations.
1266
1267 (vii) Records retention. Applicants shall keep records of all data used to
1268 complete permit applications and any supplemental information submitted under this section for a
1269 period of three (3) years from the date the application is signed.
1270

- 1271 (b) Processing procedures applicable to all individual permit applications.
 1272
- 1273 (i) Permit issuance or denial determination. Within 180 days of the receipt
 1274 of an application and requested supplemental information, the director shall make a tentative
 1275 determination with respect to the issuance or denial of a permit. If the director, with the advice of
 1276 the administrator, determines that the permit should be issued, then tentative determinations will
 1277 also be made with respect to the following:
 1278
- 1279 (A) Proposed effluent limitations, which in the absence of federal
 1280 guidelines adopted pursuant to Section 304 of the CWA, will comply with 40 CFR 125.3 (c) (2)
 1281 and (3);
 1282
- 1283 (B) Proposed effluent limitations that will ensure that water quality
 1284 standards promulgated in Wyoming Water Quality Rules and Regulations, Chapter 1 will not be
 1285 violated as a result of the proposed discharge;
 1286
- 1287 (C) A proposed schedule of compliance, where appropriate; and
 1288
- 1289 (D) Conditions and restrictions in addition to those specified in these
 1290 regulations that are necessary in order for the requirements of the CWA or the Wyoming
 1291 Environmental Quality Act to be upheld.
 1292
- 1293 (ii) Completeness review. The administrator shall provide a notice of
 1294 completeness or deficiency within 45 days of receipt of the application. If a notice of
 1295 completeness or deficiency is not issued to the applicant within 45 days of receipt of the
 1296 application, the administrator shall issue a letter of explanation to the applicant which specifies
 1297 the expected date of the completeness determination.
 1298
- 1299 (iii) Completeness determination. The director shall not process or issue a
 1300 permit before receiving a complete application for a permit and all requirements of this section
 1301 have been met. An application for a permit is complete when it has been submitted to the
 1302 department, and includes all of the information required in Section 5 (a) (v) and Appendices A
 1303 through M of these regulations and any applicable federal effluent guidelines of 40 CFR Parts
 1304 405 through 411, 413 through 433, 436, 437, 439, 440, 442 through, 447, 454, 455, 457 through
 1305 461, 463 through 469, and 471, such that the administrator deems that adequate information has
 1306 been provided to make a determination in accordance with Section 5 (b) (i). The completeness of
 1307 any application for a permit shall be judged independently of the status of any other permit
 1308 application or permit for the same facility or activity.
 1309
- 1310 (iv) Permit denial. If the director determines that the permit should be
 1311 denied, he shall give written notice of this action to the applicant and to the Regional
 1312 Administrator of the EPA within 30 days after making the tentative determination.
 1313
- 1314 (v) Draft permits. For each proposed discharge for which an application
 1315 determined to be complete has been received and for which none of the conditions under which
 1316

1317 permits must be prohibited exist, the administrator shall prepare a draft permit that embodies the
1318 tentative determinations reached relative to Section 5 (b) (i) above. Draft permits shall be
1319 available to the public for inspection, copying and public comment.

1320

1321 (vi) Public participation and public meetings. The requirements for public
1322 participation and public meetings contained in these regulations shall be complied with for every
1323 permit proposed for issuance by the director.

1324

1325 (c) Terms and conditions of permits. All issued permits will contain, as a minimum,
1326 authorization for discharge subject to the conditions of the permit, effluent limitations, standards
1327 of performance for any new source, standard conditions, special conditions (when applicable),
1328 monitoring requirements where discharge is allowed, and reporting requirements that comply
1329 with these regulations.

1330

1331 The permittee shall comply with effluent standards or prohibitions established under
1332 section 307(a) of the CWA for toxic pollutants within the time provided in the regulations that
1333 establish these standards or prohibitions.

1334

1335 (i) Standard conditions. All issued permits shall contain standard conditions
1336 consisting of, but not limited to, the following:

1337

1338 (A) The permittee must comply with all conditions of the permit.
1339 Any noncompliance is a violation of the CWA and the Wyoming Environmental Quality Act and
1340 is grounds for enforcement action; for permit termination, revocation and reissuance, or
1341 modification; or denial of a permit reissuance or extension of authorization.

1342

1343 (B) Any planned sewerage system, treatment works, or disposal
1344 system expansions, production increases, process modifications, or new source additions which
1345 will result in a new or increased discharge or the inclusion of additional criteria for a new source
1346 shall be reported by submission of an application or, if such discharge will not violate effluent
1347 limitations specified in the permit, by submission to the administrator of notification of such new
1348 or increased discharge.

1349

1350 (C) The discharge of pollution and/or wastes into surface waters of
1351 the state more frequently than, or at a level in excess of, that identified and authorized by a permit
1352 shall constitute a violation of the conditions of the permit.

1353

1354 (D) After notice and opportunity for a hearing, a permit may be
1355 modified, in whole or in part, revoked and reissued, or terminated during its term. The filing of a
1356 request by the permittee for a modification, revocation, reissuance, termination, or notification of
1357 planned changes or anticipated noncompliance does not halt any permit condition. Cause for
1358 such permit actions, includes, but are not limited to, any of the following:

1359

1360 (I) Violation of any conditions of the permit;

1361

- 1362 (II) Obtaining a permit by misrepresentations or failure to
1363 fully disclose all relevant facts;
1364
- 1365 (III) A change in any condition that requires either a
1366 temporary or permanent reduction or elimination of the discharge; and
1367
- 1368 (IV) A failure or refusal by the permittee to comply with the
1369 monitoring and reporting requirements of a permit and Sections 35-11-109 (a) (iv) and 35-11-110
1370 (a) (vii) Wyoming Statutes.
1371
- 1372 (E) A permit may be modified in whole or in part during its term in
1373 order to apply any more stringent toxic effluent standard or prohibition, for a toxic substance
1374 present in the permittee's discharge, that is promulgated by the Administrator of the EPA.
1375
- 1376 (F) A requirement that the permittee allow the administrator or his
1377 authorized representative upon presentation of his credentials to:
1378
- 1379 (I) Enter the premises where a permittee=s regulated facility
1380 or activity is located or conducted or where records must be kept under the conditions of the
1381 permit;
1382
- 1383 (II) Sample or monitor at reasonable times, for the purposes
1384 of assuring permit compliance or as otherwise authorized by these rules, the Wyoming
1385 Environmental Quality Act or the CWA, any substances or parameters at any location;
1386
- 1387 (III) Have access to and copy, at reasonable times, any
1388 records required by the permit to be kept;
1389
- 1390 (IV) Inspect at reasonable times any facilities, equipment
1391 (including monitoring and control equipment), practices, or operations regulated or required
1392 under the permit; and
1393
- 1394 (V) Take any other action authorized by 35-11-109 (a) (v),
1395 (vi) and (vii) Wyoming Statutes, or these regulations.
1396
- 1397 (G) A requirement that, if requested by the administrator or the
1398 administrator=s authorized agent, the permittee shall provide access to physical locations
1399 associated with this permit including, but not limited to, well heads, discharge points, reservoirs,
1400 monitoring locations, and any waters of the state associated with the permit at the point of
1401 discharge.
1402
- 1403
- 1404 (H) A requirement that, if the permittee wishes to continue an
1405 activity regulated by a permit after the expiration date of the perit, the permittee must apply for
1406 and obtain a new permit in accordance with Section 10 of these regulations, unless an extension is
1407 granted under Section 11 of these regulations.

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(I) It is not 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 a permit.

(J) The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

(K) The permit does not convey any property rights of any sort, or any exclusive privilege.

(L) A requirement that the permittee shall furnish to the administrator, within a reasonable time, any information which the administrator or his authorized representative may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit.

(M) A requirement that the permittee shall furnish to the administrator or his authorized representative, copies of records required to be kept by the permit.

(N) The permittee must properly operate and maintain all equipment and treatment systems used by the permittee to achieve compliance with the terms of the permit. The permittee must provide appropriate laboratory controls and quality assurance procedures, where applicable. Backup systems are required when needed to ensure compliance. However, each main line unit treatment process must be operated as a minimum.

(O) To assure compliance with permit limitations, the permittee shall monitor:

(I) The mass (or other measurement specified in the permit) for each pollutant limited in the permit.

(II) The volume of effluent discharged from each outfall.

(P) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. Records must be retained for three (3) years subject to extension by the director. Monitoring records shall include but are not limited to the following:

(I) The date, location, and time of the sampling;

(II) The dates and by whom analyses were performed;

(III) Analytical techniques used;

- 1454 (IV) The results of such analyses;
- 1455
- 1456 (V) Name of the person collecting the sample(s);
- 1457
- 1458 (VI) Sampling handling and preservation conducted; and
- 1459
- 1460 (VII) Detection limits for analyses conducted.
- 1461

1462 Wastewater measurements must be conducted in accordance with methods and
1463 procedures prescribed in 40 CFR Part 136 or other specified procedures.

1464
1465 (Q) Pollutants for which the permittee must report violations of daily
1466 maximum discharge limitations under Section 5 (c) (i) (W) (24-hour reporting) shall be listed in
1467 the permit. This list shall include any toxic pollutant or hazardous substance, or any pollutant
1468 specifically identified as the method to monitor a toxic pollutant or hazardous substance.

1469
1470 (R) Applications, reports, or information submitted to the
1471 administrator must be signed and certified. Knowingly making false statements, representations,
1472 or certifications is a violation of the permit, Wyoming Water Quality Rules and Regulations
1473 Chapter 2 and the Wyoming Environmental Quality Act and is subject to enforcement.

1474
1475 (S) The permittee shall give advance notification to the administrator
1476 of any planned changes in the permitted facility or activity which may result in noncompliance
1477 with permit requirements.

1478
1479 (T) The permit is not transferrable except after written notification is
1480 provided to the administrator and such request is approved by the administrator. The
1481 administrator may require modification, or revocation and reissuance, as necessary.

1482
1483 (U) Monitoring reports must be submitted on a discharge monitoring
1484 report form provided by the department or on a form with an identical format as the form
1485 provided by the department, with prior approval by the administrator. Monitoring results shall be
1486 reported to the department at the intervals specified in the permit. If monitoring is conducted at a
1487 frequency greater than that required by the permit, the results of the additional monitoring must
1488 be reported. In reporting effluent limits based on average concentrations, the permittee must
1489 report the results using an arithmetic mean, except for fecal coliform. Average results for fecal
1490 coliform monitoring shall be reported as a geometric mean.

1491
1492 (V) Reporting of compliance or noncompliance with specified dates
1493 contained in a compliance schedule of the permit shall be submitted to the administrator no later
1494 than 14 days following each scheduled date.

1495
1496 (W) For any noncompliance which may endanger human health or
1497 the environment, an oral notification must be made by the permittee to the administrator within
1498 24-hours of the permittee becoming aware of the noncompliance. Within five (5) days, the
1499 permittee must provide a written notification of the noncompliance which describes the

1500 noncompliance and its cause; the period and duration of noncompliance including exact dates and
 1501 times; and, if the noncompliance has not been corrected, the anticipated time it is expected to
 1502 continue and steps planned or taken to reduce, eliminate, and prevent recurrences of the
 1503 noncompliance. Circumstances that must be reported within 24-hours of becoming aware of the
 1504 noncompliance include, but are not limited to, any unanticipated bypass or upset which exceeds
 1505 any effluent limit in the permit; or violation of a daily maximum discharge limitation for any of
 1506 the pollutants listed by the administrator in the permit to be reported within 24-hours of becoming
 1507 aware of the noncompliance.

1508
 1509 (X) For noncompliance other than as reported in (S),(V), and (W)
 1510 above, the permittee shall report all instances at the time monitoring reports are submitted. The
 1511 reports shall contain the information listed in (W) above.

1512
 1513 (Y) Where the permittee becomes aware that it failed to submit any
 1514 relevant facts in a permit application, or submitted incorrect information in a permit application
 1515 or in any report to the administrator, it shall promptly submit such facts or information.

1516
 1517 (Z) The permittee may allow any bypass to occur which does not
 1518 cause effluent limitations to be exceeded, but only if it is for essential maintenance to assure
 1519 efficient operation. If the permittee knows in advance of the need for a bypass, it shall submit
 1520 prior notification, if possible at least ten (10) days before the date of the bypass. If an
 1521 unanticipated bypass occurs, notice shall be provided in accordance with (W) above. Bypass is
 1522 prohibited except in instances where it is necessary to prevent loss of life, personal injury or
 1523 severe property damage; or where there are no feasible alternatives to bypass, such as the use of
 1524 auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods
 1525 of equipment downtime. The condition of no feasible alternative is not satisfied if adequate back-
 1526 up equipment should have been installed in the exercise of reasonable engineering judgement to
 1527 prevent a bypass which occurred during normal periods of equipment downtime or preventive
 1528 maintenance. The administrator may approve an anticipated bypass, after receiving notification,
 1529 if the conditions for the allowance of bypass as described in this paragraph have been met.

1530
 1531
 1532 (AA) An upset constitutes an affirmative defense to an action brought
 1533 for noncompliance with technology based permit effluent limitations if the permittee can
 1534 demonstrate that: an upset occurred and that the permittee can identify the cause(s) of the upset;
 1535 the permitted facility was, at the time of the upset, being properly operated; the permittee
 1536 submitted notice of the upset as required in (W) above; In any enforcement proceeding, the
 1537 permittee seeking to establish the occurrence of an upset has the burden of proof.

1538
 1539 (BB) A reopener clause which states that additional or more stringent
 1540 permit requirements may be imposed, after following the procedures outlined in this regulation
 1541 for permit modifications, if any of the following conditions is found to be present:

1542
 1543 (I) The water quality standards of the receiving water(s) to
 1544 which the permittee discharges are modified in such a manner as to require effluent limits
 1545 different than those contained in the permit;

- 1546
1547 (II) A TMDL or watershed management plan is developed
1548 and approved by the department which calls for different effluent limitations than those contained
1549 in the permit;
1550
1551 (III) A TMDL or watershed management plan is revised and
1552 approved by the department which calls for different effluent limitations than those contained in
1553 the permit;
1554
1555 (IV) The use(s) of the receiving surface water of the state is
1556 impaired and the permitted facility is contributing to the impairment;
1557
1558 (V) Water quality standards in the receiving surface waters
1559 of the state are no longer achieved as a result of the discharge and the effluent limitations
1560 established by the permit are being met;
1561
1562 (VI) The effluent limitations in the permit do not address a
1563 pollutant that has the potential to cause or contribute to a violation of a water quality standard;
1564
1565 (VII) Applicable technology based effluent limits are
1566 promulgated which are more stringent than those imposed by the permit; or
1567
1568 (VIII) An interstate compact or agreement on potential
1569 receiving waters is established.
1570
1571 (CC) A reopener provision for toxicity limitations which states that
1572 additional or more stringent permit requirements, a new compliance schedule, revisions to
1573 compliance dates set forth in the permit, changes to the whole effluent toxicity protocol, or any
1574 other conditions related to the control of toxicants may be imposed, following the procedures
1575 outlined in this regulation for permit modifications, if one or more of the following events occurs:
1576
1577 (I) Effluent toxicity was detected late in the life of the
1578 permit near or past the deadline for compliance;
1579
1580 (II) The results of a toxicity reduction evaluation indicate
1581 that compliance with the toxic limitations contained in the permit will require an implementation
1582 schedule past the date for compliance and the department agrees with the conclusion;
1583
1584 (III) The results of a toxicity reduction evaluation indicate
1585 that the toxicant(s) represent pollutant(s) that may be controlled with specific numeric effluent
1586 limitations and the department agrees that numeric controls are the most appropriate approach to
1587 controlling toxicity;
1588
1589 (IV) Following the implementation of numeric controls for a
1590 toxicant, the department agrees that a modified whole effluent toxicity protocol is necessary to
1591 compensate for those toxicants that are controlled numerically;

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(V) Other conditions or characteristics are identified through a toxicity reduction evaluation which justifies the incorporation of special conditions in the permit to address effluent toxicity.

(DD) For permits which do not require the submittal of monitoring result reports at least annually, the permittee shall report all instances of non-compliance not reported under the Section 5 (c) (i) (B), (P), (U), (V) or (W) at least annually.

(ii) Special conditions. In addition to conditions required in all permits, the administrator shall establish conditions, as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of the CWA, the Wyoming Environmental Quality Act, and applicable Wyoming Water Quality Rules and Regulations which have taken effect prior to final administrative disposition of the permit. Such conditions may include but are not limited to the following.

(A) Toxic effluent standards which, as a minimum, comply with those established under the CWA and may be modified in accordance with Section 5 (c) (i) (E), (BB) and (CC) and Section 12.

(B) Additional limitation(s) that may be required in order for the permittee to meet state water quality and treatment standards, implement TMDL requirements, achieve compliance with a plan approved pursuant to Section 208 (b) of the CWA, or attain or maintain a specified water quality through water quality related effluent limits established under Section 302 of the CWA.

(C) Any other requirements, including but not limited to monitoring points of compliance, water quality monitoring stations, flow monitoring stations and irrigation compliance points, that the administrator determines are necessary to carry out the provisions of W.S. 35-11-302 et seq. and to insure that water quality standards are met and waste load allocations prepared when required by the CWA.

(D) Where a compliance schedule is required in order to achieve any of the conditions described in Section 5 (c) (ii) (A), (B), or (C) above or to achieve compliance with an effluent limitation established as set forth in Section 5 (c) (iii), the following specific requirements will be met.

(I) Such schedule will, as a minimum, conform to any legally applicable schedule contained in any applicable effluent standard or water quality standard promulgated under federal or state authority. In the absence of any such legally applicable schedule, the administrator and permittee shall comply in the shortest reasonable period of time.

(II) In any case where the period of time for compliance exceeds nine (9) months, the schedule of compliance specified in the permit will set forth interim requirements and the dates for their achievement. In no event shall more than nine (9) months

1637 elapse between interim dates. To the extent practicable, the interim and final dates shall fall on
1638 the last day of the months of March, June, September, and December.

1639
1640 (III) The permittee will provide the administrator with written
1641 notice of the permittee's compliance or non-compliance with each interim and final date either
1642 before, or within 14 days after, such compliance date is reached.

1643
1644 (IV) If the permittee fails or refuses to comply with an
1645 interim or final requirement in a permit, such non-compliance shall constitute a violation of the
1646 permit, and the administrator may modify, or revoke the permit to take direct enforcement action.

1647
1648
1649 (V) Upon request of the permittee, the administrator may
1650 revise or modify a schedule of compliance for good and valid cause (such as an act of God, strike,
1651 flood, material shortage, or other event over which the permittee has little or no control).

1652
1653 (VI) On the last day of the month of February, May, August
1654 and November, the administrator shall transmit to the Regional Administrator of the EPA, a list
1655 of all instances, as of 30 days prior to the date of such report, of failure or refusal of a permittee to
1656 comply with an interim or final compliance requirement. Such list shall be available to the public
1657 for inspection and copying and include:

- 1658
1659 (1.) The name and address of non-complying
1660 permittee;
1661
1662 (2.) A short description of each instance of non-
1663 compliance;
1664
1665 (3.) Short description of any action proposed by the
1666 permittee or the administrator to achieve compliance; and
1667
1668 (4.) Any details that tend to explain or mitigate the
1669 non-compliance.

1670
1671 (E) Alternative schedules of compliance. A WYPDES permit
1672 applicant or permittee may cease conducting regulated activities (by terminating direct discharge
1673 for WYPDES sources) rather than continuing to operate and meet permit requirements as follows:

1674
1675 (I) If the permittee decides to cease conducting regulated
1676 activities at a given time within the term of a permit which has already been issued:

- 1677
1678 (1.) The permit may be modified to contain a new or
1679 additional schedule leading to timely cessation of activities; or
1680

1681 (2.) The permittee shall cease conducting permitted
1682 activities before non-compliance with any interim or final compliance schedule requirement
1683 already specified in the permit.

1684
1685 (II) If the decision to cease conducting regulated activities is
1686 made before issuance of a permit whose term will include the termination date, the permit shall
1687 contain a schedule leading to termination which will ensure timely compliance with applicable
1688 requirements no later than the statutory deadline.

1689
1690 (III) If the permittee is undecided whether to cease
1691 conducting regulated activities, the director may issue or modify a permit to contain two
1692 schedules as follows:

1693
1694 (1.) Both schedules shall contain an identical interim
1695 deadline requiring a final decision on whether to cease conducting regulated activities no later
1696 than a date which ensures sufficient time to comply with applicable requirements in a timely
1697 manner if the decision is to continue conducting regulated activities;

1698
1699 (2.) One schedule shall lead to timely compliance
1700 with applicable requirements, no later than the statutory deadline;

1701
1702 (3.) The second schedule shall lead to cessation of
1703 regulated activities by a date which will ensure timely compliance with applicable requirements
1704 no later than the statutory deadline.

1705
1706 (4.) Each permit containing two schedules shall
1707 include a requirement that after the permittee has made a final decision under Section 5 (c) (ii)
1708 (E) (III) the permittee shall follow the schedule leading to compliance if the decision is to
1709 continue conducting regulated activities, and follow the schedule leading to termination if the
1710 decision is to cease conducting regulated activities.

1711
1712 (F) Best management practices. Best management practices to
1713 control or abate the discharge of pollutants when:

1714
1715 (I) Authorized under Section 304 (e) of the CWA for the
1716 control of toxic pollutants and hazardous substances from ancillary industrial activities;

1717
1718 (II) Numeric effluent limitations are infeasible; or

1719
1720 (III) The practices are reasonably necessary to achieve
1721 effluent limitations and standards or to carry out the purposes and intent of these regulations.

1722
1723 (G) Grants. Any conditions imposed in federal grants to POTWs
1724 under Sections 201 and 204 of the CWA which are reasonably necessary for the achievement of
1725 effluent limitations required in accordance with these regulations.

1726

1727 (iii) Effluent limitations. Effluent limitations shall be determined for all
1728 permits based on the following considerations.

1729
1730 (A) Technology-based effluent limitations. Technology-based
1731 effluent limits shall be determined in accordance with 40 CFR 122.44 (a), 40 CFR 122.50, 40
1732 CFR 125, Subpart A, I and J and, for categorical industries adopted by EPA, 40 CFR Parts 405
1733 through 411, 413 through 433, 436, 437, 439, 440, 442 through, 447, 454, 455, 457 through 461,
1734 463 through 469, and 471.

1735
1736 (B) In addition to the technology-based effluent limitations described
1737 in Section 5 (c) (iii) (A), technology-based effluent limits shall be determined as follows:

1738
1739 (I) For discharges from new and existing POTWs as
1740 described in Appendix E.

1741
1742 (II) For CAFO point sources as described in Appendix G.

1743
1744 (III) For discharges from oil and gas production facilities as
1745 described in Appendix H.

1746
1747 (IV) For discharges from coal mines as described in
1748 Appendix J.

1749
1750 (V) For discharges containing toxic pollutants as described
1751 in Appendix N.

1752
1753 (C) Water quality based effluent limitations. For facilities where
1754 discharge to surface waters of the state is not prohibited subject to the provisions of technology
1755 based effluent limitations as determined in Section 5 (c) (iii) (A) and (B), water quality-based
1756 effluent limits shall be determined when requirements in addition to, or more stringent, than
1757 technology based effluent limitations are necessary to ensure that violations of water quality
1758 standards do not occur. Such effluent limitations shall be determined based on standards adopted
1759 pursuant to Wyoming Water Quality Rules and Regulations, Chapter 1 and the applicable
1760 provisions of Wyoming Water Quality Rules and Regulations, Chapter 6.

1761
1762 (I) Water quality based effluent limitations shall be
1763 established for constituents in discharges determined to have a reasonable potential of adversely
1764 impacting uses of surface waters of the state or of causing violations of water quality standards.
1765 When making reasonable potential determinations, the administrator shall consider the following:

1766
1767 (1.) Existing controls on point and non-point sources
1768 of pollution;

1769
1770 (2.) The variability of the pollutant or pollutant
1771 parameter in the effluent;

1772

1773 (3.) For evaluating whole effluent toxicity, the
1774 sensitivity of the species to toxicity testing; and
1775
1776 (4.) Where appropriate, the dilution of the effluent in
1777 the receiving water.
1778
1779 (5.) Applicable designated uses and water quality
1780 standards.
1781
1782 (II) Where numeric criteria are promulgated for the receiving
1783 surface waters of the state, the administrator will determine, using the most stringent numeric
1784 standard appropriate to the receiving surface waters of the state, water quality based effluent
1785 limitations based on one of the following methods:
1786
1787 (1.) Effluent limitations described in Section 5 (c)
1788 (iii) (C) (II) (2.) and (3.) shall be established only after having taken into account the following
1789 requirements of Wyoming Water Quality Rules and Regulations, Chapter 1:
1790
1791 a. Mixing zones; and
1792
1793 b. Antidegradation
1794
1795 (2.) Where loading limitations can be instituted on
1796 the receiving surface waters of the state through the implementation of limitations on effluent
1797 volumes and concentrations for discharges to the receiving surface waters of the state, effluent
1798 limitations shall be determined based on mass balance calculations where dilution by water in the
1799 receiving surface waters of the state is considered.
1800
1801 (3.) Where the administrator determines that it is
1802 impractical to establish limitations on effluent volumes for discharges to receiving surface waters
1803 of the state, concentration-based effluent limitations shall be established. In no case shall a
1804 concentration-based effluent limitation be established which exceeds the most stringent of the
1805 numeric water quality standards established to protect the designated uses of the receiving surface
1806 waters of the state.
1807
1808 (III) Where an evaluation for reasonable potential indicates
1809 limitations based on narrative water quality standards promulgated under Wyoming Water
1810 Quality Rules and Regulations, Chapter 1, effluent limitations addressing the limitations of the
1811 narrative standards will be included in the permit.
1812
1813 (IV) Where the administrator determines that an effluent
1814 constituent has the reasonable potential to adversely impact a designated use of receiving surface
1815 waters of the state and no numeric standard has been promulgated in Wyoming Water Quality
1816 Rules and Regulations, Chapter 1 for the constituent, the administrator may establish a numeric
1817 effluent limitation based on values derived from appropriate scientific methods.
1818

1819 (D) In the case of POTWs, permit effluent limitations, standards, or
1820 prohibitions shall be calculated based on design flow.

1821
1822 (E) Except in the case of POTWs or as provided in Section 5 (c) (i)
1823 (E), calculation of any permit limitations, standards, or prohibitions which are based on
1824 production (or other measure of operation) shall be based not upon the designed production
1825 capacity but rather upon a reasonable measure of actual production of the facility. For new
1826 sources or new dischargers, actual production shall be estimated using projected production. The
1827 time period of the measure of production shall correspond to the time period of the calculated
1828 permit limitations; for example, monthly production shall be used to calculate average monthly
1829 discharge limitations.

1830
1831
1832 (F) All permit effluent limitations, standards, or prohibitions for a
1833 metal shall be expressed in terms of “total recoverable metal” as defined in 40 CFR Part 136
1834 unless;

1835
1836 (I) The applicable water quality standard described in
1837 Wyoming Water Quality Rules and Regulations, Chapter 1 is based on the dissolved form;

1838
1839 (II) An applicable effluent standard or limitation has been
1840 promulgated under these regulations and specifies the limitation for the metal in the dissolved or
1841 valenti or total form;

1842
1843 (III) In establishing permit limitations on a case-by-case basis
1844 under Section 5 (c) (iii) of these regulations it is necessary to express the limitation on the metal
1845 in the dissolved or valenti or total form to carry out the provisions of these regulations; or

1846
1847 (IV) All approved analytical methods for the metal inherently
1848 measure only its dissolved form (e.g., hexavalent chromium).

1849
1850 (G) For continuous discharges (discharges that occur without
1851 interruption throughout the operating hours of the facility, except for infrequent shutdowns for
1852 maintenance, process changes, or other similar activities) all permit effluent limitations,
1853 standards, and prohibitions, including those necessary to achieve water quality standards, shall
1854 unless impracticable be stated as:

1855
1856 (I) Daily maximum and average monthly discharge
1857 limitations for all dischargers other than POTWs; and

1858
1859 (II) Average weekly and average monthly discharge
1860 limitations for POTWs.

1861
1862 (H) Discharges which are not continuous shall be particularly
1863 described and limited, considering the following factors as appropriate:

1864

- 1865 (I) Frequency (for example, a batch discharge shall not
1866 occur more than once every three (3) weeks);
1867
- 1868 (II) Total mass (for example, not to exceed 100 kilograms of
1869 zinc and 200 kilograms of chromium per batch discharge);
1870
- 1871 (III) Maximum rate of discharge of pollutants during the
1872 discharge (for example, not to exceed two (2) kilograms of zinc per minute); and
1873
1874
- 1875 (IV) Prohibition or limitation of specified pollutants by mass,
1876 concentration or other appropriate measure (for example, shall not contain at any time more than
1877 0.1 mg/l zinc or more than 250 grams (1/4 kilogram) of zinc in any discharge).
1878
- 1879 (I) Mass limitations.
- 1880
- 1881 (I) All pollutants limited in permits shall have limitations,
1882 standards or prohibitions expressed in terms of mass except:
1883
- 1884 (1.) For pH, temperature, radiation, or other
1885 pollutants which cannot appropriately be expressed by mass;
1886
- 1887 (2.) When applicable standards and limitations are
1888 expressed in terms of other units of measurement; or
1889
- 1890 (3.) If an applicable effluent standard or limitation
1891 has been promulgated under these regulations and limitations expressed in terms of mass are
1892 infeasible because the mass of the pollutant discharged cannot be related to a measure of
1893 operation (for example, discharges of total suspended solids [TSS] from certain mining
1894 operations), and permit conditions ensure that dilution will not be used as a substitute for
1895 treatment.
1896
- 1897 (II) Pollutants limited in terms of mass additionally may be
1898 limited in terms of other units of measurement, and the permit shall require the permittee to
1899 comply with both limitations.
1900
- 1901 (J) Pollutants in intake water.
- 1902
- 1903 (I) Credit shall be granted only if the discharger
1904 demonstrates that the intake water is drawn from the same body of water into which the discharge
1905 is made.
1906
- 1907 (II) Upon request of the discharger, technology-based
1908 effluent limitations or standards shall be adjusted to reflect credit for pollutants in the
1909 discharger=s intake water if:
1910

1911 (1.) The applicable effluent limitations and standards
1912 contained in Section 5 (c) (iii) of these regulations provide that they shall be applied on a net
1913 basis; or

1914
1915 (2.) The discharger demonstrates that the control
1916 system it proposes or uses to meet applicable technology-based limitations and standards would,
1917 if properly installed and operated, meet the limitations and standards in the absence of pollutants
1918 in the intake waters.

1919
1920 (III) Credit for generic pollutants such as biochemical oxygen
1921 demand (BOD5) or TSS shall not be granted unless the permittee demonstrates that the
1922 constituents of the generic measure in the effluent are substantially similar to the constituents of
1923 the generic measure in the intake water or unless appropriate additional limits are placed on
1924 process wastewater pollutants either at the outfall or elsewhere.

1925
1926 (IV) Credit shall be granted only to the extent necessary to
1927 meet the applicable limitation or standard, up to a maximum value equal to the influent value.
1928 Additional monitoring may be necessary to determine eligibility for credits and compliance with
1929 permit limits.

1930
1931 (K) Internal waste streams.

1932
1933 (I) When permit effluent limitations or standards imposed at
1934 the point of discharge are impractical or infeasible, effluent limitations or standards for discharges
1935 or pollutants may be imposed on internal waste streams before mixing with other waste streams
1936 or cooling water streams. In those instances, the monitoring required by Section 5 (c) or other
1937 applicable provisions of these regulations shall also be applied to the internal waste streams.

1938
1939 (II) Limits on internal waste streams will be imposed only
1940 when the fact sheet sets forth the exceptional circumstances which make such limitations
1941 necessary, such as when the final discharge point is inaccessible (for example, under ten [10]
1942 meters of water), the wastes at the point of discharge are so diluted as to make monitoring
1943 impracticable, or the interferences among pollutants at the point of discharge would make
1944 detection or analysis impracticable.

1945
1946 (L) After making the considerations described in Section 5 (c) (iii)
1947 (A), (B) and (C), the administrator shall establish in the draft permit the most stringent of the
1948 effluent limitations of those derived.

1949
1950 (M) Effluent limitations cannot be incorporated into modified or
1951 reissued permits which violate anti-backsliding provisions of Section 402 (o) of the CWA.

1952
1953 (N) If any applicable toxic effluent standard or prohibition (including
1954 any schedule of compliance specified in such effluent standard or prohibition) is promulgated
1955 under W.S.35-11-302 or Wyoming Water Quality Rules and Regulations, Chapters 1 and 2 for a
1956 toxic pollutant and that standard or prohibition is more stringent than any limitation on the

1957 pollutant in the permit, the director shall institute proceedings under these regulations to modify
1958 or revoke and reissue the permit to conform to the toxic effluent standard or prohibition.

1959
1960 (O) When the department determines, using the procedures in
1961 Section 5 (c) (iii) (C) (I) and (II), that a discharge causes, has the reasonable potential to cause, or
1962 contributes to an in-stream excursion above the numeric standard for whole effluent toxicity, if
1963 any such criterion has been adopted, the permit must contain effluent limits for whole effluent
1964 toxicity.

1965
1966 (P) Except as provided in this subparagraph, when the department
1967 determines, using the procedures in Section 5 (c) (iii) (C), toxicity testing data, or other
1968 information, that a discharge causes, has the reasonable potential to cause, or contributes to an in-
1969 stream violation of a narrative water quality standard, the permit shall contain limitations, which
1970 include effluent limits, for whole effluent toxicity. Such limitations are to be derived by the
1971 department and based upon the department=s determination of what constitutes an acceptable
1972 level of whole effluent toxicity. Limits on whole effluent toxicity are not necessary where the
1973 department determines, using the procedures in Section 5 (c) (iii) (C), that chemical-specific
1974 limits for the effluent are sufficient to attain and maintain applicable numeric and narrative water
1975 quality standards.

1976
1977 (Q) Unless otherwise stated in the permit, effluent limitations shall
1978 be met at the outfall from the final treatment unit prior to admixture with water in the receiving
1979 surface waters of the state or with effluent from other outfalls.

1980
1981 (iv) Application of standards.

1982
1983 (A) In the application of those standards described in Section 5 (c)
1984 (ii) (B) and (C), and Section 5 (c) (iii), the administrator shall specify:

1985
1986 (I) The daily average and maximum quantitative limitations
1987 for the level of allowable pollution and/or waste in an authorized discharge in terms of weight,
1988 where applicable;

1989
1990 (II) The basis for calculation of effluent limitations;

1991
1992 (III) Self-monitoring, reporting, and recording requirements
1993 for each authorized discharge as promulgated in Section 5 (c) (v).

1994
1995 (B) The owner of a publicly owned treatment works shall require any
1996 industrial user of such works to comply with the following:

1997
1998 (I) Any system of user charges instituted by the owner
1999 (permittee) shall insure that each recipient of waste treatment services will pay its proportionate
2000 share of the costs of the operation and maintenance of the publicly owned treatment works;

2001

2002 (II) Any toxic or pretreatment standards established under
2003 Sections 5 (c) (ii) (A) and 5 (c) (iii) (O) and (P) of these regulations and any schedule required to
2004 achieve compliance with those standards; and
2005
2006 (III) Shall allow the permittee and the administrator or his
2007 designated representative the same rights of entry, inspection, sampling, and copying provided for
2008 in Section 5 (c) (i) (F).
2009
2010 (v) Monitoring, recording, and reporting.
2011
2012 (A) All permits shall specify required monitoring including type,
2013 intervals, and frequency sufficient to yield data which are representative of the monitored activity
2014 including, when appropriate, continuous monitoring. Monitoring results required by the permit
2015 shall be reported on a discharge monitoring report (DMR) or other forms provided or specified by
2016 the division.
2017
2018 (B) Any discharge authorized by a permit shall be subject to such
2019 monitoring requirements as may be required by the administrator including the installation, use,
2020 and maintenance of monitoring equipment.
2021
2022 (C) Any major facility authorized by a permit, or for which
2023 monitoring is requested in writing by the Regional Administrator of the EPA, or which contains
2024 toxic pollutants for which an effluent standard has been promulgated pursuant to these
2025 regulations, shall be monitored at intervals sufficiently frequent to characterize the discharge, for
2026 the following:
2027
2028 (I) Flow;
2029
2030 (II) All of the following pollutants:
2031
2032 (1.) Pollutants which are subject to reduction or
2033 elimination by the terms of the permit;
2034
2035 (2.) Pollutants which the administrator finds could
2036 have an impact on the surface waters of the state;
2037
2038 (3.) Pollutants specified by the Administrator of the
2039 EPA as subject to monitoring; and
2040
2041 (4.) Any pollutants, in addition to those above, that
2042 the Regional Administrator of the EPA requests in writing be monitored.
2043
2044 (D) The permittee shall maintain records of all information resulting
2045 from monitoring activities required by his permit for a period of three (3) years, or for a longer
2046 period if so requested by the administrator, or Regional Administrator of the EPA. Such records
2047 shall include, but are not limited to, the following:

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- (I) The date, location, and time of the sampling;
- (II) The dates and by whom analyses were performed;
- (III) Analytical techniques used;
- (IV) The results of such analyses;
- (V) Name of the person collecting the sample(s);
- (VI) Sampling handling and preservation conducted; and
- (VII) Detection limits for analyses conducted.

(E) Unless otherwise approved by the administrator, the permittee shall be required to periodically report, at a frequency of not less than once per year, to the administrator, on the proper forms, the results of any monitoring required by the permit. In addition, the administrator may require the submission of such additional monitoring information he may consider necessary. Where applicable, the procedures specified will be consistent with any national program specified by the Administrator of the EPA in regulations promulgated under the CWA.

(F) All reports required by permits and other information requested by the administrator shall be signed and certified as described in Section 14 of these regulations.

(G) Sample collection and analyses shall be conducted in accordance with 40 CFR 136, unless otherwise specified in these regulations.

(H) Any person falsifying, tampering with, or knowingly rendering inaccurate any monitoring device or method required to be maintained under this permit is a violation of the permit, these regulations and the Wyoming Environmental Quality Act.

Section 6. Storm Water Discharges.

The following process shall be used in the application for development of and issuance of storm water discharge permits and for identifying storm water discharges covered by this rule.

(a) Deadlines to apply.

(i) Except as provided in Section 6 (b), for any storm water discharge associated with large construction activity as described in Section 6 (f) (i) or industrial activity as identified in Section 6 (g) in place prior to the effective date of this rule, should have made application to the administrator by October 1, 1992; prior to initiation of the activity or in accordance with Section 4 (o) (i) (B) of these regulations.

2092 (ii) For any storm water discharge associated with large or small
2093 construction activities or industrial activities from a facility that is owned or operated by a
2094 municipality with a population of less than 100,000 that is not authorized by a general or
2095 individual permit, other than an airport, power plant, or sanitary landfill, a permit application
2096 must be submitted to the administrator by March 10, 2003.

2097
2098 (iii) Storm water discharges associated with small construction activity as
2099 described in Section 6 (f) (ii), that are not already authorized by a storm water general or
2100 individual permit, require permit authorization as of March 10, 2003, except;

2101
2102 (A) Storm water discharges subject to Section 4 (b) (v) which are not
2103 required to submit a NOI for coverage in accordance with the provisions of the applicable general
2104 permit, and

2105
2106 (B) Storm water discharges associated with small construction
2107 activity at oil and gas exploration, production, processing, and treatment operations or
2108 transmission facilities subject to the provisions of, Section 6 (a) (iv) of these regulations.

2109
2110 (iv) Storm water discharges associated with small construction activity at oil
2111 and gas exploration, production, processing, and treatment operations or transmission facilities,
2112 require permit authorization as of March 10, 2005.

2113
2114 (v) For any storm water discharge associated with regulated small MS4 as
2115 described in Section 6 (h) (i) and that is not authorized by a storm water general or individual
2116 permit, a permit application made pursuant to Section 6 (b) (iv) must be submitted to the
2117 administrator by March 10, 2003 or within 180 days of notice, unless the administrator grants a
2118 later date, if designated under Section 6 (h) (i) (C) or (D).

2119
2120 (vi) A permit application shall be submitted to the administrator within 60
2121 days of notice of a storm water discharge which the administrator determines contributes to a
2122 violation of a water quality standard or is a significant contributor of pollutants to surface waters
2123 of the state or where the administrator determines that storm water controls are needed for the
2124 discharge based on wasteload allocations that are part of TMDLs that address the pollutant(s) of
2125 concern; unless permission for a later date is granted by the administrator.

2126
2127 (b) Individual permit application. A complete application for an individual permit
2128 must contain, at a minimum, the following information, unless the administrator determines that
2129 certain items are unnecessary in accordance with Section 6 (c):

2130
2131 (i) General requirements of all applications:

2132
2133 (A) Name of the company, entity, or individual seeking a permit;

2134
2135 (B) Mailing address and telephone number of company, entity, or
2136 individual seeking permit;

2137

- 2138 (C) The facility name, location, and telephone number if applicable;
 2139
 2140 (D) Applicant status as federal, state, private, public, or other entity;
 2141
 2142 (E) Name and signature in accordance with the requirements of
 2143 Section 14 of this chapter;
 2144
 2145 (F) Authorization of a duly authorized representative under the
 2146 Signatory Requirements of Section 14 of these rules, where applicable;
 2147
 2148 (G) Location, expressed in latitude and longitude to the nearest 15
 2149 seconds, of the facility to be covered under the permit;
 2150
 2151 (H) Location, expressed as quarter/quarter, section, township, and
 2152 range, in the applicable Public Land Survey (PLS), of the facility to be covered under the permit;
 2153
 2154 (I) A description of the activities conducted by the applicant which
 2155 require it to obtain an WYPDES permit;
 2156
 2157 (ii) Individual permit application requirements for industrial activities.
 2158 Individual permit application requirements for industrial activities (not including large or small
 2159 construction activities as described in Section 6 (f). Except as provided in Section 6 (b) (iii) and
 2160 in Section 6 (g) (iv) (M) and (N), the operator of a storm water discharge associated with
 2161 industrial activity subject to this section shall provide, at a minimum:
 2162
 2163 (A) Up to four (4) SIC codes which best reflect the principal
 2164 products or services provided by the facility;
 2165
 2166 (B) A site map showing topography (or indicating the outline of
 2167 drainage areas served by the outfall(s) covered in the application if a topographic map is
 2168 unavailable) of the facility including: each of its drainage and discharge structures; the drainage
 2169 area of each storm water outfall; paved areas and buildings within the drainage area of each storm
 2170 water outfall; each past or present area used for outdoor storage or disposal of significant
 2171 materials; each existing structural control measure to reduce pollutants in storm water runoff;
 2172 materials loading and access areas; areas where pesticides, herbicides, soil conditioners and
 2173 fertilizers are applied; each of its hazardous waste treatment, storage or disposal facilities
 2174 (including each area not required to have a RCRA permit which is used for accumulating
 2175 hazardous waste under 40 CFR 262.34); each well where fluids from the facility are injected
 2176 underground; springs, and other surface water bodies which receive storm water discharges from
 2177 the facility;
 2178
 2179 (C) An estimate of the area of impervious surfaces (including paved
 2180 areas and building roofs), the total area drained by each outfall and a narrative description of the
 2181 following: significant materials that in the three (3) years prior to the submittal of this application
 2182 have been treated, stored or disposed in a manner to allow exposure to storm water; method of
 2183 treatment, storage or disposal of such materials; materials management practices employed, in the

2184 three (3) years prior to the submittal of this application to minimize contact by these materials
 2185 with storm water runoff; materials loading and access areas; the location, manner and frequency
 2186 in which pesticides, herbicides, soil conditioners and fertilizers are applied; the location and a
 2187 description of existing structural and non-structural control measures to reduce pollutants in storm
 2188 water runoff; and, a description of the treatment the storm water receives, including the ultimate
 2189 disposal of any solid or fluid wastes other than by discharge;

2190
 2191 (D) A certification that all outfalls that should contain storm water
 2192 discharges associated with industrial activity have been tested or evaluated for the presence of
 2193 non storm water discharges which are not covered by a permit. Tests for such non storm water
 2194 discharges may include smoke tests, fluorometric dye tests, analysis of accurate schematics, as
 2195 well as other appropriate tests. The certification shall include a description of the method used,
 2196 the date of any testing, and the on site drainage points that were directly observed during a test;

2197
 2198 (E) Existing information regarding significant leaks or spills of toxic
 2199 or hazardous pollutants at the facility that have taken place within the three (3) years prior to the
 2200 submittal of this application;

2201
 2202 (F) Quantitative data based on samples collected during storm events
 2203 and collected in accordance with Section 6 (b) (ii) (G) from all outfalls containing storm water
 2204 discharge associated with industrial activity for the following parameters, except when waived by
 2205 the administrator under the provisions of Section 6 (c) of these regulations.

2206
 2207 (I) Any pollutant limited in an effluent guideline to which
 2208 the facility is subject;

2209
 2210 (II) Any pollutant listed in the facility's WYPDES permit for
 2211 its process wastewater (if the facility is operating under an existing WYPDES permit);

2212
 2213 (III) Oil and grease, pH, BOD5, COD, TSS, total phosphorus,
 2214 total Kjeldahl nitrogen, and nitrate plus nitrite nitrogen;

2215
 2216 (IV) Information on the discharge required under Appendix B
 2217 (a) (vi) of these regulations;

2218
 2219 (V) Flow measurements or estimates of the flow rate, the
 2220 total amount of discharge for the storm event(s) sampled, and the method of flow measurement or
 2221 estimation; and

2222
 2223 (VI) The date and duration (in hours) of the storm event(s)
 2224 sampled, rainfall measurements or estimates of the storm event (in inches) which generated the
 2225 sampled runoff and the duration between the storm event sampled and the end of the previous
 2226 measurable (greater than 0.1 inch rainfall) storm event (in hours).

2227
 2228 (G) Sampling storm water discharges.

2229

2230 (I) All samples shall be collected from the discharge
 2231 resulting from a storm event that is greater than 0.1 inch and at least 72 hours from the previously
 2232 measurable (greater than 0.1 inch rainfall) storm event. Where feasible, the variance in the
 2233 duration of the event and the total rainfall of the event should not exceed 50 percent from the
 2234 average or median rainfall event in that area.

2235
 2236 (II) For all applicants, a flow weighted composite shall be
 2237 taken for either the entire discharge or for the first three hours of the discharge. The flow
 2238 weighted composite sample for a storm water discharge may be taken with a continuous sampler
 2239 or as a combination of a minimum of three sample aliquots taken in each hour of discharge for the
 2240 entire discharge or for the first three (3) hours of the discharge, with each aliquot being separated
 2241 by a minimum period of 15 minutes.

2242
 2243 (III) A minimum of one grab sample may be taken for storm
 2244 water discharges from holding ponds or other impoundments with a retention period greater than
 2245 24-hours.

2246
 2247 (IV) For a flow weighted composite sample, only one
 2248 analysis of the composite of aliquots is required.

2249
 2250 (V) For storm water discharge samples taken from
 2251 discharges associated with industrial activities, quantitative data must be reported for the grab
 2252 sample taken during the first thirty minutes (or as soon thereafter as practicable) of the discharge
 2253 for all pollutants specified in Section 6 (b) (ii) (F).

2254
 2255 (VI) The director may allow or establish appropriate site
 2256 specific sampling procedures or requirements, including sampling locations, the season in which
 2257 the sampling takes place, the minimum duration between the previous measurable storm event
 2258 and the storm event sampled, the minimum or maximum level of precipitation required for an
 2259 appropriate storm event, the form of precipitation sampled (snow melt or rain fall), protocols for
 2260 collecting samples under 40 CFR136 of federal regulations, and additional time for submitting
 2261 data on a case by case basis.

2262
 2263 (VII) An applicant is expected to “know or have reason to
 2264 believe” that a pollutant is present in an effluent based on an evaluation of the expected use,
 2265 production, or storage of the pollutant, or on any previous analyses for the pollutant. (For
 2266 example, any pesticide manufactured by a facility may be expected to be present in contaminated
 2267 storm water runoff from the facility.)

2268
 2269 (H) Operators of new sources or new discharges (as defined in
 2270 Section 3) which are composed entirely of storm water must include estimates for the pollutants
 2271 or parameters listed in Section 6 (b) (ii) (F) instead of actual sampling data, along with the source
 2272 of each estimate. Operators of new sources or new discharges composed in part or entirely of
 2273 storm water must provide quantitative data for the parameters listed in paragraph Section 6 (b) (ii)
 2274 (F) of this section within two (2) years after commencement of discharge, unless such data has

2275 already been reported under the monitoring requirements of the WYPDES permit for the
2276 discharge.

2277

2278 (iii) Individual permit application requirements for large and small
2279 construction activities. When required to obtain coverage under an individual WYPDES storm
2280 water permit, the operator of an existing or new storm water discharge that is associated with
2281 large construction activity under Section 6 (f) (i) or small construction activity under Section 6 (f)
2282 (ii) shall, at a minimum, provide a narrative description of:

2283

2284 (A) The location (including a map) and the nature of the construction
2285 activity;

2286

2287 (B) The total area of the site and the area of the site that is expected
2288 to undergo excavation during the life of the permit;

2289

2290 (C) Proposed measures, including best management practices, to
2291 control pollutants in storm water discharges during construction, and a brief description of
2292 applicable state and local erosion and sediment control requirements;

2293

2294 (D) Proposed measures to control pollutants in storm water
2295 discharges that will occur after construction operations have been completed, including a brief
2296 description of applicable state or local erosion and sediment control requirements;

2297

2298 (E) The increase in impervious area after the construction addressed
2299 in the permit application is completed, the nature of fill material and existing data describing the
2300 soil or the quality of the discharge; and

2301

2302 (F) The name of the receiving water.

2303

2304 (iv) Individual permit application requirements for regulated small MS4s.

2305

2306 (A) The application requirements of Section 4 (o) (iii); and

2307

2308 (B) The operator of an existing or new storm water discharge from a
2309 regulated small MS4 under Section 6 (h) shall, at a minimum, provide a narrative description of:

2310

2311 (I) A general description of the best management practices
2312 (BMPs) that the permittee or another municipality will implement for each of the storm water
2313 minimum control measures at Section 6 (j) (i);

2314

2315 (II) The measurable goals for each of the selected BMPs
2316 including, as appropriate, the months and years in which the permittee will undertake required
2317 actions, including interim milestones and the frequency of the action;

2318

2319 (III) The person or persons responsible for implementing or
2320 coordinating the permittee=s storm water management program. A position, rather than an
2321 individual, may also be designated; and
2322

2323 (IV) A description of the funding sources expected for
2324 implementation of the permittee=s program.
2325

2326 (v) Additional information requirements. Applicants shall provide
2327 such other information the administrator may reasonably require to determine whether to issue a
2328 permit and the administrator may require any facility subject to Section 6 (b) (iii) to comply with
2329 Section 6 (b) (ii). The additional information may include additional quantitative data and
2330 bioassays to assess the relative toxicity of discharges to aquatic life and requirements to
2331 determine the cause of the toxicity.
2332

2333 (c) Waiver of application requirements. The administrator may waive any part of
2334 the application requirements contained in Section 6 (b) (ii) (F) and (H) when the applicant makes
2335 a conclusive demonstration to the administrator that certain parameters listed in Section 6 (b) (ii)
2336 (F) are not reasonably likely to be present in storm water discharges associated with the industrial
2337 activity.
2338

2339 (d) Reporting requirements.
2340

2341 (i) Requirements to report monitoring results for storm water discharges
2342 associated with industrial activity or large or small construction activity which are subject to an
2343 effluent guideline shall be established on a case-by-case basis with a frequency dependent on the
2344 nature and effect of the discharge, but in no case less than one (1) a year.
2345

2346 (ii) Requirements to report monitoring results for storm water discharges
2347 associated with industrial activity or large or small construction activity (other than those required
2348 in Section 6 (d) (i)) shall be established on a case-by-case basis with a frequency dependent on
2349 the nature and effect of the discharge. At a minimum, a permit for such a discharge must require:
2350

2351 (A) The discharger to conduct an annual inspection of the facility site
2352 to identify areas contributing to a storm water discharge associated with industrial activity or
2353 large or small construction activity and evaluate whether measures to reduce pollutant loadings
2354 identified in a storm water pollution prevention plan are adequate and properly implemented in
2355 accordance with the terms of the permit or whether additional control measures are needed;
2356

2357 (B) The discharger to maintain for a period of three years a record
2358 summarizing the results of the inspection, a certification that the facility is in compliance with the
2359 plan and the permit, and identification of any incidents of non-compliance;
2360

2361 (C) Such report and certification be signed in accordance with
2362 Section 14; and
2363
2364

2365 (D) Permits for storm water discharges associated with industrial
 2366 activity from inactive mining operations may, where annual inspections are impracticable, require
 2367 certification once every three years, that the facility is in compliance with the permit, or
 2368 alternative requirements.

2370 (iii) Permits which do not require the submittal of monitoring result
 2371 reports at least annually shall require that the permittee report all instances of non- compliance
 2372 with the terms and conditions of the permit under which the storm water discharges are covered at
 2373 least annually.

2374 (e) General permit application requirements. See Section 4 for
 2375 general permit application requirements for storm water discharges.
 2376

2377 (f) Regulated construction activities. The following discharges, composed entirely
 2378 of storm water and associated with construction activities, are point sources requiring an
 2379 WYPDES permit.
 2380

2381 (i) Storm water discharge associated with large construction activity means
 2382 the discharge of storm water from construction activities, including clearing, grading, and
 2383 excavating, that result in land disturbance of five (5) or more acres of total land area. Large
 2384 construction activity also includes the disturbance of less than five (5) acres of total land area that
 2385 is a part of a larger common plan of development or sale if the larger common plan will
 2386 ultimately disturb five (5) acres or more.
 2387

2388 (ii) A storm water discharge associated with small construction activity.
 2389

2390 (A) Storm water discharge associated with small construction
 2391 activity means the discharge of storm water from construction activities, including clearing,
 2392 grading, and excavating, that result in land disturbance of equal to or greater than one (1) acre and
 2393 less than five (5) acres. Small construction activity also includes the disturbance of less than one
 2394 (1) acre of total land area that is part of a larger common plan of development or sale, if the larger
 2395 common plan will ultimately disturb equal to or greater than one and less than five (5) acres.
 2396 Small construction activity does not include routine maintenance that is performed to maintain
 2397 the original line and grade, hydraulic capacity, or original purpose of the facility.
 2398

2399 (B) The administrator, at his discretion, may waive the otherwise
 2400 applicable requirements in a general permit, as described in Section 4, for a storm water discharge
 2401 from a small construction activity that disturbs less than five (5) acres where the value of the
 2402 rainfall erosivity factor ($>R$ in the Revised Universal Soil Loss Equation) is less than five (5)
 2403 during the period of construction activity. The rainfall erosivity factor must be determined in
 2404 accordance with Chapter 2 of the *Agriculture Handbook Number 703, Predicting Soil Erosion by*
 2405 *Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation*
 2406 *(RUSLE)*, pages 21-64, dated January 1997 or a similar state-approved method. The operator or
 2407 owner must certify to the administrator that the construction activity will only take place during a
 2408 period when the value of the rainfall erosivity factor is less than five (5). If unforeseeable
 2409 conditions occur that are outside of the control of the applicant for a waiver, and that will extend
 2410

2411 the construction activity beyond the dates initially applied for, the owner or operator must reapply
2412 for the waiver or obtain coverage under a general permit for storm water discharges. The waiver
2413 re-application or permit application must be submitted within two (2) business days after the
2414 unforeseeable condition becomes known. This waiver does not relieve the operator or owner
2415 from complying with requirements of local agencies.

2416

2417 (iii) Any construction activity designated by the administrator, based on the
2418 potential for contribution to a violation of a water quality standard or for significant contribution
2419 of pollutants to surface waters of the state or where the administrator determines that storm water
2420 controls are needed for the discharge based on wasteload allocations that are part of TMDLs that
2421 address the pollutants of concern.

2422

2423 (iv) A storm water discharge associated with small or large construction
2424 activities that are owned or operated by a municipality with a population of less than 100,000
2425 (based on the 1990 census).

2426

2427 (v) For storm water discharges associated with large and/or small
2428 construction activities from point sources which discharge through a non-municipal or non-
2429 publicly owned separate storm sewer system, the director, at his discretion, may issue: a single
2430 WYPDES permit, with each discharger a co permittee to a permit issued to the operator of the
2431 portion of the system that discharges into surface waters of the state; or, individual permits to
2432 each discharger of storm water associated with large and/or small construction activity through
2433 the non municipal conveyance system.

2434

2435 (A) Each facility with a storm water discharge to a storm water
2436 discharge system that is not an MS4 shall be covered by a WYPDES permit, or a permit issued to
2437 the operator of the portion of the system that discharges to surface waters of the state, with each
2438 discharger to the non municipal conveyance a co permittee to that permit.

2439

2440 (B) Where there is more than one (1) operator of a single system of
2441 such conveyances, all operators of storm water discharges associated with industrial activity must
2442 submit applications.

2443

2444 (C) Any permit covering more than one (1) operator shall identify
2445 the effluent limitations, or other permit conditions, if any, that apply to each operator.

2446

2447 (g) Regulated industrial activities. Discharges composed entirely of storm water and
2448 associated with industrial activities are point sources requiring a WYPDES permit.

2449

2450 (i) "Storm water discharge associated with industrial activity" means the
2451 discharge from any conveyance which is used for collecting and conveying storm water and
2452 which is directly related to manufacturing, processing, or raw materials storage areas at an
2453 industrial plant. The term does not include discharges from facilities or activities excluded from
2454 the WYPDES program under these regulations.

2455

2456

2457 (A) For the categories of industries identified in Section 6 (g) (ii) (A)
 2458 through (I), the term "storm water discharge associated with industrial activity" includes, but is
 2459 not limited to, storm water discharges from industrial plant yards; immediate access roads and rail
 2460 lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-
 2461 products used or created by the facility; material handling sites; refuse sites; sites used for the
 2462 application or disposal of process waste waters; sites used for the storage and maintenance of
 2463 material handling equipment; sites used for residual treatment, storage, or disposal; shipping and
 2464 receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials,
 2465 and intermediate and final products; and areas where industrial activity has taken place in the past
 2466 and significant materials remain and are exposed to storm water. For the purposes of Section 6
 2467 (g), material handling activities include the storage, loading and unloading, transportation, or
 2468 conveyance of any raw material, intermediate product, final product or waste product.

2469
 2470 (B) The term excludes areas located on a plant site separate from the
 2471 plant=s industrial activities, such as office buildings and accompanying parking lots, as long as
 2472 the drainage from the excluded areas is not mixed with storm water drained from the industrial
 2473 areas described above.

2474
 2475 (ii) The following categories of facilities are considered to be engaging in
 2476 "industrial activity" for purposes of these regulations. (See Appendix A of these regulations for a
 2477 brief description of the SIC codes identified in this section.)
 2478

2479 (A) Facilities subject to federal storm water effluent limitations
 2480 guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR
 2481 Subchapter N (except facilities with toxic pollutant effluent standards which are excluded under
 2482 the "no exposure" provisions of Section 6 (g) (iii));
 2483

2484 (B) Facilities classified as Standard Industrial Classifications (SICs)
 2485 20 through 39 and 4221-25;
 2486

2487 (C) Facilities classified as Standard Industrial Classifications 10 and
 2488 12 through 14 including active or inactive mining operations and oil and gas exploration,
 2489 production, processing, or treatment operations, or transmission facilities that discharge storm
 2490 water that has come into contact with any overburden, raw material, intermediate products,
 2491 finished products, byproducts or waste products located on the site of such operations; (inactive
 2492 mining operations are mining sites that are not being actively mined, but which have an
 2493 identifiable owner/operator. Inactive mining sites do not include sites where mining claims are
 2494 being maintained prior to disturbances associated with the extraction, beneficiation, or processing
 2495 of mined materials, nor sites where minimal activities are undertaken for the sole purpose of
 2496 maintaining a mining claim);
 2497

2498 Areas of coal mining operations no longer meeting the definition of a reclamation area
 2499 under 40 CFR 434.11 (1) because the performance bond issued to the facility by the appropriate
 2500 SMCRA (Surface Mining Control and Reclamation Act, 1977) authority has been released, or
 2501 areas of non-coal mining operations which have been released from applicable state or federal

2502 reclamation requirements after December 17, 1990 are not considered to be engaged in “industrial
 2503 activity” and do not require coverage under a WYPDES storm water permit;

2504
 2505 (D) Hazardous waste treatment, storage, or disposal facilities,
 2506 including those that are operating under interim status or a permit under Wyoming Hazardous
 2507 Waste Rules and Regulations;

2508
 2509 (E) Landfills, land application sites, and open dumps that receive or
 2510 have received any industrial wastes (waste that is received from activities associated with large or
 2511 small construction activity as described in Sections 6 (f) (i) and 6 (f) (ii) and industrial activities
 2512 as described in Section 6 (g) (ii)) including those that are subject to regulation under subtitle D of
 2513 RCRA;

2514
 2515 (F) Facilities involved in the recycling of materials, including metal
 2516 scrap yards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to
 2517 those classified as Standard Industrial Classification 5015 and 5093;

2518
 2519 (G) Steam electric power generating facilities, including coal
 2520 handling sites;

2521
 2522 (H) Transportation facilities classified as Standard Industrial
 2523 Classifications 40, 41, 42 (except 4221 25), 43, 44, 45, and 5171 which have vehicle maintenance
 2524 shops, equipment cleaning operations, or airport deicing operations. Only those portions of the
 2525 facility that are either involved in vehicle maintenance (including vehicle rehabilitation,
 2526 mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport
 2527 deicing operations, or which are otherwise identified under Section 6 (g) (ii) (A through G or I)
 2528 are associated with industrial activity;

2529
 2530 (I) Treatment works treating domestic sewage or any other sewage
 2531 sludge or wastewater treatment device or system, used in the storage treatment, recycling, and
 2532 reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage
 2533 sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more,
 2534 or required to have an approved pretreatment program under 40 CFR 403. Not included are farm
 2535 lands, domestic gardens or lands used for sludge management where sludge is beneficially reused
 2536 and which are not physically located in the confines of the facility, or areas that are in compliance
 2537 with section 405 of the CWA;

2538
 2539 (J) A storm water discharge associated with industrial activity from
 2540 a facility that is owned or operated by a municipality with a population of less than 100,000
 2541 (based on the 1990 census);

2542
 2543 (K) For storm water discharges associated with industrial activity
 2544 from point sources which discharge through a non-municipal or non-publicly owned separate
 2545 storm sewer system, the director, at his discretion, may issue: a single WYPDES permit, with
 2546 each discharger a co permittee to a permit issued to the operator of the portion of the system that

2547 discharges into surface waters of the state; or, individual permits to each discharger of storm
 2548 water associated with industrial activity through the non-municipal conveyance system.

2549
 2550 (I) Each facility with a storm water discharge to a storm
 2551 water discharge system that is not an MS4 shall be covered by a WYPDES permit, or a permit
 2552 issued to the operator of the portion of the system that discharges to surface waters of the state,
 2553 with each discharger to the non-municipal conveyance a co permittee to that permit.

2554
 2555 (II) Where there is more than one (1) operator of a single
 2556 system of such conveyances, all operators of storm water discharges associated with industrial
 2557 activity must submit applications.

2558
 2559 (III) Any permit covering more than one (1) operator shall
 2560 identify the effluent limitations, or other permit conditions, if any, that apply to each operator;

2561
 2562 (L) A WYPDES permit is not required for discharges of storm water
 2563 runoff from mining operations or oil and gas exploration, production, processing or treatment
 2564 operations or transmission facilities, composed entirely of flows which are from conveyances or
 2565 systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used
 2566 for collecting and conveying precipitation runoff and which are not contaminated by contact with
 2567 or that has not come into contact with, any overburden, raw material, intermediate products,
 2568 finished product, byproduct or waste products located on the site of such operations. This
 2569 paragraph applies only to the operation of these facilities. Construction of such facilities may
 2570 require a permit to discharge storm water as specified in Sections 6 (f) (i) and (ii);

2571
 2572 (M) The operator of an existing or new discharge composed entirely
 2573 of storm water from an oil or gas exploration, production, processing, or treatment operation, or
 2574 transmission facility is not required to submit a notice of intent in accordance with Section 4 or a
 2575 permit application in accordance with Section 6 (b), unless the facility:

2576
 2577 (I) Has had a discharge of storm water resulting in the
 2578 discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR
 2579 117.21 or 40 CFR 302.6 at anytime since November 16, 1987; or

2580
 2581 (II) Has had a discharge of storm water resulting in the
 2582 discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR
 2583 110.6 at any time since November 16, 1987; or

2584
 2585 (III) Contributes to a violation of a water quality standard; or

2586
 2587 (IV) Has been determined by the administrator that storm
 2588 water controls are needed for the discharge based on wasteload allocations that are part of
 2589 TMDLs that address the pollutants of concern.

2590
 2591 (V) The construction of such facilities may still qualify for
 2592 permit coverage under Section 6 (f).

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(N) The operator of an existing or new discharge composed entirely of storm water from a mining operation is not required to submit a permit application unless the discharge has come into contact with any overburden, raw material, intermediate products, finished product, byproduct or waste products located on the site of such operations; and

(O) Facilities that have been determined, by the administrator, to have the potential to contribute to a violation of a water quality standard or contribute pollutants to surface waters of the state that are part of a TMDL that address the pollutant(s) of concern.

(iii) Discharges composed entirely of storm water are conditionally excluded from storm water permitting by way of not meeting the definition of “storm water discharges associated with industrial activity” if there is “no exposure” of industrial materials and/or activities to precipitation, snowmelt and/or runoff, and the discharger satisfies the conditions in Section 6 (g) (iii) (A through D). “No exposure” means that all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to precipitation, snowmelt, and/ or runoff. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product.

(A) To qualify for this exclusion, the operator must:

(I) Provide a storm resistant shelter to protect industrial materials and activities from exposure to precipitation, snow melt, and runoff;

(II) Complete and sign, in accordance with Section 14 of these regulations, a certification that there are no discharges of storm water contaminated by exposure to industrial materials and activities from the entire facility, except as provided in Section 6 (g) (iii) (B);

(III) Submit the signed, updated certification to the administrator once every five (5) years;

(IV) Allow the administrator, and/or his authorized representative, upon the presentation of credentials, to inspect the facility to determine compliance with the “no exposure” conditions;

(V) Allow the administrator to make any “no exposure” inspection reports available to the public upon request;

(VI) For facilities that discharge through an MS4, submit a copy of the certification of “no exposure” to the MS4 operator, as well as allow inspection and public reporting by the MS4 operator, upon request; and

2639 (VII) Have adequate protections in place to assure that storm
2640 water discharges associated with industrial activity do not occur from secondary containment
2641 facilities.

2642
2643 (B) To qualify for this exclusion, a storm resistant shelter is not
2644 required for:

2645
2646 (I) Drums, barrels, tanks, and similar containers intended
2647 for the outdoor storage of the contained material, that are tightly sealed, provided those containers
2648 are not deteriorated and do not leak (“sealed” means banded or otherwise secured and without
2649 operational taps or valves), and are not otherwise a source of industrial pollutants;

2650
2651 (II) Adequately maintained vehicles used in material
2652 handling, that are not otherwise a source of industrial pollutants; and

2653
2654 (III) Final products, other than products that would be
2655 mobilized in storm water discharge (e.g., rock salt).

2656
2657 (C) The exclusion is subject to the following limitations:

2658
2659 (I) Storm water discharges from construction activities
2660 identified as small or large in Section 6 (f) are not eligible for this conditional exclusion.

2661
2662 (II) This conditional exclusion from the requirement for a
2663 state WYPDES permit is available on a facility-wide basis only, not for individual outfalls.

2664
2665 (III) If circumstances change and industrial materials or
2666 activities become exposed to precipitation, snow melt, and/or runoff, the conditions for this
2667 exclusion no longer apply. In such cases, the discharge becomes subject to enforcement for
2668 unpermitted discharge. Any conditionally excluded discharger who anticipates such a change in
2669 circumstances must apply for and obtain permit authorization prior to the change of
2670 circumstances.

2671
2672 (IV) Notwithstanding the provisions of this paragraph, the
2673 administrator retains the authority to require permit authorization (and deny this exclusion) upon
2674 making a determination that the discharge causes, has a reasonable potential to cause, or
2675 contributes to an instream excursion above an applicable water quality standard, including
2676 designated uses.

2677
2678 (D) The “no exposure” certification requires the submission of the
2679 following information, at a minimum, to aid the administrator in determining if the facility
2680 qualifies for the no exposure exclusion:

2681
2682 (I) The legal name, address and phone number of the
2683 discharger;

2684

2685 (II) The facility name and address, the county name and the
2686 location description using the public land survey system quarter/quarter, section, township, and
2687 range where the facility is located;

2688

2689 (III) The certification must indicate that none of the following
2690 materials or activities are, or will be in the foreseeable future, exposed to precipitation, snow
2691 melt, and/or runoff:

2692

2693 (1.) Using, storing or cleaning industrial machinery
2694 or equipment, and areas where residuals from using, storing or cleaning industrial machinery or
2695 equipment remain and are exposed to storm water;

2696

2697 (2.) Materials or residuals on the ground or in storm
2698 water inlets from spills/leaks;

2699

2700 (3.) Materials or products from past industrial
2701 activity;

2702

2703 (4.) Material handling equipment (except adequately
2704 maintained vehicles);

2705

2706 (5.) Materials or products during loading/unloading
2707 or transporting activities;

2708

2709 (6.) Materials or products stored outdoors (except
2710 final products intended for outside use, e.g., new cars, where exposure to storm water does not
2711 result in the discharge of pollutants);

2712

2713 (7.) Materials contained in open, deteriorated or
2714 leaking storage drums, barrels, tanks, and similar containers;

2715

2716 (8.) Materials or products handled/stored on roads or
2717 railways owned or maintained by the discharger;

2718

2719 (9.) Waste material (except waste in covered, non-
2720 leaking containers, e.g., dumpsters);

2721

2722 (10.) Application or disposal of process wastewater
2723 (unless otherwise permitted); and

2724

2725 (11.) Particulate matter or visible deposits of residuals
2726 from roof stacks/vents not otherwise regulated, i.e., under an air quality control permit, and
2727 evident in the storm water outflow.

2728

2729 (IV) All “no exposure” certifications must include the
2730 following certification statement, and be signed in accordance with the signatory requirements of
2731 Section 14 of these regulations:
2732

2733 “I certify under penalty of law that I have read and understand the eligibility requirements
2734 for claiming a condition of “no exposure” and obtaining an exclusion from state WYPDES storm
2735 water permitting; and that there are no discharges of storm water contaminated by exposure to
2736 industrial activities or materials from the industrial facility identified in this document (except as
2737 allowed under Wyoming Water Quality Rules and Regulations, Chapter 2 Section 6 (g) (iii) (B)).
2738 I understand that I am obligated to submit a no exposure certification form once every five (5)
2739 years to the administrator and, if requested, to the operator of the local MS4 into which this
2740 facility discharges (where applicable). I understand that I must allow the administrator, or MS4
2741 operator where the discharge is into the local MS4, to perform inspections to confirm the
2742 condition of no exposure and to make such inspection reports publicly available upon request. I
2743 understand that I must obtain coverage under a state WYPDES permit prior to any point source
2744 discharge of storm water from the facility. I certify under penalty of law that this document and
2745 all attachments were prepared under my direction or supervision in accordance with a system
2746 designed to assure that qualified personnel properly gathered and evaluated the information
2747 submitted. Based upon my inquiry of the person or persons who manage the system, or those
2748 persons directly involved in gathering the information, the information submitted is to the best of
2749 my knowledge and belief true, accurate and complete. I am aware there are significant penalties
2750 for submitting false information, including the possibility of fine and imprisonment for knowing
2751 violations.”
2752

2753 (h) Regulated small municipal separate storm sewer systems. Discharges composed
2754 entirely of storm water from regulated small municipal separate storm sewer systems (MS4s) are
2755 point sources requiring a WYPDES permit.
2756

2757 (i) Regulated small MS4s include:
2758

2759 (A) Systems located in an urbanized area as determined by the latest
2760 Decennial Census by the Bureau of the Census. (If the small MS4 is not located entirely within
2761 an urbanized area, only the portion that is within the urbanized area is regulated);
2762

2763 (B) Publicly owned systems similar to MS4s in municipalities, such
2764 as:
2765

2766 (I) Systems at military bases, and large education, hospital
2767 or prison complexes, if they are designed for a maximum daily user population (residents and
2768 individuals who come there to work or use the facilities) of at least 1,000, and are located in an
2769 urbanized area.
2770

2771 (II) Separate storm sewer systems associated with highways
2772 and thoroughfares within the boundary of an urbanized area.
2773

2774 (C) Small MS4s designated by the administrator, where the
2775 designation is pursuant to the following:

2776 (I) The administrator shall evaluate, at a minimum, any
2777 small MS4 located outside of an urbanized area serving a jurisdiction with a population density of
2778 at least 1,000 people per square mile and a population of at least 10,000 (based on the latest
2779 Decennial Census by the Bureau of the Census), to determine whether or not storm water
2780 discharges from the MS4 result in or have the potential to result in exceedances of water quality
2781 standards, including impairment of designated uses, or other significant water quality impacts,
2782 including habitat and biological impacts. The evaluation shall use the following elements, at a
2783 minimum:
2784

2785 (1.) Relationship to sensitive waters. For purposes
2786 of this section, sensitive waters means any class 1, 2AB, 2A or any impaired or threatened waters
2787 listed on the most recent 303 (d) list;
2788

2789 (2.) High growth potential. For purposes of this
2790 section a growth rate of 10% per decade or more will be considered a high rate of growth, the
2791 administrator may also consider other factors such as, but not limited to, sustainability of
2792 population increase, future projected growth, initial population size and population density.
2793

2794 (3.) Size of population and population density.
2795 Whether the MS4 is an MS4 that is not in an urbanized area and has a population of at least
2796 10,000 and a population density of 1,000 people per square mile;
2797

2798 (4.) Contiguity to an urbanized area; and
2799

2800 (5.) Significant contribution of pollutants, based on
2801 credible data, to surface waters of the state.
2802

2803 Based on this evaluation, if the administrator determines that storm water discharges
2804 from the MS4 result in or have the potential to result in exceedances of water quality standards,
2805 including impairment of designated uses, or other significant water quality impacts, including
2806 habitat and biological impacts, the administrator shall designate the MS4 as a regulated small
2807 MS4 to be covered under a state WYPDES storm water discharge permit. However, the MS4
2808 may provide information to the administrator on its existing storm water quality control
2809 programs, including any that are analogous to the six (6) minimum control measures under
2810 Section 6 (j) (i) (B). If the administrator determines that the MS4 has adequate controls for its
2811 storm water discharges, (i.e., is already implementing the applicable portions of the six (6)
2812 minimum measures), it will not be designated as a regulated small MS4 at that time.
2813

2814 (II) Other MS4s. The administrator may evaluate any other
2815 small MS4s other than those described in subsections (I) and (III) of this section, in order to
2816 determine whether or not storm water discharges from a small MS4 result in or have the potential
2817 to result in exceedances of water quality standards, including impairment of designated uses, or
2818 other significant water quality impacts, including habitat and biological impacts. The
2819

2820 administrator will place a high priority on evaluating small MS4s with a combined permanent and
2821 seasonal population (as determined by the official Census population plus the number of
2822 commercially advertised bed accommodations that will allow for an overnight stay, as listed
2823 through the chamber of commerce, or any local resort or property management companies) of
2824 over 10,000. Based on this evaluation, the administrator may designate the small MS4 as a
2825 regulated small MS4 to be covered under a state WYPDES storm water discharge permit at any
2826 time, as appropriate, using the elements shown in Section 6 (h) (i) (C) (I) above.
2827

2828 (III) The administrator shall designate any small MS4 that
2829 contributes substantially to the pollutant loadings of a physically interconnected municipal
2830 separate storm sewer that is designated as a regulated small MS4 to be covered under a state
2831 WYPDES storm water discharge permit.
2832

2833 (IV) Small MS4s may be designated by the administrator
2834 based upon Section 6 (h) (ii) (C).
2835

2836 (V) For any small MS4 that has been evaluated as per
2837 subsections (I) or (II) above, the administrator reserves the right to re-evaluate the MS4 if
2838 circumstances change or new information becomes available.
2839

2840 (D) A storm water discharge that the administrator determines
2841 contributes to a violation of a water quality standard or is a significant contributor of pollutants to
2842 surface waters of the state. This designation may include a discharge from any conveyance or
2843 system of conveyances used for collecting and conveying storm water runoff or a system of
2844 discharges from municipal separate storm sewers, except for those discharges from conveyances
2845 which do not require a permit under Section 6 (g) (iii) (L) or irrigation return flow which is
2846 exempted from the definition of point source in this regulation.
2847

2848 The administrator may designate discharges from a MS4 on a system-wide or
2849 jurisdiction-wide basis. In making this determination the administrator may consider the
2850 following factors:
2851

2852 (I) The location of the discharge with respect to surface
2853 waters of the state;
2854

2855 (II) The size of the discharge;
2856

2857 (III) The quantity and nature of the pollutants discharged to
2858 surface waters of the state; and
2859

2860 (IV) Other relevant factors.
2861

2862 (E) The administrator may designate discharges from municipal
2863 separate storm sewers where the administrator determines that storm water controls are needed
2864 for the discharge based on wasteload allocations that are part of TMDLs that address the
2865 pollutants of concern.

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(F) The administrator may issue permits for municipal separate storm sewer systems designated in Section 6 (h) (i) (C) (D) or (E) on a system-wide basis, jurisdiction-wide basis, watershed basis or other appropriate basis, or may issue permits for individual discharges.

(ii) The administrator may waive permit coverage for a small MS4 with a population under 1,000 within the urbanized area where both of the following criteria have been met:

(A) Its discharges are not known to be contributing substantially to the pollutant loadings of a physically interconnected regulated MS4 (see Section 6 (h) (i) (C) (III)); and

(B) The small MS4 does not discharge any pollutant(s) that have been identified as a cause of impairment of any water body to which it discharges and storm water controls are not needed based on wasteload allocations that are part of a local watershed plan or an EPA approved TMDL that addresses the pollutant(s) of concern.

(C) A small MS4 waived under this section may be designated if circumstances change or new information becomes available.

(iii) Whether or not a discharge from a municipal separate storm sewer is subject to regulation under this Section 6 (h) shall have no bearing on whether the owner or operator of the discharge is eligible for funding under Title II, Title III or Title VI of the CWA.

(i) Petitions.

(i) Any operator of a municipal separate storm sewer system may petition the director to require a separate WYPDES permit for any discharge into the municipal separate storm sewer system.

(ii) Any person may petition the director to require a WYPDES permit, where one does not already exist, for a discharge which is composed entirely of storm water which contributes to a violation of a water quality standard or is a significant contributor of pollutants to surface waters of the state.++

(iii) Any person may petition the director for the designation of a small MS4 as defined in these regulations.

(iv) The owner or operator of a municipal separate storm sewer system may petition the director to reduce the Census estimates of the population served by such separate system to account for storm water discharged to combined sewers as defined by 40 CFR 35.2005 (b) (11) that is treated in a publicly owned treatment works. In municipalities in which combined sewers are operated, the Census estimates of population may be reduced proportional to the fraction, based on estimated lengths, of the length of combined sewers over the sum of the length

2912 of combined sewers and municipal separate storm sewers where an applicant has submitted the
2913 WYPDES permit number associated with each discharge point and a map indicating areas served
2914 by combined sewers and the location of any combined sewer overflow discharge point.

2915

2916 (v) The director shall make a final determination on any petition received
2917 under this section within 90 days after receiving the petition with the exception of petitions to
2918 designate a small MS4, in which case the director shall make a final determination on the petition
2919 within 180 days after receipt of the petition.

2920

2921 (j) Conditions for municipal storm water permits.

2922

2923 (i) An individual permit issued under Section 6 or general permit
2924 authorization issued under Section 4 to a regulated small MS4 shall contain the following
2925 requirements, at a minimum:

2926

2927 (A) The MS4 permit will require that the regulated small MS4
2928 develop, implement, and enforce a storm water management program designed to reduce the
2929 discharge of pollutants from the MS4 to the maximum extent practicable, to protect water quality,
2930 and to satisfy the appropriate water quality requirements of the Wyoming Environmental Quality
2931 Act (W.S. 35-11-301 to 35-11-311). The storm water management program must include the
2932 minimum control measures described in Section 6 (j) (i) (B). Implementation of BMPs consistent
2933 with the provisions of the storm water discharge permit required pursuant to this section
2934 constitutes compliance with the standard of reducing pollutants to the maximum extent
2935 practicable.

2936

2937 The initial permit for the regulated small MS4 will specify a time period of up to five (5)
2938 years from the date of permit issuance for development and implementation of the program.

2939

2940 (B) Minimum control measures.

2941

2942 (I) Public education and outreach on storm water impacts.

2943 The permittee must implement a public education program to:

2944

2945 (1.) Distribute educational materials to the
2946 community or conduct equivalent outreach activities about the impacts of storm water discharges
2947 on water bodies and the steps that the public can take to reduce pollutants in storm water runoff;
2948 and

2949

2950 (2.) Inform public employees, businesses and the
2951 general public of impacts associated with illegal discharges and improper disposal of waste.

2952

2953 (II) Public involvement/participation. The permittee must, at
2954 a minimum, comply with any applicable state and local public notice requirements when
2955 implementing the storm water management programs required under the permit. Notice of all
2956 public hearings should be published in a community publication or newspaper of general

2957 circulation, to provide opportunities for public involvement that reach a majority of citizens
2958 through the notification process.

2959

2960 (III) Illicit discharge detection and elimination. The
2961 permittee must develop, implement and enforce a program to detect and eliminate illicit
2962 discharges (as defined in Section 3) into the permittee=s small MS4.

2963

2964 (1.) The permittee must:

2965

2966 a. Develop, if not already completed, a
2967 storm sewer system map, showing the location of all municipal storm sewer outfalls and the
2968 names and location of all surface waters of the state that receive discharges from those outfalls;

2969

2970 b. To the extent allowable under state or
2971 local law, effectively prohibit, through ordinance or other regulatory mechanism, non-storm water
2972 discharges into the storm sewer system, and implement appropriate enforcement procedures and
2973 actions; and

2974

2975 c. Develop and implement a plan to detect
2976 and address non-storm water discharges, including illicit discharges and illegal dumping, to the
2977 system. The plan must include the following three components: procedures for locating priority
2978 areas likely to have illicit discharges; procedures for tracing the source of an illicit discharge; and
2979 procedures for removing the source of the discharge.

2980

2981 (2.) The permittee shall address the following
2982 categories of non-storm water discharges or flows (i.e., illicit discharges) only if the permittee
2983 identifies them as significant contributors of pollutants to the permittee=s small MS4 discharges:
2984 landscape irrigation, lawn watering, diverted stream flows, irrigation return flow, rising
2985 groundwaters, groundwater infiltration (as defined at 40 CFR 35.2005(20)), pumped
2986 groundwater, springs, flows from riparian habitats and wetlands, water line flushing, discharges
2987 from potable water sources, foundation drains, air conditioning condensation, water from crawl
2988 space pumps, footing drains, individual residential car washing, dechlorinated swimming pool
2989 discharges, and street wash water (discharges or flows from fire fighting activities are excluded
2990 from the effective prohibition against non-storm water and need only be addressed where they are
2991 identified as significant sources of pollutants to surface waters of the state).

2992

2993 (IV) Construction site storm water runoff control.

2994

2995 (1.) The permittee must develop, implement, and
2996 enforce a program to reduce pollutants in any storm water runoff to the MS4 from construction
2997 activities that result in a land disturbance of greater than or equal to one acre. Reduction of
2998 pollutants in storm water discharges from construction activity disturbing less than one acre must
2999 be included in the program if that construction activity is part of a larger common plan of
3000 development or sale that would disturb one acre or more. If the administrator waives
3001 requirements for storm water discharges associated with a small construction activity in

3002 accordance with Section 6 (f) (ii) (B), the permittee is not required to develop, implement, and/or
3003 enforce its program to reduce pollutant discharges from such a site.

3004
3005 (2.) The program must be developed and
3006 implemented to assure adequate design, implementation, and maintenance of BMPs at
3007 construction sites within the MS4 to reduce pollutant discharges and protect water quality. The
3008 program must include the development and implementation of, at a minimum:

3009
3010 a. An ordinance or other regulatory
3011 mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to
3012 the extent allowable under state or local law;

3013
3014 b. Requirements for construction site
3015 operators to implement appropriate erosion and sediment control BMPs;

3016
3017 c. Requirements for construction site
3018 operators to control waste such as discarded building materials, concrete truck washout,
3019 chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to
3020 water quality;

3021
3022 d. Procedures for site plan review which
3023 incorporate consideration of potential water quality impacts;

3024
3025 e. Procedures for receipt and consideration
3026 of information submitted by the public, and

3027
3028 f. Procedures for site inspection and
3029 enforcement of control measures.

3030
3031 (V) Post-construction storm water management in new
3032 development and redevelopment.

3033
3034
3035 (1.) The permittee must develop, implement, and
3036 enforce a program to address storm water runoff from new development and redevelopment
3037 projects that disturb greater than or equal to one acre, including projects less than one acre that
3038 are part of a larger common plan of development or sale, that discharge into the small MS4. The
3039 program must ensure that controls are in place that would prevent or minimize water quality
3040 impacts.

3041
3042 (2.) The permittee must:

3043
3044 a. Develop and implement strategies which
3045 include a combination of structural and/or non-structural BMPs appropriate for the community;

3046

3047 b. Use an ordinance or other regulatory
3048 mechanism to address post-construction runoff from new development and redevelopment
3049 projects to the extent allowable under state or local law; and

3050
3051 c. Ensure adequate long-term operation
3052 and maintenance of BMPs.

3053
3054 (VI) Pollution prevention/good housekeeping for municipal
3055 operations. The permittee must develop and implement an operation and maintenance program
3056 that includes an employee training component and has the ultimate goal of preventing or reducing
3057 pollutant runoff from municipal operations. The program must also inform public employees of
3058 impacts associated with illegal discharges and improper disposal of waste from municipal
3059 operations. The program must prevent and/or reduce storm water pollution from facilities such as
3060 streets, roads, highways, municipal parking lots, maintenance and storage yards, fleet or
3061 maintenance shops with outdoor storage areas, salt/sand storage locations and snow disposal
3062 areas operated by the permittee, waste transfer stations, and from activities such as park and open
3063 space maintenance, fleet and building maintenance, street maintenance, new construction of
3064 municipal facilities, and storm water system maintenance, as applicable.

3065
3066 (C) If an existing qualifying local program requires the permittee to
3067 implement one or more of the minimum control measures of Section 6 (j) (i) (B), the
3068 administrator may include conditions in the permit that direct the permittee to follow that
3069 qualifying program=s requirements rather than the requirements of Section 6 (j) (i) (B). A
3070 qualifying local program is a local or state municipal storm water management program that
3071 imposes, at a minimum, the relevant requirements of Section 6 (j) (i) (B). The permit may be
3072 reopened and modified to include the requirement to implement a minimum control measure if
3073 the other entity fails to implement it.

3074
3075 (D) The permittee must comply with any more stringent effluent
3076 limitations in the permit, including permit requirements that modify, or are in addition to, the
3077 minimum control measures, based on an approved TMDL or equivalent analysis. The
3078 administrator may include more stringent limitations based on a TMDL or equivalent analysis
3079 that determines such limitations are needed to protect water quality.

3080
3081 (E) The permittee must comply with other applicable state WYPDES
3082 permit requirements, standards and conditions established in the individual or general permit,
3083 developed consistent with the provisions of Section 6 (b) or Section 4, as appropriate.

3084
3085 (F) A permittee may rely on another entity to satisfy its state
3086 WYPDES permit obligations to implement a minimum control measure, or component thereof if:

3087
3088 (I) The other entity, in fact, implements the control
3089 measure;

3090
3091 (II) The particular control measure, or component thereof, is
3092 at least as stringent as the corresponding WYPDES permit requirement; and

3093
3094 (III) The other entity agrees to implement the control measure
3095 on behalf of the permittee. The permittee must specify in reports submitted under Section 6 (j) (i)
3096 (G) (iii), that it relies on another entity to satisfy some of its permit obligations. If the permittee
3097 is relying on another entity, subject to these regulations, to meet all of its permit obligations,
3098 including the obligation to file periodic reports, it must note that fact in its NOI. The permittee
3099 remains responsible for compliance with its permit obligations if the other entity fails to
3100 implement the control measure (or component thereof).

3101
3102 (G) Evaluation and assessment.

3103
3104 (I) Evaluation. The permittee shall evaluate program
3105 compliance, the appropriateness of its identified BMPs, and progress towards achieving its
3106 identified measurable goals. A summary of this evaluation shall be included in the permittee=s
3107 annual report.

3108
3109 (II) Record keeping. The permittee must keep records
3110 required by the permit for at least three (3) years. The permittee must submit their records to the
3111 administrator only when specifically asked to do so. The permittee must make the records,
3112 including a description of the permittee=s storm water management program, available to the
3113 public at reasonable times during regular business hours. (The permittee may assess a reasonable
3114 charge for copying. The permittee may require a member of the public to provide advance
3115 notice.)

3116
3117 (III) Reporting. The permittee shall submit annual reports to
3118 the administrator for the permittee=s first permit term. For subsequent permit terms, reports must
3119 be submitted in years two (2) and four (4) unless the administrator requires more frequent
3120 reporting. The permittee=s report must include:

3121
3122 (1.) The status of compliance with permit conditions,
3123 an assessment of the appropriateness of the permittee=s identified BMPs and progress towards
3124 achieving the permittee=s identified measurable goals for each of the minimum control measures;

3125
3126 (2.) Results of information collected and analyzed,
3127 including monitoring data, if any, during the reporting period;

3128
3129 (3.) A summary of the storm water activities the
3130 permittee plans to undertake during the next reporting cycle;

3131
3132 (4.) A change in any identified BMPs or measurable
3133 goals for any of the minimum control measures; and

3134
3135 (5.) Notice that the permittee is relying on another
3136 governmental entity to satisfy some of the permittee=s permit obligations (if applicable).

3137

3138 (H) Any additional requirements as determined to be necessary by
3139 the administrator.

3140
3141 (ii) The administrator may determine monitoring requirements for the
3142 permittee in accordance with state monitoring plans appropriate to the permittee=s watershed.

3143
3144 (k) Qualifying programs. Qualifying state or local programs associated with
3145 municipal storm water permits.

3146
3147 (i) For storm water discharges associated with small construction activity
3148 identified in Section 6 (f) (ii) (A), the administrator may include permit conditions that
3149 incorporate qualifying state or local erosion and sediment control program requirements by
3150 reference. A qualifying state or local erosion and sediment control program is one that includes:

3151
3152 (A) Requirements for construction site operators to implement
3153 appropriate erosion and sediment control best management practices;

3154
3155 (B) Requirements for construction site operators to control waste
3156 such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste
3157 at the construction site that may cause adverse impacts to water quality;

3158
3159 (C) Requirements for construction site operators to develop and
3160 implement a storm water pollution prevention plan. (A storm water pollution prevention plan
3161 includes site descriptions, descriptions of appropriate control measures, copies of approved local
3162 requirements, maintenance procedures, inspection procedures, and identification of non-storm
3163 water discharges); and

3164
3165 (D) Requirements to submit a site plan for review that incorporates
3166 consideration of potential water quality impacts.

3167
3168 (ii) For storm water discharges from large construction activity identified in
3169 Section 6 (f) (i), the administrator may include permit conditions that incorporate qualifying state
3170 or local erosion and sediment control program requirements by reference. A qualifying state or
3171 local erosion and sediment control program is one that includes the elements listed in Section 6
3172 (k) (i), and any additional requirements necessary to achieve the applicable technology-based
3173 standards of “best available technology” and “best conventional technology” based on the best
3174 professional judgment of the permit writer.

3175 **Section 7. Isolated Wetlands-Mitigation Requirements.**

3176 This section applies to the process for approving mitigation for activities that cause the
3177 destruction, damage, or impairment of naturally occurring isolated wetlands or man-made
3178 isolated wetlands used to mitigate the loss of naturally occurring wetlands.

3179
3180 (a) Point source discharge activities required to file mitigation plans. Any person
3181 who proposes a point source discharge of dredged or fill material into a naturally occurring
3182 isolated wetland or man-made isolated wetlands used to mitigate the loss of a naturally occurring

3183 wetland in such a manner that causes the loss or destruction of greater than a cumulative one (1)
3184 acre of wetland habitat for the total project shall file with the administrator a notice of intent for
3185 coverage under an isolated wetlands mitigation general permit and a mitigation plan designed to
3186 offset the loss of wetland functions and values. Such notices of intent and mitigation plans must
3187 be filed and approved by the administrator prior to the commencement of the activity which will
3188 cause the wetland loss. Those activities which are subject to a permit or authorization from the
3189 U.S. Army Corps of Engineers pursuant to Section 404 of the CWA or mining activities subject
3190 to a permit or authorization from the Wyoming Department of Environmental Quality, Land
3191 Quality Division are exempt from this requirement.

3192

3193 (b) Mitigation plan contents and area of impact. Mitigation plans submitted to the
3194 administrator under this section shall contain the following information:

3195

3196 (i) Name and address of the applicant;

3197

3198 (ii) Location and description of the isolated wetland that will be impacted,
3199 including the area of impact in acres, type of wetland, probable functional values, and source of
3200 water;

3201

3202 (iii) Delineation of the impacted wetland using the U.S. Army Corps of
3203 Engineer=s 1987 wetland delineation manual including maps, drawings, data sheets and
3204 conclusions;

3205

3206 (iv) Name(s) and address(s) of adjacent property owners who may be
3207 affected by the activity;

3208

3209 (v) Description of the activity causing the wetland impact;

3210

3211 (vi) Description of actions to be taken to fully offset damage to the impacted
3212 wetland;

3213

3214 (vii) Where the proposed mitigation involves the construction of replacement
3215 wetlands or the enhancement of existing wetlands the location and description of the mitigation
3216 area including the name and address of the landowner, construction plans, maps, water sources
3217 and construction time tables;

3218

3219 (viii) Where the proposed mitigation involves the use of wetland credits
3220 recorded in the “Wyoming Statewide Wetland Mitigation Bank” a written authorization signed by
3221 the credit owner referencing the wetland credit file number and the amount of credit authorized
3222 for use;

3223

3224 (ix) List of related permissions and/or authorizations necessary to
3225 successfully complete the planned mitigation including but not limited to water rights, easements,
3226 and associated federal, state or local permits.

3227

3228 (c) Access to physical locations associated with the permit. If requested by the
3229 administrator or the administrator=s authorized agent, the permittee shall provide access to,
3230 physical locations associated with this permit including, but not limited to, any waters of the state
3231 associated with the permit at the point of discharge.

3232

3233 (d) Criteria for approval of mitigation plans under a general permit.

3234

3235 (i) The administrator shall approve all mitigation plans utilizing Wyoming
3236 Wetland Banked Credits in accordance with the “Wyoming Statewide Wetland Mitigation Bank -
3237 Guidelines for Interpretation and Implementation,” April 1995;

3238

3239 (ii) The administrator shall approve all mitigation plans involving the
3240 creation of new replacement wetlands, the restoration of degraded wetlands, or the enhancement
3241 of existing wetlands that are not recorded in the Statewide Wetland Mitigation Bank but meet the
3242 substantial elements of the wetland banking guidelines;

3243

3244 (iii) The administrator may approve types of mitigation other than those
3245 described in the April 1995 Wetland Mitigation Bank Guidelines on a case-by-case basis after
3246 consideration of the ecological function and wetland value of the impacted wetlands and the net
3247 environmental benefit of the proposed mitigation. Such types of mitigation may include but are
3248 not limited to the acquisition of conservation easements, contributions to specific private or
3249 public habitat improvement projects, or modifications to the geographic and ecological
3250 limitations expressed in the wetland banking guidelines.

3251

3252 (e) Processing of notices of intent. Processing of notices of intent shall be in
3253 accordance with the procedures outlined in Section 4 (f) of these regulations.

3254

3255 (f) Permit by rule. Discharges of dredged or fill material into naturally occurring
3256 isolated wetlands or man-made isolated wetlands used to mitigate the loss of naturally occurring
3257 wetlands which cause the loss or destruction of one acre or less of wetland habitat for the total
3258 project are permitted by rule in accordance with the following requirements:

3259

3260 (i) There shall be no discharge of solid wastes (as defined in Chapter 1,
3261 Section 1 [f] of the Department=s Hazardous Waste Management Rules and Regulations),
3262 hazardous wastes, hazardous materials, hazardous constituents, radioactive material or any toxic
3263 substance.

3264

3265 (ii) This permit by rule is not applicable to those activities which are subject
3266 to a permit or authorization from the U.S. Army Corps of Engineers pursuant to Section 404 of
3267 the CWA or mining activities subject to a permit or authorization from the Wyoming Department
3268 of Environmental Quality, Land Quality Division.

3269 **Section 8. Variance Requests.**

3270 (a) Variance requests by non-POTWs.

3271

3272 (i) A discharger which is not a publicly owned treatment works (POTW)
3273 may request a variance from otherwise applicable effluent limitations under any of the following
3274 statutory or regulatory provisions within the times specified in this section:

3275
3276 (A) Fundamentally different factors.

3277
3278 (I) A request for a variance based on the presence of
3279 “fundamentally different factors” from those on which the effluent limitations guideline was
3280 based shall be filed as follows:

3281
3282 (1.) For a request from best practicable control
3283 technology (BPT) currently available, at the time of application.

3284
3285 (2.) For a request from best available technology
3286 (BAT) economically achievable and/or best conventional pollutant control technology (BCT), by
3287 no later than 180 days after the date on which an effluent limitation guideline is published in the
3288 federal register for a request based on an effluent limitation guideline promulgated on or after
3289 February 4, 1987.

3290
3291 (II) The request shall explain how the applicable
3292 requirements of Wyoming Water Quality Rules and Regulations Chapter 1 - Surface Water
3293 Quality Standards, the Environmental Quality Act and the provisions of these regulations have
3294 been met.

3295
3296 (B) Non-conventional pollutants. Request for a variance from the
3297 BAT requirements for CWA Section 301 (b) (2) (F) pollutants (commonly called “non-
3298 conventional” pollutants) pursuant to Section 301 (c) of the CWA because of the economic
3299 capability of the owner or operator, or pursuant to Section 301 (g) of the CWA provided however
3300 that a § 301 (g) variance may only be requested for ammonia, chlorine, color, iron, total phenols
3301 (when determined by the Regional Administrator to be a pollutant covered by Section 301 (b) (2)
3302 (F) and any other pollutant which the Regional Administrator lists under Section 301 (g) (4) of
3303 the CWA) and must be made as follows:

3304
3305 (I) For those requests for a variance from an effluent
3306 limitation based upon an effluent limitation guideline by:

3307
3308 (1.) Submitting an initial request to the director and
3309 the Regional Administrator stating the name of the discharger, the permit number, the outfall
3310 number(s), the applicable effluent guideline, and whether the discharger is requesting a Section
3311 301 (c) or Section 301 (g) modification or both. This request must have been filed not later than
3312 270 days after promulgation of an applicable effluent limitation guideline for guidelines
3313 promulgated after December 27, 1977; and

3314
3315 (2.) Submitting a completed request no later than the
3316 close of the public comment period under Section 15 of these regulations demonstrating that the
3317 applicable requirements of Section 5 (c) (iii) (A) and (B) and Appendices F, L and M have been

3318 met. Notwithstanding this provision, the complete application for a request under section 301 (g)
 3319 shall be filed 180 days before the director must make a decision (unless the director establishes a
 3320 shorter or longer period).

3321
 3322 (II) For those requests for a variance from effluent
 3323 limitations not based on effluent limitation guidelines, the request need only comply with Section
 3324 8 (a) (i) (B) (I) (b) and need not be preceded by an initial request under Section 8 (a) (i) (B) (I)
 3325 (a).

3326
 3327 (C) Water quality related effluent limitations. A modification under
 3328 CWA Section 302 (b) (2) of requirements under CWA Section 302 (a) for achieving water quality
 3329 related effluent limitations may be requested no later than the close of the public comment period
 3330 under Section 15 of these regulations on the permit from which the modification is sought.

3331
 3332 (D) Thermal discharges. A variance under the CWA Section 316 (a)
 3333 for the thermal component of any discharge must be filed with a timely application for a permit
 3334 under this section, except that if thermal effluent limitations are established under the CWA
 3335 Section 402 (a) (1) or are based on water quality standards the request for a variance may be filed
 3336 by the close of the public comment period under Section 15 of these regulations. A copy of the
 3337 request as required under Appendix M of these regulations, shall be sent simultaneously to the
 3338 director.

3339
 3340 (b) Variance requests by POTWs. A discharger which is a publicly owned treatment
 3341 works (POTW) may request a variance from otherwise applicable effluent limitations as follows:
 3342

3343 Water quality based effluent limitation. A modification under CWA Section 302 (b) (2)
 3344 of the requirements under Section 302 (a) for achieving water quality based effluent limitations
 3345 shall be requested no later than the close of the public comment period under Section 15 of these
 3346 regulations on the permit from which the modification is sought.

3347
 3348 (c) Expedited variance procedures and time extensions.

3349
 3350 (i) Notwithstanding the time requirements in Section 8 (a) and (b), the
 3351 director may notify a permit applicant before a draft permit is issued under Section 5 that the draft
 3352 permit will likely contain limitations which are eligible for variances. In the notice the director
 3353 may require the applicant as a condition of consideration of any potential variance request to
 3354 submit a request explaining how the requirements of Section 5 (c) (iii) (A) and (B) and
 3355 Appendices F, L and M applicable to the variance have been met and may require its submission
 3356 within a specified reasonable time after receipt of the notice. The notice may be sent before the
 3357 permit application has been submitted. The draft or final permit may contain the alternative
 3358 limitations which may become effective upon final granting of the variance.

3359
 3360 (d) Decisions on variances.

3361
 3362 (i) The director may grant or deny requests for the following variances:
 3363

- 3364 (A) Extensions under CWA Section 301 (i) based on delay in
3365 completion of a publicly owned treatment works;
3366
- 3367 (B) After consultation with the Regional Administrator, extensions
3368 under CWA Section 301 (k) based on the use of innovative technology; or
3369
- 3370 (C) Variances under CWA Section 316 (a) for thermal pollution.
3371
- 3372 (ii) The director may deny or forward to the Regional Administrator with a
3373 written concurrence, or submit to EPA without recommendation a completed request for:
3374
- 3375 (A) A variance based on the economic capability of the applicant
3376 under CWA Section 301 (c); or
3377
- 3378 (B) A variance based on water quality related effluent limitations
3379 under CWA Section 302 (b) (2).
3380
- 3381 (iii) EPA may approve or deny any variance request. If EPA approves the
3382 variance, the director may prepare a draft permit incorporating the variance.
3383
- 3384 (iv) The director may deny or forward to the Administrator of the EPA (or
3385 his delegate) with a written concurrence a completed request for:
3386
- 3387 (A) A variance based on the presence of “fundamentally different
3388 factors” from those on which an effluent limitation guideline was based and in accordance with
3389 Appendix M of these regulations;
3390
- 3391 (B) A variance based upon certain water quality factors under CWA
3392 Section 301 (g).
3393
- 3394 (v) The Administrator of the EPA (or his delegate) may grant or deny a
3395 request for a variance listed in Section 8 (e) (iv) of these regulations. If the Administrator of the
3396 EPA (or his delegate) approves the variance, the director may prepare a permit incorporating the
3397 variance.
3398
- 3399 (vi) Any public notice of a draft permit for which a variance has been
3400 approved or denied shall identify the applicable procedures for appealing that decision.
3401
- 3402 (e) When the director issues a permit on which EPA has made a variance decision,
3403 separate appeals of the permit and of the EPA variance decision are possible.
3404
- 3405 (i) Variance decisions made by EPA may be appealed under the provisions
3406 of 40 CFR 124.19.
3407
- 3408 (ii) Decisions by the director regarding the issuance or denial of a WYPDES
3409 permit may be appealed in accordance with the provisions of Section 17 of these regulations.

3410 **Section 9. Issuance or Denial of Permits or Authorizations.**

3411 Once the requirements of Sections 4 (b) and (c), 5 (a) and (b), and 6 (b) or 7 (a) and (b) of
 3412 these regulations have been met, a final determination regarding issuance or denial of a permit or
 3413 authorization shall be made.

3414
 3415 (a) Denial of permits or authorizations. No permit or authorization shall be issued
 3416 which would authorize any of the following discharges:

3417
 3418 (i) The discharge of any radiological, chemical, or biological warfare agent,
 3419 or high level radioactive waste into surface waters of the state;

3420
 3421 (ii) Any discharge which the Secretary of the Army, acting through the Chief
 3422 of Engineers, finds would substantially impair anchorage and navigation;

3423
 3424 (iii) Any discharge to which the Regional Administrator of the EPA has
 3425 objected pursuant to the provisions of 40 CFR Part 123.44;

3426
 3427 (iv) Any discharge from a point source which is in conflict with a plan or
 3428 amendment thereto approved pursuant to Section 208 (b) of the Federal Act;

3429
 3430 (v) Any discharge that, after imposition of permit conditions, cannot ensure
 3431 compliance with the applicable water quality requirements of all affected states; and

3432
 3433 (vi) No permit may be issued when conditions of the permit do not provide
 3434 compliance with applicable requirements of W.S. 35-11-302 and of these regulations.

3435
 3436 (b) Issuance of permits or authorizations. The permit or authorization shall be issued
 3437 if all the requirements of appropriate sections of W.S. 35-11-302 and these regulations have been
 3438 met and the issuance of the permit or authorization is not denied under Section 9 (a). In this
 3439 regard, the term "reasonableness" as used in W.S. 35-11-302 (a) (vi) shall be considered to mean,
 3440 as a minimum, compliance with applicable effluent standards and applicable water quality
 3441 standards.

3442
 3443 (c) Incorporation of permit conditions. All permit conditions shall be incorporated
 3444 either expressly or by reference. If incorporated by reference, a specific citation to the applicable
 3445 regulations or requirements must be given in the permit.

3446
 3447 (d) Term of permits. A permit issued pursuant to these regulations shall have a fixed
 3448 term not to exceed five (5) years unless extended under Section 11 of these regulations.
 3449 Reissuance of a permit issued pursuant to these regulations shall be in accordance with the
 3450 requirements of Sections 5 (a) and (b), and 9.

3451
 3452
 3453

3454 **Section 10. Renewal of Permits, and Renewal of Coverage Under Expiring General**
3455 **Permits.**

3456 (a) Deadlines for permit renewal application. The owner or operator of any point
3457 source within the state who proposes to continue a permitted discharge into surface waters of the
3458 state beyond the expiration date of a permit must file with the administrator a complete
3459 application form either 1) no less than 180 days in advance of the permit expiration date, unless
3460 otherwise approved by the administrator, or 2) in sufficient time to insure compliance with the
3461 requirements of Section 306 of the Federal Act, or with any applicable zoning or siting
3462 requirements established pursuant to Section 208 (b) (2) (c) of the Federal Act, and any other
3463 applicable water quality standards and limitations or in the case of general permits, in accordance
3464 with the terms specified in the applicable general permit. Except as authorized under Section 11
3465 of these regulations, no person shall continue to discharge beyond the expiration date of a permit
3466 without having obtained a reissued permit from the department.

3467
3468 (b) Renewal application requirements. An application for renewal of an existing
3469 permit shall identify any changes or additions to the information, listed in Section 5 (a) (v), that
3470 was provided in the application form or additional requested information for the permit most
3471 recently noticed.

3472
3473 (c) Review of renewal applications. The administrator shall have each request for
3474 renewal reviewed in light of the existing permit or authorization, information provided by the
3475 permittee with the request for renewal, and all other information available to the administrator
3476 bearing on the subject permit or authorization to insure that the following conditions exist:

3477
3478 (i) That the permittee is in compliance with or has substantially complied
3479 with all the terms and conditions of the expiring permit or authorization;

3480
3481 (ii) That the discharge is consistent with applicable effluent standards and
3482 compliance schedules, water quality standards, and other legally applicable requirements imposed
3483 under these regulations; and

3484
3485 (iii) That the administrator has up-to-date information on the permittee's
3486 discharge, either pursuant to the submission of new forms or pursuant to monitoring records and
3487 reports submitted to the administrator by the permittee.

3488
3489 (d) Determination of permit or authorization renewal. Following the review of the
3490 request for renewal of a permit or renewal authorization and the other considerations described in
3491 paragraph (c) above, the administrator shall:

3492
3493 (i) Make a determination to renew or deny renewal of an authorization for
3494 coverage under a general permit; and

3495
3496 (ii) For individual permits, the administrator shall make a recommendation
3497 to the director for permit renewal or denial of permit renewal.

3498

3499 (e) Notification of determination not to renew. In the event that the administrator
3500 determines that a permit shall not be renewed or that an authorization shall not be renewed,
3501 notification of such determination will be provided to the permittee prior to the expiration of the
3502 existing permit or authorization or in accordance with Section 11 of these regulations.

3503

3504 (f) Processing and public notice procedures for permit renewals. The processing and
3505 public notice procedures in Sections 5 (b) and ~~14~~ 15 shall be followed for every permit that is
3506 renewed and the processing procedures in Section 4 (f) shall be followed for every authorization
3507 that is renewed.

3508

3509 (g) Commencement of public notice for permit renewals. Public notice for permits
3510 being proposed for renewal shall commence not later than 30 days prior to the expiration date of
3511 the permit. In the event that permit renewals are not public noticed within 30 days prior to the
3512 permit expiration date, the permit may be continued in accordance with the provisions of Section
3513 11 of these regulations.

3514

3515 (h) Renewal of authorizations. Renewal of coverage authorized under an expiring
3516 general permit shall be conducted in accordance with the provisions established under the general
3517 permit.

3518 **Section 11. Continuation of Expiring Permits.**

3519 (a) Conditions. For WYPDES permits issued under the provisions of these rules, the
3520 conditions of an expired permit shall remain in force until the effective date of a new permit
3521 provided the following conditions are met:

3522

3523 (i) The permittee has submitted a timely and complete application for
3524 renewal in accordance with the provisions of Section 10 of these regulations; and

3525

3526 (ii) The director, through no fault of the permittee, does not issue a renewal
3527 permit with an effective date on or before the expiration date of the previous permit.

3528

3529 (b) Final determination. The administrator will make a final determination on the
3530 renewal application within 180 days of the permit extension.

3531

3532 (c) Effectiveness and enforceability. Permits continued under this section remain
3533 fully effective and enforceable.

3534 **Section 12. Permit or Authorization Modifications.**

3535 (a) Deadlines for permit or authorization modification application. The owner or
3536 operator of any point source within the state who proposes a major modification to an existing
3537 permit or a modification to an authorization must file a complete application form with the
3538 administrator either 1) no less than 180 days in advance of the date on which it is desired to
3539 change or alter the discharge unless otherwise approved by the administrator; or 2) in sufficient
3540 time prior to the alteration of the discharge to insure compliance with the requirements of Section
3541 306 of the CWA, or with any applicable zoning or siting requirements established pursuant to

3542 Section 208 (b) (2) (c) of the CWA, and any other applicable water quality standards and
3543 limitations. In any event, no person shall change or alter the conditions of a permitted discharge
3544 without having obtained a modification from the department and no modification shall be issued
3545 without full compliance by the permittee with all requirements of these regulations.

3546

3547 (b) Modification application requirements. An application for modification of an
3548 existing permit or authorization shall identify any changes or additions to the information, listed
3549 in Section 5 (a) (v) or Section 4 (m), (n) or (o), that was provided in the application form or
3550 additional requested information for the permit most recently noticed.

3551

3552

3553 (c) Request for modification. Permits or authorizations may be modified, revoked
3554 and reissued, or terminated either at the request of any interested person or upon the
3555 administrator=s initiative. However, permits or authorizations may only be modified, revoked
3556 and reissued, or terminated for the reasons specified in Sections 12 and 13. All requests shall be
3557 in writing and shall contain facts or reasons supporting the request.

3558

3559 (d) Reasons for permit modification. A permit may be modified in whole or in part
3560 when:

3561

3562 (i) There are material and substantial alterations or additions to the
3563 permitted facility or activity which occurred after permit issuance which justify the application of
3564 permit conditions that are different or absent in the existing permit.

3565

3566 (ii) The administrator has received new information which was not available
3567 at the time of permit issuance (other than revised regulations, guidance, or test methods) and
3568 which would have justified different permit conditions at the time of issuance, including
3569 information derived from effluent testing required under Section 5 (c) (v). This provision allows
3570 modification of a permit to include conditions that may be less stringent than the existing permit
3571 to the extent allowed under Section 12 (d) (iii).

3572

3573 (iii) The standards or regulations on which the permit was based have been
3574 changed by promulgation of amended standards or regulations or by judicial decision after the
3575 permit was issued. Permits may be modified during their terms for this cause only as follows:

3576

3577 (A) The permit condition requested to be modified was based on a
3578 promulgated effluent limitation guideline, secondary treatment regulations specified in Appendix
3579 E, or water quality standard; and

3580

3581 (B) EPA or the department has revised, withdrawn, or modified that
3582 portion of the federal regulation on which the permit condition was based, or the Environmental
3583 Quality Council has approved a revised water quality standard or effluent limitation on which the
3584 permit condition was based; and

3585

3586 (C) The permittee requests modification as required in this
3587 regulation, within 90 days after the notice of final action by which the EPA effluent limitation

3588 guideline, water quality standard, or effluent limitation is revised, withdrawn, or modified or
3589 upon the administrator=s initiative; or

3590
3591 (D) For judicial decisions, a court of competent jurisdiction
3592 has remanded and stayed EPA promulgated regulations or effluent limitation guidelines, if the
3593 remand and stay concern that portion of the regulations or guidelines on which the permit
3594 condition was based and a request is filed by the permittee in accordance with this regulation,
3595 within 90 days of judicial remand.

3596
3597 (iv) The administrator determines that good cause exists to modify a permit
3598 condition because of events over which the permittee has no control and for which there is no
3599 reasonable available remedy.

3600
3601 (v) When required to incorporate applicable toxic effluent limitation or
3602 standards adopted pursuant to Section 307 (a) of the CWA.

3603
3604 (vi) When required by the reopener conditions in the permit.

3605
3606 (vii) When the level of discharge of any pollutant which is not limited in the
3607 permit exceeds the level which can be achieved by the technology-based treatment requirements
3608 appropriate to the facility.

3609
3610 (viii) To establish a pollutant notification level required in Section 5 (c) (i) (B),
3611 (W), (X), (Y) or Appendix B.

3612
3613 (ix) To correct technical mistakes, such as errors in calculation, or mistaken
3614 interpretations of law made in determining permit conditions, to the extent allowed in Section 5
3615 (c) (iii) (M).

3616
3617 (x) Discharge volume will increase above what was described in the most
3618 current application or permit.

3619
3620 (xi) Outfalls will be added, deleted or moved.

3621
3622 (xii) The receiving surface waters of the state will change from what was
3623 described in the most current application.

3624
3625 (xiii) The time of discharge will be changed where seasonal or time-limited
3626 conditions for discharge may be established.

3627
3628 (xiv) The administrator determines good cause exists for modification of a
3629 compliance schedule, such as an act of God, strike, flood, or materials shortage or other events
3630 over which the permittee has little or no control and for which there is no reasonably available
3631 remedy. However, in no case may a WYPDES compliance schedule be modified to extend
3632 beyond an applicable CWA statutory deadline.

3633

3634 (xv) When a discharger is no longer eligible for net limitations, as provided in
3635 Section 5 (c) of these regulations.

3636
3637 (xvi) To modify a schedule of compliance to reflect the time lost during
3638 construction of an innovative or alternative facility, in the case of a POTW which has received a
3639 grant under Section 202 (a) (3) of the CWA for 100 percent of the costs to modify or replace
3640 facilities constructed with a grant for innovative and alternative wastewater technology under
3641 Section 202 (a) (2). In no case shall the compliance schedule be modified to extend beyond an
3642 applicable CWA statutory deadline for compliance.

3643
3644 (xvii) For a small MS4, to include an effluent limitation requiring
3645 implementation of a minimum control measure or measures specified in Section 6 of these
3646 regulations when:

3647
3648 (I) The permit does not include such measure(s) based upon the
3649 determination that another entity was responsible for implementation of the requirements(s); and

3650
3651 (II) The other entity fails to implement measure(s) that satisfy the
3652 requirement(s).

3653
3654 (xviii) Cause exists for termination under Section 13 of these regulations, and
3655 the administrator determines that modification or revocation and reissuance is appropriate.

3656
3657 (xix) Other changes to information described in Section 5 (c) (i) (B).

3658
3659 (xx) When a downstream state was not properly notified
3660 of a proposed permit.

3661
3662 (e) Reasons for authorization modification. An authorization may be modified in
3663 whole or in part when:

3664
3665 (i) There are material and substantial alterations or additions to the
3666 permitted facility or activity which occurred after issuance of an authorization.

3667
3668 (ii) The administrator has received new information which was not available
3669 at the time of permit issuance.

3670
3671 (iii) To correct technical mistakes, such as errors in calculation, or mistaken
3672 interpretations of law made in determining authorization conditions.

3673
3674 (iv) Discharge volume will increase above what was described in the most
3675 current application or authorization.

3676
3677 (v) Conditions described in Section 12 (d) (v) through (vii) and (xiii) exist.

3678

- 3679 (vi) For a small MS4, to include an effluent limitation requiring
3680 implementation of a minimum control measure or measures specified in Section 6 of these
3681 regulations when:
- 3682 (A) The authorization does not include such measure(s) based upon
3683 the determination that another entity was responsible for implementation of the requirements(s);
3684 and
3685
- 3686 (B) The other entity fails to implement measure(s) that satisfy the
3687 requirement(s).
3688
- 3689 (f) Permit revocation and reissuance. When a permit is revoked and reissued under
3690 this section, the entire permit is reopened just as if the permit had expired and was being reissued.
3691 During any revocation and reissuance proceeding, the permittee shall comply with all conditions
3692 of the existing permit until a new final permit is reissued.
3693
- 3694 (g) Processing procedures for major modifications. Major modifications for permits
3695 and authorizations will be subjected to the processing procedures described in Sections 4, 5 and 6
3696 of these regulations.
3697
- 3698 (h) Processing procedures for minor modifications. Minor modifications to permits
3699 and authorizations shall not be subject to the processing procedures of Sections 4, 5 and 6. Minor
3700 modifications to permits and authorizations will be processed according to the following
3701 procedures:
3702
- 3703 (i) Where a modification to an individual permit is initiated by the
3704 permittee, notification that the modification has been incorporated into the permit will be
3705 provided to the permittee within 30 days of the permittee=s submittal of a complete application
3706 for modification to the administrator;
3707
- 3708 (ii) Where an application for modification to an authorization is submitted by
3709 the permittee and the administrator determines that the modification can be authorized, a revised
3710 authorization reflecting the modification will be provided to the permittee within 30 days of the
3711 permittee=s submittal of a complete notice of intent for modification to the department, or as
3712 described in the general permit under which coverage is provided;
3713
- 3714 (iii) Where an application for modification to an authorization is submitted by
3715 the permittee and the administrator determines that the modification can not be authorized, a
3716 notification shall be provided to the permittee of such determination within 30 days of the
3717 permittee=s submittal of a complete notice of intent for modification to the department, or as
3718 described in the general permit under which coverage is provided.
3719
- 3720 (i) Conditions subject to modification. When a permit is modified, only the
3721 conditions subject to modification are reopened. The term of the modified permit will not be
3722 extended beyond the term of the permit being modified.
3723

3724 (j) No stay of permit conditions. The filing of a request by the permittee for a
3725 permit modification does not stay any permit condition.

3726
3727 (k) Antibalancing. All effluent permit modifications and reissuances are subject to
3728 the antibalancing provisions set forth in Section 5 (c) (iii) (M).

3729
3730 (l) Draft permits and authorization notification. For major modifications to permits,
3731 the administrator will prepare a summary describing the proposed modification(s). Copies of the
3732 modification summary will be provided to permittees for review at the time of public notice. For
3733 modifications to authorizations, copies of the issued authorizations will be provided to permittees
3734 within ten (10) days of issuance.

3735
3736 (m) Denial of permit or authorization modification requests. Except for denial based
3737 upon incompleteness of an application, if the director proposes to deny issuance of a permit or
3738 authorization modification, the applicant shall be notified by registered or certified mail of the
3739 intent to deny and the reason for denial.

3740 **Section 13. Permit and Authorization Terminations.**

3741 (a) Reasons for permit or authorization termination. A permit or authorization may
3742 be terminated during its term for reasons determined by the department including, but not limited
3743 to, the following:

3744
3745 (i) Violation of any terms or conditions of the permit;

3746
3747 (ii) Obtaining a permit by misrepresentation or failing to disclose any fact
3748 which is material to the granting or denial of a permit or to the establishment of terms or
3749 conditions of the permit;

3750
3751 (iii) Materially false or inaccurate statements or information in the permit
3752 application or the permit; or

3753
3754 (iv) A determination that the permitted activity endangers human health or
3755 the classified or existing uses of surface waters of the state and can only be regulated to
3756 acceptable levels by permit modifications or termination.

3757
3758 (b) Public notice of permit terminations or revocations. Public notice shall be given
3759 of the intent to terminate or revoke a permit in accordance with the provisions of Section 15 of
3760 these regulations.

3761
3762 (c) Notification of authorization termination. Notification shall be sent to the
3763 permittee of an authorization that is being terminated stating the reasons for termination and the
3764 effective date of termination.

3765
3766
3767

3768

Section 14. Signatory Requirements.

3769

3770

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3772

(a) Signatures for applications and notices of intent (NOI). Applications, NOIs, and other documents required to accompany said applications or NOI when submitted to the department must be signed as follows:

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3774

3775

3776

3777

3778

(i) In the case of corporations, by a principal executive officer of at least the level of vice president, or the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the overall operation of the facility from which the discharge originates as described in the application, NOI or other required documentation;

3779

3780

3781

3782

(ii) In the case of a partnership, by a general partner;

(iii) In the case of a sole proprietorship, by the proprietor; and

3783

3784

3785

(iv) In the case of a municipal, state, federal, or other public facility, by either a principal executive officer or ranking elected official.

3786

3787

3788

3789

3790

3791

(b) Signatures for reports and other required information. Except for NOI and permit applications which must be signed in accordance with paragraph (a) of this section, all reports required by permits, and other information requested by the administrator must be signed as described in paragraph (a) of this section or by a duly authorized representative. A person is only a duly authorized representative if:

3792

3793

3794

(i) The authorization is made in writing by a person described in paragraph (a) of this Section; and

3795

3796

3797

(ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity.

3798

3799

3800

(c) Certification. Any person signing a document under paragraph (a) or (b) of this Section shall make the following certification, unless otherwise set forth in these regulations:

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3808

"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."

3809

3810

3811

(d) Change in signatory authorization. If an authorization under paragraph (b) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the regulated facility or activity, a new authorization satisfying the

3812 requirements of paragraph (b) of this section must be submitted to the administrator prior to or
3813 together with any reports or other information to be signed by the authorized representative.

3814

3815 (e) Violations. Any person who knowingly makes any false statement,
3816 representation, or certification in any record or other document submitted or required to be
3817 maintained under this permit, including monitoring reports or reports of compliance or
3818 noncompliance shall be in violation of the permit, these regulations and the Environmental
3819 Quality Act.

3820 **Section 15. Public Participation.**

3821 Major modifications, issuance, or reissuance of every draft permit; or where the
3822 administrator proposes to terminate coverage under an individual permit; or where the
3823 administrator proposes to conduct a public meeting in accordance with Section 16 of these
3824 regulations, the following procedures shall be used.

3825

3826 (a) Public notice. Public notice of every draft permit, public meeting being held
3827 pursuant to Section 16 of the regulations, or granting of an appeal shall be given in the following
3828 manner:

3829

3830 (i) In addition to the applicable provisions of Section 15 (a) (ii) through (v),
3831 notice shall be circulated by one or more of the following methods:

3832

3833 (A) For individual permits, posting in the post office and other public
3834 places of the municipality nearest the location(s) of the proposed discharge(s);

3835

3836 (B) For individual permits, posting near the entrance to the
3837 applicant's premises;

3838

3839 (C) For individual permits, publication in newspapers of general
3840 circulation in the locations of the proposed discharges;

3841

3842 (D) For individual and general permits, publication in a newspaper
3843 with statewide distribution;

3844

3845 (E) For general permits, publication in a newspaper with circulation
3846 in the geographic area defined in the general permit.

3847

3848 (ii) For individual permits, where a proposed outfall would occur on
3849 property that is not owned by the applicant, a copy of the public notice will be provided to the
3850 owner of the property.

3851

3852

3853 (iii) For general permits, in accordance with applicable provisions of the
3854 general permit.

3855

3856 (iv) For major permits, publication in a daily or weekly newspaper within the
3857 area affected by the facility or activity.

3858
3859 (v) In addition to Section 15 (a) (i) through (iv), publication on the
3860 Wyoming Department of Environmental Quality Internet Website (<http://deq.state.wy.us>).

3861
3862 (vi) No public notice is required when a request for permit modification,
3863 revocation and reissuance, or termination, or coverage or modification under a general permit is
3864 denied.

3865
3866 (vii) The applicant shall be mailed a copy of the fact sheet, which includes the
3867 public notice, a draft copy of the permit, and the statement of basis. The applicant will not be
3868 mailed a copy of the application materials, which is also part of the fact sheet.

3869
3870 (viii) Notice shall be mailed to any person upon request, and the administrator
3871 shall upon request add the name of any person to a list of persons or parties designated to receive
3872 copies of public notices.

3873
3874 (ix) The administrator shall provide a period of not less than 30 days
3875 following the date of public notice during which interested persons may submit their comments
3876 on draft permits.

3877
3878 (x) The contents of the public notices for draft permits shall include the
3879 following:

3880
3881 (A) Name, address, phone number, and internet address of the Water
3882 Quality Division;

3883
3884 (B) For individual permits:

3885
3886 (I) Names and addresses of the applicants;

3887
3888 (II) A brief description of each activity or operation resulting
3889 in the discharge described in each application;

3890
3891 (III) The name of the water course to which such discharge is
3892 made and a general description of the location of each outfall;

3893
3894 (IV) A statement of the tentative determination to issue the
3895 permit;

3896
3897 (C) For general permits:

3898
3899 (I) A brief description of the activity or operation resulting
3900 in the discharges for which the permit will provide coverage and a description of effluent
3901 limitations and monitoring requirements that are being proposed;

- 3902
3903 (II) A description of the geographic area covered by the
3904 general permit.
3905
3906 (D) The end date of the 30 day comment period; and
3907
3908 (E) A statement that a copy of the draft permit, fact sheet (if
3909 prepared), and other information is available at the address specified in paragraph (A) above.
3910
3911 (xi) The contents of a public notice announcing a public meeting shall be in
3912 accordance with Section 16 (c) of these regulations.
3913
3914 (b) Minor facilities. For every minor facility, the administrator shall prepare a
3915 statement of basis to accompany the draft permit. The statement of basis, draft permit and permit
3916 application shall be available for public inspection during the public comment period.
3917
3918 (c) Major facilities. For every major facility, the administrator shall prepare and,
3919 following public notice, shall make available, to any person so requesting, a fact sheet with
3920 respect to the application described in the notice. The administrator shall also add the name of
3921 any person so requesting to a list of those parties or persons designated to be given notice of fact
3922 sheets published, and such fact sheet shall consist of, at a minimum, the statement of basis and
3923 application, including the following information when applicable:
3924
3925 (i) A sketch or description of the discharge described in the permit
3926 application;
3927
3928 (ii) A quantitative description of the discharge which shall include the rate or
3929 frequency of discharge, the average summer and winter temperatures, and the average daily
3930 discharge in pounds per day and/or kilograms per day of any types of waste in the discharge;
3931
3932 (iii) Any tentative determinations reached by the administrator concerning the
3933 application;
3934
3935 (iv) A brief citation of any water quality standards and effluent standards that
3936 apply to the proposed discharge;
3937
3938 (v) A comprehensive description of the procedures for formulating a final
3939 decision with respect to the application including;
3940
3941 (A) The beginning and ending dates of the public comment period
3942 and the address where comments will be received;
3943
3944 (B) Procedures for requesting a meeting and the nature of that
3945 meeting; and
3946

3947 (C) Any other procedures by which the public may participate in the
3948 final decision.

3949
3950 (vi) Any calculations or other necessary explanation of the derivation of
3951 specific effluent limitations and conditions, including a citation to applicable effluent guidelines
3952 or performance standards and reasons why they are applicable or an explanation of how
3953 alternative effluent limitations were developed.

3954
3955 (vii) For permits to be issued to a treatment works owned by a person other
3956 than a state or municipality, an explanation of the administrator=s decision to issue a permit with
3957 no conditions applicable to any user, to impose conditions on one or more users, to issue separate
3958 applications, and the basis for that decision.

3959
3960 (viii) When the draft permit contains any of the following conditions, an
3961 explanation of the reasons that such conditions are applicable:

3962 (A) Limitations to control toxic pollutants;

3963 (B) Limitations on internal waste streams;

3964 (C) Limitations on indicator pollutants;

3965 (D) Limitations set on a case-by-case basis;

3966 (E) Limitations to meet the criteria for permit issuance; or

3967 (F) Waivers from monitoring requirements.

3968
3969 (ix) Reasons why any requested variances or alternatives to required
3970 standards do or do not appear justified.

3971 (x) Justification for waiver for any application requirements where such a
3972 waiver is allowed under the provisions of these regulations.

3973
3974 (d) Governmental agency mailing list. The following governmental agencies shall
3975 be included on a mailing list for receipt of fact sheets unless such agency requests not to be
3976 included on the mailing list, and each will be provided an opportunity to comment upon the draft
3977 permit(s).

3978 (i) United States Environmental Protection Agency.

3979 (ii) Second Coast Guard District.

3980 (iii) United States Bureau of Reclamation.

3981 (iv) Natural Resources Conservation Service.

- 3993
- 3994 (v) United States Forest Service.
- 3995
- 3996 (vi) United States Bureau of Land Management.
- 3997
- 3998 (vii) United States Fish and Wildlife Service.
- 3999
- 4000 (viii) United States Army Corps of Engineers.
- 4001
- 4002 (ix) Wyoming Game and Fish Department.
- 4003
- 4004 (x) Wyoming Oil and Gas Conservation Commission.
- 4005
- 4006 (xi) Wyoming State Historic Preservation Office.
- 4007
- 4008 (xii) Wyoming State Engineer.
- 4009
- 4010 (xiii) Any other state or federal agency requesting to be placed on the mailing
- 4011 list.
- 4012

4013 (e) Notification to affected states. Any state whose waters may be affected by the
4014 issuance of a permit shall be provided with a copy of the public notice and any other relevant
4015 documents that are requested. Each state whose waters may be affected shall be afforded an
4016 opportunity to comment on the draft permit, and the administrator shall take these comments into
4017 account in preparing the final permit, or the administrator shall provide the affected state, and the
4018 Regional Administrator of the EPA, a written explanation of his reasons for failing to accept any
4019 of the comments.

4020

4021 (f) Written comments request for public meeting. During the public comment
4022 period provided in paragraph (a) (v) of this section, any interested person may submit written
4023 comments on a draft permit and may request a public meeting. A request for public meeting shall
4024 be made in writing in accordance with Section 16.

4025

4026

4027 (g) Response to comments. Before a final permit decision is considered, the
4028 administrator shall prepare a response to comments which is subject to the following conditions:

4029

4030 (i) A response to all comments received within the time frame specified in
4031 paragraph (b) (v) of this Section shall be prepared and provided to the parties submitting
4032 comments;

4033

4034 (ii) The response shall specify which provisions, if any, of the draft permit
4035 have been changed in the final permit decision, and the reasons for the change; and

4036

4037 (iii) The response shall provide the reasons why any comments did not
4038 result in a change to the draft permit; and

4039

4040 (iv) The response to comments shall be made available to the public; and

4041

4042 (v) Responses to comments from other governmental agencies shall be
4043 addressed in accordance with 40 CFR 124.59.

4044

4045 (h) Alternative effluent limitations. Public notice for any request made under
4046 Appendix M of these regulations shall include the following:

4047

4048 (i) A statement that the thermal component of the discharge is subject to
4049 effluent limitations under Sections 301 or 306 of the CWA and a brief description, including a
4050 quantitative statement, or the thermal effluent limitations proposed under Sections 301 or 306;

4051

4052 (ii) A statement that an Appendix M request has been filed and that
4053 alternative less stringent effluent limitations may be imposed on the thermal component of the
4054 discharge under Appendix M and a brief description, including a quantitative statement, of the
4055 alternative effluent limitations, if any, included in the request; and

4056

4057 (iii) If the applicant has filed an early screening request under Appendix M of
4058 these regulations, a statement that the applicant has submitted such a plan.

4059

Section 16. Public Meeting.

4060

(a) Reason for public meeting.

4061

4062 (i) Request for public meeting. The administrator shall provide an
4063 opportunity for the applicant or any interested person or state to request a public meeting, with
4064 the administrator, with respect to any draft permit. Any such request shall be filed in writing
4065 during the comment period specified in Section 15 (a) (ix) above, and shall indicate the interest of
4066 the party and the reasons why a meeting is warranted. If the administrator finds that there is a
4067 significant degree of public interest in holding such a meeting, hold such a meeting in the
4068 geographic area where the proposed discharge is located, or other appropriate area. If the
4069 administrator determines that a public meeting is not warranted, he shall provide written
4070 notification of his decision to the party requesting the meeting.

4071

4072 (ii) Public meetings to provide clarification. The administrator may also
4073 hold a public meeting at his discretion, whenever, for instance, such a meeting might clarify one
4074 or more issues involved in the permit decision.

4075

4076 (b) Purpose. The purpose of holding public meetings is to seek information and
4077 facilitate clarification in order for the administrator to make a more informed decision.

4078

4079 (c) Public notice of a public meeting. Public notice of a public meeting held
4080 pursuant to paragraph (a) of this section, will be utilizing all of the methods available for notice of
4081 the permit application set out in paragraph b. given as described in Section 15 (a) (i) of these
4082 regulations, and such notice will be provided no less than 30 days in advance of the meeting. The
4083 contents of the public notice will consist of the following:

- 4084
- 4085 (i) Name, address, and phone number of the Wyoming Water Quality
- 4086 Division;
- 4087
- 4088 (ii) Name, and address of each applicant whose draft permit will be
- 4089 considered at the meeting;
- 4090
- 4091 (iii) Name of waterway to which each discharge is made and a short
- 4092 description of the location of each discharge on the waterway associated with the draft permit(s);
- 4093
- 4094 (iv) Brief reference to the public notice issued for each draft permit,
- 4095 including identification number and date of issuance.
- 4096
- 4097 (v) Information regarding the date, time, and location of the meeting;
- 4098
- 4099 (vi) A brief description of the nature and purpose of the meeting, including
- 4100 the applicable rules and procedures to be followed;
- 4101
- 4102 (vii) A concise statement of the issues raised by the persons requesting the
- 4103 meeting;
- 4104
- 4105 (viii) A statement that a copy of the draft permit, statement of basis, and other
- 4106 information is available at the address specified in paragraph (a) of this section.
- 4107
- 4108 (d) Submittal of statements and data. Any person may submit written or oral
- 4109 statements and data concerning the draft permit. Reasonable limits may be set upon the time
- 4110 allowed for oral statements, and the submission of written statements may be requested. The
- 4111 public comment period under Section 15 (a) shall be automatically extended to the close of any
- 4112 public meeting under this section.
- 4113
- 4114 (e) Documentation of the public meeting. An audio or video tape recording or
- 4115 written transcript of the public meeting shall be made available to the public.

4116 **Section 17. Hearing.**

4117 In any case where the director makes a decision to issue, modify, or terminate a permit or
4118 MS4 storm water permit authorization, or where the director makes a decision to deny issuance or
4119 modification of a permit or MS4 storm water permit authorization, any interested person may
4120 request a hearing before the Environmental Quality Council. A request for hearing shall be made
4121 in accordance with the applicable Department of Environmental Quality's Rules of Practice and
4122 Procedure.

4123 **Section 18. Public Information.**

4124 (a) Availability of information. All information required on or attached to permit
4125 application forms, notices of intent, reporting forms, draft or issued permits, authorizations, or
4126 related correspondence shall be made available to the public for inspection and copying, subject

4127 to W.S. 35-11-1101 and all other applicable state laws. The administrator shall provide facilities
4128 for inspection of all non-confidential documents.

4129

4130 (b) Applicability of trade secrets. The following information may not be considered
4131 to constitute trade secrets and must be made available to the public:

4132

4133 (i) Name and address of any permit applicant or permittee;

4134

4135 (ii) Permit applications, permits and effluent data.

4136

Section 19. Transfer of Permits.

4137

4138 (a) Permits may be transferred by a permittee to a new owner or operator if:

4139

4140 (i) Conditional transfers. The permit has been modified or revoked and
4141 reissued to identify the new permittee and to incorporate such other requirements as may be
4142 necessary under these regulations.

4143

4144 (ii) Automatic transfers. A permit may be automatically transferred to a new
4145 permittee if:

4146

4147 (A) The current permittee notifies the director in writing at least 30
4148 days in advance of the proposed transfer date in paragraph (b) (ii) of this Section;

4149

4150 (B) The notice includes a written agreement between the existing
4151 and new permittees on a form provided by the administrator. The form shall contain a specific
4152 date for transfer of permit responsibility, coverage and liability between the two parties; and

4153

4154 (C) The director does not notify the existing permittee and the
4155 proposed new permittee of its intent to modify or revoke and reissue the permit.

4156

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4156 **APPENDIX A: Explanation of Standard Industrial Classification (SIC) Codes Regulated by**
 4157 **the Industrial Storm Water Program**

4158

Industry Type	SIC Code	Comments
Metal mining and milling	10	(a)
Coal mining	12	(a)
Oil and Gas Extraction	13	
Mining and quarrying of nonmetallic minerals except fuels	14	(a)
Food and kindred products	20	
Tobacco products	21	
Textile mill products	22	
Apparel and other finished products made from fabric and similar materials	23	
Lumber and wood products except furniture	24	
Furniture and fixtures	25	
Paper and allied products	26	
Printing, publishing, and allied products	27	
Chemicals and allied products	28	
Petroleum refining and related industries	29	
Rubber and miscellaneous plastics products	30	
Leather and leather products	31	
Stone, clay, glass and concrete products	32	
Primary metal industries	33	
Fabrication of metal products, except machinery and transportation equipment	34	
Industrial and commercial machinery and computer equipment	35	
Electronic and other electrical equipment and components, except compute equipment	36	
Transportation equipment	37	
Measuring analyzing, and controlling instruments; Photographic, medical, and optical goods; watches and clocks	38	
Miscellaneous manufacturing industries	39	
Railroad transportation	40	(b)
Local and suburban transit and interurban highway passenger transportation	41	(b)
Motor freight transportation and warehousing	42 (except 4221, 4222, and 4225)	(b)
Farm product warehousing and storage	4221	
Refrigerated warehousing and storage	4222	
General warehousing and storage	4225	
US Postal facilities	43	(b)
Water transportation	44	(b)
Transportation by air	45	(b)
Motor vehicle parts, used	5015	
Scrap and waste materials	5093	
Petroleum bulk stations and terminals	5171	(b)

4159

Comments:

4160

(a) For this SIC Code, a storm water permit is required only if runoff contacts overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations.

4161

4162

4163

(b) In this SIC Code, only facilities with vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning, or airport deicing need a storm water permit.

4164

4165

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4166 **APPENDIX B: Additional Requirements Applicable to Existing Manufacturing,**
4167 **Commercial, Mining and Silviculture Discharges**

4168
4169 (a) Application requirements. Existing manufacturing, commercial, mining, and
4170 silviculture discharges applying for permits, except for those facilities which discharge only non-
4171 process wastewater, shall provide the following information, in addition to that described in
4172 Section 5 (a) (v), to the administrator, using the application forms provided by the administrator.
4173

4174 (i) A line drawing of the water flow through the facility with a water
4175 balance, showing operations contributing wastewater to the effluent and treatment units. Similar
4176 processes, operations, or production areas may be indicated as a single unit, labeled to correspond
4177 to the more detailed identification required in paragraph (a) (ii) of this appendix. The water
4178 balance must show approximate average flows at intake and discharge points and between units,
4179 including treatment units. If a water balance cannot be determined (for example, for certain
4180 mining activities), the applicant may provide instead a pictorial description of the nature and
4181 amount of any sources of water and any collection and treatment measures.
4182

4183 (ii) Average flows and treatment. A narrative identification of each type of
4184 process, operation, or production area which contributes wastewater to the effluent for each
4185 outfall, including process wastewater, cooling water, and storm water runoff; the average flow
4186 which each process contributes; and a description of the treatment the wastewater receives,
4187 including the ultimate disposal of any solid or fluid wastes other than by discharge. Processes,
4188 operations, or production areas may be described in general terms (for example, "dye-making
4189 reactor," "distillation tower") For a privately owned treatment works, this information shall
4190 include the identity of each user of the treatment works. The average flow of point sources
4191 composed of storm water may be estimated. The basis for the rainfall event and the method of
4192 estimation must be indicated.
4193

4194 (iii) Intermittent flows. If any of the discharges described in paragraph (a)
4195 (ii) of this appendix are intermittent or seasonal, a description of the frequency, duration and flow
4196 rate of each discharge occurrence (except for storm water runoff, spillage or leaks).
4197

4198 (iv) Maximum production. If an effluent guideline listed in Section 5 (c) of
4199 these regulations applies to the applicant and is expressed in terms of production (or other
4200 measure of operation), a reasonable measure of the applicant's actual production reported in the
4201 units used in the applicant effluent limitation. The reported measure must reflect the actual
4202 production of the facility.
4203

4204 (v) Improvements. If the applicant is subject to any present requirements or
4205 compliance schedules for construction, upgrading or operation of waste treatment equipment, an
4206 identification of the abatement requirement, a description of the abatement project and projected
4207 final compliance dates.
4208

4209 (vi) Quantitative data. At a minimum, the applicant shall submit quantitative
4210 data for pollutants in the discharge as provided in this paragraph and in paragraph (a) (vi) (G) of

4211 this appendix. For purposes of this paragraph, an applicant is expected to know or have reason to
 4212 believe that a pollutant is present in an effluent based on an evaluation of the expected use,
 4213 production, or storage of the pollutant, or on any previous analyses for the pollutant.

4214
 4215 (A) Every applicant must report quantitative data for every outfall
 4216 for the following pollutants:

- 4217
- 4218 (I) Biochemical Oxygen Demand (BOD5),
- 4219
- 4220 (II) Chemical Oxygen Demand,
- 4221
- 4222 (III) Total Organic Carbon,
- 4223
- 4224 (IV) Total Suspended Solids,
- 4225
- 4226 (V) Ammonia (as N),
- 4227
- 4228 (VI) Temperature (both winter and summer), and
- 4229
- 4230 (VII) pH.

4231
 4232 (B) The administrator may waive the reporting requirements for
 4233 individual point sources or for a particular industry category for one or more of the pollutants
 4234 listed in paragraph (a) (vi) (A) of this appendix if the applicant has demonstrated that such a
 4235 waiver is appropriate because information adequate to support issuance of a permit can be
 4236 obtained with less stringent requirements.

4237
 4238 (C) Each applicant with processes in one or more primary industry
 4239 category (see Appendix A to 40 CFR Part 122) contributing to a discharge must report
 4240 quantitative data for the following pollutants in each outfall containing process wastewater:

4241
 4242 (I) The organic toxic pollutants in the fractions designated
 4243 in 40 CFR Part 122, Table I of Appendix D for the applicant's industrial category or categories.
 4244 Table II of Appendix D lists the organic toxic pollutants in each fraction. The fractions result
 4245 from the sample preparation required by the analytical procedure which uses gas
 4246 chromatography/mass spectrometry. A determination that an applicant falls within a particular
 4247 industrial category for the purposes of selecting fractions for testing is not conclusive as to the
 4248 applicant's inclusion in that category for any other purposes.

4249
 4250 (II) The pollutants listed in 40 CFR Part 122, Table III of
 4251 Appendix D (the toxic metals, cyanide, and total phenols).

4252
 4253 (D) Each applicant must indicate whether they know or have reason
 4254 to believe that any of the pollutants as described in (I) or (II) below is discharged from each
 4255 outfall.

4256

4257 (I) Any of the pollutants in Table IV of Appendix D (certain
4258 conventional and non-conventional pollutants) of 40 CFR Part 122. If an applicable effluent
4259 limitations guideline either directly limits the pollutant or, by its express terms, indirectly limits
4260 the pollutant through limitations on an indicator, the applicant must report quantitative data. For
4261 every pollutant discharged which is not so limited in an effluent limitations guideline, the
4262 applicant must either report quantitative data or briefly describe the reasons the pollutant is
4263 expected to be discharged.

4264
4265 (II) Any of the pollutants listed in Table II or Table III of
4266 Appendix D (the toxic pollutants and total phenols) of 40 CFR Part 122 for which quantitative
4267 data are not otherwise required under paragraph (a) (vi) (C) of this appendix. For every pollutant
4268 expected to be discharged in concentrations of 10 ppb or greater the applicant must report
4269 quantitative data For acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4,6 dinitrophenol,
4270 where any of these four pollutants are expected to be discharged in concentrations of 100 ppb or
4271 greater, the applicant must report qualitative data. For every pollutant expected to be discharged
4272 in concentrations less than 10 ppb, or in the case of acrolein, acrylonitrile, 2,4 dinitrophenol, and
4273 2-methyl-4,6 dinitrophenol, in concentrations less than 100 ppb, the applicant must either submit
4274 quantitative data or briefly describe the reasons the pollutant is expected to be discharged.

4275
4276 (E) Each applicant must indicate whether they know or have reason
4277 to believe that any of the pollutants in Table V of Appendix D of 40 CFR Part 122 (certain
4278 hazardous substances and asbestos) are discharged from each outfall. For every pollutant
4279 expected to be discharged, the applicant must briefly describe the reasons the pollutant is
4280 expected to be discharged, and report any quantitative data it has for any pollutant.

4281
4282 (F) For purposes of paragraphs (C) and (D) above, the applicant
4283 need not provide quantitative data if the pollutant is present in the discharge solely as a result of
4284 the presence in intake water. However, the applicant must report such pollutant as present.

4285
4286 (G) Each applicant must report qualitative data, generated using a
4287 screening procedure not calibrated with analytical standards, for 2,3,7,8-tetrachlorodibenzo-p-
4288 dioxin (TCDD) if they:

4289
4290 (I) Use or manufacture 2,4,5-trichlorophenoxy acetic acid
4291 (2,4,5,-T); 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,-TP); 2-(2,4,5-
4292 trichlorophenoxy) ethyl, 2,2-dichloropropionate (Erbon); O,O-dimethyl O-(2,4,5-trichlorophenyl)
4293 phosphorothioate (Ronnel); 2,4,5-trichlorophenol (TCP); or hexachlorophene (HCP); or

4294
4295 (II) Know or have reason to believe that TCDD is or may be
4296 present in an effluent.

4297
4298 (vii) When quantitative data for a pollutant are required, the applicant must
4299 collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods
4300 approved under 40 CFR Part 136. When no analytical method is approved the applicant may use
4301 any suitable method but must provide a description of the method.

4302

4303 (A) When an applicant has two (2) or more outfalls with
4304 substantially identical effluents, the department may allow the applicant to test only one (1)
4305 outfall and report that the quantitative data also apply to the substantially identical outfalls.

4306
4307 (B) Grab samples must be used for pH, temperature, cyanide, total
4308 phenols, residual chlorine, oil and grease, fecal coliform and fecal streptococcus.

4309
4310 (C) For all other pollutants, 24-hour composite samples must be
4311 used. However, a minimum of one (1) grab sample may be taken for effluents from holding
4312 ponds or other impoundments with a retention period greater than 24-hours. In addition, for
4313 discharges other than storm water discharges, the administrator may waive composite sampling
4314 for any outfall for which the applicant demonstrates that the use of an automatic sampler is
4315 infeasible and that the minimum of four (4) grab samples will be a representative sample of the
4316 effluent being discharged.

4317
4318 (viii) Used or manufactured toxins. A listing of any toxic pollutant which the
4319 applicant currently uses or manufactures as an intermediate or final product or byproduct. The
4320 administrator may waive or modify this requirement for any applicant who demonstrates that it
4321 would be unduly burdensome to identify each toxic pollutant if the administrator has adequate
4322 information to issue the permit.

4323
4324 (ix) An identification of any whole effluent toxicity tests which the applicant
4325 knows or has reason to believe has been made within the last three (3) years on any of the
4326 applicant's discharges or on a receiving water in relation to a discharge.

4327
4328 (x) Contract analyses. If a contract laboratory or consulting firm performed
4329 any of the analyses required in paragraphs (a) (vi) or (a) (vii) of this appendix, the applicant shall
4330 identify each laboratory or firm and the analyses performed.

4331
4332 (xi) Small business exemption. An applicant which qualifies as a small
4333 business under one of the following criteria is exempt from the requirements in Appendix B (a)
4334 (vi) (C) (I) and the Table II quantitative requirement of Appendix B (a) (vi) (D) (II):

4335
4336 (A) For coal mines, the probable total annual production is less than
4337 100,000 tons per year.

4338
4339 (B) For all other applicants, the gross total annual sales average less
4340 than \$100,000 per year (in second quarter 1980 dollars).

4341
4342 (b) Notification of routine toxic discharges not limited in the permit. Permits for
4343 existing manufacturing, commercial, mining and silvicultural discharges shall require that the
4344 permittee report to the administrator as soon as the permittee knows or has reason to believe that
4345 any activity has occurred or will occur which would result in the discharge, on a routine or
4346 frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will
4347 exceed the highest of the following notification levels:

4348

- 4349 (i) One hundred micrograms per liter (100 µg/l);
4350
- 4351 (ii) Two hundred micrograms per liter (200 µg/l) for acrolein and
4352 acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-
4353 4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
4354
- 4355 (iii) Five (5) times the maximum concentration value reported for that
4356 pollutant in the permit application; or
4357
- 4358 (iv) The notification level established by the director in accordance with
4359 Section 5 (c) of these regulations.
4360
- 4361 (c) Notification of non-routine toxic discharges not limited in the permit Permits for
4362 existing manufacturing, commercial, mining and silvicultural discharges shall require that the
4363 permittee report to the director as soon as the permittee knows or has reason to believe that any
4364 activity has occurred or will occur which would result in any discharge, on a non-routine or
4365 infrequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will
4366 exceed the highest of the following notification levels:
4367
- 4368 (i) Five hundred micrograms per liter (500 µg/l);
4369
- 4370 (ii) One milligram per liter (1 mg/l) for antimony;
4371
- 4372 (iii) Ten (10) times the maximum concentration value reported for that
4373 pollutant in the permit application; or
4374
- 4375 (iv) The notification level established by the administrator in accordance with
4376 Section 5 (c) of these regulations.

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4377 **APPENDIX C: Additional Requirements Applicable to New Manufacturing, Commercial,**
4378 **Mining and Silvicultural Discharges**

4379
4380 (a) New manufacturing, commercial, mining and silvicultural dischargers applying
4381 for permits (except for new discharges of facilities subject to the requirements of Appendix D of
4382 these regulations), shall provide the following information, in addition to that described in
4383 Section 5 (a) (iv), to the administrator, using the application form provided by the administrator.
4384

4385 (i) Discharge dates. The expected date of commencement of discharge.
4386

4387 (ii) Flows, sources of pollution, and treatment technologies.
4388

4389 (A) Expected treatment of wastewater. Description of the treatment
4390 that the wastewater will receive, along with all operations contributing wastewater to the effluent,
4391 average flow contributed by each operation, and the ultimate disposal of any solid or liquid
4392 wastes not discharges.
4393

4394 (B) Line drawing. A line drawing of the water flow through the
4395 facility with a water balance as described in Appendix B (a) (i).
4396

4397 (C) Intermittent flows. If any of the expected discharges will be
4398 intermittent or seasonal, a description of the frequency, duration and maximum daily flow rate of
4399 each discharge occurrence (except for storm water runoff, spillage, or leaks).
4400

4401 (iii) Production. If a new source performance standard promulgated under
4402 Section 306 of the CWA or an effluent limitation guideline applies to the applicant and is
4403 expressed in terms of production (or other measure of operation), a reasonable measure of the
4404 applicant's expected actual production reported in the units used in the applicable effluent
4405 guideline or new source performance standard for each of the first three (3) years. Alternative
4406 estimates may also be submitted if production is likely to vary.
4407

4408 (iv) Effluent characteristics.
4409

4410 (A) Each applicant must report estimated daily maximum, daily
4411 average, and source of information for each outfall for the following pollutants or parameters.
4412

4413 (I) Biochemical Oxygen Demand (BOD5),
4414

4415 (II) Chemical Oxygen Demand (COD),
4416

4417 (III) Total Suspended Solids (TSS),
4418

4419 (IV) Flow,
4420

4421 (V) Ammonia (as N),

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(VI) Temperature (winter and summer),

(VII) pH, and

(VIII) Total Organic Carbon (TOC).

(B) The administrator may waive the reporting requirements for any of the pollutants and parameters in Appendix C (a) (iv) (A) if the applicant submits a request for such a waiver before or with the application which demonstrates that information adequate to support issuance of the permit can be obtained through less stringent reporting requirements.

(C) Each applicant must report estimated daily maximum, daily average, and source of information for each outfall for all pollutants in Table IV of Appendix D 40 CFR Part 122 (certain conventional and non-conventional pollutants) if the applicant knows or has reason to believe the pollutants will be present or if the pollutants are limited by an effluent limitation guideline or new source performance standard either directly or indirectly through limitations on an indicator pollutant.

(D) Each applicant must report estimated daily maximum, daily average and source of information for the following pollutants if they know or have reason to believe that the pollutant will be present in the discharges from any outfall:

(I) The pollutants listed in Table III of Appendix D (the toxic metals, in the discharge from any outfall: Total cyanide, and total phenols) of 40 CFR Part 122;

(II) The organic toxic pollutants in Table II of Appendix D (except bis (chloromethyl) ether, dichlorofluoromethane and trichlorofluoromethane) of 40 CFR Part 122. This requirement is waived for applicants qualifying for the small business exemption as specified in Appendix B (a) (xi).

(E) The applicant is required to report that 2,3,7,8 Tetrachlorodibenzo-P-Dioxin (TCDD) may be discharged if he uses or manufactures one of the following compounds, or if he knows or has reason to believe that TCDD will or may be present in an effluent:

(I) 2,4,5-trichlorophenoxy acetic acid (2,4,5-T) (CAS #93-76-5);

(II) 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5-TP) (CAS #93-72-1);

(III) 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate (Erbon) (CAS #136-25-4);

4468 (IV) 0,0-dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate
4469 (Ronnel) (CAS #299-84-3);

4470
4471 (V) 2,4,5-trichlorophenol (TCP) (CAS #95-95-4); or
4472

4473 (VI) Hexachlorophene (HCP) (CAS #70-30-4).
4474

4475 (F) Each applicant must report any pollutants listed in Table V of
4476 Appendix D (certain hazardous substances) of 40 CFR Part 122 if they believe the pollutants will
4477 be present in any outfall (no quantitative estimates are required unless they are already available).
4478

4479 (G) No later than two (2) years after the commencement of the
4480 discharge from a proposed facility, the applicant must submit analytical results which
4481 characterize the actual effluent discharged. The applicant need not submit this information to the
4482 extent the analytical results are reported by the applicant under the discharge monitoring
4483 requirements of the applicant's permit.
4484

4485 (v) Engineering report. Each applicant must report the existence of any
4486 technical evaluation concerning the applicant's wastewater treatment, along with the name and
4487 location of similar plants of which the applicant has knowledge.
4488

4489 (vi) Other information. Any optional information the permittee wishes to
4490 have considered.
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4498 **APPENDIX D: Additional Requirements Applicable to Manufacturing, Commercial,**
 4499 **Mining and Silvicultural Facilities Discharging Only Non-process Waste Water**

4500
 4501 (a) Application requirements. Application requirements for manufacturing,
 4502 commercial, mining and silvicultural facilities which discharge only non-process wastewater.
 4503 Except for storm water discharges, all manufacturing, commercial, mining, and silvicultural
 4504 dischargers applying for permits which discharge only non-process wastewater not regulated by
 4505 an effluent limitation guideline or new source performance standard shall provide the following
 4506 information, in addition to that described in Section 5 (a) (iv), to the administrator, using
 4507 application forms provided by the administrator.

4508
 4509 (i) Discharge date (for new dischargers). Date of expected commencement
 4510 of discharge.

4511
 4512 (ii) Type of waste. An identification of the general type of waste discharged,
 4513 or expected to be discharged upon commencement of operations, including sanitary wastes,
 4514 restaurant or cafeteria wastes, or noncontact cooling water. An identification of cooling water
 4515 additives (if any) that are used or expected to be used upon commencement of operations, along
 4516 with their composition if existing composition is available.

4517
 4518 (iii) Effluent characteristics.

4519
 4520 (A) Quantitative data for the pollutants or parameters listed below,
 4521 unless testing is waived by the administrator.

4522
 4523 (I) Biochemical Oxygen Demand (BOD5),

4524
 4525 (II) Total Suspended Solids (TSS),

4526
 4527 (III) Fecal Coliform (if believed present or if sanitary waste is
 4528 or will be discharged),

4529
 4530 (IV) Total Residual Chlorine (if chlorine is used),

4531
 4532 (V) Oil and Grease,

4533
 4534 (VI) Chemical Oxygen Demand (COD)(if non-contact
 4535 cooling water is or will be discharged),

4536
 4537 (VII) Ammonia (as N),

4538
 4539 (VIII) Discharge Flow,

4540
 4541 (IX) pH,

4542

4543 (X) Temperature (Winter and Summer), and

4544

4545 (XI) Total Organic Carbon (TOC).

4546

4547 (B) The quantitative data in Appendix D (a) (iii) (A) may be data
4548 collected over the past 365 days, if they remain representative of current operations, and must
4549 include daily maximum value, daily average value, and number of measurements taken. The
4550 applicant must collect and analyze samples in accordance with 40 CFR Part 136. Grab samples
4551 must be used for pH, temperature, oil and grease, total residual chlorine, and fecal coliform. For
4552 all other pollutants, 24-hour composite samples must be used. New dischargers must include
4553 estimates for the pollutants or parameters listed below instead of actual sampling data, along with
4554 the source of each estimate. All levels must be reported or estimated as concentration and as total
4555 mass, except for flow, pH, and temperature.

4556

4557 (C) The administrator may waive the testing and reporting
4558 requirements for any of the pollutants or flow listed in paragraph (a) (iii) of this appendix if the
4559 applicant submits a request for such a waiver before or with the permit application which
4560 demonstrates that information adequate to support issuance of a permit can be obtained through
4561 less stringent requirements.

4562

4563 (D) If the applicant is a new discharger, the applicant must provide
4564 quantitative data in accordance with paragraph (a) (iii) of this appendix no later than two (2) years
4565 after commencement of discharge. However, the applicant need not perform tests which they
4566 have already performed and reported under the discharge monitoring requirements of the
4567 applicant's permit.

4568

4569 (E) The requirements of paragraph (a) (iii) of this appendix do not
4570 apply for pollutants present in a discharge solely as a result of their presence in intake water.
4571 However, an applicant must report such pollutants as present. Net credit may be provided for the
4572 presence of pollutants in intake water if the requirements are met.

4573

4574 (iv) Flow. A description of the frequency of flow and duration of any
4575 seasonal or intermittent discharge (except for storm water runoff, leaks, or spills).

4576

4577 (v) Treatment system. A brief description of any system used or to be used.

4578

4579 (vi) Optional information. Any additional information the applicant wishes
4580 to be considered.

4581 **APPENDIX E: Additional Requirements Applicable to New and Existing Publicly owned**
4582 **Treatment Works (POTWs)**

4583
4584 (a) Application requirements for new and existing POTWs. POTWs shall provide
4585 the following information, in addition to that described in Section 5 (a) (v), to the administrator,
4586 using the application form provided by the administrator.

4587
4588 (i) Name of State Management/River Basin and 12 digit hydrologic
4589 cataloging unit code.

4590
4591 (ii) Critical flow of the receiving surface waters of the state and total
4592 hardness of the receiving surface waters of the state at critical low flow.

4593
4594 (iii) The following POTWs shall provide to the administrator the results of
4595 whole effluent toxicity testing conducted in accordance with EPA approved methods:

4596
4597 (A) All POTWs with design influent flows equal to or greater than
4598 one million gallons per day; and

4599
4600 (B) All POTWs with approved pretreatment programs or POTWs
4601 required to develop a pretreatment program.

4602
4603 (iv) Effluent monitoring for specific parameters.

4604
4605 (A) All applicants must submit to the administrator effluent
4606 monitoring information for samples taken from each outfall through which effluent is discharged
4607 to surface waters of the state, except for CSOs. The administrator may allow applicants to submit
4608 sampling data for only one (1) outfall on a case-by-case basis, where the applicant has two (2) or
4609 more outfalls with substantially identical effluent. The administrator may also allow applicants to
4610 composite samples from one or more outfalls that discharge into the same mixing zone.

4611
4612 (B) Unless otherwise indicated, all applicants must sample and
4613 analyze for the pollutants listed in Table E1 of this Appendix.

4614
4615 (C) Unless otherwise indicated, all applicants with a design flow
4616 greater than or equal to 0.1 mgd must sample and analyze for the pollutants listed in Table E2 of
4617 this Appendix. Facilities are not required to sample and analyze for chlorine if they do not use
4618 chlorine for disinfection, do not use chlorine elsewhere in the treatment process, and have no
4619 reasonable potential to discharge chlorine in their effluent.

4620
4621
4622 (D) The following applicants must sample and analyze for the
4623 pollutants listed in 40 CFR 122 Appendix J Table 2 and for any other pollutants for which state
4624 surface water quality standards have been established for the receiving waters:

4625

4626 (I) All POTWs with a design flow rate equal to or greater
4627 than one million gallons per day.

4628
4629 (II) All POTWs with approved pretreatment programs or
4630 POTWs required to develop a pretreatment program.

4631
4632 (III) Any other POTW as required by the administrator.
4633

4634 (E) Unless otherwise indicated, all applicants must provide data
4635 from a minimum of three (3) samples taken within four and one-half (4.5) year prior to the date of
4636 the permit application. Samples must be representative of seasonal variation in the discharge
4637 from each outfall. Existing data may be used, if available, in lieu of sampling done solely for the
4638 purpose of this application.

4639
4640 (F) All existing data for pollutants specified in this Appendix that is
4641 collected within four and one-half (4.5) years of the application must be included in the pollutant
4642 data summary submitted by the applicant. If, however, the applicant samples for a specific
4643 pollutant on a monthly or more frequent basis, it is only necessary, for such pollutant, to
4644 summarize all data collected within one (1) year of the application.

4645
4646 (G) Unless otherwise indicated, all applicants must collect samples
4647 of effluent and analyze such samples for pollutants in accordance with analytical methods
4648 approved und 40 CFR Part 136 unless an alternative is specified in the existing WYPDES permit.
4649 Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and
4650 grease, and fecal coliform. For all other pollutants, 24-hour composite samples must be used.
4651 For a composite sample, only one analysis of the composite of aliquots is required.

4652
4653 (H) The effluent monitoring data provided must include at least the
4654 following information for each parameter.

4655
4656 (I) daily maximum discharge, expressed as concentration or
4657 mass, based upon actual sample values;

4658
4659 (II) daily average discharge for all samples, expressed as
4660 concentration or mass, and the number of samples used to obtain this value;

4661
4662 (III) The analytical method used; and

4663
4664 (IV) The practical quantitation limit for the analytical method
4665 used.

4666
4667
4668 (I) Unless otherwise required by the administrator, metals
4669 must be reported as dissolved or total recoverable as applicable in accordance with Wyoming
4670 Water Quality Rules and Regulations Chapter 1.

4671

4672 (v) In addition to the POTWs listed in paragraph (a) (i) of this appendix, the
4673 division may require other POTWs to submit the results of toxicity tests with their permit
4674 applications, based on consideration of the following factors:

4675
4676 (A) The variability of the pollutants or pollutant parameters in the
4677 POTW effluent (based on chemical-specific information, the type of treatment facility, and types
4678 of industrial contributors);

4679
4680 (B) The dilution of the effluent in the receiving water (ratio of
4681 effluent flow to receiving surface waters of the state flow);

4682
4683 (C) Existing controls on point or nonpoint sources, including TMDL
4684 calculations for the waterbody segment and the relative contribution of the POTW;

4685
4686 (D) Receiving water characteristics, including possible or known
4687 water quality impairment, and whether the POTW discharges to waters designated as Class 1 in
4688 accordance with Wyoming Water Quality Rules and Regulations Chapter 1; or

4689
4690 (E) Other considerations (including but not limited to the history of
4691 toxic impact and compliance problems at the POTW), which the administrator determines could
4692 cause or contribute to adverse water quality impacts.

4693
4694 (vi) For POTWs required under paragraph (a) (i) or (a) (ii) of this appendix to
4695 conduct toxicity testing, POTWs shall use methods approved by the administrator.

4696
4697 (vii) Effluent monitoring for whole effluent toxicity.

4698
4699 (A) All applicants must provide an identification of any whole
4700 effluent toxicity tests conducted during the four and one half (4.5) years prior to the date of the
4701 application on any of the applicant=s discharges or on any receiving water near the discharge.

4702
4703 (B) Where the POTW has two or more outfalls with substantially
4704 identical effluent discharging to the same receiving water segment, the administrator may allow
4705 applicants to submit whole effluent toxicity data for only one (1) outfall on a case-by-case basis.
4706 The administrator may also allow applicants to composite samples from one (1) or more outfalls
4707 that discharge into the same mixing zone.

4708
4709 (C) Each applicant required to perform whole effluent toxicity
4710 testing pursuant to paragraph (a) (iii) of this Appendix must provide:

4711
4712 (I) Results of a minimum of four (4) quarterly tests for a
4713 year, from the year preceding the permit application; or

4714
4715 (II) Results from four tests performed at least annually in the
4716 four and one half (4.5) year period prior to the application, provided the results show no
4717 appreciable toxicity using a safety factor determined by the permitting authority.

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(D) Applicants must conduct tests with multiple species (no less than two (2) species; e.g., fish invertebrate, plant) and test for acute or chronic toxicity, depending on the range of receiving water dilution. It is recommended that applicants conduct acute or chronic testing based on the following dilutions.

(I) Acute toxicity testing if the dilution of the effluent is greater than 1,000:1 at the edge of the mixing zone.

(II) Acute or chronic toxicity testing if the dilution of the effluent is between 100:1 and 1000:1 at the edge of the mixing zone. Acute testing may be more appropriate at the higher end and chronic testing may be more appropriate towards the lower end.

(III) Chronic testing if the dilution of the effluent is less than 100:1 at the edge of the mixing zone.

(E) Unless otherwise directed by the administrator, each applicant required to perform whole effluent toxicity testing pursuant to paragraph (a) (i) of this appendix must provide the number of chronic or acute whole effluent toxicity tests that have been conducted since the last permit reissuance.

(F) Applicants must provide the results using a form provided by the administrator, or test summaries if available and comprehensive, for each whole effluent toxicity test conducted pursuant to this appendix for which such information has not been reported previously to the administrator.

(G) For the purposes of these regulations whole effluent toxicity testing for must be conducted using methods approved under 40 CFR Part 136.

(H) For whole effluent toxicity data submitted to the administrator within four and one half (4.5) years prior to the date of the application applicants must provide the dates on which the data were submitted and a summary of the results, unless otherwise directed by the administrator.

(I) Each POTW required to perform whole effluent toxicity testing in accordance with these regulations must provide any information on the cause of toxicity and written details of any toxicity reduction evaluation conducted, if any whole effluent toxicity test conducted within the past four and one-half years revealed toxicity.

(viii) POTWs receiving Resource Conservation and Recovery Act (RCRA), Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or RCRA Corrective Action wastes or wastes generated at another type of environmental cleanup or remediation site must provide the following information.

- 4762 (A) If the POTW receives, or has been notified that it will receive,
4763 by truck, rail, or dedicated pipe any wastes that are regulated as RCRA hazardous wastes
4764 pursuant to 40 CFR Part 261, the applicant must report the following:
4765
- 4766 (I) The method by which the waste is received (i.e., whether
4767 by truck, rail, or dedicated pipe); and
4768
 - 4769 (II) The hazardous waste number amount received annually
4770 of each hazardous waste.
4771
- 4772 (B) If the POTW receives, or has been notified that it will receive
4773 wastewaters that originate from remedial activities, including those undertaken pursuant to
4774 CERCLA and sections 3004(u) or 3008(h) of RCRA, the applicant must report the following:
4775
- 4776 (I) The identity and description of the site(s) or facility(ies)
4777 at which the wastewater originates.
4778
 - 4779 (II) The identities of the wastewater=s hazardous
4780 constituents, as listed in Appendix VIII of 40 CFR Part 261, if known.
4781
 - 4782 (III) The extent of treatment, if any, the wastewater receives
4783 or will receive before entering the POTW.
4784
- 4785 (C) Applicants are exempt from the requirements of paragraph (e)(ii)
4786 of this Appendix if they receive no more than fifteen kilograms per month of hazardous wastes as
4787 specified in 40 CFR 261.30 (d) and 261.33 (e).
4788
- 4789 (ix) Each applicant with combined sewer systems must provide the following
4790 information.
4791
- 4792 (A) Combined sewer system information:
4793
 - 4794 (I) System map. A map indicating the location of the
4795 following:
4796
 - 4797 (1.) All combined sewer overflow (CSO) discharge
4798 points.
4799
 - 4800 (2.) Sensitive use areas potentially affected by CSOs.
4801
 - 4802 (3.) Waters supporting threatened or endangered
4803 species potentially affected by CSOs.
4804
 - 4805 (II) System diagram. A diagram of the combined sewer
4806 collection system that includes:
4807

- 4808
4809 (1.) The location of major sewer trunk lines, both
4810 combined and separate sanitary.
4811
4812 (2.) The locations of points where separate sanitary
4813 sewers feed into the combined sewer system.
4814
4815 (3.) In-line and off-line storage structures.
4816
4817 (4.) The locations of flow regulating devices.
4818
4819 (5.) The location of pump stations.
4820
4821 (B) Information on combined sewer outfalls:
4822
4823 (I) Description of the outfall, including:
4824
4825 (1.) Outfall number.
4826
4827 (2.) State, county, and city or town in which outfall
4828 is located.
4829
4830 (3.) Latitude and longitude, to the nearest 15
4831 seconds.
4832
4833 (4.) Distance from shore and depth below surface.
4834
4835 (5.) Whether the applicant monitored any of the
4836 following in the past year for the CSO:
4837
4838 a. Rainfall.
4839
4840 b. CSO flow volume.
4841
4842 c. CSO pollutant concentrations.
4843
4844 d. Receiving water quality.
4845
4846 e. CSO frequency.
4847
4848 (6.) The number of storm events monitored in the
4849 last year.
4850
4851 (II) CSO events. The following information about CSO
4852 overflows from each outfall.
4853

- 4854 (1.) The number of events in the past year.
4855
4856 (2.) The average duration per event, if available.
4857
4858 (3.) The average volume per CSO event if available.
4859
4860 (4.) The minimum rainfall that caused a CSO event,
4861 if available, in the last year.
4862
4863 (III) Description of receiving waters. The following
4864 information about receiving water.
4865
4866 (1.) Name of the receiving water.
4867
4868 (2.) Name of watershed/stream system and the State
4869 watershed (12-digit) code (if known).
4870
4871 (IV) CSO operations. A description of any known water
4872 quality impacts on the receiving water caused by the CSO (e.g., permanent or intermittent beach
4873 closings, permanent or intermittent fish kills, fish advisories, other recreational loss, or
4874 exceedance of any applicable state water quality standard.
4875
4876 (x) Contractors. All applicants must provide the name, mailing address,
4877 telephone number, and responsibilities of all contractors responsible for any operational or
4878 maintenance aspects of the facility.
4879
4880 (b) A permit application shall not be considered complete if the administrator has
4881 waived application requirements under this Appendix or Section 5 of these regulations and the
4882 Regional Administrator of the EPA has disapproved the waiver. If a waiver request has been
4883 submitted to the Regional Administrator of the EPA more than 210 days prior to permit
4884 expiration and the Regional Administrator has not disapproved the waiver application 181 days
4885 prior to permit expiration, the permit application lacking the information subject to the waiver
4886 request shall be considered complete.
4887
4888 (c) Secondary treatment requirements. This part provides information
4889 on the level of effluent quality that shall be obtained through the application of secondary or
4890 equivalent treatment.
4891
4892 (i) Terms used in this appendix are defined as follows:
4893
4894 (A) 7-day average. The arithmetic mean of pollutant parameter
4895 values for samples collected in a period of seven (7) consecutive days.
4896
4897 (B) 30-day average. The arithmetic mean of pollutant parameter
4898 values of samples collected in a period of 30 consecutive days.
4899

- 4900 (C) BOD₅. The five day measure of the pollutant parameter
4901 biochemical oxygen demand (BOD₅).
4902
- 4903 (D) CBOD₅. The five day measure of the pollutant parameter
4904 carbonaceous biochemical oxygen demand (CBOD₅).
4905
- 4906 (E) Effluent concentrations consistently achievable through proper
4907 operation and maintenance.
4908
- 4909 (I) For a given pollutant parameter, the 95th percentile value for the
4910 30-day average effluent quality achieved by a treatment works in a period of at least two years,
4911 excluding values attributable to upsets, bypasses, operational errors, or other unusual conditions;
4912 and,
4913
- 4914 (II) A 7-day average value equal to 1.5 times the value derived under
4915 paragraph (c) (i) (E) (I) of this appendix.
4916
- 4917 (F) Facilities eligible for treatment equivalent to secondary
4918 treatment. Treatment works shall be eligible for consideration for effluent limitations described
4919 for treatment equivalent to secondary treatment (133.105) if:
4920
- 4921 (I) The BOD₅ and TSS effluent concentrations consistently
4922 achievable through proper operation and maintenance of the treatment works exceed the
4923 minimum level of effluent quality set forth in 133.02(a) and (b).
4924
- 4925 (II) A trickling filter or waste stabilization pond is used as
4926 the principal process; and,
4927
- 4928 (III) The treatment works provide significant biological
4929 treatment of municipal wastewater.
4930
- 4931 (G) Percent removal. A percentage expression of the removal
4932 efficiency across a treatment plan for a given pollutant parameter, as determined from the 30-day
4933 average values of the raw wastewater influent pollutant concentrations to the facility and the 30-
4934 day average values of the raw wastewater influent pollutant concentrations to the facility and the
4935 30-day average values of the effluent pollutant concentrations for a given time period.
4936
4937
- 4938 (H) Significant biological treatment. The use of an aerobic or
4939 anaerobic biological treatment process in a treatment works to consistently achieve a 30-day
4940 average of at least 65 percent removal of BOD₅.
4941
- 4942 (I) TSS. The pollutant parameter total suspended solids.
4943
- 4944 (J) Significantly more stringent limitation means BOD₅ and TSS
4945 limitations necessary to meet the percent removal requirements of at least 5 mg/l more stringent

4946 than the otherwise applicable concentration-based limitations (e.g., less than 25 mg/l in the case
 4947 of the secondary treatment limits for BOD5 and TSS), or the percent removal limitations in
 4948 paragraphs (c) (ii) and (c) (v) of this appendix, if such limits would, by themselves, force
 4949 significant construction or other significant capital expenditure.

4950
 4951 (ii) Secondary Treatment. The following paragraphs describe the minimum
 4952 level of effluent quality attainable by secondary treatment in terms of the parameters BOD5, TSS,
 4953 and pH. All requirements for each parameter shall be achieved except as provided for in
 4954 paragraphs (c) (iii) and (c) (v) of this appendix.

4955
 4956 (A) BOD₅.
 4957
 4958 (I) The 30-day average shall not exceed 30 mg/l.
 4959
 4960 (II) The 7-day average shall not exceed 45 mg/l.
 4961
 4962 (III) The 30-day average percent removal shall not be less
 4963 than 85 percent.

4964
 4965 (IV) At the option of the administrator, in lieu of the
 4966 parameter BOD5. and the levels of the effluent quality specified in paragraphs (c) (ii) (A) (I) (II)
 4967 and (III) , the parameter C BOD₅. may be substituted with the following levels of the CBOD₅
 4968 effluent quality provided:

4969
 4970 (1.) The 30-day average shall not exceed 25 mg/l.
 4971
 4972 (2.) The 7-day average shall not exceed 40 mg/l.
 4973
 4974 (3.) The 30-day average percent removal shall not be
 4975 less than 85 percent.

4976
 4977 (B) TSS.
 4978
 4979 (I) The 30-day average shall not exceed 30 mg/l.
 4980
 4981 (II) The 7-day average shall not exceed 45 mg/l
 4982
 4983 (III) The 30-day average percent removal shall not be less
 4984 than 85 percent.

4985
 4986 (C) pH. The effluent values for pH shall be maintained within the
 4987 limits of 6.0 to 9.0 unless the publicly owned treatment works demonstrates that: (1) Inorganic
 4988 chemicals are not added to the waste stream as part of the treatment process; and (2) contributions
 4989 from industrial sources do not cause the pH of the effluent to be less than 6.0 or greater than 9.0.

4990
 4991 (iii) Special considerations.

4992

4993

(A) Combined sewers. Treatment works subject to this part may not be capable of meeting the percentage removal requirements established under 102 (a) (3) and (b) (3) or 105 (a) (3) and (b) (3) during wet weather where the treatment works receive flows from combined sewers (i.e., sewers which are designed to transport both storm water and sanitary sewage). For such treatment works, the decision must be made on a case-by-case basis as to whether any attainable percentage removal level can be defined, and if so, what the level should be.

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(B) Industrial waste. For certain industrial categories, the discharge to surface waters of the state of BOD5 and TSS permitted under Sections 301 (b) (1) (A) (i), (b) (2) (E) or 306 of the CWA may be less stringent than the values given in paragraphs (c) (ii) (A) (I) and (IV) (i), (c) (ii) (B) (I), (c) (v) (A) (I), (c) (v) (B) (I) and (c) (v) (E) (I) (i) of this appendix. In cases when wastes would be introduced from such an industrial category into a publicly owned treatment works, the values for BOD5 and TSS in paragraphs (c) (ii) (A) (I) and (IV) (i), (c) (ii) (B) (I), (c) (v) (A) (I), (c) (v) (B) (I) and (c) (v) (E) (I) (i) of this appendix may be adjusted upwards provided that: (1) The permitted discharge of such pollutants attributable to the industrial category, would not be greater than that which would be permitted under Sections 301 (b) (1) (A) (i), (b) (2) (E) or 306 of the CWA if such industrial category were to discharge directly into the surface waters of the state, and (2) the flow or loading of such pollutants introduced by the industrial category exceeds 10 percent of the design flow or loading of the publicly owned treatment works. When such an adjustment is made, the values for BOD5 or TSS in paragraphs (c) (ii) (A) (II) and (IV) (ii), (c) (ii) (B) (II), (c) (v) (A) (II), (c) (v) (B) (II) and (c) (v) (E) (I) (ii) of this appendix. should be adjusted proportionately.

(C) Waste stabilization ponds. The administrator, may authorize adjusting the minimum levels of effluent quality set forth in paragraphs (c) (v) (B) (1), (2) and (3) of this appendix for treatment works subject to this part, to conform to the TSS concentrations achievable with waste stabilization ponds, provided that:

(I) Waste stabilization ponds are the principal process used for secondary treatment; and

(II) Operation and maintenance data indicate that the TSS values specified in paragraphs (c) (v) (B) (~~1~~), (~~2~~) and (~~3~~) of this appendix cannot be achieved. The term “TSS concentrations achievable with waste stabilization ponds” means a TSS value, determined by the administrator, which is equal to the effluent concentration achieved 90 percent of the time within a state or appropriate contiguous geographical area by waste stabilization ponds that are achieving the levels of effluent quality for BOD₅ specified in paragraphs (c) (v) (A) (~~1~~) of this appendix.

(D) Less concentrated influent wastewater for separate sewers. The administrator may authorize substituting either a lower percent removal requirement or a mass loading limit for the percent removal requirements set forth in paragraphs (c) (ii) (A) (III) and (IV) (~~1~~), (c) (ii) (B) (III), (c) (v) (A) (III), (c) (v) (B) (III) and (c) (v) (E) (I) (~~1~~)(~~3~~) of this appendix provided that the permittee satisfactorily demonstrates that:

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(I) The treatment works is consistently meeting, or will consistently meet, its permit effluent concentration limits but its percent removal requirements cannot be met due to less concentrated influent wastewater;

(II) To meet the percent removal requirements, the treatment works would have to achieve significantly more stringent limitations than would otherwise be required by the concentration-based standards; and

(III) The less concentrated influent wastewater is not the result of excessive I/I. The determination of whether the less concentrated I/I will use the definition of excessive I/I in 40 CFR 35.2005 (b) (16) plus the additional criterion that inflow is non-excessive if the total flow to the POTW (i.e., wastewater plus inflow plus infiltration) is less than 25 gallons per capita per day.

(E) Less concentrated influent wastewater for combined sewers during dry weather. The administrator may substitute either a lower percent removal requirement or a mass loading limit for the percent removal requirements set forth in paragraphs (c) (ii) (A) (III) and (IV) (iii), (c) (ii) (B) (III), (c) (v) (A) (III), (c) (v) (B) (III) and (c) (v) (E) (I) (iii) of this appendix provided that the permittee satisfactorily demonstrates that:

(I) The treatment works is consistently meeting, or will consistently meet, its permit effluent concentration limits, but the percent removal requirements cannot be met due to less concentrated influent wastewater;

(II) To meet the percent removal requirements, the treatment works would have to achieve significantly more stringent effluent concentrations than would otherwise be required by the concentration-based standards; and

(III) The less concentrated influent wastewater does not result from either excessive infiltrations or clear water industrial discharges during dry weather periods. The determination of whether the less concentrated wastewater results from excessive infiltration is discussed in 40 CFR 35 2005 (b) (28), plus the additional criterion that either 40 gallons per capita per day or 1500 gallons per inch diameter per mile of sewer may be used as the threshold value for that portion of the dry weather base flow attributed to infiltration. If the less concentrated influent wastewater is the result of clear water industrial discharges, then the treatment works must control such discharges pursuant to 40 CFR Part 403.

(iv) Sampling and test procedures.

(A) Sampling and test procedures for pollutants listed in this part shall be in accordance with guidelines in 40 CFR Part 136.

(B) Chemical oxygen demand (COD) or total organic carbon (TOC) may be substituted for BOD5 when a long-term BOD5, COD or BOD5 TOC correlation has been demonstrated.

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(v) Treatment equivalent to secondary treatment. This section describes the minimum level of effluent quality attainable by facilities eligible for treatment equivalent to secondary treatment under paragraph (c) (i) (F) of this appendix in terms of the parameters BOD₅, TSS and pH. All requirements for the specified parameters in paragraphs (c) (v) (A), (B) and (C) of this appendix shall be achieved except as provided for in paragraph (c) (iii), or paragraphs (c) (v) (D), (E) or (F) of this appendix.

(A) BOD₅.

- (I) The 30-day average shall not exceed 45 mg/l.
- (II) The 7-day average shall not exceed 65 mg/l.
- (III) The 30-day average percent removal shall not be less

than 65 percent.

(B) TSS. Except where TSS values have been adjusted in accordance with paragraph (c) (iii) (C) of this appendix:

- (I) The 30-day average shall not exceed 45 mg/l.
- (II) The 7-day average shall not exceed 65 mg/l.
- (III) The 30-day average percent removal shall not be less

than 65 percent.

(C) pH. The requirements of paragraph (c) (ii) (C) of this appendix shall be met.

(D) Alternative requirements. Except as limited by paragraph (c) (v) (F) of this appendix, and after public notice and opportunity for public comment, the administrator may adjust the minimum levels of effluent quality set forth in paragraphs (c) (v) (A) (I), (A) (II), (B) (I) and (B) (II) of this appendix for trickling filter facilities and in paragraphs (c) (v) (A) (I) and (A) (II) of this section for waste stabilization pond facilities, to conform to the BOD₅ and TSS effluent concentrations consistently achievable through proper operation and maintenance by the median (50th percentile) facility in a representative sample of facilities within the state or an appropriate contiguous geographical area that meet the definition of facilities eligible for treatment equivalent to secondary treatment.

(E) CBOD₅ limitations.

(I) Where data are available to establish CBOD₅ limitations for a treatment works subject to this Section, the administrator may substitute the parameter CBOD₅ for the parameter BOD₅. In paragraph (c) (v) (A) ~~(I) (II) (III)~~ (I) – (III) of this appendix,

5129 on a case-by-case basis provided that the levels of CBOD₅ effluent quality are not less stringent
5130 than the following:

- 5131
- 5132 (1.) The 30-day average shall not exceed 40 mg/l.
 - 5133
 - 5134 (2.) The 7-day average shall not exceed 60 mg/l.
 - 5135
 - 5136 (3.) The 30-day average percent removal shall not be
5137 less than 65 percent.

5138

(II) Where data are available, the parameter CBOD₅ may be
5139 used for effluent quality limitations established under paragraph (c) (v) (D) of this appendix.
5140 Where concurrent BOD₅ effluent data are available, they must be submitted with the CBOD₅ data
5141 as part of the approval process outlined in paragraph (c) (v) (D) of this appendix.
5142

5143

(F) Permit adjustments. Any permit adjustment made pursuant to
5144 this part may not be any less stringent than the limitations required pursuant to paragraph (c) (v)
5145 (A) through (E) of this appendix. Furthermore, more stringent limitations shall be required when
5146 adjusting permits if:
5147

5148

(I) For existing facilities, the administrator determines that
5149 the 30-day average and 7-day average BOD₅ and TSS effluent values that could be achievable
5150 through proper operation and maintenance of the treatment works, based on an analyses of the
5151 past performance of the treatment works to achieve more stringent limitations;, or
5152

5153

(II) For new facilities, the administrator determines that the
5154 30-day average and 7-day average BOD₅ and TSS effluent values that could be achievable
5155 through proper operation and maintenance of the treatment works, considering the design
5156 capability of the treatment process and geographical and climatic conditions, would enable the
5157 treatment works to achieve more stringent limitations.
5158

5159

(d) Permits for publicly owned treatment works will require that the permittee must
5160 provide adequate notification to the administrator of the following:
5161

5162

(i) Any new introduction of pollutants into the publicly owned treatment
5163 works from an indirect discharger which would be subject to Sections 301 or 306 of the CWA if
5164 it were directly discharging those pollutants, and
5165

5166

(ii) Any substantial change in the volume or character of pollutants being
5167 introduced into that publicly owned treatment works by a source introducing pollutants into the
5168 publicly owned treatment works at the time of issuance of the permit.
5169

5170

(iii) For the purposes of Appendix E (d) (i) and (ii), adequate notification
5171 shall include information on the quality and quantity of effluent introduced into the publicly
5172 owned treatment works; and any anticipated impact of the change on the quantity or quality of
5173 effluent to be discharged from the publicly owned treatment works.
5174

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Table E1 Effluent Parameters for All POTWs
Biological oxygen demand (BOD ₅ or CBOD ₅)
Fecal Coliform
pH
Temperature
Total Suspended Solids

5178
 5179
 5180

Table E2 Effluent Parameters for Selected POTWS
Ammonia (as N)
Chlorine (total residual, TRC)
Dissolved oxygen
Nitrate/Nitrite
Kjeldahl nitrogen
Oil and grease
Phosphorus
Total dissolved solids

5181
 5182

5183 **APPENDIX F: Additional Requirements Applicable to New and Existing Aquatic Animal**
5184 **Production Facilities**

5185
5186 (a) Discharges into aquaculture projects, as defined in Section 3 (b) of these
5187 regulations, are subject to the WYPDES permit program in accordance with these regulations.
5188

5189 (b) A hatchery, fish farm, or other facility is a concentrated aquatic animal
5190 production facility for purposes of these regulations if it contains, grows, or holds aquatic animals
5191 in either of the following categories:
5192

5193 (i) Cold water fish species or other cold water aquatic animals in ponds,
5194 raceways, or other similar structures which discharge at least 30 days per year but does not
5195 include:
5196

5197 (A) Facilities which produce less than 9,090 harvest weight
5198 kilograms (approximately 20,000 pounds) of aquatic animals per year; and
5199

5200 (B) Facilities which produce less than 2,272 kilograms
5201 (approximately 5,000 pounds) of food during the calendar month of maximum feeding.
5202

5203 (ii) Warm water fish species, or other warm water aquatic animals in ponds,
5204 raceways, or other similar structures which discharge at least 30 days per year, but does not
5205 include:
5206

5207 (A) Closed ponds which discharge only during periods of excess
5208 runoff; or
5209

5210 (B) Facilities which produce less than 45,454 harvest weight
5211 kilograms (approximately 100,000 pounds) of aquatic animals per year.
5212

5213 (iii) “Cold water aquatic animals” include, but are not limited to the
5214 Salmonidae family of fish: e.g., trout and salmon.
5215

5216 (iv) “Warm water aquatic animals” include but are not limited to, the
5217 Ameiuridae, Centrarchidae and Cyprinidae families of fish; e.g. respectively, catfish, sunfish and
5218 minnows.
5219

5220 (c) Application requirements for new and existing aquatic animal production
5221 facilities. New and existing concentrated aquatic animal production facilities shall provide the
5222 following information, in addition to that described in Section 5 (a) (v), to the administrator,
5223 using the application form provided by the administrator.
5224

5225 (d) The maximum daily and average monthly flow from each outfall.
5226

5227 (e) The number of ponds, raceways, and similar structures.

5228

5229 (f) The name of the receiving water and the source of intake water.

5230

5231 (g) For each species of aquatic animals, the total yearly and maximum harvestable
5232 weight.

5233

5234 (h) The calendar month of maximum feeding and the total mass of food fed during
5235 that month.

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5253 **APPENDIX G: Criteria for Determining a Concentrated Animal Feeding Operation and**
 5254 **Additional Requirements Applicable to New and Existing Concentrated Animal Feeding**
 5255 **Operations**

5256

5257 (a) Applicability and permit requirement for concentrated animal feeding operations
 5258 (CAFOs). In accordance with W.S. 35-11-103 (a) (xi) and 35-11-302 (a) (v), CAFOs, as defined
 5259 in Appendix G (b) of these regulations, are point sources that require WYPDES permits for
 5260 discharges or potential discharges. Once an operation is defined as a CAFO, the WYPDES
 5261 requirements for CAFOs apply with respect to all animals in confinement at the operation and all
 5262 manure, litter and process wastewater generated by those animals or the production of those
 5263 animals, regardless of the type of animal. All CAFOs have a duty to apply to seek coverage
 5264 under a WYPDES permit as described in these regulations.

5265

5266 (b) Definitions applicable to this appendix:

5267

5268 (i) Analytical methods. The parameters that are regulated or referenced in
 5269 this appendix and listed with approved methods of analysis in Table 1B at 40 CFR 136.3 are
 5270 defined as follows:

5271

5272 (A) “Ammonia (as N)” means ammonia reported as nitrogen.

5273

5274 (B) “BOD₅” means 5-day biochemical oxygen demand.

5275

5276 (C) “Nitrate (as N)” means nitrate reported as nitrogen.

5277

5278 (D) “Total dissolved solids” means nonfilterable residue.

5279

5280 (ii) Analytical methods. The parameters that are regulated or referenced in
 5281 this part and listed with approved methods of analysis in Table 1A at 40 CFR 136.3 are defined as
 5282 follows:

5283

5284 (A) “Fecal coliform” means fecal coliform bacteria.

5285

5286 (B) “Total coliform” means all coliform bacteria.

5287

5288 (iii) “Animal feeding operation” (AFO) means a lot or facility (other than an
 5289 aquatic animal production facility) where the following conditions are met:

5290

5291 (A) Animals have been, are, or will be stabled or confined and fed or
 5292 maintained for a total of 45 days or more in any 12-month period; and

5293

5294 (B) Crops, vegetation forage growth or post harvest residues are not
 5295 sustained in the normal growing season over any portion of the lot or facility.

5296

5297

5298 Two (2) or more animal feeding operations under common ownership are considered, for
5299 purposes of these regulations, to be a single animal feeding operation if they adjoin each other or
5300 if they use a common area or system for the disposal of wastes.

5301

5302 (iv) "Land application area" means land under the control of an AFO owner
5303 or operator, whether it is owned, rented, or leased, to which manure, litter or process wastewater
5304 from the production area is or may be applied.

5305

5306 (v) "Large concentrated animal feeding operation" (large CAFO). An AFO
5307 is defined as a large CAFO if it stables or confines as many as or more than the numbers of
5308 animals specified in any of the following categories.

5309

5310 (A) 700 mature dairy cows, whether milked or dry;

5311

5312 (B) 1,000 veal calves;

5313

5314 (C) 1,500 buffalo (Bison bison);

5315

5316 (D) 1,000 cattle other than mature dairy cows or veal calves. Cattle
5317 includes but is not limited to heifers, steers, bulls and cow/calf pairs;

5318

5319 (E) 2,500 swine each weighing 55 pounds or more;

5320

5321 (F) 10,000 swine each weighing less than 55 pounds;

5322

5323 (G) 500 horses;

5324

5325 (H) 10,000 sheep or lambs;

5326

5327 (I) 55,000 turkeys;

5328

5329 (J) 30,000 laying hens or broilers, if the AFO uses a liquid manure
5330 handling system;

5331

5332 (K) 125,000 chickens (other than laying hens), if the AFO uses other
5333 than a liquid manure handling system;

5334

5335 (L) 82,000 laying hens, (if the AFO uses other than a liquid manure
5336 handling system);

5337

5338 (M) 30,000 ducks (if the AFO uses other than a liquid manure
5339 handling system); or

5340

5341 (N) 5,000 ducks (if the AFO uses a liquid manure handling system).

5342

5343 (vi) “Manure” is defined to include animal excreta or other commonly
5344 associated wastes of animal husbandry including but not limited to bedding, compost and raw
5345 materials or other materials commingled with manure or set aside for disposal.
5346

5347 (vii) “Medium concentrated animal feeding operation” (medium CAFO)
5348 means any AFO with the type and number of animals that fall within any of the ranges listed in
5349 Appendix G (b) (vii) (A) and which has been defined or designated as a CAFO. An AFO is
5350 defined as a medium CAFO if:
5351

5352 (A) The type and number of animals that it stables or confines falls
5353 within any of the following ranges:
5354

5355 (I) 200 to 699 mature dairy cattle, whether milked or dry;
5356

5357 (II) 300 to 999 veal calves;
5358

5359 (III) 450 to 1499 buffalo (Bison bison);
5360

5361 (IV) 300 to 999 cattle other than mature dairy cows or veal
5362 calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs;
5363

5364 (V) 750 to 2,499 swine each weighing 55 pounds or more;
5365

5366 (VI) 3,000 to 9,999 swine each weighing less than 55 pounds;
5367

5368 (VII) 150 to 499 horses;
5369

5370 (VIII) 3,000 to 9,999 sheep or lambs;
5371

5372 (IX) 16,500 to 54,999 turkeys;
5373

5374 (X) 9,000 to 29,999 laying hens or broilers, (if the AFO uses
5375 a liquid manure handling system);
5376

5377 (XI) 37,500 to 124, 999 chickens (other than laying hens), (if
5378 the AFO uses other than a liquid manure handling system);
5379

5380 (XII) 25,000 to 81,999 laying hens, (if the AFO uses other
5381 than a liquid manure handling system);
5382

5383 (XIII) 10,000 to 29,999 ducks (if the AFO uses other than a
5384 liquid manure handling system); or
5385

5386 (XIV) 1,500 to 4,999 ducks (if the AFO uses a liquid manure
5387 handling system); and
5388

5389 (B) Either one of the following conditions are met:

5390

5391 (I) Pollutants are discharged into surface waters of the state
5392 through a man-made ditch, flushing system, or other similar man-made device; or

5393

5394 (II) Pollutants are discharged directly into surface waters of
5395 the state which originate outside of and pass over, across, or through the facility or otherwise
5396 come into direct contact with the animals confined in the operation.

5397

5398 (viii) “New source” means any building, structure, facility or installation from
5399 which there is or may be the discharge of pollutants, the construction of which is commenced
5400 after the effective date of these regulations.

5401

5402 (ix) “Overflow” means the discharge of manure or process wastewater
5403 resulting from the filling of wastewater or manure storage structures beyond the point at which no
5404 more manure, process wastewater, or storm water can be contained by the structure.

5405

5406 (x) “Process wastewater” means water directly or indirectly used in the
5407 operation of the AFO for any or all of the following: spillage or overflow from animal or poultry
5408 watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO
5409 facilities; direct contact swimming, washing, or spray cooling of animals; or dust control.
5410 Process wastewater also includes any water which comes into contact with any raw materials,
5411 products, or byproducts including manure, litter, feed, milk, eggs or bedding.

5412

5413 (xi) “Production area” means that part of an AFO that includes the animal
5414 confinement area, the manure storage area, the raw materials storage area, and the waste
5415 containment areas. The animal confinement area includes but is not limited to open lots, housed
5416 lots, feedlots, confinement houses, stall barns, free stall barns, milk rooms, milking centers,
5417 cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure
5418 storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stock piles, under
5419 house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials
5420 storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The
5421 waste containment area includes but is not limited to settling basins, and areas within berms and
5422 diversions which separate uncontaminated storm water. Also included in the definition of
5423 production area is any egg washing or egg processing facility, and any area used in the storage,
5424 handling, treatment, or disposal of mortalities.

5425

5426 (xii) “Twenty-five-year, 24-hour rainfall event” and 100-year, 24-hour rainfall
5427 event mean precipitation events with a probable recurrence interval of once in 25 years, or 100
5428 years, respectively, as defined by the National Weather Service in Technical Paper No. 40,
5429 “Rainfall Frequency Atlas of the United States,” May, 1961, or equivalent regional or state
5430 rainfall probability information developed from this source.

5431

5432 (c) CAFO designation. The director may designate any AFO as a CAFO upon
5433 determining that it is a significant contributor of pollutants to surface waters of the state. The
5434 director may also designate an AFO as a CAFO at the request of the Regional Administrator, but

5435 only where the Regional Administrator has determined that one or more pollutants in the AFOs
5436 discharge contributes to an impairment in a downstream or adjacent state water that is impaired
5437 for that pollutant.

5438
5439 (i) In making this designation, the director shall consider the following
5440 factors:

5441
5442 (A) The size of the AFO and the amount of wastes reaching surface
5443 waters of the state;

5444
5445 (B) The location of the AFO relative to surface waters of the state;

5446
5447 (C) The means of conveyance of animal wastes and process waste
5448 waters into surface waters of the state;

5449
5450 (D) The slope, vegetation, rainfall, and other factors affecting the
5451 likelihood or frequency of discharge of animal wastes manure and process waste waters into
5452 surface waters of the state; and

5453
5454 (E) Other relevant factors.

5455
5456 (ii) No AFO shall be designated under these regulations unless the director
5457 or the Regional Administrator has conducted an on-site inspection of the operation and
5458 determined that the operation should and could be regulated under the WYPDES permit program.
5459 In addition, no AFO with numbers of animals below the minimum numbers established in
5460 Appendix G (b) (vii) (A) may be designated as a CAFO unless:

5461
5462 (A) Pollutants are discharged into surface waters of the state through
5463 a manmade ditch, flushing system, or other similar manmade device; or

5464
5465 (B) Pollutants are discharged directly into surface waters of the state
5466 which originate outside of the facility and pass over, across, or through the facility or otherwise
5467 come into direct contact with the animals confined in the operation.

5468
5469 (d) Application for permit and exceptions.

5470
5471 (i) All CAFO owners and operators must seek coverage under a WYPDES
5472 permit, except as provided in Appendix G (d) (ii) of these regulations. If the director has not
5473 made a general permit available, the CAFO owner or operator must submit an application for an
5474 individual permit to the director.

5475
5476 (ii) Exception. An owner or operator of a large CAFO does not need to seek
5477 coverage under a WYPDES permit otherwise required by this section once the owner or operator
5478 has received from the director notification of a determination under Appendix G (f) of these
5479 regulations that the CAFO has “no potential to discharge” manure, litter or process wastewater.

5480

5481 (iii) New and existing concentrated animal feeding operations shall provide
5482 the following information, in addition to that described in Section 5 (a) (v) for individual permits,
5483 to the administrator, using an application form provided by the administrator.

5484
5485 (A) The type and number of animals in open confinement and
5486 housed under roof;

5487
5488 (B) The type of containment and storage (anaerobic lagoon, roofed
5489 storage shed, storage ponds, underfloor pits, above ground storage tanks, below ground storage
5490 tanks, concrete pad, impervious soil pad, other) and total capacity for manure, litter, and process
5491 wastewater storage (tons/gallons);

5492
5493 (C) The total number of acres under control of the applicant
5494 available for land application of manure, litter, or process wastewater;

5495
5496 (D) The number of acres used for confinement feeding;

5497
5498 (E) Estimated amounts of manure, litter and process wastewater
5499 generated per year (tons/gallons);

5500
5501 (F) Estimated amounts of manure, litter and process wastewater
5502 transferred to other persons per year (tons/gallons);

5503
5504 (G) The design basis for the runoff diversion and controls system, if
5505 one exists, including the number of acres of contributing drainage, the storage capacity, and the
5506 design safety factor to ensure no discharge except under conditions of a 25-year 24-hour, or
5507 greater, storm event; and

5508
5509 (H) A nutrient management plan, in accordance with Appendix G (i)
5510 developed and implemented upon the date of coverage.

5511
5512 (e) Land application discharges from a CAFO are subject to WYPDES requirements.
5513 The discharge of manure, litter or process wastewater to surface waters of the state from a CAFO
5514 as a result of the application of that manure, litter or process wastewater by the CAFO to land
5515 areas under its control is a discharge from that CAFO subject to WYPDES permit requirements,
5516 except where it is an agricultural storm water discharge as provided in 33 U.S.C. 1362(14). For
5517 purposes of Appendix G (e), where the manure, litter or process wastewater has been applied in
5518 accordance with site specific nutrient management practices that ensure appropriate agricultural
5519 utilization of the nutrients in the manure, litter or process wastewater, as specified in Appendix G
5520 (i) (ii) (F) - (H) a precipitation related discharge of manure, litter or process wastewater from land
5521 areas under the control of a CAFO is an agricultural storm water discharge.

5522
5523 (f) “No potential to discharge” determination for large CAFOs.

5524
5525

5526 (i) Determination by the director. The director, upon request, may make a
 5527 case-specific determination that a large CAFO has “no potential to discharge” pollutants to
 5528 surface waters of the state. In making this determination, the director must consider the potential
 5529 for discharges from both the production area and any land application areas. The director must
 5530 also consider any record of prior discharges by the CAFO. In no case may the CAFO be
 5531 determined to have “no potential to discharge” if it has had a discharge within the five (5) years
 5532 prior to the date of the request submitted under Appendix G (f) (ii). For purposes of this section,
 5533 the term “no potential to discharge” means that there is no potential for any CAFO manure, litter
 5534 or process wastewater to be added to surface waters of the state under any circumstances or
 5535 climatic condition. A determination that there is “no potential to discharge” for purposes of this
 5536 section only relates to discharges of manure, litter and process wastewater covered by this
 5537 appendix.

5538
 5539 (ii) Information to support a “no potential to discharge request”. In
 5540 requesting a determination of “no potential to discharge,” the CAFO owner or operator must
 5541 submit any information that would support such a determination, within the time frame provided
 5542 by the director and in accordance with Appendix G (g) and (h) of these regulations. Such
 5543 information must include all of the information specified in Appendix G (f) and (i) (i) and Section
 5544 5 (a) of these regulations. The director has discretion to require additional information to
 5545 supplement the request, and may also gather additional information through on-site inspection of
 5546 the CAFO.

5547
 5548 (iii) Process for making a “no potential to discharge” determination. Before
 5549 making a final decision to grant a “no potential to discharge” determination, the director must
 5550 issue a notice to the public stating that a “no potential to discharge” request has been received.
 5551 This notice must be accompanied by a fact sheet which includes, when applicable:

5552
 5553 (A) A brief description of the type of facility or activity which is the
 5554 subject of the “no potential to discharge” determination;

5555
 5556 (B) A brief summary of the factual basis, upon which the request is
 5557 based, for granting the “no potential to discharge” determination; and

5558
 5559 (C) A description of the procedures for reaching a final decision on
 5560 the “no potential to discharge” determination.

5561
 5562 (iv) The director must base the decision to grant a “no potential to discharge”
 5563 determination on the administrative record, which includes all information submitted in support
 5564 of a “no potential to discharge” determination and any other supporting data gathered by the
 5565 administrator. The director must notify any CAFO seeking a “no potential to discharge”
 5566 determination of its final determination within 90 days of receiving the request.

5567
 5568 (v) Deadline for requesting a “no potential to discharge” determination. The
 5569 owner or operator must request a “no potential to discharge” determination by the applicable
 5570 permit application date specified in Appendix G (g) of these regulations. If the director=s final

5571 decision is to deny the “no potential to discharge” determination, the owner or operator must seek
 5572 coverage under a permit within 30 days after the denial.

5573

5574 (vi) The “no potential to discharge” determination does not relieve the CAFO
 5575 from the consequences of an actual discharge. Any unpermitted CAFO that discharges pollutants
 5576 into surface waters of the state is in violation of the CWA, the Environmental Quality Act and
 5577 these regulations even if it has received a “no potential to discharge” determination from the
 5578 director. Any CAFO that has received a determination of “no potential to discharge,” but who
 5579 anticipates changes in circumstances that could create the potential for a discharge, should contact
 5580 the director, and apply for and obtain permit authorization prior to the change of circumstances.

5581

5582 (vii) The director retains authority to require a permit. Where the director has
 5583 issued a determination of “no potential to discharge,” the director retains the authority to
 5584 subsequently require WYPDES permit coverage if circumstances at the facility change, if new
 5585 information becomes available, or if there is other reason for the director to determine that the
 5586 CAFO has a potential to discharge.

5587

5588 (g) Deadlines to apply.

5589

5590 (i) For operations that are defined as CAFOs under regulations that were in
 5591 operation prior to April 14, 2003, the owner or operator must have or sought to obtain coverage
 5592 under a WYPDES permit as of April 14, 2003, and comply with all applicable WYPDES
 5593 requirements, including the duty to maintain permit coverage in accordance with Appendix G (h)
 5594 of these regulations.

5595

5596 (ii) Owners or operators of operations defined as CAFOs as of April 14,
 5597 2003, who were not defined as CAFOs prior to that date must seek to obtain coverage under a
 5598 WYPDES permit by a date specified by the director, but no later than February 13, 2006.

5599

5600 (iii) Operations that become defined as CAFOs after April 14, 2003, but
 5601 which are not new sources. For AFOs that make changes to their operations that result in
 5602 becoming defined as CAFOs for the first time, after April 14, 2003, but are not new sources, the
 5603 owner or operator must seek to obtain coverage under a WYPDES permit, as follows:

5604

5605 (A) Facilities defined as CAFOs resulting from operational changes
 5606 (e.g. resulting from an increase in the number of animals), as soon as possible but no later than 90
 5607 days after becoming defined as a CAFO; except that

5608

5609 (B) If an operational change that makes the operation a CAFO would
 5610 not have made it a CAFO prior to April 14, 2003, the operation has at least until April 13, 2006,
 5611 or 90 days after becoming defined as a CAFO, whichever is later.

5612

5613 (iv) New sources. New sources must seek to obtain coverage under a permit
 5614 at least 180 days prior to the time that the CAFO commences operation, unless otherwise
 5615 approved by the administrator.

5616

5617 (v) Operations that are designated as a CAFO in accordance with Appendix
 5618 G (c) of these regulations, the owner or operator must seek to obtain coverage under a permit no
 5619 later than 90 days after receiving notice of the designation.

5620
 5621 (vi) “No potential to discharge.” Notwithstanding any other provision of this
 5622 section, a CAFO that has received a “no potential to discharge” determination in accordance with
 5623 Appendix G (f) of these regulations is not required to seek coverage under a WYPDES permit
 5624 that would otherwise be required by this section. If circumstances materially change at a CAFO
 5625 that has received a “no potential to discharge” determination, such that the CAFO has a potential
 5626 for a discharge, the CAFO shall immediately notify the director, and seek coverage under a
 5627 WYPDES permit within 30 days after the change in circumstances.

5628
 5629 (h) Duty to maintain permit coverage. Not later than 180 days before the expiration
 5630 of the permit, the permittee must submit an application to renew its permit, in accordance with
 5631 Section 9 of these regulations. However, the permittee need not continue to seek continued
 5632 permit coverage or reapply for a permit if:

- 5633
 5634 (i) The facility has ceased operation or is no longer a CAFO; and
 5635
 5636 (ii) The permittee has demonstrated to the satisfaction of the director that
 5637 there is no remaining potential for a discharge of manure, litter or associated process wastewater
 5638 that was generated while the operation was a CAFO, other than agricultural stormwater from land
 5639 application areas; or

5640
 5641 (i) Permit conditions applicable to all CAFOs. Any permit issued to a CAFO shall
 5642 include:

5643
 5644 (i) Nutrient management plan development and implementation
 5645 requirements. At a minimum, a nutrient management plan must include best management
 5646 practices and procedures necessary to implement applicable effluent limitations and standards.

5647
 5648 (A) Permitted CAFOs must have their nutrient management plans
 5649 developed (or updated if a nutrient management plan was required in the existing permit) and
 5650 implemented by December 31, 2006.

5651
 5652 (B) CAFOs that seek to obtain coverage under a permit after
 5653 December 31, 2006 must have a nutrient management plan developed and implemented upon the
 5654 date of permit coverage.

5655
 5656 (ii) The nutrient management plan must, to the extent applicable:

5657
 5658 (A) Ensure adequate storage of manure, litter, and process
 5659 wastewater, including procedures to ensure proper operation and maintenance of the storage
 5660 facilities;

5661

- 5662 (B) Ensure proper management of mortalities (i.e., dead animals) so
 5663 they are not disposed of in a liquid manure, storm water, or process wastewater storage or
 5664 treatment system that is not specifically designed to treat animal mortalities;
 5665
- 5666 (C) Ensure that stormwater runoff is diverted, as appropriate, from
 5667 the production area;
 5668
- 5669 (D) Prevent direct contact of confined animals with surface waters of
 5670 the state;
 5671
- 5672 (E) Ensure that chemicals and other contaminants handled on-site,
 5673 are not disposed of in any manure, litter, process wastewater, or storm water storage or treatment
 5674 system unless specifically designed to treat such chemicals and other contaminants;
 5675
- 5676 (F) Identify appropriate site specific conservation practices to be
 5677 implemented, including as appropriate buffers or equivalent practices, to control runoff of
 5678 pollutants to surface waters of the state;
 5679
- 5680 (G) Identify protocols for appropriate testing of manure, litter,
 5681 process wastewater and soil;
 5682
- 5683 (H) Establish protocols to land apply manure, litter or process
 5684 wastewater in accordance with site specific nutrient management practices that ensure appropriate
 5685 agricultural utilization of the nutrients in the manure, litter or process wastewater; and
 5686
- 5687 (I) Identify specific records that will be maintained to document the
 5688 implementation and management of the minimum elements described in Appendix G (i) (ii) (A
 5689 through H).
 5690
- 5691 (iii) Record keeping requirements.
 5692
- 5693 (A) The permittee must create, maintain for five (5) years, and make
 5694 available to the director, upon request, the following records:
 5695
- 5696 (I) All applicable records identified pursuant to Appendix G
 5697 (i) (i) (I) of these regulations.
 5698
- 5699 (II) All CAFOs subject to these regulations must comply
 5700 with the record keeping requirements of Appendix G (i) (iii) (B) and (C).
 5701
- 5702 (B) Record keeping requirements for the production area. Each
 5703 CAFO must maintain on-site for a period of five (5) years from the date they are created a
 5704 complete copy of the information required by Appendix G (d) (iii) and Appendix G (i) (ii) (I) and
 5705 the records specified in Appendix G (i) (iii) (I) through (VI) of these regulations. The CAFO
 5706 must make these records available to the director and or his designee upon request.
 5707

- 5708 (I) Records documenting the inspections required under
 5709 Appendix G (m) (ii) (C) (I) of these regulations.
 5710
- 5711 (II) Weekly records of the depth of the manure and process
 5712 wastewater in the liquid impoundment as indicated by the depth marker under Appendix G (m)
 5713 (ii) (C) (II) of these regulations.
 5714
- 5715 (III) Records documenting any actions taken to correct
 5716 deficiencies required under Appendix G (m) (ii) (C) (III) of these regulations. Deficiencies not
 5717 corrected within 30 days must be accompanied by an explanation of the factors preventing
 5718 immediate correction.
 5719
- 5720 (IV) Records of mortalities management and practices used
 5721 by the CAFO to meet the requirements of Appendix G (m) (ii) (C) (IV) of these regulations.
 5722
- 5723 (V) Records documenting the current design of any manure
 5724 or litter storage structures, including volume for solids accumulation design treatment volume,
 5725 total design volume, and approximate number of days of storage capacity.
 5726
- 5727 (VI) Records of the date, time, and estimated volume of any
 5728 overflow.
 5729
- 5730 (C) Record keeping requirements of the land application area. Each
 5731 CAFO must maintain on-site a copy of its site-specific nutrient management plan. Each CAFO
 5732 must maintain on-site for a period of five (5) years from the date they created a complete copy of
 5733 the information required by Appendix G (j) (ii), Appendix G (i) (i) and (ii), and the records
 5734 specified in Appendix G (i) (iii) (C) (I through IX) of these regulations. The CAFO must make
 5735 these records available to the director or his designee, for review upon request.
 5736
- 5737 (I) The date(s) manure, litter, or process waste water is
 5738 applied to each field;
 5739
- 5740 (II) Weather conditions at time of application and for 24-
 5741 hours prior to and following application;
 5742
- 5743 (III) Test methods used to sample and analyze manure, litter,
 5744 process waste water, and soil;
 5745
- 5746 (IV) Results from manure, litter, process waste water, and
 5747 soil sampling;
 5748
- 5749 (V) Explanation of the basis for determining manure
 5750 application rates;
 5751
- 5752 (VI) Calculations showing the total nitrogen and phosphorus
 5753 to be applied to each field, including sources other than manure, litter, or process wastewater;

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(VII) Total amount of nitrogen and phosphorus actually applied to each field, including documentation of calculations for the total amount applied;

(VIII) The method used to apply the manure, litter, or process wastewater;

(IX) Date(s) of manure application equipment inspection.

(D) A copy of the CAFO=s site-specific nutrient management plan must be maintained on site and made available to the director upon request.

(iv) Requirements relating to transfer of manure or process wastewater to other persons. Prior to transferring manure, litter or process wastewater to other persons. Large CAFOs must provide the recipient of the manure, litter or process wastewater with the most current nutrient analysis. The analysis provided must be consistent with requirements of this appendix. Large CAFOs must retain for five (5) years records of the date, recipient name and address, and approximate amount of manure, litter or process wastewater transferred to another person.

(v) Annual reporting requirements for CAFOs. The permittee must submit an annual report to the administrator. The annual report must include:

(A) The number and type of animals, whether in open confinement or housed under roof (buffalo, beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);

(B) Estimated amount of total manure, litter and process wastewater generated by the CAFO in the previous 12 months (tons/gallons);

(C) Estimated amount of total manure, litter and process waste water transferred to other person(s) by the CAFO in the previous 12 months (ton/gallons);

(D) Total number of acres for land application covered by the nutrient management plan developed in accordance with Appendix G (i) (i) of these regulations;

(E) Total number of acres under control of the CAFO that were used for land application of manure, litter, and process wastewater in the previous 12 months;

(F) Summary of all manure, litter and process wastewater discharges from the production area that have occurred in the previous 12 months, including date, time, and approximate volume; and

5800 (G) A statement indicating whether the current version of the
 5801 CAFO=s nutrient management plan was developed or approved by a certified nutrient
 5802 management planner.
 5803

5804 (j) This paragraph applies to manure, litter, and/or process wastewater discharges
 5805 resulting from CAFOs.
 5806

5807 (i) General pretreatment standards. Any source subject to Appendix G (j)
 5808 that introduces process wastewater pollutants into a publicly owned treatment works (POTW)
 5809 must comply with the general pretreatment regulations of 40 CFR 403.
 5810

5811 (ii) Best Management Practices (BMPs) for land application of manure,
 5812 litter, and process wastewater.
 5813

5814 (A) Appendix G (j) (ii) applies to any CAFO subject to Appendix G
 5815 (m) of these regulations (buffalo, dairy and beef cattle other than veal calves) Appendix G (n) of
 5816 these regulations (swine, poultry, and veal calves).
 5817

5818 (B) Specialized definitions.
 5819

5820 (I) “Setback” means a specified distance from surface
 5821 waters of the state or potential conduits to surface water where manure, litter, and process
 5822 wastewater may not be land applied. Examples of conduits to surface waters of the state include
 5823 but are not limited to: open tile line intake structures, sinkholes, and agricultural well heads.
 5824

5825 (II) “Vegetated buffer” means a narrow, permanent strip of
 5826 dense perennial vegetation established parallel to the contours of and perpendicular to the
 5827 dominant slope of the field for the purposes of slowing water runoff, enhancing water infiltration,
 5828 and minimizing the risk of any potential nutrients or pollutants from leaving the field and
 5829 reaching surface waters of the state.
 5830

5831 (III) “Multi-year phosphorus application” means phosphorus
 5832 applied to a field in excess of the crop needs for that year. In multi-year phosphorus applications,
 5833 no additional manure, litter, or process wastewater is applied to the same land in subsequent years
 5834 until the applied phosphorus has been removed from the field via harvest and crop removal.
 5835

5836 (C) Requirement to develop and implement best management
 5837 practices. Each CAFO subject to Appendix G (j) (ii) that land applies manure, litter, or process
 5838 wastewater, must do so in accordance with the following practices:
 5839

5840 (I) Nutrient management plan. The CAFO must develop
 5841 and implement a nutrient management plan that incorporates the requirements of Appendix G (j)
 5842 (ii) (C) (II) through (VI) of these regulations based on field-specific assessment of the potential
 5843 for nitrogen and phosphorus transport from the field and that addresses the form, source, amount,
 5844 timing, and method of application of nutrients on each field to achieve realistic production goals,
 5845 while minimizing nitrogen and phosphorus movement to surface waters of the state.

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(II) Determination of application rates. Application rates for manure, litter, and other process wastewater applied to land under the ownership or operation control of the CAFO must minimize phosphorus and nitrogen transport from the field to surface and groundwaters of the state in compliance with technical standards, established by the director, for nutrient management. These shall include:

(1.) A field-specific assessment of the potential for nitrogen and phosphorus transport from the field to surface waters of the state, and address the form, source, amount, timing, and method of application of nutrients of each field to achieve realistic production goals, while minimizing nitrogen and phosphorus movement to surface waters of the state; and

(2.) Appropriate flexibilities for any CAFO to implement nutrient management practices to comply with technical standards, including considerations of multi-year phosphorus application on fields that do not have a high potential for phosphorus runoff to surface water, phased implementation of phosphorus-based nutrient management, and other components.

(C) The director shall establish technical standards for nutrient management plans by April 12, 2004.

(III) Manure and soil sampling.

(1.) Manure must be analyzed for nitrogen and phosphorus content a minimum of once annually, and

(2.) The soil profile shall be analyzed a minimum of once every five (5) years for phosphorus content. The results of these analyses are to be used in determining application rates for manure, litter, and other process wastewater.

(IV) Inspect land application equipment for leaks. The operator must periodically inspect equipment used for land application of manure, litter, or process wastewater.

(V) Setback requirements. Unless the CAFO exercises one of the compliance alternatives provided for in Appendix G (j) (ii) (V) (i) or (j) (ii) (V) (ii) of these regulations, manure, litter, and process wastewater may not be applied closer than 100 feet to any down-gradient surface waters of the state, open tile line intake structures, sinkholes, agricultural well heads, or other conduits to surface waters of the state.

(1.) Vegetated buffer compliance alternative. As a compliance alternative, the CAFO may substitute the 100-foot setback with a 35 foot wide vegetated buffer where applications of manure, litter, or process wastewater are prohibited.

5891 (2.) As a compliance alternative, the CAFO may
5892 demonstrate that a setback or buffer is not necessary because implementation of alternative
5893 conservation practices or field-specific conditions will provide pollutant reductions equivalent or
5894 better than the reductions that would be achieved by the 100 foot setback.

5895
5896 (k) Effluent Limitations Applicable to Horses and Sheep.

5897
5898 (i) This paragraph applies to discharges resulting from the production areas
5899 at horse and sheep CAFOs.

5900
5901 (ii) Except as provided in Section 8 of these regulations and subject to the
5902 provisions of Appendix G (j) (~~iii~~ii) (C), any point source subject to this source must have no
5903 discharge of process waste water pollutants to surface waters of the state.

5904
5905 (iii) Process waste pollutants in the overflow may be discharged to surface
5906 waters of the state whenever rainfall events, either chronic or catastrophic, cause an overflow of
5907 process waste water from a facility designed, constructed and operated to contain all process
5908 generated waste waters plus the runoff from a 25-year, 24-hour rainfall event for the location of
5909 the point source.

5910
5911 (l) Effluent limitations applicable to ducks.

5912
5913 (i) This paragraph applies to discharges resulting from the production areas
5914 at dry lot and wet lot duck CAFOs.

5915
5916 (ii) Special definitions.

5917
5918 (A) “Dry lot” means a facility for growing ducks in confinement
5919 with a dry litter floor cover and no access to swimming areas.

5920
5921 (B) “Wet lot” means a confinement facility for raising ducks which
5922 is open to the environment, has a small number of sheltered areas, and with open water runs and
5923 swimming areas to which ducks have free access.

5924
5925 (iii) Except as provided in Section 8 of these regulations and subject to the
5926 provisions of Appendix G (j) (~~iv~~ii) (C), any point source subject to this source must have no
5927 discharge of process waste water pollutants to surface waters of the state.

5928
5929 (iv) Process waste pollutants in the overflow may be discharged to surface
5930 waters of the state whenever rainfall events, either chronic or catastrophic, cause an overflow of
5931 process waste water from a facility designed, constructed and operated to contain all process
5932 generated waste waters plus the runoff from a 25-year, 24-hour rainfall event for the location of
5933 the point source.

5934
5935 (m) Effluent limitations applicable to buffalo, dairy cows and cattle other than veal
5936 calves.

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(i) This paragraph applies to discharges resulting from the production areas at the following types of CAFOs:

- (A) Mature dairy cows (either milking or dry).
- (B) Cattle other than mature dairy cows which includes, but is not limited to heifers, steers, and bulls.
- (C) Buffalo.

(ii) Except as provided in Section 8 of these regulations and subject to the provisions of Appendix G (j) (~~iii~~ii) (C), any point source subject to this source must meet the following limitations:

(A) There shall be no discharge of manure, litter, or process wastewater pollutants into surface waters of the state from the CAFO production area, except under the following conditions:

(I) Whenever precipitation causes an overflow of manure, litter, or process wastewater, pollutants in the overflow may be discharged to surface waters of the state provided:

(1.) The production area is designed, constructed, operated and maintained to contain all manure, litter, and process wastewater including the runoff and the direct precipitation from a 25-year, 24-hour rainfall event.

(2.) The production area is operated in accordance with the additional measures and records required by Appendix G (i) (iii) (B) and Appendix G (m) (ii) (C) of these regulations.

(II) Voluntary alternative performance standards. Any CAFO subject to Appendix G (m) of these regulations may request the administrator to establish WYPDES permit effluent limitations based upon site-specific alternative technologies that achieve a quantity of pollutants discharged from the production area equal to or less than the quantity of pollutants that would be discharged under the baseline performance standards as provided by Appendix G (m) (ii) (A) of these regulations.

(1.) Supporting information. In requesting site-specific effluent limitations to be included in the WYPDES permit, the CAFO owner or operator must submit a supporting technical analysis and any other relevant information and data that would support such site-specific effluent limitations within the time frame provided by the director. The supporting technical analysis must include calculation of the quantity of pollutants discharged, on a mass basis where appropriate, based on a site specific analysis of a system designed, constructed, operated, and maintained to contain all manure, litter, and process

5982 wastewater, including the runoff from a 25-year, 24-hour rainfall event. The technical analysis of
5983 the discharge of pollutants must include:

5984
5985 (a) All daily inputs to the storage system,
5986 including manure, litter, all process waste waters, direct precipitation, and runoff.

5987
5988 (b) All daily outputs from the storage
5989 system, including losses due to evaporation, sludge removal, and the removal of waste water for
5990 use on cropland at the CAFO or transport off site.

5991
5992 (c) A calculation determining the predicted
5993 median annual overflow volume based on a 25-year period of actual rainfall data applicable to the
5994 site.

5995
5996 (d) Site-specific pollutant data, including N,
5997 P, BOD5, TSS, for the CAFO from representative sampling and analysis of all sources of input to
5998 the storage system, or other appropriate pollutant data.

5999
6000 (e) Predicted annual average discharge of
6001 pollutants, expressed where appropriate as a mass discharge on a daily basis (lbs/day), and
6002 calculated considering (A through D above).

6003
6004 (2.) The administrator has the discretion to request
6005 additional information to supplement the supporting technical analysis, including inspection of
6006 the CAFO.

6007
6008 (III) The CAFO shall attain the limitations and requirements of this
6009 paragraph as of the date of permit coverage.

6010
6011 (B) Discharges from land application areas are subject to the
6012 following requirements:

6013
6014 (I) Develop and implement the best management
6015 practices specified in Appendix G (j) (ii) of these regulations.

6016
6017 (II) Maintain the records specified in Appendix G (i)
6018 (iii) (C) of these regulations.

6019
6020 (III) Attain the limitations and requirements for
6021 discharges form land application areas as of the date of permit coverage.

6022
6023 (C) Additional measures. Each CAFO subject Appendix G
6024 (m) of these regulations must implement the following requirements:

6025

6026 (I) Visual Inspections. There must be routine visual
6027 inspections of the CAFO production area. At a minimum, the following must be visually
6028 inspected:

6029
6030 (1.) Weekly inspections of all storm water
6031 diversion devices, runoff diversion structures, and devices channeling contaminated storm water
6032 to the wastewater and manure storage and containment structure;

6033
6034 (2.) Daily inspection of water lines,
6035 including drinking water or cooling water lines and documented weekly at a minimum, for the
6036 purpose of identifying leaks, corrosion, mechanical defects or other conditions that may result in
6037 an inadvertent discharge from the facility;

6038
6039 (3.) Weekly inspections of the manure, litter,
6040 and process wastewater impoundments; the inspection will note the level in liquid impoundments
6041 as indicated by the depth marker in paragraph (E) (II) of this appendix; and

6042
6043 (4.) The visual inspection requirements may
6044 be waived if insurmountable or dangerous weather conditions exist and the weather conditions
6045 justifying the waiver are documented.

6046
6047 (II) Depth marker. All open surface liquid
6048 impoundments must have a depth marker which clearly indicates the minimum capacity
6049 necessary to contain the runoff and direct precipitation of the 25-year, 24-hour rainfall event.

6050
6051 (III) Corrective actions. Any deficiencies found as a
6052 result of these inspections must be corrected as soon as possible.

6053
6054 (IV) Mortality handling. Mortalities must not be
6055 disposed of in any liquid manure or process wastewater system, and must be handled in such a
6056 way as to prevent the discharge of pollutants to surface water, unless alternative technologies
6057 pursuant to Appendix G (m) (ii) (II) and approved by the director are designed to handle
6058 mortalities.

6059
6060 (n) Effluent limitations applicable to swine, poultry, and veal calves.

6061
6062 (i) This paragraph applies to discharges resulting from the production areas
6063 at the following types of CAFOs:

6064
6065 (A) Swine,

6066
6067 (B) Chickens,

6068
6069 (C) Turkeys, and

6070
6071 (D) Veal calves.

6072

6073 (ii) Except as provided in Section 8 of these regulations, any point source
6074 subject to this source must meet the following limitations.

6075

6076 (iii) There shall be no discharge of manure, litter, or process wastewater
6077 pollutants into surface waters of the state from the CAFO production area, except under the
6078 following conditions.

6079

6080 (A) Waste management and storage facilities are designed,
6081 constructed, operated, and maintained to contain all manure, litter, and process wastewater
6082 including the runoff and the direct precipitation from a 100-year, 24-hour rainfall event and
6083 operated in accordance with the additional measures and records required by Appendix G (i) (iii)
6084 (B) and Appendix G (n) (vi) (A) of these regulations.

6085

6086 (B) The production area is operated in accordance with additional
6087 measures required by Appendix G (i) (iii) (B) and Appendix G (n) (vi) of these regulations.

6088

6089 (C) The discharge is an upset/bypass consistent with the provisions
6090 for upset/bypass, as provided in Section 5 (c) (i) (Z) and (AA) of these regulations.

6091

6092 (iv) Discharges from land application areas are subject to the following
6093 requirements.

6094

6095 (A) Develop and implement the best management practices specified
6096 in Appendix G (j) (ii) of these regulations.

6097

6098 (B) Maintain the records specified in Appendix G (i) (iii) (C) of
6099 these regulations.

6100

6101 (C) Attain the limitations and requirements for discharges from land
6102 application areas as of the date of permit coverage.

6103

6104 (v) Voluntary superior environmental performance standards. Any new
6105 source CAFO subject to Appendix (G) (n) may request the director to establish alternative
6106 WYPDES permit limitations based upon a demonstration that site-specific innovative
6107 technologies will achieve overall environmental performance across all media which is equal to
6108 or superior to the reductions achieved by baseline standards as provided by Appendix G (n) (iii).
6109 The quantity of pollutants discharged from the production area must be accompanied by an
6110 equivalent or greater reduction in the quantity of pollutants released to other media from the
6111 production area (e.g., air emissions from housing and storage) and/or land application areas for all
6112 manure, litter, and process wastewater at on-site and off-site locations. The comparison of
6113 quantity of pollutants must be made on a mass basis where appropriate. The director has the
6114 discretion to request supporting information to supplement such a request.

6115

6116 (vi) Additional measures. Each CAFO subject to Appendix G (n) of these
6117 regulations must implement the following requirements:

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(A) Visual inspections. There must be routine visual inspections of the CAFO production area. At a minimum, the following must be visually inspected:

(I) Weekly inspections of all storm water diversion devices, runoff diversion structures, and devices channeling contaminated storm water to the wastewater and manure storage and containment structure;

(II) Daily inspection of water lines, including drinking water or cooling water lines;

(III) Weekly inspections of the manure, litter, and process wastewater impoundments; the inspection will note the level in liquid impoundments as indicated by the depth marker in paragraph (E) (II) of this appendix.

(B) Depth marker. All open surface liquid impoundments must have a depth marker which clearly indicates the minimum capacity necessary to contain the runoff and direct precipitation of the 100-year, 24-hour rainfall event.

(C) Corrective actions. Any deficiencies found as a result of these inspections must be corrected as soon as possible.

(D) Mortality handling. Mortalities must not be disposed of in any liquid manure or process wastewater system, and must be handled in such a way as to prevent the discharge of pollutants to surface water, unless alternative technologies pursuant to Appendix G (n) (v) and approved by the director are designed to handle mortalities.

6146 **APPENDIX H: Additional Requirements Applicable to Produced Water Discharges from**
6147 **Oil and Gas Production Facilities**

6148
6149 (a) Application requirements specific to all produced water discharges from oil and
6150 gas production facilities must provide the following information in addition to that described in
6151 Section 5 (a) (v), to the administrator, using the application form provided by the administrator.
6152

6153 (i) The produced water discharged into surface waters of the state shall have
6154 use in agriculture or wildlife propagation. The produced water shall be of good enough quality to
6155 be used for wildlife or livestock watering or other agricultural uses and actually be put to such use
6156 during periods of discharge.

6157
6158 (b) Permits for all produced water discharges from oil and gas production facilities
6159 shall include the following conditions and limitations:

6160
6161 (i) In no case shall any produced water discharge contain toxic materials in
6162 concentrations or combinations which are toxic to human, animal or aquatic life.

6163
6164 (ii) Diffuse discharges. Water shall not be discharged in a diffuse manner
6165 such that damage to land and/or vegetation occurs.

6166
6167 (iii) Facility identification. All facilities authorized to discharge produced
6168 water shall be clearly identified with an all-weather sign posted at a visually prominent location.
6169 The sign shall be securely mounted and maintained to prevent the sign from being knocked down
6170 by livestock or wind. In the case where multiple outfalls are permitted or authorized, a sign shall
6171 be posted to identify each outfall. Signs shall, as a minimum, convey the following information:

6172
6173 (A) The name of the company, corporation, person or persons who
6174 hold(s) the discharge permit;

6175
6176 (B) The name of the facility (lease, tank battery number, etc.) as
6177 identified by the discharge permit; and

6178
6179 (C) The WYPDES permit number assigned to the facility and outfall
6180 identification number assigned to each outfall.

6181
6182 (iv) Measures must be implemented to minimize erosion of the drainage at
6183 the point of discharge.

6184
6185 (v) Discharges of produced water will not contain substances that will settle
6186 to form sludge, bank or bottom deposits in quantities sufficient to result in significant aesthetic
6187 degradation, significant degradation of habitat for aquatic life or adversely affect public water
6188 supplies, agricultural or industrial water use, plant life or wildlife.
6189

6190 (vi) Discharges of produced water may not result in the formation of a visible
6191 hydrocarbon sheen on the receiving water.

6192

6193 (vii) The following effluent limitations are protective for stock and wildlife
6194 consumption. Limitations on additional parameters or limitations more stringent will be imposed
6195 when such limitations are necessary to assure compliance with Wyoming Water Quality Rules
6196 and Regulations, Chapter 1.

6197

6198 (A) Chlorides. The chloride content of any produced water
6199 discharge shall not exceed 2,000 mg/l in any single properly preserved grab sample except in
6200 those cases where a modification is granted in accordance with paragraph (c) of this appendix.

6201

6202 (B) Sulfates. The sulfate content of any produced water discharge
6203 shall not exceed 3,000 mg/l in any single properly preserved grab sample except in those cases
6204 where a modification is granted in accordance with paragraph (c) of this appendix.

6205

6206 (C) Total dissolved solids and specific conductance. The total
6207 dissolved solids content of any produced water discharge shall not exceed 5,000 mg/l for total
6208 dissolved solids or 7500 μ mhos/cm for specific conductance in any single properly preserved
6209 grab sample except in those cases where a modification has been granted in accordance with
6210 paragraph (c) of this appendix.

6211

6212 (D) pH. In no case shall the pH of any produced water discharge be
6213 less than 6.5 or greater than 9.0 standard units as measured by a single grab sample.

6214

6215 (viii) Samples collected to demonstrate compliance with effluent limitations
6216 specified in this appendix shall be collected as grab samples and reported as an instantaneous
6217 maximum, unless otherwise specified.

6218

6219 (Ix) There shall be no discharge of waste pollutants into surface waters of the
6220 state from any source (other than produced water) associated with production, field exploration,
6221 drilling, well completion, or well treatment (i.e., drilling muds, drill cuttings, and produced
6222 sands). These materials shall be managed in accordance with applicable state and federal
6223 regulations.

6224

6225 (x) All water quality samples collected by the Department and discharge
6226 permit holders subject to this Appendix shall be taken from the free fall of water from the last
6227 treatment unit which is located out of the natural drainage. The sample must not be mixed with
6228 waters of any other surface water or with water from another discharge point.

6229

6230 (c) Additional Permit Conditions and Limitations Specific to Oil and Natural Gas
6231 (other than coal bed natural gas) Production Facilities.

6232

6233 (i) For existing permits where the original permit application was submitted
6234 prior to September 5, 1978, modification of the effluent limits described in paragraphs (b) (vii) of
6235 this appendix may be granted on a case-by-case basis if a signed "letter of beneficial use" from

6236 the land owner was provided specifically requesting that the discharge in question be allowed to
 6237 continue; or a signed statement by the Wyoming Game and Fish Department was provided in
 6238 which it was stated that the discharge in question is of value to fish or wildlife; or documentation
 6239 was provided by the owner or operator of the discharging facility that, because of extenuating
 6240 circumstances (volume of discharge, individual chemical constituents, nature of the area in which
 6241 the discharge occurs, etc.), an exemption should be considered. The user must have indicated the
 6242 exact beneficial use of the water (stock watering, irrigation, etc.) and the history of such use. No
 6243 action taken by the department under this paragraph or any other paragraph of these regulations
 6244 shall be interpreted as the granting of a water right or any other water use authority.

6245
 6246 (ii) For discharge permit applications filed after the date of adoption of these
 6247 regulations, modification of effluent limits described in paragraph (b) (vii) of this appendix may
 6248 be granted on a case-by-case basis. The Water Quality Administrator shall review all requests for
 6249 modification of effluent limits submitted under this section and make a determination based upon
 6250 the technical merits of a Use Attainability Analysis. Such requests shall also provide a signed
 6251 “letter of agricultural or wildlife use” by the land owner specifically requesting that the discharge
 6252 will serve a specific agricultural or wildlife use.

6253
 6254 (iii) In no case will a modification as described in paragraph (b-c) (i) or (b-c)
 6255 (ii) of this appendix be permitted which would result in a violation of Wyoming Water Quality
 6256 Rules and Regulations, Chapter 1.

6257
 6258 (iv) Location of skim ponds and disposal pits. Location of skim ponds and
 6259 disposal pits shall be managed in accordance with applicable state (e.g. Oil and Gas Conservation
 6260 Commission) and federal (e.g. Bureau of Land Management) regulations.

6261
 6262 (v) An effluent limitation of 10 mg/l for oil and grease as measured by EPA
 6263 method 1664 or 10 mg/l for net oil and grease as measured by alternate test procedure method
 6264 1664-Cu.

6265
 6266 (d) Additional Permit Conditions and Limitations Specific to Coal Bed Natural Gas
 6267 Production Facilities.

6268
 6269 (i) Where discharge water is accessible to livestock and/or wildlife; meets
 6270 the effluent limitations as specified in this appendix; and meets the criteria for the protection of
 6271 livestock and wildlife as specified in Wyoming Water Quality Rules and Regulations Chapter 1,
 6272 Wyoming Surface Water Quality Standards, the discharge will be considered in compliance with
 6273 the requirements of Appendix H (a) (i) of these regulations.

6274
 6275 (ii) For discharge permit applications filed after the date of adoption of these
 6276 regulations, modification of effluent limits described in paragraph (b) (vii) of this appendix may
 6277 be granted on a case by case basis. The Water Quality Administrator shall review all requests for
 6278 modification of effluent limits submitted under this section and make a determination based upon
 6279 the technical merits of a Use Attainability Analysis. Such requests shall also provide a signed
 6280 “letter of agricultural or wildlife use” by the land owner specifically requesting that the discharge

6281 will serve a specific agricultural or wildlife use or a demonstration that the conditions of
6282 Appendix (H) (d) (i) have been met.

6283
6284 (iii) Location of disposal pits. Location of disposal pits shall be managed in
6285 accordance with applicable state (e.g. Oil and Gas Conservation Commission) and federal (e.g.
6286 Bureau of Land Management) regulations.

6287
6288 (iv) The permittee shall take all reasonable measures to prevent downstream
6289 erosion that would be attributable to the discharge of produced water.

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APPENDIX I: RESERVED

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APPENDIX J: Additional Requirements Applicable to Coal Mining Operations

- (a) General definitions applicable to Appendix J.
 - (i) “Abandoned mine” means a mine where mining operations have occurred in the past and:
 - (A) The applicable reclamation bond or financial assurance has been released or forfeited; or
 - (B) If no reclamation bond or other financial assurance has been posted, no mining operations have occurred for five years or more.
 - (ii) “Acid or ferruginous mine drainage” means mine drainage which, before any treatment, either has a pH of less than 6.0 or a total iron concentration equal to or greater than 10 mg/l.
 - (iii) “Active mining area” means the area, on and beneath land, used or disturbed in activity related to the extraction, removal, or recovery of coal from its natural deposits. This term excludes coal preparation plants, coal preparation plant associated areas and post-mining areas.
 - (iv) “Alkaline, mine drainage” means mine drainage which, before any treatment, either has a pH of greater than 6.0 or a total iron concentration less than 10 mg/l.
 - (v) “Bond release” means the time at which the appropriate regulatory authority returns a reclamation or performance bond based upon its determination that reclamation work (including, in the case of underground mines, mine sealing, and abandonment procedures) has been satisfactorily completed.
 - (vi) “Coal preparation plant” means a facility where coal is subjected to cleaning, concentrating, or other processing or preparation in order to separate coal from its impurities and then is loaded for transit to a consuming facility.
 - (vii) “Coal preparation plant associated areas” means the coal preparation plant yards, immediate access roads, coal refuse piles, and coal storage piles and facilities.
 - (viii) “Coal preparation plant water circuit” means all pipes, channels, basins, tanks, and all other structures and equipment that convey, contain, treat, or process any water that is used in coal preparation processes within a coal preparation plant.
 - (ix) “Coal refuse disposal pile” means any coal refuse deposited on the earth and intended as permanent disposal or long-term storage (greater than 180 days) of such material,

6373 but does not include coal refuse deposited within the active mining area or coal refuse never
6374 removed from the active mining area.

6375
6376 (x) “Controlled surface mine drainage” means any surface mine drainage
6377 that is pumped or siphoned from the active mining area.

6378
6379 (xi) “Mine drainage” means any drainage, and any water pumped or
6380 siphoned, from any active mining area or a post mining area.

6381
6382 (xii) “ml/l” means milliliters per liter.

6383
6384 (xiii) “New source coal mine” means a coal mine (excluding coal preparation
6385 plants and coal preparation plant associated areas) including an abandoned mine which is being
6386 reminded:

6387
6388 (A) The construction of which is commenced after May 4, 1984; or
6389

6390 (B) Which is determined by the administrator to constitute a “major
6391 alteration.” In making this determination, the administrator shall take into account whether one
6392 or more of the following events resulting in a new, altered or increased discharge of pollutants
6393 has occurred after May 4, 1984 in connection with the mine for which the WYPDES permit is
6394 being considered:

6395
6396 (I) Extraction of a coal seam not previously extracted at the
6397 mine;

6398
6399 (II) Discharge into a drainage area not previously affected by
6400 wastewater discharge from the mine;

6401
6402 (III) Extensive new surface disruption at the mining
6403 operation;

6404
6405 (IV) A construction of a new shaft, lope, or drift; and
6406

6407 (V) Such other factors as the administrator deems relevant.
6408

6409 (xiv) “One year, 2-year, and 10-year, 24-hour precipitation events” means the
6410 maximum 24-hour precipitation event with a probable recurrence interval of once in one (1), two
6411 (2), and ten (10) years respectively as defined by the National Weather Service Technical Paper
6412 No. 40, “Rainfall Frequency Atlas of the U.S.” May 1961, or equivalent regional or rainfall
6413 probability information developed therefrom.

6414
6415 (xv) “Post-mining area” means:

6416
6417 (A) A reclamation area; or
6418

6419 (B) The underground workings of an underground coal mine after
6420 the extraction, removal, or recovery of coal from its natural deposit has ceased and prior to bond
6421 release.

6422
6423 (xvi) “Reclamation area” means the surface area of a coal mine which has
6424 been returned to required contour and on which revegetation (specifically, seeding, or planting)
6425 work has commenced.

6426
6427 (xvii) “Settleable solids” is that matter measured by the volumetric method
6428 specified in Appendix J (f).

6429
6430 (xvii) “Treatment facility” and “treatment system” mean all structures which
6431 contain, convey, and as necessary, chemically or physically treat coal fine drainage, coal
6432 preparation plant process wastewater, or drainage from coal preparation plant associated areas,
6433 which remove pollutants regulated by this part from such waters. This includes all pipes,
6434 channels, ponds, basins, tanks, and all other equipment serving such structures.

6435
6436 (b) Application requirements specific to discharges from coal mines must provide
6437 the following information, in addition to that described in Section 5 (a) (v), and where applicable
6438 the information described in Appendix B, Appendix C, and/or Appendix D, to the administrator,
6439 using an application form provided by the administrator.

6440
6441 (i) Construction application requirements. A permit application, which may
6442 include an approved sedimentation structure control plan, in accordance with the provisions
6443 outlined in Wyoming Water Quality Rules and Regulations, Chapter 3, is required for the
6444 construction of any sedimentation ponds or runoff control facilities associated with surface coal
6445 mining operations. By agreement between the Land Quality Division and the Water Quality
6446 Division, this may take the form of one consolidated application for surface coal mining
6447 operations.

6448
6449 (ii) Minimum design standards for sedimentation control facilities. The
6450 minimum design standards for runoff control facilities of surface coal mining operations are set
6451 forth in this subparagraph. The department reserves the right to impose more stringent design
6452 requirements to ensure compliance with the effluent limitations contained in Section 5 (c) (iii) of
6453 these regulations.

6454
6455 (A) Scope. These standards pertain only to permits for surface coal
6456 mining sedimentation control facilities required pursuant to Wyoming Water Quality Rules and
6457 Regulations, Chapter 3.

6458
6459 (B) Sedimentation ponds and sedimentation control structures.

6460
6461 (I) Design.

6462

6463 (1.) Inlet ditches or structures shall be designed to
6464 minimize erosion, disturbance of the pond bottom, and resuspension of silts or colloidal soil
6465 particles.

6466 (2.) Outlet structures, if used, shall have an overflow
6467 device, minimize short-circuiting, minimize floating solids from discharging and shall not erode
6468 or disturb the dike. All pipe protruding through a dike shall have adequate seepage control. The
6469 point of discharge into a channel shall be protected against erosion and erosion control devices
6470 shall be designed based on flow velocities.
6471

6472 (3.) The design, construction and maintenance of a
6473 sedimentation pond or other sediment control measures shall not relieve the person from
6474 compliance with applicable effluent limitations.
6475

6476 (4.) Computations showing the facility volume to
6477 include runoff from a 10-year 24-hour precipitation event shall be provided. The pond treatment
6478 or containment volume shall be in addition to sediment storage required by Land Quality Division
6479 regulations. A lesser design event may be approved by the administrator based on terrain,
6480 climate, other site-specific conditions and on a demonstration by the applicant that the effluent
6481 limitations of Section 5 (c) (iii) will be met. The design for the runoff control facilities shall
6482 contain all supportive documentation, calculations and drawings necessary to determine
6483 compliance with the effluent limitations of Section 5 (c) (iii) of these regulations.
6484

6485 (5.) Each person who conducts surface mining
6486 activities shall design, construct and maintain sedimentation ponds to minimize short-circuiting
6487 where the facility is not designed to contain the 10-year 24-hour precipitation runoff.
6488

6489 (II) Construction. This paragraph pertains only to
6490 impoundments not defined as major impoundments by the State Engineer's regulations. Below
6491 grade sedimentation ponds may be exempted provided site specific contours indicate a slope that
6492 will provide wall structure stability and minimize seepage.
6493

6494 (1.) Where pond bottoms and sidewalls are made of
6495 fill material, the soils used shall be relatively incompressible, have a low permeability, and be
6496 free from organic material and trash. The soil shall be compacted at a water content that will
6497 ensure structural stability, minimize hydraulic seepage, and minimize settling.
6498

6499 Fill material containing rocks larger than six (6) inches in the longest dimension shall not
6500 be placed within five (5) feet of the interior slope surface of any pond embankment. Material
6501 containing by volume less than 25 percent of rock larger than six (6) inches and less than 12 inch
6502 in the longest dimension may be placed in the remainder of the embankment.
6503

6504 (2.) Outer dike slopes shall not be steeper than one
6505 vertical to two (2) horizontal. Flatter slopes may be required to maintain slope stability. Inner
6506 dike slopes shall be sloped one vertical to three horizontal or flatter.
6507

6508

6509 (3.) The minimum top dike width shall be sufficient
6510 to provide structural stability.

6511
6512 (4.) The application shall contain an evaluation of
6513 the need for riprap. This evaluation shall address site specific conditions such as surrounding
6514 topography, predominant wind directions, highest predicted peak wind velocity, calculation of
6515 predicted wave heights, data on windy months versus potential of water and water depths in the
6516 impoundment, impoundment life or any other relevant parameters. If necessary, riprap or other
6517 acceptable erosion control shall be installed on the inner dike slopes at all anticipated levels of
6518 water. Sedimentation control structures shall be exempted from requirements of this appendix.

6519
6520 (III) Dewatering. The storage resulting from inflow shall be
6521 removed by a nonclogging dewatering device or a spillway as soon as possible but not prior to the
6522 time that the discharge will comply with the effluent standards of these regulations. The
6523 application shall contain documentation that equipment or outlet structures are available for
6524 draining the pond.

6525
6526 (C) Discharge structures. Outfall structures and related equipment
6527 which is sufficient to meet the self-monitoring requirements of the WYPDES permit shall be
6528 properly installed, maintained, operated, and shall be removed when no longer required.

6529
6530 (c) Permit condition. Identification of outfalls. Point source discharges which
6531 consist of process wastewater or a combination of process wastewater and water from affected
6532 lands shall be identified as specific points of discharge in the discharge permit for each mine.
6533 Point source discharges which consist of water discharged from affected lands only may not be
6534 required to be identified as specific points of discharge in the discharge permit for each mine.
6535 Even if a discharge is not designated as a specific point of discharge, such discharges shall be
6536 required to meet the applicable self-monitoring and effluent requirements of the permit.

6537
6538 (d) Effluent limitations.

6539
6540 (i) The following types of mine discharges are subject to the effluent
6541 limitations of Appendix J (d) (ii):

6542
6543 (A) Coal preparation plants and coal preparation plant associated
6544 areas, as indicated, including discharges which are pumped, siphoned, or drained from the coal
6545 preparation plant water circuit and coal storage, refuse storage, and ancillary areas related to the
6546 cleaning or beneficiation of coal of any rank including, but not limited to, bituminous, lignite, and
6547 anthracite.

6548
6549 (B) Acid or ferruginous mine drainage from an active mining area
6550 resulting from the mining of coal of any rank including, but not limited to, bituminous, lignite,
6551 and anthracite.

6552

6553 (C) Alkaline mine drainage from an active mining area resulting
 6554 from the mining of coal of any rank including, but not limited to, bituminous, lignite, and
 6555 anthracite.

6556 (D) Post-mining underground mine drainage from the underground
 6557 workings of underground mines until Surface Mining Control and Reclamation Act (SMCRA)
 6558 bond release.

6559 (ii) All point source mine discharges, as described in Appendix J (d) (i),
 6560 which enter or will directly affect surface waters of the state shall meet the following effluent
 6561 limitations except during a precipitation event of any duration within any 24-hour period which
 6562 results in a rainfall depth greater than the 10-year, 24-hour precipitation amount (or snowmelt of
 6563 equivalent volume). During such precipitation events only the limitation on pH shall apply:
 6564
 6565
 6566

Effluent Characteristic	30 Day Average	Daily Maximum	Instantaneous Maximum
Total Suspended Solids (mg/l)	35	70	90
Total Iron (mg/l)	3.0	6.0	9.0
Total Manganese* (mg/l)	2.0	4.0	6.0
pH (standard units)	N/A	N/A	6.0 to 9.0

6567 *Applicable only when pH of the discharge, prior to any treatment, is less than 6.0 standard units.

6568 (iii) Post-Mining Areas. The provisions of this paragraph are applicable to
 6569 discharges from post mining areas, except as provided in Appendix J (h).
 6570

6571 (A) Reclamation Areas. The following limitations apply to
 6572 discharges from reclamation areas until the performance bond issued to the facility by the
 6573 appropriate SMCRA authority has been released. The following limitations establish the
 6574 concentration or quality of pollutants which may be discharged.
 6575
 6576

Pollutant or Pollutant Property	Limitations
Settleable Solids	0.5 ml/l maximum not to be exceeded
pH	Within the range of 6.0 and 9.0 at all times

6577 (iv) Co-mingling of waste streams. Where waste streams from any facility
 6578 covered by this appendix are combined for treatment or discharge with waste streams from
 6579 another facility covered by this part, the concentration of each pollutant in the combined
 6580 discharge may not exceed the most stringent limitations for that pollutant applicable to any
 6581 component waste stream of the discharge.
 6582
 6583

6584 (v) Alternate effluent limitation for pH. Where the application of
 6585 neutralization and sedimentation treatment technology results in inability to comply with the
 6586 otherwise applicable manganese limitations, the permit issuer may allow the pH level in the final
 6587 effluent to exceed 9.0 to a small extent in order that the manganese limitations can be achieved,

6588 provided that the pH of the receiving surface water of the state does not exceed water quality
 6589 standards of Wyoming Water Quality Rules and Regulations Chapter 1, Wyoming Surface Water
 6590 Quality Standards.

6591
 6592 (e) Effluent limitations for precipitation events.

6593
 6594 (i) The alternate limitations specified in Appendix J (e) (ii) apply with
 6595 respect to:

6596
 6597 (A) All discharges of alkaline mine drainage except discharges from
 6598 underground workings of underground mines that are not commingled with other discharges
 6599 eligible for these alternate limitations;

6600
 6601 (B) All discharges from steep slope areas, (as defined in Section 515
 6602 (d) (4) of the SMCRA of 1977, as amended), and from mountaintop removal operations
 6603 (conducted pursuant to Section 515 (c) of SMCRA);

6604
 6605 (C) Discharges from coal preparation plants and preparation plant
 6606 associated areas (excluding acid or ferruginous mine drainage from coal refuse disposal piles).

6607
 6608 (ii) Any discharge or increase in the volume of a discharge caused by
 6609 precipitation within any 24-hour period less than or equal to the 10-year, 24-hour precipitation
 6610 event (or snowmelt of equivalent volume) may comply with the following limitations instead of
 6611 the otherwise applicable limitations:

Pollutant or Pollutant Property	Limitations
Settleable Solids	0.5 ml/l maximum not to be exceeded
pH	Within the range 6.0 to 9.0 at all times

6612
 6613
 6614
 6615
 6616 (iii) The following alternate limitations apply with respect to acid or
 6617 ferruginous drainage from coal refuse disposal piles: Any discharge or increase in the volume of a
 6618 discharge caused by precipitation within any 24-hour period greater than the 1-year, 24-hour
 6619 precipitation event, but less than or equal to the 10-year, 24-hour precipitation event (or snowmelt
 6620 of equivalent volume) may comply with the following limitations instead of the otherwise
 6621 applicable limitations:

Pollutant or Pollutant Property	Limitations
Settleable Solids	0.5 ml/l maximum not to be exceeded
pH	Within the range 6.0 to 9.0 at all times

6622
 6623
 6624 (iv) The following alternate limitations apply with respect to acid or
 6625 ferruginous mine drainage, except for discharges addressed in: Appendix J (e) (i) (B)
 6626 (mountaintop removal and steep slope areas) and Appendix J (e) (vii) (discharges from
 6627 underground workings of underground mines):

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(A) Any discharge or increase in the volume of a discharge caused by precipitations within any 24-hour period or less or equal to the 2-year, 24-hour precipitation event (or snowmelt of equivalent volume) may comply with the following limitations instead of the otherwise applicable limitations:

Pollutant or Pollutant Property	Limitations
Total Iron	7.0 mg/l maximum for any one day
Settleable Solids	0.5 ml/l maximum not to exceed
pH	Within the range 6.0 to 9.0 at all times

6634
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(B) Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 2-year, 24-hour precipitation event, but less than or equal to the 10-year, 24-hour precipitations event (or snowmelt of equivalent volume) may comply with the following limitations instead of the otherwise applicable limitations:

Pollutant or Pollutant Property	Limitations
Settleable Solids	0.5 ml/l maximum not to be exceeded
pH	Within the range 6.0 to 9.0 at all times

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(v) Any discharge which occurs during a precipitation event of any duration within any 24-hour period which results in a rainfall depth greater than the 10- year, 24-hour precipitation amount (or snowmelt of equivalent volume) shall be required to meet an instantaneous maximum pH limitation of 6.0 - 9.0 only.

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6654

(vi) The operator shall have the burden of proof that the discharge or increase in discharge was caused by the applicable precipitation event described Appendix J (e) (ii), (iii), (iv) and (v).

(vii) Discharges of mine drainage from underground workings or underground mines which are not commingled with discharges eligible for alternate limitations set forth in Appendix J (e) shall in no event be eligible for the alternate limitations set forth in Appendix J (e).

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(f) If effluent limitations more stringent than those given in paragraph (c) (i) or (ii) of this appendix are necessary to assure compliance with Wyoming Water Quality Rules and Regulations, Chapter 1, such limitations shall be established in accordance with Section 5 (c) (iii) (C).

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(g) Procedure and method detection limit for measurement of settleable solids. For the purposes of this appendix, the following procedure shall be used to determine settleable solids: Fill an Imhoff cone to the one-liter mark with a thoroughly mixed sample. Allow to settle undisturbed for 45 minutes. Gently stir along the inside surface of the cone with a stirring rod. Allow to settle undisturbed for 15 minutes longer. Record the volume of settled material in the cone as milliliters per liter. Where a separation of settleable and floating materials occurs, do not

6667 include the floating material in the reading. Notwithstanding any provision of 40 CFR Part 136,
6668 the method detection limit for measuring settleable solids under this part shall be 0.4 ml/l.

6669
6670 (h) Western alkaline coal mining.

6671
6672 (i) Applicable to alkaline mine drainage at western coal mining operations
6673 from reclamation areas, brushing and grubbing areas, topsoil stockpiling areas, and regraded
6674 areas where the discharge, before any treatment, meets all of the following requirements:

6675
6676 (A) pH is equal to or greater than 6.0,

6677
6678 (B) Dissolved iron concentration is less than 10 mg/l, and

6679
6680 (C) Net alkalinity is greater than zero.

6681
6682 (ii) Special definitions.

6683
6684 (A) “Brushing and grubbing” area means the area where woody plant
6685 materials that would interfere with soil salvage operations have been removed or incorporated
6686 into the soil that is being salvaged.

6687
6688 (B) “Regraded area” means the surface area of a coal mine that has
6689 been returned to required contour.

6690
6691 (C) “Sediment” means undissolved organic and inorganic material
6692 transported or deposited by water.

6693
6694 (D) “Sediment yield” means the sum of the soil losses from a surface
6695 minus deposition in macro-topographic depressions, at the toe of the hillslope, along field
6696 boundaries, or in terraces and channels sculpted into the hillslope.

6697
6698 (E) “Topsoil stockpiling area” means the area outside the mined-out
6699 area where topsoil is temporarily stored for use in reclamation, including containment berms.

6700
6701 (F) “Western coal mining operation” means a surface or
6702 underground coal mining operation located in the interior western United States, west of the
6703 100th meridian, west longitude, in an arid or semiarid environment with an average annual
6704 precipitation of 26 inches or less.

6705
6706 (iii) The effluent limitations of Appendix J (h) (iv) apply until the appropriate
6707 SMCRA authority has authorized bond release.

6708
6709 (iv) Effluent limitations.

6710
6711 (A) The operator must submit a site specific sediment control plan to
6712 the permitting authority that is designed to prevent an increase in the average annual sediment

6713 yield from pre-mined, undisturbed conditions. The sediment control plan must be approved by
 6714 the administrator and be incorporated into the permit as an effluent limitation. The sediment
 6715 control plan must identify best management practices (BMPs) and also must describe design
 6716 specifications, construction specifications, maintenance schedules, criteria for inspection, as well
 6717 as expected performance and longevity of the best management practices.

6718
 6719 (B) Using watershed models, the operator must demonstrate that
 6720 implementation of the sediment control plan will result in average annual sediment yields that
 6721 will not be greater than the sediment yield levels from pre-mined, undisturbed conditions. The
 6722 operator must use the same watershed model that was, or will be, used to acquire the SMCRA
 6723 permit.

6724
 6725 (C) The operator must design, implement, and maintain BMPs in the
 6726 manner specified in the sediment control plan.

6727
 6728 (l) Coal remining. Applicable to pre-existing discharges that are located within or
 6729 are hydrologically connected to pollution abatement areas of a coal mining operation.

6730
 6731 (i) Specialized definitions.

6732
 6733 (A) “Coal remining operation” means a coal mining operation at a
 6734 site on which coal mining was previously conducted and where the site has been abandoned or
 6735 the performance bond has been forfeited.

6736
 6737 (B) “Pollution abatement area” means the part of the permit area that
 6738 is causing or contributing to the baseline pollution load of pre-existing discharges. The pollution
 6739 abatement area must include, to the extent practicable, areas adjacent to and nearby the remining
 6740 operation that also must be affected to reduce the pollution load of the pre-existing discharges and
 6741 may include the immediate location of the pre-existing discharges.

6742
 6743 (C) “Pre-existing discharge” means any discharge resulting from
 6744 mining activities that have been abandoned prior tot the time of a remining permit application.
 6745 The term shall include a pre-existing discharge that is relocated as a result of the implementation
 6746 of BMPs contained in the Pollution Abatement Plan.

6747
 6748 (D) “Steep slope” means any slope above 20 degrees or such lesser
 6749 slope as may be defined by the administrator after consideration of soil, climate, and other
 6750 characteristics of the State. The term does not apply to those situations in which an operator is
 6751 mining on flat or gently rolling terrain, on which an occasional steep slope is encountered and
 6752 through which the mining operation is to proceed, leaving a plain or predominantly flat area.

6753
 6754 (E) “New source remining operation” means a remining operation at
 6755 a coal mine where mining first commences after February 22, 2002 and subsequently becomes an
 6756 abandoned mine.

6757

6758 (ii) A pre-existing discharge that is intercepted by active mining or that is
 6759 commingled with waste streams from active mining areas for treatment is subject to the
 6760 provisions of Appendix J (d) (iv) of these regulations only during the time when the pre-existing
 6761 discharge is intercepted by active mining or is commingled with active mine wastewater for
 6762 treatment or discharge. After commingling has ceased, the pre-existing discharge is subject to the
 6763 provisions of Appendix J (i) of these regulations.

6764 (iii) In situations where coal remining operations seek reissuance of an
 6765 existing remining permit with BPJ limitations and the administrator determines that it is not
 6766 feasible for a remining operator to re-establish baseline pollutant levels in accordance with the
 6767 statistical procedures contained in 40 CFR Part 434 Appendix B pre-existing discharge
 6768 limitations at existing remining operations shall remain subject to baseline pollutant levels
 6769 established during the original permit application.

6770 (iv) The effluent limitations of Appendix J (i) apply to pre-existing
 6771 discharges until the appropriate SMCRA authority has authorized bond release.

6772 (v) Effluent limitations applicable to coal remining.

6773 (A) The operator must submit a site-specific pollution abatement
 6774 plan to the administrator for the pollution abatement area. The plan must be approved by the
 6775 administrator and incorporated into the permit as an effluent limitation. The Pollution Abatement
 6776 Plan must identify characteristics of the pollution abatement area and the pre-existing discharges.
 6777 The Pollution Abatement Plan must be designed to reduce pollution load from pre-existing
 6778 discharges and must identify the selected BMPs to be used. The plan must describe the design
 6779 specifications, construction specifications, maintenance schedules, criteria for monitoring and
 6780 inspection, and expected performance of the BMPs. The BMPs must be implemented as
 6781 specified in the plan.

6782 (B) Except as provided in Appendix J (h) (v) (C) of these
 6783 regulations, the following effluent limits shall apply to pre-existing discharges:

6784 (I) Total iron may not exceed baseline loadings (as defined
 6785 40 CFR Part 434 Appendix B).

6786 (II) Total manganese may not exceed baseline loadings (as
 6787 defined 40 CFR Part 434 Appendix B).

6788 (III) Net acidity may not exceed baseline loadings (as defined
 6789 40 CFR Part 434 Appendix B).

6790 (IV) TSS, during remining and reclamation, may not exceed
 6791 baseline loadings (as defined 40 CFR Part 434 Appendix B).

6792 (V) Prior to bond release, the pre-existing discharge must
 6793 meet the applicable standards for TSS or SS contained in Appendix J (d) (iii).

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(VI) A pre-existing discharge is exempt from meeting standards in Subpart E for TSS and SS when the administrator determines that Subpart E standards are infeasible or impractical based on the site-specific conditions of soil, climate, topography, steep slopes, or other baseline conditions provided that the operator demonstrates that significant reductions of TSS and SS will be achieved through the incorporation of sediment control BMPs into the Pollution Abatement Plan as required by Appendix J (i) (v) of these regulations.

(C) If the administrator determines that it is infeasible to collect samples for establishing the baseline pollutant levels pursuant to Appendix J (i) (v) (B) of these regulations and that reminging will result in significant improvement that would not otherwise occur, the numeric effluent limitations in Appendix J (i) (v) (B) of these regulations do not apply.

(D) Pre-existing discharges for which it is infeasible to collect samples for determination of baseline pollutant levels include, but are not limited to:

(I) Discharges that exist as a diffuse groundwater flow that cannot be assessed via sample collection;

(II) A base flow to a receiving surface water of the state that can not be monitored separate from the receiving surface waters of the state;

(III) A discharge on a steep or hazardous slope that is inaccessible for sample collection; or

(IV) A number of pre-existing discharges so extensive that monitoring of individual discharges is infeasible.

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APPENDIX K: RESERVED

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6855 **APPENDIX L: Criteria and Standards for Determining Fundamentally Different Factors**

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6857 (a) Purpose and scope.

6858

6859 (i) This appendix establishes the criteria and standards to be used in
 6860 determining whether effluent limitations alternative to those required by promulgated EPA
 6861 effluent limitations guidelines under sections 301 and 304 of the CWA (hereinafter referred to as
 6862 “national limits”) should be imposed on a discharger because factors relating to the discharger=s
 6863 facilities, equipment, processes or other factors related to the discharger are fundamentally
 6864 different from the factors considered by EPA in development of the national limits. This subpart
 6865 applies to all national limitations promulgated under sections 301 and 304 of the CWA, except for
 6866 the BPT limits contained in 40 CFR 423.12 (steam electric generating point source category).

6867

6868 (ii) In establishing national limits, EPA takes into account all the information
 6869 it can collect, develop and solicit regarding the factors listed in section 304 (b) of the CWA. In
 6870 some cases, however, data which could affect these national limits as they apply to a particular
 6871 discharge may not be available or may not be considered during their development. As a result, it
 6872 may be necessary on a case-by-case basis to adjust the national limits, and make them either more
 6873 or less stringent as they apply to certain dischargers within an industrial category or subcategory.
 6874 This will only be done if data specific to that discharger indicates it presents factors
 6875 fundamentally different from those considered by EPA in developing the limit at issue. Any
 6876 interested person believing that factors relating to a discharger=s facilities, equipment, processes
 6877 or other facilities related to the discharger are fundamentally different from the factors considered
 6878 during development of the national limits may request a fundamentally different factors variance
 6879 under Section 8 of these regulations. In addition, such a variance may be proposed by the
 6880 director in the draft permit.

6881

6882 (b) Criteria.

6883

6884 (i) A request for the establishment of effluent limitations under this
 6885 appendix shall be forwarded to the Administrator of the EPA (or his delegate) with a written
 6886 concurrence only if:

6887

6888 (A) There is an applicable national limit which is applied in the
 6889 permit and specifically controls the pollutant for which alternative effluent limitations or
 6890 standards have been requested; and

6891

6892 (B) Factors relating to the discharge controlled by the permit are
 6893 fundamentally different from those considered by EPA in establishing the national limits; and

6894

6895 (C) The request for alternative effluent limitations or standards is
 6896 made in accordance with the requirements of Section 8 of these regulations.

6897

6898 (ii) A request for the establishment of effluent limitations less stringent than
6899 those required by national limits guidelines shall be forwarded to the Administrator of the EPA
6900 (or his delegate) with a written concurrence only if:

6901
6902 (A) The alternative effluent limitation or standard requested is no
6903 less stringent than justified by the fundamental difference; and

6904
6905 (B) The alternative effluent limitation or standard will ensure
6906 compliance with Sections 208 (e) and 301 (b) (1) (C) of the CWA; and

6907
6908 (C) Compliance with the national limits (either by using the
6909 technologies upon which the national limits are based or by other control alternatives) would
6910 result in:

6911
6912 (I) A removal cost wholly out of proportion to the removal
6913 cost considered during development of the national limits; or

6914
6915 (II) A non-water quality environmental impact (including
6916 energy requirements) fundamentally more adverse than the impact considered during
6917 development of the national limits.

6918
6919 (iii) Factors which may be considered fundamentally different are:

6920
6921 (A) The nature of quality of pollutants contained in the raw waste
6922 load of the applicant=s process wastewater;

6923
6924 (B) The volume of the discharger=s process wastewater and effluent
6925 discharged;

6926
6927 (C) Non-water quality environmental impact of control and
6928 treatment of the discharger=s raw waste load;

6929
6930 (D) Energy requirements of the application of control and treatment
6931 technology;

6932
6933 (E) Age, size, land availability, and configuration as they relate to
6934 the discharger=s equipment or facilities, processes employed, process changes, and engineering
6935 aspects of the application of control technology;

6936
6937 (F) Cost of compliance with required control technology.

6938
6939 (iv) A variance request or portion of such a request under this section shall
6940 not be forwarded to the Administrator of the EPA (or his delegate) with a written concurrence on
6941 any of the following grounds:
6942

- 6943 (A) The infeasibility of installing the required waste treatment
6944 equipment within the time the CWA allows.
- 6945
- 6946 (B) The assertion that the national limits cannot be achieved with
6947 appropriate waste treatment facilities installed, if such assertion is not based on factor(s) listed in
6948 Appendix L (iv);
- 6949
- 6950 (C) The discharger's ability to pay for the required waste treatment;
6951 or
- 6952
- 6953 (D) The impact of a discharge on local receiving water quality.
- 6954
- 6955 (v) Nothing in this appendix shall be construed to impair the right of any
6956 locality under Section 510 of the CWA to impose more stringent limitations than those required
6957 by federal law.
- 6958
- 6959 (c) Method of application.
- 6960
- 6961 (i) A written request for a variance under this appendix shall be submitted in
6962 triplicate to the director in accordance with Section 8 of these regulations.
- 6963
- 6964 (ii) The burden is on the person requesting the variance to explain that:
6965
- 6966 (A) Factor(s) listed in Appendix L (b) (ii) of these regulations
6967 regarding the discharger's facility are fundamentally different from the factors EPA considered in
6968 establishing the national limits. The requester should refer to all relevant material and
6969 information, such as the published guideline regulations development document, all associated
6970 technical and economic data collected for use in developing each national limit, all records of
6971 legal proceedings, and all written and printed documentation including records of
6972 communication, etc., relevant to the regulations which are kept on public file by the EPA;
- 6973
- 6974 (B) The alternative limitations requested are justified by the
6975 fundamental difference alleged in Appendix L (c) (ii) (A) of these regulations; and
- 6976
- 6977 (C) The appropriate requirements of Appendix L (b) of these
6978 regulations have been met.
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APPENDIX M: Criteria for Determining Alternative Effluent Limitations

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(a) With respect to any point source otherwise subject to the provisions of Section 301 or Section 306 of the CWA, whenever the owner or operator of any such source, after opportunity for public hearing can demonstrate to the satisfaction of the administrator that any effluent limitation proposed for the control of the thermal component of any discharge from such source will require effluent limitations more stringent than necessary to assure the protection and propagation of shellfish, fish and wildlife in and on the body of water into which the discharge is to be made, the administrator may impose an effluent limitation on such plant, with respect to the thermal component of such discharge (taking into account the interaction of such thermal component with other pollutants), that will assure the protection and propagation of a balanced indigenous population of shellfish, fish and wildlife in and on that body of water. This appendix describes the factors, criteria and standards for the establishment of alternative thermal effluent limitations.

(b) Definitions.

(i) “Alternative effluent limitations” means all effluent limitations or standards of performance for the control of the thermal component of any discharge which are established under this appendix.

(ii) “Representative important species” means species which are representative, in terms of their biological needs, of a balanced, indigenous community of shellfish, fish and wildlife in the body of water into which a discharge of heat is made.

(iii) The term “balanced, indigenous community” is synonymous with the term “balanced, indigenous population” in the CWA and means a biotic community typically characterized by diversity, the capacity to sustain itself through cyclic seasonal changes, presence of necessary food chain species and by a lack of domination by pollution tolerant species. Such a community may include historically non-native species introduced in connection with a program of wildlife management and species whose presence or abundance results from substantial, irreversible environmental modifications. Normally, however, such a community will not include species whose presence or abundance is attributable to the introduction of pollutants that will be eliminated by compliance by all sources with section 301 (b) (2) of the CWA; and may not include species whose presence or abundance is attributable to alternative effluent limitations imposed pursuant to this appendix.

(c) Early screening of applications.

(i) Any initial application for an alternative effluent limitation under this appendix shall include the following early screening information:

(A) A description of the alternative effluent limitation requested;

7034 (B) A general description of the method by which the applicant
7035 proposes to demonstrate that the otherwise applicable thermal discharge effluent limitations are
7036 more stringent than necessary;

7037
7038 (C) A general description of the type of data, studies, experiments
7039 and other information which the applicant intends to submit for the demonstration; and

7040
7041 (D) Such data and information as may be available to assist the
7042 administrator in selecting the appropriate representative important species.

7043
7044 (ii) After submitting the early screening information under Appendix M (c),
7045 the applicant shall consult with the administrator at the earliest practicable time (but not later than
7046 30 days after the application is filed) to discuss the applicant's early screening information.
7047 Within 60 days after the application is filed, the applicant shall submit for the administrator's
7048 approval a detailed plan of study which the applicant will undertake to support its demonstration
7049 under this appendix. The applicant shall specify the nature and extent of the following type of
7050 information to be included in the plan of study: biological, hydrographical and meteorological
7051 data; physical monitoring data; engineering or diffusion models; laboratory studies; representative
7052 important species; and other relevant information. In selecting representative important species,
7053 special consideration shall be given to species mentioned in applicable water quality standards.
7054 After the applicant submits its detailed plan of study, the administrator shall either approve the
7055 plan or specify any necessary revisions to the plan. The applicant shall provide any additional
7056 information or studies which the administrator subsequently determines necessary to support the
7057 demonstration, including such studies or inspections as may be necessary to select representative
7058 important species. The applicant may provide any additional information or studies which the
7059 applicant feels are appropriate to support the demonstration.

7060
7061 (iii) Any application for the renewal of an alternative effluent limitation
7062 under this appendix shall include only such information described in Appendix M (c) (i) and (ii)
7063 as the administrator requests within 60 days after receipt of the permit application.

7064
7065 (iv) The administrator shall promptly notify the Regional Administrator of
7066 the EPA and any affected state of the filing of the request and shall consider any timely
7067 recommendations they submit.

7068
7069 (v) In making the demonstration, the applicant shall consider any
7070 information or guidance published by EPA to assist in making such demonstrations.

7071
7072 (vi) If an applicant desires a ruling on an application under this appendix,
7073 before the ruling on any other necessary permit terms and conditions, the applicant shall so
7074 request upon filing its application under Appendix M (c) (i). This request shall be granted or
7075 denied at the discretion of the administrator.

7076
7077 (d) Criteria and standards for the determination of alternative effluent limitations
7078 under this appendix.

7079

7080 (i) Thermal discharge effluent limitations or standards established in permits
7081 may be less stringent than those required by applicable standards and limitations if the applicant
7082 demonstrates to the satisfaction of the administrator that such effluent limitations are more
7083 stringent than necessary to assure the protection and propagation of a balanced, indigenous
7084 community of shellfish, fish and wildlife in and on the body of water into which the discharge is
7085 made. This demonstration must show that the alternative effluent limitation desired by the
7086 applicant, considering the cumulative impact of its thermal discharge together with all other
7087 significant impacts on the species affected, will assure the protection and propagation of a
7088 balanced indigenous community of shellfish, fish and wildlife in and on the body of water into
7089 which the discharge is to be made.

7090
7091 (ii) In determining whether or not the protection and propagation of the
7092 affected species will be assured, the administrator may consider any information contained or
7093 referenced in any applicable thermal water quality criteria and thermal water quality information
7094 published by the Administrator of the EPA under Section 304 (a) of the CWA, or any other
7095 information the administrator deems relevant.

7096
7097 (iii) Demonstration upon the absence of prior appreciable harm.

7098
7099 (A) Existing permittees may base their demonstration upon the
7100 absence of prior appreciable harm in lieu of predictive studies. Any such demonstrations shall
7101 show:

7102
7103 (I) That no appreciable harm has resulted from the normal
7104 component of the discharge, taking into account the interaction of such thermal component with
7105 other pollutants and the additive effect of other thermal sources to a balanced, indigenous
7106 community of shellfish, fish and wildlife in and on the body of water into which the discharge has
7107 been made; or

7108
7109 (II) That despite the occurrence of such previous harm, the
7110 desired alternative effluent limitations (or appropriate modifications thereof) will nevertheless
7111 assure the protection and propagation of a balanced, indigenous community of shellfish, fish and
7112 wildlife in and on the body of water into which the discharge is made.

7113
7114 (iv) In determining whether or not prior appreciable harm has occurred, the
7115 administrator shall consider the length of time in which the applicant has been discharging and
7116 the nature of the discharge.

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APPENDIX N: Toxic Pollutant Effluent Standards and Prohibitions

(a) Scope and purpose.

(i) The provisions of this appendix apply to owners or operators of specified facilities discharging into surface waters of the state.

(ii) The effluent standards or prohibitions for toxic pollutants established in this appendix shall be applicable to the sources and pollutants hereinafter set forth, and may be incorporated in any WYPDES permit, modification or renewal thereof, in accordance with the provisions of this appendix.

(iii) The provisions of these regulations shall apply to any WYPDES permit proceedings for any point source discharge containing any toxic pollutant for which a standard or prohibition is established under this appendix.

(b) Definitions. All terms not defined herein shall have the meaning given them in the CWA or in Section 3 of these regulations. As used in this appendix, the term:

(i) “Effluent standard” means any restriction established by the administrator on quantities, rates, and concentrations of chemical, physical, biological, and other concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into surface waters of the state but does not include a schedule of compliance.

(ii) “Prohibited” means that the constituent shall be absent in any discharge subject to these standards, as determined by any analytical method.

(iii) “Working day” means the hours during a calendar day in which a facility discharges effluents subject to this part.

(iv) “Ambient water criterion” means that concentration of a toxic pollutant in a surface water of the state that, based upon available data, will not result in adverse impact on important aquatic life, or on consumers of such aquatic life, after exposure of that aquatic life for periods of time exceeding 96 hours and continuing at least through one reproductive cycle; and will not result in a significant risk of adverse health effects in a large human population based on available information such as mammalian laboratory toxicity data, epidemiological studies of human occupational exposures, or human exposure data, or any other relevant data.

(v) “New source” means any source discharging a toxic pollutant, the construction of which is commenced after proposal of an effluent standard or prohibition applicable to such source if such effluent standard or prohibition is thereafter promulgated in accordance with Section 307 of the CWA.

7170 (vi) “Existing source” means any source which is not a new source as defined
7171 in Appendix N (b) (v).

7172
7173 (vii) “Source” means any building, structure, facility, or installation from
7174 which there is or may be the discharge of toxic pollutants designated as such by the administrator.

7175
7176 (viii) “Owner or operator” means any person who owns, leases, operates,
7177 controls, or supervises a source as defined in Appendix N (b) (vii).

7178
7179 (ix) “Construction” means any placement, assembly, or installation of
7180 facilities or equipment (including contractual obligations to purchase such facilities or equipment)
7181 at the premises where such equipment will be used, including preparation work at such premises.

7182
7183 (x) “Manufacturer” means any establishment engaged in the mechanical or
7184 chemical transformation of materials or substances into new products, including but not limited
7185 to, the blending of materials such as pesticidal products, resins, or liquors.

7186
7187 (xi) “Process wastes” means any designated toxic pollutant, whether in
7188 wastewater or otherwise present, which is inherent to or unavoidably resulting from any
7189 manufacturing process, including that which comes into direct contact with or results from the
7190 production or use of any raw material, intermediate product, finished product, by product or
7191 waste product and is discharged into surface waters of the state.

7192
7193 (xii) “Air emissions” means the release or discharge of a toxic pollutant by an
7194 owner or operator into the ambient air either 1) by means of a stack or 2) as a fugitive dust, mist
7195 or vapor as a result inherent to the manufacturing or formulating process.

7196
7197 (xiii) “Fugitive dust, mist or vapor” means dust, mist or vapor containing a
7198 toxic pollutant regulated under this part which is emitted from any source other than through a
7199 stack.

7200
7201 (xiv) “Stack” means any chimney, flue, conduit, or duct arranged to conduct
7202 emissions to the ambient air.

7203
7204 (xv) “Ten year 24-hour rainfall event” means the maximum precipitation
7205 event with a probable recurrence interval of once in ten (10) years as defined by the National
7206 Weather Service in Technical Paper No. 40, Rainfall Frequency Atlas of the United States, May
7207 1961, and subsequent amendments or equivalent regional or state rainfall probability information
7208 developed therefrom.

7209
7210 (c) Abbreviations. The abbreviations used in this part represent the following terms:

7211
7212 (i) lb=pound (or pounds)

7213
7214 (ii) g=gram

7215

7216 (iii) ug/l=micrograms per liter (1 one millionth gram/liter)

7217

7218 (iv) kg=kilogram(s) kkg=1000 kilogram(s)

7219

7220 (d) Toxic pollutants. The following are the pollutants subject to regulation under the
7221 provisions of this appendix:

7222

7223 (i) Aldrin/Dieldrin - Aldrin means the compound aldrin as identified by the
7224 chemical name, 1,2,3,4,10,10 hexachloro -1,4,4a,5,8,8a hexahydro -1,4 -endo 5,8 -exo-
7225 dimethanonaphthalene; ``Dieldrin" means the compound the dieldrin as identified by the chemical
7226 name 1,2,3,4,10,10 -hexachloro-6,7 - epoxy -1,4,4a,5,6,7,8,8a octahydro-1,4 -endo 5,8 -exo-
7227 dimethanonaphthalene.

7228

7229 (ii) DDT - DDT means the compounds DDT, DDD, and DDE as identified
7230 by the chemical names:(DDT)-1,1,1 -trichloro -2,2 - bis(p- chlorophenyl) ethane and someo,p'
7231 isomers; (DDD) or (TDE) -1,1 -dichloro -2,2- bis(p-chlorophenyl) ethane and some o,p'-
7232 isomers; (DDE) -1,1-dichloro -2,2-bis(p-chlorophenyl) ethylene.

7233

7234 (iii) Endrin - Endrin means the compound endrin as identified by the
7235 chemical name 1,2,3,4,10,10-hexachloro-6,7 epoxy - 1,4,4a,5,6,7,8,8a -octahydro -1,4-endo 5,8-
7236 endodimethanonaphthalene.

7237

7238 (iv) Toxaphene - Toxaphene means a material consisting of technical grade
7239 chlorinated camphene having the approximate formula of C₁₀H₁₀Cl₈ and normally containing 67-
7240 69 percent chlorine by weight.

7241

7242 (v) Benzidine - Benzidine means the compound benzidine and its salts as
7243 identified by the chemical name 4,4'-diaminobiphenyl.

7244

7245 (vi) Polychlorinated Biphenyls (PCBs) - Polychlorinated biphenyls (PCBs)
7246 means a mixture of compounds composed of the biphenyl molecule which has been chlorinated to
7247 varying degrees. [42 FR 2613, Jan. 12, 1977, as amended at 42 FR 2620, Jan. 12, 1977; 42 FR
7248 6555, Feb. 2, 1977]

7249

7250 (e) Compliance.

7251

7252 (i) Within 60 days from the date of promulgation of any toxic pollutant
7253 effluent standard or prohibition each owner or operator with a discharge subject to that standard
7254 or prohibition must notify the director of such discharge. Such notification shall include such
7255 information and follow such procedures as the director may require.

7256

7257 (ii) Any owner or operator who does not have a discharge subject to any
7258 toxic pollutant effluent standard at the time of such promulgation but who thereafter commences
7259 or intends to commence any activity which would result in such a discharge shall first notify the
7260 director in the manner herein provided at least 60 days prior to any such discharge.

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(iii) Upon receipt of any application for issuance or reissuance of a permit or for a modification of an existing permit for a discharge subject to a toxic pollutant effluent standard or prohibition the permitting authority shall proceed thereon in accordance with these regulations.

(iv) Every permit which contains limitations based upon a toxic pollutant effluent standard or prohibition under this appendix is subject to revision following the completion of any proceeding revising such toxic pollutant effluent standard or prohibition regardless of the duration specified on the permit.

(v) For purposes of this section, all toxic pollutants for which standards are set under this appendix are deemed to be injurious to human health within the meaning of Section 402 (k) of the CWA unless otherwise specified in the standard established for any particular pollutant.

(vi) Upon the compliance date for any toxic pollutant effluent standard or prohibition, under Section 307 (a) of the CWA, each owner or operator of a discharge subject to such standard or prohibition shall comply with such monitoring, sampling, recording, and reporting conditions as the director may require for that discharge. Notice of such conditions shall be provided in writing to the owner or operator.

(vii) In addition to any conditions required pursuant to Appendix N (e) (vi) and to the extent not required in conditions contained in WYPDES permits, within 60 days following the close of each calendar year each owner or operator of a discharge subject to any toxic standard or prohibition shall report to the director concerning the compliance of such discharges. Such report shall include, as a minimum, information concerning 1) relevant identification of the discharger such as name, location of facility, discharge points, receiving waters, and the industrial process or operation emitting the toxic pollutant; 2) relevant conditions (pursuant to Appendix N (e) (vi) or to an WYPDES permit) as to flow, toxic pollutant concentrations under Section 307 (a) of the CWA, and toxic pollutant mass emission rate under Section 307 (a) of the CWA; and 3) compliance by the discharger with such conditions.

(viii) When samples collected for analysis are composited, such samples shall be composited in proportion to the flow at time of collection and preserved in compliance with requirements of the director, but shall include at least five (5) samples, collected at approximately equal intervals throughout the working day.

(ix) Nothing in these regulations shall preclude the director from requiring in any permit a more stringent effluent limitation or standard pursuant to Section 301 (b) (1) (C) of the CWA and implemented pursuant to the provisions of these regulations.

(x) Any owner or operator of a facility which discharges a toxic pollutant to surface waters of the state and to a publicly owned treatment system shall limit the summation of the mass emissions from both discharges to the less restrictive standard, either the direct discharge standard or the pretreatment standard; but in no case will this paragraph allow a

7308 discharge to surface waters of the state greater than the toxic pollutant effluent standard
7309 established for a direct discharge to the surface waters of the state.

7310
7311 (xi) In any permit hearing or other administrative proceeding relating to the
7312 implementation or enforcement of these standards, the parties thereto may not contest the validity
7313 of any national standards established in this appendix, or the ambient water criterion established
7314 herein for any toxic pollutant.

7315
7316 (f) Adjustment of effluent standard for presence of toxic pollutant in the intake
7317 water.

7318
7319 (i) Upon the request of the owner or operator of a facility discharging a
7320 pollutant subject to a toxic pollutant effluent standard or prohibition, the director shall give credit,
7321 and shall adjust the effluent standard(s) in such permit to reflect credit for the toxic pollutant(s) in
7322 the owner's or operator's water supply if 1) the source of the owner's or operator's water supply is
7323 the same body of water into which the discharge is made, and if 2) it is demonstrated to the
7324 director that the toxic pollutant(s) present in the owner's or operator's intake water will not be
7325 removed by any wastewater treatment systems whose design capacity and operation were such as
7326 to reduce toxic pollutants to the levels required by the applicable toxic pollutant effluent
7327 standards in the absence of the toxic pollutant in the intake water.

7328
7329 (ii) Effluent limitations established pursuant to this section shall be
7330 calculated on the basis of the amount of the toxic pollutant(s) under Section 307(a) of the CWA
7331 present in the water after any water supply treatment steps have been performed by or for the
7332 owner or operator.

7333
7334 (iii) Any permit which includes toxic pollutant effluent limitations
7335 established pursuant to this appendix shall also contain conditions requiring the permittee to
7336 conduct additional monitoring in the manner and locations determined by the director for those
7337 toxic pollutants for which the toxic pollutant effluent standards have been adjusted.

7338
7339 (g) Requirement and procedure for establishing a more stringent effluent limitation.

7340
7341 (i) In exceptional cases:

7342
7343 (A) Where the director determines that the ambient water criterion
7344 established in these regulations is not being met or will not be met in the receiving water as a
7345 result of one or more discharges at levels allowed by these regulations, and

7346
7347 (B) Where the director further determines that this is resulting in or
7348 may cause or contribute to significant adverse effects on aquatic or other organisms usually or
7349 potentially present, or on human health, the director may issue to an owner or operator a permit or
7350 a permit modification containing a toxic pollutant effluent limitation at a more stringent level than
7351 that required by these regulations. In any proceeding in connection with such action the burden of
7352 proof and burden of going forward with evidence with regard to such more stringent effluent
7353 limitation shall be upon the director as the proponent of such more stringent effluent limitation.

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(C) Evidence in such proceeding shall include at a minimum: An analysis using data and other information to demonstrate receiving water concentrations of the specified toxic pollutant, projections of the anticipated effects of the proposed modification on such receiving water concentrations, and the hydrologic and hydrographic characteristics of the receiving waters including the occurrence of dispersion of the effluent.

(ii) Any effluent limitation in a WYPDES permit proposed to be issued which is more stringent than the toxic pollutant effluent standards promulgated by the director is subject to review by the Administrator of the EPA under Section 402 (d) of the CWA. The Administrator of the EPA may approve or disapprove such limitation(s) or specify another limitation(s) upon review of any record of any proceedings held in connection with the permit issuance or modification and any other available evidence. If the Administrator of the EPA takes no action within 90 days of receipt of the notification of the action of the director and any record thereof, the action of the director shall be deemed to be approved.

(h) Aldrin/Dieldrin.

(i) Specialized definitions.

(A) "Aldrin/Dieldrin manufacturer" means a manufacturer, excluding any source which is exclusively an aldrin/dieldrin formulator, who produces, prepares or processes technical aldrin or dieldrin or who uses aldrin or dieldrin as a material in the production, preparation or processing of another synthetic organic substance.

(B) "Aldrin/Dieldrin formulator" means a person who produces, prepares or processes a formulated product comprising a mixture of either aldrin or dieldrin and inert materials or other diluents, into a product intended for application in any use registered under the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135, et seq.).

(C) The ambient water criterion for aldrin/dieldrin in surface waters of the state is 0.003 ug/l.

(ii) Aldrin/Dieldrin manufacturer.

(A) Applicability.

(I) These standards or prohibitions apply to:

(1.) All discharges of process wastes; and

(2.) All discharges from the manufacturing areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by aldrin/dieldrin as a result of the manufacturing process, including but not limited to:

7400 a. Storm water and other runoff except as
7401 hereinafter provided in Appendix N (h) (ii) (A) (II); and

7402
7403 b. Water used for routine cleanup or
7404 cleanup of spills.

7405
7406 (II) These standards do not apply to storm water
7407 runoff or other discharges from areas subject to contamination solely by fallout from air
7408 emissions of aldrin/dieldrin; or to storm water runoff that exceeds that from the 10-year 24 hour
7409 rainfall event.

7410
7411 (B) Analytical method acceptable. EPA method specified in 40 CFR
7412 Part 136, except that a 1 liter sample size is required to increase the analytical sensitivity.

7413
7414 (C) Effluent standard.

7415
7416 (I) Existing sources. Aldrin or dieldrin is prohibited in any
7417 discharge from any aldrin/dieldrin manufacturer.

7418
7419 (II) New Sources. Aldrin or dieldrin is prohibited in any
7420 discharge from any aldrin/dieldrin manufacturer.

7421
7422 (iii) Aldrin/Dieldrin formulator.

7423
7424 (A) Applicability.

7425
7426 (I) These standards or prohibitions apply to:

7427
7428 (1.) All discharges of process wastes; and

7429
7430 (2.) All discharges from the formulating areas,
7431 loading and unloading areas, storage areas and other areas which are subject to direct
7432 contamination by aldrin/dieldrin as a result of the formulating process, including but not limited
7433 to:

7434
7435 a. Storm water and other runoff except as
7436 hereinafter provided in Appendix N (h) (iii) (A) (II); and

7437
7438 b. Water used for routine cleanup or
7439 cleanup of spills.

7440
7441 (II) These standards do not apply to storm water runoff or
7442 other discharges from areas subject to contamination solely by fallout from air emissions of
7443 aldrin/dieldrin; or to storm water runoff that exceeds that from the 10-year 24 hour rainfall event.

7444

7445 (B) Analytical method acceptable. EPA method specified in 40 CFR
7446 Part 136, except that a 1 liter sample size is required to increase the analytical sensitivity.

7447

7448 (C) Effluent standard.

7449

7450 (I) Existing sources. Aldrin or dieldrin is prohibited in any
7451 discharge from any aldrin/dieldrin formulator.

7452

7453 (II) New sources. Aldrin or dieldrin is prohibited in any
7454 discharge from any aldrin/dieldrin formulator.

7455

7456 (i) DDT, DDD, and DDE.

7457

7458 (i) Specialized definitions.

7459

7460 (A) "DDT manufacturer" means a manufacturer, excluding any
7461 source which is exclusively a DDT formulator, who produces, prepares or processes technical
7462 DDT, or who uses DDT as a material in the production, preparation or processing of another
7463 synthetic organic substance.

7464

7465 (B) "DDT formulator" means a person who produces, prepares or
7466 processes a formulated product comprising a mixture of DDT and inert materials or other diluents
7467 into a product intended for application in any use registered under the Federal Insecticide,
7468 Fungicide and Rodenticide Act, as amended (7 U.S.C. 135, et seq.). The ambient water criterion
7469 for DDT in surface waters of the state is 0.001 ug/l.

7470

7471 (ii) DDT manufacturer.

7472

7473 (A) Applicability.

7474

7475 (I) These standards or prohibitions apply to:

7476

7477 (1.) All discharges of process wastes; and

7478

7479 (2.) All discharges from the manufacturing areas,
7480 loading and unloading areas, storage areas and other areas which are subject to direct
7481 contamination by DDT as a result of the manufacturing process, including but not limited to:

7482

7483 a. Storm water and other runoff except as
7484 hereinafter provided in Appendix N (i) (ii) (A) (II); and

7485

7486 b. Water used for routine cleanup or
7487 cleanup of spills.

7488

7489

7490 (II) These standards do not apply to storm water runoff or
7491 other discharges from areas subject to contamination solely by fallout from air emissions of DDT;
7492 or to storm water runoff that exceeds that from the 10-year 24 hour rainfall event.

7493
7494 (B) Analytical method acceptable. EPA method specified in 40 CFR
7495 Part 136, except that a 1 liter sample size is required to increase the analytical sensitivity.

7496
7497 (C) Effluent standard.

7498
7499 (I) Existing sources. DDT is prohibited in any discharge
7500 from any DDT manufacturer.

7501
7502 (II) New sources. DDT is prohibited in any discharge from
7503 any DDT manufacturer.

7504
7505 (iii) DDT formulator.

7506
7507 (A) Applicability.

7508
7509 (I) These standards or prohibitions apply to:

7510
7511 (1.) All discharges of process wastes; and

7512
7513 (2.) All discharges from the formulating areas,
7514 loading and unloading areas, storage areas and other areas which are subject to direct
7515 contamination by DDT as a result of the formulating process, including but not limited to:

7516
7517 a. Storm water and other runoff except as
7518 hereinafter provided in Appendix N (i) (iii) (A) (II); and

7519
7520 b. Water used for routine cleanup or
7521 cleanup of spills.

7522
7523 (II) These standards do not apply to storm water runoff or
7524 other discharges from areas subject to contamination solely by fallout from air emissions of DDT
7525 or to storm water runoff that exceeds that from the 10-year 24 hour rainfall event.

7526
7527 (B) Analytical method acceptable. EPA method specified in 40 CFR
7528 Part 136, except that a 1 liter sample size is required to increase the analytical sensitivity.

7529
7530 (C) Effluent standard.

7531
7532 (I) Existing sources. DDT is prohibited in any discharge
7533 from any DDT formulator.

7534

7535 (II) New Sources. DDT is prohibited in any discharge from
7536 any DDT formulator.
7537
7538 (j) Endrin.
7539
7540 (i) Specialized definitions.
7541
7542 (A) "Endrin manufacturer" means a manufacturer, excluding any
7543 source which is exclusively an endrin formulator, who produces, prepares or processes technical
7544 endrin, or who uses endrin as a material in the production, preparation or processing of another
7545 synthetic organic substance.
7546
7547 (B) "Endrin formulator means" a person who produces, prepares or
7548 processes a formulated product comprising a mixture of endrin and inert materials or other
7549 diluents into a product intended for application in any use registered under the Federal
7550 Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135 et seq.).
7551
7552 (C) The ambient water criterion for endrin in surface waters of the
7553 state is 0.004 ug/l.
7554
7555 (ii) Endrin manufacturer.
7556
7557 (A) Applicability.
7558
7559 (I) These standards or prohibitions apply to:
7560
7561 (1.) All discharges of process wastes; and
7562
7563 (2.) All discharges from the manufacturing areas,
7564 loading and unloading areas, storage areas and other areas which are subject to direct
7565 contamination by endrin as a result of the manufacturing process, including but not limited to:
7566
7567 a. Storm water and other runoff except as
7568 hereinafter provided in Appendix N (j) (ii) (A) (II); and
7569
7570 b. Water used for routine cleanup or
7571 cleanup of spills.
7572
7573 (II) These standards do not apply to storm water runoff or
7574 other discharges from areas subject to contamination solely by fallout from air emissions of
7575 endrin or to storm water runoff that exceeds that from the 10-year 24 hour rainfall event.
7576
7577 (B) Analytical method acceptable. EPA method specified in 40 CFR
7578 Part 136.
7579
7580 (C) Effluent standard.

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(I) Existing sources. Discharges from an endrin manufacturer shall not contain endrin concentrations exceeding an average per working day of 1.5 ug/l calculated over any calendar month; and shall not exceed a monthly average daily loading of 0.0006 kg/kkg of endrin produced; and shall not exceed 7.5 ug/l in a sample(s) representing any working day.

(II) New sources. Discharges from an endrin manufacturer shall not contain endrin concentrations exceeding an average per working day of 0.1 ug/l calculated over any calendar month; and shall not exceed a monthly average daily loading of 0.00004 kg/kkg of endrin produced; and shall not exceed 0.5 ug/l in a sample(s) representing any working day.

(III) Mass emission standard during shutdown of production. In computing the allowable monthly average daily loading figure required under the preceding Appendix N (j) (ii) (C) (I) and (II), for any calendar month for which there is no endrin being manufactured at any plant or facility which normally contributes to the discharge which is subject to these standards, the applicable production value shall be deemed to be the average monthly production level for the most recent preceding 360 days of actual operation of the plant or facility.

(iii) Endrin formulator.

(A) Applicability.

(I) These standards or prohibitions apply to:

(1.) All discharges of process wastes; and

(2.) All discharges from the formulating areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by endrin as a result of the formulating process, including but not limited to:

a. Storm water and other runoff except as hereinafter provided in Appendix N (j) (iii) (A) (II); and

b. water used for routine cleanup or cleanup of spills.

(II) These standards do not apply to storm water runoff or other discharges from areas subject to contamination solely by fallout from air emissions of endrin, or to storm water runoff that exceeds that from the 10-year 24 hour rainfall event.

(B) Analytical method acceptable. EPA method specified in 40 CFR Part 136, except that a 1 liter sample size is required to increase the analytical sensitivity.

- 7627
- 7628 (C) Effluent standard.
- 7629
- 7630 (I) Existing sources. Endrin is prohibited in any discharge
- 7631 from any endrin formulator.
- 7632
- 7633 (II) New sources. Endrin is prohibited in any discharge from
- 7634 any endrin formulator.
- 7635
- 7636 (iv) The standards set forth in this section shall apply to the total combined
- 7637 weight or concentration of endrin, excluding any associated element or compound.
- 7638
- 7639 (k) Toxaphene.
- 7640
- 7641 (i) Specialized definitions.
- 7642
- 7643 (A) "Toxaphene manufacturer" means a manufacturer, excluding any
- 7644 source which is exclusively a toxaphene formulator, who produces, prepares or processes
- 7645 toxaphene or who uses toxaphene as a material in the production, preparation or processing of
- 7646 another synthetic organic substance.
- 7647
- 7648 (B) "Toxaphene formulator" means a person who produces, prepares
- 7649 or processes a formulated product comprising a mixture of toxaphene and inert materials or other
- 7650 diluents into a product intended for application in any use registered under the Federal
- 7651 Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135, et seq.).
- 7652
- 7653 (C) The ambient water criterion for toxaphene in surface waters of
- 7654 the state is 0.005 ug/l.
- 7655
- 7656 (ii) Toxaphene manufacturer.
- 7657
- 7658 (A) Applicability.
- 7659
- 7660 (I) These standards or prohibitions apply to:
- 7661
- 7662 (1.) All discharges of process wastes; and
- 7663
- 7664 (2.) All discharges from the manufacturing areas,
- 7665 loading and unloading areas, storage areas and other areas which are subject to direct
- 7666 contamination by toxaphene as a result of the manufacturing process, including but not limited to:
- 7667
- 7668 a. Storm water and other runoff except as
- 7669 hereinafter provided in Appendix N (k) (ii) (A) (II); and
- 7670
- 7671 b. Water used for routine cleanup or
- 7672 cleanup of spills.

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(II) These standards do not apply to storm water runoff or other discharges from areas subject to contamination solely by fallout from air emissions of toxaphene or to storm water runoff that exceeds that from the 10-year 24 hour rainfall event.

(B) Analytical method acceptable. EPA method specified in 40 CFR Part 136.

(C) Effluent standard.

(I) Existing sources. Discharges from a toxaphene manufacturer shall not contain toxaphene concentrations exceeding an average per working day of 1.5 ug/l calculated over any calendar month; and shall not exceed a monthly average daily loading of 0.00003 kg/kkg of toxaphene produced, and shall not exceed 7.5 ug/l in a sample(s) representing any working day.

(II) New sources. Discharges from a toxaphene manufacturer shall not contain toxaphene concentrations exceeding an average per working day of 0.1 ug/l calculated over any calendar month; and shall not exceed a monthly average daily loading of 0.000002 kg/kkg of toxaphene produced, and shall not exceed 0.5 ug/l in a sample(s) representing any working day.

(III) Mass emission during shutdown of production. In computing the allowable monthly average daily loading figure required under the preceding Appendix N (k) (ii) (C) (I) and (II), for any calendar month for which there is no toxaphene being manufactured at any plant or facility which normally contributes to the discharge which is subject to these standards, the applicable production value shall be deemed to be the average monthly production level for the most recent preceding 360 days of actual operation of the plant or facility.

(iii) Toxaphene formulator.

(A) Applicability.

(I) These standards or prohibitions apply to:

(1.) All discharges of process wastes; and

(2.) All discharges from the formulating areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by toxaphene as a result of the formulating process, including but not limited to:

a. Storm water and other runoff except as hereinafter provided in Appendix N (k) (iii) (A) (II); and

7718 b. Water used for routine cleanup or
7719 cleanup of spills.

7720
7721 (II) These standards do not apply to storm water runoff or
7722 other discharges from areas subject to contamination solely by fallout from air emissions of
7723 toxaphene, or to storm water runoff that exceeds that from the 10-year 24 hour rainfall event.

7724
7725 (B) Analytical method acceptable. EPA method specified in 40 CFR
7726 Part 136, except that a 1 liter sample size is required to increase the analytical sensitivity.

7727
7728 (C) Effluent standards.

7729
7730 (I) Existing sources. Toxaphene is prohibited in any
7731 discharge from any toxaphene formulator.

7732
7733 (II) New sources. Toxaphene is prohibited in any discharge
7734 from any toxaphene formulator.

7735
7736 (iv) The standards set forth in this section shall apply to the total combined
7737 weight or concentration of toxaphene, excluding any associated element or compound.

7738
7739 (l) Benzidine.

7740
7741 (i) Specialized definitions.

7742
7743 (A) "Benzidine manufacturer" means a manufacturer who produces
7744 benzidine or who produces benzidine as an intermediate product in the manufacture of dyes
7745 commonly used for textile, leather and paper dyeing.

7746
7747 (B) "Benzidine based dye applicator" means an owner or operator
7748 who uses benzidine based dyes in the dyeing of textiles, leather or paper.

7749
7750 (C) The ambient water criterion for benzidine in surface waters of
7751 the state is 0.1 ug/l.

7752
7753 (ii) Benzidine manufacturer.

7754
7755 (A) Applicability.

7756
7757 (I) These standards apply to:

7758
7759 (1.) All discharges into the surface waters of the
7760 state of process wastes, and

7761
7762 (2.) All discharges into the surface waters of the
7763 state of wastes containing benzidine from the manufacturing areas, loading and unloading areas,

7764 storage areas, and other areas subject to direct contamination by benzidine or benzidine
7765 containing product as a result of the manufacturing process, including but not limited to:

7766
7767 a. Storm water and other runoff except as
7768 hereinafter provided in Appendix N (I) (ii) (A) (II), and

7769
7770 b. Water used for routine cleanup or
7771 cleanup of spills.

7772
7773 (II) These standards do not apply to storm water runoff or
7774 other discharges from areas subject to contamination solely by fallout from air emissions of
7775 benzidine or to storm water runoff that exceeds that from the 10-year 24 hour rainfall event.

7776
7777 (B) Analytical method acceptable. EPA method specified in 40 CFR
7778 Part 136.

7779
7780 (C) Effluent standards.

7781
7782 (I) Existing sources. Discharges from a benzidine
7783 manufacturer shall not contain benzidine concentrations exceeding an average per working day of
7784 10 ug/l calculated over any calendar month, and shall not exceed a monthly average daily loading
7785 of 0.130 kg/kkg of benzidine produced, and shall not exceed 50 ug/l in a sample(s) representing
7786 any working day.

7787
7788 (II) New sources. Discharges from a benzidine
7789 manufacturer shall not contain benzidine concentrations exceeding an average per working day of
7790 10 ug/l calculated over any calendar month, and shall not exceed a monthly average daily loading
7791 of 0.130 kg/kkg of benzidine produced, and shall not exceed 50 ug/l in a sample(s) representing
7792 any working day.

7793
7794 (D) The standards set forth in Appendix N (I) (ii) shall apply to the
7795 total combined weight or concentration of benzidine, excluding any associated element or
7796 compound.

7797
7798 (iii) Benzidine based dye applicators.

7799
7800 (A) Applicability.

7801
7802 (I) These standards apply to:

7803
7804 (1.) All discharges into the surface waters of the
7805 state of process wastes, and

7806
7807 (2.) All discharges into the surface waters of the
7808 state of wastes containing benzidine from the manufacturing areas, loading and unloading areas,

7809 storage areas, and other areas subject to direct contamination by benzidine or benzidine
7810 containing product as a result of the manufacturing process, including but not limited to:
7811
7812 a. Storm water and other runoff except as
7813 hereinafter provided in Appendix N (I) (iii) (A) (II), and
7814
7815 b. Water used for routine cleanup or
7816 cleanup of spills.
7817
7818 (II) These standards do not apply to storm water runoff or
7819 other discharges from areas subject to contamination solely by fallout from air emissions of
7820 benzidine or to storm water that exceeds that from the 10-year 24 hour rainfall event.
7821
7822 (B) Analytical method acceptable.
7823
7824 (I) EPA method specified in 40 CFR Part 136; or
7825
7826 (II) Mass balance monitoring approach which requires the
7827 calculation of the benzidine concentration by dividing the total benzidine contained in dyes used
7828 during a working day (as certified in writing by the manufacturer) by the total quantity of water
7829 discharged during the working day.
7830
7831 (C) Effluent standards.
7832
7833 (I) Existing sources. Discharges from benzidine based dye
7834 applicators shall not contain benzidine concentrations exceeding an average per working day of
7835 10 ug/l calculated over any calendar month; and shall not exceed 25 ug/l in a sample(s) or
7836 calculation(s) representing any working day.
7837
7838 (II) New sources. Discharges from benzidine based dye
7839 applicators shall not contain benzidine concentrations exceeding an average per working day of
7840 10 ug/l calculated over any calendar month; and shall not exceed 25 ug/l in a sample(s) or
7841 calculation(s) representing any working day.
7842
7843 (D) The standards set forth in Appendix N (I) (iii) shall apply to the
7844 total combined concentrations of benzidine, excluding any associated element or compound [42
7845 FR 2620, Jan. 12, 1977].
7846
7847 (m) Polychlorinated biphenyls (PCBs).
7848
7849 (i) Specialized definitions.
7850
7851 (A) "PCB manufacturer" means a manufacturer who produces
7852 polychlorinated biphenyls.
7853

7854 (B) "Electrical capacitor manufacturer" means a manufacturer who
7855 produces or assembles electrical capacitors in which PCB or PCB containing compounds are part
7856 of the dielectric.

7857
7858 (C) "Electrical transformer manufacturer" means a manufacturer
7859 who produces or assembles electrical transformers in which PCB or PCB containing compounds
7860 are part of the dielectric.

7861
7862 (D) The ambient water criterion for PCBs in surface waters of the
7863 state is 0.001 ug/l.

7864
7865 (ii) PCB manufacturer.

7866
7867 (A) Applicability.

7868
7869 (I) These standards or prohibitions apply to:

7870
7871 (1.) All discharges of process wastes;

7872
7873 (2.) All discharges from the manufacturing or
7874 incinerator areas, loading and unloading areas, storage areas, and other areas which are subject to
7875 direct contamination by PCBs as a result of the manufacturing process, including but not limited
7876 to:

7877
7878 a. Storm water and other runoff except as
7879 hereinafter provided in Appendix N (m) (ii) (A) (II); and

7880
7881 b. Water used for routine cleanup or
7882 cleanup of spills.

7883
7884 (II) These standards do not apply to storm water runoff or
7885 other discharges from areas subject to contamination solely by fallout from air emissions of
7886 PCBs, or to storm water runoff that exceeds that from the 10 year 24 hour rainfall event.

7887
7888 (B) Analytical Method Acceptable. EPA method specified in 40
7889 CFR Part 136 except that a 1 liter sample size is required to increase analytical sensitivity.

7890
7891 (C) Effluent standards.

7892
7893 (I) Existing sources. PCBs are prohibited in any discharge
7894 from any PCB manufacturer;

7895
7896 (II) New sources. PCBs are prohibited in any discharge
7897 from any PCB manufacturer.

7898
7899 (iii) Electrical capacitor manufacturer.

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(A) Applicability.

(I) These standards or prohibitions apply to:

(1.) All discharges of process wastes; and

(2.) All discharges from the manufacturing or incineration areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by PCBs as a result of the manufacturing process, including but not limited to:

a. Storm water and other runoff except as hereinafter provided in Appendix N (m) (iii) (A) (II); and

b. Water used for routine cleanup or cleanup of spills.

(II) These standards do not apply to storm water runoff or other discharges from areas subject to contamination solely by fallout from air emissions of PCBs or to storm water runoff that exceeds that from the 10 year 24 hour rainfall event.

(B) Analytical method acceptable. EPA method specified in 40 CFR Part 136, except that a 1 liter sample size is required to increase analytical sensitivity.

(C) Effluent standards.

(I) Existing sources. PCBs are prohibited in any discharge from any electrical capacitor manufacturer;

(II) New sources. PCBs are prohibited in any discharge from any electrical capacitor manufacturer.

(iv) Electrical transformer manufacturer.

(A) Applicability.

(I) These standards or prohibitions apply to:

(1.) All discharges of process wastes; and

(2.) All discharges from the manufacturing or incineration areas, loading and unloading areas, storage areas, and other areas which are subject to direct contamination by PCBs as a result of the manufacturing process, including but not limited to:

7946 a. Storm water and other runoff except as
7947 hereinafter provided in Appendix N (m) (iv) (A) (II); and

7948
7949 b. Water used for routine cleanup or
7950 cleanup of spills.

7951
7952 (II) These standards do not apply to storm water runoff or
7953 other discharges from areas subject to contamination solely by fallout from air emissions of PCBs
7954 or to storm water runoff that exceeds that from the 10 year 24 hour rainfall event.

7955
7956 (B) Analytical method acceptable. EPA method specified in 40 CFR
7957 Part 136, except that a 1 liter sample size is required to increase analytical sensitivity.

7958
7959 (C) Effluent standards.

7960
7961 (I) Existing sources. PCBs are prohibited in any discharge
7962 from any electrical transformer manufacturer;

7963
7964 (II) New sources. PCBs are prohibited in any discharge
7965 from any electrical transformer manufacturer.

7966
7967 (v) Adjustment of effluent standard for presence of PCBs in intake water.
7968 Whenever a facility which is subject to these standards has PCBs in its effluent which result from
7969 the presence of PCBs in its intake waters, the owner may apply to the director, for a credit
7970 pursuant to Appendix N (f), where the source of the water supply is the same body of water into
7971 which the discharge is made. The requirement of Appendix N (f) (i), relating to the source of the
7972 water supply, shall be waived, and such facility shall be eligible to apply for a credit under
7973 Appendix N (f), upon a showing by the owner or operator of such facility to the director that the
7974 concentration of PCBs in the intake water supply of such facility does not exceed the
7975 concentration of PCBs in the receiving water body to which the plant discharges its effluent. [42
7976 FR 6555, Feb. 2, 1977]

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7978

7979 (formerly Chapter 6) APPENDIX O: Additional Requirements Applicable to Colorado
7980 River Basin Salinity Control

7981 ~~_____ (formerly Chapter 6, Section 1.) Authority. These regulations are promulgated~~
7982 ~~pursuant to W.S. 35-11-101 through W.S. 35-11-1104, specifically~~
7983 ~~35-11-302.~~

7984 (formerly Chapter 6, Section 2.) (a) Definitions. The following definitions
7985 supplement those definitions contained in Section 35-11-103 of the Wyoming Environmental
7986 Quality Act.

7987
7988 (formerly Chapter 6, Section 2(a)) (i) Colorado River Basin Salinity Control
7989 Forum - The organization composed of water quality and water resource representatives of the
7990 states of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming, with the
7991 responsibility for developing salinity standards and criteria for the waters of the Colorado River
7992 Basin.

7993
7994 ~~(formerly Chapter 6, Section 2(b). Total Dissolved Solids (Total Filterable Residue). Those~~
7995 ~~organic and inorganic constituents which pass through a standard 0.45um glass fiber filter and~~
7996 ~~are stable after evaporation and drying to constant weight (+4%) at 180C. Total Dissolved Solids~~
7997 ~~are reported as mg per liter.~~

7998
7999 ~~(formerly Chapter 6, Section 2(c). Salinity the term used to report the total solids in water after all~~
8000 ~~carbonates have been converted to oxides, all bromide and iodide have been replaced by chloride~~
8001 ~~and all organic matter has been oxidized. It is numerically smaller than total dissolved solids and~~
8002 ~~is usually reported as grams per kilogram or parts per thousand (0/00).~~

8003
8004 (formerly Chapter 6, Section 3))(b) Salinity Standards/Criteria. The State of
8005 Wyoming shall cooperate with the other states of the Colorado River Basin and the government
8006 of the United States to maintain salinity levels in the main stem of the Colorado River at or below
8007 the following:

<u>Location</u>	<u>Salinity in mg/L of total dissolved solids</u>
<u>Below Hoover Dam</u>	<u>723</u>
<u>Below Parker Dam</u>	<u>747</u>
<u>Imperial Dam</u>	<u>879</u>

8009
8010 _____ The above are flow-weighted average annual values and temporary increases above these
8011 values are allowed, provided that with completion of salinity control projects, salinity
8012 concentrations would return to or below criteria level. These increases above the numeric criteria
8013 are provided for in order to allow development projects to be completed before control measures
8014 are brought on line, and to allow for unfavorable reservoir conditions or periods of below normal
8015 annual river flows.

8016
8017 (formerly Chapter 6, Section 4) (c) Point Source Discharges to Surface Waters.
8018 Point source discharges to the surface waters in the Colorado River Basin of Wyoming shall be
8019 controlled as described in ~~Policy For Implementation of the Colorado River Basin Salinity~~

8020 ~~Standards through the NPDES Permit Program. In general, the policy shall be no discharge of salt~~
8021 ~~except where it is not economically or technologically practicable to prevent the discharge. the~~
8022 following policies adopted by the Colorado River Basin Salinity Control Forum:

8023

8024 (i) “Policy for Implementation of the Colorado River Basin Salinity
8025 Standards through the NPDES Permit Program, October 30, 2002”;

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8027 (ii) “Policy for Implementation of the Colorado River Basin Salinity
8028 Standards through the NPDES Permit Program for Intercepted Groundwater, October 20, 1980”;
8029 and

8030

8031 (iii) “Policy for Implementation of the Colorado River Basin Salinity
8032 Standards through the NPDES Permit Program for Fish Hatcheries, October 28, 1988”.

8033

8034 (formerly Chapter 6, Section 5) (d) Interstate Compacts, Court Decrees and Water
8035 Rights. It is the policy of the Department that the adoption and enforcement of these regulations
8036 is not intended to prevent the utilization of water apportioned to the State of Wyoming through
8037 any interstate compact or court decree or to prevent the diversion of water under future or existing
8038 water rights.

CHAPTER VI

RESERVED

CHAPTER VI
SALINITY STANDARDS/CRITERIA FOR THE
COLORADO RIVER BASIN

~~Section 1. Authority. These regulations are promulgated pursuant to W.S. 35-11-101 through W.S. 35-11-1104, specifically 35-11-302.~~

~~Section 2. Definitions. The following definitions supplement those definitions contained in Section 35-11-103 of the Wyoming Environmental Quality Act.~~

~~a. Colorado River Basin Salinity Control Forum. The organization composed of water quality and water resource representatives of the states of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming, with the responsibility for developing salinity standards and criteria for the waters of the Colorado River Basin.~~

~~b. Total Dissolved Solids (Total Filterable Residue). Those organic and inorganic constituents which pass through a standard 0.45µm glass fiber filter and are stable after evaporation and drying to constant weight (+4%) at 180C. Total Dissolved Solids are reported as mg per liter.~~

~~c. Salinity the term used to report the total solids in water after all carbonates have been converted to oxides, all bromide and iodide have been replaced by chloride and all organic matter has been oxidized. It is numerically smaller than total dissolved solids and is usually reported as grams per kilogram or parts per thousand (0/00).~~

~~Section 3. Salinity Standards/Criteria. The State of Wyoming shall cooperate with the other states of the Colorado River Basin and the government of the United States to maintain salinity levels in the main stem of the Colorado River at or below the following:~~

<u>Location</u>	<u>Salinity in mg/l of total dissolved solids</u>
Below Hoover Dam	723
Below Parker Dam	747
Imperial Dam	879

~~The above are flow weighted average annual values and temporary increases above these values are allowed provided that with completion of salinity control projects, salinity concentrations would return to or below criteria level. These increases above the numeric criteria are provided for in order to allow development projects to be completed before control measures are brought on line, and to allow for unfavorable reservoir conditions or periods of below normal annual river flows.~~

~~Section 4. Point Source Discharges to Surface Waters. Point source discharges to the surface waters in the Colorado River Basin of Wyoming shall be controlled as described in Policy For Implementation of the Colorado River Basin Salinity Standards through the NPDES Permit Program. In~~

general, the policy shall be no discharge of salt except where it is not economically or technologically practicable to prevent the discharge.

~~Section 5. Interstate Compacts, Court Decrees and Water Rights. It is the policy of the Department that the adoption and enforcement of these regulations is not intended to prevent the utilization of water apportioned to the State of Wyoming through any interstate compact or court decree or to prevent the diversion of water under future or existing water rights.~~

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