

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;

(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,

87 levees, groins, riprap, headwaters, causeways, and bridge abutments or approaches, and
88 transportation structures;

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

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

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

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

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107 (viii) Short-term sediment disturbance within surface waters of the state
108 from normal construction, maintenance or repair activities in or along waterways such as bridge
109 or culvert work, utility crossings, bank stabilization work or other temporary disturbances below
110 the high water level where the operator has:

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112 (A) Submitted plans to the Department outlining the nature of the
113 activity, along with the location and duration of the planned disturbance; and

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115 (B) Received a written waiver from the Water Quality Division
116 Administrator in advance of the construction, maintenance or repair activity certifying that the
117 activity does not require a WYPDES permit. Such waivers shall be limited to a maximum of 180
118 days per activity and shall include all necessary conditions on the activity. Such waivers shall not
119 relieve the operator of complying with stormwater permitting requirements in Section 6 of this
120 Chapter for construction-related work in upland areas above the high water level.

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122 (ix) The use of fish toxicants, in compliance with this paragraph:

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124 (A) Fish toxicants shall be applied compliance with the Wyoming
125 Environmental Pesticide Control Act of 1973, W.S. §§ 35-7-350 through 376. Compliance with
126 the Act, however, shall not exempt any person from the penalty provisions of W.S. 35-11-901
127 should non-target species or non-target areas be affected.

(B) Fish toxicants shall be applied in a manner that minimizes, to the extent practicable, the magnitude of any change in the concentration of the parameters affected by the activity and the length of time during which any change may occur. Any person applying fish toxicants shall take measures that prevent significant risks to public health and ensure that existing and designated uses of the water are protected and maintained upon the completion of the activity.

(C) Except for the agencies and persons described below, no other agency or person may apply fish toxicants in any surface water of the state.

(I) The Wyoming Game and Fish Department may apply fish toxicants to any surface water of the state provided the application of fish toxicants is in compliance with this Section 2.

(II) The National Park Service, as the wildlife management agency in Yellowstone National Park, may apply fish toxicants to surface waters within Yellowstone National Park for the purpose of killing or controlling fish provided the application of fish toxicants is in compliance with this Section. The National Park Service shall not apply fish toxicants to waters which flow into surface waters of the state outside of Yellowstone National Park without prior approval from the Wyoming Game and Fish Department.

(III) Certified applicators, as that term is defined in W.S. 35-7-354, may apply fish toxicants only to surface waters of the state located entirely on private property where there is no surface outlet to waters of the state provided that prior notice is made to the Department of Environmental Quality and only after receipt of verification from the Water Quality Division that the proposed use of fish toxicants is in compliance with this Section. Approval, including any necessary permits, from the Wyoming Game and Fish Department is also required prior to any use of fish toxicants to ensure protection of fish and wildlife resources.

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

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

Section 3. Definitions.

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

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

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

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

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

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

(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.

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

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

(i) “Administrator of the EPA” means the chief executive officer of the U.S. Environmental Protection Agency.

(ii) “Administrator” means the administrator of the Water Quality Division, Wyoming Department of Environmental Quality.

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

(iv) “Animal feeding operation” is defined in Appendix G.

(v) “Applicable effluent standards and limitations” means all state and federal effluent standards and limitations to which a discharge is subject to under the Environmental

Quality Act, or the CWA, including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.

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

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

(viii) “Application” when used as a noun in this rule means an application form upon which the applicant has provided the requested information in order to obtain a WYPDES permit, modification to a WYPDES permit or renewal of a WYPDES permit.

(ix) “Application form” means the uniform state or national forms, including subsequent revisions or modifications, for application for a new, modified or reissued individual WYPDES permit.

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

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

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

(xiii) “Bypass” means the intentional diversion of waste streams from any portion of a treatment facility.

(xiv) “CFR” means Code of Federal Regulations. All references to the Code refer to the CFR dated July 1, 2004.

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

(xvi) “Concentrated animal feeding operation” means an animal feeding operation (other than an aquatic animal production facility) which meets the criteria in Appendix G of these regulations.

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

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

(xix) “CWA” means the federal Clean Water Act.

(xx) “Daily average” means the average concentration determined by the arithmetic mean of all samples collected within a calendar day.

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

(xxii) “Designated project areas” means the portions of surface waters of the state within which the permittee or permit applicant plans to confine the cultivated species, using a method, plan or operation (including, but not limited to, physical confinement) which, on the basis of reliable scientific evidence, is expected to ensure that specific individual organisms comprising an aquaculture crop will experience increased growth attributable to the discharge of pollutants, and be harvested within a defined geographic area.

(xxiii) “Designated uses” means those uses specified in water quality standards for each water body or segment whether or not they are being attained.

(xxiv) “Duly authorized representative” means an individual or position having responsibility for the overall operation of the regulated facility or activity, or an individual or position having overall responsibility for environmental matters for the regulated facility who has been designated by a person described in Section 14 (a) of these regulations, through the submittal to the administrator of a written notification, as the individual or position authorized to sign reports required by the permits or certify other information requested by the administrator.

(xxv) “Effluent” means the pollutant or waste stream from a facility that is being or is proposed to be discharged.

(xxvi) “Effluent limitation” means any restriction established by the state or by the Administrator of the EPA on quantities, rates and/or concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into surface waters of the state.

(xxvii) “EPA” means the United States Environmental Protection Agency.

(xxviii) “Facility” means any WYPDES point source or collection of point sources or any other facility or activity (including land or appurtenances thereto associated with the operation of the facility) that is subject to regulation under the WYPDES program.

(xxix) “Fact sheet” means the application materials, a draft copy of the permit, a statement of basis and the public notice.

(xxx) “Federal Act” means the Federal Water Pollution Control Act (Clean Water Act) as amended in 1987, 33 U.S.C. 1251 et seq. as amended.

(xxxi) “Fill material” means any material used for the primary purpose of replacing an aquatic area with dry land or of changing the bottom elevation of a waterbody. The term does not include any pollutant discharged into the water primarily to dispose of waste, as that activity is regulated under Section 5 of these regulations.

(xxxii) “Flow monitoring station” means a designated point where stream flow is measured.

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

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

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

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

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

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

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

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

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

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

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

(xliv) “Isolated wetlands” means wetlands as defined by the Environmental Quality Act and Section 3 of these regulations which do not meet the federal definition of waters of the United States but meet the state=s definition of waters of the state as defined in the Environmental Quality Act.

(xlv) “Major facility” means:

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

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

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

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

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

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

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

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

(lii) "Minor modification" means

(A) correcting typographical errors; or

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

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

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

(E) changing the construction schedule for a discharger which is a new source, but no such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge; or

(F) deleting a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits; or

(G) adding additional wells to an existing permitted outfall provided that the flow volume specified in the permit is not exceeded, the source or quality of the effluent is similar in nature and consists of similar pollutants and the additional effluent will comply with all of the existing permit conditions.

(liii) “Mixing zone” means limited area or volume of a surface water body within which an effluent becomes thoroughly mixed with the water body.

(liv) “Modification” means adjustments in permit conditions which result from alterations in the configuration or operation of a facility from what was identified in the application for the permit most recently noticed or authorized.

(lv) “MS4” means a municipal separate storm sewer system.

(lvi) “Municipal separate storm sewer” means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

(A) Owned or operated by the United States, a state, city, town, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the CWA that discharges to surface waters of the state;

(B) Designed or used for collecting or conveying storm water;

(C) Which is not a combined sewer; and

(D) Which is not part of a publicly owned treatment works (POTWs) as defined at 40 CFR 403.3.

(lvii) “Municipality” means a city, town, county, district, association, or other public body created by or under state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or a designated and approved management agency under section 208 of the CWA (1987).

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

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

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

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

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

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

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

(C) which is not a new source; and

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

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

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

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

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

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

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

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

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

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

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

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

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

(lxxv) “Pollutant” means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.]), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean sewage from vessels; or 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 and 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 the injection or disposal will not result in the degradation of ground or surface water resources.

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

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

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

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

(lxxx) “Produced water” means underground water which surfaces through oil and/or gas wells.

(lxxxi) “Regional Administrator” means the EPA Region VIII Administrator.

(lxxxii) “Reporting form” means the uniform state or national forms, including subsequent revision and modification, for reporting data and information pursuant to monitoring and other conditions of WYPDES permits.

(lxxxiii) “Severe property damage” means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

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

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

(lxxxvi) “Site” means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

(lxxxvii) “Skim ponds” means earthen ponds usually used in conjunction with heater treaters and/or free water knockout units and/or skim tanks, into which produced water is discharged with the purpose of providing gravity separation of oil and water. Skim ponds are usually designed with a "stand pipe" which discharges relatively oil-free water from near the bottom of the pond while the majority of the oil is allowed to float to the top of the pond where it is collected.

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

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

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

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

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

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

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

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

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

(xcvii) “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

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

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

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

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

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

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

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

Section 4. General Permits.

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

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

(i) Storm water point sources except;

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

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

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

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

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

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

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

(D) Require the same or similar monitoring; and

(E) In the opinion of the administrator, are more appropriately controlled under a general permit than under individual permits. 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

770 administrator shall provide in the public notice of the general permit the rationale for utilizing a
771 general permit rather than individual permits for the permitted activity.

772
773 (iv) Application of pesticides in or along surface waters of the state;

774
775 (b) Authorization to discharge.

776
777 (i) Except as otherwise provided in these regulations, any person seeking
778 coverage under a general permit shall submit to the department a complete notice of intent,
779 supplied by the administrator, to be covered by the general permit. Any person who fails to
780 submit a notice of intent in accordance with the terms of the general permit is not authorized to
781 discharge under the terms of the permit unless the general permit, in accordance with Section 4
782 (b) (v), contains a provision that a notice of intent is not required.

783
784 (ii) The minimum requirements of the notice of intent shall be specified in the
785 general permit and shall require the submission of information necessary for adequate program
786 implementation. All notices of intent shall be signed as described in Section 14 of these
787 regulations.

788
789 (iii) General permits shall specify the deadlines for submitting notices of intent
790 and the date(s) when a discharge is authorized under the permit unless otherwise specified in the
791 authorization.

792
793 (A) In any event, no person shall commence a discharge without
794 having obtained written authorization from the department, and no authorization shall be issued
795 without full compliance by the permittee with all requirements of these regulations.

796
797 (B) In any event, no person shall change or alter the conditions of an
798 authorized discharge without having obtained an authorization from the department, and no
799 authorization for the modification shall be issued without full compliance by the permittee with
800 all requirements of these regulations.

801
802 (C) In any event, no person shall continue to discharge beyond the
803 expiration date of an authorization without having obtained an extension or renewal of the
804 authorization from the department, and no extension or renewal shall be granted without full
805 compliance by the permittee with all requirements of these regulations.

806
807 (iv) General permits shall specify eligibility requirements for coverage under
808 the permit and procedures for submitting notices of intent and granting authorization.

809
810 (v) Discharges other than discharges from publicly owned treatment works,
811 combined sewer overflows, MS4s, primary industrial facilities, and storm water discharges
812 associated with industrial activity and large construction activities may be authorized to

813 discharge under a general permit without submitting a notice of intent where the administrator
814 finds that a notice of intent requirement would be inappropriate. In making such a finding, the
815 administrator shall consider: the types of discharges, the expected nature of the discharges; the
816 potential for toxic and conventional pollutants in the discharges; the expected volumes of the
817 discharges; and the estimated number of discharges to be covered by the permit. The
818 administrator shall provide in the public notice of the general permit the reasons for not requiring
819 a notice of intent, if so allowed.

820
821 (vi) The administrator may notify a discharger that it is subject to the
822 conditions and requirements of a general permit, even if the discharger has not submitted a notice
823 of intent to be covered.

824
825 (c) Water quality-based limits. Where sources within a specific category or
826 subcategory of dischargers are subject to water quality-based limits imposed pursuant to Section
827 5 of these regulations, the source in that specific category or subcategory shall be subject to the
828 same water quality-based effluent limitations, when applicable.

829
830 (d) Applicable conditions. The general permit must clearly identify the applicable
831 conditions for each category or subcategory of dischargers or treatment works treating domestic
832 sewage covered by the permit.

833
834 (e) Exclusions. The general permit may exclude specified sources or areas from
835 coverage.

836
837 (f) Processing procedures for notices of intent.

838
839 (i) The administrator shall review each notice of intent and make a
840 completeness determination within 30 days of receipt of the notice of intent. If the notice of
841 intent and supplemental information are deemed to be complete, processing of the notice of
842 intent shall proceed in accordance with Section 4 (f) (ii). If the administrator determines that the
843 notice of intent is incomplete, a notice shall be provided to the applicant, describing the
844 additional information needed in order to complete the processing of the notice of intent, within
845 45 days of receipt of the notice of intent. The completeness of any notice of intent shall be
846 judged independently of the status of any other notice of intent for the same facility or activity.

847
848 (ii) Upon determination of completeness or as specified in the general permit,
849 the administrator, or his authorized representative, shall make a determination on issuance or
850 denial of the authorization for coverage under the general permit. If the administrator, or his
851 authorized representative, proposes that the discharge be authorized, the administrator, or his
852 authorized representative, will also identify any conditions of authorization.

853
854 (g) Modification, revocation, renewal, extension, or termination of general permits.
855 General permits may be issued, modified, revoked, renewed, extended, or terminated in

856 accordance with provisions of Sections 9, 10, 11, and 12 of these regulations. Termination may
857 apply to individual owners or operators, to several owners or operators, or to an entire general
858 permit protection area. In cases where the termination does not affect all owners and operators,
859 the general permit shall remain in effect with respect to those unaffected owners and operators.

860
861 (h) Permit term. General permits may be issued for a term not to exceed five (5)
862 years, unless extended in accordance with the provisions of Section 11 of these regulations.

863
864 (i) Requiring an individual permit.

865
866 (i) The administrator, for good cause, may require any person authorized by a
867 general permit or seeking coverage under a general permit to apply for and obtain an individual
868 permit. Cases where an individual WYPDES permit may be required include, but are not limited
869 to, the following:

870
871 (A) The permittee is not in compliance with the conditions of the
872 general WYPDES permit;

873
874 (B) A change has occurred in the availability of demonstrated
875 technology or practices for the control or abatement of pollutants applicable to the point source;

876
877 (C) Effluent limitation guidelines are promulgated for point sources
878 covered by the general WYPDES permit;

879
880 (D) A water quality management plan containing requirements
881 applicable to such point sources is approved;

882
883 (E) Circumstances have changed since the time of the request to be
884 covered so that the discharger is no longer appropriately controlled under the general permit, or
885 either a temporary or permanent reduction or elimination of the authorized discharge is
886 necessary;

887
888 (F) The discharge(s) is a significant contributor of pollutants. In
889 making this determination, the administrator may consider the following factors:

890
891 (I) The location of the discharge with respect to surface waters
892 of the state;

893
894 (II) The size of the discharge;

895
896 (III) The quantity and nature of the pollutants discharged to
897 surface waters of the state; and

- 899 (IV) Any other relevant factors.
900
- 901 (ii) Any interested person may petition the administrator to require any person
902 authorized by a general permit or seeking coverage under a general permit to apply for and
903 obtain an individual permit.
904
- 905 (iii) Any owner or operator authorized by a general permit may request to be
906 excluded from the coverage of the general permit by applying for an individual permit in
907 accordance with Section 5 (a) of these regulations.
908
- 909 (iv) When an individual permit is issued to an owner or operator otherwise
910 subject to a general permit, the applicability of the general permit to the individual permittee is
911 automatically terminated on the effective date of the individual permit.
912
- 913 (j) General permit coverage for discharges already covered by an individual permit.
914 A discharge excluded from a general permit solely because it already has an individual permit
915 may request that the individual permit be terminated, and that it be covered by the general
916 permit.
917
- 918 (k) Application for coverage. Any owner or operator shall apply for coverage in a
919 general permit category by completing the notice of intent supplied by the administrator.
920
- 921 (l) Permit conditions.
922
- 923 (i) General permits will include all conditions determined necessary by the
924 state for protection of the surface waters of the state.
925
- 926 (ii) General permits will require a copy of the authorization letter be posted at
927 the physical location of the permitted site in a prominent and safe place for public viewing.
928
- 929 (iii) General permits will require the permittee to notify all landowners,
930 on whose property an outfall associated with the general permit is located, prior to submitting the
931 Notice of Intent to the administrator.
932
- 933 (m) Application requirements for isolated wetlands. A notice of intent submitted for
934 coverage of mitigation for activities that cause the destruction, damage or impairment of
935 naturally occurring isolated wetlands shall contain the information as required in Section 7 (b) of
936 these regulations.
937
- 938 (n) Application requirements for effluent discharges. Application requirements for
939 effluent discharges, except for storm water discharges and isolated wetlands as described in
940 Sections 6 and 7 respectively of these regulations.
941

(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;

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

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

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

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

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

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

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

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

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

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

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

(iv) A notice of intent and other documents required to accompany said notice of intent when submitted to the department must be signed and certified in accordance with the provisions of Section 14 of these regulations.

(o) Application requirements for storm water discharges.

(i) Deadlines to apply.

(A) Facilities proposing a new discharge of storm water associated with industrial activity or large construction activity shall submit a notice of intent in accordance with the provisions of Section 4 (o) (ii) of these regulations.

(B) Except as provided in Section 4 (o) (i), 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 as specified in the applicable general permit.

(C) For any storm water discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than 100,000 that is not authorized by a general or individual permit other than an airport, powerplant, or uncontrolled sanitary landfill, the permit application must be submitted to the administrator by March 10, 2003 or as specified in the applicable general permit.

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

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

(II) Storm water discharges associated with small construction activity at oil and gas exploration, production, processing, and treatment operations or transmission facilities subject to the provisions of, Section 4 (o) (i) (E) of these regulations.

(E) For storm water discharges associated with small construction activity at oil and gas exploration, production, processing, and treatment operations or transmission facilities, require permit authorization as of March 10, 2005.

(F) A notice of intent shall be submitted to the administrator within 60 days of notice of a storm water discharge which the administrator determines contributes to a violation of a water quality standard or is a significant contributor of pollutants to surface waters of the state or where the administrator determines that storm water controls are needed for the discharge based on wasteload allocations that are part of "total maximum daily loads" (TMDLs) that address the pollutant(s) of concern; unless permission for a later date is granted by the administrator.

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

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

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

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

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

(A) General requirements applicable to all notices of intent:

(I) Name of the company, entity, or individual seeking a permit;

(II) Mailing address and telephone number of company, entity, or individual seeking a permit;

(III) The facility name, location, and telephone number if applicable;

(IV) Applicant status as federal, state, private, public, or other entity;

(V) Name and signature in accordance with the requirements of Section 14 of these regulations;

(VI) Authorization of a duly authorized representative under the Signatory Requirements of Section 14 of these regulations, where applicable;

(VII) Location, expressed in latitude and longitude to the nearest 15 seconds, of the facility to be covered under the permit;

(VIII) Location, expressed as quarter/quarter section, township, and range in the applicable Public Land Survey (PLS), of the facility to be covered under the permit;

(IX) A description of the activities conducted by the applicant which require it to obtain a WYPDES storm water discharge permit;

(X) For industrial activities only, up to four SIC codes which best reflect the principal products or services provided by the facility;

(B) Applicants shall provide such other information the administrator may reasonably require to determine whether to issue an authorization. The additional information may include additional quantitative data and bioassays to assess the relative toxicity of discharges to aquatic life and requirements to determine the cause of the toxicity.

(iii) Application requirements for regulated small municipal separate storm sewer discharges.

(A) The notice of intent for general permit coverage must include the following information, at a minimum:

(I) Name of the municipality seeking a permit;

(II) Mailing address, contact name, and telephone number of the municipality seeking a permit;

(III) A general description of the best management practices (BMPs) that the permittee or another municipality will implement for each of the storm water minimum control measures required by Section 6 (j) (i);

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

(V) The person or persons responsible for implementing or coordinating the permittee's storm water management program. A position, rather than an individual, may also be designated;

(VI) A description of the funding sources expected for implementation of the permittee's program; and

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

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

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

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

(p) Application requirements for use of pesticides in or near waterbodies, except fish toxicants used for fisheries management as described in Section 2(b)(ix) of this Chapter.

(i) A notice of intent submitted for coverage of pesticide use in or along waterbodies 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) Description of the target pest(s);

(C) A site map depicting proposed treatment areas and any potentially affected waterbodies;

(D) An inventory of all pesticides to be used, including ingredients and modes of action;

(E) A legal description (Section(s), Township(s), Range(s), County of the locations proposed for pesticide use, including affected waterbodies;

(F) Authorization of a duly authorized representative under the Signatory Requirements of Section 14 of this Chapter, where applicable;

(ii) Information in addition to that described in Section 4(p)(i) of this Chapter may be established based on needs specific to a general permit.

(iii) A notice of intent submitted by a permittee for modification or extension of existing authorization under a general permit shall identify any changes or additions to the information listed in (i) and (ii) of this Section 4(p) that was provided in the notice of intent submitted for the authorization most recently granted.

(iv) A notice of intent and other documents required to accompany said notice of intent when submitted to the department must be signed and certified in accordance with the provisions of Section 14 of this Chapter.

Section 5. Effluent Permits.

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

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

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

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

(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 gallons per day) of effluent proposed for discharge, flow rate in million gallons per day or cubic feet per second, and whether the proposed discharge will be continuous or intermittent;

(L) Description of each treatment process that will be used to reduce pollutant concentrations in effluent;

(M) Outfall numbers and latitude and longitude of each outfall location to the nearest 15 seconds;

(N) Outfall numbers, the county where each outfall is located and legal description of each outfall location to the nearest quarter/quarter of a section;

(O) Distance from shore and depth below water surface;

(P) Whether the discharge will be continuous or periodic. If the discharge is to be periodic the following information for each outfall shall be provided:

(I) Number of times per year the discharge is to occur.

(II) Anticipated duration of each discharge.

(III) Anticipated flow of each discharge.

(IV) Months in which discharge is expected to occur.

(Q) Whether any outfall is or will be equipped with a diffuser and the type of diffuser used.

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

(S) A topographic map extending one mile beyond the property boundaries of the source, showing the location of the facility, intake structures and associated outfalls and proposed monitoring and/or compliance points; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known by the applicant in the map area.

(T) A listing of all active permits or construction approvals received or applied for by the applicant for the site under any of the following programs:

(I) Hazardous Waste Management program under the Resource Conservation and Recovery Act.

(II) Underground Injection Control program under the Safe Drinking Water Act.

- (III) NPDES program under the CWA.
- (IV) WYPDES program under these regulations.
- (V) Prevention of Significant Deterioration program under the Clean Air Act.
- (VI) Non-attainment program under the Clean Air Act.
- (VII) National Emission Standards for Hazardous Pollutants under the Clean Air Act.
- (VIII) Section 404 of the CWA.
- (IX) Impoundments and/or Appropriation of Surface Water under the State Engineer=s Office.
- (X) Reservoirs under the Oil and Gas Conservation Commission.
- (XI) Other relevant local, state, or federal environmental permits.
- (U) Any additional information required in accordance with appendices B through M of these regulations.
- (V) Any other information the administrator may request in order to assess potential impacts to designated uses of surface waters of the state as a result of the proposed discharge, to develop permit conditions in compliance with regulations adopted pursuant to Section 304 of the CWA, or to determine whether to issue a WYPDES permit. The additional information may include additional quantitative data and bioassays to assess the relative toxicity of discharges to aquatic life and requirements to determine the cause of the toxicity.
- (vi) Signature requirement. A permit application and other documents required to accompany said application when submitted to the department must be signed and certified in accordance with the provisions of Section 14 of these regulations.
- (vii) Records retention. Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under this section for a period of three (3) years from the date the application is signed.

(b) Processing procedures applicable to all individual permit applications.

(i) Permit issuance or denial determination. Within 180 days of the receipt of an application and requested supplemental information, the director shall make a tentative determination with respect to the issuance or denial of a permit. If the director, with the advice of the administrator, determines that the permit should be issued, then tentative determinations will also be made with respect to the following:

(A) Proposed effluent limitations, which in the absence of federal guidelines adopted pursuant to Section 304 of the CWA, will comply with 40 CFR 125.3 (c) (2) and (3);

(B) Proposed effluent limitations that will ensure that water quality standards promulgated in Wyoming Water Quality Rules and Regulations, Chapter 1 will not be violated as a result of the proposed discharge;

(C) A proposed schedule of compliance, where appropriate; and

(D) Conditions and restrictions in addition to those specified in these regulations that are necessary in order for the requirements of the CWA or the Wyoming Environmental Quality Act to be upheld.

(ii) Completeness review. The administrator shall provide a notice of completeness or deficiency within 45 days of receipt of the application. If a notice of completeness or deficiency is not issued to the applicant within 45 days of receipt of the application, the administrator shall issue a letter of explanation to the applicant which specifies the expected date of the completeness determination.

(iii) Completeness determination. The director shall not process or issue a permit before receiving a complete application for a permit and all requirements of this section have been met. An application for a permit is complete when it has been submitted to the department, and includes all of the information required in Section 5 (a) (v) and Appendices A through M of these regulations and any applicable federal effluent guidelines of 40 CFR Parts 405 through 411, 413 through 433, 436, 437, 439, 440, 442 through, 447, 454, 455, 457 through 461, 463 through 469, and 471, such that the administrator deems that adequate information has been provided to make a determination in accordance with Section 5 (b) (i). The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity.

(iv) Permit denial. If the director determines that the permit should be denied, he shall give written notice of this action to the applicant and to the Regional Administrator of the EPA within 30 days after making the tentative determination.

(v) Draft permits. For each proposed discharge for which an application determined to be complete has been received and for which none of the conditions under which permits must be prohibited exist, the administrator shall prepare a draft permit that embodies the tentative determinations reached relative to Section 5 (b) (i) above. Draft permits shall be available to the public for inspection, copying and public comment.

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

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

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

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

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

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

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

(D) After notice and opportunity for a hearing, a permit may be modified, in whole or in part, revoked and reissued, or terminated during its term. The filing of a request by the permittee for a modification, revocation, reissuance, termination, or notification of

1452 planned changes or anticipated noncompliance does not halt any permit condition. Cause for
1453 such permit actions, includes, but are not limited to, any of the following:

- 1454
- 1455 (I) Violation of any conditions of the permit;
- 1456
- 1457 (II) Obtaining a permit by misrepresentations or failure to fully
1458 disclose all relevant facts;
- 1459
- 1460 (III) A change in any condition that requires either a temporary
1461 or permanent reduction or elimination of the discharge; and
- 1462
- 1463 (IV) A failure or refusal by the permittee to comply with the
1464 monitoring and reporting requirements of a permit and Sections 35-11-109 (a) (iv) and 35-11-
1465 110 (a) (vii) Wyoming Statutes.
- 1466
- 1467 (E) A permit may be modified in whole or in part during its term in
1468 order to apply any more stringent toxic effluent standard or prohibition, for a toxic substance
1469 present in the permittee's discharge, that is promulgated by the Administrator of the EPA.
- 1470
- 1471 (F) A requirement that the permittee allow the administrator or his
1472 authorized representative upon presentation of his credentials to:
- 1473
- 1474 (I) Enter the premises where a permittee=s regulated facility or
1475 activity is located or conducted or where records must be kept under the conditions of the permit;
- 1476
- 1477 (II) Sample or monitor at reasonable times, for the purposes of
1478 assuring permit compliance or as otherwise authorized by these rules, the Wyoming
1479 Environmental Quality Act or the CWA, any substances or parameters at any location;
- 1480
- 1481 (III) Have access to and copy, at reasonable times, any records
1482 required by the permit to be kept;
- 1483
- 1484 (IV) Inspect at reasonable times any facilities, equipment
1485 (including monitoring and control equipment), practices, or operations regulated or required
1486 under the permit; and
- 1487
- 1488 (V) Take any other action authorized by 35-11-109 (a) (v), (vi)
1489 and (vii) Wyoming Statutes, or these regulations.
- 1490
- 1491 (G) A requirement that, if requested by the administrator or the
1492 administrator=s authorized agent, the permittee shall provide access to physical locations
1493 associated with this permit including, but not limited to, well heads, discharge points, reservoirs,

1494 monitoring locations, and any waters of the state associated with the permit at the point of
1495 discharge.

1496
1497 (H) A requirement that, if the permittee wishes to continue an activity
1498 regulated by a permit after the expiration date of the permit, the permittee must apply for and
1499 obtain a new permit in accordance with Section 10 of these regulations, unless an extension is
1500 granted under Section 11 of these regulations.

1501
1502 (I) It is not a defense for a permittee in an enforcement action that it
1503 would have been necessary to halt or reduce the permitted activity in order to maintain
1504 compliance with the conditions of a permit.

1505
1506 (J) The permittee shall take all reasonable steps to minimize or
1507 prevent any discharge in violation of this permit which has a reasonable likelihood of adversely
1508 affecting human health or the environment.

1509
1510 (K) The permit does not convey any property rights of any sort, or any
1511 exclusive privilege.

1512
1513 (L) A requirement that the permittee shall furnish to the administrator,
1514 within a reasonable time, any information which the administrator or his authorized
1515 representative may request to determine whether cause exists for modifying, revoking and
1516 reissuing, or terminating the permit or to determine compliance with the permit.

1517
1518 (M) A requirement that the permittee shall furnish to the administrator
1519 or his authorized representative, copies of records required to be kept by the permit.

1520
1521 (N) The permittee must properly operate and maintain all equipment
1522 and treatment systems used by the permittee to achieve compliance with the terms of the permit.
1523 The permittee must provide appropriate laboratory controls and quality assurance procedures,
1524 where applicable. Backup systems are required when needed to ensure compliance. However,
1525 each main line unit treatment process must be operated as a minimum.

1526
1527 (O) To assure compliance with permit limitations, the permittee shall
1528 monitor:

1529
1530 (I) The mass (or other measurement specified in the permit)
1531 for each pollutant limited in the permit.

1532
1533 (II) The volume of effluent discharged from each outfall.

1534
1535 (P) Samples and measurements taken for the purpose of monitoring
1536 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;
- (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.

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

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

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

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

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

(U) Monitoring reports must be submitted on a discharge monitoring report form provided by the department or on a form with an identical format as the form provided by the department, with prior approval by the administrator. Monitoring results shall be reported to the department at the intervals specified in the permit. If monitoring is conducted at a frequency greater than that required by the permit, the results of the additional monitoring

1580 must be reported. In reporting effluent limits based on average concentrations, the permittee
1581 must report the results using an arithmetic mean, except for fecal coliform. Average results for
1582 fecal coliform monitoring shall be reported as a geometric mean.

1583
1584 (V) Reporting of compliance or noncompliance with specified dates
1585 contained in a compliance schedule of the permit shall be submitted to the administrator no later
1586 than 14 days following each scheduled date.

1587
1588 (W) For any noncompliance which may endanger human health or the
1589 environment, an oral notification must be made by the permittee to the administrator within 24-
1590 hours of the permittee becoming aware of the noncompliance. Within five (5) days, the
1591 permittee must provide a written notification of the noncompliance which describes the
1592 noncompliance and its cause; the period and duration of noncompliance including exact dates
1593 and times; and, if the noncompliance has not been corrected, the anticipated time it is expected to
1594 continue and steps planned or taken to reduce, eliminate, and prevent recurrences of the
1595 noncompliance. Circumstances that must be reported within 24-hours of becoming aware of the
1596 noncompliance include, but are not limited to, any unanticipated bypass or upset which exceeds
1597 any effluent limit in the permit; or violation of a daily maximum discharge limitation for any of
1598 the pollutants listed by the administrator in the permit to be reported within 24-hours of
1599 becoming aware of the noncompliance.

1600
1601 (X) For noncompliance other than as reported in (S),(V), and (W)
1602 above, the permittee shall report all instances at the time monitoring reports are submitted. The
1603 reports shall contain the information listed in (W) above.

1604
1605 (Y) Where the permittee becomes aware that it failed to submit any
1606 relevant facts in a permit application, or submitted incorrect information in a permit application
1607 or in any report to the administrator, it shall promptly submit such facts or information.

1608
1609 (Z) The permittee may allow any bypass to occur which does not cause
1610 effluent limitations to be exceeded, but only if it is for essential maintenance to assure efficient
1611 operation. If the permittee knows in advance of the need for a bypass, it shall submit prior
1612 notification, if possible at least ten (10) days before the date of the bypass. If an unanticipated
1613 bypass occurs, notice shall be provided in accordance with (W) above. Bypass is prohibited
1614 except in instances where it is necessary to prevent loss of life, personal injury or severe property
1615 damage; or where there are no feasible alternatives to bypass, such as the use of auxiliary
1616 treatment facilities, retention of untreated wastes, or maintenance during normal periods of
1617 equipment downtime. The condition of no feasible alternative is not satisfied if adequate back-
1618 up equipment should have been installed in the exercise of reasonable engineering judgement to
1619 prevent a bypass which occurred during normal periods of equipment downtime or preventive
1620 maintenance. The administrator may approve an anticipated bypass, after receiving notification,
1621 if the conditions for the allowance of bypass as described in this paragraph have been met.

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

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

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

(II) A TMDL or watershed management plan is developed and approved by the department which calls for different effluent limitations than those contained in the permit;

(III) A TMDL or watershed management plan is revised and approved by the department which calls for different effluent limitations than those contained in the permit;

(IV) The use(s) of the receiving surface water of the state is impaired and the permitted facility is contributing to the impairment;

(V) Water quality standards in the receiving surface waters of the state are no longer achieved as a result of the discharge and the effluent limitations established by the permit are being met;

(VI) The effluent limitations in the permit do not address a pollutant that has the potential to cause or contribute to a violation of a water quality standard;

(VII) Applicable technology based effluent limits are promulgated which are more stringent than those imposed by the permit; or

(VIII) An interstate compact or agreement on potential receiving waters is established.

(CC) A reopener provision for toxicity limitations which states that additional or more stringent permit requirements, a new compliance schedule, revisions to compliance dates set forth in the permit, changes to the whole effluent toxicity protocol, or any other conditions related to the control of toxicants may be imposed, following the procedures

outlined in this regulation for permit modifications, if one or more of the following events occurs:

(I) Effluent toxicity was detected late in the life of the permit near or past the deadline for compliance;

(II) The results of a toxicity reduction evaluation indicate that compliance with the toxic limitations contained in the permit will require an implementation schedule past the date for compliance and the department agrees with the conclusion;

(III) The results of a toxicity reduction evaluation indicate that the toxicant(s) represent pollutant(s) that may be controlled with specific numeric effluent limitations and the department agrees that numeric controls are the most appropriate approach to controlling toxicity;

(IV) Following the implementation of numeric controls for a toxicant, the department agrees that a modified whole effluent toxicity protocol is necessary to compensate for those toxicants that are controlled numerically;

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

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

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

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

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

(1.) The name and address of non-complying permittee;

- 1752
1753 (2.) A short description of each instance of non-
1754 compliance;
1755
1756 (3.) Short description of any action proposed by the
1757 permittee or the administrator to achieve compliance; and
1758
1759 (4.) Any details that tend to explain or mitigate the non-
1760 compliance.
1761

1762 (E) Alternative schedules of compliance. A WYPDES permit
1763 applicant or permittee may cease conducting regulated activities (by terminating direct discharge
1764 for WYPDES sources) rather than continuing to operate and meet permit requirements as
1765 follows:
1766

1767 (I) If the permittee decides to cease conducting regulated
1768 activities at a given time within the term of a permit which has already been issued:
1769

1770 (1.) The permit may be modified to contain a new or
1771 additional schedule leading to timely cessation of activities; or
1772

1773 (2.) The permittee shall cease conducting permitted
1774 activities before non-compliance with any interim or final compliance schedule requirement
1775 already specified in the permit.
1776

1777 (II) If the decision to cease conducting regulated activities is
1778 made before issuance of a permit whose term will include the termination date, the permit shall
1779 contain a schedule leading to termination which will ensure timely compliance with applicable
1780 requirements no later than the statutory deadline.
1781

1782 (III) If the permittee is undecided whether to cease conducting
1783 regulated activities, the director may issue or modify a permit to contain two schedules as
1784 follows:
1785

1786 (1.) Both schedules shall contain an identical interim
1787 deadline requiring a final decision on whether to cease conducting regulated activities no later
1788 than a date which ensures sufficient time to comply with applicable requirements in a timely
1789 manner if the decision is to continue conducting regulated activities;
1790

1791 (2.) One schedule shall lead to timely compliance with
1792 applicable requirements, no later than the statutory deadline;
1793

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

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

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

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

(II) Numeric effluent limitations are infeasible; or

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

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

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

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

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

(I) For discharges from new and existing POTWs as described in Appendix E.

(II) For CAFO point sources as described in Appendix G.

- 1836 (III) For discharges from oil and gas production facilities as
1837 described in Appendix H.
1838
- 1839 (IV) For discharges from coal mines as described in Appendix J.
1840
- 1841 (V) For discharges containing toxic pollutants as described in
1842 Appendix N.
1843
- 1844 (C) Water quality based effluent limitations. For facilities where
1845 discharge to surface waters of the state is not prohibited subject to the provisions of technology
1846 based effluent limitations as determined in Section 5 (c) (iii) (A) and (B), water quality-based
1847 effluent limits shall be determined when requirements in addition to, or more stringent, than
1848 technology based effluent limitations are necessary to ensure that violations of water quality
1849 standards do not occur. Such effluent limitations shall be determined based on standards adopted
1850 pursuant to Wyoming Water Quality Rules and Regulations, Chapter 1.
1851
- 1852 (I) Water quality based effluent limitations shall be established
1853 for constituents in discharges determined to have a reasonable potential of adversely impacting
1854 uses of surface waters of the state or of causing violations of water quality standards. When
1855 making reasonable potential determinations, the administrator shall consider the following:
1856
- 1857 (1.) Existing controls on point and non-point sources of
1858 pollution;
1859
- 1860 (2.) The variability of the pollutant or pollutant
1861 parameter in the effluent;
1862
- 1863 (3.) For evaluating whole effluent toxicity, the
1864 sensitivity of the species to toxicity testing; and
1865
- 1866 (4.) Where appropriate, the dilution of the effluent in the
1867 receiving water.
1868
- 1869 (5.) Applicable designated uses and water quality
1870 standards.
1871
- 1872 (II) Where numeric criteria are promulgated for the receiving
1873 surface waters of the state, the administrator will determine, using the most stringent numeric
1874 standard appropriate to the receiving surface waters of the state, water quality based effluent
1875 limitations based on one of the following methods:
1876

(1.) Effluent limitations described in Section 5 (c) (iii) (C) (II) (2.) and (3.) shall be established only after having taken into account the following requirements of Wyoming Water Quality Rules and Regulations, Chapter 1:

a. Mixing zones; and

b. Antidegradation

(2.) Where loading limitations can be instituted on the receiving surface waters of the state through the implementation of limitations on effluent volumes and concentrations for discharges to the receiving surface waters of the state, effluent limitations shall be determined based on mass balance calculations where dilution by water in the receiving surface waters of the state is considered.

(3.) Where the administrator determines that it is impractical to establish limitations on effluent volumes for discharges to receiving surface waters of the state, concentration-based effluent limitations shall be established. In no case shall a concentration-based effluent limitation be established which exceeds the most stringent of the numeric water quality standards established to protect the designated uses of the receiving surface waters of the state.

(III) Where an evaluation for reasonable potential indicates limitations based on narrative water quality standards promulgated under Wyoming Water Quality Rules and Regulations, Chapter 1, effluent limitations addressing the limitations of the narrative standards will be included in the permit.

(IV) Where the administrator determines that an effluent constituent has the reasonable potential to adversely impact a designated use of receiving surface waters of the state and no numeric standard has been promulgated in Wyoming Water Quality Rules and Regulations, Chapter 1 for the constituent, the administrator may establish a numeric effluent limitation based on values derived from appropriate scientific methods.

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

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

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

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

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

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

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

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

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

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

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

(I) Frequency (for example, a batch discharge shall not occur more than once every three (3) weeks);

(II) Total mass (for example, not to exceed 100 kilograms of zinc and 200 kilograms of chromium per batch discharge);

(III) Maximum rate of discharge of pollutants during the discharge (for example, not to exceed two (2) kilograms of zinc per minute); and

1963
1964 (IV) Prohibition or limitation of specified pollutants by mass,
1965 concentration or other appropriate measure (for example, shall not contain at any time more than
1966 0.1 mg/l zinc or more than 250 grams (1/4 kilogram) of zinc in any discharge).

1967
1968 (I) Mass limitations.

1969
1970 (I) All pollutants limited in permits shall have limitations,
1971 standards or prohibitions expressed in terms of mass except:

1972
1973 (1.) For pH, temperature, radiation, or other pollutants
1974 which cannot appropriately be expressed by mass;

1975
1976 (2.) When applicable standards and limitations are
1977 expressed in terms of other units of measurement; or

1978
1979 (3.) If an applicable effluent standard or limitation has
1980 been promulgated under these regulations and limitations expressed in terms of mass are
1981 infeasible because the mass of the pollutant discharged cannot be related to a measure of
1982 operation (for example, discharges of total suspended solids [TSS] from certain mining
1983 operations), and permit conditions ensure that dilution will not be used as a substitute for
1984 treatment.

1985
1986 (II) Pollutants limited in terms of mass additionally may be
1987 limited in terms of other units of measurement, and the permit shall require the permittee to
1988 comply with both limitations.

1989
1990 (J) Pollutants in intake water.

1991
1992 (I) Credit shall be granted only if the discharger demonstrates
1993 that the intake water is drawn from the same body of water into which the discharge is made.

1994
1995 (II) Upon request of the discharger, technology-based effluent
1996 limitations or standards shall be adjusted to reflect credit for pollutants in the discharger=s intake
1997 water if:

1998
1999 (1.) The applicable effluent limitations and standards
2000 contained in Section 5 (c) (iii) of these regulations provide that they shall be applied on a net
2001 basis; or

2002
2003 (2.) The discharger demonstrates that the control system
2004 it proposes or uses to meet applicable technology-based limitations and standards would, if

properly installed and operated, meet the limitations and standards in the absence of pollutants in the intake waters.

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

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

(K) Internal waste streams.

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

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

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

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

(N) If any applicable toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under W.S.35-11-302 or Wyoming Water Quality Rules and Regulations, Chapters 1 and 2 for a toxic pollutant and that standard or prohibition is more stringent than any limitation on the pollutant in the permit, the director shall institute proceedings under these regulations to modify or revoke and reissue the permit to conform to the toxic effluent standard or prohibition.

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

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

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

(iv) Application of standards.

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

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

(II) The basis for calculation of effluent limitations;

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

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

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

(II) Any toxic or pretreatment standards established under Sections 5 (c) (ii) (A) and 5 (c) (iii) (O) and (P) of these regulations and any schedule required to achieve compliance with those standards; and

(III) Shall allow the permittee and the administrator or his designated representative the same rights of entry, inspection, sampling, and copying provided for in Section 5 (c) (i) (F).

(v) Monitoring, recording, and reporting.

(A) All permits shall specify required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring. Monitoring results required by the permit shall be reported on a discharge monitoring report (DMR) or other forms provided or specified by the division.

(B) Any discharge authorized by a permit shall be subject to such monitoring requirements as may be required by the administrator including the installation, use, and maintenance of monitoring equipment.

(C) Any major facility authorized by a permit, or for which monitoring is requested in writing by the Regional Administrator of the EPA, or which contains toxic pollutants for which an effluent standard has been promulgated pursuant to these regulations, shall be monitored at intervals sufficiently frequent to characterize the discharge, for the following:

(I) Flow;

(II) All of the following pollutants:

(1.) Pollutants which are subject to reduction or elimination by the terms of the permit;

(2.) Pollutants which the administrator finds could have an impact on the surface waters of the state;

(3.) Pollutants specified by the Administrator of the EPA as subject to monitoring; and

(4.) Any pollutants, in addition to those above, that the Regional Administrator of the EPA requests in writing be monitored.

(D) The permittee shall maintain records of all information resulting from monitoring activities required by his permit for a period of three (3) years, or for a longer period if so requested by the administrator, or Regional Administrator of the EPA. Such 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;
- (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.

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

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

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

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

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

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

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

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

(i) General requirements of all applications:

- (A) Name of the company, entity, or individual seeking a permit;
- (B) Mailing address and telephone number of company, entity, or individual seeking permit;
- (C) The facility name, location, and telephone number if applicable;
- (D) Applicant status as federal, state, private, public, or other entity;
- (E) Name and signature in accordance with the requirements of Section 14 of this chapter;
- (F) Authorization of a duly authorized representative under the Signatory Requirements of Section 14 of these rules, where applicable;
- (G) Location, expressed in latitude and longitude to the nearest 15 seconds, of the facility to be covered under the permit;
- (H) Location, expressed as quarter/quarter, section, township, and range, in the applicable Public Land Survey (PLS), of the facility to be covered under the permit;
- (I) A description of the activities conducted by the applicant which require it to obtain an WYPDES permit;

(ii) Individual permit application requirements for industrial activities. Individual permit application requirements for industrial activities (not including large or small construction activities as described in Section 6 (f). Except as provided in Section 6 (b) (iii) and in Section 6 (g) (iv) (M) and (N), the operator of a storm water discharge associated with industrial activity subject to this section shall provide, at a minimum:

- (A) Up to four (4) SIC codes which best reflect the principal products or services provided by the facility;
- (B) A site map showing topography (or indicating the outline of drainage areas served by the outfall(s) covered in the application if a topographic map is unavailable) of the facility including: each of its drainage and discharge structures; the drainage area of each storm water outfall; paved areas and buildings within the drainage area of each

storm water outfall; each past or present area used for outdoor storage or disposal of significant materials; each existing structural control measure to reduce pollutants in storm water runoff; materials loading and access areas; areas where pesticides, herbicides, soil conditioners and fertilizers are applied; each of its hazardous waste treatment, storage or disposal facilities (including each area not required to have a RCRA permit which is used for accumulating hazardous waste under 40 CFR 262.34); each well where fluids from the facility are injected underground; springs, and other surface water bodies which receive storm water discharges from the facility;

(C) An estimate of the area of impervious surfaces (including paved areas and building roofs), the total area drained by each outfall and a narrative description of the following: significant materials that in the three (3) years prior to the submittal of this application have been treated, stored or disposed in a manner to allow exposure to storm water; method of treatment, storage or disposal of such materials; materials management practices employed, in the three (3) years prior to the submittal of this application to minimize contact by these materials with storm water runoff; materials loading and access areas; the location, manner and frequency in which pesticides, herbicides, soil conditioners and fertilizers are applied; the location and a description of existing structural and non-structural control measures to reduce pollutants in storm water runoff; and, a description of the treatment the storm water receives, including the ultimate disposal of any solid or fluid wastes other than by discharge;

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

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

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

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

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

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

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

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

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

(G) Sampling storm water discharges.

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

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

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

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

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

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

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

(H) Operators of new sources or new discharges (as defined in Section 3) which are composed entirely of storm water must include estimates for the pollutants or parameters listed in Section 6 (b) (ii) (F) instead of actual sampling data, along with the source of each estimate. Operators of new sources or new discharges composed in part or entirely of storm water must provide quantitative data for the parameters listed in paragraph Section 6 (b) (ii) (F) of this section within two (2) years after commencement of discharge, unless such data has already been reported under the monitoring requirements of the WYPDES permit for the discharge.

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

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

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

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

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

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

(F) The name of the receiving water.

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

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

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

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

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

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

(IV) A description of the funding sources expected for implementation of the permittee's program.

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

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

(d) Reporting requirements.

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

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

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

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

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

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

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

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

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

(i) Storm water discharge associated with large construction activity means the discharge of storm water from construction activities, including clearing, grading, and

excavating, that result in land disturbance of five (5) or more acres of total land area. Large construction activity also includes the disturbance of less than five (5) acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five (5) acres or more.

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

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

(B) The administrator, at his discretion, may waive the otherwise applicable requirements in a general permit, as described in Section 4, for a storm water discharge from a small construction activity that disturbs less than five (5) acres where the value of the rainfall erosivity factor (R in the Revised Universal Soil Loss Equation) is less than five (5) during the period of construction activity. The rainfall erosivity factor must be determined in accordance with Chapter 2 of the *Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation (RUSLE)*, pages 21-64, dated January 1997 or a similar state-approved method. The operator or owner must certify to the administrator that the construction activity will only take place during a period when the value of the rainfall erosivity factor is less than five (5). If unforeseeable conditions occur that are outside of the control of the applicant for a waiver, and that will extend the construction activity beyond the dates initially applied for, the owner or operator must reapply for the waiver or obtain coverage under a general permit for storm water discharges. The waiver re-application or permit application must be submitted within two (2) business days after the unforeseeable condition becomes known. This waiver does not relieve the operator or owner from complying with requirements of local agencies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11 (1) because the performance bond issued to the facility by the appropriate SMCRA (Surface Mining Control and Reclamation Act, 1977) authority has been released, or areas of non-coal mining operations which have been released from applicable state or federal reclamation requirements after December 17, 1990 are not considered to be engaged in "industrial activity" and do not require coverage under a WYPDES storm water permit;

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

(E) Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from activities associated with large or small construction activity as described in Sections 6 (f) (i) and 6 (f) (ii) and industrial

activities as described in Section 6 (g) (ii)) including those that are subject to regulation under subtitle D of RCRA;

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

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

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

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

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

(K) For storm water discharges associated with industrial activity from point sources which discharge through a non-municipal or non-publicly owned separate storm sewer system, the director, at his discretion, may issue: a single WYPDES permit, with each discharger a co permittee to a permit issued to the operator of the portion of the system that discharges into surface waters of the state; or, individual permits to each discharger of storm water associated with industrial activity through the non-municipal conveyance system.

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

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

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

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

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

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

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

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

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

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

(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

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

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

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

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

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

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

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

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

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

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

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

2772 (I) The legal name, address and phone number of the
2773 discharger;
2774

2775 (II) The facility name and address, the county name and the
2776 location description using the public land survey system quarter/quarter, section, township, and
2777 range where the facility is located;
2778

2779 (III) The certification must indicate that none of the following
2780 materials or activities are, or will be in the foreseeable future, exposed to precipitation, snow
2781 melt, and/or runoff:
2782

2783 (1.) Using, storing or cleaning industrial machinery or
2784 equipment, and areas where residuals from using, storing or cleaning industrial machinery or
2785 equipment remain and are exposed to storm water;
2786

2787 (2.) Materials or residuals on the ground or in storm
2788 water inlets from spills/leaks;
2789

2790 (3.) Materials or products from past industrial activity;
2791

2792 (4.) Material handling equipment (except adequately
2793 maintained vehicles);
2794

2795 (5.) Materials or products during loading/unloading or
2796 transporting activities;
2797

2798 (6.) Materials or products stored outdoors (except final
2799 products intended for outside use, e.g., new cars, where exposure to storm water does not result
2800 in the discharge of pollutants);
2801

2802 (7.) Materials contained in open, deteriorated or leaking
2803 storage drums, barrels, tanks, and similar containers;
2804

2805 (8.) Materials or products handled/stored on roads or
2806 railways owned or maintained by the discharger;
2807

2808 (9.) Waste material (except waste in covered, non-
2809 leaking containers, e.g., dumpsters);
2810

2811 (10.) Application or disposal of process wastewater
2812 (unless otherwise permitted); and
2813

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

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

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

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

(i) Regulated small MS4s include:

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

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

(I) Systems at military bases, and large education, hospital or prison complexes, if they are designed for a maximum daily user population (residents and

individuals who come there to work or use the facilities) of at least 1,000, and are located in an urbanized area.

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

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

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

(1.) Relationship to sensitive waters. For purposes of this section, sensitive waters means any Outstanding Resource Water as identified in Water Quality Rules Chapter 1, waters designated for drinking water use as identified in Water Quality Rules Chapter 1, or any impaired or threatened waters listed on the most recent 303 (d) list;

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

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

(4.) Contiguity to an urbanized area; and

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

Based on this evaluation, if the administrator determines that storm water discharges from the MS4 result in or have the potential to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts, the administrator shall designate the MS4 as a regulated small MS4 to be covered under a state WYPDES storm water discharge permit. However, the MS4 may provide information to the administrator on its existing storm water quality control

programs, including any that are analogous to the six (6) minimum control measures under Section 6 (j) (i) (B). If the administrator determines that the MS4 has adequate controls for its storm water discharges, (i.e., is already implementing the applicable portions of the six (6) minimum measures), it will not be designated as a regulated small MS4 at that time.

(II) Other MS4s. The administrator may evaluate any other small MS4s other than those described in subsections (I) and (III) of this section, in order to determine whether or not storm water discharges from a small MS4 result in or have the potential to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts. The administrator will place a high priority on evaluating small MS4s with a combined permanent and seasonal population (as determined by the official Census population plus the number of commercially advertised bed accommodations that will allow for an overnight stay, as listed through the chamber of commerce, or any local resort or property management companies) of over 10,000. Based on this evaluation, the administrator may designate the small MS4 as a regulated small MS4 to be covered under a state WYPDES storm water discharge permit at any time, as appropriate, using the elements shown in Section 6 (h) (i) (C) (I) above.

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

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

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

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

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

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

(II) The size of the discharge;

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

(IV) Other relevant factors.

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

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

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

(j) Conditions for municipal storm water permits.

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

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

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

(B) Minimum control measures.

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

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

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

(II) Public involvement/participation. The permittee must, at a minimum, comply with any applicable state and local public notice requirements when implementing the storm water management programs required under the permit. Notice of all public hearings should be published in a community publication or newspaper of general circulation, to provide opportunities for public involvement that reach a majority of citizens through the notification process.

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

(1.) The permittee must:

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

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

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

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

(IV) Construction site storm water runoff control.

(1.) The permittee must develop, implement, and enforce a program to reduce pollutants in any storm water runoff to the MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of pollutants in storm water discharges from construction activity disturbing less than one acre must be included in the program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. If the administrator waives requirements for storm water discharges associated with a small construction activity in accordance with Section 6 (f) (ii) (B), the permittee is not required to develop, implement, and/or enforce its program to reduce pollutant discharges from such a site.

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

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

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

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

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

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

f. Procedures for site inspection and enforcement of control measures.

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

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

(2.) The permittee must:

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

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

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

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

(C) If an existing qualifying local program requires the permittee to implement one or more of the minimum control measures of Section 6 (j) (i) (B), the

3155 administrator may include conditions in the permit that direct the permittee to follow that
3156 qualifying program=s requirements rather than the requirements of Section 6 (j) (i) (B). A
3157 qualifying local program is a local or state municipal storm water management program that
3158 imposes, at a minimum, the relevant requirements of Section 6 (j) (i) (B). The permit may be
3159 reopened and modified to include the requirement to implement a minimum control measure if
3160 the other entity fails to implement it.

3161
3162 (D) The permittee must comply with any more stringent effluent
3163 limitations in the permit, including permit requirements that modify, or are in addition to, the
3164 minimum control measures, based on an approved TMDL or equivalent analysis. The
3165 administrator may include more stringent limitations based on a TMDL or equivalent analysis
3166 that determines such limitations are needed to protect water quality.

3167
3168 (E) The permittee must comply with other applicable state WYPDES
3169 permit requirements, standards and conditions established in the individual or general permit,
3170 developed consistent with the provisions of Section 6 (b) or Section 4, as appropriate.

3171
3172 (F) A permittee may rely on another entity to satisfy its state
3173 WYPDES permit obligations to implement a minimum control measure, or component thereof if:

3174
3175 (I) The other entity, in fact, implements the control measure;

3176
3177 (II) The particular control measure, or component thereof, is at
3178 least as stringent as the corresponding WYPDES permit requirement; and

3179
3180 (III) The other entity agrees to implement the control measure
3181 on behalf of the permittee. The permittee must specify in reports submitted under Section 6 (j)
3182 (i) (G) (iii), that it relies on another entity to satisfy some of its permit obligations. If the
3183 permittee is relying on another entity, subject to these regulations, to meet all of its permit
3184 obligations, including the obligation to file periodic reports, it must note that fact in its NOI. The
3185 permittee remains responsible for compliance with its permit obligations if the other entity fails
3186 to implement the control measure (or component thereof).

3187
3188 (G) Evaluation and assessment.

3189
3190 (I) Evaluation. The permittee shall evaluate program
3191 compliance, the appropriateness of its identified BMPs, and progress towards achieving its
3192 identified measurable goals. A summary of this evaluation shall be included in the permittee=s
3193 annual report.

3194
3195 (II) Record keeping. The permittee must keep records required
3196 by the permit for at least three (3) years. The permittee must submit their records to the
3197 administrator only when specifically asked to do so. The permittee must make the records,

including a description of the permittee=s storm water management program, available to the public at reasonable times during regular business hours. (The permittee may assess a reasonable charge for copying. The permittee may require a member of the public to provide advance notice.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 7. Isolated Wetlands-Mitigation Requirements.

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

(a) Point source discharge activities required to file mitigation plans. Any person who proposes a point source discharge of dredged or fill material into a naturally occurring isolated wetland or man-made isolated wetlands used to mitigate the loss of a naturally occurring wetland in such a manner that causes the loss or destruction of greater than a cumulative one (1) acre of wetland habitat for the total project shall file with the administrator a notice of intent for coverage under an isolated wetlands mitigation general permit and a mitigation plan designed to offset the loss of wetland functions and values. Such notices of intent and mitigation plans must be filed and approved by the administrator prior to the commencement of the activity which will cause the wetland loss. Those activities which are subject to a permit or authorization from the U.S. Army Corps of Engineers pursuant to Section 404 of the CWA or mining activities subject to a permit or authorization from the Wyoming Department of Environmental Quality, Land Quality Division are exempt from this requirement.

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

- 3284
- 3285 (i) Name and address of the applicant;
- 3286
- 3287 (ii) Location and description of the isolated wetland that will be impacted,
- 3288 including the area of impact in acres, type of wetland, probable functional values, and source of
- 3289 water;
- 3290
- 3291 (iii) Delineation of the impacted wetland using the U.S. Army Corps of
- 3292 Engineer=s 1987 wetland delineation manual including maps, drawings, data sheets and
- 3293 conclusions;
- 3294
- 3295 (iv) Name(s) and address(s) of adjacent property owners who may be affected
- 3296 by the activity;
- 3297
- 3298 (v) Description of the activity causing the wetland impact;
- 3299
- 3300 (vi) Description of actions to be taken to fully offset damage to the impacted
- 3301 wetland;
- 3302
- 3303 (vii) Where the proposed mitigation involves the construction of replacement
- 3304 wetlands or the enhancement of existing wetlands the location and description of the mitigation
- 3305 area including the name and address of the landowner, construction plans, maps, water sources
- 3306 and construction time tables;
- 3307
- 3308 (viii) Where the proposed mitigation involves the use of wetland credits
- 3309 recorded in the “Wyoming Statewide Wetland Mitigation Bank” a written authorization signed
- 3310 by the credit owner referencing the wetland credit file number and the amount of credit
- 3311 authorized for use;
- 3312
- 3313 (ix) List of related permissions and/or authorizations necessary to successfully
- 3314 complete the planned mitigation including but not limited to water rights, easements, and
- 3315 associated federal, state or local permits.
- 3316
- 3317 (c) Access to physical locations associated with the permit. If requested by the
- 3318 administrator or the administrator=s authorized agent, the permittee shall provide access to,
- 3319 physical locations associated with this permit including, but not limited to, any waters of the
- 3320 state associated with the permit at the point of discharge.
- 3321
- 3322 (d) Criteria for approval of mitigation plans under a general permit.
- 3323
- 3324 (i) The administrator shall approve all mitigation plans utilizing Wyoming
- 3325 Wetland Banked Credits in accordance with the “Wyoming Statewide Wetland Mitigation Bank
- 3326 - Guidelines for Interpretation and Implementation,” April 1995;

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

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

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

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

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

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

Section 8. Variance Requests.

(a) Variance requests by non-POTWs.

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

(A) Fundamentally different factors.

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

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

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

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

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

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

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

(2.) Submitting a completed request no later than the close of the public comment period under Section 15 of these regulations demonstrating that the applicable requirements of Section 5 (c) (iii) (A) and (B) and Appendices F, L and M have been met. Notwithstanding this provision, the complete application for a request under section 301 (g) shall be filed 180 days before the director must make a decision (unless the director establishes a shorter or longer period).

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

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

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

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

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

(c) Expedited variance procedures and time extensions.

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

(d) Decisions on variances.

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

(A) Extensions under CWA Section 301 (i) based on delay in completion of a publicly owned treatment works;

(B) After consultation with the Regional Administrator, extensions under CWA Section 301 (k) based on the use of innovative technology; or

(C) Variances under CWA Section 316 (a) for thermal pollution.

(ii) The director may deny or forward to the Regional Administrator with a written concurrence, or submit to EPA without recommendation a completed request for:

(A) A variance based on the economic capability of the applicant under CWA Section 301 (c); or

(B) A variance based on water quality related effluent limitations under CWA Section 302 (b) (2).

(iii) EPA may approve or deny any variance request. If EPA approves the variance, the director may prepare a draft permit incorporating the variance.

(iv) The director may deny or forward to the Administrator of the EPA (or his delegate) with a written concurrence a completed request for:

(A) A variance based on the presence of “fundamentally different factors” from those on which an effluent limitation guideline was based and in accordance with Appendix M of these regulations;

(B) A variance based upon certain water quality factors under CWA Section 301 (g).

(v) The Administrator of the EPA (or his delegate) may grant or deny a request for a variance listed in Section 8 (e) (iv) of these regulations. If the Administrator of the EPA (or his delegate) approves the variance, the director may prepare a permit incorporating the variance.

(vi) Any public notice of a draft permit for which a variance has been approved or denied shall identify the applicable procedures for appealing that decision.

(e) When the director issues a permit on which EPA has made a variance decision, separate appeals of the permit and of the EPA variance decision are possible.

(i) Variance decisions made by EPA may be appealed under the provisions of 40 CFR 124.19.

(ii) Decisions by the director regarding the issuance or denial of a WYPDES permit may be appealed in accordance with the provisions of Section 17 of these regulations.

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 11. Continuation of Expiring Permits.

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

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

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

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

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

Section 12. Permit or Authorization Modifications.

(a) Deadlines for permit or authorization modification application. The owner or operator of any point source within the state who proposes a major modification to an existing permit or a modification to an authorization must file a complete application form with the administrator either 1) no less than 180 days in advance of the date on which it is desired to change or alter the discharge unless otherwise approved by the administrator; or 2) in sufficient time prior to the alteration of the discharge to insure compliance with the requirements of Section 306 of the CWA, or with any applicable zoning or siting requirements established pursuant to Section 208 (b) (2) (c) of the CWA, and any other applicable water quality standards and limitations. In any event, no person shall change or alter the conditions of a permitted discharge without having obtained a modification from the department and no modification shall be issued without full compliance by the permittee with all requirements of these regulations.

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

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

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

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

(ii) The administrator has received new information which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified different permit conditions at the time of issuance, including information derived from effluent testing required under Section 5 (c) (v). This provision allows

modification of a permit to include conditions that may be less stringent than the existing permit to the extent allowed under Section 12 (d) (iii).

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

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

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

(C) The permittee requests modification as required in this regulation, within 90 days after the notice of final action by which the EPA effluent limitation guideline, water quality standard, or effluent limitation is revised, withdrawn, or modified or upon the administrator's initiative; or

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

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

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

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

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

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

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

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

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

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

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

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

(xv) When a discharger is no longer eligible for net limitations, as provided in Section 5 (c) of these regulations.

(xvi) To modify a schedule of compliance to reflect the time lost during construction of an innovative or alternative facility, in the case of a POTW which has received a grant under Section 202 (a) (3) of the CWA for 100 percent of the costs to modify or replace facilities constructed with a grant for innovative and alternative wastewater technology under Section 202 (a) (2). In no case shall the compliance schedule be modified to extend beyond an applicable CWA statutory deadline for compliance.

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

(I) The permit does not include such measure(s) based upon the determination that another entity was responsible for implementation of the requirements(s); and

(II) The other entity fails to implement measure(s) that satisfy the requirement(s).

(xviii) Cause exists for termination under Section 13 of these regulations, and the administrator determines that modification or revocation and reissuance is appropriate.

- (xix) Other changes to information described in Section 5 (c) (i) (B).
- (xx) When a downstream state was not properly notified of a proposed permit.
- (e) Reasons for authorization modification. An authorization may be modified in whole or in part when:
- (i) There are material and substantial alterations or additions to the permitted facility or activity which occurred after issuance of an authorization.
- (ii) The administrator has received new information which was not available at the time of permit issuance.
- (iii) To correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining authorization conditions.
- (iv) Discharge volume will increase above what was described in the most current application or authorization.
- (v) Conditions described in Section 12 (d) (v) through (vii) and (xiii) exist.
- (vi) For a small MS4, to include an effluent limitation requiring implementation of a minimum control measure or measures specified in Section 6 of these regulations when:
- (A) The authorization does not include such measure(s) based upon the determination that another entity was responsible for implementation of the requirements(s); and
- (B) The other entity fails to implement measure(s) that satisfy the requirement(s).
- (f) Permit revocation and reissuance. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding, the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.
- (g) Processing procedures for major modifications. Major modifications for permits and authorizations will be subjected to the processing procedures described in Sections 4, 5 and 6 of these regulations.
- (h) Processing procedures for minor modifications. Minor modifications to permits and authorizations shall not be subject to the processing procedures of Sections 4, 5 and 6. Minor

modifications to permits and authorizations will be processed according to the following procedures:

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

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

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

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

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

(k) Antibacksliding. All effluent permit modifications and reissuances are subject to the antibacksliding provisions set forth in Section 5 (c) (iii) (M).

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

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

Section 13. Permit and Authorization Terminations.

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

- (i) Violation of any terms or conditions of the permit;
- (ii) Obtaining a permit by misrepresentation or failing to disclose any fact which is material to the granting or denial of a permit or to the establishment of terms or conditions of the permit;
- (iii) Materially false or inaccurate statements or information in the permit application or the permit; or
- (iv) A determination that the permitted activity endangers human health or the classified or existing uses of surface waters of the state and can only be regulated to acceptable levels by permit modifications or termination.

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

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

Section 14. Signatory Requirements.

(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:

(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;

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

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

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

(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:

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

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

(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:

"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."

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

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

Section 15. Public Participation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) For individual permits:

(I) Names and addresses of the applicants;

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

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

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

(C) For general permits:

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

(II) A description of the geographic area covered by the general permit.

(D) The end date of the 30 day comment period; and

(E) A statement that a copy of the draft permit, fact sheet (if prepared), and other information is available at the address specified in paragraph (A) above.

(xi) The contents of a public notice announcing a public meeting shall be in accordance with Section 16 (c) of these regulations.

(b) Minor facilities. For every minor facility, the administrator shall prepare a statement of basis to accompany the draft permit. The statement of basis, draft permit and permit application shall be available for public inspection during the public comment period.

(c) Major facilities. For every major facility, the administrator shall prepare and, following public notice, shall make available, to any person so requesting, a fact sheet with respect to the application described in the notice. The administrator shall also add the name of any person so requesting to a list of those parties or persons designated to be given notice of fact sheets published, and such fact sheet shall consist of, at a minimum, the statement of basis and application, including the following information when applicable:

(i) A sketch or description of the discharge described in the permit application;

(ii) A quantitative description of the discharge which shall include the rate or frequency of discharge, the average summer and winter temperatures, and the average daily discharge in pounds per day and/or kilograms per day of any types of waste in the discharge;

(iii) Any tentative determinations reached by the administrator concerning the application;

(iv) A brief citation of any water quality standards and effluent standards that apply to the proposed discharge;

(v) A comprehensive description of the procedures for formulating a final decision with respect to the application including;

(A) The beginning and ending dates of the public comment period and the address where comments will be received;

(B) Procedures for requesting a meeting and the nature of that meeting; and

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

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

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

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

- (A) Limitations to control toxic pollutants;
- (B) Limitations on internal waste streams;
- (C) Limitations on indicator pollutants;
- (D) Limitations set on a case-by-case basis;
- (E) Limitations to meet the criteria for permit issuance; or
- (F) Waivers from monitoring requirements.

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

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

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

- (i) United States Environmental Protection Agency.
- (ii) Second Coast Guard District.
- (iii) United States Bureau of Reclamation.
- (iv) Natural Resources Conservation Service.
- (v) United States Forest Service.
- (vi) United States Bureau of Land Management.

- 4094
4095 (vii) United States Fish and Wildlife Service.
4096
4097 (viii) United States Army Corps of Engineers.
4098
4099 (ix) Wyoming Game and Fish Department.
4100
4101 (x) Wyoming Oil and Gas Conservation Commission.
4102
4103 (xi) Wyoming State Historic Preservation Office.
4104
4105 (xii) Wyoming State Engineer.
4106
4107 (xiii) Any other state or federal agency requesting to be placed on the mailing
4108 list.

4109
4110 (e) Notification to affected states. Any state whose waters may be affected by the
4111 issuance of a permit shall be provided with a copy of the public notice and any other relevant
4112 documents that are requested. Each state whose waters may be affected shall be afforded an
4113 opportunity to comment on the draft permit, and the administrator shall take these comments into
4114 account in preparing the final permit, or the administrator shall provide the affected state, and the
4115 Regional Administrator of the EPA, a written explanation of his reasons for failing to accept any
4116 of the comments.

4117
4118 (f) Written comments request for public meeting. During the public comment period
4119 provided in paragraph (a) (v) of this section, any interested person may submit written comments
4120 on a draft permit and may request a public meeting. A request for public meeting shall be made
4121 in writing in accordance with Section 16.

4122
4123
4124 (g) Response to comments. Before a final permit decision is considered, the
4125 administrator shall prepare a response to comments which is subject to the following conditions:

4126
4127 (i) A response to all comments received within the time frame specified in
4128 paragraph (b) (v) of this Section shall be prepared and provided to the parties submitting
4129 comments;

4130
4131 (ii) The response shall specify which provisions, if any, of the draft permit
4132 have been changed in the final permit decision, and the reasons for the change; and

4133
4134 (iii) The response shall provide the reasons why any comments did not
4135 result in a change to the draft permit; and
4136

- 4137 (iv) The response to comments shall be made available to the public; and
4138
- 4139 (v) Responses to comments from other governmental agencies shall be
4140 addressed in accordance with 40 CFR 124.59.
4141
- 4142 (h) Alternative effluent limitations. Public notice for any request made under
4143 Appendix M of these regulations shall include the following:
4144
- 4145 (i) A statement that the thermal component of the discharge is subject to
4146 effluent limitations under Sections 301 or 306 of the CWA and a brief description, including a
4147 quantitative statement, or the thermal effluent limitations proposed under Sections 301 or 306;
4148
- 4149 (ii) A statement that an Appendix M request has been filed and that alternative
4150 less stringent effluent limitations may be imposed on the thermal component of the discharge
4151 under Appendix M and a brief description, including a quantitative statement, of the alternative
4152 effluent limitations, if any, included in the request; and
4153
- 4154 (iii) If the applicant has filed an early screening request under Appendix M of
4155 these regulations, a statement that the applicant has submitted such a plan.
4156
- 4157 Section 16. Public Meeting.
4158
- 4159 (a) Reason for public meeting.
4160
- 4161 (i) Request for public meeting. The administrator shall provide an
4162 opportunity for the applicant or any interested person or state to request a public meeting, with
4163 the administrator, with respect to any draft permit. Any such request shall be filed in writing
4164 during the comment period specified in Section 15 (a) (ix) above, and shall indicate the interest
4165 of the party and the reasons why a meeting is warranted. If the administrator finds that there is a
4166 significant degree of public interest in holding such a meeting, hold such a meeting in the
4167 geographic area where the proposed discharge is located, or other appropriate area. If the
4168 administrator determines that a public meeting is not warranted, he shall provide written
4169 notification of his decision to the party requesting the meeting.
- 4170 (ii) Public meetings to provide clarification. The administrator may also hold
4171 a public meeting at his discretion, whenever, for instance, such a meeting might clarify one or
4172 more issues involved in the permit decision.
- 4173 (b) Purpose. The purpose of holding public meetings is to seek information and
4174 facilitate clarification in order for the administrator to make a more informed decision.
4175
- 4176 (c) Public notice of a public meeting. Public notice of a public meeting held pursuant
4177 to paragraph (a) of this section, will be utilizing all of the methods available for notice of the
4178 permit application set out in paragraph b. given as described in Section 15 (a) (i) of these

regulations, and such notice will be provided no less than 30 days in advance of the meeting.
The contents of the public notice will consist of the following:

- (i) Name, address, and phone number of the Wyoming Water Quality Division;
 - (ii) Name, and address of each applicant whose draft permit will be considered at the meeting;
 - (iii) Name of waterway to which each discharge is made and a short description of the location of each discharge on the waterway associated with the draft permit(s);
 - (iv) Brief reference to the public notice issued for each draft permit, including identification number and date of issuance.
 - (v) Information regarding the date, time, and location of the meeting;
 - (vi) A brief description of the nature and purpose of the meeting, including the applicable rules and procedures to be followed;
 - (vii) A concise statement of the issues raised by the persons requesting the meeting;
 - (viii) A statement that a copy of the draft permit, statement of basis, and other information is available at the address specified in paragraph (a) of this section.
- (d) Submittal of statements and data. Any person may submit written or oral statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of written statements may be requested. The public comment period under Section 15 (a) shall be automatically extended to the close of any public meeting under this section.
- (e) Documentation of the public meeting. An audio or video tape recording or written transcript of the public meeting shall be made available to the public.

Section 17. Hearing.

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

4222 **Section 18. Public Information.**

4223
4224 (a) Availability of information. All information required on or attached to permit
4225 application forms, notices of intent, reporting forms, draft or issued permits, authorizations, or
4226 related correspondence shall be made available to the public for inspection and copying, subject
4227 to W.S. 35-11-1101 and all other applicable state laws. The administrator shall provide facilities
4228 for inspection of all non-confidential documents.

4229
4230 (b) Applicability of trade secrets. The following information may not be considered
4231 to constitute trade secrets and must be made available to the public:

4232
4233 (i) Name and address of any permit applicant or permittee;

4234
4235 (ii) Permit applications, permits and effluent data.

4236
4237 **Section 19. Transfer of Permits.**

4238
4239 (a) Permits may be transferred by a permittee to a new owner or operator if:

4240
4241 (i) Conditional transfers. The permit has been modified or revoked and
4242 reissued to identify the new permittee and to incorporate such other requirements as may be
4243 necessary under these regulations.

4244
4245 (ii) Automatic transfers. A permit may be automatically transferred to a new
4246 permittee if:

4247
4248 (A) The current permittee notifies the director in writing at least 30
4249 days in advance of the proposed transfer date in paragraph (b) (ii) of this Section;

4250
4251 (B) The notice includes a written agreement between the existing and
4252 new permittees on a form provided by the administrator. The form shall contain a specific date
4253 for transfer of permit responsibility, coverage and liability between the two parties; and

4254
4255 (C) The director does not notify the existing permittee and the
4256 proposed new permittee of its intent to modify or revoke and reissue the permit.

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4261 **APPENDIX A: Explanation of Standard Industrial Classification (SIC) Codes Regulated**
4262 **by the Industrial Storm Water Program**
4263

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 Refrigerated warehousing and storage General warehousing and storage	4221 4222 4225	
US Postal facilities	43	(b)
Water transportation	44	(b)
Transportation by air	45	(b)

Industry Type	SIC Code	Comments
Motor vehicle parts, used	5015	
Scrap and waste materials	5093	
Petroleum bulk stations and terminals	5171	(b)

4264 Comments:

4265 (a) For this SIC Code, a storm water permit is required only if runoff contacts
4266 overburden, raw material, intermediate products, finished products, byproducts or waste products
4267 located on the site of such operations.

4268
4269 (b) In this SIC Code, only facilities with vehicle maintenance (including vehicle
4270 rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning, or
4271 airport deicing need a storm water permit.

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

(a) Application requirements. Existing manufacturing, commercial, mining, and silviculture discharges applying for permits, except for those facilities which discharge only non-process wastewater, shall provide the following information, in addition to that described in Section 5 (a) (v), to the administrator, using the application forms provided by the administrator.

(i) A line drawing of the water flow through the facility with a water balance, showing operations contributing wastewater to the effluent and treatment units. Similar processes, operations, or production areas may be indicated as a single unit, labeled to correspond to the more detailed identification required in paragraph (a) (ii) of this appendix. The water balance must show approximate average flows at intake and discharge points and between units, including treatment units. If a water balance cannot be determined (for example, for certain mining activities), the applicant may provide instead a pictorial description of the nature and amount of any sources of water and any collection and treatment measures.

(ii) Average flows and treatment. A narrative identification of each type of process, operation, or production area which contributes wastewater to the effluent for each outfall, including process wastewater, cooling water, and storm water runoff; the average flow which each process contributes; and a description of the treatment the wastewater receives, including the ultimate disposal of any solid or fluid wastes other than by discharge. Processes, operations, or production areas may be described in general terms (for example, "dye-making reactor," "distillation tower") For a privately owned treatment works, this information shall include the identity of each user of the treatment works. The average flow of point sources composed of storm water may be estimated. The basis for the rainfall event and the method of estimation must be indicated.

(iii) Intermittent flows. If any of the discharges described in paragraph (a) (ii) of this appendix are intermittent or seasonal, a description of the frequency, duration and flow rate of each discharge occurrence (except for storm water runoff, spillage or leaks).

(iv) Maximum production. If an effluent guideline listed in Section 5 (c) of these regulations applies to the applicant and is expressed in terms of production (or other measure of operation), a reasonable measure of the applicant's actual production reported in the units used in the applicant effluent limitation. The reported measure must reflect the actual production of the facility.

(v) Improvements. If the applicant is subject to any present requirements or compliance schedules for construction, upgrading or operation of waste treatment equipment, an identification of the abatement requirement, a description of the abatement project and projected final compliance dates.

(vi) Quantitative data. At a minimum, the applicant shall submit quantitative data for pollutants in the discharge as provided in this paragraph and in paragraph (a) (vi) (G) of this appendix. For purposes of this paragraph, an applicant is expected to know or have reason to believe that a pollutant is present in an effluent based on an evaluation of the expected use, production, or storage of the pollutant, or on any previous analyses for the pollutant.

(A) Every applicant must report quantitative data for every outfall for the following pollutants:

(I) Biochemical Oxygen Demand (BOD5),

(II) Chemical Oxygen Demand,

(III) Total Organic Carbon,

(IV) Total Suspended Solids,

(V) Ammonia (as N),

(VI) Temperature (both winter and summer), and

(VII) pH.

(B) The administrator may waive the reporting requirements for individual point sources or for a particular industry category for one or more of the pollutants listed in paragraph (a) (vi) (A) of this appendix if the applicant has demonstrated that such a waiver is appropriate because information adequate to support issuance of a permit can be obtained with less stringent requirements.

(C) Each applicant with processes in one or more primary industry category (see Appendix A to 40 CFR Part 122) contributing to a discharge must report quantitative data for the following pollutants in each outfall containing process wastewater:

(I) The organic toxic pollutants in the fractions designated in 40 CFR Part 122, Table I of Appendix D for the applicant's industrial category or categories. Table II of Appendix D lists the organic toxic pollutants in each fraction. The fractions result from the sample preparation required by the analytical procedure which uses gas chromatography/mass spectrometry. A determination that an applicant falls within a particular industrial category for the purposes of selecting fractions for testing is not conclusive as to the applicant's inclusion in that category for any other purposes.

(II) The pollutants listed in 40 CFR Part 122, Table III of Appendix D (the toxic metals, cyanide, and total phenols).

(D) Each applicant must indicate whether they know or have reason to believe that any of the pollutants as described in (I) or (II) below is discharged from each outfall.

(I) Any of the pollutants in Table IV of Appendix D (certain conventional and non-conventional pollutants) of 40 CFR Part 122. If an applicable effluent limitations guideline either directly limits the pollutant or, by its express terms, indirectly limits the pollutant through limitations on an indicator, the applicant must report quantitative data. For every pollutant discharged which is not so limited in an effluent limitations guideline, the applicant must either report quantitative data or briefly describe the reasons the pollutant is expected to be discharged.

(II) Any of the pollutants listed in Table II or Table III of Appendix D (the toxic pollutants and total phenols) of 40 CFR Part 122 for which quantitative data are not otherwise required under paragraph (a) (vi) (C) of this appendix. For every pollutant expected to be discharged in concentrations of 10 ppb or greater the applicant must report quantitative data. For acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4,6 dinitrophenol, where any of these four pollutants are expected to be discharged in concentrations of 100 ppb or greater, the applicant must report qualitative data. For every pollutant expected to be discharged in concentrations less than 10 ppb, or in the case of acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4,6 dinitrophenol, in concentrations less than 100 ppb, the applicant must either submit quantitative data or briefly describe the reasons the pollutant is expected to be discharged.

(E) Each applicant must indicate whether they know or have reason to believe that any of the pollutants in Table V of Appendix D of 40 CFR Part 122 (certain hazardous substances and asbestos) are discharged from each outfall. For every pollutant expected to be discharged, the applicant must briefly describe the reasons the pollutant is expected to be discharged, and report any quantitative data it has for any pollutant.

(F) For purposes of paragraphs (C) and (D) above, the applicant need not provide quantitative data if the pollutant is present in the discharge solely as a result of the presence in intake water. However, the applicant must report such pollutant as present.

(G) Each applicant must report qualitative data, generated using a screening procedure not calibrated with analytical standards, for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) if they:

(I) Use or manufacture 2,4,5-trichlorophenoxy acetic acid (2,4,5,-T); 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,-TP); 2-(2,4,5-trichlorophenoxy) ethyl, 2,2-dichloropropionate (Erbon); O,O-dimethyl O-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel); 2,4,5-trichlorophenol (TCP); or hexachlorophene (HCP); or

(II) Know or have reason to believe that TCDD is or may be present in an effluent.

(vii) When quantitative data for a pollutant are required, the applicant must collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods approved under 40 CFR Part 136. When no analytical method is approved the applicant may use any suitable method but must provide a description of the method.

(A) When an applicant has two (2) or more outfalls with substantially identical effluents, the department may allow the applicant to test only one (1) outfall and report that the quantitative data also apply to the substantially identical outfalls.

(B) Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform and fecal streptococcus.

(C) For all other pollutants, 24-hour composite samples must be used. However, a minimum of one (1) grab sample may be taken for effluents from holding ponds or other impoundments with a retention period greater than 24-hours. In addition, for discharges other than storm water discharges, the administrator may waive composite sampling for any outfall for which the applicant demonstrates that the use of an automatic sampler is infeasible and that the minimum of four (4) grab samples will be a representative sample of the effluent being discharged.

(viii) Used or manufactured toxins. A listing of any toxic pollutant which the applicant currently uses or manufactures as an intermediate or final product or byproduct. The administrator may waive or modify this requirement for any applicant who demonstrates that it would be unduly burdensome to identify each toxic pollutant if the administrator has adequate information to issue the permit.

(ix) An identification of any whole effluent toxicity tests which the applicant knows or has reason to believe has been made within the last three (3) years on any of the applicant's discharges or on a receiving water in relation to a discharge.

(x) Contract analyses. If a contract laboratory or consulting firm performed any of the analyses required in paragraphs (a) (vi) or (a) (vii) of this appendix, the applicant shall identify each laboratory or firm and the analyses performed.

(xi) Small business exemption. An applicant which qualifies as a small business under one of the following criteria is exempt from the requirements in Appendix B (a) (vi) (C) (I) and the Table II quantitative requirement of Appendix B (a) (vi) (D) (II):

(A) For coal mines, the probable total annual production is less than 100,000 tons per year.

(B) For all other applicants, the gross total annual sales average less than \$100,000 per year (in second quarter 1980 dollars).

(b) Notification of routine toxic discharges not limited in the permit. Permits for existing manufacturing, commercial, mining and silvicultural discharges shall require that the permittee report to the administrator as soon as the permittee knows or has reason to believe that any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following notification levels:

(i) One hundred micrograms per liter (100 µg/l);

(ii) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

(iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application; or

(iv) The notification level established by the director in accordance with Section 5 (c) of these regulations.

(c) Notification of non-routine toxic discharges not limited in the permit Permits for existing manufacturing, commercial, mining and silvicultural discharges shall require that the permittee report to the director as soon as the permittee knows or has reason to believe that any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following notification levels:

(i) Five hundred micrograms per liter (500 µg/l);

(ii) One milligram per liter (1 mg/l) for antimony;

(iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or

(iv) The notification level established by the administrator in accordance with Section 5 (c) of these regulations.

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

(a) New manufacturing, commercial, mining and silvicultural dischargers applying for permits (except for new discharges of facilities subject to the requirements of Appendix D of these regulations), shall provide the following information, in addition to that described in Section 5 (a) (iv), to the administrator, using the application form provided by the administrator.

(i) Discharge dates. The expected date of commencement of discharge.

(ii) Flows, sources of pollution, and treatment technologies.

(A) Expected treatment of wastewater. Description of the treatment that the wastewater will receive, along with all operations contributing wastewater to the effluent, average flow contributed by each operation, and the ultimate disposal of any solid or liquid wastes not discharges.

(B) Line drawing. A line drawing of the water flow through the facility with a water balance as described in Appendix B (a) (i).

(C) Intermittent flows. If any of the expected discharges will be intermittent or seasonal, a description of the frequency, duration and maximum daily flow rate of each discharge occurrence (except for storm water runoff, spillage, or leaks).

(iii) Production. If a new source performance standard promulgated under Section 306 of the CWA or an effluent limitation guideline applies to the applicant and is expressed in terms of production (or other measure of operation), a reasonable measure of the applicant's expected actual production reported in the units used in the applicable effluent guideline or new source performance standard for each of the first three (3) years. Alternative estimates may also be submitted if production is likely to vary.

(iv) Effluent characteristics.

(A) Each applicant must report estimated daily maximum, daily average, and source of information for each outfall for the following pollutants or parameters.

(I) Biochemical Oxygen Demand (BOD5),

(II) Chemical Oxygen Demand (COD),

(III) Total Suspended Solids (TSS),

(IV) Flow,

- (V) Ammonia (as N),
- (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);
- (IV) 0,0-dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate
(Ronnell) (CAS #299-84-3);
- (V) 2,4,5-trichlorophenol (TCP) (CAS #95-95-4); or
- (VI) Hexachlorophene (HCP) (CAS #70-30-4).

(F) Each applicant must report any pollutants listed in Table V of Appendix D (certain hazardous substances) of 40 CFR Part 122 if they believe the pollutants will be present in any outfall (no quantitative estimates are required unless they are already available).

(G) No later than two (2) years after the commencement of the discharge from a proposed facility, the applicant must submit analytical results which characterize the actual effluent discharged. The applicant need not submit this information to the extent the analytical results are reported by the applicant under the discharge monitoring requirements of the applicant's permit.

(v) Engineering report. Each applicant must report the existence of any technical evaluation concerning the applicant's wastewater treatment, along with the name and location of similar plants of which the applicant has knowledge.

(vi) Other information. Any optional information the permittee wishes to 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,

4653 (IX) pH,

4654

4655 (X) Temperature (Winter and Summer), and

4656

4657 (XI) Total Organic Carbon (TOC).

4658

4659 (B) The quantitative data in Appendix D (a) (iii) (A) may be data
4660 collected over the past 365 days, if they remain representative of current operations, and must
4661 include daily maximum value, daily average value, and number of measurements taken. The
4662 applicant must collect and analyze samples in accordance with 40 CFR Part 136. Grab samples
4663 must be used for pH, temperature, oil and grease, total residual chlorine, and fecal coliform. For
4664 all other pollutants, 24-hour composite samples must be used. New dischargers must include
4665 estimates for the pollutants or parameters listed below instead of actual sampling data, along
4666 with the source of each estimate. All levels must be reported or estimated as concentration and
4667 as total mass, except for flow, pH, and temperature.

4668

4669 (C) The administrator may waive the testing and reporting
4670 requirements for any of the pollutants or flow listed in paragraph (a) (iii) of this appendix if the
4671 applicant submits a request for such a waiver before or with the permit application which
4672 demonstrates that information adequate to support issuance of a permit can be obtained through
4673 less stringent requirements.

4674

4675 (D) If the applicant is a new discharger, the applicant must provide
4676 quantitative data in accordance with paragraph (a) (iii) of this appendix no later than two (2)
4677 years after commencement of discharge. However, the applicant need not perform tests which
4678 they have already performed and reported under the discharge monitoring requirements of the
4679 applicant's permit.

4680

4681 (E) The requirements of paragraph (a) (iii) of this appendix do not
4682 apply for pollutants present in a discharge solely as a result of their presence in intake water.
4683 However, an applicant must report such pollutants as present. Net credit may be provided for the
4684 presence of pollutants in intake water if the requirements are met.

4685

4686 (iv) Flow. A description of the frequency of flow and duration of any seasonal
4687 or intermittent discharge (except for storm water runoff, leaks, or spills).

4688

4689 (v) Treatment system. A brief description of any system used or to be used.

4690

4691 (vi) Optional information. Any additional information the applicant wishes to
4692 be considered.

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

(a) Application requirements for new and existing POTWs. POTWs shall 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) Name of State Management/River Basin and 12 digit hydrologic cataloging unit code.

(ii) Critical flow of the receiving surface waters of the state and total hardness of the receiving surface waters of the state at critical low flow.

(iii) The following POTWs shall provide to the administrator the results of whole effluent toxicity testing conducted in accordance with EPA approved methods:

(A) All POTWs with design influent flows equal to or greater than one million gallons per day; and

(B) All POTWs with approved pretreatment programs or POTWs required to develop a pretreatment program.

(iv) Effluent monitoring for specific parameters.

(A) All applicants must submit to the administrator effluent monitoring information for samples taken from each outfall through which effluent is discharged to surface waters of the state, except for CSOs. The administrator may allow applicants to submit sampling data for only one (1) outfall on a case-by-case basis, where the applicant has two (2) or more outfalls with substantially identical effluent. The administrator may also allow applicants to composite samples from one or more outfalls that discharge into the same mixing zone.

(B) Unless otherwise indicated, all applicants must sample and analyze for the pollutants listed in Table E1 of this Appendix.

(C) Unless otherwise indicated, all applicants with a design flow greater than or equal to 0.1 mgd must sample and analyze for the pollutants listed in Table E2 of this Appendix. Facilities are not required to sample and analyze for chlorine if they do not use chlorine for disinfection, do not use chlorine elsewhere in the treatment process, and have no reasonable potential to discharge chlorine in their effluent.

(D) The following applicants must sample and analyze for the pollutants listed in 40 CFR 122 Appendix J Table 2 and for any other pollutants for which state surface water quality standards have been established for the receiving waters:

(I) All POTWs with a design flow rate equal to or greater than one million gallons per day.

(II) All POTWs with approved pretreatment programs or POTWs required to develop a pretreatment program.

(III) Any other POTW as required by the administrator.

(E) Unless otherwise indicated, all applicants must provide data from a minimum of three (3) samples taken within four and one-half (4.5) year prior to the date of the permit application. Samples must be representative of seasonal variation in the discharge from each outfall. Existing data may be used, if available, in lieu of sampling done solely for the purpose of this application.

(F) All existing data for pollutants specified in this Appendix that is collected within four and one-half (4.5) years of the application must be included in the pollutant data summary submitted by the applicant. If, however, the applicant samples for a specific pollutant on a monthly or more frequent basis, it is only necessary, for such pollutant, to summarize all data collected within one (1) year of the application.

(G) Unless otherwise indicated, all applicants must collect samples of effluent and analyze such samples for pollutants in accordance with analytical methods approved und 40 CFR Part 136 unless an alternative is specified in the existing WYPDES permit. Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, and fecal coliform. For all other pollutants, 24-hour composite samples must be used. For a composite sample, only one analysis of the composite of aliquots is required.

(H) The effluent monitoring data provided must include at least the following information for each parameter.

(I) daily maximum discharge, expressed as concentration or mass, based upon actual sample values;

(II) daily average discharge for all samples, expressed as concentration or mass, and the number of samples used to obtain this value;

(III) The analytical method used; and

(IV) The practical quantitation limit for the analytical method used.

(I) Unless otherwise required by the administrator, metals must be reported as dissolved or total recoverable as applicable in accordance with Wyoming Water Quality Rules and Regulations Chapter 1.

(v) In addition to the POTWs listed in paragraph (a) (i) of this appendix, the division may require other POTWs to submit the results of toxicity tests with their permit applications, based on consideration of the following factors:

(A) The variability of the pollutants or pollutant parameters in the POTW effluent (based on chemical-specific information, the type of treatment facility, and types of industrial contributors);

(B) The dilution of the effluent in the receiving water (ratio of effluent flow to receiving surface waters of the state flow);

(C) Existing controls on point or nonpoint sources, including TMDL calculations for the waterbody segment and the relative contribution of the POTW;

(D) Receiving water characteristics, including possible or known water quality impairment, and whether the POTW discharges to Outstanding Resource Waters in accordance with Wyoming Water Quality Rules and Regulations Chapter 1; or

(E) Other considerations (including but not limited to the history of toxic impact and compliance problems at the POTW), which the administrator determines could cause or contribute to adverse water quality impacts.

(vi) For POTWs required under paragraph (a) (i) or (a) (ii) of this appendix to conduct toxicity testing, POTWs shall use methods approved by the administrator.

(vii) Effluent monitoring for whole effluent toxicity.

(A) All applicants must provide an identification of any whole effluent toxicity tests conducted during the four and one half (4.5) years prior to the date of the application on any of the applicant's discharges or on any receiving water near the discharge.

(B) Where the POTW has two or more outfalls with substantially identical effluent discharging to the same receiving water segment, the administrator may allow applicants to submit whole effluent toxicity data for only one (1) outfall on a case-by-case basis. The administrator may also allow applicants to composite samples from one (1) or more outfalls that discharge into the same mixing zone.

(C) Each applicant required to perform whole effluent toxicity testing pursuant to paragraph (a) (iii) of this Appendix must provide:

(I) Results of a minimum of four (4) quarterly tests for a year, from the year preceding the permit application; or

(II) Results from four tests performed at least annually in the four and one half (4.5) year period prior to the application, provided the results show no appreciable toxicity using a safety factor determined by the permitting authority.

(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.

(A) If the POTW receives, or has been notified that it will receive, by truck, rail, or dedicated pipe any wastes that are regulated as RCRA hazardous wastes pursuant to 40 CFR Part 261, the applicant must report the following:

(I) The method by which the waste is received (i.e., whether by truck, rail, or dedicated pipe); and

(II) The hazardous waste number amount received annually of each hazardous waste.

(B) If the POTW receives, or has been notified that it will receive wastewaters that originate from remedial activities, including those undertaken pursuant to CERCLA and sections 3004(u) or 3008(h) of RCRA, the applicant must report the following:

(I) The identity and description of the site(s) or facility(ies) at which the wastewater originates.

(II) The identities of the wastewater=s hazardous constituents, as listed in Appendix VIII of 40 CFR Part 261, if known.

(III) The extent of treatment, if any, the wastewater receives or will receive before entering the POTW.

(C) Applicants are exempt from the requirements of paragraph (e)(ii) of this Appendix if they receive no more than fifteen kilograms per month of hazardous wastes as specified in 40 CFR 261.30 (d) and 261.33 (e).

(ix) Each applicant with combined sewer systems must provide the following information.

(A) Combined sewer system information:

(I) System map. A map indicating the location of the following:

4907 (1.) All combined sewer overflow (CSO) discharge
4908 points.
4909
4910 (2.) Sensitive use areas potentially affected by CSOs.
4911
4912 (3.) Waters supporting threatened or endangered species
4913 potentially affected by CSOs.
4914
4915
4916 (II) System diagram. A diagram of the combined sewer
4917 collection system that includes:
4918
4919 (1.) The location of major sewer trunk lines, both
4920 combined and separate sanitary.
4921
4922 (2.) The locations of points where separate sanitary
4923 sewers feed into the combined sewer system.
4924
4925 (3.) In-line and off-line storage structures.
4926
4927 (4.) The locations of flow regulating devices.
4928
4929 (5.) The location of pump stations.
4930
4931 (B) Information on combined sewer outfalls:
4932
4933 (I) Description of the outfall, including:
4934
4935 (1.) Outfall number.
4936
4937 (2.) State, county, and city or town in which outfall is
4938 located.
4939
4940 (3.) Latitude and longitude, to the nearest 15 seconds.
4941
4942 (4.) Distance from shore and depth below surface.
4943
4944 (5.) Whether the applicant monitored any of the
4945 following in the past year for the CSO:
4946
4947 a. Rainfall.
4948
4949 b. CSO flow volume.

4950
 4951 c. CSO pollutant concentrations.
 4952
 4953 d. Receiving water quality.
 4954
 4955 e. CSO frequency.
 4956
 4957 (6.) The number of storm events monitored in the last
 4958 year.
 4959
 4960 (II) CSO events. The following information about CSO
 4961 overflows from each outfall.
 4962
 4963 (1.) The number of events in the past year.
 4964
 4965 (2.) The average duration per event, if available.
 4966
 4967 (3.) The average volume per CSO event if available.
 4968
 4969 (4.) The minimum rainfall that caused a CSO event, if
 4970 available, in the last year.
 4971
 4972 (III) Description of receiving waters. The following information
 4973 about receiving water.
 4974
 4975 (1.) Name of the receiving water.
 4976
 4977 (2.) Name of watershed/stream system and the State
 4978 watershed (12-digit) code (if known).
 4979
 4980 (IV) CSO operations. A description of any known water quality
 4981 impacts on the receiving water caused by the CSO (e.g., permanent or intermittent beach
 4982 closings, permanent or intermittent fish kills, fish advisories, other recreational loss, or
 4983 exceedance of any applicable state water quality standard.
 4984
 4985 (x) Contractors. All applicants must provide the name, mailing address,
 4986 telephone number, and responsibilities of all contractors responsible for any operational or
 4987 maintenance aspects of the facility.
 4988
 4989 (b) A permit application shall not be considered complete if the administrator has
 4990 waived application requirements under this Appendix or Section 5 of these regulations and the
 4991 Regional Administrator of the EPA has disapproved the waiver. If a waiver request has been
 4992 submitted to the Regional Administrator of the EPA more than 210 days prior to permit

expiration and the Regional Administrator has not disapproved the waiver application 181 days prior to permit expiration, the permit application lacking the information subject to the waiver request shall be considered complete.

(c) Secondary treatment requirements. This part provides information on the level of effluent quality that shall be obtained through the application of secondary or equivalent treatment.

(i) Terms used in this appendix are defined as follows:

(A) 7-day average. The arithmetic mean of pollutant parameter values for samples collected in a period of seven (7) consecutive days.

(B) 30-day average. The arithmetic mean of pollutant parameter values of samples collected in a period of 30 consecutive days.

(C) BOD₅. The five day measure of the pollutant parameter biochemical oxygen demand (BOD₅).

(D) CBOD₅. The five day measure of the pollutant parameter carbonaceous biochemical oxygen demand (CBOD₅).

(E) Effluent concentrations consistently achievable through proper operation and maintenance.

(I) For a given pollutant parameter, the 95th percentile value for the 30-day average effluent quality achieved by a treatment works in a period of at least two years, excluding values attributable to upsets, bypasses, operational errors, or other unusual conditions; and,

(II) A 7-day average value equal to 1.5 times the value derived under paragraph (c) (i) (E) (I) of this appendix.

(F) Facilities eligible for treatment equivalent to secondary treatment. Treatment works shall be eligible for consideration for effluent limitations described for treatment equivalent to secondary treatment (133.105) if:

(I) The BOD₅ and TSS effluent concentrations consistently achievable through proper operation and maintenance of the treatment works exceed the minimum level of effluent quality set forth in 133.02(a) and (b).

(II) A trickling filter or waste stabilization pond is used as the principal process; and,

(III) The treatment works provide significant biological treatment of municipal wastewater.

(G) Percent removal. A percentage expression of the removal efficiency across a treatment plan for a given pollutant parameter, as determined from the 30-day average values of the raw wastewater influent pollutant concentrations to the facility and the 30-day average values of the raw wastewater influent pollutant concentrations to the facility and the 30-day average values of the effluent pollutant concentrations for a given time period.

(H) Significant biological treatment. The use of an aerobic or anaerobic biological treatment process in a treatment works to consistently achieve a 30-day average of at least 65 percent removal of BOD₅.

(I) TSS. The pollutant parameter total suspended solids.

(J) Significantly more stringent limitation means BOD₅ and TSS limitations necessary to meet the percent removal requirements of at least 5 mg/l more stringent than the otherwise applicable concentration-based limitations (e.g., less than 25 mg/l in the case of the secondary treatment limits for BOD₅ and TSS), or the percent removal limitations in paragraphs (c) (ii) and (c) (v) of this appendix, if such limits would, by themselves, force significant construction or other significant capital expenditure.

(ii) Secondary Treatment. The following paragraphs describe the minimum level of effluent quality attainable by secondary treatment in terms of the parameters BOD₅, TSS, and pH. All requirements for each parameter shall be achieved except as provided for in paragraphs (c) (iii) and (c) (v) of this appendix.

(A) BOD₅.

(I) The 30-day average shall not exceed 30 mg/l.

(II) The 7-day average shall not exceed 45 mg/l.

(III) The 30-day average percent removal shall not be less than 85 percent.

(IV) At the option of the administrator, in lieu of the parameter BOD₅, and the levels of the effluent quality specified in paragraphs (c) (ii) (A) (I) (II) and (III), the parameter C BOD₅ may be substituted with the following levels of the CBOD₅ effluent quality provided:

(1.) The 30-day average shall not exceed 25 mg/l.

(2.) The 7-day average shall not exceed 40 mg/l.

(3.) The 30-day average percent removal shall not be less than 85 percent.

(B) TSS.

(I) The 30-day average shall not exceed 30 mg/l.

(II) The 7-day average shall not exceed 45 mg/l

(III) The 30-day average percent removal shall not be less than 85 percent.

(C) pH. The effluent values for pH shall be maintained within the limits of 6.0 to 9.0 unless the publicly owned treatment works demonstrates that: (1) Inorganic chemicals are not added to the waste stream as part of the treatment process; and (2) contributions from industrial sources do not cause the pH of the effluent to be less than 6.0 or greater than 9.0.

(iii) Special considerations.

(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 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:

(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)

5165 and (IV) (iii), (c) (ii) (B) (III), (c) (v) (A) (III), (c) (v) (B) (III) and (c) (v) (E) (I) (iii) of this
5166 appendix provided that the permittee satisfactorily demonstrates that:

5167
5168 (I) The treatment works is consistently meeting, or will
5169 consistently meet, its permit effluent concentration limits, but the percent removal requirements
5170 cannot be met due to less concentrated influent wastewater;

5171
5172 (II) To meet the percent removal requirements, the treatment
5173 works would have to achieve significantly more stringent effluent concentrations than would
5174 otherwise be required by the concentration-based standards; and

5175
5176 (III) The less concentrated influent wastewater does not result
5177 from either excessive infiltrations or clear water industrial discharges during dry weather
5178 periods. The determination of whether the less concentrated wastewater results from excessive
5179 infiltration is discussed in 40 CFR 35 2005 (b) (28), plus the additional criterion that either 40
5180 gallons per capita per day or 1500 gallons per inch diameter per mile of sewer may be used as
5181 the threshold value for that portion of the dry weather base flow attributed to infiltration. If the
5182 less concentrated influent wastewater is the result of clear water industrial discharges, then the
5183 treatment works must control such discharges pursuant to 40 CFR Part 403.

5184
5185 (iv) Sampling and test procedures.

5186
5187 (A) Sampling and test procedures for pollutants listed in this part shall
5188 be in accordance with guidelines in 40 CFR Part 136.

5189
5190 (B) Chemical oxygen demand (COD) or total organic carbon (TOC)
5191 may be substituted for BOD₅ when a long-term BOD₅, COD or BOD₅ TOC correlation has been
5192 demonstrated.

5193
5194 (v) Treatment equivalent to secondary treatment. This section describes the
5195 minimum level of effluent quality attainable by facilities eligible for treatment equivalent to
5196 secondary treatment under paragraph (c) (i) (F) of this appendix in terms of the parameters
5197 BOD₅, TSS and pH. All requirements for the specified parameters in paragraphs (c) (v) (A), (B)
5198 and (C) of this appendix shall be achieved except as provided for in paragraph (c) (iii), or
5199 paragraphs (c) (v) (D), (E) or (F) of this appendix.

5200
5201 (A) BOD₅.

5202
5203 (I) The 30-day average shall not exceed 45 mg/l.

5204
5205 (II) The 7-day average shall not exceed 65 mg/l.
5206

(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-case basis provided that the levels of CBOD₅ effluent quality are not less stringent than the following:

(1.) The 30-day average shall not exceed 40 mg/l.

(2.) The 7-day average shall not exceed 60 mg/l.

(3.) The 30-day average percent removal shall not be less than 65 percent.

(II) Where data are available, the parameter CBOD₅ may be used for effluent quality limitations established under paragraph (c) (v) (D) of this appendix.

Where concurrent BOD₅ effluent data are available, they must be submitted with the CBOD₅ data as part of the approval process outlined in paragraph (c) (v) (D) of this appendix.

(F) Permit adjustments. Any permit adjustment made pursuant to this part may not be any less stringent than the limitations required pursuant to paragraph (c) (v) (A) through (E) of this appendix. Furthermore, more stringent limitations shall be required when adjusting permits if:

(I) For existing facilities, the administrator determines that the 30-day average and 7-day average BOD₅ and TSS effluent values that could be achievable through proper operation and maintenance of the treatment works, based on an analyses of the past performance of the treatment works to achieve more stringent limitations; or

(II) For new facilities, the administrator determines that the 30-day average and 7-day average BOD₅ and TSS effluent values that could be achievable through proper operation and maintenance of the treatment works, considering the design capability of the treatment process and geographical and climatic conditions, would enable the treatment works to achieve more stringent limitations.

(d) Permits for publicly owned treatment works will require that the permittee must provide adequate notification to the administrator of the following:

(i) Any new introduction of pollutants into the publicly owned treatment works from an indirect discharger which would be subject to Sections 301 or 306 of the CWA if it were directly discharging those pollutants, and

(ii) Any substantial change in the volume or character of pollutants being introduced into that publicly owned treatment works by a source introducing pollutants into the publicly owned treatment works at the time of issuance of the permit.

(iii) For the purposes of Appendix E (d) (i) and (ii), adequate notification shall include information on the quality and quantity of effluent introduced into the publicly owned treatment works; and any anticipated impact of the change on the quantity or quality of effluent to be discharged from the publicly owned treatment works.

Table E1
Effluent Parameters for All POTWs
Biological oxygen demand (BOD ₅ or CBOD ₅)
Fecal Coliform
pH
Temperature
Total Suspended Solids

5284

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

5285

5286

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

(a) Discharges into aquaculture projects, as defined in Section 3 (b) of these regulations, are subject to the WYPDES permit program in accordance with these regulations.

(b) A hatchery, fish farm, or other facility is a concentrated aquatic animal production facility for purposes of these regulations if it contains, grows, or holds aquatic animals in either of the following categories:

(i) Cold water fish species or other cold water aquatic animals in ponds, raceways, or other similar structures which discharge at least 30 days per year but does not include:

(A) Facilities which produce less than 9,090 harvest weight kilograms (approximately 20,000 pounds) of aquatic animals per year; and

(B) Facilities which produce less than 2,272 kilograms (approximately 5,000 pounds) of food during the calendar month of maximum feeding.

(ii) Warm water fish species, or other warm water aquatic animals in ponds, raceways, or other similar structures which discharge at least 30 days per year, but does not include:

(A) Closed ponds which discharge only during periods of excess runoff; or

(B) Facilities which produce less than 45,454 harvest weight kilograms (approximately 100,000 pounds) of aquatic animals per year.

(iii) “Cold water aquatic animals” include, but are not limited to the Salmonidae family of fish: e.g., trout and salmon.

(iv) “Warm water aquatic animals” include but are not limited to, the Ameiuridae, Centrarchidae and Cyprinidae families of fish; e.g. respectively, catfish, sunfish and minnows.

(c) Application requirements for new and existing aquatic animal production facilities. New and existing concentrated aquatic animal production facilities shall 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.

(d) The maximum daily and average monthly flow from each outfall.

5330
5331 (e) The number of ponds, raceways, and similar structures.
5332
5333 (f) The name of the receiving water and the source of intake water.
5334
5335 (g) For each species of aquatic animals, the total yearly and maximum harvestable
5336 weight.
5337
5338 (h) The calendar month of maximum feeding and the total mass of food fed during
5339 that month.
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APPENDIX G: Criteria for Determining a Concentrated Animal Feeding Operation and Additional Requirements Applicable to New and Existing Concentrated Animal Feeding Operations

(a) Applicability and permit requirement for concentrated animal feeding operations (CAFOs). In accordance with W.S. 35-11-103 (a) (xi) and 35-11-302 (a) (v), CAFOs, as defined in Appendix G (b) of these regulations, are point sources that require WYPDES permits for discharges or potential discharges. Once an operation is defined as a CAFO, the WYPDES requirements for CAFOs apply with respect to all animals in confinement at the operation and all manure, litter and process wastewater generated by those animals or the production of those animals, regardless of the type of animal. All CAFOs have a duty to apply to seek coverage under a WYPDES permit as described in these regulations.

(b) Definitions applicable to this appendix:

(i) Analytical methods. The parameters that are regulated or referenced in this appendix and listed with approved methods of analysis in Table 1B at 40 CFR 136.3 are defined as follows:

(A) “Ammonia (as N)” means ammonia reported as nitrogen.

(B) “BOD₅” means 5-day biochemical oxygen demand.

(C) “Nitrate (as N)” means nitrate reported as nitrogen.

(D) “Total dissolved solids” means nonfilterable residue.

(ii) Analytical methods. The parameters that are regulated or referenced in this part and listed with approved methods of analysis in Table 1A at 40 CFR 136.3 are defined as follows:

(A) “Fecal coliform” means fecal coliform bacteria.

(B) “Total coliform” means all coliform bacteria.

(iii) “Animal feeding operation” (AFO) means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

(A) Animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and

(B) Crops, vegetation forage growth or post harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

Two (2) or more animal feeding operations under common ownership are considered, for purposes of these regulations, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.

(iv) “Land application area” means land under the control of an AFO owner or operator, whether it is owned, rented, or leased, to which manure, litter or process wastewater from the production area is or may be applied.

(v) “Large concentrated animal feeding operation” (large CAFO). An AFO is defined as a large CAFO if it stables or confines as many as or more than the numbers of animals specified in any of the following categories.

- (A) 700 mature dairy cows, whether milked or dry;
- (B) 1,000 veal calves;
- (C) 1,500 buffalo (Bison bison);
- (D) 1,000 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs;
- (E) 2,500 swine each weighing 55 pounds or more;
- (F) 10,000 swine each weighing less than 55 pounds;
- (G) 500 horses;
- (H) 10,000 sheep or lambs;
- (I) 55,000 turkeys;
- (J) 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system;
- (K) 125,000 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;
- (L) 82,000 laying hens, (if the AFO uses other than a liquid manure handling system);
- (M) 30,000 ducks (if the AFO uses other than a liquid manure handling system); or

(N) 5,000 ducks (if the AFO uses a liquid manure handling system).

(vi) “Manure” is defined to include animal excreta or other commonly associated wastes of animal husbandry including but not limited to bedding, compost and raw materials or other materials commingled with manure or set aside for disposal.

(vii) “Medium concentrated animal feeding operation” (medium CAFO) means any AFO with the type and number of animals that fall within any of the ranges listed in Appendix G (b) (vii) (A) and which has been defined or designated as a CAFO. An AFO is defined as a medium CAFO if:

(A) The type and number of animals that it stables or confines falls within any of the following ranges:

(I) 200 to 699 mature dairy cattle, whether milked or dry;

(II) 300 to 999 veal calves;

(III) 450 to 1499 buffalo (Bison bison);

(IV) 300 to 999 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs;

(V) 750 to 2,499 swine each weighing 55 pounds or more;

(VI) 3,000 to 9,999 swine each weighing less than 55 pounds;

(VII) 150 to 499 horses;

(VIII) 3,000 to 9,999 sheep or lambs;

(IX) 16,500 to 54,999 turkeys;

(X) 9,000 to 29,999 laying hens or broilers, (if the AFO uses a liquid manure handling system);

(XI) 37,500 to 124, 999 chickens (other than laying hens), (if the AFO uses other than a liquid manure handling system);

(XII) 25,000 to 81,999 laying hens, (if the AFO uses other than a liquid manure handling system);

(XIII) 10,000 to 29,999 ducks (if the AFO uses other than a liquid manure handling system); or

(XIV) 1,500 to 4,999 ducks (if the AFO uses a liquid manure handling system); and

(B) Either one of the following conditions are met:

(I) Pollutants are discharged into surface waters of the state through a man-made ditch, flushing system, or other similar man-made device; or

(II) Pollutants are discharged directly into surface waters of the state which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

(viii) “New source” means any building, structure, facility or installation from which there is or may be the discharge of pollutants, the construction of which is commenced after the effective date of these regulations.

(ix) “Overflow” means the discharge of manure or process wastewater resulting from the filling of wastewater or manure storage structures beyond the point at which no more manure, process wastewater, or storm water can be contained by the structure.

(x) “Process wastewater” means water directly or indirectly used in the operation of the AFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs or bedding.

(xi) “Production area” means that part of an AFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milk rooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stock piles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment area includes but is not limited to settling basins, and areas within berms and diversions which separate uncontaminated storm water. Also included in the definition of production area is any egg washing or egg processing facility, and any area used in the storage, handling, treatment, or disposal of mortalities.

(xii) “Twenty-five-year, 24-hour rainfall event” and 100-year, 24-hour rainfall event mean precipitation events with a probable recurrence interval of once in 25 years, or 100 years, respectively, as defined by the National Weather Service in Technical Paper No. 40, “Rainfall Frequency Atlas of the United States,” May, 1961, or equivalent regional or state rainfall probability information developed from this source.

(c) CAFO designation. The director may designate any AFO as a CAFO upon determining that it is a significant contributor of pollutants to surface waters of the state. The director may also designate an AFO as a CAFO at the request of the Regional Administrator, but only where the Regional Administrator has determined that one or more pollutants in the AFOs discharge contributes to an impairment in a downstream or adjacent state water that is impaired for that pollutant.

(i) In making this designation, the director shall consider the following factors:

(A) The size of the AFO and the amount of wastes reaching surface waters of the state;

(B) The location of the AFO relative to surface waters of the state;

(C) The means of conveyance of animal wastes and process waste waters into surface waters of the state;

(D) The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes manure and process waste waters into surface waters of the state; and

(E) Other relevant factors.

(ii) No AFO shall be designated under these regulations unless the director or the Regional Administrator has conducted an on-site inspection of the operation and determined that the operation should and could be regulated under the WYPDES permit program. In addition, no AFO with numbers of animals below the minimum numbers established in Appendix G (b) (vii) (A) may be designated as a CAFO unless:

(A) Pollutants are discharged into surface waters of the state through a manmade ditch, flushing system, or other similar manmade device; or

(B) Pollutants are discharged directly into surface waters of the state which originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

(d) Application for permit and exceptions.

(i) All CAFO owners and operators must seek coverage under a WYPDES permit, except as provided in Appendix G (d) (ii) of these regulations. If the director has not made a general permit available, the CAFO owner or operator must submit an application for an individual permit to the director.

(ii) Exception. An owner or operator of a large CAFO does not need to seek coverage under a WYPDES permit otherwise required by this section once the owner or operator has received from the director notification of a determination under Appendix G (f) of these regulations that the CAFO has “no potential to discharge” manure, litter or process wastewater.

(iii) New and existing concentrated animal feeding operations shall provide the following information, in addition to that described in Section 5 (a) (v) for individual permits, to the administrator, using an application form provided by the administrator.

(A) The type and number of animals in open confinement and housed under roof;

(B) The type of containment and storage (anaerobic lagoon, roofed storage shed, storage ponds, underfloor pits, above ground storage tanks, below ground storage tanks, concrete pad, impervious soil pad, other) and total capacity for manure, litter, and process wastewater storage (tons/gallons);

(C) The total number of acres under control of the applicant available for land application of manure, litter, or process wastewater;

(D) The number of acres used for confinement feeding;

(E) Estimated amounts of manure, litter and process wastewater generated per year (tons/gallons);

(F) Estimated amounts of manure, litter and process wastewater transferred to other persons per year (tons/gallons);

(G) The design basis for the runoff diversion and controls system, if one exists, including the number of acres of contributing drainage, the storage capacity, and the design safety factor to ensure no discharge except under conditions of a 25-year 24-hour, or greater, storm event; and

(H) A nutrient management plan, in accordance with Appendix G (i) developed and implemented upon the date of coverage.

(e) Land application discharges from a CAFO are subject to WYPDES requirements. The discharge of manure, litter or process wastewater to surface waters of the state from a CAFO as a result of the application of that manure, litter or process wastewater by the CAFO to land areas under its control is a discharge from that CAFO subject to WYPDES permit requirements, except where it is an agricultural storm water discharge as provided in 33 U.S.C. 1362(14). For purposes of Appendix G (e), where the manure, litter or process wastewater has been applied in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater, as specified in Appendix G (i) (ii) (F) - (H) a precipitation related discharge of manure, litter or process wastewater from land areas under the control of a CAFO is an agricultural storm water discharge.

(f) “No potential to discharge” determination for large CAFOs.

(i) Determination by the director. The director, upon request, may make a case-specific determination that a large CAFO has “no potential to discharge” pollutants to surface waters of the state. In making this determination, the director must consider the potential for discharges from both the production area and any land application areas. The director must also consider any record of prior discharges by the CAFO. In no case may the CAFO be determined to have “no potential to discharge” if it has had a discharge within the five (5) years prior to the date of the request submitted under Appendix G (f) (ii). For purposes of this section, the term “no potential to discharge” means that there is no potential for any CAFO manure, litter or process wastewater to be added to surface waters of the state under any circumstances or climatic condition. A determination that there is “no potential to discharge” for purposes of this section only relates to discharges of manure, litter and process wastewater covered by this appendix.

(ii) Information to support a “no potential to discharge request”. In requesting a determination of “no potential to discharge,” the CAFO owner or operator must submit any information that would support such a determination, within the time frame provided by the director and in accordance with Appendix G (g) and (h) of these regulations. Such information must include all of the information specified in Appendix G (f) and (i) (i) and Section 5 (a) of these regulations. The director has discretion to require additional information to supplement the request, and may also gather additional information through on-site inspection of the CAFO.

(iii) Process for making a “no potential to discharge” determination. Before making a final decision to grant a “no potential to discharge” determination, the director must issue a notice to the public stating that a “no potential to discharge” request has been received. This notice must be accompanied by a fact sheet which includes, when applicable:

(A) A brief description of the type of facility or activity which is the subject of the “no potential to discharge” determination;

5657 (B) A brief summary of the factual basis, upon which the request is
5658 based, for granting the “no potential to discharge” determination; and
5659

5660 (C) A description of the procedures for reaching a final decision on the
5661 “no potential to discharge” determination.
5662

5663 (iv) The director must base the decision to grant a “no potential to discharge”
5664 determination on the administrative record, which includes all information submitted in support
5665 of a “no potential to discharge” determination and any other supporting data gathered by the
5666 administrator. The director must notify any CAFO seeking a “no potential to discharge”
5667 determination of its final determination within 90 days of receiving the request.
5668

5669 (v) Deadline for requesting a “no potential to discharge” determination. The
5670 owner or operator must request a “no potential to discharge” determination by the applicable
5671 permit application date specified in Appendix G (g) of these regulations. If the director=s final
5672 decision is to deny the “no potential to discharge” determination, the owner or operator must
5673 seek coverage under a permit within 30 days after the denial.
5674

5675 (vi) The “no potential to discharge” determination does not relieve the CAFO
5676 from the consequences of an actual discharge. Any unpermitted CAFO that discharges
5677 pollutants into surface waters of the state is in violation of the CWA, the Environmental Quality
5678 Act and these regulations even if it has received a “no potential to discharge” determination from
5679 the director. Any CAFO that has received a determination of “no potential to discharge,” but
5680 who anticipates changes in circumstances that could create the potential for a discharge, should
5681 contact the director, and apply for and obtain permit authorization prior to the change of
5682 circumstances.
5683

5684 (vii) The director retains authority to require a permit. Where the director has
5685 issued a determination of “no potential to discharge,” the director retains the authority to
5686 subsequently require WYPDES permit coverage if circumstances at the facility change, if new
5687 information becomes available, or if there is other reason for the director to determine that the
5688 CAFO has a potential to discharge.
5689

5690 (g) Deadlines to apply.
5691

5692 (i) For operations that are defined as CAFOs under regulations that were in
5693 operation prior to April 14, 2003, the owner or operator must have or sought to obtain coverage
5694 under a WYPDES permit as of April 14, 2003, and comply with all applicable WYPDES
5695 requirements, including the duty to maintain permit coverage in accordance with Appendix G (h)
5696 of these regulations.
5697

(ii) Owners or operators of operations defined as CAFOs as of April 14, 2003, who were not defined as CAFOs prior to that date must seek to obtain coverage under a WYPDES permit by a date specified by the director, but no later than February 13, 2006.

(iii) Operations that become defined as CAFOs after April 14, 2003, but which are not new sources. For AFOs that make changes to their operations that result in becoming defined as CAFOs for the first time, after April 14, 2003, but are not new sources, the owner or operator must seek to obtain coverage under a WYPDES permit, as follows:

(A) Facilities defined as CAFOs resulting from operational changes (e.g. resulting from an increase in the number of animals), as soon as possible but no later than 90 days after becoming defined as a CAFO; except that

(B) If an operational change that makes the operation a CAFO would not have made it a CAFO prior to April 14, 2003, the operation has at least until April 13, 2006, or 90 days after becoming defined as a CAFO, whichever is later.

(iv) New sources. New sources must seek to obtain coverage under a permit at least 180 days prior to the time that the CAFO commences operation, unless otherwise approved by the administrator.

(v) Operations that are designated as a CAFO in accordance with Appendix G (c) of these regulations, the owner or operator must seek to obtain coverage under a permit no later than 90 days after receiving notice of the designation.

(vi) "No potential to discharge." Notwithstanding any other provision of this section, a CAFO that has received a "no potential to discharge" determination in accordance with Appendix G (f) of these regulations is not required to seek coverage under a WYPDES permit that would otherwise be required by this section. If circumstances materially change at a CAFO that has received a "no potential to discharge" determination, such that the CAFO has a potential for a discharge, the CAFO shall immediately notify the director, and seek coverage under a WYPDES permit within 30 days after the change in circumstances.

(h) Duty to maintain permit coverage. Not later than 180 days before the expiration of the permit, the permittee must submit an application to renew its permit, in accordance with Section 9 of these regulations. However, the permittee need not continue to seek continued permit coverage or reapply for a permit if:

(i) The facility has ceased operation or is no longer a CAFO; and

(ii) The permittee has demonstrated to the satisfaction of the director that there is no remaining potential for a discharge of manure, litter or associated process wastewater

that was generated while the operation was a CAFO, other than agricultural stormwater from land application areas; or

(i) Permit conditions applicable to all CAFOs. Any permit issued to a CAFO shall include:

(i) Nutrient management plan development and implementation requirements. At a minimum, a nutrient management plan must include best management practices and procedures necessary to implement applicable effluent limitations and standards.

(A) Permitted CAFOs must have their nutrient management plans developed (or updated if a nutrient management plan was required in the existing permit) and implemented by December 31, 2006.

(B) CAFOs that seek to obtain coverage under a permit after December 31, 2006 must have a nutrient management plan developed and implemented upon the date of permit coverage.

(ii) The nutrient management plan must, to the extent applicable:

(A) Ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities;

(B) Ensure proper management of mortalities (i.e., dead animals) so they are not disposed of in a liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities;

(C) Ensure that stormwater runoff is diverted, as appropriate, from the production area;

(D) Prevent direct contact of confined animals with surface waters of the state;

(E) Ensure that chemicals and other contaminants handled on-site, are not disposed of in any manure, litter, process wastewater, or storm water storage or treatment system unless specifically designed to treat such chemicals and other contaminants;

(F) Identify appropriate site specific conservation practices to be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants to surface waters of the state;

(G) Identify protocols for appropriate testing of manure, litter, process wastewater and soil;

(H) Establish protocols to land apply manure, litter or process wastewater in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater; and

(I) Identify specific records that will be maintained to document the implementation and management of the minimum elements described in Appendix G (i) (ii) (A through H).

(iii) Record keeping requirements.

(A) The permittee must create, maintain for five (5) years, and make available to the director, upon request, the following records:

(I) All applicable records identified pursuant to Appendix G (i) (i) of these regulations.

(II) All CAFOs subject to these regulations must comply with the record keeping requirements of Appendix G (i) (iii) (B) and (C).

(B) Record keeping requirements for the production area. Each CAFO must maintain on-site for a period of five (5) years from the date they are created a complete copy of the information required by Appendix G (d) (iii) and Appendix G (i) (ii) (I) and the records specified in Appendix G (i) (iii) (I) through (VI) of these regulations. The CAFO must make these records available to the director and or his designee upon request.

(I) Records documenting the inspections required under Appendix G (m) (ii) (C) (I) of these regulations.

(II) Weekly records of the depth of the manure and process wastewater in the liquid impoundment as indicated by the depth marker under Appendix G (m) (ii) (C) (II) of these regulations.

(III) Records documenting any actions taken to correct deficiencies required under Appendix G (m) (ii) (C) (III) of these regulations. Deficiencies not corrected within 30 days must be accompanied by an explanation of the factors preventing immediate correction.

(IV) Records of mortalities management and practices used by the CAFO to meet the requirements of Appendix G (m) (ii) (C) (IV) of these regulations.

(V) Records documenting the current design of any manure or litter storage structures, including volume for solids accumulation design treatment volume, total design volume, and approximate number of days of storage capacity.

(VI) Records of the date, time, and estimated volume of any overflow.

(C) Record keeping requirements of the land application area. Each CAFO must maintain on-site a copy of its site-specific nutrient management plan. Each CAFO must maintain on-site for a period of five (5) years from the date they created a complete copy of the information required by Appendix G (j) (ii), Appendix G (i) (i) and (ii), and the records specified in Appendix G (i) (iii) (C) (I through IX) of these regulations. The CAFO must make these records available to the director or his designee, for review upon request.

(I) The date(s) manure, litter, or process waste water is applied to each field;

(II) Weather conditions at time of application and for 24-hours prior to and following application;

(III) Test methods used to sample and analyze manure, litter, process waste water, and soil;

(IV) Results from manure, litter, process waste water, and soil sampling;

(V) Explanation of the basis for determining manure application rates;

(VI) Calculations showing the total nitrogen and phosphorus to be applied to each field, including sources other than manure, litter, or process wastewater;

(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

(G) A statement indicating whether the current version of the CAFO=s nutrient management plan was developed or approved by a certified nutrient management planner.

(j) This paragraph applies to manure, litter, and/or process wastewater discharges resulting from CAFOs.

(i) General pretreatment standards. Any source subject to Appendix G (j) that introduces process wastewater pollutants into a publicly owned treatment works (POTW) must comply with the general pretreatment regulations of 40 CFR 403.

(ii) Best Management Practices (BMPs) for land application of manure, litter, and process wastewater.

(A) Appendix G (j) (ii) applies to any CAFO subject to Appendix G (m) of these regulations (buffalo, dairy and beef cattle other than veal calves) Appendix G (n) of these regulations (swine, poultry, and veal calves).

(B) Specialized definitions.

(I) “Setback” means a specified distance from surface waters of the state or potential conduits to surface water where manure, litter, and process wastewater may not be land applied. Examples of conduits to surface waters of the state include but are not limited to: open tile line intake structures, sinkholes, and agricultural well heads.

(II) “Vegetated buffer” means a narrow, permanent strip of dense perennial vegetation established parallel to the contours of and perpendicular to the dominant slope of the field for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the field and reaching surface waters of the state.

(III) “Multi-year phosphorus application” means phosphorus applied to a field in excess of the crop needs for that year. In multi-year phosphorus applications, no additional manure, litter, or process wastewater is applied to the same land in subsequent years until the applied phosphorus has been removed from the field via harvest and crop removal.

(C) Requirement to develop and implement best management practices. Each CAFO subject to Appendix G (j) (ii) that land applies manure, litter, or process wastewater, must do so in accordance with the following practices:

(I) Nutrient management plan. The CAFO must develop and implement a nutrient management plan that incorporates the requirements of Appendix G (j) (ii) (C) (II) through (VI) of these regulations based on field-specific assessment of the potential for nitrogen and phosphorus transport from the field and that addresses the form, source, amount, timing, and method of application of nutrients on each field to achieve realistic production goals, while minimizing nitrogen and phosphorus movement to surface waters of the state.

(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.

(2.) As a compliance alternative, the CAFO may demonstrate that a setback or buffer is not necessary because implementation of alternative conservation practices or field-specific conditions will provide pollutant reductions equivalent or better than the reductions that would be achieved by the 100 foot setback.

(k) Effluent Limitations Applicable to Horses and Sheep.

(i) This paragraph applies to discharges resulting from the production areas at horse and sheep CAFOs.

(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 have no discharge of process waste water pollutants to surface waters of the state.

(iii) Process waste pollutants in the overflow may be discharged to surface waters of the state whenever rainfall events, either chronic or catastrophic, cause an overflow of process waste water from a facility designed, constructed and operated to contain all process generated waste waters plus the runoff from a 25-year, 24-hour rainfall event for the location of the point source.

(l) Effluent limitations applicable to ducks.

(i) This paragraph applies to discharges resulting from the production areas at dry lot and wet lot duck CAFOs.

(ii) Special definitions.

(A) "Dry lot" means a facility for growing ducks in confinement with a dry litter floor cover and no access to swimming areas.

(B) "Wet lot" means a confinement facility for raising ducks which is open to the environment, has a small number of sheltered areas, and with open water runs and swimming areas to which ducks have free access.

(iii) 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 have no discharge of process waste water pollutants to surface waters of the state.

(iv) Process waste pollutants in the overflow may be discharged to surface waters of the state whenever rainfall events, either chronic or catastrophic, cause an overflow of process waste water from a facility designed, constructed and operated to contain all process generated waste waters plus the runoff from a 25-year, 24-hour rainfall event for the location of the point source.

(m) Effluent limitations applicable to buffalo, dairy cows and cattle other than veal calves.

(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 wastewater, including the runoff from a 25-year, 24-hour rainfall event. The technical analysis of the discharge of pollutants must include:

(a.) All daily inputs to the storage system, including manure, litter, all process waste waters, direct precipitation, and runoff.

(b.) All daily outputs from the storage system, including losses due to evaporation, sludge removal, and the removal of waste water for use on cropland at the CAFO or transport off site.

(c.) A calculation determining the predicted median annual overflow volume based on a 25-year period of actual rainfall data applicable to the site.

(d.) Site-specific pollutant data, including N, P, BOD5, TSS, for the CAFO from representative sampling and analysis of all sources of input to the storage system, or other appropriate pollutant data.

(e.) Predicted annual average discharge of pollutants, expressed where appropriate as a mass discharge on a daily basis (lbs/day), and calculated considering (A through D above).

(2.) The administrator has the discretion to request additional information to supplement the supporting technical analysis, including inspection of the CAFO.

(III) The CAFO shall attain the limitations and requirements of this paragraph as of the date of permit coverage.

(B) Discharges from land application areas are subject to the following requirements:

(I) Develop and implement the best management practices specified in Appendix G (j) (ii) of these regulations.

(II) Maintain the records specified in Appendix G (i) (iii) (C) of these regulations.

(III) Attain the limitations and requirements for discharges from land application areas as of the date of permit coverage.

(C) Additional measures. Each CAFO subject Appendix G (m) of these regulations must implement the following requirements:

(I) Visual Inspections. There must be routine visual inspections of the CAFO production area. At a minimum, the following must be visually inspected:

(1.) 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;

(2.) Daily inspection of water lines, including drinking water or cooling water lines and documented weekly at a minimum, for the purpose of identifying leaks, corrosion, mechanical defects or other conditions that may result in an inadvertent discharge from the facility;

(3.) 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; and

(4.) The visual inspection requirements may be waived if insurmountable or dangerous weather conditions exist and the weather conditions justifying the waiver are documented.

(II) 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 25-year, 24-hour rainfall event.

(III) Corrective actions. Any deficiencies found as a result of these inspections must be corrected as soon as possible.

(IV) 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 (m) (ii) (II) and approved by the director are designed to handle mortalities.

(n) Effluent limitations applicable to swine, poultry, and veal calves.

(i) This paragraph applies to discharges resulting from the production areas at the following types of CAFOs:

- 6166
6167 (A) Swine,
6168
6169 (B) Chickens,
6170
6171 (C) Turkeys, and
6172
6173 (D) Veal calves.
6174
6175 (ii) Except as provided in Section 8 of these regulations, any point source
6176 subject to this source must meet the following limitations.
6177
6178 (iii) There shall be no discharge of manure, litter, or process wastewater
6179 pollutants into surface waters of the state from the CAFO production area, except under the
6180 following conditions.
6181
6182 (A) Waste management and storage facilities are designed,
6183 constructed, operated, and maintained to contain all manure, litter, and process wastewater
6184 including the runoff and the direct precipitation from a 100-year, 24-hour rainfall event and
6185 operated in accordance with the additional measures and records required by Appendix G (i) (iii)
6186 (B) and Appendix G (n) (vi) (A) of these regulations.
6187
6188 (B) The production area is operated in accordance with additional
6189 measures required by Appendix G (i) (iii) (B) and Appendix G (n) (vi) of these regulations.
6190
6191 (C) The discharge is an upset/bypass consistent with the provisions for
6192 upset/bypass, as provided in Section 5 (c) (i) (Z) and (AA) of these regulations.
6193
6194 (iv) Discharges from land application areas are subject to the following
6195 requirements.
6196
6197 (A) Develop and implement the best management practices specified in
6198 Appendix G (j) (ii) of these regulations.
6199
6200 (B) Maintain the records specified in Appendix G (i) (iii) (C) of these
6201 regulations.
6202
6203 (C) Attain the limitations and requirements for discharges from land
6204 application areas as of the date of permit coverage.
6205
6206 (v) Voluntary superior environmental performance standards. Any new
6207 source CAFO subject to Appendix (G) (n) may request the director to establish alternative
6208 WYPDES permit limitations based upon a demonstration that site-specific innovative

technologies will achieve overall environmental performance across all media which is equal to or superior to the reductions achieved by baseline standards as provided by Appendix G (n) (iii). The quantity of pollutants discharged from the production area must be accompanied by an equivalent or greater reduction in the quantity of pollutants released to other media from the production area (e.g., air emissions from housing and storage) and/or land application areas for all manure, litter, and process wastewater at on-site and off-site locations. The comparison of quantity of pollutants must be made on a mass basis where appropriate. The director has the discretion to request supporting information to supplement such a request.

(vi) Additional measures. Each CAFO subject to Appendix G (n) of these regulations must implement the following requirements:

(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.

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.

(vi) Discharges of produced water may not result in the formation of a visible hydrocarbon sheen on the receiving water.

(vii) The following effluent limitations are protective for stock and wildlife consumption. Limitations on additional parameters or limitations more stringent will be imposed when such limitations are necessary to assure compliance with Wyoming Water Quality Rules and Regulations, Chapter 1.

(A) Chlorides. The chloride content of any produced water discharge shall not exceed 2,000 mg/l in any single properly preserved grab sample except in those cases where a modification is granted in accordance with paragraph (c) of this appendix.

(B) Sulfates. The sulfate content of any produced water discharge shall not exceed 3,000 mg/l in any single properly preserved grab sample except in those cases where a modification is granted in accordance with paragraph (c) of this appendix.

(C) Total dissolved solids and specific conductance. The total dissolved solids content of any produced water discharge shall not exceed 5,000 mg/l for total dissolved solids or 7500 μ mhos/cm for specific conductance in any single properly preserved grab sample except in those cases where a modification has been granted in accordance with paragraph (c) of this appendix.

(D) pH. In no case shall the pH of any produced water discharge be less than 6.5 or greater than 9.0 standard units as measured by a single grab sample.

(viii) Samples collected to demonstrate compliance with effluent limitations specified in this appendix shall be collected as grab samples and reported as an instantaneous maximum, unless otherwise specified.

(ix) There shall be no discharge of waste pollutants into surface waters of the state from any source (other than produced water) associated with production, field exploration, drilling, well completion, or well treatment (i.e., drilling muds, drill cuttings, and produced sands). These materials shall be managed in accordance with applicable state and federal regulations.

(x) All water quality samples collected by the Department and discharge permit holders subject to this Appendix shall be taken from the free fall of water from the last treatment unit which is located out of the natural drainage. The sample must not be mixed with waters of any other surface water or with water from another discharge point.

(c) Additional Permit Conditions and Limitations Specific to Oil and Natural Gas (other than coal bed natural gas) Production Facilities.

(i) For existing permits where the original permit application was submitted prior to September 5, 1978, modification of the effluent limits described in paragraphs (b) (vii) of this appendix may be granted on a case-by-case basis if a signed "letter of beneficial use" from the land owner was provided specifically requesting that the discharge in question be allowed to continue; or a signed statement by the Wyoming Game and Fish Department was provided in which it was stated that the discharge in question is of value to fish or wildlife; or documentation was provided by the owner or operator of the discharging facility that, because of extenuating circumstances (volume of discharge, individual chemical constituents, nature of the area in which the discharge occurs, etc.), an exemption should be considered. The user must have indicated the exact beneficial use of the water (stock watering, irrigation, etc.) and the history of such use. No action taken by the department under this paragraph or any other paragraph of these regulations shall be interpreted as the granting of a water right or any other water use authority.

(ii) For discharge permit applications filed after the date of adoption of these regulations, modification of effluent limits described in paragraph (b) (vii) of this appendix may be granted on a case-by-case basis. The Water Quality Administrator shall review all requests for modification of effluent limits submitted under this section and make a determination based upon the technical merits of a Use Attainability Analysis. Such requests shall also provide a signed "letter of agricultural or wildlife use" by the land owner specifically requesting that the discharge will serve a specific agricultural or wildlife use.

(iii) In no case will a modification as described in paragraph (c) (i) or (c) (ii) of this appendix be permitted which would result in a violation of Wyoming Water Quality Rules and Regulations, Chapter 1.

(iv) Location of skim ponds and disposal pits. Location of skim ponds and disposal pits shall be managed in accordance with applicable state (e.g. Oil and Gas Conservation Commission) and federal (e.g. Bureau of Land Management) regulations.

(v) An effluent limitation of 10 mg/l for oil and grease as measured by EPA method 1664 or 10 mg/l for net oil and grease as measured by alternate test procedure method 1664-Cu.

(d) Additional Permit Conditions and Limitations Specific to Coal Bed Natural Gas Production Facilities.

(i) Where discharge water is accessible to livestock and/or wildlife; meets the effluent limitations as specified in this appendix; and meets the criteria for the protection of livestock and wildlife as specified in Wyoming Water Quality Rules and Regulations Chapter 1, Wyoming Surface Water Quality Standards, the discharge will be considered in compliance with the requirements of Appendix H (a) (i) of these regulations.

(ii) For discharge permit applications filed after the date of adoption of these regulations, modification of effluent limits described in paragraph (b) (vii) of this appendix may be granted on a case by case basis. The Water Quality Administrator shall review all requests for modification of effluent limits submitted under this section and make a determination based upon the technical merits of a Use Attainability Analysis. Such requests shall also provide a signed “letter of agricultural or wildlife use” by the land owner specifically requesting that the discharge will serve a specific agricultural or wildlife use or a demonstration that the conditions of Appendix (H) (d) (i) have been met.

(iii) Location of disposal pits. Location of disposal pits shall be managed in accordance with applicable state (e.g. Oil and Gas Conservation Commission) and federal (e.g. Bureau of Land Management) regulations.

(iv) The permittee shall take all reasonable measures to prevent downstream 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, but does not include coal refuse deposited within the active mining area or coal refuse never removed from the active mining area.

(x) “Controlled surface mine drainage” means any surface mine drainage that is pumped or siphoned from the active mining area.

(xi) “Mine drainage” means any drainage, and any water pumped or siphoned, from any active mining area or a post mining area.

(xii) “ml/l” means milliliters per liter.

(xiii) “New source coal mine” means a coal mine (excluding coal preparation plants and coal preparation plant associated areas) including an abandoned mine which is being reminded:

(A) The construction of which is commenced after May 4, 1984; or

(B) Which is determined by the administrator to constitute a “major alteration.” In making this determination, the administrator shall take into account whether one or more of the following events resulting in a new, altered or increased discharge of pollutants has occurred after May 4, 1984 in connection with the mine for which the WYPDES permit is being considered:

(I) Extraction of a coal seam not previously extracted at the mine;

(II) Discharge into a drainage area not previously affected by wastewater discharge from the mine;

(III) Extensive new surface disruption at the mining operation;

(IV) A construction of a new shaft, lope, or drift; and

(V) Such other factors as the administrator deems relevant.

(xiv) “One year, 2-year, and 10-year, 24-hour precipitation events” means the maximum 24-hour precipitation event with a probable recurrence interval of once in one (1), two (2), and ten (10) years respectively as defined by the National Weather Service Technical Paper No. 40, “Rainfall Frequency Atlas of the U.S.” May 1961, or equivalent regional or rainfall probability information developed therefrom.

(xv) “Post-mining area” means:

6510 (A) A reclamation area; or
6511
6512 (B) The underground workings of an underground coal mine after the
6513 extraction, removal, or recovery of coal from its natural deposit has ceased and prior to bond
6514 release.
6515
6516 (xvi) “Reclamation area” means the surface area of a coal mine which has been
6517 returned to required contour and on which revegetation (specifically, seeding, or planting) work
6518 has commenced.
6519
6520 (xvii) “Settleable solids” is that matter measured by the volumetric method
6521 specified in Appendix J (f).
6522
6523 (xvii) “Treatment facility” and “treatment system” mean all structures which
6524 contain, convey, and as necessary, chemically or physically treat coal fine drainage, coal
6525 preparation plant process wastewater, or drainage from coal preparation plant associated areas,
6526 which remove pollutants regulated by this part from such waters. This includes all pipes,
6527 channels, ponds, basins, tanks, and all other equipment serving such structures.
6528
6529 (b) Application requirements specific to discharges from coal mines must provide the
6530 following information, in addition to that described in Section 5 (a) (v), and where applicable the
6531 information described in Appendix B, Appendix C, and/or Appendix D, to the administrator,
6532 using an application form provided by the administrator.
6533
6534 (i) Construction application requirements. A permit application, which may
6535 include an approved sedimentation structure control plan, in accordance with the provisions
6536 outlined in Wyoming Water Quality Rules and Regulations, Chapter 3, is required for the
6537 construction of any sedimentation ponds or runoff control facilities associated with surface coal
6538 mining operations. By agreement between the Land Quality Division and the Water Quality
6539 Division, this may take the form of one consolidated application for surface coal mining
6540 operations.
6541
6542 (ii) Minimum design standards for sedimentation control facilities. The
6543 minimum design standards for runoff control facilities of surface coal mining operations are set
6544 forth in this subparagraph. The department reserves the right to impose more stringent design
6545 requirements to ensure compliance with the effluent limitations contained in Section 5 (c) (iii) of
6546 these regulations.
6547
6548 (A) Scope. These standards pertain only to permits for surface coal
6549 mining sedimentation control facilities required pursuant to Wyoming Water Quality Rules and
6550 Regulations, Chapter 3.
6551
6552 (B) Sedimentation ponds and sedimentation control structures.

(I) Design.

(1.) Inlet ditches or structures shall be designed to minimize erosion, disturbance of the pond bottom, and resuspension of silts or colloidal soil particles.

(2.) Outlet structures, if used, shall have an overflow device, minimize short-circuiting, minimize floating solids from discharging and shall not erode or disturb the dike. All pipe protruding through a dike shall have adequate seepage control. The point of discharge into a channel shall be protected against erosion and erosion control devices shall be designed based on flow velocities.

(3.) The design, construction and maintenance of a sedimentation pond or other sediment control measures shall not relieve the person from compliance with applicable effluent limitations.

(4.) Computations showing the facility volume to include runoff from a 10-year 24-hour precipitation event shall be provided. The pond treatment or containment volume shall be in addition to sediment storage required by Land Quality Division regulations. A lesser design event may be approved by the administrator based on terrain, climate, other site-specific conditions and on a demonstration by the applicant that the effluent limitations of Section 5 (c) (iii) will be met. The design for the runoff control facilities shall contain all supportive documentation, calculations and drawings necessary to determine compliance with the effluent limitations of Section 5 (c) (iii) of these regulations.

(5.) Each person who conducts surface mining activities shall design, construct and maintain sedimentation ponds to minimize short-circuiting where the facility is not designed to contain the 10-year 24-hour precipitation runoff.

(II) Construction. This paragraph pertains only to impoundments not defined as major impoundments by the State Engineer's regulations. Below grade sedimentation ponds may be exempted provided site specific contours indicate a slope that will provide wall structure stability and minimize seepage.

(1.) Where pond bottoms and sidewalls are made of fill material, the soils used shall be relatively incompressible, have a low permeability, and be free from organic material and trash. The soil shall be compacted at a water content that will ensure structural stability, minimize hydraulic seepage, and minimize settling.

Fill material containing rocks larger than six (6) inches in the longest dimension shall not be placed within five (5) feet of the interior slope surface of any pond embankment. Material

containing by volume less than 25 percent of rock larger than six (6) inches and less than 12 inch in the longest dimension may be placed in the remainder of the embankment.

(2.) Outer dike slopes shall not be steeper than one vertical to two (2) horizontal. Flatter slopes may be required to maintain slope stability. Inner dike slopes shall be sloped one vertical to three horizontal or flatter.

(3.) The minimum top dike width shall be sufficient to provide structural stability.

(4.) The application shall contain an evaluation of the need for riprap. This evaluation shall address site specific conditions such as surrounding topography, predominant wind directions, highest predicted peak wind velocity, calculation of predicted wave heights, data on windy months versus potential of water and water depths in the impoundment, impoundment life or any other relevant parameters. If necessary, riprap or other acceptable erosion control shall be installed on the inner dike slopes at all anticipated levels of water. Sedimentation control structures shall be exempted from requirements of this appendix.

(III) Dewatering. The storage resulting from inflow shall be removed by a nonclogging dewatering device or a spillway as soon as possible but not prior to the time that the discharge will comply with the effluent standards of these regulations. The application shall contain documentation that equipment or outlet structures are available for draining the pond.

(C) Discharge structures. Outfall structures and related equipment which is sufficient to meet the self-monitoring requirements of the WYPDES permit shall be properly installed, maintained, operated, and shall be removed when no longer required.

(c) Permit condition. Identification of outfalls. Point source discharges which consist of process wastewater or a combination of process wastewater and water from affected lands shall be identified as specific points of discharge in the discharge permit for each mine. Point source discharges which consist of water discharged from affected lands only may not be required to be identified as specific points of discharge in the discharge permit for each mine. Even if a discharge is not designated as a specific point of discharge, such discharges shall be required to meet the applicable self-monitoring and effluent requirements of the permit.

(d) Effluent limitations.

(i) The following types of mine discharges are subject to the effluent limitations of Appendix J (d) (ii):

(A) Coal preparation plants and coal preparation plant associated areas, as indicated, including discharges which are pumped, siphoned, or drained from the coal

preparation plant water circuit and coal storage, refuse storage, and ancillary areas related to the cleaning or beneficiation of coal of any rank including, but not limited to, bituminous, lignite, and anthracite.

(B) Acid or ferruginous mine drainage from an active mining area resulting from the mining of coal of any rank including, but not limited to, bituminous, lignite, and anthracite.

(C) Alkaline mine drainage from an active mining area resulting from the mining of coal of any rank including, but not limited to, bituminous, lignite, and anthracite.

(D) Post-mining underground mine drainage from the underground workings of underground mines until Surface Mining Control and Reclamation Act (SMCRA) bond release.

(ii) All point source mine discharges, as described in Appendix J (d) (i), which enter or will directly affect surface waters of the state shall meet the following effluent limitations except 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). During such precipitation events only the limitation on pH shall apply:

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

*Applicable only when pH of the discharge, prior to any treatment, is less than 6.0 standard units.

(iii) Post-Mining Areas. The provisions of this paragraph are applicable to discharges from post mining areas, except as provided in Appendix J (h).

(A) Reclamation Areas. The following limitations apply to discharges from reclamation areas until the performance bond issued to the facility by the appropriate SMCRA authority has been released. The following limitations establish the 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

(iv) Co-mingling of waste streams. Where waste streams from any facility covered by this appendix are combined for treatment or discharge with waste streams from another facility covered by this part, the concentration of each pollutant in the combined discharge may not exceed the most stringent limitations for that pollutant applicable to any component waste stream of the discharge.

(v) Alternate effluent limitation for pH. Where the application of neutralization and sedimentation treatment technology results in inability to comply with the otherwise applicable manganese limitations, the permit issuer may allow the pH level in the final effluent to exceed 9.0 to a small extent in order that the manganese limitations can be achieved, provided that the pH of the receiving surface water of the state does not exceed water quality standards of Wyoming Water Quality Rules and Regulations Chapter 1, Wyoming Surface Water Quality Standards.

(e) Effluent limitations for precipitation events.

(i) The alternate limitations specified in Appendix J (e) (ii) apply with respect to:

(A) All discharges of alkaline mine drainage except discharges from underground workings of underground mines that are not commingled with other discharges eligible for these alternate limitations;

(B) All discharges from steep slope areas, (as defined in Section 515 (d) (4) of the SMCRA of 1977, as amended), and from mountaintop removal operations (conducted pursuant to Section 515 (c) of SMCRA);

(C) Discharges from coal preparation plants and preparation plant associated areas (excluding acid or ferruginous mine drainage from coal refuse disposal piles).

(ii) Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period less than or equal to the 10-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
Settleable Solids	0.5 ml/l maximum not to be exceeded
pH	Within the range 6.0 to 9.0 at all times

(iii) The following alternate limitations apply with respect to acid or ferruginous drainage from coal refuse disposal piles: Any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period greater than the 1-year, 24-hour

precipitation event, but less than or equal to the 10-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
Settleable Solids	0.5 ml/l maximum not to be exceeded
pH	Within the range 6.0 to 9.0 at all times

(iv) The following alternate limitations apply with respect to acid or ferruginous mine drainage, except for discharges addressed in: Appendix J (e) (i) (B) (mountaintop removal and steep slope areas) and Appendix J (e) (vii) (discharges from underground workings of underground mines):

(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

(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

(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.

(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).

(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).

(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 include the floating material in the reading. Notwithstanding any provision of 40 CFR Part 136, the method detection limit for measuring settleable solids under this part shall be 0.4 ml/l.

(h) Western alkaline coal mining.

(i) Applicable to alkaline mine drainage at western coal mining operations from reclamation areas, brushing and grubbing areas, topsoil stockpiling areas, and regraded areas where the discharge, before any treatment, meets all of the following requirements:

(A) pH is equal to or greater than 6.0,

(B) Dissolved iron concentration is less than 10 mg/l, and

(C) Net alkalinity is greater than zero.

(ii) Special definitions.

(A) "Brushing and grubbing" area means the area where woody plant materials that would interfere with soil salvage operations have been removed or incorporated into the soil that is being salvaged.

(B) "Regraded area" means the surface area of a coal mine that has been returned to required contour.

(C) "Sediment" means undissolved organic and inorganic material transported or deposited by water.

(D) “Sediment yield” means the sum of the soil losses from a surface minus deposition in macro-topographic depressions, at the toe of the hillslope, along field boundaries, or in terraces and channels sculpted into the hillslope.

(E) “Topsoil stockpiling area” means the area outside the mined-out area where topsoil is temporarily stored for use in reclamation, including containment berms.

(F) “Western coal mining operation” means a surface or underground coal mining operation located in the interior western United States, west of the 100th meridian, west longitude, in an arid or semiarid environment with an average annual precipitation of 26 inches or less.

(iii) The effluent limitations of Appendix J (h) (iv) apply until the appropriate SMCRA authority has authorized bond release.

(iv) Effluent limitations.

(A) The operator must submit a site specific sediment control plan to the permitting authority that is designed to prevent an increase in the average annual sediment yield from pre-mined, undisturbed conditions. The sediment control plan must be approved by the administrator and be incorporated into the permit as an effluent limitation. The sediment control plan must identify best management practices (BMPs) and also must describe design specifications, construction specifications, maintenance schedules, criteria for inspection, as well as expected performance and longevity of the best management practices.

(B) Using watershed models, the operator must demonstrate that implementation of the sediment control plan will result in average annual sediment yields that will not be greater than the sediment yield levels from pre-mined, undisturbed conditions. The operator must use the same watershed model that was, or will be, used to acquire the SMCRA permit.

(C) The operator must design, implement, and maintain BMPs in the manner specified in the sediment control plan.

(I) Coal remining. Applicable to pre-existing discharges that are located within or are hydrologically connected to pollution abatement areas of a coal mining operation.

(i) Specialized definitions.

(A) “Coal remining operation” means a coal mining operation at a site on which coal mining was previously conducted and where the site has been abandoned or the performance bond has been forfeited.

(B) “Pollution abatement area” means the part of the permit area that is causing or contributing to the baseline pollution load of pre-existing discharges. The pollution abatement area must include, to the extent practicable, areas adjacent to and nearby the remining operation that also must be affected to reduce the pollution load of the pre-existing discharges and may include the immediate location of the pre-existing discharges.

(C) “Pre-existing discharge” means any discharge resulting from mining activities that have been abandoned prior to the time of a remining permit application. The term shall include a pre-existing discharge that is relocated as a result of the implementation of BMPs contained in the Pollution Abatement Plan.

(D) “Steep slope” means any slope above 20 degrees or such lesser slope as may be defined by the administrator after consideration of soil, climate, and other characteristics of the State. The term does not apply to those situations in which an operator is mining on flat or gently rolling terrain, on which an occasional steep slope is encountered and through which the mining operation is to proceed, leaving a plain or predominantly flat area.

(E) “New source remining operation” means a remining operation at a coal mine where mining first commences after February 22, 2002 and subsequently becomes an abandoned mine.

(ii) A pre-existing discharge that is intercepted by active mining or that is commingled with waste streams from active mining areas for treatment is subject to the provisions of Appendix J (d) (iv) of these regulations only during the time when the pre-existing discharge is intercepted by active mining or is commingled with active mine wastewater for treatment or discharge. After commingling has ceased, the pre-existing discharge is subject to the provisions of Appendix J (i) of these regulations.

(iii) In situations where coal remining operations seek reissuance of an existing remining permit with BPJ limitations and the administrator determines that it is not feasible for a remining operator to re-establish baseline pollutant levels in accordance with the statistical procedures contained in 40 CFR Part 434 Appendix B pre-existing discharge limitations at existing remining operations shall remain subject to baseline pollutant levels established during the original permit application.

(iv) The effluent limitations of Appendix J (i) apply to pre-existing discharges until the appropriate SMCRA authority has authorized bond release.

(v) Effluent limitations applicable to coal remining.

(A) The operator must submit a site-specific pollution abatement plan to the administrator for the pollution abatement area. The plan must be approved by the administrator and incorporated into the permit as an effluent limitation. The Pollution

Abatement Plan must identify characteristics of the pollution abatement area and the pre-existing discharges. The Pollution Abatement Plan must be designed to reduce pollution load from pre-existing discharges and must identify the selected BMPs to be used. The plan must describe the design specifications, construction specifications, maintenance schedules, criteria for monitoring and inspection, and expected performance of the BMPs. The BMPs must be implemented as specified in the plan.

(B) Except as provided in Appendix J (h) (v) (C) of these regulations, the following effluent limits shall apply to pre-existing discharges:

(I) Total iron may not exceed baseline loadings (as defined 40 CFR Part 434 Appendix B).

(II) Total manganese may not exceed baseline loadings (as defined 40 CFR Part 434 Appendix B).

(III) Net acidity may not exceed baseline loadings (as defined 40 CFR Part 434 Appendix B).

(IV) TSS, during remining and reclamation, may not exceed baseline loadings (as defined 40 CFR Part 434 Appendix B).

(V) Prior to bond release, the pre-existing discharge must meet the applicable standards for TSS or SS contained in Appendix J (d) (iii).

(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 remining 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;

6914 (II) A base flow to a receiving surface water of the state that
6915 can not be monitored separate from the receiving surface waters of the state;
6916

6917 (III) A discharge on a steep or hazardous slope that is
6918 inaccessible for sample collection; or
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6920 (IV) A number of pre-existing discharges so extensive that
6921 monitoring of individual discharges is infeasible.
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APPENDIX K: RESERVED

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APPENDIX L: Criteria and Standards for Determining Fundamentally Different Factors

(a) Purpose and scope.

(i) This appendix establishes the criteria and standards to be used in determining whether effluent limitations alternative to those required by promulgated EPA effluent limitations guidelines under sections 301 and 304 of the CWA (hereinafter referred to as “national limits”) should be imposed on a discharger because factors relating to the discharger=s facilities, equipment, processes or other factors related to the discharger are fundamentally different from the factors considered by EPA in development of the national limits. This subpart applies to all national limitations promulgated under sections 301 and 304 of the CWA, except for the BPT limits contained in 40 CFR 423.12 (steam electric generating point source category).

(ii) In establishing national limits, EPA takes into account all the information it can collect, develop and solicit regarding the factors listed in section 304 (b) of the CWA. In some cases, however, data which could affect these national limits as they apply to a particular discharge may not be available or may not be considered during their development. As a result, it may be necessary on a case-by-case basis to adjust the national limits, and make them either more or less stringent as they apply to certain dischargers within an industrial category or subcategory. This will only be done if data specific to that discharger indicates it presents factors fundamentally different from those considered by EPA in developing the limit at issue. Any interested person believing that factors relating to a discharger=s facilities, equipment, processes or other facilities related to the discharger are fundamentally different from the factors considered during development of the national limits may request a fundamentally different factors variance under Section 8 of these regulations. In addition, such a variance may be proposed by the director in the draft permit.

(b) Criteria.

(i) A request for the establishment of effluent limitations under this appendix shall be forwarded to the Administrator of the EPA (or his delegate) with a written concurrence only if:

(A) There is an applicable national limit which is applied in the permit and specifically controls the pollutant for which alternative effluent limitations or standards have been requested; and

(B) Factors relating to the discharge controlled by the permit are fundamentally different from those considered by EPA in establishing the national limits; and

(C) The request for alternative effluent limitations or standards is made in accordance with the requirements of Section 8 of these regulations.

(ii) A request for the establishment of effluent limitations less stringent than those required by national limits guidelines shall be forwarded to the Administrator of the EPA (or his delegate) with a written concurrence only if:

(A) The alternative effluent limitation or standard requested is no less stringent than justified by the fundamental difference; and

(B) The alternative effluent limitation or standard will ensure compliance with Sections 208 (e) and 301 (b) (1) (C) of the CWA; and

(C) Compliance with the national limits (either by using the technologies upon which the national limits are based or by other control alternatives) would result in:

(I) A removal cost wholly out of proportion to the removal cost considered during development of the national limits; or

(II) A non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the national limits.

(iii) Factors which may be considered fundamentally different are:

(A) The nature of quality of pollutants contained in the raw waste load of the applicant=s process wastewater;

(B) The volume of the discharger=s process wastewater and effluent discharged;

(C) Non-water quality environmental impact of control and treatment of the discharger=s raw waste load;

(D) Energy requirements of the application of control and treatment technology;

(E) Age, size, land availability, and configuration as they relate to the discharger=s equipment or facilities, processes employed, process changes, and engineering aspects of the application of control technology;

(F) Cost of compliance with required control technology.

(iv) A variance request or portion of such a request under this section shall not be forwarded to the Administrator of the EPA (or his delegate) with a written concurrence on any of the following grounds:

(A) The infeasibility of installing the required waste treatment equipment within the time the CWA allows.

(B) The assertion that the national limits cannot be achieved with appropriate waste treatment facilities installed, if such assertion is not based on factor(s) listed in Appendix L (iv);

(C) The discharger's ability to pay for the required waste treatment; or

(D) The impact of a discharge on local receiving water quality.

(v) Nothing in this appendix shall be construed to impair the right of any locality under Section 510 of the CWA to impose more stringent limitations than those required by federal law.

(c) Method of application.

(i) A written request for a variance under this appendix shall be submitted in triplicate to the director in accordance with Section 8 of these regulations.

(ii) The burden is on the person requesting the variance to explain that:

(A) Factor(s) listed in Appendix L (b) (ii) of these regulations regarding the discharger's facility are fundamentally different from the factors EPA considered in establishing the national limits. The requester should refer to all relevant material and information, such as the published guideline regulations development document, all associated technical and economic data collected for use in developing each national limit, all records of legal proceedings, and all written and printed documentation including records of communication, etc., relevant to the regulations which are kept on public file by the EPA;

(B) The alternative limitations requested are justified by the fundamental difference alleged in Appendix L (c) (ii) (A) of these regulations; and

(C) The appropriate requirements of Appendix L (b) of these regulations have been met.

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7073 **APPENDIX M: Criteria for Determining Alternative Effluent Limitations**
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7075 (a) With respect to any point source otherwise subject to the provisions of Section
7076 301 or Section 306 of the CWA, whenever the owner or operator of any such source, after
7077 opportunity for public hearing can demonstrate to the satisfaction of the administrator that any
7078 effluent limitation proposed for the control of the thermal component of any discharge from such
7079 source will require effluent limitations more stringent than necessary to assure the protection and
7080 propagation of shellfish, fish and wildlife in and on the body of water into which the discharge is
7081 to be made, the administrator may impose an effluent limitation on such plant, with respect to the
7082 thermal component of such discharge (taking into account the interaction of such thermal
7083 component with other pollutants), that will assure the protection and propagation of a balanced
7084 indigenous population of shellfish, fish and wildlife in and on that body of water. This appendix
7085 describes the factors, criteria and standards for the establishment of alternative thermal effluent
7086 limitations.

7087
7088 (b) Definitions.
7089

7090 (i) “Alternative effluent limitations” means all effluent limitations or
7091 standards of performance for the control of the thermal component of any discharge which are
7092 established under this appendix.
7093

7094 (ii) “Representative important species” means species which are
7095 representative, in terms of their biological needs, of a balanced, indigenous community of
7096 shellfish, fish and wildlife in the body of water into which a discharge of heat is made.
7097

7098 (iii) The term “balanced, indigenous community” is synonymous with the term
7099 “balanced, indigenous population” in the CWA and means a biotic community typically
7100 characterized by diversity, the capacity to sustain itself through cyclic seasonal changes,
7101 presence of necessary food chain species and by a lack of domination by pollution tolerant
7102 species. Such a community may include historically non-native species introduced in connection
7103 with a program of wildlife management and species whose presence or abundance results from
7104 substantial, irreversible environmental modifications. Normally, however, such a community
7105 will not include species whose presence or abundance is attributable to the introduction of
7106 pollutants that will be eliminated by compliance by all sources with section 301 (b) (2) of the
7107 CWA; and may not include species whose presence or abundance is attributable to alternative
7108 effluent limitations imposed pursuant to this appendix.
7109

7110 (c) Early screening of applications.
7111

7112 (i) Any initial application for an alternative effluent limitation under this
7113 appendix shall include the following early screening information:
7114

- 7115 (A) A description of the alternative effluent limitation requested;
7116
- 7117 (B) A general description of the method by which the applicant
7118 proposes to demonstrate that the otherwise applicable thermal discharge effluent limitations are
7119 more stringent than necessary;
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- 7121 (C) A general description of the type of data, studies, experiments and
7122 other information which the applicant intends to submit for the demonstration; and
7123
- 7124 (D) Such data and information as may be available to assist the
7125 administrator in selecting the appropriate representative important species.
7126
- 7127 (ii) After submitting the early screening information under Appendix M (c),
7128 the applicant shall consult with the administrator at the earliest practicable time (but not later
7129 than 30 days after the application is filed) to discuss the applicant's early screening information.
7130 Within 60 days after the application is filed, the applicant shall submit for the administrator's
7131 approval a detailed plan of study which the applicant will undertake to support its demonstration
7132 under this appendix. The applicant shall specify the nature and extent of the following type of
7133 information to be included in the plan of study: biological, hydrographical and meteorological
7134 data; physical monitoring data; engineering or diffusion models; laboratory studies;
7135 representative important species; and other relevant information. In selecting representative
7136 important species, special consideration shall be given to species mentioned in applicable water
7137 quality standards. After the applicant submits its detailed plan of study, the administrator shall
7138 either approve the plan or specify any necessary revisions to the plan. The applicant shall
7139 provide any additional information or studies which the administrator subsequently determines
7140 necessary to support the demonstration, including such studies or inspections as may be
7141 necessary to select representative important species. The applicant may provide any additional
7142 information or studies which the applicant feels are appropriate to support the demonstration.
7143
- 7144 (iii) Any application for the renewal of an alternative effluent limitation under
7145 this appendix shall include only such information described in Appendix M (c) (i) and (ii) as the
7146 administrator requests within 60 days after receipt of the permit application.
7147
- 7148 (iv) The administrator shall promptly notify the Regional Administrator of the
7149 EPA and any affected state of the filing of the request and shall consider any timely
7150 recommendations they submit.
7151
- 7152 (v) In making the demonstration, the applicant shall consider any information
7153 or guidance published by EPA to assist in making such demonstrations.
7154
- 7155 (vi) If an applicant desires a ruling on an application under this appendix,
7156 before the ruling on any other necessary permit terms and conditions, the applicant shall so

request upon filing its application under Appendix M (c) (i). This request shall be granted or denied at the discretion of the administrator.

(d) Criteria and standards for the determination of alternative effluent limitations under this appendix.

(i) Thermal discharge effluent limitations or standards established in permits may be less stringent than those required by applicable standards and limitations if the applicant demonstrates to the satisfaction of the administrator that such effluent limitations are more stringent than necessary to assure the protection and propagation of a balanced, indigenous community of shellfish, fish and wildlife in and on the body of water into which the discharge is made. This demonstration must show that the alternative effluent limitation desired by the applicant, considering the cumulative impact of its thermal discharge together with all other significant impacts on the species affected, will assure the protection and propagation of a balanced indigenous community of shellfish, fish and wildlife in and on the body of water into which the discharge is to be made.

(ii) In determining whether or not the protection and propagation of the affected species will be assured, the administrator may consider any information contained or referenced in any applicable thermal water quality criteria and thermal water quality information published by the Administrator of the EPA under Section 304 (a) of the CWA, or any other information the administrator deems relevant.

(iii) Demonstration upon the absence of prior appreciable harm.

(A) Existing permittees may base their demonstration upon the absence of prior appreciable harm in lieu of predictive studies. Any such demonstrations shall show:

(I) That no appreciable harm has resulted from the normal component of the discharge, taking into account the interaction of such thermal component with other pollutants and the additive effect of other thermal sources to a balanced, indigenous community of shellfish, fish and wildlife in and on the body of water into which the discharge has been made; or

(II) That despite the occurrence of such previous harm, the desired alternative effluent limitations (or appropriate modifications thereof) will nevertheless assure the protection and propagation of a balanced, indigenous community of shellfish, fish and wildlife in and on the body of water into which the discharge is made.

(iv) In determining whether or not prior appreciable harm has occurred, the administrator shall consider the length of time in which the applicant has been discharging and 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.

(vi) “Existing source” means any source which is not a new source as defined in Appendix N (b) (v).

(vii) “Source” means any building, structure, facility, or installation from which there is or may be the discharge of toxic pollutants designated as such by the administrator.

(viii) “Owner or operator” means any person who owns, leases, operates, controls, or supervises a source as defined in Appendix N (b) (vii).

(ix) “Construction” means any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.

(x) “Manufacturer” means any establishment engaged in the mechanical or chemical transformation of materials or substances into new products, including but not limited to, the blending of materials such as pesticidal products, resins, or liquors.

(xi) “Process wastes” means any designated toxic pollutant, whether in wastewater or otherwise present, which is inherent to or unavoidably resulting from any manufacturing process, including that which comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by product or waste product and is discharged into surface waters of the state.

(xii) “Air emissions” means the release or discharge of a toxic pollutant by an owner or operator into the ambient air either 1) by means of a stack or 2) as a fugitive dust, mist or vapor as a result inherent to the manufacturing or formulating process.

(xiii) “Fugitive dust, mist or vapor” means dust, mist or vapor containing a toxic pollutant regulated under this part which is emitted from any source other than through a stack.

(xiv) “Stack” means any chimney, flue, conduit, or duct arranged to conduct emissions to the ambient air.

(xv) “Ten year 24-hour rainfall event” means the maximum precipitation event with a probable recurrence interval of once in ten (10) years as defined by the National Weather Service in Technical Paper No. 40, Rainfall Frequency Atlas of the United States, May 1961, and subsequent amendments or equivalent regional or state rainfall probability information developed therefrom.

(c) Abbreviations. The abbreviations used in this part represent the following terms:

(i) lb=pound (or pounds)

7287 (ii) g=gram
7288
7289 (iii) ug/l=micrograms per liter (1 one millionth gram/liter)
7290
7291 (iv) kg=kilogram(s) kkg=1000 kilogram(s)
7292
7293 (d) Toxic pollutants. The following are the pollutants subject to regulation under the
7294 provisions of this appendix:
7295
7296 (i) Aldrin/Dieldrin - Aldrin means the compound aldrin as identified by the
7297 chemical name, 1,2,3,4,10,10 hexachloro -1,4,4a,5,8,8a hexahydro -1,4 -endo 5,8 -exo-
7298 dimethanonaphthalene; ``Dieldrin" means the compound the dieldrin as identified by the
7299 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
7300 -exo- dimethanonaphthalene.
7301
7302 (ii) DDT - DDT means the compounds DDT, DDD, and DDE as identified by
7303 the chemical names:(DDT)-1,1,1 -trichloro -2,2 - bis(p- chlorophenyl) ethane and someo,p'
7304 isomers; (DDD) or (TDE) -1,1 -dichloro -2,2- bis(p-chlorophenyl) ethane and some o,p'-
7305 isomers; (DDE) -1,1-dichloro -2,2-bis(p-chlorophenyl) ethylene.
7306
7307 (iii) Endrin - Endrin means the compound endrin as identified by the chemical
7308 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-
7309 endodimethanonaphthalene.
7310
7311 (iv) Toxaphene - Toxaphene means a material consisting of technical grade
7312 chlorinated camphene having the approximate formula of C₁₀H₁₀Cl₈ and normally containing 67-
7313 69 percent chlorine by weight.
7314
7315 (v) Benzidine - Benzidine means the compound benzidine and its salts as
7316 identified by the chemical name 4,4'-diaminobiphenyl.
7317
7318 (vi) Polychlorinated Biphenyls (PCBs) - Polychlorinated biphenyls (PCBs)
7319 means a mixture of compounds composed of the biphenyl molecule which has been chlorinated
7320 to varying degrees. [42 FR 2613, Jan. 12, 1977, as amended at 42 FR 2620, Jan. 12, 1977; 42 FR
7321 6555, Feb. 2, 1977]
7322
7323 (e) Compliance.
7324
7325 (i) Within 60 days from the date of promulgation of any toxic pollutant
7326 effluent standard or prohibition each owner or operator with a discharge subject to that standard
7327 or prohibition must notify the director of such discharge. Such notification shall include such
7328 information and follow such procedures as the director may require.
7329

(ii) Any owner or operator who does not have a discharge subject to any toxic pollutant effluent standard at the time of such promulgation but who thereafter commences or intends to commence any activity which would result in such a discharge shall first notify the director in the manner herein provided at least 60 days prior to any such discharge.

(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 discharge to surface waters of the state greater than the toxic pollutant effluent standard established for a direct discharge to the surface waters of the state.

(xi) In any permit hearing or other administrative proceeding relating to the implementation or enforcement of these standards, the parties thereto may not contest the validity of any national standards established in this appendix, or the ambient water criterion established herein for any toxic pollutant.

(f) Adjustment of effluent standard for presence of toxic pollutant in the intake water.

(i) Upon the request of the owner or operator of a facility discharging a pollutant subject to a toxic pollutant effluent standard or prohibition, the director shall give credit, and shall adjust the effluent standard(s) in such permit to reflect credit for the toxic pollutant(s) in the owner's or operator's water supply if 1) the source of the owner's or operator's water supply is the same body of water into which the discharge is made, and if 2) it is demonstrated to the director that the toxic pollutant(s) present in the owner's or operator's intake water will not be removed by any wastewater treatment systems whose design capacity and operation were such as to reduce toxic pollutants to the levels required by the applicable toxic pollutant effluent standards in the absence of the toxic pollutant in the intake water.

(ii) Effluent limitations established pursuant to this section shall be calculated on the basis of the amount of the toxic pollutant(s) under Section 307(a) of the CWA present in the water after any water supply treatment steps have been performed by or for the owner or operator.

(iii) Any permit which includes toxic pollutant effluent limitations established pursuant to this appendix shall also contain conditions requiring the permittee to conduct additional monitoring in the manner and locations determined by the director for those toxic pollutants for which the toxic pollutant effluent standards have been adjusted.

(g) Requirement and procedure for establishing a more stringent effluent limitation.

(i) In exceptional cases:

(A) Where the director determines that the ambient water criterion established in these regulations is not being met or will not be met in the receiving water as a result of one or more discharges at levels allowed by these regulations, and

(B) Where the director further determines that this is resulting in or may cause or contribute to significant adverse effects on aquatic or other organisms usually or potentially present, or on human health, the director may issue to an owner or operator a permit or a permit modification containing a toxic pollutant effluent limitation at a more stringent level than that required by these regulations. In any proceeding in connection with such action the burden of proof and burden of going forward with evidence with regard to such more stringent effluent limitation shall be upon the director as the proponent of such more stringent effluent limitation.

(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:

a. Storm water and other runoff except as hereinafter provided in Appendix N (h) (ii) (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 aldrin/dieldrin; 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.

(C) Effluent standard.

(I) Existing sources. Aldrin or dieldrin is prohibited in any discharge from any aldrin/dieldrin manufacturer.

(II) New Sources. Aldrin or dieldrin is prohibited in any discharge from any aldrin/dieldrin manufacturer.

(iii) Aldrin/Dieldrin 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 aldrin/dieldrin 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 (h) (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 aldrin/dieldrin; 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.

(C) Effluent standard.

(I) Existing sources. Aldrin or dieldrin is prohibited in any discharge from any aldrin/dieldrin formulator.

(II) New sources. Aldrin or dieldrin is prohibited in any discharge from any aldrin/dieldrin formulator.

(i) DDT, DDD, and DDE.

(i) Specialized definitions.

(A) “DDT manufacturer” means a manufacturer, excluding any source which is exclusively a DDT formulator, who produces, prepares or processes technical DDT, or who uses DDT as a material in the production, preparation or processing of another synthetic organic substance.

(B) “DDT formulator” means a person who produces, prepares or processes a formulated product comprising a mixture of DDT 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.). The ambient water criterion for DDT in surface waters of the state is 0.001 ug/l.

(ii) DDT manufacturer.

7543
7544 (A) Applicability.
7545
7546 (I) These standards or prohibitions apply to:
7547
7548 (1.) All discharges of process wastes; and
7549
7550 (2.) All discharges from the manufacturing areas,
7551 loading and unloading areas, storage areas and other areas which are subject to direct
7552 contamination by DDT as a result of the manufacturing process, including but not limited to:
7553
7554 a. Storm water and other runoff except as
7555 hereinafter provided in Appendix N (i) (ii) (A) (II); and
7556
7557 b. Water used for routine cleanup or cleanup of
7558 spills.
7559
7560
7561 (II) These standards do not apply to storm water runoff or other
7562 discharges from areas subject to contamination solely by fallout from air emissions of DDT; or
7563 to storm water runoff that exceeds that from the 10-year 24 hour rainfall event.
7564
7565 (B) Analytical method acceptable. EPA method specified in 40 CFR
7566 Part 136, except that a 1 liter sample size is required to increase the analytical sensitivity.
7567
7568 (C) Effluent standard.
7569
7570 (I) Existing sources. DDT is prohibited in any discharge from
7571 any DDT manufacturer.
7572
7573 (II) New sources. DDT is prohibited in any discharge from any
7574 DDT manufacturer.
7575
7576 (iii) DDT formulator.
7577
7578 (A) Applicability.
7579
7580 (I) These standards or prohibitions apply to:
7581
7582 (1.) All discharges of process wastes; and
7583

(2.) All discharges from the formulating areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by DDT 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 (i) (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 DDT 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.

(C) Effluent standard.

(I) Existing sources. DDT is prohibited in any discharge from any DDT formulator.

(II) New Sources. DDT is prohibited in any discharge from any DDT formulator.

(j) Endrin.

(i) Specialized definitions.

(A) "Endrin manufacturer" means a manufacturer, excluding any source which is exclusively an endrin formulator, who produces, prepares or processes technical endrin, or who uses endrin as a material in the production, preparation or processing of another synthetic organic substance.

(B) "Endrin formulator means" a person who produces, prepares or processes a formulated product comprising a mixture of endrin 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 endrin in surface waters of the state is 0.004 ug/l.

(ii) Endrin manufacturer.

7627
7628 (A) Applicability.
7629
7630 (I) These standards or prohibitions apply to:
7631
7632 (1.) All discharges of process wastes; and
7633
7634 (2.) All discharges from the manufacturing areas,
7635 loading and unloading areas, storage areas and other areas which are subject to direct
7636 contamination by endrin as a result of the manufacturing process, including but not limited to:
7637
7638 a. Storm water and other runoff except as
7639 hereinafter provided in Appendix N (j) (ii) (A) (II); and
7640
7641 b. Water used for routine cleanup or cleanup of
7642 spills.
7643
7644 (II) These standards do not apply to storm water runoff or other
7645 discharges from areas subject to contamination solely by fallout from air emissions of endrin or
7646 to storm water runoff that exceeds that from the 10-year 24 hour rainfall event.
7647
7648 (B) Analytical method acceptable. EPA method specified in 40 CFR
7649 Part 136.
7650
7651 (C) Effluent standard.
7652
7653
7654 (I) Existing sources. Discharges from an endrin manufacturer
7655 shall not contain endrin concentrations exceeding an average per working day of 1.5 ug/l
7656 calculated over any calendar month; and shall not exceed a monthly average daily loading of
7657 0.0006 kg/kkg of endrin produced; and shall not exceed 7.5 ug/l in a sample(s) representing any
7658 working day.
7659
7660 (II) New sources. Discharges from an endrin manufacturer
7661 shall not contain endrin concentrations exceeding an average per working day of 0.1 ug/l
7662 calculated over any calendar month; and shall not exceed a monthly average daily loading of
7663 0.00004 kg/kkg of endrin produced; and shall not exceed 0.5 ug/l in a sample(s) representing
7664 any working day.
7665
7666 (III) Mass emission standard during shutdown of production. In
7667 computing the allowable monthly average daily loading figure required under the preceding
7668 Appendix N (j) (ii) (C) (I) and (II), for any calendar month for which there is no endrin being
7669 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.

(C) Effluent standard.

(I) Existing sources. Endrin is prohibited in any discharge from any endrin formulator.

(II) New sources. Endrin is prohibited in any discharge from any endrin formulator.

(iv) The standards set forth in this section shall apply to the total combined weight or concentration of endrin, excluding any associated element or compound.

(k) Toxaphene.

(i) Specialized definitions.

(A) “Toxaphene manufacturer” means a manufacturer, excluding any source which is exclusively a toxaphene formulator, who produces, prepares or processes toxaphene or who uses toxaphene as a material in the production, preparation or processing of another synthetic organic substance.

(B) “Toxaphene formulator” means a person who produces, prepares or processes a formulated product comprising a mixture of toxaphene 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 toxaphene in surface waters of the state is 0.005 ug/l.

(ii) Toxaphene 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 toxaphene 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 (k) (ii) (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 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/kg 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/kg 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

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 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, except that a 1 liter sample size is required to increase the analytical sensitivity.

(C) Effluent standards.

(I) Existing sources. Toxaphene is prohibited in any discharge from any toxaphene formulator.

(II) New sources. Toxaphene is prohibited in any discharge from any toxaphene formulator.

(iv) The standards set forth in this section shall apply to the total combined weight or concentration of toxaphene, excluding any associated element or compound.

(l) Benzidine.

(i) Specialized definitions.

(A) "Benzidine manufacturer" means a manufacturer who produces benzidine or who produces benzidine as an intermediate product in the manufacture of dyes commonly used for textile, leather and paper dyeing.

(B) "Benzidine based dye applicator" means an owner or operator who uses benzidine based dyes in the dyeing of textiles, leather or paper.

(C) The ambient water criterion for benzidine in surface waters of the state is 0.1 ug/l.

(ii) Benzidine manufacturer.

(A) Applicability.

(I) These standards apply to:

(1.) All discharges into the surface waters of the state of process wastes, and

(2.) All discharges into the surface waters of the state of wastes containing benzidine from the manufacturing areas, loading and unloading areas, storage areas, and other areas subject to direct contamination by benzidine or benzidine containing product 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 (I) (ii) (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 benzidine 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 standards.

(I) Existing sources. Discharges from a benzidine manufacturer shall not contain benzidine concentrations exceeding an average per working day of 10 ug/l calculated over any calendar month, and shall not exceed a monthly average daily loading of 0.130 kg/kkg of benzidine produced, and shall not exceed 50 ug/l in a sample(s) representing any working day.

(II) New sources. Discharges from a benzidine manufacturer shall not contain benzidine concentrations exceeding an average per working day of 10 ug/l calculated over any calendar month, and shall not exceed a monthly average daily loading of 0.130 kg/kkg of benzidine produced, and shall not exceed 50 ug/l in a sample(s) representing any working day.

(D) The standards set forth in Appendix N (I) (ii) shall apply to the total combined weight or concentration of benzidine, excluding any associated element or compound.

(iii) Benzidine based dye applicators.

(A) Applicability.

(I) These standards apply to:

(1.) All discharges into the surface waters of the state of process wastes, and

(2.) All discharges into the surface waters of the state of wastes containing benzidine from the manufacturing areas, loading and unloading areas, storage

7881 areas, and other areas subject to direct contamination by benzidine or benzidine containing
7882 product as a result of the manufacturing process, including but not limited to:

- 7883
- 7884 a. Storm water and other runoff except as
7885 hereinafter provided in Appendix N (I) (iii) (A) (II), and
7886
- 7887 b. Water used for routine cleanup or cleanup of
7888 spills.
7889

7890 (II) These standards do not apply to storm water runoff or other
7891 discharges from areas subject to contamination solely by fallout from air emissions of benzidine
7892 or to storm water that exceeds that from the 10-year 24 hour rainfall event.
7893

7894 (B) Analytical method acceptable.
7895

7896 (I) EPA method specified in 40 CFR Part 136; or
7897

7898 (II) Mass balance monitoring approach which requires the
7899 calculation of the benzidine concentration by dividing the total benzidine contained in dyes used
7900 during a working day (as certified in writing by the manufacturer) by the total quantity of water
7901 discharged during the working day.
7902

7903 (C) Effluent standards.
7904

7905 (I) Existing sources. Discharges from benzidine based dye
7906 applicators shall not contain benzidine concentrations exceeding an average per working day of
7907 10 ug/l calculated over any calendar month; and shall not exceed 25 ug/l in a sample(s) or
7908 calculation(s) representing any working day.
7909

7910 (II) New sources. Discharges from benzidine based dye
7911 applicators shall not contain benzidine concentrations exceeding an average per working day of
7912 10 ug/l calculated over any calendar month; and shall not exceed 25 ug/l in a sample(s) or
7913 calculation(s) representing any working day.
7914

7915 (D) The standards set forth in Appendix N (I) (iii) shall apply to the
7916 total combined concentrations of benzidine, excluding any associated element or compound [42
7917 FR 2620, Jan. 12, 1977].
7918

7919 (m) Polychlorinated biphenyls (PCBs).
7920

7921 (i) Specialized definitions.
7922

(A) “PCB manufacturer” means a manufacturer who produces polychlorinated biphenyls.

(B) “Electrical capacitor manufacturer” means a manufacturer who produces or assembles electrical capacitors in which PCB or PCB containing compounds are part of the dielectric.

(C) “Electrical transformer manufacturer” means a manufacturer who produces or assembles electrical transformers in which PCB or PCB containing compounds are part of the dielectric.

(D) The ambient water criterion for PCBs in surface waters of the state is 0.001 ug/l.

(ii) PCB manufacturer.

(A) Applicability.

(I) These standards or prohibitions apply to:

(1.) All discharges of process wastes;

(2.) All discharges from the manufacturing or incinerator 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) (ii) (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.

7965 (I) Existing sources. PCBs are prohibited in any discharge
7966 from any PCB manufacturer;
7967
7968 (II) New sources. PCBs are prohibited in any discharge from
7969 any PCB manufacturer.
7970
7971 (iii) Electrical capacitor manufacturer.
7972
7973 (A) Applicability.
7974
7975 (I) These standards or prohibitions apply to:
7976
7977 (1.) All discharges of process wastes; and
7978
7979 (2.) All discharges from the manufacturing or
7980 incineration areas, loading and unloading areas, storage areas and other areas which are subject
7981 to direct contamination by PCBs as a result of the manufacturing process, including but not
7982 limited to:
7983
7984 a. Storm water and other runoff except as
7985 hereinafter provided in Appendix N (m) (iii) (A) (II); and
7986
7987 b. Water used for routine cleanup or cleanup of
7988 spills.
7989
7990 (II) These standards do not apply to storm water runoff or other
7991 discharges from areas subject to contamination solely by fallout from air emissions of PCBs or to
7992 storm water runoff that exceeds that from the 10 year 24 hour rainfall event.
7993
7994 (B) Analytical method acceptable. EPA method specified in 40 CFR
7995 Part 136, except that a 1 liter sample size is required to increase analytical sensitivity.
7996
7997 (C) Effluent standards.
7998
7999 (I) Existing sources. PCBs are prohibited in any discharge
8000 from any electrical capacitor manufacturer;
8001
8002 (II) New sources. PCBs are prohibited in any discharge from
8003 any electrical capacitor manufacturer.
8004
8005 (iv) Electrical transformer manufacturer.
8006
8007 (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) (iv) (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 transformer manufacturer;
- (II) New sources. PCBs are prohibited in any discharge from any electrical transformer manufacturer.
- (v) Adjustment of effluent standard for presence of PCBs in intake water. Whenever a facility which is subject to these standards has PCBs in its effluent which result from the presence of PCBs in its intake waters, the owner may apply to the director, for a credit pursuant to Appendix N (f), where the source of the water supply is the same body of water into which the discharge is made. The requirement of Appendix N (f) (i), relating to the source of the water supply, shall be waived, and such facility shall be eligible to apply for a credit under Appendix N (f), upon a showing by the owner or operator of such facility to the director that the concentration of PCBs in the intake water supply of such facility does not exceed the concentration of PCBs in the receiving water body to which the plant discharges its effluent. [42 FR 6555, Feb. 2, 1977]

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:

Location	Salinity in mg/L of total dissolved solids
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.

(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:

(i) “Policy for Implementation of the Colorado River Basin Salinity Standards through the NPDES Permit Program”, October 30, 2002;

(ii) “Policy for Implementation of the Colorado River Basin Salinity Standards through the NPDES Permit Program for Intercepted Groundwater, October 20, 1980”; and

(iii) “Policy for Implementation of the Colorado River Basin Salinity Standards through the NPDES Permit Program for Fish Hatcheries, October 28, 1988”

(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

8090 utilization of water apportioned to the State of Wyoming through any interstate compact or court
8091 decree or to prevent the diversion of water under future or existing water rights.