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CHAPTER 2

**PERMIT REGULATIONS
FOR DISCHARGES TO WYOMING SURFACE WATERS**

Section 1. General Provisions.

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

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

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

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

Section 2. Applicability.

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

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

- 44
- 45 (ii) All storm water discharges from industrial, construction, and municipal
46 facilities as described in Section 6 of these regulations;
47
- 48 (iii) Point source discharges of dredged or fill material into isolated wetlands
49 which are:
50
- 51 (A) Not subject to regulation by the Army Corps of Engineers under
52 Section 404 of the CWA; or,
53
- 54 (B) Not subject to a permit or authorization from the Wyoming
55 Department of Environment Quality, Land Quality Division for mining activities.
56
- 57 (iv) Silvicultural point sources, as defined in Section 3 (b) (lxxxv), are point
58 sources subject to the applicable provisions of these regulations.
59
- 60 (b) Exclusions. The following discharges do not require WYPDES permits:
61
- 62 (i) Discharges of dredged or fill material into waters of the United States
63 which are regulated under Section 404 of the CWA.
64
- 65 (ii) The introduction of sewage, industrial wastes or other pollutants into
66 publicly owned treatment works by indirect dischargers.
67
- 68 (iii) Any discharge in compliance with the instructions of an On-Scene
69 Coordinator pursuant to 40 CFR 300 (The National Oil and Hazardous Substances Pollution
70 Contingency Plan) or 33 CFR 153.10 (e) (Pollution by Oil and Hazardous Substances).
71
- 72 (iv) Any introduction of pollutants from non-point source agricultural and
73 silvicultural activities.
74
- 75 (v) Return flows from irrigated agriculture.
76
- 77 (vi) Discharges into privately owned treatment works.
78
- 79 (vii) Discharges of dredge or fill material
80
- 81 (A) from normal farming, silviculture, and ranching
82 activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of
83 food, fiber, and forest products, or upland soil and water conservation practices;
84
- 85 (B) for the purpose of maintenance, including emergency
86 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;

89
90 (C) for the purpose of construction or maintenance of farm or stock
91 ponds or irrigation ditches, or the maintenance of drainage ditches;

92
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;

96
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;

103
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.

106
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:

111
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

114
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
119 further not relieve the operator of complying with stormwater permitting requirements in Section
120 6 of this Chapter for construction-related work in upland areas above the high water level.

121
122 (ix) The use of fish toxicants, in compliance with this paragraph:

123
124 (A) Fish toxicants shall be applied in 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.

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

135
136 (C) Except for the agencies and persons described below, no other
137 agency or person may apply fish toxicants in any surface water of the state.

138
139 (I) The Wyoming Game and Fish Department may apply fish
140 toxicants to any surface water of the state provided the application of fish toxicants is in
141 compliance with this Section.

142
143 (II) The National Park Service, as the wildlife management
144 agency in Yellowstone National Park, may apply fish toxicants to surface waters within
145 Yellowstone National Park for the purpose of killing or controlling fish provided the application
146 of fish toxicants is in compliance with this Section. The National Park Service shall not apply
147 fish toxicants to waters which flow into surface waters of the state outside of Yellowstone
148 National Park without prior approval from the Wyoming Game and Fish Department.

149
150 (III) Certified applicators, as that term is defined in W.S. 35-7-
151 354, may apply fish toxicants only to surface waters of the state located entirely on private
152 property where there is no surface outlet to surface waters of the state provided that prior notice
153 is made to the Department and only after receipt of verification from the Water Quality Division
154 that the proposed use of fish toxicants is in compliance with this Section. Approval, including
155 any necessary permits, from the Wyoming Game and Fish Department is also required prior to
156 any use of fish toxicants to ensure protection of fish and wildlife resources.

157
158 (c) No conveyance of property rights or exclusive privilege. The issuance of a permit
159 does not convey any property rights of any sort, or any exclusive privilege. The issuance of a
160 permit does not authorize any injury to persons or property or invasion of other private rights, or
161 any infringement of state or local law or regulations. Except for any toxic effluent standards and
162 prohibitions imposed under Section 307 of the CWA, compliance with a permit during its term
163 constitutes compliance, for purposes of enforcement, with Sections 301, 302, 306, 307, 318, and
164 405 (a) of the CWA.

165
166 (d) Interpretation of “waters of the United States” All references to the CWA where
167 there is reference to the phrase “water(s) of the United States” shall be interpreted as “surface
168 waters of the state” for purposes of this rule. This interpretation does not expand the CWA
169 implementation authorities of federal agencies.

170
171 **Section 3. Definitions.**

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(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

215 into a well to facilitate production of oil, or gas or water, derived in association with oil or gas
216 production and disposed of in a well, if the well used either to facilitate production or for
217 disposal purposes is approved by authority of the state, and if the state determines that such
218 injection or disposal well will not result in the degradation of ground or surface or water
219 resources.

220

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

223

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

226

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

229

230 (A) Hydrophytic vegetation;

231

232 (B) Hydric soils; and

233

234 (C) Wetland hydrology.

235

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

238

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

241

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

244

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

247

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

252

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

254

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

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

259
260 (vi) “Applicable water quality standards” means all water quality standards to
261 which a discharge is subject under Wyoming Water Quality Rules and Regulations, Chapter 1.

262
263 (vii) “Applicant” means the person responsible for submitting a completed
264 application form for a WYPDES permit and the person who will have primary responsibility for
265 meeting the requirements of the permit. Applicant is usually the owner of the facility from which
266 discharge is or will be occurring; however, when a facility is operated by someone other than the
267 owner, the operator is the applicant.

268
269 (viii) “Application” when used as a noun in this rule means an application form
270 upon which the applicant has provided the requested information in order to obtain a WYPDES
271 permit, modification to a WYPDES permit or renewal of a WYPDES permit.

272
273 (ix) “Application form” means the uniform state or national forms, including
274 subsequent revisions or modifications, for application for a new, modified or reissued individual
275 WYPDES permit.

276
277 (x) “Aquaculture project” means a defined managed water area which uses
278 discharges of pollutants into that designated area for the maintenance or production of
279 harvestable freshwater plants or animals.

280
281 (xi) “Authorization” means the written approval granted by the department to a
282 person or facility which states that a discharge from the facility is permitted under a general
283 permit and which is subject to the conditions set forth in the general permit. “Authorization” also
284 means the modifications to a previously issued authorization that are made to accommodate an
285 alteration in the conditions under a previous authorization or an extension of the allowed time for
286 discharge to occur that was established under a previous authorization.

287
288 (xii) “Best Management Practices (BMPs)” means schedules of activities,
289 prohibitions of practices, maintenance procedures, and/or other management practices to prevent
290 or reduce the pollution of “waters of the state.” BMPs also include treatment requirements,
291 operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste
292 disposal, or drainage from raw material storage.

293
294 (xiii) “Bypass” means the intentional diversion of waste streams from any
295 portion of a treatment facility.

296
297 (xiv) “CFR” means Code of Federal Regulations. All references to the Code
298 refer to the CFR dated July 1, 2004.

299

300 (xv) “Compliance schedule” means a schedule of remedial measures included
301 in a permit that establishes an enforceable sequence of actions or operations leading to
302 compliance with an effluent limitation, other limitation, prohibition, or standard.
303

304 (xvi) “Concentrated animal feeding operation” means an animal feeding
305 operation (other than an aquatic animal production facility) which meets the criteria in Appendix
306 G of these regulations.
307

308 (xvii) “Concentrated aquatic animal production facility” means a hatchery, fish
309 farm, or other facility which meets the criteria as defined in Appendix F of these regulations, or
310 an aquatic animal production facility that is designated as concentrated by the department as a
311 result of its significant contribution of pollution to surface waters of the state.
312

313 (xviii) “Co-permittee” means a permittee to a WYPDES permit that is only
314 responsible for permit conditions relating to the discharge for which it is operator.
315

316 (xix) “CWA” means the federal Clean Water Act.
317

318 (xx) “Daily average” means the average concentration determined by the
319 arithmetic mean of all samples collected within a calendar day.
320

321 (xxi) “Daily maximum” means the highest single reading from any grab or
322 composite sample collected during the reporting period, except in the case of Coal Mining
323 Operations, where the definition means the value determined by an analysis of a properly
324 preserved composite sample composed of a minimum of four grab samples collected at equally
325 spaced two hour intervals and proportioned according to flow at the time of sampling.
326

327 (xxii) “Designated project areas” means the portions of surface waters of the
328 state within which the permittee or permit applicant plans to confine the cultivated species, using
329 a method, plan or operation (including, but not limited to, physical confinement) which, on the
330 basis of reliable scientific evidence, is expected to ensure that specific individual organisms
331 comprising an aquaculture crop will experience increased growth attributable to the discharge of
332 pollutants, and be harvested within a defined geographic area.
333

334 (xxiii) “Designated uses” means those uses specified in water quality standards
335 for each water body or segment whether or not they are being attained.
336

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

343
344 (xxv) “Effluent” means the pollutant or waste stream from a facility that is being
345 or is proposed to be discharged.

346
347 (xxvi) “Effluent limitation” means any restriction established by the state or by
348 the Administrator of the EPA on quantities, rates and/or concentrations of chemical, physical,
349 biological, and other constituents which are discharged from point sources into surface waters of
350 the state.

351
352 (xxvii) “EPA” means the United States Environmental Protection Agency.

353
354 (xxviii) “Facility” means any WYPDES point source or collection of point
355 sources or any other facility or activity (including land or appurtenances thereto associated with
356 the operation of the facility) that is subject to regulation under the WYPDES program.

357
358 (xxix) “Fact sheet” means the application materials, a draft copy of the permit, a
359 statement of basis and the public notice.

360
361 (xxx) “Federal Act” means the Federal Water Pollution Control Act (Clean
362 Water Act) as amended in 1987, 33 U.S.C. 1251 et seq. as amended.

363
364 (xxxii) “Fill material” means any material used for the primary purpose of
365 replacing an aquatic area with dry land or of changing the bottom elevation of a waterbody. The
366 term does not include any pollutant discharged into the water primarily to dispose of waste, as
367 that activity is regulated under Section 5 of these regulations.

368
369 (xxxii) “Flow monitoring station” means a designated point where stream flow is
370 measured.

371
372 (xxxiii) “Form” means any issued permit and any uniform state or national
373 form developed for use in the WYPDES system or these regulations.

374
375 (xxxiv) “General permit” means a permit to discharge which authorizes a
376 category of discharges within a specified geographic area.

377
378 (xxxv) “Grab sample” means a single “dip and take” sample collected at a
379 representative point in the discharge stream.

380
381 (xxxvi) “Hydric soil” means a soil that formed under conditions of
382 saturation, flooding or ponding long enough during the growing season to develop anaerobic
383 conditions in the upper part.

384

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

391
392 (xxxviii) “Illicit discharge” means any discharge to a municipal separate
393 storm sewer that is not composed entirely of storm water except discharges pursuant to a
394 WYPDES permit (other than the WYPDES permit for discharges from the municipal separate
395 storm sewer) and discharges resulting from fire fighting activities.

396
397 (xxxix) “Incorporated place” means a city, town, township or village that is
398 incorporated under the laws of the State of Wyoming.

399
400 (xl) “Individual permit” means a permit to discharge to surface waters of the
401 state issued to a facility for specific activities in accordance with the regulations contained
402 herein.

403
404 (xli) “Industrial user” means those industries identified in the Standard
405 Industrial Classification Manual, Bureau of the Budget, 1967, as amended and supplemented,
406 under the category 'Division D - Manufacturing' and such other classes of significant waste
407 producers as, by regulation, the administrator deems appropriate.

408
409 (xlii) “Instantaneous maximum” means the value determined by an analysis of a
410 single properly preserved grab sample.

411
412 (xliii) “Irrigation compliance point” means a point downstream of the outfall but
413 before the first irrigation diversion where, when indicated in the permit, specified effluent
414 limitations must be met.

415
416 (xliv) “Isolated wetlands” means wetlands as defined by the Environmental
417 Quality Act and Section 3 of these regulations which do not meet the federal definition of waters
418 of the United States but meet the state’s definition of waters of the state as defined in the
419 Environmental Quality Act.

420
421 (xlv) “Major facility” means:

422
423 (A) For municipal wastewater treatment facilities, 1) those facilities
424 with design flows greater than one million gallons per day or with an approved industrial
425 pretreatment program and 2) which have been designated by the director and Regional
426 Administrator of the EPA as a major facility.

427

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

431
432 (xlvi) "Major modification" means any modification that is not defined as a
433 minor modification.

434
435 (xlvii) "Main stem" means the major channel of a river or stream as shown on the
436 latest and most detailed records of the Wyoming State Engineer.

437
438 (xlviii) "MGD" means million gallons per day.

439
440 (xlix) "Micrograms per liter ($\mu\text{g/l}$)" means micrograms of solute per liter of
441 solution equivalent to parts per billion (ppb) in liquids, assuming unit density.

442
443 (l) "Milligrams per liter (mg/l)" means milligrams of solute per liter of
444 solution equivalent to parts per million (ppm) in liquids, assuming unit density.

445
446 (li) "Minor facility" means any discharge which is not identified by the
447 director and the Regional Administrator of the EPA, as a major facility.

448
449 (lii) "Minor modification" means

450
451 (A) correcting typographical errors; or

452
453 (B) increasing the frequency of monitoring or reporting by the
454 permittee; or

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

458
459 (D) allowing for a transfer in ownership or operational control of a
460 facility where the division determines that no other change in the permit is necessary, provided
461 that a written agreement containing a specific date for transfer of permit responsibility, coverage
462 and liability between the current and new permittees has been submitted to the department; or

463
464 (E) changing the construction schedule for a discharger which is a new
465 source, but no such change shall affect a discharger's obligation to have all pollution control
466 equipment installed and in operation prior to discharge; or

467
468 (F) deleting a point source outfall when the discharge from that outfall
469 is terminated and does not result in discharge of pollutants from other outfalls except in
470 accordance with permit limits; or

471
472 (G) adding additional wells to an existing permitted outfall provided
473 that the flow volume specified in the permit is not exceeded, the source or quality of the effluent
474 is similar in nature and consists of similar pollutants and the additional effluent will comply with
475 all of the existing permit conditions.

476
477 (lii) “Mixing zone” means limited area or volume of a surface water body
478 within which an effluent becomes thoroughly mixed with the water body.

479
480 (liv) “Modification” means adjustments in permit conditions which result from
481 alterations in the configuration or operation of a facility from what was identified in the
482 application for the permit most recently noticed or authorized.

483
484 (lv) “MS4” means a municipal separate storm sewer system.

485
486 (lvi) “Municipal separate storm sewer” means a conveyance or system of
487 conveyances (including roads with drainage systems, municipal streets, catch basins, curbs,
488 gutters, ditches, man-made channels, or storm drains):

489
490 (A) Owned or operated by the United States, a state, city, town, county,
491 district, association, or other public body (created by or pursuant to state law) having jurisdiction
492 over disposal of sewage, industrial wastes, storm water, or other wastes, including special
493 districts under state law such as a sewer district, flood control district or drainage district, or
494 similar entity, or a designated and approved management agency under section 208 of the CWA
495 that discharges to surface waters of the state;

496
497 (B) Designed or used for collecting or conveying storm water;

498
499 (C) Which is not a combined sewer; and

500
501 (D) Which is not part of a publicly owned treatment works (POTWs)
502 as defined at 40 CFR 403.3.

503
504 (lvii) “Municipality” means a city, town, county, district, association, or other
505 public body created by or under state law and having jurisdiction over disposal of sewage,
506 industrial wastes, or other wastes, or a designated and approved management agency under
507 section 208 of the CWA (1987).

508
509 (lviii) “National Pollutant Discharge Elimination System” means the federal
510 program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing
511 permits and imposing and enforcing pretreatment requirements, under section 307, 318, 402, and
512 405 of the CWA.

513

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

516
517 (lx) "Natural water quality" means that quality of water which would exist
518 without the measurable effects or measurable influence of man's activities.

519
520 (lxi) "Net oil and grease" means the results from a 1664-Cu analysis which
521 represents the oil and grease concentration corrected for elemental sulphur.

522
523 (lxii) "New discharger" means any building, structure, facility, or installation:

524
525 (A) from which there is or may be a discharge of pollution or wastes;

526
527 (B) that did not commence the discharge of pollution or wastes at a
528 particular "site" prior to August 13, 1979;

529
530 (C) which is not a new source; and

531
532 (D) which has never received a finally effective NPDES or WYPDES
533 permit for discharges at that site.

534
535 (lxiii) "New facility" means a facility for which a discharge is being proposed
536 but is not yet occurring, or a facility from which a discharge is occurring, where no permit or
537 authorization for such discharge has been issued by the department.

538
539 (lxiv) "New source" means any source, the construction of which is commenced
540 after publication by the Administrator of the EPA of a proposed standard of performance, which
541 will be applicable to such source if promulgated.

542
543 (lxv) "Non-process wastewater" means any water which, during manufacturing
544 or processing is not defined as process wastewater.

545
546 (lxvi) "Notice" means the announcement to the public, in accordance with the
547 provisions of Section 15 of this regulation, of the intention of the department to issue, reissue,
548 modify, terminate, deny or revoke a permit, or hold a public hearing.

549
550 (lxvii) "Notice of intent" means the form which is used to apply for new,
551 modified, or extended authorization to discharge as sanctioned by a general permit.

552
553 (lxviii) "NPDES" means National Pollutant Discharge Elimination System.

554
555 (lxix) "Outfall" means the point at which a discharge exits the final treatment
556 unit, if any, associated with a facility prior to entering surface waters of the state.

557
558 (lxx) “Overburden” means any material of any nature, consolidated or
559 unconsolidated, that overlies a mineral deposit, excluding topsoil or similar naturally occurring
560 surface materials that are not disturbed by mining operations.
561
562 (lxxi) “Owner or operator” means the owner or operator of any facility or
563 activity subject to regulation under the WYPDES program. The owner or operator is the person
564 applying for a WYPDES permit or authorization who will be responsible for complying with the
565 requirements of the permit or authorization.
566
567 (lxxii) “Permit” means any permit issued by the Administrator of the EPA under
568 the NPDES program or by the administrator of the Water Quality Division in accordance with
569 these regulations.
570
571 (lxxiii) “pH” means a term used to express the intensity of acid or alkaline
572 conditions. pH is a measure of the hydrogen ion activity in a water sample. It is mathematically
573 related to hydrogen ion activity according to the expression: $pH = -\log_{10} (H^+)$, where (H^+) is
574 the hydrogen ion activity. A pH value of 7 at 25 degrees C is neutral, with pHs of less than seven
575 (7) progressively more acid and pHs of greater than seven (7) progressively more basic
576 (alkaline).
577
578 (lxxiv) “Point of compliance” means a point downstream from the outfall where
579 effluent limitations specified in a permit must be achieved.
580
581 (lxxv) “Pollutant” means dredged spoil, solid waste, incinerator residue, filter
582 backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials,
583 radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended
584 [42 U.S.C. 2011 et seq.]), heat, wrecked or discarded equipment, rock, sand, cellar dirt and
585 industrial, municipal, and agricultural waste discharged into water. It does not mean sewage from
586 vessels; or water, gas, or other material which is injected into a well to facilitate production of oil
587 or gas, or water derived in association with oil and gas production and disposed of in a well, if
588 the well used either to facilitate production or for disposal purposes is approved by authority of
589 the state and if the state determines that the injection or disposal will not result in the degradation
590 of ground or surface water resources.
591
592 (lxxvi) “POTW” means a publicly owned treatment work.
593
594 (lxxvii) “Pretreatment standards” means standards for that level of
595 treatment required of waste before introduction into a publicly owned treatment works so that it
596 neither interferes with, passes through, or otherwise is incompatible with such works.
597
598 (lxxviii) “Primary industrial facility” means a facility that falls into one of
599 the defined primary industrial categories listed in 40 CFR Part 122 Appendix A.

600
601 (lxxix) “Process wastewater” means any water which during
602 manufacturing or processing, comes into direct contact with or results from the production or use
603 of any raw material, intermediate product, finished product, byproduct, or waste product.

604
605 (lxxx) “Produced water” means underground water which surfaces through oil
606 and/or gas wells.

607
608 (lxxxii) “Regional Administrator” means the EPA Region VIII Administrator.

609
610 (lxxxiii) “Reporting form” means the uniform state or national forms, including
611 subsequent revision and modification, for reporting data and information pursuant to monitoring
612 and other conditions of WYPDES permits.

613
614 (lxxxiv) “Severe property damage” means substantial physical damage to
615 property, damage to the treatment facilities which causes them to become inoperable, or
616 substantial and permanent loss of natural resources which can reasonably be expected to occur in
617 the absence of a bypass. Severe property damage does not mean economic loss caused by delays
618 in production.

619
620 (lxxxv) “Significant materials” includes, but is not limited to: raw materials;
621 fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as
622 metallic products; raw materials used in food processing or production; hazardous substances
623 designated under section 101(14) of CERCLA; any chemical the facility is required to report
624 pursuant to Section 313 of title III of SARA; fertilizers; pesticides; and waste products such as
625 ashes, slag and sludge that have the potential to be released with storm water discharges.

626
627 (lxxxvi) “Silvicultural point source” means any discernible, confined and
628 discrete conveyance related to rock crushing and gravel washing as defined in 40 CFR Part 436,
629 subpart B and, log sorting, or log storage facilities as defined in 40 CFR Part 429, subpart I
630 which are operated in connection with silvicultural activities and from which pollutants are
631 discharged into surface waters of the state. The term does not include nonpoint source
632 silvicultural activities such as nursery operations, site preparation, reforestation and subsequent
633 cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations,
634 surface drainage, or road construction and maintenance from which there is natural runoff.
635 However, some of these activities may involve point source discharges of dredged or fill material
636 which may require a permit under Section 404 of the CWA or Section 7 of these regulations.

637
638 (lxxxvii) “Site” means the land or water area where any facility or activity is
639 physically located or conducted, including adjacent land used in connection with the facility or
640 activity.

641

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

648
649 (lxxxviii) “Standard Industrial Classification (SIC) Code” means the
650 statistical classification standard for industrial establishments developed by the Office of
651 Management and Budget and published in the Standard Industrial Classification Manual,
652 Executive Office of the President, Office of Management and Budget (1987).

653
654 (lxxxix) “Storm water” means storm water runoff, snow melt runoff, and
655 surface runoff and drainage.

656
657 (xc) “Storm water discharge associated with industrial activity” is defined in
658 Section 6 (g) of these regulations.

659
660 (xci) “Surface waters of the state” means surface waters of the state as defined
661 in Wyoming Water Quality Rules and Regulations Chapter 1, Wyoming Surface Water Quality
662 Standards.

663
664 (xcii) “Technology-based effluent limit” means a permit limit for a pollutant that
665 has been adopted pursuant to Section 5 (c) (iii) (A) and (B) of these regulations and 304 (b) of
666 the CWA that is based on the capability of a treatment method(s) to reduce the pollutant to a
667 certain concentration.

668
669 (xciii) “Toxic materials” means those materials, or combination of materials,
670 including disease causing agents, which, after discharge and upon exposure, ingestion,
671 inhalation, or assimilation into any organism, either directly from the environment or indirectly
672 by ingestion through food chains, will, on the basis of information available to the director of the
673 Wyoming Department of Environmental Quality, cause death, disease, behavioral abnormalities,
674 cancer, genetic malfunctions, physiological malfunctions (including malfunctions in
675 reproduction), or physical deformations in such organisms or their offspring.

676
677 (xciv) “Toxicity reduction evaluation” means a site-specific study conducted in a
678 step-wise process designed to identify the causative agent(s) of effluent toxicity, isolate the
679 sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the
680 reduction in effluent toxicity.

681
682 (xcv) “Tributary” means those streams or stream segments which flow into or
683 contribute water to another stream, stream segment, downstream reach of the same stream, or
684 other water body.

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(xcvi) “Uncontrolled sanitary landfill” means a landfill or open dump, whether in operation or closed, that does not meet the requirements for runoff or 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.

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

731

732 **Section 4. General Permits.**

733

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

737

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

742

743 (i) Storm water point sources except;

744

745 (A) Storm water discharges associated with industrial activities (as
746 defined in Section 6 (g) (ii) (A) through (K)) that have a potential to reach surface waters of the
747 state that are listed as being Outstanding Resource Waters Class 1 in Appendix A of in Chapter
748 1, Wyoming Water Quality Rules and Regulations. These facilities must apply for an individual
749 storm water permit in accordance with the requirements of Section 6 (b).

750

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

753

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

755

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

758

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

760

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

762

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

764

765 (D) Require the same or similar monitoring; and

766

767 (E) In the opinion of the administrator, are more appropriately
768 controlled under a general permit than under individual permits. In making such a finding, the
769 administrator shall consider: the types of discharges; the expected nature of the discharges; the

770 potential for toxic and conventional pollutants in the discharges; the expected volumes of the
771 discharges; and the estimated number of discharges to be covered by the permit. The
772 administrator shall provide in the public notice of the general permit the rationale for utilizing a
773 general permit rather than individual permits for the permitted activity.

774
775 (iv) Application of pesticides in or along surface waters of the state;

776
777 (b) Authorization to discharge.

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

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

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

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

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

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

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

811

812 (v) Discharges other than discharges from publicly owned treatment works,
813 combined sewer overflows, MS4s, primary industrial facilities, and storm water discharges
814 associated with industrial activity and large construction activities may be authorized to
815 discharge under a general permit without submitting a notice of intent where the administrator
816 finds that a notice of intent requirement would be inappropriate. In making such a finding, the
817 administrator shall consider: the types of discharges, the expected nature of the discharges; the
818 potential for toxic and conventional pollutants in the discharges; the expected volumes of the
819 discharges; and the estimated number of discharges to be covered by the permit. The
820 administrator shall provide in the public notice of the general permit the reasons for not requiring
821 a notice of intent, if so allowed.

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

826
827 (c) Water quality-based limits. Where sources within a specific category or
828 subcategory of dischargers are subject to water quality-based limits imposed pursuant to Section
829 5 of these regulations, the source in that specific category or subcategory shall be subject to the
830 same water quality-based effluent limitations, when applicable.

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

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

838
839 (f) Processing procedures for notices of intent.

840
841 (i) The administrator shall review each notice of intent and make a
842 completeness determination within 30 days of receipt of the notice of intent. If the notice of
843 intent and supplemental information are deemed to be complete, processing of the notice of
844 intent shall proceed in accordance with Section 4 (f) (ii). If the administrator determines that the
845 notice of intent is incomplete, a notice shall be provided to the applicant, describing the
846 additional information needed in order to complete the processing of the notice of intent, within
847 45 days of receipt of the notice of intent. The completeness of any notice of intent shall be
848 judged independently of the status of any other notice of intent for the same facility or activity.

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

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

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

(i) Requiring an individual permit.

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

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

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

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

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

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

(F) The discharge(s) is a significant contributor of pollutants. 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;

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

900
901 (IV) Any other relevant factors.

902
903 (ii) Any interested person may petition the administrator to require any person
904 authorized by a general permit or seeking coverage under a general permit to apply for and
905 obtain an individual permit.

906
907 (iii) Any owner or operator authorized by a general permit may request to be
908 excluded from the coverage of the general permit by applying for an individual permit in
909 accordance with Section 5 (a) of these regulations.

910
911 (iv) When an individual permit is issued to an owner or operator otherwise
912 subject to a general permit, the applicability of the general permit to the individual permittee is
913 automatically terminated on the effective date of the individual permit.

914
915 (j) General permit coverage for discharges already covered by an individual permit.
916 A discharge excluded from a general permit solely because it already has an individual permit
917 may request that the individual permit be terminated, and that it be covered by the general
918 permit.

919
920 (k) Application for coverage. Any owner or operator shall apply for coverage in a
921 general permit category by completing the notice of intent supplied by the administrator.

922
923 (l) Permit conditions.

924
925 (i) General permits will include all conditions determined necessary by the
926 state for protection of the surface waters of the state.

927
928 (ii) General permits will require a copy of the authorization letter be posted at
929 the physical location of the permitted site in a prominent and safe place for public viewing.

930
931 (iii) General permits will require the permittee to notify all landowners,
932 on whose property an outfall associated with the general permit is located, prior to submitting the
933 Notice of Intent to the administrator.

934
935 (m) Application requirements for isolated wetlands. A notice of intent submitted for
936 coverage of mitigation for activities that cause the destruction, damage or impairment of
937 naturally occurring isolated wetlands shall contain the information as required in Section 7 (b) of
938 these regulations.

939

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

943

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

947

948 (A) Name of company, entity, or individual seeking authorization;

949

950 (B) Identification of the facility name, location, and telephone number
951 if applicable;

952

953 (C) Mailing address and telephone number of company, entity, or
954 individual seeking authorization;

955

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

957

958 (E) Name and signature of responsible person;

959

960 (F) Authorization of a duly authorized representative under the
961 Signatory Requirements of Section 14 of these rules, where applicable;

962

963 (G) Type and location, expressed in latitude and longitude to the
964 nearest 15 seconds, of the facility from which discharge will occur;

965

966 (H) A description of the activities conducted by the applicant which
967 require it to obtain coverage under a WYPDES permit;

968

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

973

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

976

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

979

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

982

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

985
986 (N) Outfall number(s) and names of surface waters of the state that
987 would or potentially would directly receive any portion of the discharge for each outfall,
988 including, where applicable, a description of the tributary system from the outfall location to the
989 main stem;

990
991 (O) A topographic map extending one mile beyond the property
992 boundaries of the source, showing the location of the facility, intake structures and associated
993 outfalls and proposed monitoring and/or compliance points; each of its hazardous waste
994 treatment, storage, or disposal facilities; each well where fluids from the facility are injected
995 underground; and those wells, springs, other surface water bodies, and drinking water wells
996 listed in public records or otherwise known by the applicant in the map area. The map scale must
997 be at least 1:24,000 unless otherwise approved by the administrator.

998
999 (P) Where applicable, additional requirements as
1000 specified in Appendices A through M of these regulations.

1001
1002 (Q) Any other information the administrator may request in order to
1003 identify potential impacts to designated uses of surface waters of the state, by the proposed
1004 discharge and to determine whether to issue authorization under a general permit. The additional
1005 information may include additional quantitative data and bioassays to assess the relative toxicity
1006 of discharges to aquatic life and requirements to determine the cause of the toxicity.

1007
1008 (ii) Information in addition to that described in Section 4 (n) (i) may be
1009 established based on needs specific to a general permit.

1010
1011 (iii) A notice of intent submitted by a permittee for modification or extension
1012 of existing authorization under a general permit shall identify any changes or additions to the
1013 information listed in (i) and (ii) above that was provided in the notice of intent submitted for the
1014 authorization most recently granted.

1015
1016 (iv) A notice of intent and other documents required to accompany said notice
1017 of intent when submitted to the department must be signed and certified in accordance with the
1018 provisions of Section 14 of these regulations.

1019
1020 (o) Application requirements for storm water discharges.

1021
1022 (i) Deadlines to apply.

1023

1024 (A) Facilities proposing a new discharge of storm water associated
1025 with industrial activity or large construction activity shall submit a notice of intent in accordance
1026 with the provisions of Section 4 (o) (ii) of these regulations.

1027
1028 (B) Except as provided in Section 4 (o) (i), for any storm water
1029 discharge associated with large construction activity as described in Section 6 (f) (i) or industrial
1030 activity as identified in Section 6 (g) in place prior to the effective date of this rule, should have
1031 made application to the administrator by October 1, 1992; prior to initiation of the activity; or as
1032 specified in the applicable general permit.

1033
1034 (C) For any storm water discharge associated with industrial activity
1035 from a facility that is owned or operated by a municipality with a population of less than 100,000
1036 that is not authorized by a general or individual permit other than an airport, powerplant, or
1037 uncontrolled sanitary landfill, the permit application must be submitted to the administrator by
1038 March 10, 2003 or as specified in the applicable general permit.

1039
1040 (D) For storm water discharges associated with small construction
1041 activity as described in Section 6 (f) (ii), that are not already authorized by a storm water general
1042 or individual permit, require permit authorization as of March 10, 2003, except;

1043
1044 (I) Storm water discharges subject to Section 4 (b) (v) which
1045 are not required to submit a NOI for coverage in accordance with the provisions of the applicable
1046 general permit, and

1047
1048 (II) Storm water discharges associated with small construction
1049 activity at oil and gas exploration, production, processing, and treatment operations or
1050 transmission facilities subject to the provisions of, Section 4 (o) (i) (E) of these regulations.

1051
1052 (E) For storm water discharges associated with small construction
1053 activity at oil and gas exploration, production, processing, and treatment operations or
1054 transmission facilities, require permit authorization as of March 10, 2005.

1055
1056 (F) A notice of intent shall be submitted to the administrator within 60
1057 days of notice of a storm water discharge which the administrator determines contributes to a
1058 violation of a water quality standard or is a significant contributor of pollutants to surface waters
1059 of the state or where the administrator determines that storm water controls are needed for the
1060 discharge based on wasteload allocations that are part of “total maximum daily loads” (TMDLs)
1061 that address the pollutant(s) of concern; unless permission for a later date is granted by the
1062 administrator.

1063
1064 (G) For any existing storm water discharge from a regulated small
1065 MS4 for which a storm water permit application was not previously required under federal law

1066 or regulation, the permit application made under Section 4 (o) (iii) must be submitted to the
1067 administrator:

1068
1069 (I) By March 10, 2003 for any storm water discharge
1070 associated with a regulated small MS4 in an urbanized area as described in Section 6 (h) (i) (A)
1071 and (B) and that is not already authorized by a storm water general or individual permit,
1072

1073 (II) Within 180 days of notice of designation, unless the
1074 administrator grants a later date, under Section 6 (h) (i) (C) or (D).
1075

1076 (ii) Application requirements for storm water discharges associated with
1077 industrial activity and large construction activity. Dischargers of storm water associated with
1078 industrial activity and large construction activity are required to apply for an individual permit or
1079 seek coverage under a storm water general permit.
1080

1081 A notice of intent requesting coverage under a general permit must be completed in
1082 accordance with the requirements of this section and the applicable general permit. Unless the
1083 administrator determines that certain items are unnecessary, the notice of intent shall contain, at a
1084 minimum:

1085
1086 (A) General requirements applicable to all notices of intent:

1087
1088 (I) Name of the company, entity, or individual seeking a
1089 permit;
1090

1091 (II) Mailing address and telephone number of company, entity,
1092 or individual seeking a permit;
1093

1094 (III) The facility name, location, and telephone number if
1095 applicable;
1096

1097 (IV) Applicant status as federal, state, private, public, or other
1098 entity;
1099

1100 (V) Name and signature in accordance with the requirements of
1101 Section 14 of these regulations;
1102

1103 (VI) Authorization of a duly authorized representative under the
1104 Signatory Requirements of Section 14 of these regulations, where applicable;
1105

1106 (VII) Location, expressed in latitude and longitude to the nearest
1107 15 seconds, of the facility to be covered under the permit;
1108

1109 (VIII) Location, expressed as quarter/quarter section, township,
1110 and range in the applicable Public Land Survey (PLS), of the facility to be covered under the
1111 permit;

1112
1113 (IX) A description of the activities conducted by the applicant
1114 which require it to obtain a WYPDES storm water discharge permit;

1115
1116 (X) For industrial activities only, up to four SIC codes which
1117 best reflect the principal products or services provided by the facility;

1118
1119 (B) Applicants shall provide such other information the administrator
1120 may reasonably require to determine whether to issue an authorization. The additional
1121 information may include additional quantitative data and bioassays to assess the relative toxicity
1122 of discharges to aquatic life and requirements to determine the cause of the toxicity.

1123
1124 (iii) Application requirements for regulated small municipal separate storm
1125 sewer discharges.

1126
1127 (A) The notice of intent for general permit coverage must include the
1128 following information, at a minimum:

1129
1130 (I) Name of the municipality seeking a permit;

1131
1132 (II) Mailing address, contact name, and telephone number of
1133 the municipality seeking a permit;

1134
1135 (III) A general description of the best management practices
1136 (BMPs) that the permittee or another municipality will implement for each of the storm water
1137 minimum control measures required by Section 6 (j) (i);

1138
1139 (IV) The measurable goals for each of the selected BMPs
1140 including, as appropriate, the months and years in which the permittee will undertake required
1141 actions, including interim milestones and the frequency of the action;

1142
1143 (V) The person or persons responsible for implementing or
1144 coordinating the permittee=s storm water management program. A position, rather than an
1145 individual, may also be designated;

1146
1147 (VI) A description of the funding sources expected for
1148 implementation of the permittee=s program; and

1149
1150 (VII) Other information the administrator may reasonably require
1151 to determine whether to issue an authorization.

1152
1153 (B) The permittee may file a separate application for coverage under a
1154 general permit, or may jointly submit an application with other municipalities or governmental
1155 entities. If the permittee wants to share responsibilities for meeting the minimum control
1156 measures with other municipalities or governmental entities, the application (whether separate or
1157 joint) must describe which minimum control measures the permittee will implement and identify
1158 the entities that will implement the other minimum control measures within the area served by
1159 the permittee=s MS4.

1160
1161 (C) If authorized by the administrator, the permittee may file a separate
1162 application for coverage under an individual permit. The application must include the
1163 information required under Section 4 (o) (iii) and Section 6 (b) (i), an estimate of square mileage
1164 served by the small MS4, and any additional information that the administrator requests. The
1165 administrator=s authorization will be contingent upon the regulated entity providing adequate
1166 justification for the need for an individual permit.

1167
1168 (D) If authorized by the administrator, two (2) or more regulated
1169 entities may jointly apply under Section 4 (o) (iii) (C) to be co-permittees under an individual
1170 permit. The administrator=s authorization will be contingent upon the regulated entities
1171 providing adequate justification for the need for an individual permit.

1172
1173 (p) Application requirements for use of pesticides in or near waterbodies, except fish
1174 toxicants used for fisheries management as described in Section 2(b)(ix) of this Chapter.

1175
1176 (i) A notice of intent submitted for coverage of pesticide use in or along
1177 waterbodies under a general permit shall contain, at a minimum, the following information
1178 unless the administrator determines that certain items are unnecessary:

1179
1180 (A) Name of company, entity, or individual seeking authorization;

1181
1182 (B) Description of the target pest(s);

1183
1184 (C) A site map depicting proposed treatment areas and any potentially
1185 affected waterbodies;

1186
1187 (D) An inventory of all pesticides to be used, including ingredients and
1188 modes of action;

1189
1190 (E) A legal description (Section(s), Township(s), Range(s), County of
1191 the locations proposed for pesticide use, including affected waterbodies;

1192
1193 (F) Authorization of a duly authorized representative under the
1194 Signatory Requirements of Section 14 of this Chapter, where applicable;

1195
1196 (ii) Information in addition to that described in Section 4(p)(i) of this Chapter
1197 may be established based on needs specific to a general permit.

1198
1199 (iii) A notice of intent submitted by a permittee for modification or extension
1200 of existing authorization under a general permit shall identify any changes or additions to the
1201 information listed in (i) and (ii) of this Section 4(p) that was provided in the notice of intent
1202 submitted for the authorization most recently granted.

1203
1204 (iv) A notice of intent and other documents required to accompany said notice
1205 of intent when submitted to the department must be signed and certified in accordance with the
1206 provisions of Section 14 of this Chapter.

1207
1208 **Section 5. Effluent Permits.**

1209
1210 The following process shall be used in the application for, development of, and issuance
1211 of effluent permits, except for storm water permits which are addressed under Sections 4 and 6
1212 of these regulations.

1213
1214 (a) Application for individual permits. Completed application forms shall be
1215 submitted to the department for permits for new facilities, modifications to existing permits, and
1216 permit renewals.

1217
1218 (i) Permits for new facilities. The owner or operator of any point source
1219 within the State of Wyoming who proposes to discharge pollution or wastes into surface waters
1220 of the state must file with the administrator a complete application form either (1) no less than
1221 180 days in advance of the date on which it is desired to commence the discharge of pollution or
1222 wastes, unless otherwise approved by the administrator, or (2) in sufficient time prior to any
1223 discharge of pollutants to insure compliance with the requirements of Section 306 of the Federal
1224 Act, or with any applicable zoning or siting requirements established pursuant to Section 208 (b)
1225 (2) (c) of the Federal Act, and any other applicable water quality standards and limitations. In
1226 any event, no person shall commence a discharge without having obtained a permit from the
1227 department, and no permit shall be issued without full compliance by the permittee with all
1228 requirements of these regulations.

1229
1230 (ii) Modification of permits. (Refer to Section 12 of these regulations.)

1231
1232 (iii) Renewal of permits. (Refer to Section 10 of these regulations.)

1233
1234 (iv) Application for individual permits. Application for individual permits
1235 shall be made using forms provided or specified by the administrator. Completed application
1236 forms shall be submitted to the department for permits for new facilities, modifications to
1237 existing permits, and permit renewals.

1238
1239 (v) General information requirements. An application form for all new
1240 individual permits shall contain the following information unless the administrator determines
1241 that specific items are unnecessary:
1242
1243 (A) Name of company, entity, or individual seeking a permit;
1244
1245 (B) Identification of the facility name, location, and telephone number
1246 if applicable;
1247
1248 (C) Mailing address and telephone number of company, entity, or
1249 individual seeking a permit;
1250
1251 (D) Applicant status as federal, state, private, public, or other entity
1252 and status of applicant as owner, operator or both;
1253
1254 (E) Name and signature of responsible person as required by Section
1255 14 of these regulations;
1256
1257 (F) Authorization of a duly authorized representative under the
1258 Signatory Requirements of Section 14 of these rules, where applicable;
1259
1260 (G) Names, addresses, and telephone numbers of landowners where
1261 outfalls will be located, if property owner is other than applicant;
1262
1263 (H) Type and location, expressed in latitude and longitude to the
1264 nearest 15 seconds, of the facility from which discharge will occur;
1265
1266 (I) A description of the activities conducted by the applicant which
1267 require it to obtain an WYPDES permit and where the activity includes treatment facilities
1268 associated with the discharge, a site diagram of the treatment facilities associated with the
1269 discharge and the outfall locations;
1270
1271 (J) Up to four (4) SIC codes which best reflect the principal products
1272 or services provided by the facility;
1273
1274 (K) Expected quality and quantity (including maximum design
1275 capacity in million gallons per day and, except for POTWs, the average daily flow rate in million
1276 gallons per day) of effluent proposed for discharge, flow rate in million gallons per day or cubic
1277 feet per second, and whether the proposed discharge will be continuous or intermittent;
1278
1279

- 1280 (L) Description of each treatment process that will be used to reduce
1281 pollutant concentrations in effluent;
1282
- 1283 (M) Outfall numbers and latitude and longitude of each outfall location
1284 to the nearest 15 seconds;
1285
- 1286 (N) Outfall numbers, the county where each outfall is located and legal
1287 description of each outfall location to the nearest quarter/quarter of a section;
1288
- 1289 (O) Distance from shore and depth below water surface;
1290
- 1291 (P) Whether the discharge will be continuous or periodic. If the
1292 discharge is to be periodic the following information for each outfall shall be provided:
1293
- 1294 (I) Number of times per year the discharge is to occur.
1295
- 1296 (II) Anticipated duration of each discharge.
1297
- 1298 (III) Anticipated flow of each discharge.
1299
- 1300 (IV) Months in which discharge is expected to occur.
1301
- 1302 (Q) Whether any outfall is or will be equipped with a diffuser and the
1303 type of diffuser used.
1304
- 1305 (R) Outfall number(s) and names of surface waters of the state that
1306 would or potentially would directly receive any portion of the discharge for each outfall,
1307 including where applicable, a description of the tributary system from the outfall location to the
1308 main stem;
1309
- 1310 (S) A topographic map extending one mile beyond the property
1311 boundaries of the source, showing the location of the facility, intake structures and associated
1312 outfalls and proposed monitoring and/or compliance points; each of its hazardous waste
1313 treatment, storage, or disposal facilities; each well where fluids from the facility are injected
1314 underground; and those wells, springs, other surface water bodies, and drinking water wells
1315 listed in public records or otherwise known by the applicant in the map area.
1316
- 1317 (T) A listing of all active permits or construction approvals received or
1318 applied for by the applicant for the site under any of the following programs:
1319
- 1320 (I) Hazardous Waste Management program under the
1321 Resource Conservation and Recovery Act.
1322

1323 (II) Underground Injection Control program under the Safe
1324 Drinking Water Act.
1325
1326 (III) NPDES program under the CWA.
1327
1328 (IV) WYPDES program under these regulations.
1329
1330 (V) Prevention of Significant Deterioration program under the
1331 Clean Air Act.
1332
1333 (VI) Non-attainment program under the Clean Air Act.
1334
1335 (VII) National Emission Standards for Hazardous Pollutants
1336 under the Clean Air Act.
1337
1338 (VIII) Section 404 of the CWA.
1339
1340 (IX) Impoundments and/or Appropriation of Surface Water
1341 under the State Engineer=s Office.
1342
1343 (X) Reservoirs under the Oil and Gas Conservation
1344 Commission.
1345
1346 (XI) Other relevant local, state, or federal environmental
1347 permits.
1348
1349 (U) Any additional information required in accordance with
1350 appendices B through M of these regulations.
1351
1352 (V) Any other information the administrator may request in order to
1353 assess potential impacts to designated uses of surface waters of the state as a result of the
1354 proposed discharge, to develop permit conditions in compliance with regulations adopted
1355 pursuant to Section 304 of the CWA, or to determine whether to issue a WYPDES permit. The
1356 additional information may include additional quantitative data and bioassays to assess the
1357 relative toxicity of discharges to aquatic life and requirements to determine the cause of the
1358 toxicity.
1359
1360 (vi) Signature requirement. A permit application and other documents required
1361 to accompany said application when submitted to the department must be signed and certified in
1362 accordance with the provisions of Section 14 of these regulations.
1363

1364 (vii) Records retention. Applicants shall keep records of all data used to
1365 complete permit applications and any supplemental information submitted under this section for
1366 a period of three (3) years from the date the application is signed.

1367
1368 (b) Processing procedures applicable to all individual permit applications.
1369

1370 (i) Permit issuance or denial determination. Within 180 days of the receipt of
1371 an application and requested supplemental information, the director shall make a tentative
1372 determination with respect to the issuance or denial of a permit. If the director, with the advice of
1373 the administrator, determines that the permit should be issued, then tentative determinations will
1374 also be made with respect to the following:

1375 (A) Proposed effluent limitations, which in the absence of federal
1376 guidelines adopted pursuant to Section 304 of the CWA, will comply with 40 CFR 125.3 (c) (2)
1377 and (3);

1378 (B) Proposed effluent limitations that will ensure that water quality
1379 standards promulgated in Wyoming Water Quality Rules and Regulations, Chapter 1 will not be
1380 violated as a result of the proposed discharge;

1381 (C) A proposed schedule of compliance, where appropriate; and
1382

1383 (D) Conditions and restrictions in addition to those specified in these
1384 regulations that are necessary in order for the requirements of the CWA or the Wyoming
1385 Environmental Quality Act to be upheld.

1386 (ii) Completeness review. The administrator shall provide a notice of
1387 completeness or deficiency within 45 days of receipt of the application. If a notice of
1388 completeness or deficiency is not issued to the applicant within 45 days of receipt of the
1389 application, the administrator shall issue a letter of explanation to the applicant which specifies
1390 the expected date of the completeness determination.

1391 (iii) Completeness determination. The director shall not process or issue a
1392 permit before receiving a complete application for a permit and all requirements of this section
1393 have been met. An application for a permit is complete when it has been submitted to the
1394 department, and includes all of the information required in Section 5 (a) (v) and Appendices A
1395 through M of these regulations and any applicable federal effluent guidelines of 40 CFR Parts
1400 405 through 411, 413 through 433, 436, 437, 439, 440, 442 through, 447, 454, 455, 457 through
1401 461, 463 through 469, and 471, such that the administrator deems that adequate information has
1402 been provided to make a determination in accordance with Section 5 (b) (i). The completeness of
1403 any application for a permit shall be judged independently of the status of any other permit
1404 application or permit for the same facility or activity.

1405
1406

1407 (iv) Permit denial. If the director determines that the permit should be denied,
1408 he shall give written notice of this action to the applicant and to the Regional Administrator of
1409 the EPA within 30 days after making the tentative determination.

1410
1411 (v) Draft permits. For each proposed discharge for which an application
1412 determined to be complete has been received and for which none of the conditions under which
1413 permits must be prohibited exist, the administrator shall prepare a draft permit that embodies the
1414 tentative determinations reached relative to Section 5 (b) (i) above. Draft permits shall be
1415 available to the public for inspection, copying and public comment.

1416
1417 (vi) Public participation and public meetings. The requirements for public
1418 participation and public meetings contained in these regulations shall be complied with for every
1419 permit proposed for issuance by the director.

1420
1421 (c) Terms and conditions of permits. All issued permits will contain, as a minimum,
1422 authorization for discharge subject to the conditions of the permit, effluent limitations, standards
1423 of performance for any new source, standard conditions, special conditions (when applicable),
1424 monitoring requirements where discharge is allowed, and reporting requirements that comply
1425 with these regulations.

1426
1427 The permittee shall comply with effluent standards or prohibitions established under
1428 section 307(a) of the CWA for toxic pollutants within the time provided in the regulations that
1429 establish these standards or prohibitions.

1430
1431 (i) Standard conditions. All issued permits shall contain standard conditions
1432 consisting of, but not limited to, the following:

1433
1434 (A) The permittee must comply with all conditions of the permit. Any
1435 noncompliance is a violation of the CWA and the Wyoming Environmental Quality Act and is
1436 grounds for enforcement action; for permit termination, revocation and reissuance, or
1437 modification; or denial of a permit reissuance or extension of authorization.

1438
1439 (B) Any planned sewerage system, treatment works, or disposal system
1440 expansions, production increases, process modifications, or new source additions which will
1441 result in a new or increased discharge or the inclusion of additional criteria for a new source shall
1442 be reported by submission of an application or, if such discharge will not violate effluent
1443 limitations specified in the permit, by submission to the administrator of notification of such new
1444 or increased discharge.

1445
1446 (C) The discharge of pollution and/or wastes into surface waters of the
1447 state more frequently than, or at a level in excess of, that identified and authorized by a permit
1448 shall constitute a violation of the conditions of the permit.

1449

1450 (D) After notice and opportunity for a hearing, a permit may be
1451 modified, in whole or in part, revoked and reissued, or terminated during its term. The filing of a
1452 request by the permittee for a modification, revocation, reissuance, termination, or notification of
1453 planned changes or anticipated noncompliance does not halt any permit condition. Cause for
1454 such permit actions, includes, but are not limited to, any of the following:

1455 (I) Violation of any conditions of the permit;

1456 (II) Obtaining a permit by misrepresentations or failure to fully
1457 disclose all relevant facts;

1458 (III) A change in any condition that requires either a temporary
1459 or permanent reduction or elimination of the discharge; and

1460 (IV) A failure or refusal by the permittee to comply with the
1461 monitoring and reporting requirements of a permit and Sections 35-11-109 (a) (iv) and 35-11-
1462 110 (a) (vii) Wyoming Statutes.

1463 (E) A permit may be modified in whole or in part during its term in
1464 order to apply any more stringent toxic effluent standard or prohibition, for a toxic substance
1465 present in the permittee's discharge, that is promulgated by the Administrator of the EPA.

1466 (F) A requirement that the permittee allow the administrator or his
1467 authorized representative upon presentation of his credentials to:

1468 (I) Enter the premises where a permittee's regulated facility or
1469 activity is located or conducted or where records must be kept under the conditions of the permit;

1470 (II) Sample or monitor at reasonable times, for the purposes of
1471 assuring permit compliance or as otherwise authorized by these rules, the Wyoming
1472 Environmental Quality Act or the CWA, any substances or parameters at any location;

1473 (III) Have access to and copy, at reasonable times, any records
1474 required by the permit to be kept;

1475 (IV) Inspect at reasonable times any facilities, equipment
1476 (including monitoring and control equipment), practices, or operations regulated or required
1477 under the permit; and

1478 (V) Take any other action authorized by 35-11-109 (a) (v), (vi)
1479 and (vii) Wyoming Statutes, or these regulations.

1480
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1491

1492 (G) A requirement that, if requested by the administrator or the
1493 administrator=s authorized agent, the permittee shall provide access to physical locations
1494 associated with this permit including, but not limited to, well heads, discharge points, reservoirs,
1495 monitoring locations, and any waters of the state associated with the permit at the point of
1496 discharge.

1497
1498 (H) A requirement that, if the permittee wishes to continue an activity
1499 regulated by a permit after the expiration date of the perit, the permittee must apply for and
1500 obtain a new permit in accordance with Section 10 of these regulations, unless an extension is
1501 granted under Section 11 of these regulations.

1502
1503 (I) It is not a defense for a permittee in an enforcement action that it
1504 would have been necessary to halt or reduce the permitted activity in order to maintain
1505 compliance with the conditions of a permit.

1506
1507 (J) The permittee shall take all reasonable steps to minimize or
1508 prevent any discharge in violation of this permit which has a reasonable likelihood of adversely
1509 affecting human health or the environment.

1510
1511 (K) The permit does not convey any property rights of any sort, or any
1512 exclusive privilege.

1513
1514 (L) A requirement that the permittee shall furnish to the administrator,
1515 within a reasonable time, any information which the administrator or his authorized
1516 representative may request to determine whether cause exists for modifying, revoking and
1517 reissuing, or terminating the permit or to determine compliance with the permit.

1518
1519 (M) A requirement that the permittee shall furnish to the administrator
1520 or his authorized representative, copies of records required to be kept by the permit.

1521
1522 (N) The permittee must properly operate and maintain all equipment
1523 and treatment systems used by the permittee to achieve compliance with the terms of the permit.
1524 The permittee must provide appropriate laboratory controls and quality assurance procedures,
1525 where applicable. Backup systems are required when needed to ensure compliance. However,
1526 each main line unit treatment process must be operated as a minimum.

1527
1528 (O) To assure compliance with permit limitations, the permittee shall
1529 monitor:

1530
1531 (I) The mass (or other measurement specified in the permit)
1532 for each pollutant limited in the permit.

1533
1534 (II) The volume of effluent discharged from each outfall.

1535
1536 (P) Samples and measurements taken for the purpose of monitoring
1537 shall be representative of the monitored activity. Records must be retained for three (3) years
1538 subject to extension by the director. Monitoring records shall include but are not limited to the
1539 following:

- 1540
1541 (I) The date, location, and time of the sampling;
1542
1543 (II) The dates and by whom analyses were performed;
1544
1545 (III) Analytical techniques used;
1546
1547 (IV) The results of such analyses;
1548
1549 (V) Name of the person collecting the sample(s);
1550
1551 (VI) Sampling handling and preservation conducted; and
1552
1553 (VII) Detection limits for analyses conducted.
1554

1555 Wastewater measurements must be conducted in accordance with methods and
1556 procedures prescribed in 40 CFR Part 136 or other specified procedures.
1557

1558 (Q) Pollutants for which the permittee must report violations of daily
1559 maximum discharge limitations under Section 5 (c) (i) (W) (24-hour reporting) shall be listed in
1560 the permit. This list shall include any toxic pollutant or hazardous substance, or any pollutant
1561 specifically identified as the method to monitor a toxic pollutant or hazardous substance.
1562

1563 (R) Applications, reports, or information submitted to the administrator
1564 must be signed and certified. Knowingly making false statements, representations, or
1565 certifications is a violation of the permit, Wyoming Water Quality Rules and Regulations
1566 Chapter 2 and the Wyoming Environmental Quality Act and is subject to enforcement.
1567

1568 (S) The permittee shall give advance notification to the administrator
1569 of any planned changes in the permitted facility or activity which may result in noncompliance
1570 with permit requirements.
1571

1572 (T) The permit is not transferrable except after written notification is
1573 provided to the administrator and such request is approved by the administrator. The
1574 administrator may require modification, or revocation and reissuance, as necessary.
1575

1576 (U) Monitoring reports must be submitted on a discharge monitoring
1577 report form provided by the department or on a form with an identical format as the form

1578 provided by the department, with prior approval by the administrator. Monitoring results shall be
1579 reported to the department at the intervals specified in the permit. If monitoring is conducted at a
1580 frequency greater than that required by the permit, the results of the additional monitoring must
1581 be reported. In reporting effluent limits based on average concentrations, the permittee must
1582 report the results using an arithmetic mean, except for fecal coliform. Average results for fecal
1583 coliform monitoring shall be reported as a geometric mean.

1584
1585 (V) Reporting of compliance or noncompliance with specified dates
1586 contained in a compliance schedule of the permit shall be submitted to the administrator no later
1587 than 14 days following each scheduled date.

1588
1589 (W) For any noncompliance which may endanger human health or the
1590 environment, an oral notification must be made by the permittee to the administrator within 24-
1591 hours of the permittee becoming aware of the noncompliance. Within five (5) days, the permittee
1592 must provide a written notification of the noncompliance which describes the noncompliance and
1593 its cause; the period and duration of noncompliance including exact dates and times; and, if the
1594 noncompliance has not been corrected, the anticipated time it is expected to continue and steps
1595 planned or taken to reduce, eliminate, and prevent recurrences of the noncompliance.
1596 Circumstances that must be reported within 24-hours of becoming aware of the noncompliance
1597 include, but are not limited to, any unanticipated bypass or upset which exceeds any effluent
1598 limit in the permit; or violation of a daily maximum discharge limitation for any of the pollutants
1599 listed by the administrator in the permit to be reported within 24-hours of becoming aware of the
1600 noncompliance.

1601
1602 (X) For noncompliance other than as reported in (S),(V), and (W)
1603 above, the permittee shall report all instances at the time monitoring reports are submitted. The
1604 reports shall contain the information listed in (W) above.

1605
1606 (Y) Where the permittee becomes aware that it failed to submit any
1607 relevant facts in a permit application, or submitted incorrect information in a permit application
1608 or in any report to the administrator, it shall promptly submit such facts or information.

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

1621 maintenance. The administrator may approve an anticipated bypass, after receiving notification,
1622 if the conditions for the allowance of bypass as described in this paragraph have been met.

1623
1624 (AA) An upset constitutes an affirmative defense to an action brought for
1625 noncompliance with technology based permit effluent limitations if the permittee can
1626 demonstrate that: an upset occurred and that the permittee can identify the cause(s) of the upset;
1627 the permitted facility was, at the time of the upset, being properly operated; the permittee
1628 submitted notice of the upset as required in (W) above; In any enforcement proceeding, the
1629 permittee seeking to establish the occurrence of an upset has the burden of proof.

1630
1631 (BB) A reopener clause which states that additional or more stringent
1632 permit requirements may be imposed, after following the procedures outlined in this regulation
1633 for permit modifications, if any of the following conditions is found to be present:

1634
1635 (I) The water quality standards of the receiving water(s) to
1636 which the permittee discharges are modified in such a manner as to require effluent limits
1637 different than those contained in the permit;

1638
1639 (II) A TMDL or watershed management plan is developed and
1640 approved by the department which calls for different effluent limitations than those contained in
1641 the permit;

1642
1643 (III) A TMDL or watershed management plan is revised and
1644 approved by the department which calls for different effluent limitations than those contained in
1645 the permit;

1646
1647 (IV) The use(s) of the receiving surface water of the state is
1648 impaired and the permitted facility is contributing to the impairment;

1649
1650 (V) Water quality standards in the receiving surface waters of
1651 the state are no longer achieved as a result of the discharge and the effluent limitations
1652 established by the permit are being met;

1653
1654 (VI) The effluent limitations in the permit do not address a
1655 pollutant that has the potential to cause or contribute to a violation of a water quality standard;

1656
1657 (VII) Applicable technology based effluent limits are
1658 promulgated which are more stringent than those imposed by the permit; or

1659
1660 (VIII) An interstate compact or agreement on potential receiving
1661 waters is established.

1662

1663 (CC) A reopener provision for toxicity limitations which states that
1664 additional or more stringent permit requirements, a new compliance schedule, revisions to
1665 compliance dates set forth in the permit, changes to the whole effluent toxicity protocol, or any
1666 other conditions related to the control of toxicants may be imposed, following the procedures
1667 outlined in this regulation for permit modifications, if one or more of the following events
1668 occurs:

1669
1670 (I) Effluent toxicity was detected late in the life of the permit
1671 near or past the deadline for compliance;

1672
1673 (II) The results of a toxicity reduction evaluation indicate that
1674 compliance with the toxic limitations contained in the permit will require an implementation
1675 schedule past the date for compliance and the department agrees with the conclusion;

1676
1677 (III) The results of a toxicity reduction evaluation indicate that
1678 the toxicant(s) represent pollutant(s) that may be controlled with specific numeric effluent
1679 limitations and the department agrees that numeric controls are the most appropriate approach to
1680 controlling toxicity;

1681
1682 (IV) Following the implementation of numeric controls for a
1683 toxicant, the department agrees that a modified whole effluent toxicity protocol is necessary to
1684 compensate for those toxicants that are controlled numerically;

1685
1686 (V) Other conditions or characteristics are identified through a
1687 toxicity reduction evaluation which justifies the incorporation of special conditions in the permit
1688 to address effluent toxicity.

1689
1690 (DD) For permits which do not require the submittal of monitoring result
1691 reports at least annually, the permittee shall report all instances of non-compliance not reported
1692 under the Section 5 (c) (i) (B), (P), (U), (V) or (W) at least annually.

1693
1694 (ii) Special conditions. In addition to conditions required in all permits, the
1695 administrator shall establish conditions, as required on a case-by-case basis, to provide for and
1696 assure compliance with all applicable requirements of the CWA, the Wyoming Environmental
1697 Quality Act, and applicable Wyoming Water Quality Rules and Regulations which have taken
1698 effect prior to final administrative disposition of the permit. Such conditions may include but are
1699 not limited to the following.

1700
1701 (A) Toxic effluent standards which, as a minimum, comply with those
1702 established under the CWA and may be modified in accordance with Section 5 (c) (i) (E), (BB)
1703 and (CC) and Section 12.

1704

1705 (B) Additional limitation(s) that may be required in order for the
1706 permittee to meet state water quality and treatment standards, implement TMDL requirements,
1707 achieve compliance with a plan approved pursuant to Section 208 (b) of the CWA, or attain or
1708 maintain a specified water quality through water quality related effluent limits established under
1709 Section 302 of the CWA.

1710
1711 (C) Any other requirements, including but not limited to monitoring
1712 points of compliance, water quality monitoring stations, flow monitoring stations and irrigation
1713 compliance points, that the administrator determines are necessary to carry out the provisions of
1714 W.S. 35-11-302 et seq. and to insure that water quality standards are met and waste load
1715 allocations prepared when required by the CWA.

1716
1717 (D) Where a compliance schedule is required in order to achieve any of
1718 the conditions described in Section 5 (c) (ii) (A), (B), or (C) above or to achieve compliance with
1719 an effluent limitation established as set forth in Section 5 (c) (iii), the following specific
1720 requirements will be met.

1721
1722 (I) Such schedule will, as a minimum, conform to any legally
1723 applicable schedule contained in any applicable effluent standard or water quality standard
1724 promulgated under federal or state authority. In the absence of any such legally applicable
1725 schedule, the administrator and permittee shall comply in the shortest reasonable period of time.

1726
1727 (II) In any case where the period of time for compliance
1728 exceeds nine (9) months, the schedule of compliance specified in the permit will set forth interim
1729 requirements and the dates for their achievement. In no event shall more than nine (9) months
1730 elapse between interim dates. To the extent practicable, the interim and final dates shall fall on
1731 the last day of the months of March, June, September, and December.

1732
1733 (III) The permittee will provide the administrator with written
1734 notice of the permittee's compliance or non-compliance with each interim and final date either
1735 before, or within 14 days after, such compliance date is reached.

1736
1737 (IV) If the permittee fails or refuses to comply with an interim
1738 or final requirement in a permit, such non-compliance shall constitute a violation of the permit,
1739 and the administrator may modify, or revoke the permit to take direct enforcement action.

1740
1741
1742 (V) Upon request of the permittee, the administrator may revise
1743 or modify a schedule of compliance for good and valid cause (such as an act of God, strike,
1744 flood, material shortage, or other event over which the permittee has little or no control).

1745
1746 (VI) On the last day of the month of February, May, August and
1747 November, the administrator shall transmit to the Regional Administrator of the EPA, a list of all

1748 instances, as of 30 days prior to the date of such report, of failure or refusal of a permittee to
1749 comply with an interim or final compliance requirement. Such list shall be available to the public
1750 for inspection and copying and include:

1751
1752 (1.) The name and address of non-complying permittee;

1753
1754 (2.) A short description of each instance of non-
1755 compliance;

1756
1757 (3.) Short description of any action proposed by the
1758 permittee or the administrator to achieve compliance; and

1759
1760 (4.) Any details that tend to explain or mitigate the non-
1761 compliance.

1762
1763 (E) Alternative schedules of compliance. A WYPDES permit applicant
1764 or permittee may cease conducting regulated activities (by terminating direct discharge for
1765 WYPDES sources) rather than continuing to operate and meet permit requirements as 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
1794 (3.) The second schedule shall lead to cessation of
1795 regulated activities by a date which will ensure timely compliance with applicable requirements
1796 no later than the statutory deadline.

1797
1798 (4.) Each permit containing two schedules shall include
1799 a requirement that after the permittee has made a final decision under Section 5 (c) (ii) (E) (III)
1800 the permittee shall follow the schedule leading to compliance if the decision is to continue
1801 conducting regulated activities, and follow the schedule leading to termination if the decision is
1802 to cease conducting regulated activities.

1803
1804 (F) Best management practices. Best management practices to control
1805 or abate the discharge of pollutants when:

1806
1807 (I) Authorized under Section 304 (e) of the CWA for the
1808 control of toxic pollutants and hazardous substances from ancillary industrial activities;

1809
1810 (II) Numeric effluent limitations are infeasible; or

1811
1812 (III) The practices are reasonably necessary to achieve effluent
1813 limitations and standards or to carry out the purposes and intent of these regulations.

1814
1815 (G) Grants. Any conditions imposed in federal grants to POTWs under
1816 Sections 201 and 204 of the CWA which are reasonably necessary for the achievement of
1817 effluent limitations required in accordance with these regulations.

1818
1819 (iii) Effluent limitations. Effluent limitations shall be determined for all
1820 permits based on the following considerations.

1821
1822 (A) Technology-based effluent limitations. Technology-based effluent
1823 limits shall be determined in accordance with 40 CFR 122.44 (a), 40 CFR 122.50, 40 CFR 125,
1824 Subpart A, I and J and, for categorical industries adopted by EPA, 40 CFR Parts 405 through
1825 411, 413 through 433, 436, 437, 439, 440, 442 through, 447, 454, 455, 457 through 461, 463
1826 through 469, and 471.

1827
1828 (B) In addition to the technology-based effluent limitations described
1829 in Section 5 (c) (iii) (A), technology-based effluent limits shall be determined as follows:

1830
1831 (I) For discharges from new and existing POTWs as described
1832 in Appendix E.

1833

- 1834 (II) For CAFO point sources as described in Appendix G.
1835
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 ~~and the applicable~~
1851 ~~provisions of Wyoming Water Quality Rules and Regulations, Chapter 6.~~
1852

1853 (I) Water quality based effluent limitations shall be established
1854 for constituents in discharges determined to have a reasonable potential of adversely impacting
1855 uses of surface waters of the state or of causing violations of water quality standards. When
1856 making reasonable potential determinations, the administrator shall consider the following:
1857

- 1858 (1.) Existing controls on point and non-point sources of
1859 pollution;
1860
1861 (2.) The variability of the pollutant or pollutant
1862 parameter in the effluent;
1863
1864 (3.) For evaluating whole effluent toxicity, the
1865 sensitivity of the species to toxicity testing; and
1866
1867 (4.) Where appropriate, the dilution of the effluent in the
1868 receiving water.
1869
1870 (5.) Applicable designated uses and water quality
1871 standards.
1872

1873 (II) Where numeric criteria are promulgated for the receiving
1874 surface waters of the state, the administrator will determine, using the most stringent numeric
1875 standard appropriate to the receiving surface waters of the state, water quality based effluent
1876 limitations based on one of the following methods:

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1918

(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

1919 permit limitations; for example, monthly production shall be used to calculate average monthly
1920 discharge limitations.

1921
1922

1923 (F) All permit effluent limitations, standards, or prohibitions for a
1924 metal shall be expressed in terms of “total recoverable metal” as defined in 40 CFR Part 136
1925 unless;

1926
1927

(I) The applicable water quality standard described in
1928 Wyoming Water Quality Rules and Regulations, Chapter 1 is based on the dissolved form;

1929
1930

(II) An applicable effluent standard or limitation has been
1931 promulgated under these regulations and specifies the limitation for the metal in the dissolved or
1932 valenti or total form;

1933
1934

(III) In establishing permit limitations on a case-by-case basis
1935 under Section 5 (c) (iii) of these regulations it is necessary to express the limitation on the metal
1936 in the dissolved or valenti or total form to carry out the provisions of these regulations; or

1937
1938

(IV) All approved analytical methods for the metal inherently
1939 measure only its dissolved form (e.g., hexavalent chromium).

1940
1941

(G) For continuous discharges (discharges that occur without
1942 interruption throughout the operating hours of the facility, except for infrequent shutdowns for
1943 maintenance, process changes, or other similar activities) all permit effluent limitations,
1944 standards, and prohibitions, including those necessary to achieve water quality standards, shall
1945 unless impracticable be stated as:

1946
1947

(I) Daily maximum and average monthly discharge limitations
1948 for all dischargers other than POTWs; and

1949
1950

(II) Average weekly and average monthly discharge limitations
1951 for POTWs.

1952
1953

(H) Discharges which are not continuous shall be particularly
1954 described and limited, considering the following factors as appropriate:

1955
1956

(I) Frequency (for example, a batch discharge shall not occur
1957 more than once every three (3) weeks);

1958
1959

(II) Total mass (for example, not to exceed 100 kilograms of
1960 zinc and 200 kilograms of chromium per batch discharge);

1961

1962 (III) Maximum rate of discharge of pollutants during the
1963 discharge (for example, not to exceed two (2) kilograms of zinc per minute); and

1964
1965
1966 (IV) Prohibition or limitation of specified pollutants by mass,
1967 concentration or other appropriate measure (for example, shall not contain at any time more than
1968 0.1 mg/l zinc or more than 250 grams (1/4 kilogram) of zinc in any discharge).

1969
1970 (I) Mass limitations.

1971
1972 (I) All pollutants limited in permits shall have limitations,
1973 standards or prohibitions expressed in terms of mass except:

1974
1975 (1.) For pH, temperature, radiation, or other pollutants
1976 which cannot appropriately be expressed by mass;

1977
1978 (2.) When applicable standards and limitations are
1979 expressed in terms of other units of measurement; or

1980
1981 (3.) If an applicable effluent standard or limitation has
1982 been promulgated under these regulations and limitations expressed in terms of mass are
1983 infeasible because the mass of the pollutant discharged cannot be related to a measure of
1984 operation (for example, discharges of total suspended solids [TSS] from certain mining
1985 operations), and permit conditions ensure that dilution will not be used as a substitute for
1986 treatment.

1987
1988 (II) Pollutants limited in terms of mass additionally may be
1989 limited in terms of other units of measurement, and the permit shall require the permittee to
1990 comply with both limitations.

1991
1992 (J) Pollutants in intake water.

1993
1994 (I) Credit shall be granted only if the discharger demonstrates
1995 that the intake water is drawn from the same body of water into which the discharge is made.

1996
1997 (II) Upon request of the discharger, technology-based effluent
1998 limitations or standards shall be adjusted to reflect credit for pollutants in the discharger's intake
1999 water if:

2000
2001 (1.) The applicable effluent limitations and standards
2002 contained in Section 5 (c) (iii) of these regulations provide that they shall be applied on a net
2003 basis; or

2004

2005 (2.) The discharger demonstrates that the control system
2006 it proposes or uses to meet applicable technology-based limitations and standards would, if
2007 properly installed and operated, meet the limitations and standards in the absence of pollutants in
2008 the intake waters.

2009
2010 (III) Credit for generic pollutants such as biochemical oxygen
2011 demand (BOD5) or TSS shall not be granted unless the permittee demonstrates that the
2012 constituents of the generic measure in the effluent are substantially similar to the constituents of
2013 the generic measure in the intake water or unless appropriate additional limits are placed on
2014 process wastewater pollutants either at the outfall or elsewhere.

2015
2016 (IV) Credit shall be granted only to the extent necessary to meet
2017 the applicable limitation or standard, up to a maximum value equal to the influent value.
2018 Additional monitoring may be necessary to determine eligibility for credits and compliance with
2019 permit limits.

2020
2021 (K) Internal waste streams.

2022
2023 (I) When permit effluent limitations or standards imposed at
2024 the point of discharge are impractical or infeasible, effluent limitations or standards for
2025 discharges or pollutants may be imposed on internal waste streams before mixing with other
2026 waste streams or cooling water streams. In those instances, the monitoring required by Section 5
2027 (c) or other applicable provisions of these regulations shall also be applied to the internal waste
2028 streams.

2029
2030 (II) Limits on internal waste streams will be imposed only
2031 when the fact sheet sets forth the exceptional circumstances which make such limitations
2032 necessary, such as when the final discharge point is inaccessible (for example, under ten [10]
2033 meters of water), the wastes at the point of discharge are so diluted as to make monitoring
2034 impracticable, or the interferences among pollutants at the point of discharge would make
2035 detection or analysis impracticable.

2036
2037 (L) After making the considerations described in Section 5 (c) (iii) (A),
2038 (B) and (C), the administrator shall establish in the draft permit the most stringent of the effluent
2039 limitations of those derived.

2040
2041 (M) Effluent limitations cannot be incorporated into modified or
2042 reissued permits which violate anti-backsliding provisions of Section 402 (o) of the CWA.

2043
2044 (N) If any applicable toxic effluent standard or prohibition (including
2045 any schedule of compliance specified in such effluent standard or prohibition) is promulgated
2046 under W.S.35-11-302 or Wyoming Water Quality Rules and Regulations, Chapters 1 and 2 for a
2047 toxic pollutant and that standard or prohibition is more stringent than any limitation on the

2048 pollutant in the permit, the director shall institute proceedings under these regulations to modify
2049 or revoke and reissue the permit to conform to the toxic effluent standard or prohibition.

2050

2051 (O) When the department determines, using the procedures in Section
2052 5 (c) (iii) (C) (I) and (II), that a discharge causes, has the reasonable potential to cause, or
2053 contributes to an in-stream excursion above the numeric standard for whole effluent toxicity, if
2054 any such criterion has been adopted, the permit must contain effluent limits for whole effluent
2055 toxicity.

2056

2057 (P) Except as provided in this subparagraph, when the department
2058 determines, using the procedures in Section 5 (c) (iii) (C), toxicity testing data, or other
2059 information, that a discharge causes, has the reasonable potential to cause, or contributes to an
2060 in-stream violation of a narrative water quality standard, the permit shall contain limitations,
2061 which include effluent limits, for whole effluent toxicity. Such limitations are to be derived by
2062 the department and based upon the department's determination of what constitutes an acceptable
2063 level of whole effluent toxicity. Limits on whole effluent toxicity are not necessary where the
2064 department determines, using the procedures in Section 5 (c) (iii) (C), that chemical-specific
2065 limits for the effluent are sufficient to attain and maintain applicable numeric and narrative water
2066 quality standards.

2067

2068 (Q) Unless otherwise stated in the permit, effluent limitations shall be
2069 met at the outfall from the final treatment unit prior to admixture with water in the receiving
2070 surface waters of the state or with effluent from other outfalls.

2071

2072 (iv) Application of standards.

2073

2074 (A) In the application of those standards described in Section 5 (c) (ii)
2075 (B) and (C), and Section 5 (c) (iii), the administrator shall specify:

2076

2077 (I) The daily average and maximum quantitative limitations
2078 for the level of allowable pollution and/or waste in an authorized discharge in terms of weight,
2079 where applicable;

2080

2081 (II) The basis for calculation of effluent limitations;

2082

2083 (III) Self-monitoring, reporting, and recording requirements for
2084 each authorized discharge as promulgated in Section 5 (c) (v).

2085

2086 (B) The owner of a publicly owned treatment works shall require any
2087 industrial user of such works to comply with the following:

2088

2089 (I) Any system of user charges instituted by the owner
2090 (permittee) shall insure that each recipient of waste treatment services will pay its proportionate
2091 share of the costs of the operation and maintenance of the publicly owned treatment works;

2092
2093 (II) Any toxic or pretreatment standards established under
2094 Sections 5 (c) (ii) (A) and 5 (c) (iii) (O) and (P) of these regulations and any schedule required to
2095 achieve compliance with those standards; and

2096
2097 (III) Shall allow the permittee and the administrator or his
2098 designated representative the same rights of entry, inspection, sampling, and copying provided
2099 for in Section 5 (c) (i) (F).

2100
2101 (v) Monitoring, recording, and reporting.

2102
2103 (A) All permits shall specify required monitoring including type,
2104 intervals, and frequency sufficient to yield data which are representative of the monitored
2105 activity including, when appropriate, continuous monitoring. Monitoring results required by the
2106 permit shall be reported on a discharge monitoring report (DMR) or other forms provided or
2107 specified by the division.

2108
2109 (B) Any discharge authorized by a permit shall be subject to such
2110 monitoring requirements as may be required by the administrator including the installation, use,
2111 and maintenance of monitoring equipment.

2112
2113 (C) Any major facility authorized by a permit, or for which monitoring
2114 is requested in writing by the Regional Administrator of the EPA, or which contains toxic
2115 pollutants for which an effluent standard has been promulgated pursuant to these regulations,
2116 shall be monitored at intervals sufficiently frequent to characterize the discharge, for the
2117 following:

2118
2119 (I) Flow;

2120
2121 (II) All of the following pollutants:

2122
2123 (1.) Pollutants which are subject to reduction or
2124 elimination by the terms of the permit;

2125
2126 (2.) Pollutants which the administrator finds could have
2127 an impact on the surface waters of the state;

2128
2129 (3.) Pollutants specified by the Administrator of the
2130 EPA as subject to monitoring; and

2131

2132 (4.) Any pollutants, in addition to those above, that the
2133 Regional Administrator of the EPA requests in writing be monitored.
2134

2135 (D) The permittee shall maintain records of all information resulting
2136 from monitoring activities required by his permit for a period of three (3) years, or for a longer
2137 period if so requested by the administrator, or Regional Administrator of the EPA. Such records
2138 shall include, but are not limited to, the following:

- 2139 (I) The date, location, and time of the sampling;
- 2140 (II) The dates and by whom analyses were performed;
- 2141 (III) Analytical techniques used;
- 2142 (IV) The results of such analyses;
- 2143 (V) Name of the person collecting the sample(s);
- 2144 (VI) Sampling handling and preservation conducted; and
- 2145 (VII) Detection limits for analyses conducted.

2146 (E) Unless otherwise approved by the administrator, the permittee
2147 shall be required to periodically report, at a frequency of not less than once per year, to the
2148 administrator, on the proper forms, the results of any monitoring required by the permit. In
2149 addition, the administrator may require the submission of such additional monitoring information
2150 he may consider necessary. Where applicable, the procedures specified will be consistent with
2151 any national program specified by the Administrator of the EPA in regulations promulgated
2152 under the CWA.

2153 (F) All reports required by permits and other information requested by
2154 the administrator shall be signed and certified as described in Section 14 of these regulations.

2155 (G) Sample collection and analyses shall be conducted in accordance
2156 with 40 CFR 136, unless otherwise specified in these regulations.

2157 (H) Any person falsifying, tampering with, or knowingly rendering
2158 inaccurate any monitoring device or method required to be maintained under this permit is a
2159 violation of the permit, these regulations and the Wyoming Environmental Quality Act.

2160
2161
2162 **Section 6. Storm Water Discharges.**
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2174 The following process shall be used in the application for development of and issuance of
2175 storm water discharge permits and for identifying storm water discharges covered by this rule.
2176

2177 (a) Deadlines to apply.
2178

2179 (i) Except as provided in Section 6 (b), for any storm water discharge
2180 associated with large construction activity as described in Section 6 (f) (i) or industrial activity as
2181 identified in Section 6 (g) in place prior to the effective date of this rule, should have made
2182 application to the administrator by October 1, 1992; prior to initiation of the activity or in
2183 accordance with Section 4 (o) (i) (B) of these regulations.
2184

2185 (ii) For any storm water discharge associated with large or small construction
2186 activities or industrial activities from a facility that is owned or operated by a municipality with a
2187 population of less than 100,000 that is not authorized by a general or individual permit, other
2188 than an airport, power plant, or sanitary landfill, a permit application must be submitted to the
2189 administrator by March 10, 2003.
2190

2191 (iii) Storm water discharges associated with small construction activity as
2192 described in Section 6 (f) (ii), that are not already authorized by a storm water general or
2193 individual permit, require permit authorization as of March 10, 2003, except;
2194

2195 (A) Storm water discharges subject to Section 4 (b) (v) which are not
2196 required to submit a NOI for coverage in accordance with the provisions of the applicable
2197 general permit, and
2198

2199 (B) Storm water discharges associated with small construction activity
2200 at oil and gas exploration, production, processing, and treatment operations or transmission
2201 facilities subject to the provisions of, Section 6 (a) (iv) of these regulations.
2202

2203 (iv) Storm water discharges associated with small construction activity at oil
2204 and gas exploration, production, processing, and treatment operations or transmission facilities,
2205 require permit authorization as of March 10, 2005.
2206

2207 (v) For any storm water discharge associated with regulated small MS4 as
2208 described in Section 6 (h) (i) and that is not authorized by a storm water general or individual
2209 permit, a permit application made pursuant to Section 6 (b) (iv) must be submitted to the
2210 administrator by March 10, 2003 or within 180 days of notice, unless the administrator grants a
2211 later date, if designated under Section 6 (h) (i) (C) or (D).
2212

2213 (vi) A permit application shall be submitted to the administrator within 60
2214 days of notice of a storm water discharge which the administrator determines contributes to a
2215 violation of a water quality standard or is a significant contributor of pollutants to surface waters
2216 of the state or where the administrator determines that storm water controls are needed for the

2217 discharge based on wasteload allocations that are part of TMDLs that address the pollutant(s) of
2218 concern; unless permission for a later date is granted by the administrator.

2219

2220 (b) Individual permit application. A complete application for an individual permit
2221 must contain, at a minimum, the following information, unless the administrator determines that
2222 certain items are unnecessary in accordance with Section 6 (c):

2223

2224 (i) General requirements of all applications:

2225

2226 (A) Name of the company, entity, or individual seeking a permit;

2227

2228 (B) Mailing address and telephone number of company, entity, or
2229 individual seeking permit;

2230

2231 (C) The facility name, location, and telephone number if applicable;

2232

2233 (D) Applicant status as federal, state, private, public, or other entity;

2234

2235 (E) Name and signature in accordance with the requirements of
2236 Section 14 of this chapter;

2237

2238 (F) Authorization of a duly authorized representative under the
2239 Signatory Requirements of Section 14 of these rules, where applicable;

2240

2241 (G) Location, expressed in latitude and longitude to the nearest 15
2242 seconds, of the facility to be covered under the permit;

2243

2244 (H) Location, expressed as quarter/quarter, section, township, and
2245 range, in the applicable Public Land Survey (PLS), of the facility to be covered under the permit;

2246

2247 (I) A description of the activities conducted by the applicant which
2248 require it to obtain an WYPDES permit;

2249

2250 (ii) Individual permit application requirements for industrial activities.

2251 Individual permit application requirements for industrial activities (not including large or small
2252 construction activities as described in Section 6 (f). Except as provided in Section 6 (b) (iii) and
2253 in Section 6 (g) (iv) (M) and (N), the operator of a storm water discharge associated with
2254 industrial activity subject to this section shall provide, at a minimum:

2255

2256 (A) Up to four (4) SIC codes which best reflect the principal products
2257 or services provided by the facility;

2258

2259 (B) A site map showing topography (or indicating the outline of
2260 drainage areas served by the outfall(s) covered in the application if a topographic map is
2261 unavailable) of the facility including: each of its drainage and discharge structures; the drainage
2262 area of each storm water outfall; paved areas and buildings within the drainage area of each
2263 storm water outfall; each past or present area used for outdoor storage or disposal of significant
2264 materials; each existing structural control measure to reduce pollutants in storm water runoff;
2265 materials loading and access areas; areas where pesticides, herbicides, soil conditioners and
2266 fertilizers are applied; each of its hazardous waste treatment, storage or disposal facilities
2267 (including each area not required to have a RCRA permit which is used for accumulating
2268 hazardous waste under 40 CFR 262.34); each well where fluids from the facility are injected
2269 underground; springs, and other surface water bodies which receive storm water discharges from
2270 the facility;

2271
2272 (C) An estimate of the area of impervious surfaces (including paved
2273 areas and building roofs), the total area drained by each outfall and a narrative description of the
2274 following: significant materials that in the three (3) years prior to the submittal of this application
2275 have been treated, stored or disposed in a manner to allow exposure to storm water; method of
2276 treatment, storage or disposal of such materials; materials management practices employed, in
2277 the three (3) years prior to the submittal of this application to minimize contact by these
2278 materials with storm water runoff; materials loading and access areas; the location, manner and
2279 frequency in which pesticides, herbicides, soil conditioners and fertilizers are applied; the
2280 location and a description of existing structural and non-structural control measures to reduce
2281 pollutants in storm water runoff; and, a description of the treatment the storm water receives,
2282 including the ultimate disposal of any solid or fluid wastes other than by discharge;

2283
2284 (D) A certification that all outfalls that should contain storm water
2285 discharges associated with industrial activity have been tested or evaluated for the presence of
2286 non storm water discharges which are not covered by a permit. Tests for such non storm water
2287 discharges may include smoke tests, fluorometric dye tests, analysis of accurate schematics, as
2288 well as other appropriate tests. The certification shall include a description of the method used,
2289 the date of any testing, and the on site drainage points that were directly observed during a test;

2290
2291 (E) Existing information regarding significant leaks or spills of toxic
2292 or hazardous pollutants at the facility that have taken place within the three (3) years prior to the
2293 submittal of this application;

2294
2295 (F) Quantitative data based on samples collected during storm events
2296 and collected in accordance with Section 6 (b) (ii) (G) from all outfalls containing storm water
2297 discharge associated with industrial activity for the following parameters, except when waived
2298 by the administrator under the provisions of Section 6 (c) of these regulations.

2299
2300 (I) Any pollutant limited in an effluent guideline to which the
2301 facility is subject;

- 2302
2303 (II) Any pollutant listed in the facility's WYPDES permit for its
2304 process wastewater (if the facility is operating under an existing WYPDES permit);
2305
2306 (III) Oil and grease, pH, BOD5, COD, TSS, total phosphorus,
2307 total Kjeldahl nitrogen, and nitrate plus nitrite nitrogen;
2308
2309 (IV) Information on the discharge required under Appendix B
2310 (a) (vi) of these regulations;
2311
2312 (V) Flow measurements or estimates of the flow rate, the total
2313 amount of discharge for the storm event(s) sampled, and the method of flow measurement or
2314 estimation; and
2315
2316 (VI) The date and duration (in hours) of the storm event(s)
2317 sampled, rainfall measurements or estimates of the storm event (in inches) which generated the
2318 sampled runoff and the duration between the storm event sampled and the end of the previous
2319 measurable (greater than 0.1 inch rainfall) storm event (in hours).
2320
2321 (G) Sampling storm water discharges.
2322
2323 (I) All samples shall be collected from the discharge resulting
2324 from a storm event that is greater than 0.1 inch and at least 72 hours from the previously
2325 measurable (greater than 0.1 inch rainfall) storm event. Where feasible, the variance in the
2326 duration of the event and the total rainfall of the event should not exceed 50 percent from the
2327 average or median rainfall event in that area.
2328
2329 (II) For all applicants, a flow weighted composite shall be taken
2330 for either the entire discharge or for the first three hours of the discharge. The flow weighted
2331 composite sample for a storm water discharge may be taken with a continuous sampler or as a
2332 combination of a minimum of three sample aliquots taken in each hour of discharge for the entire
2333 discharge or for the first three (3) hours of the discharge, with each aliquot being separated by a
2334 minimum period of 15 minutes.
2335
2336 (III) A minimum of one grab sample may be taken for storm
2337 water discharges from holding ponds or other impoundments with a retention period greater than
2338 24-hours.
2339
2340 (IV) For a flow weighted composite sample, only one analysis
2341 of the composite of aliquots is required.
2342
2343 (V) For storm water discharge samples taken from discharges
2344 associated with industrial activities, quantitative data must be reported for the grab sample taken

2345 during the first thirty minutes (or as soon thereafter as practicable) of the discharge for all
2346 pollutants specified in Section 6 (b) (ii) (F).

2347
2348 (VI) The director may allow or establish appropriate site specific
2349 sampling procedures or requirements, including sampling locations, the season in which the
2350 sampling takes place, the minimum duration between the previous measurable storm event and
2351 the storm event sampled, the minimum or maximum level of precipitation required for an
2352 appropriate storm event, the form of precipitation sampled (snow melt or rain fall), protocols for
2353 collecting samples under 40 CFR136 of federal regulations, and additional time for submitting
2354 data on a case by case basis.

2355
2356 (VII) An applicant is expected to “know or have reason to
2357 believe” that a pollutant is present in an effluent based on an evaluation of the expected use,
2358 production, or storage of the pollutant, or on any previous analyses for the pollutant. (For
2359 example, any pesticide manufactured by a facility may be expected to be present in contaminated
2360 storm water runoff from the facility.)

2361
2362 (H) Operators of new sources or new discharges (as defined in Section
2363 3) which are composed entirely of storm water must include estimates for the pollutants or
2364 parameters listed in Section 6 (b) (ii) (F) instead of actual sampling data, along with the source of
2365 each estimate. Operators of new sources or new discharges composed in part or entirely of storm
2366 water must provide quantitative data for the parameters listed in paragraph Section 6 (b) (ii) (F)
2367 of this section within two (2) years after commencement of discharge, unless such data has
2368 already been reported under the monitoring requirements of the WYPDES permit for the
2369 discharge.

2370
2371 (iii) Individual permit application requirements for large and small
2372 construction activities. When required to obtain coverage under an individual WYPDES storm
2373 water permit, the operator of an existing or new storm water discharge that is associated with
2374 large construction activity under Section 6 (f) (i) or small construction activity under Section 6
2375 (f) (ii) shall, at a minimum, provide a narrative description of:

2376
2377 (A) The location (including a map) and the nature of the construction
2378 activity;

2379
2380 (B) The total area of the site and the area of the site that is expected to
2381 undergo excavation during the life of the permit;

2382
2383 (C) Proposed measures, including best management practices, to
2384 control pollutants in storm water discharges during construction, and a brief description of
2385 applicable state and local erosion and sediment control requirements;

2386

2387 (D) Proposed measures to control pollutants in storm water discharges
2388 that will occur after construction operations have been completed, including a brief description
2389 of applicable state or local erosion and sediment control requirements;

2390
2391 (E) The increase in impervious area after the construction addressed in
2392 the permit application is completed, the nature of fill material and existing data describing the
2393 soil or the quality of the discharge; and

2394
2395 (F) The name of the receiving water.

2396
2397 (iv) Individual permit application requirements for regulated small MS4s.

2398
2399 (A) The application requirements of Section 4 (o) (iii); and

2400
2401 (B) The operator of an existing or new storm water discharge from a
2402 regulated small MS4 under Section 6 (h) shall, at a minimum, provide a narrative description of:

2403
2404 (I) A general description of the best management practices
2405 (BMPs) that the permittee or another municipality will implement for each of the storm water
2406 minimum control measures at Section 6 (j) (i);

2407
2408 (II) The measurable goals for each of the selected BMPs
2409 including, as appropriate, the months and years in which the permittee will undertake required
2410 actions, including interim milestones and the frequency of the action;

2411
2412 (III) The person or persons responsible for implementing or
2413 coordinating the permittee=s storm water management program. A position, rather than an
2414 individual, may also be designated; and

2415
2416 (IV) A description of the funding sources expected for
2417 implementation of the permittee=s program.

2418
2419 (v) Additional information requirements. Applicants shall provide
2420 such other information the administrator may reasonably require to determine whether to issue a
2421 permit and the administrator may require any facility subject to Section 6 (b) (iii) to comply with
2422 Section 6 (b) (ii). The additional information may include additional quantitative data and
2423 bioassays to assess the relative toxicity of discharges to aquatic life and requirements to
2424 determine the cause of the toxicity.

2425
2426 (c) Waiver of application requirements. The administrator may waive any part of the
2427 application requirements contained in Section 6 (b) (ii) (F) and (H) when the applicant makes a
2428 conclusive demonstration to the administrator that certain parameters listed in Section 6 (b) (ii)

2429 (F) are not reasonably likely to be present in storm water discharges associated with the
2430 industrial activity.

2431

2432 (d) Reporting requirements.

2433

2434 (i) Requirements to report monitoring results for storm water discharges
2435 associated with industrial activity or large or small construction activity which are subject to an
2436 effluent guideline shall be established on a case-by-case basis with a frequency dependent on the
2437 nature and effect of the discharge, but in no case less than one (1) a year.

2438

2439 (ii) Requirements to report monitoring results for storm water discharges
2440 associated with industrial activity or large or small construction activity (other than those
2441 required in Section 6 (d) (i)) shall be established on a case-by-case basis with a frequency
2442 dependent on the nature and effect of the discharge. At a minimum, a permit for such a discharge
2443 must require:

2444

2445 (A) The discharger to conduct an annual inspection of the facility site
2446 to identify areas contributing to a storm water discharge associated with industrial activity or
2447 large or small construction activity and evaluate whether measures to reduce pollutant loadings
2448 identified in a storm water pollution prevention plan are adequate and properly implemented in
2449 accordance with the terms of the permit or whether additional control measures are needed;

2450

2451 (B) The discharger to maintain for a period of three years a record
2452 summarizing the results of the inspection, a certification that the facility is in compliance with
2453 the plan and the permit, and identification of any incidents of non-compliance;

2454

2455 (C) Such report and certification be signed in accordance with Section
2456 14; and

2457

2458

2459 (D) Permits for storm water discharges associated with industrial
2460 activity from inactive mining operations may, where annual inspections are impracticable,
2461 require certification once every three years, that the facility is in compliance with the permit, or
2462 alternative requirements.

2463

2464 (iii) Permits which do not require the submittal of monitoring result reports at
2465 least annually shall require that the permittee report all instances of non-compliance with the
2466 terms and conditions of the permit under which the storm water discharges are covered at least
2467 annually.

2468

2469 (e) General permit application requirements. See Section 4 for general permit
2470 application requirements for storm water discharges.

2471

2472 (f) Regulated construction activities. The following discharges, composed entirely of
2473 storm water and associated with construction activities, are point sources requiring an WYPDES
2474 permit.

2475

2476 (i) Storm water discharge associated with large construction activity means
2477 the discharge of storm water from construction activities, including clearing, grading, and
2478 excavating, that result in land disturbance of five (5) or more acres of total land area. Large
2479 construction activity also includes the disturbance of less than five (5) acres of total land area
2480 that is a part of a larger common plan of development or sale if the larger common plan will
2481 ultimately disturb five (5) acres or more.

2482

2483 (ii) A storm water discharge associated with small construction activity.

2484

2485 (A) Storm water discharge associated with small construction activity
2486 means the discharge of storm water from construction activities, including clearing, grading, and
2487 excavating, that result in land disturbance of equal to or greater than one (1) acre and less than
2488 five (5) acres. Small construction activity also includes the disturbance of less than one (1) acre
2489 of total land area that is part of a larger common plan of development or sale, if the larger
2490 common plan will ultimately disturb equal to or greater than one and less than five (5) acres.
2491 Small construction activity does not include routine maintenance that is performed to maintain
2492 the original line and grade, hydraulic capacity, or original purpose of the facility.

2493

2494 (B) The administrator, at his discretion, may waive the otherwise
2495 applicable requirements in a general permit, as described in Section 4, for a storm water
2496 discharge from a small construction activity that disturbs less than five (5) acres where the value
2497 of the rainfall erosivity factor ($>R=$ in the Revised Universal Soil Loss Equation) is less than five
2498 (5) during the period of construction activity. The rainfall erosivity factor must be determined in
2499 accordance with Chapter 2 of the *Agriculture Handbook Number 703, Predicting Soil Erosion by*
2500 *Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation*
2501 *(RUSLE)*, pages 21-64, dated January 1997 or a similar state-approved method. The operator or
2502 owner must certify to the administrator that the construction activity will only take place during a
2503 period when the value of the rainfall erosivity factor is less than five (5). If unforeseeable
2504 conditions occur that are outside of the control of the applicant for a waiver, and that will extend
2505 the construction activity beyond the dates initially applied for, the owner or operator must
2506 reapply for the waiver or obtain coverage under a general permit for storm water discharges. The
2507 waiver re-application or permit application must be submitted within two (2) business days after
2508 the unforeseeable condition becomes known. This waiver does not relieve the operator or owner
2509 from complying with requirements of local agencies.

2510

2511 (iii) Any construction activity designated by the administrator, based on the
2512 potential for contribution to a violation of a water quality standard or for significant contribution
2513 of pollutants to surface waters of the state or where the administrator determines that storm water

2514 controls are needed for the discharge based on wasteload allocations that are part of TMDLs that
2515 address the pollutants of concern.

2516

2517 (iv) A storm water discharge associated with small or large construction
2518 activities that are owned or operated by a municipality with a population of less than 100,000
2519 (based on the 1990 census).

2520

2521 (v) For storm water discharges associated with large and/or small construction
2522 activities from point sources which discharge through a non-municipal or non-publicly owned
2523 separate storm sewer system, the director, at his discretion, may issue: a single WYPDES permit,
2524 with each discharger a co permittee to a permit issued to the operator of the portion of the system
2525 that discharges into surface waters of the state; or, individual permits to each discharger of storm
2526 water associated with large and/or small construction activity through the non municipal
2527 conveyance system.

2528

2529 (A) Each facility with a storm water discharge to a storm water
2530 discharge system that is not an MS4 shall be covered by a WYPDES permit, or a permit issued
2531 to the operator of the portion of the system that discharges to surface waters of the state, with
2532 each discharger to the non municipal conveyance a co permittee to that permit.

2533

2534 (B) Where there is more than one (1) operator of a single system of
2535 such conveyances, all operators of storm water discharges associated with industrial activity
2536 must submit applications.

2537

2538 (C) Any permit covering more than one (1) operator shall identify the
2539 effluent limitations, or other permit conditions, if any, that apply to each operator.

2540

2541 (g) Regulated industrial activities. Discharges composed entirely of storm water and
2542 associated with industrial activities are point sources requiring a WYPDES permit.

2543

2544 (i) "Storm water discharge associated with industrial activity" means the
2545 discharge from any conveyance which is used for collecting and conveying storm water and
2546 which is directly related to manufacturing, processing, or raw materials storage areas at an
2547 industrial plant. The term does not include discharges from facilities or activities excluded from
2548 the WYPDES program under these regulations.

2549

2550

2551 (A) For the categories of industries identified in Section 6 (g) (ii) (A)
2552 through (I), the term "storm water discharge associated with industrial activity" includes, but is
2553 not limited to, storm water discharges from industrial plant yards; immediate access roads and
2554 rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or
2555 by-products used or created by the facility; material handling sites; refuse sites; sites used for the
2556 application or disposal of process waste waters; sites used for the storage and maintenance of

2557 material handling equipment; sites used for residual treatment, storage, or disposal; shipping and
2558 receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials,
2559 and intermediate and final products; and areas where industrial activity has taken place in the
2560 past and significant materials remain and are exposed to storm water. For the purposes of Section
2561 6 (g), material handling activities include the storage, loading and unloading, transportation, or
2562 conveyance of any raw material, intermediate product, final product or waste product.

2563
2564 (B) The term excludes areas located on a plant site separate from the
2565 plant=s industrial activities, such as office buildings and accompanying parking lots, as long as
2566 the drainage from the excluded areas is not mixed with storm water drained from the industrial
2567 areas described above.

2568
2569 (ii) The following categories of facilities are considered to be engaging in
2570 “industrial activity” for purposes of these regulations. (See Appendix A of these regulations for a
2571 brief description of the SIC codes identified in this section.)

2572
2573 (A) Facilities subject to federal storm water effluent limitations
2574 guidelines, new source performance standards, or toxic pollutant effluent standards under 40
2575 CFR Subchapter N (except facilities with toxic pollutant effluent standards which are excluded
2576 under the "no exposure" provisions of Section 6 (g) (iii));

2577
2578 (B) Facilities classified as Standard Industrial Classifications (SICs) 20
2579 through 39 and 4221-25;

2580
2581 (C) Facilities classified as Standard Industrial Classifications 10 and 12
2582 through 14 including active or inactive mining operations and oil and gas exploration,
2583 production, processing, or treatment operations, or transmission facilities that discharge storm
2584 water that has come into contact with any overburden, raw material, intermediate products,
2585 finished products, byproducts or waste products located on the site of such operations; (inactive
2586 mining operations are mining sites that are not being actively mined, but which have an
2587 identifiable owner/operator. Inactive mining sites do not include sites where mining claims are
2588 being maintained prior to disturbances associated with the extraction, beneficiation, or
2589 processing of mined materials, nor sites where minimal activities are undertaken for the sole
2590 purpose of maintaining a mining claim);

2591
2592 Areas of coal mining operations no longer meeting the definition of a reclamation area
2593 under 40 CFR 434.11 (1) because the performance bond issued to the facility by the appropriate
2594 SMCRA (Surface Mining Control and Reclamation Act, 1977) authority has been released, or
2595 areas of non-coal mining operations which have been released from applicable state or federal
2596 reclamation requirements after December 17, 1990 are not considered to be engaged in
2597 “industrial activity” and do not require coverage under a WYPDES storm water permit;

2598

2599 (D) Hazardous waste treatment, storage, or disposal facilities,
2600 including those that are operating under interim status or a permit under Wyoming Hazardous
2601 Waste Rules and Regulations;

2602
2603 (E) Landfills, land application sites, and open dumps that receive or
2604 have received any industrial wastes (waste that is received from activities associated with large
2605 or small construction activity as described in Sections 6 (f) (i) and 6 (f) (ii) and industrial
2606 activities as described in Section 6 (g) (ii)) including those that are subject to regulation under
2607 subtitle D of RCRA;

2608
2609 (F) Facilities involved in the recycling of materials, including metal
2610 scrap yards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to
2611 those classified as Standard Industrial Classification 5015 and 5093;

2612
2613 (G) Steam electric power generating facilities, including coal handling
2614 sites;

2615
2616 (H) Transportation facilities classified as Standard Industrial
2617 Classifications 40, 41, 42 (except 4221 25), 43, 44, 45, and 5171 which have vehicle
2618 maintenance shops, equipment cleaning operations, or airport deicing operations. Only those
2619 portions of the facility that are either involved in vehicle maintenance (including vehicle
2620 rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning
2621 operations, airport deicing operations, or which are otherwise identified under Section 6 (g) (ii)
2622 (A through G or I) are associated with industrial activity;

2623
2624 (I) Treatment works treating domestic sewage or any other sewage
2625 sludge or wastewater treatment device or system, used in the storage treatment, recycling, and
2626 reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage
2627 sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more,
2628 or required to have an approved pretreatment program under 40 CFR 403. Not included are farm
2629 lands, domestic gardens or lands used for sludge management where sludge is beneficially
2630 reused and which are not physically located in the confines of the facility, or areas that are in
2631 compliance with section 405 of the CWA;

2632
2633 (J) A storm water discharge associated with industrial activity from a
2634 facility that is owned or operated by a municipality with a population of less than 100,000 (based
2635 on the 1990 census);

2636
2637 (K) For storm water discharges associated with industrial activity from
2638 point sources which discharge through a non-municipal or non-publicly owned separate storm
2639 sewer system, the director, at his discretion, may issue: a single WYPDES permit, with each
2640 discharger a co permittee to a permit issued to the operator of the portion of the system that

2641 discharges into surface waters of the state; or, individual permits to each discharger of storm
2642 water associated with industrial activity through the non-municipal conveyance system.

2643

2644 (I) Each facility with a storm water discharge to a storm water
2645 discharge system that is not an MS4 shall be covered by a WYPDES permit, or a permit issued
2646 to the operator of the portion of the system that discharges to surface waters of the state, with
2647 each discharger to the non-municipal conveyance a co permittee to that permit.

2648

2649 (II) Where there is more than one (1) operator of a single
2650 system of such conveyances, all operators of storm water discharges associated with industrial
2651 activity must submit applications.

2652

2653 (III) Any permit covering more than one (1) operator shall
2654 identify the effluent limitations, or other permit conditions, if any, that apply to each operator;

2655

2656 (L) A WYPDES permit is not required for discharges of storm water
2657 runoff from mining operations or oil and gas exploration, production, processing or treatment
2658 operations or transmission facilities, composed entirely of flows which are from conveyances or
2659 systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used
2660 for collecting and conveying precipitation runoff and which are not contaminated by contact with
2661 or that has not come into contact with, any overburden, raw material, intermediate products,
2662 finished product, byproduct or waste products located on the site of such operations. This
2663 paragraph applies only to the operation of these facilities. Construction of such facilities may
2664 require a permit to discharge storm water as specified in Sections 6 (f) (i) and (ii);

2665

2666 (M) The operator of an existing or new discharge composed entirely of
2667 storm water from an oil or gas exploration, production, processing, or treatment operation, or
2668 transmission facility is not required to submit a notice of intent in accordance with Section 4 or a
2669 permit application in accordance with Section 6 (b), unless the facility:

2670

2671 (I) Has had a discharge of storm water resulting in the
2672 discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR
2673 117.21 or 40 CFR 302.6 at anytime since November 16, 1987; or

2674

2675 (II) Has had a discharge of storm water resulting in the
2676 discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR
2677 110.6 at any time since November 16, 1987; or

2678

2679 (III) Contributes to a violation of a water quality standard; or

2680

2681 (IV) Has been determined by the administrator that storm water
2682 controls are needed for the discharge based on wasteload allocations that are part of TMDLs that
2683 address the pollutants of concern.

2684
2685 (V) The construction of such facilities may still qualify for
2686 permit coverage under Section 6 (f).
2687

2688 (N) The operator of an existing or new discharge composed entirely of
2689 storm water from a mining operation is not required to submit a permit application unless the
2690 discharge has come into contact with any overburden, raw material, intermediate products,
2691 finished product, byproduct or waste products located on the site of such operations; and
2692

2693 (O) Facilities that have been determined, by the administrator, to have
2694 the potential to contribute to a violation of a water quality standard or contribute pollutants to
2695 surface waters of the state that are part of a TMDL that address the pollutant(s) of concern.
2696

2697 (iii) Discharges composed entirely of storm water are conditionally excluded
2698 from storm water permitting by way of not meeting the definition of “storm water discharges
2699 associated with industrial activity” if there is “no exposure” of industrial materials and/or
2700 activities to precipitation, snowmelt and/or runoff, and the discharger satisfies the conditions in
2701 Section 6 (g) (iii) (A through D). “No exposure” means that all industrial materials and activities
2702 are protected by a storm resistant shelter to prevent exposure to precipitation, snowmelt, and/ or
2703 runoff. Industrial materials or activities include, but are not limited to, material handling
2704 equipment or activities, industrial machinery, raw materials, intermediate products, by-products,
2705 final products, or waste products. Material handling activities include the storage, loading and
2706 unloading, transportation, or conveyance of any raw material, intermediate product, final product
2707 or waste product.
2708

2709 (A) To qualify for this exclusion, the operator must:
2710

2711 (I) Provide a storm resistant shelter to protect industrial
2712 materials and activities from exposure to precipitation, snow melt, and runoff;
2713

2714 (II) Complete and sign, in accordance with Section 14 of these
2715 regulations, a certification that there are no discharges of storm water contaminated by exposure
2716 to industrial materials and activities from the entire facility, except as provided in Section 6 (g)
2717 (iii) (B);
2718

2719 (III) Submit the signed, updated certification to the
2720 administrator once every five (5) years;
2721

2722 (IV) Allow the administrator, and/or his authorized
2723 representative, upon the presentation of credentials, to inspect the facility to determine
2724 compliance with the “no exposure” conditions;
2725

2726 (V) Allow the administrator to make any “no exposure”
2727 inspection reports available to the public upon request;

2728
2729 (VI) For facilities that discharge through an MS4, submit a copy
2730 of the certification of “no exposure” to the MS4 operator, as well as allow inspection and public
2731 reporting by the MS4 operator, upon request; and

2732
2733 (VII) Have adequate protections in place to assure that storm
2734 water discharges associated with industrial activity do not occur from secondary containment
2735 facilities.

2736
2737 (B) To qualify for this exclusion, a storm resistant shelter is not
2738 required for:

2739
2740 (I) Drums, barrels, tanks, and similar containers intended for
2741 the outdoor storage of the contained material, that are tightly sealed, provided those containers
2742 are not deteriorated and do not leak (“sealed” means banded or otherwise secured and without
2743 operational taps or valves), and are not otherwise a source of industrial pollutants;

2744
2745 (II) Adequately maintained vehicles used in material handling,
2746 that are not otherwise a source of industrial pollutants; and

2747
2748 (III) Final products, other than products that would be mobilized
2749 in storm water discharge (e.g., rock salt).

2750
2751 (C) The exclusion is subject to the following limitations:

2752
2753 (I) Storm water discharges from construction activities
2754 identified as small or large in Section 6 (f) are not eligible for this conditional exclusion.

2755
2756 (II) This conditional exclusion from the requirement for a state
2757 WYPDES permit is available on a facility-wide basis only, not for individual outfalls.

2758
2759 (III) If circumstances change and industrial materials or
2760 activities become exposed to precipitation, snow melt, and/or runoff, the conditions for this
2761 exclusion no longer apply. In such cases, the discharge becomes subject to enforcement for
2762 unpermitted discharge. Any conditionally excluded discharger who anticipates such a change in
2763 circumstances must apply for and obtain permit authorization prior to the change of
2764 circumstances.

2765
2766 (IV) Notwithstanding the provisions of this paragraph, the
2767 administrator retains the authority to require permit authorization (and deny this exclusion) upon
2768 making a determination that the discharge causes, has a reasonable potential to cause, or

2769 contributes to an instream excursion above an applicable water quality standard, including
2770 designated uses.

2771
2772 (D) The “no exposure” certification requires the submission of the
2773 following information, at a minimum, to aid the administrator in determining if the facility
2774 qualifies for the no exposure exclusion:

2775
2776 (I) The legal name, address and phone number of the
2777 discharger;

2778
2779 (II) The facility name and address, the county name and the
2780 location description using the public land survey system quarter/quarter, section, township, and
2781 range where the facility is located;

2782
2783 (III) The certification must indicate that none of the following
2784 materials or activities are, or will be in the foreseeable future, exposed to precipitation, snow
2785 melt, and/or runoff:

2786
2787 (1.) Using, storing or cleaning industrial machinery or
2788 equipment, and areas where residuals from using, storing or cleaning industrial machinery or
2789 equipment remain and are exposed to storm water;

2790
2791 (2.) Materials or residuals on the ground or in storm
2792 water inlets from spills/leaks;

2793
2794 (3.) Materials or products from past industrial activity;

2795
2796 (4.) Material handling equipment (except adequately
2797 maintained vehicles);

2798
2799 (5.) Materials or products during loading/unloading or
2800 transporting activities;

2801
2802 (6.) Materials or products stored outdoors (except final
2803 products intended for outside use, e.g., new cars, where exposure to storm water does not result
2804 in the discharge of pollutants);

2805
2806 (7.) Materials contained in open, deteriorated or leaking
2807 storage drums, barrels, tanks, and similar containers;

2808
2809 (8.) Materials or products handled/stored on roads or
2810 railways owned or maintained by the discharger;

2811

2812 (9.) Waste material (except waste in covered, non-
2813 leaking containers, e.g., dumpsters);

2814
2815 (10.) Application or disposal of process wastewater
2816 (unless otherwise permitted); and

2817
2818 (11.) Particulate matter or visible deposits of residuals
2819 from roof stacks/vents not otherwise regulated, i.e., under an air quality control permit, and
2820 evident in the storm water outflow.

2821
2822 (IV) All “no exposure” certifications must include the following
2823 certification statement, and be signed in accordance with the signatory requirements of Section
2824 14 of these regulations:

2825
2826 “I certify under penalty of law that I have read and understand the eligibility requirements
2827 for claiming a condition of “no exposure” and obtaining an exclusion from state WYPDES storm
2828 water permitting; and that there are no discharges of storm water contaminated by exposure to
2829 industrial activities or materials from the industrial facility identified in this document (except as
2830 allowed under Wyoming Water Quality Rules and Regulations, Chapter 2 Section 6 (g) (iii) (B)).
2831 I understand that I am obligated to submit a no exposure certification form once every five (5)
2832 years to the administrator and, if requested, to the operator of the local MS4 into which this
2833 facility discharges (where applicable). I understand that I must allow the administrator, or MS4
2834 operator where the discharge is into the local MS4, to perform inspections to confirm the
2835 condition of no exposure and to make such inspection reports publicly available upon request. I
2836 understand that I must obtain coverage under a state WYPDES permit prior to any point source
2837 discharge of storm water from the facility. I certify under penalty of law that this document and
2838 all attachments were prepared under my direction or supervision in accordance with a system
2839 designed to assure that qualified personnel properly gathered and evaluated the information
2840 submitted. Based upon my inquiry of the person or persons who manage the system, or those
2841 persons directly involved in gathering the information, the information submitted is to the best of
2842 my knowledge and belief true, accurate and complete. I am aware there are significant penalties
2843 for submitting false information, including the possibility of fine and imprisonment for knowing
2844 violations.”

2845
2846 (h) Regulated small municipal separate storm sewer systems. Discharges composed
2847 entirely of storm water from regulated small municipal separate storm sewer systems (MS4s) are
2848 point sources requiring a WYPDES permit.

2849
2850 (i) Regulated small MS4s include:

2851
2852 (A) Systems located in an urbanized area as determined by the latest
2853 Decennial Census by the Bureau of the Census. (If the small MS4 is not located entirely within
2854 an urbanized area, only the portion that is within the urbanized area is regulated);

2855
2856 (B) Publicly owned systems similar to MS4s in municipalities, such as:

2857
2858 (I) Systems at military bases, and large education, hospital or
2859 prison complexes, if they are designed for a maximum daily user population (residents and
2860 individuals who come there to work or use the facilities) of at least 1,000, and are located in an
2861 urbanized area.

2862
2863 (II) Separate storm sewer systems associated with highways
2864 and thoroughfares within the boundary of an urbanized area.

2865
2866 (C) Small MS4s designated by the administrator, where the
2867 designation is pursuant to the following:

2868
2869 (I) The administrator shall evaluate, at a minimum, any small
2870 MS4 located outside of an urbanized area serving a jurisdiction with a population density of at
2871 least 1,000 people per square mile and a population of at least 10,000 (based on the latest
2872 Decennial Census by the Bureau of the Census), to determine whether or not storm water
2873 discharges from the MS4 result in or have the potential to result in exceedances of water quality
2874 standards, including impairment of designated uses, or other significant water quality impacts,
2875 including habitat and biological impacts. The evaluation shall use the following elements, at a
2876 minimum:

2877
2878 (1.) Relationship to sensitive waters. For purposes of
2879 this section, sensitive waters means any [Outstanding Resource Water as identified in Water
2880 Quality Rules Chapter 1, ~~class 1, 2AB, 2A~~ waters designated for drinking water use as identified
2881 in Water Quality Rules Chapter 1](#), or any impaired or threatened waters listed on the most recent
2882 303 (d) list;

2883
2884 (2.) High growth potential. For purposes of this section
2885 a growth rate of 10% per decade or more will be considered a high rate of growth, the
2886 administrator may also consider other factors such as, but not limited to, sustainability of
2887 population increase, future projected growth, initial population size and population density.

2888
2889 (3.) Size of population and population density.
2890 Whether the MS4 is an MS4 that is not in an urbanized area and has a population of at least
2891 10,000 and a population density of 1,000 people per square mile;

2892
2893 (4.) Contiguity to an urbanized area; and

2894
2895 (5.) Significant contribution of pollutants, based on
2896 credible data, to surface waters of the state.

2897

2898 Based on this evaluation, if the administrator determines that storm water discharges
2899 from the MS4 result in or have the potential to result in exceedances of water quality standards,
2900 including impairment of designated uses, or other significant water quality impacts, including
2901 habitat and biological impacts, the administrator shall designate the MS4 as a regulated small
2902 MS4 to be covered under a state WYPDES storm water discharge permit. However, the MS4
2903 may provide information to the administrator on its existing storm water quality control
2904 programs, including any that are analogous to the six (6) minimum control measures under
2905 Section 6 (j) (i) (B). If the administrator determines that the MS4 has adequate controls for its
2906 storm water discharges, (i.e., is already implementing the applicable portions of the six (6)
2907 minimum measures), it will not be designated as a regulated small MS4 at that time.
2908

2909 (II) Other MS4s. The administrator may evaluate any other
2910 small MS4s other than those described in subsections (I) and (III) of this section, in order to
2911 determine whether or not storm water discharges from a small MS4 result in or have the potential
2912 to result in exceedances of water quality standards, including impairment of designated uses, or
2913 other significant water quality impacts, including habitat and biological impacts. The
2914 administrator will place a high priority on evaluating small MS4s with a combined permanent
2915 and seasonal population (as determined by the official Census population plus the number of
2916 commercially advertised bed accommodations that will allow for an overnight stay, as listed
2917 through the chamber of commerce, or any local resort or property management companies) of
2918 over 10,000. Based on this evaluation, the administrator may designate the small MS4 as a
2919 regulated small MS4 to be covered under a state WYPDES storm water discharge permit at any
2920 time, as appropriate, using the elements shown in Section 6 (h) (i) (C) (I) above.
2921

2922 (III) The administrator shall designate any small MS4 that
2923 contributes substantially to the pollutant loadings of a physically interconnected municipal
2924 separate storm sewer that is designated as a regulated small MS4 to be covered under a state
2925 WYPDES storm water discharge permit.
2926

2927 (IV) Small MS4s may be designated by the administrator based
2928 upon Section 6 (h) (ii) (C).
2929

2930 (V) For any small MS4 that has been evaluated as per
2931 subsections (I) or (II) above, the administrator reserves the right to re-evaluate the MS4 if
2932 circumstances change or new information becomes available.
2933

2934 (D) A storm water discharge that the administrator determines
2935 contributes to a violation of a water quality standard or is a significant contributor of pollutants
2936 to surface waters of the state. This designation may include a discharge from any conveyance or
2937 system of conveyances used for collecting and conveying storm water runoff or a system of
2938 discharges from municipal separate storm sewers, except for those discharges from conveyances
2939 which do not require a permit under Section 6 (g) (iii) (L) or irrigation return flow which is
2940 exempted from the definition of point source in this regulation.

2941
2942 The administrator may designate discharges from a MS4 on a system-wide or
2943 jurisdiction-wide basis. In making this determination the administrator may consider the
2944 following factors:
2945
2946 (I) The location of the discharge with respect to surface waters
2947 of the state;
2948
2949 (II) The size of the discharge;
2950
2951 (III) The quantity and nature of the pollutants discharged to
2952 surface waters of the state; and
2953
2954 (IV) Other relevant factors.
2955
2956 (E) The administrator may designate discharges from municipal
2957 separate storm sewers where the administrator determines that storm water controls are needed
2958 for the discharge based on wasteload allocations that are part of TMDLs that address the
2959 pollutants of concern.
2960
2961 (F) The administrator may issue permits for municipal separate storm
2962 sewer systems designated in Section 6 (h) (i) (C) (D) or (E) on a system-wide basis, jurisdiction-
2963 wide basis, watershed basis or other appropriate basis, or may issue permits for individual
2964 discharges.
2965
2966 (ii) The administrator may waive permit coverage for a small MS4 with a
2967 population under 1,000 within the urbanized area where both of the following criteria have been
2968 met:
2969
2970 (A) Its discharges are not known to be contributing substantially to the
2971 pollutant loadings of a physically interconnected regulated MS4 (see Section 6 (h) (i) (C) (III));
2972 and
2973
2974 (B) The small MS4 does not discharge any pollutant(s) that have been
2975 identified as a cause of impairment of any water body to which it discharges and storm water
2976 controls are not needed based on wasteload allocations that are part of a local watershed plan or
2977 an EPA approved TMDL that addresses the pollutant(s) of concern.
2978
2979 (C) A small MS4 waived under this section may be designated if
2980 circumstances change or new information becomes available.
2981

2982 (iii) Whether or not a discharge from a municipal separate storm sewer is
2983 subject to regulation under this Section 6 (h) shall have no bearing on whether the owner or
2984 operator of the discharge is eligible for funding under Title II, Title III or Title VI of the CWA.
2985

2986 (i) Petitions.

2987
2988 (i) Any operator of a municipal separate storm sewer system may petition the
2989 director to require a separate WYPDES permit for any discharge into the municipal separate
2990 storm sewer system.
2991

2992 (ii) Any person may petition the director to require a WYPDES permit, where
2993 one does not already exist, for a discharge which is composed entirely of storm water which
2994 contributes to a violation of a water quality standard or is a significant contributor of pollutants
2995 to surface waters of the state.++
2996

2997 (iii) Any person may petition the director for the designation of a small MS4 as
2998 defined in these regulations.
2999

3000 (iv) The owner or operator of a municipal separate storm sewer system may
3001 petition the director to reduce the Census estimates of the population served by such separate
3002 system to account for storm water discharged to combined sewers as defined by 40 CFR 35.2005
3003 (b) (11) that is treated in a publicly owned treatment works. In municipalities in which combined
3004 sewers are operated, the Census estimates of population may be reduced proportional to the
3005 fraction, based on estimated lengths, of the length of combined sewers over the sum of the length
3006 of combined sewers and municipal separate storm sewers where an applicant has submitted the
3007 WYPDES permit number associated with each discharge point and a map indicating areas served
3008 by combined sewers and the location of any combined sewer overflow discharge point.
3009

3010 (v) The director shall make a final determination on any petition received
3011 under this section within 90 days after receiving the petition with the exception of petitions to
3012 designate a small MS4, in which case the director shall make a final determination on the
3013 petition within 180 days after receipt of the petition.
3014

3015 (j) Conditions for municipal storm water permits.

3016
3017 (i) An individual permit issued under Section 6 or general permit
3018 authorization issued under Section 4 to a regulated small MS4 shall contain the following
3019 requirements, at a minimum:
3020

3021 (A) The MS4 permit will require that the regulated small MS4 develop,
3022 implement, and enforce a storm water management program designed to reduce the discharge of
3023 pollutants from the MS4 to the maximum extent practicable, to protect water quality, and to
3024 satisfy the appropriate water quality requirements of the Wyoming Environmental Quality Act

3025 (W.S. 35-11-301 to 35-11-311). The storm water management program must include the
3026 minimum control measures described in Section 6 (j) (i) (B). Implementation of BMPs consistent
3027 with the provisions of the storm water discharge permit required pursuant to this section
3028 constitutes compliance with the standard of reducing pollutants to the maximum extent
3029 practicable.

3030

3031 The initial permit for the regulated small MS4 will specify a time period of up to five (5)
3032 years from the date of permit issuance for development and implementation of the program.

3033

3034 (B) Minimum control measures.

3035

3036 (I) Public education and outreach on storm water impacts. The
3037 permittee must implement a public education program to:

3038

3039 (1.) Distribute educational materials to the community
3040 or conduct equivalent outreach activities about the impacts of storm water discharges on water
3041 bodies and the steps that the public can take to reduce pollutants in storm water runoff; and

3042

3043 (2.) Inform public employees, businesses and the
3044 general public of impacts associated with illegal discharges and improper disposal of waste.

3045

3046 (II) Public involvement/participation. The permittee must, at a
3047 minimum, comply with any applicable state and local public notice requirements when
3048 implementing the storm water management programs required under the permit. Notice of all
3049 public hearings should be published in a community publication or newspaper of general
3050 circulation, to provide opportunities for public involvement that reach a majority of citizens
3051 through the notification process.

3052

3053 (III) Illicit discharge detection and elimination. The permittee
3054 must develop, implement and enforce a program to detect and eliminate illicit discharges (as
3055 defined in Section 3) into the permittee's small MS4.

3056

3057 (1.) The permittee must:

3058

3059 a. Develop, if not already completed, a storm
3060 sewer system map, showing the location of all municipal storm sewer outfalls and the names and
3061 location of all surface waters of the state that receive discharges from those outfalls;

3062

3063 b. To the extent allowable under state or local
3064 law, effectively prohibit, through ordinance or other regulatory mechanism, non-storm water
3065 discharges into the storm sewer system, and implement appropriate enforcement procedures and
3066 actions; and

3067

3068 c. Develop and implement a plan to detect and
3069 address non-storm water discharges, including illicit discharges and illegal dumping, to the
3070 system. The plan must include the following three components: procedures for locating priority
3071 areas likely to have illicit discharges; procedures for tracing the source of an illicit discharge; and
3072 procedures for removing the source of the discharge.

3073
3074 (2.) The permittee shall address the following categories
3075 of non-storm water discharges or flows (i.e., illicit discharges) only if the permittee identifies
3076 them as significant contributors of pollutants to the permittee's small MS4 discharges: landscape
3077 irrigation, lawn watering, diverted stream flows, irrigation return flow, rising groundwaters,
3078 groundwater infiltration (as defined at 40 CFR 35.2005(20)), pumped groundwater, springs,
3079 flows from riparian habitats and wetlands, water line flushing, discharges from potable water
3080 sources, foundation drains, air conditioning condensation, water from crawl space pumps,
3081 footing drains, individual residential car washing, dechlorinated swimming pool discharges, and
3082 street wash water (discharges or flows from fire fighting activities are excluded from the
3083 effective prohibition against non-storm water and need only be addressed where they are
3084 identified as significant sources of pollutants to surface waters of the state).

3085
3086 (IV) Construction site storm water runoff control.

3087
3088 (1.) The permittee must develop, implement, and
3089 enforce a program to reduce pollutants in any storm water runoff to the MS4 from construction
3090 activities that result in a land disturbance of greater than or equal to one acre. Reduction of
3091 pollutants in storm water discharges from construction activity disturbing less than one acre must
3092 be included in the program if that construction activity is part of a larger common plan of
3093 development or sale that would disturb one acre or more. If the administrator waives
3094 requirements for storm water discharges associated with a small construction activity in
3095 accordance with Section 6 (f) (ii) (B), the permittee is not required to develop, implement, and/or
3096 enforce its program to reduce pollutant discharges from such a site.

3097
3098 (2.) The program must be developed and implemented
3099 to assure adequate design, implementation, and maintenance of BMPs at construction sites
3100 within the MS4 to reduce pollutant discharges and protect water quality. The program must
3101 include the development and implementation of, at a minimum:

3102
3103 a. An ordinance or other regulatory mechanism
3104 to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent
3105 allowable under state or local law;

3106
3107 b. Requirements for construction site operators
3108 to implement appropriate erosion and sediment control BMPs;

3109

3110 c. Requirements for construction site operators
3111 to control waste such as discarded building materials, concrete truck washout, chemicals, litter,
3112 and sanitary waste at the construction site that may cause adverse impacts to water quality;

3113
3114 d. Procedures for site plan review which
3115 incorporate consideration of potential water quality impacts;

3116
3117 e. Procedures for receipt and consideration of
3118 information submitted by the public, and

3119
3120 f. Procedures for site inspection and
3121 enforcement of control measures.

3122
3123 (V) Post-construction storm water management in new
3124 development and redevelopment.

3125
3126
3127 (1.) The permittee must develop, implement, and
3128 enforce a program to address storm water runoff from new development and redevelopment
3129 projects that disturb greater than or equal to one acre, including projects less than one acre that
3130 are part of a larger common plan of development or sale, that discharge into the small MS4. The
3131 program must ensure that controls are in place that would prevent or minimize water quality
3132 impacts.

3133
3134 (2.) The permittee must:

3135
3136 a. Develop and implement strategies which
3137 include a combination of structural and/or non-structural BMPs appropriate for the community;

3138
3139 b. Use an ordinance or other regulatory
3140 mechanism to address post-construction runoff from new development and redevelopment
3141 projects to the extent allowable under state or local law; and

3142
3143 c. Ensure adequate long-term operation and
3144 maintenance of BMPs.

3145
3146 (VI) Pollution prevention/good housekeeping for municipal
3147 operations. The permittee must develop and implement an operation and maintenance program
3148 that includes an employee training component and has the ultimate goal of preventing or
3149 reducing pollutant runoff from municipal operations. The program must also inform public
3150 employees of impacts associated with illegal discharges and improper disposal of waste from
3151 municipal operations. The program must prevent and/or reduce storm water pollution from
3152 facilities such as streets, roads, highways, municipal parking lots, maintenance and storage yards,

3153 fleet or maintenance shops with outdoor storage areas, salt/sand storage locations and snow
3154 disposal areas operated by the permittee, waste transfer stations, and from activities such as park
3155 and open space maintenance, fleet and building maintenance, street maintenance, new
3156 construction of municipal facilities, and storm water system maintenance, as applicable.

3157

3158 (C) If an existing qualifying local program requires the permittee to
3159 implement one or more of the minimum control measures of Section 6 (j) (i) (B), the
3160 administrator may include conditions in the permit that direct the permittee to follow that
3161 qualifying program=s requirements rather than the requirements of Section 6 (j) (i) (B). A
3162 qualifying local program is a local or state municipal storm water management program that
3163 imposes, at a minimum, the relevant requirements of Section 6 (j) (i) (B). The permit may be
3164 reopened and modified to include the requirement to implement a minimum control measure if
3165 the other entity fails to implement it.

3166

3167 (D) The permittee must comply with any more stringent effluent
3168 limitations in the permit, including permit requirements that modify, or are in addition to, the
3169 minimum control measures, based on an approved TMDL or equivalent analysis. The
3170 administrator may include more stringent limitations based on a TMDL or equivalent analysis
3171 that determines such limitations are needed to protect water quality.

3172

3173 (E) The permittee must comply with other applicable state WYPDES
3174 permit requirements, standards and conditions established in the individual or general permit,
3175 developed consistent with the provisions of Section 6 (b) or Section 4, as appropriate.

3176

3177 (F) A permittee may rely on another entity to satisfy its state
3178 WYPDES permit obligations to implement a minimum control measure, or component thereof if:

3179

3180 (I) The other entity, in fact, implements the control measure;

3181

3182 (II) The particular control measure, or component thereof, is at
3183 least as stringent as the corresponding WYPDES permit requirement; and

3184

3185 (III) The other entity agrees to implement the control measure
3186 on behalf of the permittee. The permittee must specify in reports submitted under Section 6 (j) (i)
3187 (G) (iii), that it relies on another entity to satisfy some of its permit obligations. If the permittee
3188 is relying on another entity, subject to these regulations, to meet all of its permit obligations,
3189 including the obligation to file periodic reports, it must note that fact in its NOI. The permittee
3190 remains responsible for compliance with its permit obligations if the other entity fails to
3191 implement the control measure (or component thereof).

3192

3193 (G) Evaluation and assessment.

3194

3195 (I) Evaluation. The permittee shall evaluate program
3196 compliance, the appropriateness of its identified BMPs, and progress towards achieving its
3197 identified measurable goals. A summary of this evaluation shall be included in the permittee=s
3198 annual report.

3200 (II) Record keeping. The permittee must keep records required
3201 by the permit for at least three (3) years. The permittee must submit their records to the
3202 administrator only when specifically asked to do so. The permittee must make the records,
3203 including a description of the permittee=s storm water management program, available to the
3204 public at reasonable times during regular business hours. (The permittee may assess a reasonable
3205 charge for copying. The permittee may require a member of the public to provide advance
3206 notice.)

3208 (III) Reporting. The permittee shall submit annual reports to the
3209 administrator for the permittee=s first permit term. For subsequent permit terms, reports must be
3210 submitted in years two (2) and four (4) unless the administrator requires more frequent reporting.
3211 The permittee=s report must include:

3213 (1.) The status of compliance with permit conditions, an
3214 assessment of the appropriateness of the permittee=s identified BMPs and progress towards
3215 achieving the permittee=s identified measurable goals for each of the minimum control
3216 measures;

3218 (2.) Results of information collected and analyzed,
3219 including monitoring data, if any, during the reporting period;

3221 (3.) A summary of the storm water activities the
3222 permittee plans to undertake during the next reporting cycle;

3224 (4.) A change in any identified BMPs or measurable
3225 goals for any of the minimum control measures; and

3227 (5.) Notice that the permittee is relying on another
3228 governmental entity to satisfy some of the permittee=s permit obligations (if applicable).

3230 (H) Any additional requirements as determined to be necessary by the
3231 administrator.

3233 (ii) The administrator may determine monitoring requirements for the
3234 permittee in accordance with state monitoring plans appropriate to the permittee=s watershed.

3236 (k) Qualifying programs. Qualifying state or local programs associated with
3237 municipal storm water permits.

3238
3239 (i) For storm water discharges associated with small construction activity
3240 identified in Section 6 (f) (ii) (A), the administrator may include permit conditions that
3241 incorporate qualifying state or local erosion and sediment control program requirements by
3242 reference. A qualifying state or local erosion and sediment control program is one that includes:

3243
3244 (A) Requirements for construction site operators to implement
3245 appropriate erosion and sediment control best management practices;

3246
3247 (B) Requirements for construction site operators to control waste such
3248 as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at
3249 the construction site that may cause adverse impacts to water quality;

3250
3251 (C) Requirements for construction site operators to develop and
3252 implement a storm water pollution prevention plan. (A storm water pollution prevention plan
3253 includes site descriptions, descriptions of appropriate control measures, copies of approved local
3254 requirements, maintenance procedures, inspection procedures, and identification of non-storm
3255 water discharges); and

3256
3257 (D) Requirements to submit a site plan for review that incorporates
3258 consideration of potential water quality impacts.

3259
3260 (ii) For storm water discharges from large construction activity identified in
3261 Section 6 (f) (i), the administrator may include permit conditions that incorporate qualifying state
3262 or local erosion and sediment control program requirements by reference. A qualifying state or
3263 local erosion and sediment control program is one that includes the elements listed in Section 6
3264 (k) (i), and any additional requirements necessary to achieve the applicable technology-based
3265 standards of “best available technology” and “best conventional technology” based on the best
3266 professional judgment of the permit writer.

3267
3268 **Section 7. Isolated Wetlands-Mitigation Requirements.**

3269
3270 This section applies to the process for approving mitigation for activities that cause the
3271 destruction, damage, or impairment of naturally occurring isolated wetlands or man-made
3272 isolated wetlands used to mitigate the loss of naturally occurring wetlands.

3273
3274 (a) Point source discharge activities required to file mitigation plans. Any person who
3275 proposes a point source discharge of dredged or fill material into a naturally occurring isolated
3276 wetland or man-made isolated wetlands used to mitigate the loss of a naturally occurring wetland
3277 in such a manner that causes the loss or destruction of greater than a cumulative one (1) acre of
3278 wetland habitat for the total project shall file with the administrator a notice of intent for
3279 coverage under an isolated wetlands mitigation general permit and a mitigation plan designed to
3280 offset the loss of wetland functions and values. Such notices of intent and mitigation plans must

3281 be filed and approved by the administrator prior to the commencement of the activity which will
3282 cause the wetland loss. Those activities which are subject to a permit or authorization from the
3283 U.S. Army Corps of Engineers pursuant to Section 404 of the CWA or mining activities subject
3284 to a permit or authorization from the Wyoming Department of Environmental Quality, Land
3285 Quality Division are exempt from this requirement.
3286

3287 (b) Mitigation plan contents and area of impact. Mitigation plans submitted to the
3288 administrator under this section shall contain the following information:
3289

3290 (i) Name and address of the applicant;
3291

3292 (ii) Location and description of the isolated wetland that will be impacted,
3293 including the area of impact in acres, type of wetland, probable functional values, and source of
3294 water;
3295

3296 (iii) Delineation of the impacted wetland using the U.S. Army Corps of
3297 Engineer=s 1987 wetland delineation manual including maps, drawings, data sheets and
3298 conclusions;
3299

3300 (iv) Name(s) and address(s) of adjacent property owners who may be affected
3301 by the activity;
3302

3303 (v) Description of the activity causing the wetland impact;
3304

3305 (vi) Description of actions to be taken to fully offset damage to the impacted
3306 wetland;
3307

3308 (vii) Where the proposed mitigation involves the construction of replacement
3309 wetlands or the enhancement of existing wetlands the location and description of the mitigation
3310 area including the name and address of the landowner, construction plans, maps, water sources
3311 and construction time tables;
3312

3313 (viii) Where the proposed mitigation involves the use of wetland credits
3314 recorded in the “Wyoming Statewide Wetland Mitigation Bank” a written authorization signed
3315 by the credit owner referencing the wetland credit file number and the amount of credit
3316 authorized for use;
3317

3318 (ix) List of related permissions and/or authorizations necessary to successfully
3319 complete the planned mitigation including but not limited to water rights, easements, and
3320 associated federal, state or local permits.
3321

3322 (c) Access to physical locations associated with the permit. If requested by the
3323 administrator or the administrator=s authorized agent, the permittee shall provide access to,

3324 physical locations associated with this permit including, but not limited to, any waters of the
3325 state associated with the permit at the point of discharge.

3326

3327 (d) Criteria for approval of mitigation plans under a general permit.

3328

3329 (i) The administrator shall approve all mitigation plans utilizing Wyoming
3330 Wetland Banked Credits in accordance with the “Wyoming Statewide Wetland Mitigation Bank
3331 - Guidelines for Interpretation and Implementation,” April 1995;

3332

3333 (ii) The administrator shall approve all mitigation plans involving the creation
3334 of new replacement wetlands, the restoration of degraded wetlands, or the enhancement of
3335 existing wetlands that are not recorded in the Statewide Wetland Mitigation Bank but meet the
3336 substantial elements of the wetland banking guidelines;

3337

3338 (iii) The administrator may approve types of mitigation other than those
3339 described in the April 1995 Wetland Mitigation Bank Guidelines on a case-by-case basis after
3340 consideration of the ecological function and wetland value of the impacted wetlands and the net
3341 environmental benefit of the proposed mitigation. Such types of mitigation may include but are
3342 not limited to the acquisition of conservation easements, contributions to specific private or
3343 public habitat improvement projects, or modifications to the geographic and ecological
3344 limitations expressed in the wetland banking guidelines.

3345

3346 (e) Processing of notices of intent. Processing of notices of intent shall be in
3347 accordance with the procedures outlined in Section 4 (f) of these regulations.

3348

3349 (f) Permit by rule. Discharges of dredged or fill material into naturally occurring
3350 isolated wetlands or man-made isolated wetlands used to mitigate the loss of naturally occurring
3351 wetlands which cause the loss or destruction of one acre or less of wetland habitat for the total
3352 project are permitted by rule in accordance with the following requirements:

3353

3354 (i) There shall be no discharge of solid wastes (as defined in Chapter 1,
3355 Section 1 [f] of the Department=s Hazardous Waste Management Rules and Regulations),
3356 hazardous wastes, hazardous materials, hazardous constituents, radioactive material or any toxic
3357 substance.

3358

3359 (ii) This permit by rule is not applicable to those activities which are subject
3360 to a permit or authorization from the U.S. Army Corps of Engineers pursuant to Section 404 of
3361 the CWA or mining activities subject to a permit or authorization from the Wyoming Department
3362 of Environmental Quality, Land Quality Division.

3363

3364 **Section 8. Variance Requests.**

3365

3366 (a) Variance requests by non-POTWs.

3367
3368 (i) A discharger which is not a publicly owned treatment works (POTW) may
3369 request a variance from otherwise applicable effluent limitations under any of the following
3370 statutory or regulatory provisions within the times specified in this section:

3371
3372 (A) Fundamentally different factors.

3373
3374 (I) A request for a variance based on the presence of
3375 “fundamentally different factors” from those on which the effluent limitations guideline was
3376 based shall be filed as follows:

3377
3378 (1.) For a request from best practicable control
3379 technology (BPT) currently available, at the time of application.

3380
3381 (2.) For a request from best available technology (BAT)
3382 economically achievable and/or best conventional pollutant control technology (BCT), by no
3383 later than 180 days after the date on which an effluent limitation guideline is published in the
3384 federal register for a request based on an effluent limitation guideline promulgated on or after
3385 February 4, 1987.

3386
3387 (II) The request shall explain how the applicable requirements
3388 of Wyoming Water Quality Rules and Regulations Chapter 1 - Surface Water Quality Standards,
3389 the Environmental Quality Act and the provisions of these regulations have been met.

3390
3391 (B) Non-conventional pollutants. Request for a variance from the BAT
3392 requirements for CWA Section 301 (b) (2) (F) pollutants (commonly called “non-conventional”
3393 pollutants) pursuant to Section 301 (c) of the CWA because of the economic capability of the
3394 owner or operator, or pursuant to Section 301 (g) of the CWA provided however that a § 301 (g)
3395 variance may only be requested for ammonia, chlorine, color, iron, total phenols (when
3396 determined by the Regional Administrator to be a pollutant covered by Section 301 (b) (2) (F)
3397 and any other pollutant which the Regional Administrator lists under Section 301 (g) (4) of the
3398 CWA) and must be made as follows:

3399
3400 (I) For those requests for a variance from an effluent limitation
3401 based upon an effluent limitation guideline by:

3402
3403 (1.) Submitting an initial request to the director and the
3404 Regional Administrator stating the name of the discharger, the permit number, the outfall
3405 number(s), the applicable effluent guideline, and whether the discharger is requesting a Section
3406 301 (c) or Section 301 (g) modification or both. This request must have been filed not later than
3407 270 days after promulgation of an applicable effluent limitation guideline for guidelines
3408 promulgated after December 27, 1977; and

3409

3410 (2.) Submitting a completed request no later than the
3411 close of the public comment period under Section 15 of these regulations demonstrating that the
3412 applicable requirements of Section 5 (c) (iii) (A) and (B) and Appendices F, L and M have been
3413 met. Notwithstanding this provision, the complete application for a request under section 301 (g)
3414 shall be filed 180 days before the director must make a decision (unless the director establishes a
3415 shorter or longer period).

3416
3417 (II) For those requests for a variance from effluent limitations
3418 not based on effluent limitation guidelines, the request need only comply with Section 8 (a) (i)
3419 (B) (I) (b) and need not be preceded by an initial request under Section 8 (a) (i) (B) (I) (a).

3420
3421 (C) Water quality related effluent limitations. A modification under
3422 CWA Section 302 (b) (2) of requirements under CWA Section 302 (a) for achieving water
3423 quality related effluent limitations may be requested no later than the close of the public
3424 comment period under Section 15 of these regulations on the permit from which the modification
3425 is sought.

3426
3427 (D) Thermal discharges. A variance under the CWA Section 316 (a)
3428 for the thermal component of any discharge must be filed with a timely application for a permit
3429 under this section, except that if thermal effluent limitations are established under the CWA
3430 Section 402 (a) (1) or are based on water quality standards the request for a variance may be filed
3431 by the close of the public comment period under Section 15 of these regulations. A copy of the
3432 request as required under Appendix M of these regulations, shall be sent simultaneously to the
3433 director.

3434
3435 (b) Variance requests by POTWs. A discharger which is a publicly owned treatment
3436 works (POTW) may request a variance from otherwise applicable effluent limitations as follows:

3437
3438 Water quality based effluent limitation. A modification under CWA Section 302 (b) (2)
3439 of the requirements under Section 302 (a) for achieving water quality based effluent limitations
3440 shall be requested no later than the close of the public comment period under Section 15 of these
3441 regulations on the permit from which the modification is sought.

3442
3443 (c) Expedited variance procedures and time extensions.

3444
3445 (i) Notwithstanding the time requirements in Section 8 (a) and (b), the
3446 director may notify a permit applicant before a draft permit is issued under Section 5 that the
3447 draft permit will likely contain limitations which are eligible for variances. In the notice the
3448 director may require the applicant as a condition of consideration of any potential variance
3449 request to submit a request explaining how the requirements of Section 5 (c) (iii) (A) and (B) and
3450 Appendices F, L and M applicable to the variance have been met and may require its submission
3451 within a specified reasonable time after receipt of the notice. The notice may be sent before the

3452 permit application has been submitted. The draft or final permit may contain the alternative
3453 limitations which may become effective upon final granting of the variance.

3454

3455 (d) Decisions on variances.

3456

3457 (i) The director may grant or deny requests for the following variances:

3458

3459 (A) Extensions under CWA Section 301 (i) based on delay in
3460 completion of a publicly owned treatment works;

3461

3462 (B) After consultation with the Regional Administrator, extensions
3463 under CWA Section 301 (k) based on the use of innovative technology; or

3464

3465 (C) Variances under CWA Section 316 (a) for thermal pollution.

3466

3467 (ii) The director may deny or forward to the Regional Administrator with a
3468 written concurrence, or submit to EPA without recommendation a completed request for:

3469

3470 (A) A variance based on the economic capability of the applicant under
3471 CWA Section 301 (c); or

3472

3473 (B) A variance based on water quality related effluent limitations
3474 under CWA Section 302 (b) (2).

3475

3476 (iii) EPA may approve or deny any variance request. If EPA approves the
3477 variance, the director may prepare a draft permit incorporating the variance.

3478

3479 (iv) The director may deny or forward to the Administrator of the EPA (or his
3480 delegate) with a written concurrence a completed request for:

3481

3482 (A) A variance based on the presence of “fundamentally different
3483 factors” from those on which an effluent limitation guideline was based and in accordance with
3484 Appendix M of these regulations;

3485

3486 (B) A variance based upon certain water quality factors under CWA
3487 Section 301 (g).

3488

3489 (v) The Administrator of the EPA (or his delegate) may grant or deny a
3490 request for a variance listed in Section 8 (e) (iv) of these regulations. If the Administrator of the
3491 EPA (or his delegate) approves the variance, the director may prepare a permit incorporating the
3492 variance.

3493

3494 (vi) Any public notice of a draft permit for which a variance has been
3495 approved or denied shall identify the applicable procedures for appealing that decision.
3496

3497 (e) When the director issues a permit on which EPA has made a variance decision,
3498 separate appeals of the permit and of the EPA variance decision are possible.
3499

3500 (i) Variance decisions made by EPA may be appealed under the provisions of
3501 40 CFR 124.19.
3502

3503 (ii) Decisions by the director regarding the issuance or denial of a WYPDES
3504 permit may be appealed in accordance with the provisions of Section 17 of these regulations.
3505

3506 **Section 9. Issuance or Denial of Permits or Authorizations.**
3507

3508 Once the requirements of Sections 4 (b) and (c), 5 (a) and (b), and 6 (b) or 7 (a) and (b) of
3509 these regulations have been met, a final determination regarding issuance or denial of a permit or
3510 authorization shall be made.
3511

3512 (a) Denial of permits or authorizations. No permit or authorization shall be issued
3513 which would authorize any of the following discharges:
3514

3515 (i) The discharge of any radiological, chemical, or biological warfare agent,
3516 or high level radioactive waste into surface waters of the state;
3517

3518 (ii) Any discharge which the Secretary of the Army, acting through the Chief
3519 of Engineers, finds would substantially impair anchorage and navigation;
3520

3521 (iii) Any discharge to which the Regional Administrator of the EPA has
3522 objected pursuant to the provisions of 40 CFR Part 123.44;
3523

3524 (iv) Any discharge from a point source which is in conflict with a plan or
3525 amendment thereto approved pursuant to Section 208 (b) of the Federal Act;
3526

3527 (v) Any discharge that, after imposition of permit conditions, cannot ensure
3528 compliance with the applicable water quality requirements of all affected states; and
3529

3530 (vi) No permit may be issued when conditions of the permit do not provide
3531 compliance with applicable requirements of W.S. 35-11-302 and of these regulations.
3532

3533 (b) Issuance of permits or authorizations. The permit or authorization shall be issued
3534 if all the requirements of appropriate sections of W.S. 35-11-302 and these regulations have been
3535 met and the issuance of the permit or authorization is not denied under Section 9 (a). In this
3536 regard, the term "reasonableness" as used in W.S. 35-11-302 (a) (vi) shall be considered to mean,

3537 as a minimum, compliance with applicable effluent standards and applicable water quality
3538 standards.

3539

3540 (c) Incorporation of permit conditions. All permit conditions shall be incorporated
3541 either expressly or by reference. If incorporated by reference, a specific citation to the applicable
3542 regulations or requirements must be given in the permit.

3543

3544 (d) Term of permits. A permit issued pursuant to these regulations shall have a fixed
3545 term not to exceed five (5) years unless extended under Section 11 of these regulations.
3546 Reissuance of a permit issued pursuant to these regulations shall be in accordance with the
3547 requirements of Sections 5 (a) and (b), and 9.

3548

3549 **Section 10. Renewal of Permits, and Renewal of Coverage Under Expiring General**
3550 **Permits.**

3551

3552 (a) Deadlines for permit renewal application. The owner or operator of any point
3553 source within the state who proposes to continue a permitted discharge into surface waters of the
3554 state beyond the expiration date of a permit must file with the administrator a complete
3555 application form either 1) no less than 180 days in advance of the permit expiration date, unless
3556 otherwise approved by the administrator, or 2) in sufficient time to insure compliance with the
3557 requirements of Section 306 of the Federal Act, or with any applicable zoning or siting
3558 requirements established pursuant to Section 208 (b) (2) (c) of the Federal Act, and any other
3559 applicable water quality standards and limitations or in the case of general permits, in accordance
3560 with the terms specified in the applicable general permit. Except as authorized under Section 11
3561 of these regulations, no person shall continue to discharge beyond the expiration date of a permit
3562 without having obtained a reissued permit from the department.

3563

3564 (b) Renewal application requirements. An application for renewal of an existing
3565 permit shall identify any changes or additions to the information, listed in Section 5 (a) (v), that
3566 was provided in the application form or additional requested information for the permit most
3567 recently noticed.

3568

3569 (c) Review of renewal applications. The administrator shall have each request for
3570 renewal reviewed in light of the existing permit or authorization, information provided by the
3571 permittee with the request for renewal, and all other information available to the administrator
3572 bearing on the subject permit or authorization to insure that the following conditions exist:

3573

3574 (i) That the permittee is in compliance with or has substantially complied
3575 with all the terms and conditions of the expiring permit or authorization;

3576

3577 (ii) That the discharge is consistent with applicable effluent standards and
3578 compliance schedules, water quality standards, and other legally applicable requirements
3579 imposed under these regulations; and

3580
3581 (iii) That the administrator has up-to-date information on the permittee's
3582 discharge, either pursuant to the submission of new forms or pursuant to monitoring records and
3583 reports submitted to the administrator by the permittee.

3584
3585 (d) Determination of permit or authorization renewal. Following the review of the
3586 request for renewal of a permit or renewal authorization and the other considerations described in
3587 paragraph (c) above, the administrator shall:

3588
3589 (i) Make a determination to renew or deny renewal of an authorization for
3590 coverage under a general permit; and

3591
3592 (ii) For individual permits, the administrator shall make a recommendation to
3593 the director for permit renewal or denial of permit renewal.

3594
3595 (e) Notification of determination not to renew. In the event that the administrator
3596 determines that a permit shall not be renewed or that an authorization shall not be renewed,
3597 notification of such determination will be provided to the permittee prior to the expiration of the
3598 existing permit or authorization or in accordance with Section 11 of these regulations.

3599
3600 (f) Processing and public notice procedures for permit renewals. The processing and
3601 public notice procedures in Sections 5 (b) and 15 shall be followed for every permit that is
3602 renewed and the processing procedures in Section 4 (f) shall be followed for every authorization
3603 that is renewed.

3604
3605 (g) Commencement of public notice for permit renewals. Public notice for permits
3606 being proposed for renewal shall commence not later than 30 days prior to the expiration date of
3607 the permit. In the event that permit renewals are not public noticed within 30 days prior to the
3608 permit expiration date, the permit may be continued in accordance with the provisions of Section
3609 11 of these regulations.

3610
3611 (h) Renewal of authorizations. Renewal of coverage authorized under an expiring
3612 general permit shall be conducted in accordance with the provisions established under the
3613 general permit.

3614
3615 **Section 11. Continuation of Expiring Permits.**

3616
3617 (a) Conditions. For WYPDES permits issued under the provisions of these rules, the
3618 conditions of an expired permit shall remain in force until the effective date of a new permit
3619 provided the following conditions are met:

3620
3621 (i) The permittee has submitted a timely and complete application for renewal
3622 in accordance with the provisions of Section 10 of these regulations; and

3623
3624 (ii) The director, through no fault of the permittee, does not issue a renewal
3625 permit with an effective date on or before the expiration date of the previous permit.
3626

3627 (b) Final determination. The administrator will make a final determination on the
3628 renewal application within 180 days of the permit extension.
3629

3630 (c) Effectiveness and enforceability. Permits continued under this section remain
3631 fully effective and enforceable.
3632

3633 **Section 12. Permit or Authorization Modifications.**
3634

3635 (a) Deadlines for permit or authorization modification application. The owner or
3636 operator of any point source within the state who proposes a major modification to an existing
3637 permit or a modification to an authorization must file a complete application form with the
3638 administrator either 1) no less than 180 days in advance of the date on which it is desired to
3639 change or alter the discharge unless otherwise approved by the administrator; or 2) in sufficient
3640 time prior to the alteration of the discharge to insure compliance with the requirements of
3641 Section 306 of the CWA, or with any applicable zoning or siting requirements established
3642 pursuant to Section 208 (b) (2) (c) of the CWA, and any other applicable water quality standards
3643 and limitations. In any event, no person shall change or alter the conditions of a permitted
3644 discharge without having obtained a modification from the department and no modification shall
3645 be issued without full compliance by the permittee with all requirements of these regulations.
3646

3647 (b) Modification application requirements. An application for modification of an
3648 existing permit or authorization shall identify any changes or additions to the information, listed
3649 in Section 5 (a) (v) or Section 4 (m), (n) or (o), that was provided in the application form or
3650 additional requested information for the permit most recently noticed.
3651

3652
3653 (c) Request for modification. Permits or authorizations may be modified, revoked and
3654 reissued, or terminated either at the request of any interested person or upon the administrator's
3655 initiative. However, permits or authorizations may only be modified, revoked and reissued, or
3656 terminated for the reasons specified in Sections 12 and 13. All requests shall be in writing and
3657 shall contain facts or reasons supporting the request.
3658

3659 (d) Reasons for permit modification. A permit may be modified in whole or in part
3660 when:
3661

3662 (i) There are material and substantial alterations or additions to the permitted
3663 facility or activity which occurred after permit issuance which justify the application of permit
3664 conditions that are different or absent in the existing permit.
3665

3666 (ii) The administrator has received new information which was not available
3667 at the time of permit issuance (other than revised regulations, guidance, or test methods) and
3668 which would have justified different permit conditions at the time of issuance, including
3669 information derived from effluent testing required under Section 5 (c) (v). This provision allows
3670 modification of a permit to include conditions that may be less stringent than the existing permit
3671 to the extent allowed under Section 12 (d) (iii).

3672
3673 (iii) The standards or regulations on which the permit was based have been
3674 changed by promulgation of amended standards or regulations or by judicial decision after the
3675 permit was issued. Permits may be modified during their terms for this cause only as follows:

3676
3677 (A) The permit condition requested to be modified was based on a
3678 promulgated effluent limitation guideline, secondary treatment regulations specified in Appendix
3679 E, or water quality standard; and

3680
3681 (B) EPA or the department has revised, withdrawn, or modified that
3682 portion of the federal regulation on which the permit condition was based, or the Environmental
3683 Quality Council has approved a revised water quality standard or effluent limitation on which the
3684 permit condition was based; and

3685
3686 (C) The permittee requests modification as required in this regulation,
3687 within 90 days after the notice of final action by which the EPA effluent limitation guideline,
3688 water quality standard, or effluent limitation is revised, withdrawn, or modified or upon the
3689 administrator=s initiative; or

3690
3691 (D) For judicial decisions, a court of competent jurisdiction has
3692 remanded and stayed EPA promulgated regulations or effluent limitation guidelines, if the
3693 remand and stay concern that portion of the regulations or guidelines on which the permit
3694 condition was based and a request is filed by the permittee in accordance with this regulation,
3695 within 90 days of judicial remand.

3696
3697 (iv) The administrator determines that good cause exists to modify a permit
3698 condition because of events over which the permittee has no control and for which there is no
3699 reasonable available remedy.

3700
3701 (v) When required to incorporate applicable toxic effluent limitation or
3702 standards adopted pursuant to Section 307 (a) of the CWA.

3703
3704 (vi) When required by the reopener conditions in the permit.

3705
3706 (vii) When the level of discharge of any pollutant which is not limited in the
3707 permit exceeds the level which can be achieved by the technology-based treatment requirements
3708 appropriate to the facility.

3709
3710 (viii) To establish a pollutant notification level required in Section 5 (c) (i) (B),
3711 (W), (X), (Y) or Appendix B.
3712
3713 (ix) To correct technical mistakes, such as errors in calculation, or mistaken
3714 interpretations of law made in determining permit conditions, to the extent allowed in Section 5
3715 (c) (iii) (M).
3716
3717 (x) Discharge volume will increase above what was described in the most
3718 current application or permit.
3719
3720 (xi) Outfalls will be added, deleted or moved.
3721
3722 (xii) The receiving surface waters of the state will change from what was
3723 described in the most current application.
3724
3725 (xiii) The time of discharge will be changed where seasonal or time-limited
3726 conditions for discharge may be established.
3727
3728 (xiv) The administrator determines good cause exists for modification of a
3729 compliance schedule, such as an act of God, strike, flood, or materials shortage or other events
3730 over which the permittee has little or no control and for which there is no reasonably available
3731 remedy. However, in no case may a WYPDES compliance schedule be modified to extend
3732 beyond an applicable CWA statutory deadline.
3733
3734 (xv) When a discharger is no longer eligible for net limitations, as provided in
3735 Section 5 (c) of these regulations.
3736
3737 (xvi) To modify a schedule of compliance to reflect the time lost during
3738 construction of an innovative or alternative facility, in the case of a POTW which has received a
3739 grant under Section 202 (a) (3) of the CWA for 100 percent of the costs to modify or replace
3740 facilities constructed with a grant for innovative and alternative wastewater technology under
3741 Section 202 (a) (2). In no case shall the compliance schedule be modified to extend beyond an
3742 applicable CWA statutory deadline for compliance.
3743
3744 (xvii) For a small MS4, to include an effluent limitation requiring
3745 implementation of a minimum control measure or measures specified in Section 6 of these
3746 regulations when:
3747
3748 (I) The permit does not include such measure(s) based upon the
3749 determination that another entity was responsible for implementation of the requirements(s); and
3750

3751 (II) The other entity fails to implement measure(s) that satisfy the
3752 requirement(s).
3753

3754 (xviii) Cause exists for termination under Section 13 of these regulations, and the
3755 administrator determines that modification or revocation and reissuance is appropriate.
3756

3757 (xix) Other changes to information described in Section 5 (c) (i) (B).
3758

3759 (xx) When a downstream state was not properly notified
3760 of a proposed permit.
3761

3762 (e) Reasons for authorization modification. An authorization may be modified in
3763 whole or in part when:
3764

3765 (i) There are material and substantial alterations or additions to the permitted
3766 facility or activity which occurred after issuance of an authorization.
3767

3768 (ii) The administrator has received new information which was not available
3769 at the time of permit issuance.
3770

3771 (iii) To correct technical mistakes, such as errors in calculation, or mistaken
3772 interpretations of law made in determining authorization conditions.
3773

3774 (iv) Discharge volume will increase above what was described in the most
3775 current application or authorization.
3776

3777 (v) Conditions described in Section 12 (d) (v) through (vii) and (xiii) exist.
3778

3779 (vi) For a small MS4, to include an effluent limitation requiring
3780 implementation of a minimum control measure or measures specified in Section 6 of these
3781 regulations when:

3782 (A) The authorization does not include such measure(s) based upon the
3783 determination that another entity was responsible for implementation of the requirements(s); and
3784

3785 (B) The other entity fails to implement measure(s) that satisfy the
3786 requirement(s).
3787

3788 (f) Permit revocation and reissuance. When a permit is revoked and reissued under
3789 this section, the entire permit is reopened just as if the permit had expired and was being
3790 reissued. During any revocation and reissuance proceeding, the permittee shall comply with all
3791 conditions of the existing permit until a new final permit is reissued.
3792

3793 (g) Processing procedures for major modifications. Major modifications for permits
3794 and authorizations will be subjected to the processing procedures described in Sections 4, 5 and 6
3795 of these regulations.

3796
3797 (h) Processing procedures for minor modifications. Minor modifications to permits
3798 and authorizations shall not be subject to the processing procedures of Sections 4, 5 and 6. Minor
3799 modifications to permits and authorizations will be processed according to the following
3800 procedures:

3801
3802 (i) Where a modification to an individual permit is initiated by the permittee,
3803 notification that the modification has been incorporated into the permit will be provided to the
3804 permittee within 30 days of the permittee=s submittal of a complete application for modification
3805 to the administrator;

3806
3807 (ii) Where an application for modification to an authorization is submitted by
3808 the permittee and the administrator determines that the modification can be authorized, a revised
3809 authorization reflecting the modification will be provided to the permittee within 30 days of the
3810 permittee=s submittal of a complete notice of intent for modification to the department, or as
3811 described in the general permit under which coverage is provided;

3812
3813 (iii) Where an application for modification to an authorization is submitted by
3814 the permittee and the administrator determines that the modification can not be authorized, a
3815 notification shall be provided to the permittee of such determination within 30 days of the
3816 permittee=s submittal of a complete notice of intent for modification to the department, or as
3817 described in the general permit under which coverage is provided.

3818
3819 (i) Conditions subject to modification. When a permit is modified, only the
3820 conditions subject to modification are reopened. The term of the modified permit will not be
3821 extended beyond the term of the permit being modified.

3822
3823 (j) No stay of permit conditions. The filing of a request by the permittee for a permit
3824 modification does not stay any permit condition.

3825
3826 (k) Antibacksliding. All effluent permit modifications and reissuances are subject to
3827 the antibacksliding provisions set forth in Section 5 (c) (iii) (M).

3828
3829 (l) Draft permits and authorization notification. For major modifications to permits,
3830 the administrator will prepare a summary describing the proposed modification(s). Copies of the
3831 modification summary will be provided to permittees for review at the time of public notice. For
3832 modifications to authorizations, copies of the issued authorizations will be provided to permittees
3833 within ten (10) days of issuance.

3834

3835 (m) Denial of permit or authorization modification requests. Except for denial based
3836 upon incompleteness of an application, if the director proposes to deny issuance of a permit or
3837 authorization modification, the applicant shall be notified by registered or certified mail of the
3838 intent to deny and the reason for denial.

3839

3840 **Section 13. Permit and Authorization Terminations.**

3841

3842 (a) Reasons for permit or authorization termination. A permit or authorization may be
3843 terminated during its term for reasons determined by the department including, but not limited to,
3844 the following:

3845

3846 (i) Violation of any terms or conditions of the permit;

3847

3848 (ii) Obtaining a permit by misrepresentation or failing to disclose any fact
3849 which is material to the granting or denial of a permit or to the establishment of terms or
3850 conditions of the permit;

3851

3852 (iii) Materially false or inaccurate statements or information in the permit
3853 application or the permit; or

3854

3855 (iv) A determination that the permitted activity endangers human health or the
3856 classified or existing uses of surface waters of the state and can only be regulated to acceptable
3857 levels by permit modifications or termination.

3858

3859 (b) Public notice of permit terminations or revocations. Public notice shall be given
3860 of the intent to terminate or revoke a permit in accordance with the provisions of Section 15 of
3861 these regulations.

3862

3863 (c) Notification of authorization termination. Notification shall be sent to the
3864 permittee of an authorization that is being terminated stating the reasons for termination and the
3865 effective date of termination.

3866

3867 **Section 14. Signatory Requirements.**

3868

3869 (a) Signatures for applications and notices of intent (NOI). Applications, NOIs, and
3870 other documents required to accompany said applications or NOI when submitted to the
3871 department must be signed as follows:

3872

3873 (i) In the case of corporations, by a principal executive officer of at least the
3874 level of vice president, or the manager of one or more manufacturing, production, or operating
3875 facilities, provided, the manager is authorized to make management decisions which govern the
3876 overall operation of the facility from which the discharge originates as described in the
3877 application, NOI or other required documentation;

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(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.

3921
3922 Major modifications, issuance, or reissuance of every draft permit; or where the
3923 administrator proposes to terminate coverage under an individual permit; or where the
3924 administrator proposes to conduct a public meeting in accordance with Section 16 of these
3925 regulations, the following procedures shall be used.
3926
3927 (a) Public notice. Public notice of every draft permit, public meeting being held
3928 pursuant to Section 16 of the regulations, or granting of an appeal shall be given in the following
3929 manner:
3930
3931 (i) In addition to the applicable provisions of Section 15 (a) (ii) through (v),
3932 notice shall be circulated by one or more of the following methods:
3933
3934 (A) For individual permits, posting in the post office and other public
3935 places of the municipality nearest the location(s) of the proposed discharge(s);
3936
3937 (B) For individual permits, posting near the entrance to the applicant's
3938 premises;
3939
3940 (C) For individual permits, publication in newspapers of general
3941 circulation in the locations of the proposed discharges;
3942
3943 (D) For individual and general permits, publication in a newspaper
3944 with statewide distribution;
3945
3946 (E) For general permits, publication in a newspaper with circulation in
3947 the geographic area defined in the general permit.
3948
3949 (ii) For individual permits, where a proposed outfall would occur on property
3950 that is not owned by the applicant, a copy of the public notice will be provided to the owner of
3951 the property.
3952
3953
3954 (iii) For general permits, in accordance with applicable provisions of the
3955 general permit.
3956
3957 (iv) For major permits, publication in a daily or weekly newspaper within the
3958 area affected by the facility or activity.
3959
3960 (v) In addition to Section 15 (a) (i) through (iv), publication on the Wyoming
3961 Department of Environmental Quality Internet Website (<http://deq.state.wy.us>).
3962

3963 (vi) No public notice is required when a request for permit modification,
3964 revocation and reissuance, or termination, or coverage or modification under a general permit is
3965 denied.

3966
3967 (vii) The applicant shall be mailed a copy of the fact sheet, which includes the
3968 public notice, a draft copy of the permit, and the statement of basis. The applicant will not be
3969 mailed a copy of the application materials, which is also part of the fact sheet.

3970
3971 (viii) Notice shall be mailed to any person upon request, and the administrator
3972 shall upon request add the name of any person to a list of persons or parties designated to receive
3973 copies of public notices.

3974
3975 (ix) The administrator shall provide a period of not less than 30 days following
3976 the date of public notice during which interested persons may submit their comments on draft
3977 permits.

3978
3979 (x) The contents of the public notices for draft permits shall include the
3980 following:

3981
3982 (A) Name, address, phone number, and internet address of the Water
3983 Quality Division;

3984
3985 (B) For individual permits:

3986
3987 (I) Names and addresses of the applicants;

3988
3989 (II) A brief description of each activity or operation resulting in
3990 the discharge described in each application;

3991
3992 (III) The name of the water course to which such discharge is
3993 made and a general description of the location of each outfall;

3994
3995 (IV) A statement of the tentative determination to issue the
3996 permit;

3997
3998 (C) For general permits:

3999
4000 (I) A brief description of the activity or operation resulting in
4001 the discharges for which the permit will provide coverage and a description of effluent
4002 limitations and monitoring requirements that are being proposed;

4003
4004 (II) A description of the geographic area covered by the
4005 general permit.

4006
4007 (D) The end date of the 30 day comment period; and
4008
4009 (E) A statement that a copy of the draft permit, fact sheet (if prepared),
4010 and other information is available at the address specified in paragraph (A) above.
4011
4012 (xi) The contents of a public notice announcing a public meeting shall be in
4013 accordance with Section 16 (c) of these regulations.
4014
4015 (b) Minor facilities. For every minor facility, the administrator shall prepare a
4016 statement of basis to accompany the draft permit. The statement of basis, draft permit and permit
4017 application shall be available for public inspection during the public comment period.
4018
4019 (c) Major facilities. For every major facility, the administrator shall prepare and,
4020 following public notice, shall make available, to any person so requesting, a fact sheet with
4021 respect to the application described in the notice. The administrator shall also add the name of
4022 any person so requesting to a list of those parties or persons designated to be given notice of fact
4023 sheets published, and such fact sheet shall consist of, at a minimum, the statement of basis and
4024 application, including the following information when applicable:
4025
4026 (i) A sketch or description of the discharge described in the permit
4027 application;
4028
4029 (ii) A quantitative description of the discharge which shall include the rate or
4030 frequency of discharge, the average summer and winter temperatures, and the average daily
4031 discharge in pounds per day and/or kilograms per day of any types of waste in the discharge;
4032
4033 (iii) Any tentative determinations reached by the administrator concerning the
4034 application;
4035
4036 (iv) A brief citation of any water quality standards and effluent standards that
4037 apply to the proposed discharge;
4038
4039 (v) A comprehensive description of the procedures for formulating a final
4040 decision with respect to the application including;
4041
4042 (A) The beginning and ending dates of the public comment period and
4043 the address where comments will be received;
4044
4045 (B) Procedures for requesting a meeting and the nature of that meeting;
4046 and
4047

4048 (C) Any other procedures by which the public may participate in the
4049 final decision.

4050
4051 (vi) Any calculations or other necessary explanation of the derivation of
4052 specific effluent limitations and conditions, including a citation to applicable effluent guidelines
4053 or performance standards and reasons why they are applicable or an explanation of how
4054 alternative effluent limitations were developed.

4055
4056 (vii) For permits to be issued to a treatment works owned by a person other
4057 than a state or municipality, an explanation of the administrator=s decision to issue a permit with
4058 no conditions applicable to any user, to impose conditions on one or more users, to issue separate
4059 applications, and the basis for that decision.

4060
4061 (viii) When the draft permit contains any of the following conditions, an
4062 explanation of the reasons that such conditions are applicable:

4063 (A) Limitations to control toxic pollutants;

4064 (B) Limitations on internal waste streams;

4065 (C) Limitations on indicator pollutants;

4066 (D) Limitations set on a case-by-case basis;

4067 (E) Limitations to meet the criteria for permit issuance; or

4068 (F) Waivers from monitoring requirements.

4069
4070 (ix) Reasons why any requested variances or alternatives to required standards
4071 do or do not appear justified.

4072 (x) Justification for waiver for any application requirements where such a
4073 waiver is allowed under the provisions of these regulations.

4074
4075 (d) Governmental agency mailing list. The following governmental agencies shall be
4076 included on a mailing list for receipt of fact sheets unless such agency requests not to be included
4077 on the mailing list, and each will be provided an opportunity to comment upon the draft
4078 permit(s).

4079 (i) United States Environmental Protection Agency.

4080 (ii) Second Coast Guard District.

4081
4082
4083
4084
4085
4086
4087
4088
4089
4090

- 4091 (iii) United States Bureau of Reclamation.
- 4092
- 4093 (iv) Natural Resources Conservation Service.
- 4094
- 4095 (v) United States Forest Service.
- 4096
- 4097 (vi) United States Bureau of Land Management.
- 4098
- 4099 (vii) United States Fish and Wildlife Service.
- 4100
- 4101 (viii) United States Army Corps of Engineers.
- 4102
- 4103 (ix) Wyoming Game and Fish Department.
- 4104
- 4105 (x) Wyoming Oil and Gas Conservation Commission.
- 4106
- 4107 (xi) Wyoming State Historic Preservation Office.
- 4108
- 4109 (xii) Wyoming State Engineer.
- 4110
- 4111 (xiii) Any other state or federal agency requesting to be placed on the mailing
- 4112 list.

4113
4114 (e) Notification to affected states. Any state whose waters may be affected by the
4115 issuance of a permit shall be provided with a copy of the public notice and any other relevant
4116 documents that are requested. Each state whose waters may be affected shall be afforded an
4117 opportunity to comment on the draft permit, and the administrator shall take these comments into
4118 account in preparing the final permit, or the administrator shall provide the affected state, and the
4119 Regional Administrator of the EPA, a written explanation of his reasons for failing to accept any
4120 of the comments.

4121
4122 (f) Written comments request for public meeting. During the public comment period
4123 provided in paragraph (a) (v) of this section, any interested person may submit written comments
4124 on a draft permit and may request a public meeting. A request for public meeting shall be made
4125 in writing in accordance with Section 16.

4126
4127
4128 (g) Response to comments. Before a final permit decision is considered, the
4129 administrator shall prepare a response to comments which is subject to the following conditions:

4130
4131 (i) A response to all comments received within the time frame specified in
4132 paragraph (b) (v) of this Section shall be prepared and provided to the parties submitting
4133 comments;

4134
4135 (ii) The response shall specify which provisions, if any, of the draft permit
4136 have been changed in the final permit decision, and the reasons for the change; and
4137

4138 (iii) The response shall provide the reasons why any comments did not
4139 result in a change to the draft permit; and
4140

4141 (iv) The response to comments shall be made available to the public; and
4142

4143 (v) Responses to comments from other governmental agencies shall be
4144 addressed in accordance with 40 CFR 124.59.
4145

4146 (h) Alternative effluent limitations. Public notice for any request made under
4147 Appendix M of these regulations shall include the following:
4148

4149 (i) A statement that the thermal component of the discharge is subject to
4150 effluent limitations under Sections 301 or 306 of the CWA and a brief description, including a
4151 quantitative statement, or the thermal effluent limitations proposed under Sections 301 or 306;
4152

4153 (ii) A statement that an Appendix M request has been filed and that alternative
4154 less stringent effluent limitations may be imposed on the thermal component of the discharge
4155 under Appendix M and a brief description, including a quantitative statement, of the alternative
4156 effluent limitations, if any, included in the request; and
4157

4158 (iii) If the applicant has filed an early screening request under Appendix M of
4159 these regulations, a statement that the applicant has submitted such a plan.
4160

4161 **Section 16. Public Meeting.**
4162

4163 (a) Reason for public meeting.
4164

4165 (i) Request for public meeting. The administrator shall provide an
4166 opportunity for the applicant or any interested person or state to request a public meeting, with
4167 the administrator, with respect to any draft permit. Any such request shall be filed in writing
4168 during the comment period specified in Section 15 (a) (ix) above, and shall indicate the interest
4169 of the party and the reasons why a meeting is warranted. If the administrator finds that there is a
4170 significant degree of public interest in holding such a meeting, hold such a meeting in the
4171 geographic area where the proposed discharge is located, or other appropriate area. If the
4172 administrator determines that a public meeting is not warranted, he shall provide written
4173 notification of his decision to the party requesting the meeting.
4174

4175 (ii) Public meetings to provide clarification. The administrator may also hold
4176 a public meeting at his discretion, whenever, for instance, such a meeting might clarify one or
4177 more issues involved in the permit decision.

4178
4179 (b) Purpose. The purpose of holding public meetings is to seek information and
4180 facilitate clarification in order for the administrator to make a more informed decision.

4181
4182 (c) Public notice of a public meeting. Public notice of a public meeting held pursuant
4183 to paragraph (a) of this section, will be utilizing all of the methods available for notice of the
4184 permit application set out in paragraph b. given as described in Section 15 (a) (i) of these
4185 regulations, and such notice will be provided no less than 30 days in advance of the meeting. The
4186 contents of the public notice will consist of the following:

4187
4188 (i) Name, address, and phone number of the Wyoming Water Quality
4189 Division;

4190
4191 (ii) Name, and address of each applicant whose draft permit will be
4192 considered at the meeting;

4193
4194 (iii) Name of waterway to which each discharge is made and a short
4195 description of the location of each discharge on the waterway associated with the draft permit(s);

4196
4197 (iv) Brief reference to the public notice issued for each draft permit, including
4198 identification number and date of issuance.

4199
4200 (v) Information regarding the date, time, and location of the meeting;

4201
4202 (vi) A brief description of the nature and purpose of the meeting, including the
4203 applicable rules and procedures to be followed;

4204
4205 (vii) A concise statement of the issues raised by the persons requesting the
4206 meeting;

4207
4208 (viii) A statement that a copy of the draft permit, statement of basis, and other
4209 information is available at the address specified in paragraph (a) of this section.

4210
4211 (d) Submittal of statements and data. Any person may submit written or oral
4212 statements and data concerning the draft permit. Reasonable limits may be set upon the time
4213 allowed for oral statements, and the submission of written statements may be requested. The
4214 public comment period under Section 15 (a) shall be automatically extended to the close of any
4215 public meeting under this section.

4216

4217 (e) Documentation of the public meeting. An audio or video tape recording or written
4218 transcript of the public meeting shall be made available to the public.

4219
4220 **Section 17. Hearing.**

4221
4222 In any case where the director makes a decision to issue, modify, or terminate a permit or
4223 MS4 storm water permit authorization, or where the director makes a decision to deny issuance or
4224 modification of a permit or MS4 storm water permit authorization, any interested person may
4225 request a hearing before the Environmental Quality Council. A request for hearing shall be made
4226 in accordance with the applicable Department of Environmental Quality's Rules of Practice and
4227 Procedure.

4228
4229 **Section 18. Public Information.**

4230
4231 (a) Availability of information. All information required on or attached to permit
4232 application forms, notices of intent, reporting forms, draft or issued permits, authorizations, or
4233 related correspondence shall be made available to the public for inspection and copying, subject
4234 to W.S. 35-11-1101 and all other applicable state laws. The administrator shall provide facilities
4235 for inspection of all non-confidential documents.

4236
4237 (b) Applicability of trade secrets. The following information may not be considered
4238 to constitute trade secrets and must be made available to the public:

- 4239
4240 (i) Name and address of any permit applicant or permittee;
4241
4242 (ii) Permit applications, permits and effluent data.
4243

4244 **Section 19. Transfer of Permits.**

4245
4246 (a) Permits may be transferred by a permittee to a new owner or operator if:

4247
4248 (i) Conditional transfers. The permit has been modified or revoked and
4249 reissued to identify the new permittee and to incorporate such other requirements as may be
4250 necessary under these regulations.

4251
4252 (ii) Automatic transfers. A permit may be automatically transferred to a new
4253 permittee if:

4254
4255 (A) The current permittee notifies the director in writing at least 30
4256 days in advance of the proposed transfer date in paragraph (b) (ii) of this Section;
4257

4258 (B) The notice includes a written agreement between the existing and
4259 new permittees on a form provided by the administrator. The form shall contain a specific date
4260 for transfer of permit responsibility, coverage and liability between the two parties; and

4261
4262 (C) The director does not notify the existing permittee and the
4263 proposed new permittee of its intent to modify or revoke and reissue the permit.

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

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

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

4159

Comments:

4160

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

4161

4162

4163

4164

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

4165

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4166 **APPENDIX B: Additional Requirements Applicable to Existing Manufacturing,**
4167 **Commercial, Mining and Silviculture Discharges**
4168

4169 (a) Application requirements. Existing manufacturing, commercial, mining, and
4170 silviculture discharges applying for permits, except for those facilities which discharge only non-
4171 process wastewater, shall provide the following information, in addition to that described in
4172 Section 5 (a) (v), to the administrator, using the application forms provided by the administrator.
4173

4174 (i) A line drawing of the water flow through the facility with a water balance,
4175 showing operations contributing wastewater to the effluent and treatment units. Similar
4176 processes, operations, or production areas may be indicated as a single unit, labeled to
4177 correspond to the more detailed identification required in paragraph (a) (ii) of this appendix. The
4178 water balance must show approximate average flows at intake and discharge points and between
4179 units, including treatment units. If a water balance cannot be determined (for example, for certain
4180 mining activities), the applicant may provide instead a pictorial description of the nature and
4181 amount of any sources of water and any collection and treatment measures.
4182

4183 (ii) Average flows and treatment. A narrative identification of each type of
4184 process, operation, or production area which contributes wastewater to the effluent for each
4185 outfall, including process wastewater, cooling water, and storm water runoff; the average flow
4186 which each process contributes; and a description of the treatment the wastewater receives,
4187 including the ultimate disposal of any solid or fluid wastes other than by discharge. Processes,
4188 operations, or production areas may be described in general terms (for example, "dye-making
4189 reactor," "distillation tower") For a privately owned treatment works, this information shall
4190 include the identity of each user of the treatment works. The average flow of point sources
4191 composed of storm water may be estimated. The basis for the rainfall event and the method of
4192 estimation must be indicated.
4193

4194 (iii) Intermittent flows. If any of the discharges described in paragraph (a) (ii)
4195 of this appendix are intermittent or seasonal, a description of the frequency, duration and flow
4196 rate of each discharge occurrence (except for storm water runoff, spillage or leaks).
4197

4198 (iv) Maximum production. If an effluent guideline listed in Section 5 (c) of
4199 these regulations applies to the applicant and is expressed in terms of production (or other
4200 measure of operation), a reasonable measure of the applicant's actual production reported in the
4201 units used in the applicant effluent limitation. The reported measure must reflect the actual
4202 production of the facility.
4203

4204 (v) Improvements. If the applicant is subject to any present requirements or
4205 compliance schedules for construction, upgrading or operation of waste treatment equipment, an
4206 identification of the abatement requirement, a description of the abatement project and projected
4207 final compliance dates.
4208

4209 (vi) Quantitative data. At a minimum, the applicant shall submit quantitative
4210 data for pollutants in the discharge as provided in this paragraph and in paragraph (a) (vi) (G) of
4211 this appendix. For purposes of this paragraph, an applicant is expected to know or have reason to
4212 believe that a pollutant is present in an effluent based on an evaluation of the expected use,
4213 production, or storage of the pollutant, or on any previous analyses for the pollutant.

4214
4215 (A) Every applicant must report quantitative data for every outfall for
4216 the following pollutants:

- 4217 (I) Biochemical Oxygen Demand (BOD5),
- 4218 (II) Chemical Oxygen Demand,
- 4219 (III) Total Organic Carbon,
- 4220 (IV) Total Suspended Solids,
- 4221 (V) Ammonia (as N),
- 4222 (VI) Temperature (both winter and summer), and
- 4223 (VII) pH.

4224
4225 (B) The administrator may waive the reporting requirements for
4226 individual point sources or for a particular industry category for one or more of the pollutants
4227 listed in paragraph (a) (vi) (A) of this appendix if the applicant has demonstrated that such a
4228 waiver is appropriate because information adequate to support issuance of a permit can be
4229 obtained with less stringent requirements.

4230
4231 (C) Each applicant with processes in one or more primary industry
4232 category (see Appendix A to 40 CFR Part 122) contributing to a discharge must report
4233 quantitative data for the following pollutants in each outfall containing process wastewater:

4234 (I) The organic toxic pollutants in the fractions designated in
4235 40 CFR Part 122, Table I of Appendix D for the applicant's industrial category or categories.
4236 Table II of Appendix D lists the organic toxic pollutants in each fraction. The fractions result
4237 from the sample preparation required by the analytical procedure which uses gas
4238 chromatography/mass spectrometry. A determination that an applicant falls within a particular
4239 industrial category for the purposes of selecting fractions for testing is not conclusive as to the
4240 applicant's inclusion in that category for any other purposes.

4241 (II) The pollutants listed in 40 CFR Part 122, Table III of
4242 Appendix D (the toxic metals, cyanide, and total phenols).

4252
4253 (D) Each applicant must indicate whether they know or have reason to
4254 believe that any of the pollutants as described in (I) or (II) below is discharged from each outfall.
4255

4256 (I) Any of the pollutants in Table IV of Appendix D (certain
4257 conventional and non-conventional pollutants) of 40 CFR Part 122. If an applicable effluent
4258 limitations guideline either directly limits the pollutant or, by its express terms, indirectly limits
4259 the pollutant through limitations on an indicator, the applicant must report quantitative data. For
4260 every pollutant discharged which is not so limited in an effluent limitations guideline, the
4261 applicant must either report quantitative data or briefly describe the reasons the pollutant is
4262 expected to be discharged.

4263
4264 (II) Any of the pollutants listed in Table II or Table III of
4265 Appendix D (the toxic pollutants and total phenols) of 40 CFR Part 122 for which quantitative
4266 data are not otherwise required under paragraph (a) (vi) (C) of this appendix. For every pollutant
4267 expected to be discharged in concentrations of 10 ppb or greater the applicant must report
4268 quantitative data For acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4,6 dinitrophenol,
4269 where any of these four pollutants are expected to be discharged in concentrations of 100 ppb or
4270 greater, the applicant must report qualitative data. For every pollutant expected to be discharged
4271 in concentrations less than 10 ppb, or in the case of acrolein, acrylonitrile, 2,4 dinitrophenol, and
4272 2-methyl-4,6 dinitrophenol, in concentrations less than 100 ppb, the applicant must either submit
4273 quantitative data or briefly describe the reasons the pollutant is expected to be discharged.
4274

4275 (E) Each applicant must indicate whether they know or have reason to
4276 believe that any of the pollutants in Table V of Appendix D of 40 CFR Part 122 (certain
4277 hazardous substances and asbestos) are discharged from each outfall. For every pollutant
4278 expected to be discharged, the applicant must briefly describe the reasons the pollutant is
4279 expected to be discharged, and report any quantitative data it has for any pollutant.
4280

4281 (F) For purposes of paragraphs (C) and (D) above, the applicant need
4282 not provide quantitative data if the pollutant is present in the discharge solely as a result of the
4283 presence in intake water. However, the applicant must report such pollutant as present.
4284

4285 (G) Each applicant must report qualitative data, generated using a
4286 screening procedure not calibrated with analytical standards, for 2,3,7,8-tetrachlorodibenzo-p-
4287 dioxin (TCDD) if they:
4288

4289 (I) Use or manufacture 2,4,5-trichlorophenoxy acetic acid
4290 (2,4,5,-T); 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,-TP); 2-(2,4,5-
4291 trichlorophenoxy) ethyl, 2,2-dichloropropionate (Erbon); O,O-dimethyl O-(2,4,5-trichlorophenyl)
4292 phosphorothioate (Ronnel); 2,4,5-trichlorophenol (TCP); or hexachlorophene (HCP); or
4293

4294 (II) Know or have reason to believe that TCDD is or may be
4295 present in an effluent.

4296
4297 (vii) When quantitative data for a pollutant are required, the applicant must
4298 collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods
4299 approved under 40 CFR Part 136. When no analytical method is approved the applicant may use
4300 any suitable method but must provide a description of the method.

4301
4302 (A) When an applicant has two (2) or more outfalls with substantially
4303 identical effluents, the department may allow the applicant to test only one (1) outfall and report
4304 that the quantitative data also apply to the substantially identical outfalls.

4305
4306 (B) Grab samples must be used for pH, temperature, cyanide, total
4307 phenols, residual chlorine, oil and grease, fecal coliform and fecal streptococcus.

4308
4309 (C) For all other pollutants, 24-hour composite samples must be used.
4310 However, a minimum of one (1) grab sample may be taken for effluents from holding ponds or
4311 other impoundments with a retention period greater than 24-hours. In addition, for discharges
4312 other than storm water discharges, the administrator may waive composite sampling for any
4313 outfall for which the applicant demonstrates that the use of an automatic sampler is infeasible
4314 and that the minimum of four (4) grab samples will be a representative sample of the effluent
4315 being discharged.

4316
4317 (viii) Used or manufactured toxins. A listing of any toxic pollutant which the
4318 applicant currently uses or manufactures as an intermediate or final product or byproduct. The
4319 administrator may waive or modify this requirement for any applicant who demonstrates that it
4320 would be unduly burdensome to identify each toxic pollutant if the administrator has adequate
4321 information to issue the permit.

4322
4323 (ix) An identification of any whole effluent toxicity tests which the applicant
4324 knows or has reason to believe has been made within the last three (3) years on any of the
4325 applicant's discharges or on a receiving water in relation to a discharge.

4326
4327 (x) Contract analyses. If a contract laboratory or consulting firm performed
4328 any of the analyses required in paragraphs (a) (vi) or (a) (vii) of this appendix, the applicant shall
4329 identify each laboratory or firm and the analyses performed.

4330
4331 (xi) Small business exemption. An applicant which qualifies as a small
4332 business under one of the following criteria is exempt from the requirements in Appendix B (a)
4333 (vi) (C) (I) and the Table II quantitative requirement of Appendix B (a) (vi) (D) (II):

4334
4335 (A) For coal mines, the probable total annual production is less than
4336 100,000 tons per year.

4337
4338 (B) For all other applicants, the gross total annual sales average less
4339 than \$100,000 per year (in second quarter 1980 dollars).

4340
4341 (b) Notification of routine toxic discharges not limited in the permit. Permits for
4342 existing manufacturing, commercial, mining and silvicultural discharges shall require that the
4343 permittee report to the administrator as soon as the permittee knows or has reason to believe that
4344 any activity has occurred or will occur which would result in the discharge, on a routine or
4345 frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will
4346 exceed the highest of the following notification levels:

4347
4348 (i) One hundred micrograms per liter (100 µg/l);

4349
4350 (ii) Two hundred micrograms per liter (200 µg/l) for acrolein and
4351 acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-
4352 methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

4353
4354 (iii) Five (5) times the maximum concentration value reported for that
4355 pollutant in the permit application; or

4356
4357 (iv) The notification level established by the director in accordance with
4358 Section 5 (c) of these regulations.

4359
4360 (c) Notification of non-routine toxic discharges not limited in the permit Permits for
4361 existing manufacturing, commercial, mining and silvicultural discharges shall require that the
4362 permittee report to the director as soon as the permittee knows or has reason to believe that any
4363 activity has occurred or will occur which would result in any discharge, on a non-routine or
4364 infrequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will
4365 exceed the highest of the following notification levels:

4366
4367 (i) Five hundred micrograms per liter (500 µg/l);

4368
4369 (ii) One milligram per liter (1 mg/l) for antimony;

4370
4371 (iii) Ten (10) times the maximum concentration value reported for that
4372 pollutant in the permit application; or

4373
4374 (iv) The notification level established by the administrator in accordance with
4375 Section 5 (c) of these regulations.

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4377 **APPENDIX C: Additional Requirements Applicable to New Manufacturing, Commercial,**
4378 **Mining and Silvicultural Discharges**
4379

4380 (a) New manufacturing, commercial, mining and silvicultural dischargers applying
4381 for permits (except for new discharges of facilities subject to the requirements of Appendix D of
4382 these regulations), shall provide the following information, in addition to that described in
4383 Section 5 (a) (iv), to the administrator, using the application form provided by the administrator.
4384

4385 (i) Discharge dates. The expected date of commencement of discharge.
4386

4387 (ii) Flows, sources of pollution, and treatment technologies.
4388

4389 (A) Expected treatment of wastewater. Description of the treatment
4390 that the wastewater will receive, along with all operations contributing wastewater to the
4391 effluent, average flow contributed by each operation, and the ultimate disposal of any solid or
4392 liquid wastes not discharges.
4393

4394 (B) Line drawing. A line drawing of the water flow through the facility
4395 with a water balance as described in Appendix B (a) (i).
4396

4397 (C) Intermittent flows. If any of the expected discharges will be
4398 intermittent or seasonal, a description of the frequency, duration and maximum daily flow rate of
4399 each discharge occurrence (except for storm water runoff, spillage, or leaks).
4400

4401 (iii) Production. If a new source performance standard promulgated under
4402 Section 306 of the CWA or an effluent limitation guideline applies to the applicant and is
4403 expressed in terms of production (or other measure of operation), a reasonable measure of the
4404 applicant's expected actual production reported in the units used in the applicable effluent
4405 guideline or new source performance standard for each of the first three (3) years. Alternative
4406 estimates may also be submitted if production is likely to vary.
4407

4408 (iv) Effluent characteristics.
4409

4410 (A) Each applicant must report estimated daily maximum, daily
4411 average, and source of information for each outfall for the following pollutants or parameters.
4412

4413 (I) Biochemical Oxygen Demand (BOD5),
4414

4415 (II) Chemical Oxygen Demand (COD),
4416

4417 (III) Total Suspended Solids (TSS),
4418

4419 (IV) Flow,

- 4420
4421 (V) Ammonia (as N),
4422
4423 (VI) Temperature (winter and summer),
4424
4425 (VII) pH, and
4426
4427 (VIII) Total Organic Carbon (TOC).
4428
- 4429 (B) The administrator may waive the reporting requirements for any of
4430 the pollutants and parameters in Appendix C (a) (iv) (A) if the applicant submits a request for
4431 such a waiver before or with the application which demonstrates that information adequate to
4432 support issuance of the permit can be obtained through less stringent reporting requirements.
4433
- 4434 (C) Each applicant must report estimated daily maximum, daily
4435 average, and source of information for each outfall for all pollutants in Table IV of Appendix D
4436 40 CFR Part 122 (certain conventional and non-conventional pollutants) if the applicant knows
4437 or has reason to believe the pollutants will be present or if the pollutants are limited by an
4438 effluent limitation guideline or new source performance standard either directly or indirectly
4439 through limitations on an indicator pollutant.
4440
- 4441 (D) Each applicant must report estimated daily maximum, daily
4442 average and source of information for the following pollutants if they know or have reason to
4443 believe that the pollutant will be present in the discharges from any outfall:
4444
- 4445 (I) The pollutants listed in Table III of Appendix D (the toxic
4446 metals, in the discharge from any outfall: Total cyanide, and total phenols) of 40 CFR Part 122;
4447
- 4448 (II) The organic toxic pollutants in Table II of Appendix D
4449 (except bis (chloromethyl) ether, dichlorofluoromethane and trichlorofluoromethane) of 40 CFR
4450 Part 122. This requirement is waived for applicants qualifying for the small business exemption
4451 as specified in Appendix B (a) (xi).
4452
- 4453 (E) The applicant is required to report that 2,3,7,8 Tetrachlorodibenzo-
4454 P-Dioxin (TCDD) may be discharged if he uses or manufactures one of the following
4455 compounds, or if he knows or has reason to believe that TCDD will or may be present in an
4456 effluent:
4457
- 4458 (I) 2,4,5-trichlorophenoxy acetic acid (2,4,5-T) (CAS #93-76-
4459 5);
4460
- 4461 (II) 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5-
4462 TP) (CAS #93-72-1);

- 4463
4464 (III) 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate
4465 (Erbon) (CAS #136-25-4);
4466
4467 (IV) 0,0-dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate
4468 (Ronnell) (CAS #299-84-3);
4469
4470 (V) 2,4,5-trichlorophenol (TCP) (CAS #95-95-4); or
4471
4472 (VI) Hexachlorophene (HCP) (CAS #70-30-4).
4473

4474 (F) Each applicant must report any pollutants listed in Table V of
4475 Appendix D (certain hazardous substances) of 40 CFR Part 122 if they believe the pollutants will
4476 be present in any outfall (no quantitative estimates are required unless they are already
4477 available).
4478

4479 (G) No later than two (2) years after the commencement of the
4480 discharge from a proposed facility, the applicant must submit analytical results which
4481 characterize the actual effluent discharged. The applicant need not submit this information to the
4482 extent the analytical results are reported by the applicant under the discharge monitoring
4483 requirements of the applicant's permit.
4484

4485 (v) Engineering report. Each applicant must report the existence of any
4486 technical evaluation concerning the applicant's wastewater treatment, along with the name and
4487 location of similar plants of which the applicant has knowledge.
4488

4489 (vi) Other information. Any optional information the permittee wishes to have
4490 considered.
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4498 **APPENDIX D: Additional Requirements Applicable to Manufacturing, Commercial,**
4499 **Mining and Silvicultural Facilities Discharging Only Non-process Waste Water**
4500

4501 (a) Application requirements. Application requirements for manufacturing,
4502 commercial, mining and silvicultural facilities which discharge only non-process wastewater.
4503 Except for storm water discharges, all manufacturing, commercial, mining, and silvicultural
4504 dischargers applying for permits which discharge only non-process wastewater not regulated by
4505 an effluent limitation guideline or new source performance standard shall provide the following
4506 information, in addition to that described in Section 5 (a) (iv), to the administrator, using
4507 application forms provided by the administrator.
4508

4509 (i) Discharge date (for new dischargers). Date of expected commencement of
4510 discharge.

4511 (ii) Type of waste. An identification of the general type of waste discharged,
4512 or expected to be discharged upon commencement of operations, including sanitary wastes,
4513 restaurant or cafeteria wastes, or noncontact cooling water. An identification of cooling water
4514 additives (if any) that are used or expected to be used upon commencement of operations, along
4515 with their composition if existing composition is available.
4516

4517 (iii) Effluent characteristics.

4518 (A) Quantitative data for the pollutants or parameters listed below,
4519 unless testing is waived by the administrator.
4520

- 4521 (I) Biochemical Oxygen Demand (BOD5),
4522
4523 (II) Total Suspended Solids (TSS),
4524
4525 (III) Fecal Coliform (if believed present or if sanitary waste is or
4526 will be discharged),
4527
4528 (IV) Total Residual Chlorine (if chlorine is used),
4529
4530 (V) Oil and Grease,
4531
4532 (VI) Chemical Oxygen Demand (COD)(if non-contact cooling
4533 water is or will be discharged),
4534
4535 (VII) Ammonia (as N),
4536
4537 (VIII) Discharge Flow,
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- (IX) pH,
- (X) Temperature (Winter and Summer), and
- (XI) Total Organic Carbon (TOC).

(B) The quantitative data in Appendix D (a) (iii) (A) may be data collected over the past 365 days, if they remain representative of current operations, and must include daily maximum value, daily average value, and number of measurements taken. The applicant must collect and analyze samples in accordance with 40 CFR Part 136. Grab samples must be used for pH, temperature, oil and grease, total residual chlorine, and fecal coliform. For all other pollutants, 24-hour composite samples must be used. New dischargers must include estimates for the pollutants or parameters listed below instead of actual sampling data, along with the source of each estimate. All levels must be reported or estimated as concentration and as total mass, except for flow, pH, and temperature.

(C) The administrator may waive the testing and reporting requirements for any of the pollutants or flow listed in paragraph (a) (iii) of this appendix if the applicant submits a request for such a waiver before or with the permit application which demonstrates that information adequate to support issuance of a permit can be obtained through less stringent requirements.

(D) If the applicant is a new discharger, the applicant must provide quantitative data in accordance with paragraph (a) (iii) of this appendix no later than two (2) years after commencement of discharge. However, the applicant need not perform tests which they have already performed and reported under the discharge monitoring requirements of the applicant's permit.

(E) The requirements of paragraph (a) (iii) of this appendix do not apply for pollutants present in a discharge solely as a result of their presence in intake water. However, an applicant must report such pollutants as present. Net credit may be provided for the presence of pollutants in intake water if the requirements are met.

(iv) Flow. A description of the frequency of flow and duration of any seasonal or intermittent discharge (except for storm water runoff, leaks, or spills).

(v) Treatment system. A brief description of any system used or to be used.

(vi) Optional information. Any additional information the applicant wishes to be considered.

4581 **APPENDIX E: Additional Requirements Applicable to New and Existing Publicly owned**
4582 **Treatment Works (POTWs)**

4583
4584 (a) Application requirements for new and existing POTWs. POTWs shall provide the
4585 following information, in addition to that described in Section 5 (a) (v), to the administrator,
4586 using the application form provided by the administrator.

4587
4588 (i) Name of State Management/River Basin and 12 digit hydrologic
4589 cataloging unit code.

4590
4591 (ii) Critical flow of the receiving surface waters of the state and total hardness
4592 of the receiving surface waters of the state at critical low flow.

4593
4594 (iii) The following POTWs shall provide to the administrator the results of
4595 whole effluent toxicity testing conducted in accordance with EPA approved methods:

4596
4597 (A) All POTWs with design influent flows equal to or greater than one
4598 million gallons per day; and

4599
4600 (B) All POTWs with approved pretreatment programs or POTWs
4601 required to develop a pretreatment program.

4602
4603 (iv) Effluent monitoring for specific parameters.

4604
4605 (A) All applicants must submit to the administrator effluent monitoring
4606 information for samples taken from each outfall through which effluent is discharged to surface
4607 waters of the state, except for CSOs. The administrator may allow applicants to submit sampling
4608 data for only one (1) outfall on a case-by-case basis, where the applicant has two (2) or more
4609 outfalls with substantially identical effluent. The administrator may also allow applicants to
4610 composite samples from one or more outfalls that discharge into the same mixing zone.

4611
4612 (B) Unless otherwise indicated, all applicants must sample and analyze
4613 for the pollutants listed in Table E1 of this Appendix.

4614
4615 (C) Unless otherwise indicated, all applicants with a design flow
4616 greater than or equal to 0.1 mgd must sample and analyze for the pollutants listed in Table E2 of
4617 this Appendix. Facilities are not required to sample and analyze for chlorine if they do not use
4618 chlorine for disinfection, do not use chlorine elsewhere in the treatment process, and have no
4619 reasonable potential to discharge chlorine in their effluent.

4620
4621 (D) The following applicants must sample and analyze for the
4622 pollutants listed in 40 CFR 122 Appendix J Table 2 and for any other pollutants for which state
4623 surface water quality standards have been established for the receiving waters:

- 4624
4625 (I) All POTWs with a design flow rate equal to or greater than
4626 one million gallons per day.
4627
4628 (II) All POTWs with approved pretreatment programs or
4629 POTWs required to develop a pretreatment program.
4630
4631 (III) Any other POTW as required by the administrator.
4632
4633 (E) Unless otherwise indicated, all applicants must provide data from a
4634 minimum of three (3) samples taken within four and one-half (4.5) year prior to the date of the
4635 permit application. Samples must be representative of seasonal variation in the discharge from
4636 each outfall. Existing data may be used, if available, in lieu of sampling done solely for the
4637 purpose of this application.
4638
4639 (F) All existing data for pollutants specified in this Appendix that is
4640 collected within four and one-half (4.5) years of the application must be included in the pollutant
4641 data summary submitted by the applicant. If, however, the applicant samples for a specific
4642 pollutant on a monthly or more frequent basis, it is only necessary, for such pollutant, to
4643 summarize all data collected within one (1) year of the application.
4644
4645 (G) Unless otherwise indicated, all applicants must collect samples of
4646 effluent and analyze such samples for pollutants in accordance with analytical methods approved
4647 und 40 CFR Part 136 unless an alternative is specified in the existing WYPDES permit. Grab
4648 samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and
4649 grease, and fecal coliform. For all other pollutants, 24-hour composite samples must be used. For
4650 a composite sample, only one analysis of the composite of aliquots is required.
4651
4652 (H) The effluent monitoring data provided must include at least the
4653 following information for each parameter.
4654
4655 (I) daily maximum discharge, expressed as concentration or
4656 mass, based upon actual sample values;
4657
4658 (II) daily average discharge for all samples, expressed as
4659 concentration or mass, and the number of samples used to obtain this value;
4660
4661 (III) The analytical method used; and
4662
4663 (IV) The practical quantitation limit for the analytical method
4664 used.
4665

4666 (I) Unless otherwise required by the administrator, metals
4667 must be reported as dissolved or total recoverable as applicable in accordance with Wyoming
4668 Water Quality Rules and Regulations Chapter 1.

4669
4670 (v) In addition to the POTWs listed in paragraph (a) (i) of this appendix, the
4671 division may require other POTWs to submit the results of toxicity tests with their permit
4672 applications, based on consideration of the following factors:

4673
4674 (A) The variability of the pollutants or pollutant parameters in the
4675 POTW effluent (based on chemical-specific information, the type of treatment facility, and types
4676 of industrial contributors);

4677
4678 (B) The dilution of the effluent in the receiving water (ratio of effluent
4679 flow to receiving surface waters of the state flow);

4680
4681 (C) Existing controls on point or nonpoint sources, including TMDL
4682 calculations for the waterbody segment and the relative contribution of the POTW;

4683
4684 (D) Receiving water characteristics, including possible or known water
4685 quality impairment, and whether the POTW discharges to ~~waters designated as Class 1~~
4686 [Outstanding Resource Waters](#) in accordance with Wyoming Water Quality Rules and
4687 Regulations Chapter 1; or

4688
4689 (E) Other considerations (including but not limited to the history of
4690 toxic impact and compliance problems at the POTW), which the administrator determines could
4691 cause or contribute to adverse water quality impacts.

4692
4693 (vi) For POTWs required under paragraph (a) (i) or (a) (ii) of this appendix to
4694 conduct toxicity testing, POTWs shall use methods approved by the administrator.

4695
4696 (vii) Effluent monitoring for whole effluent toxicity.

4697
4698 (A) All applicants must provide an identification of any whole effluent
4699 toxicity tests conducted during the four and one half (4.5) years prior to the date of the
4700 application on any of the applicant=s discharges or on any receiving water near the discharge.

4701
4702 (B) Where the POTW has two or more outfalls with substantially
4703 identical effluent discharging to the same receiving water segment, the administrator may allow
4704 applicants to submit whole effluent toxicity data for only one (1) outfall on a case-by-case basis.
4705 The administrator may also allow applicants to composite samples from one (1) or more outfalls
4706 that discharge into the same mixing zone.

4707

4708 (C) Each applicant required to perform whole effluent toxicity testing
4709 pursuant to paragraph (a) (iii) of this Appendix must provide:

4710
4711 (I) Results of a minimum of four (4) quarterly tests for a year,
4712 from the year preceding the permit application; or

4713
4714 (II) Results from four tests performed at least annually in the
4715 four and one half (4.5) year period prior to the application, provided the results show no
4716 appreciable toxicity using a safety factor determined by the permitting authority.

4717
4718 (D) Applicants must conduct tests with multiple species (no less than
4719 two (2) species; e.g., fish invertebrate, plant) and test for acute or chronic toxicity, depending on
4720 the range of receiving water dilution. It is recommended that applicants conduct acute or chronic
4721 testing based on the following dilutions.

4722
4723 (I) Acute toxicity testing if the dilution of the effluent is
4724 greater than 1,000:1 at the edge of the mixing zone.

4725
4726 (II) Acute or chronic toxicity testing if the dilution of the
4727 effluent is between 100:1 and 1000:1 at the edge of the mixing zone. Acute testing may be more
4728 appropriate at the higher end and chronic testing may be more appropriate towards the lower end.

4729
4730 (III) Chronic testing if the dilution of the effluent is less than
4731 100:1 at the edge of the mixing zone.

4732
4733 (E) Unless otherwise directed by the administrator, each applicant
4734 required to perform whole effluent toxicity testing pursuant to paragraph (a) (i) of this appendix
4735 must provide the number of chronic or acute whole effluent toxicity tests that have been
4736 conducted since the last permit reissuance.

4737
4738 (F) Applicants must provide the results using a form provided by the
4739 administrator, or test summaries if available and comprehensive, for each whole effluent toxicity
4740 test conducted pursuant to this appendix for which such information has not been reported
4741 previously to the administrator.

4742
4743 (G) For the purposes of these regulations whole effluent toxicity
4744 testing for must be conducted using methods approved under 40 CFR Part 136.

4745
4746 (H) For whole effluent toxicity data submitted to the administrator
4747 within four and one half (4.5) years prior to the date of the application applicants must provide
4748 the dates on which the data were submitted and a summary of the results, unless otherwise
4749 directed by the administrator.

4750

4751 (I) Each POTW required to perform whole effluent toxicity
4752 testing in accordance with these regulations must provide any information on the cause of
4753 toxicity and written details of any toxicity reduction evaluation conducted, if any whole effluent
4754 toxicity test conducted within the past four and one-half years revealed toxicity.

4755
4756 (viii) POTWs receiving Resource Conservation and Recovery Act (RCRA),
4757 Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or
4758 RCRA Corrective Action wastes or wastes generated at another type of environmental cleanup or
4759 remediation site must provide the following information.

4760
4761 (A) If the POTW receives, or has been notified that it will receive, by
4762 truck, rail, or dedicated pipe any wastes that are regulated as RCRA hazardous wastes pursuant
4763 to 40 CFR Part 261, the applicant must report the following:

4764
4765 (I) The method by which the waste is received (i.e., whether
4766 by truck, rail, or dedicated pipe); and

4767
4768 (II) The hazardous waste number amount received annually of
4769 each hazardous waste.

4770
4771 (B) If the POTW receives, or has been notified that it will receive
4772 wastewaters that originate from remedial activities, including those undertaken pursuant to
4773 CERCLA and sections 3004(u) or 3008(h) of RCRA, the applicant must report the following:

4774
4775 (I) The identity and description of the site(s) or facility(ies) at
4776 which the wastewater originates.

4777
4778 (II) The identities of the wastewater=s hazardous constituents,
4779 as listed in Appendix VIII of 40 CFR Part 261, if known.

4780
4781 (III) The extent of treatment, if any, the wastewater receives or
4782 will receive before entering the POTW.

4783
4784 (C) Applicants are exempt from the requirements of paragraph (e)(ii)
4785 of this Appendix if they receive no more than fifteen kilograms per month of hazardous wastes
4786 as specified in 40 CFR 261.30 (d) and 261.33 (e).

4787
4788 (ix) Each applicant with combined sewer systems must provide the following
4789 information.

4790
4791 (A) Combined sewer system information:

4792

- 4793 (I) System map. A map indicating the location of the
4794 following:
4795
4796 (1.) All combined sewer overflow (CSO) discharge
4797 points.
4798
4799 (2.) Sensitive use areas potentially affected by CSOs.
4800
4801 (3.) Waters supporting threatened or endangered species
4802 potentially affected by CSOs.
4803
4804
4805 (II) System diagram. A diagram of the combined sewer
4806 collection system that includes:
4807
4808 (1.) The location of major sewer trunk lines, both
4809 combined and separate sanitary.
4810
4811 (2.) The locations of points where separate sanitary
4812 sewers feed into the combined sewer system.
4813
4814 (3.) In-line and off-line storage structures.
4815
4816 (4.) The locations of flow regulating devices.
4817
4818 (5.) The location of pump stations.
4819
4820 (B) Information on combined sewer outfalls:
4821
4822 (I) Description of the outfall, including:
4823
4824 (1.) Outfall number.
4825
4826 (2.) State, county, and city or town in which outfall is
4827 located.
4828
4829 (3.) Latitude and longitude, to the nearest 15 seconds.
4830
4831 (4.) Distance from shore and depth below surface.
4832
4833 (5.) Whether the applicant monitored any of the
4834 following in the past year for the CSO:
4835

- 4836 a. Rainfall.
4837
4838 b. CSO flow volume.
4839
4840 c. CSO pollutant concentrations.
4841
4842 d. Receiving water quality.
4843
4844 e. CSO frequency.
4845
4846 (6.) The number of storm events monitored in the last
4847 year.
4848
4849 (II) CSO events. The following information about CSO
4850 overflows from each outfall.
4851
4852 (1.) The number of events in the past year.
4853
4854 (2.) The average duration per event, if available.
4855
4856 (3.) The average volume per CSO event if available.
4857
4858 (4.) The minimum rainfall that caused a CSO event, if
4859 available, in the last year.
4860
4861 (III) Description of receiving waters. The following information
4862 about receiving water.
4863
4864 (1.) Name of the receiving water.
4865
4866 (2.) Name of watershed/stream system and the State
4867 watershed (12-digit) code (if known).
4868
4869 (IV) CSO operations. A description of any known water quality
4870 impacts on the receiving water caused by the CSO (e.g., permanent or intermittent beach
4871 closings, permanent or intermittent fish kills, fish advisories, other recreational loss, or
4872 exceedance of any applicable state water quality standard.
4873
4874 (x) Contractors. All applicants must provide the name, mailing address,
4875 telephone number, and responsibilities of all contractors responsible for any operational or
4876 maintenance aspects of the facility.
4877

4878 (b) A permit application shall not be considered complete if the administrator has
4879 waived application requirements under this Appendix or Section 5 of these regulations and the
4880 Regional Administrator of the EPA has disapproved the waiver. If a waiver request has been
4881 submitted to the Regional Administrator of the EPA more than 210 days prior to permit
4882 expiration and the Regional Administrator has not disapproved the waiver application 181 days
4883 prior to permit expiration, the permit application lacking the information subject to the waiver
4884 request shall be considered complete.

4885
4886 (c) Secondary treatment requirements. This part provides information
4887 on the level of effluent quality that shall be obtained through the application of secondary or
4888 equivalent treatment.

4889 (i) Terms used in this appendix are defined as follows:

4891
4892 (A) 7-day average. The arithmetic mean of pollutant parameter values
4893 for samples collected in a period of seven (7) consecutive days.

4894
4895 (B) 30-day average. The arithmetic mean of pollutant parameter values
4896 of samples collected in a period of 30 consecutive days.

4897
4898 (C) BOD₅. The five day measure of the pollutant parameter
4899 biochemical oxygen demand (BOD₅).

4900
4901 (D) CBOD₅. The five day measure of the pollutant parameter
4902 carbonaceous biochemical oxygen demand (CBOD₅).

4903
4904 (E) Effluent concentrations consistently achievable through proper
4905 operation and maintenance.

4906
4907 (I) For a given pollutant parameter, the 95th percentile value for the
4908 30-day average effluent quality achieved by a treatment works in a period of at least two years,
4909 excluding values attributable to upsets, bypasses, operational errors, or other unusual conditions;
4910 and,

4911
4912 (II) A 7-day average value equal to 1.5 times the value derived under
4913 paragraph (c) (i) (E) (I) of this appendix.

4914
4915 (F) Facilities eligible for treatment equivalent to secondary treatment.
4916 Treatment works shall be eligible for consideration for effluent limitations described for
4917 treatment equivalent to secondary treatment (133.105) if:
4918

4919 (I) The BOD₅ and TSS effluent concentrations consistently
4920 achievable through proper operation and maintenance of the treatment works exceed the
4921 minimum level of effluent quality set forth in 133.02(a) and (b).

4922
4923 (II) A trickling filter or waste stabilization pond is used as the
4924 principal process; and,

4925
4926 (III) The treatment works provide significant biological
4927 treatment of municipal wastewater.

4928
4929 (G) Percent removal. A percentage expression of the removal
4930 efficiency across a treatment plan for a given pollutant parameter, as determined from the 30-day
4931 average values of the raw wastewater influent pollutant concentrations to the facility and the 30-
4932 day average values of the raw wastewater influent pollutant concentrations to the facility and the
4933 30-day average values of the effluent pollutant concentrations for a given time period.

4934
4935 (H) Significant biological treatment. The use of an aerobic or anaerobic
4936 biological treatment process in a treatment works to consistently achieve a 30-day average of at
4937 least 65 percent removal of BOD₅.

4938
4939 (I) TSS. The pollutant parameter total suspended solids.

4940
4941 (J) Significantly more stringent limitation means BOD₅ and TSS
4942 limitations necessary to meet the percent removal requirements of at least 5 mg/l more stringent
4943 than the otherwise applicable concentration-based limitations (e.g., less than 25 mg/l in the case
4944 of the secondary treatment limits for BOD₅ and TSS), or the percent removal limitations in
4945 paragraphs (c) (ii) and (c) (v) of this appendix, if such limits would, by themselves, force
4946 significant construction or other significant capital expenditure.

4947
4948 (ii) Secondary Treatment. The following paragraphs describe the minimum
4949 level of effluent quality attainable by secondary treatment in terms of the parameters BOD₅, TSS,
4950 and pH. All requirements for each parameter shall be achieved except as provided for in
4951 paragraphs (c) (iii) and (c) (v) of this appendix.

4952
4953 (A) BOD₅.

4954
4955 (I) The 30-day average shall not exceed 30 mg/l.

4956
4957 (II) The 7-day average shall not exceed 45 mg/l.

4958
4959 (III) The 30-day average percent removal shall not be less than
4960 85 percent.

4961

4962 (IV) At the option of the administrator, in lieu of the parameter
4963 BOD5. and the levels of the effluent quality specified in paragraphs (c) (ii) (A) (I) (II) and (III) ,
4964 the parameter C BOD5. may be substituted with the following levels of the CBOD5 effluent
4965 quality provided:

- 4966
- 4967 (1.) The 30-day average shall not exceed 25 mg/l.
- 4968
- 4969 (2.) The 7-day average shall not exceed 40 mg/l.
- 4970
- 4971 (3.) The 30-day average percent removal shall not be
4972 less than 85 percent.

4973 (B) TSS.

- 4974
- 4975 (I) The 30-day average shall not exceed 30 mg/l.
- 4976
- 4977 (II) The 7-day average shall not exceed 45 mg/l
- 4978
- 4979 (III) The 30-day average percent removal shall not be less than
4980 85 percent.

4981

4982 (C) pH. The effluent values for pH shall be maintained within the
4983 limits of 6.0 to 9.0 unless the publicly owned treatment works demonstrates that: (1) Inorganic
4984 chemicals are not added to the waste stream as part of the treatment process; and (2)
4985 contributions from industrial sources do not cause the pH of the effluent to be less than 6.0 or
4986 greater than 9.0.

4987

4988 (iii) Special considerations.

4989

4990 (A) Combined sewers. Treatment works subject to this part may not be
4991 capable of meeting the percentage removal requirements established under 102 (a) (3) and (b) (3)
4992 or 105 (a) (3) and (b) (3) during wet weather where the treatment works receive flows from
4993 combined sewers (i.e., sewers which are designed to transport both storm water and sanitary
4994 sewage). For such treatment works, the decision must be made on a case-by-case basis as to
4995 whether any attainable percentage removal level can be defined, and if so, what the level should
4996 be.

4997

4998 (B) Industrial waste. For certain industrial categories, the discharge to
4999 surface waters of the state of BOD5 and TSS permitted under Sections 301 (b) (1) (A) (i), (b) (2)
5000 (E) or 306 of the CWA may be less stringent than the values given in paragraphs (c) (ii) (A) (I)
5001 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
5002 cases when wastes would be introduced from such an industrial category into a publicly owned
5003 treatment works, the values for BOD5 and TSS in paragraphs (c) (ii) (A) (I) and (IV) (i), (c) (ii)
5004

5005 (B) (I), (c) (v) (A) (I), (c) (v) (B) (I) and (c) (v) (E) (I) (i) of this appendix may be adjusted
5006 upwards provided that: (1) The permitted discharge of such pollutants attributable to the
5007 industrial category, would not be greater that which would be permitted under Sections 301 (b)
5008 (1) (A) (i), (b) (2) (E) or 306 of the CWA if such industrial category were to discharge directly
5009 into the surface waters of the state, and (2) the flow or loading of such pollutants introduced by
5010 the industrial category exceeds 10 percent of the design flow or loading of the publicly owned
5011 treatment works. When such an adjustment is made, the values for BOD5 or TSS in paragraphs
5012 (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)
5013 of this appendix. should be adjusted proportionately.

5014
5015 (C) Waste stabilization ponds. The administrator, may authorize
5016 adjusting the minimum levels of effluent quality set forth in paragraphs (c) (v) (B) (1), (2) and
5017 (3) of this appendix for treatment works subject to this part, to conform to the TSS
5018 concentrations achievable with waste stabilization ponds, provided that:

5019
5020 (I) Waste stabilization ponds are the principal process used for
5021 secondary treatment; and

5022
5023 (II) Operation and maintenance data indicate that the TSS
5024 values specified in paragraphs (c) (v) (B) (I), (II) and (III) of this appendix cannot be achieved.
5025 The term “TSS concentrations achievable with waste stabilization ponds” means a TSS value,
5026 determined by the administrator, which is equal to the effluent concentration achieved 90 percent
5027 of the time within a state or appropriate contiguous geographical area by waste stabilization
5028 ponds that are achieving the levels of effluent quality for BOD₅ specified in paragraphs (c) (v)
5029 (A) (I) of this appendix.

5030
5031 (D) Less concentrated influent wastewater for separate sewers. The
5032 administrator may authorize substituting either a lower percent removal requirement or a mass
5033 loading limit for the percent removal requirements set forth in paragraphs (c) (ii) (A) (III) and
5034 (IV) (3), (c) (ii) (B) (III), (c) (v) (A) (III), (c) (v) (B) (III) and (c) (v) (E) (I) (3) of this appendix
5035 provided that the permittee satisfactorily demonstrates that:

5036
5037 (I) The treatment works is consistently meeting, or will
5038 consistently meet, its permit effluent concentration limits but its percent removal requirements
5039 cannot be met due to less concentrated influent wastewater;

5040
5041 (II) To meet the percent removal requirements, the treatment
5042 works would have to achieve significantly more stringent limitations than would otherwise be
5043 required by the concentration-based standards; and

5044
5045 (III) The less concentrated influent wastewater is not the result
5046 of excessive I/I. The determination of whether the less concentrated I/I will use the definition of
5047 excessive I/I in 40 CFR 35.2005 (b) (16) plus the additional criterion that inflow is non-excessive

5048 if the total flow to the POTW (i.e., wastewater plus inflow plus infiltration) is less than 25
5049 gallons per capita per day.

5050
5051 (E) Less concentrated influent wastewater for combined sewers during
5052 dry weather. The administrator may substitute either a lower percent removal requirement or a
5053 mass loading limit for the percent removal requirements set forth in paragraphs (c) (ii) (A) (III)
5054 and (IV) (iii), (c) (ii) (B) (III), (c) (v) (A) (III), (c) (v) (B) (III) and (c) (v) (E) (I) (iii) of this
5055 appendix provided that the permittee satisfactorily demonstrates that:

5056
5057 (I) The treatment works is consistently meeting, or will
5058 consistently meet, its permit effluent concentration limits, but the percent removal requirements
5059 cannot be met due to less concentrated influent wastewater;

5060
5061 (II) To meet the percent removal requirements, the treatment
5062 works would have to achieve significantly more stringent effluent concentrations than would
5063 otherwise be required by the concentration-based standards; and

5064
5065 (III) The less concentrated influent wastewater does not result
5066 from either excessive infiltrations or clear water industrial discharges during dry weather
5067 periods. The determination of whether the less concentrated wastewater results from excessive
5068 infiltration is discussed in 40 CFR 35 2005 (b) (28), plus the additional criterion that either 40
5069 gallons per capita per day or 1500 gallons per inch diameter per mile of sewer may be used as
5070 the threshold value for that portion of the dry weather base flow attributed to infiltration. If the
5071 less concentrated influent wastewater is the result of clear water industrial discharges, then the
5072 treatment works must control such discharges pursuant to 40 CFR Part 403.

5073
5074 (iv) Sampling and test procedures.

5075
5076 (A) Sampling and test procedures for pollutants listed in this part shall
5077 be in accordance with guidelines in 40 CFR Part 136.

5078
5079 (B) Chemical oxygen demand (COD) or total organic carbon (TOC)
5080 may be substituted for BOD₅ when a long-term BOD₅, COD or BOD₅ TOC correlation has been
5081 demonstrated.

5082
5083 (v) Treatment equivalent to secondary treatment. This section describes the
5084 minimum level of effluent quality attainable by facilities eligible for treatment equivalent to
5085 secondary treatment under paragraph (c) (i) (F) of this appendix in terms of the parameters
5086 BOD₅, TSS and pH. All requirements for the specified parameters in paragraphs (c) (v) (A), (B)
5087 and (C) of this appendix shall be achieved except as provided for in paragraph (c) (iii), or
5088 paragraphs (c) (v) (D), (E) or (F) of this appendix.

5089
5090 (A) BOD₅.

5091
5092 (I) The 30-day average shall not exceed 45 mg/l.
5093
5094 (II) The 7-day average shall not exceed 65 mg/l.
5095
5096 (III) The 30-day average percent removal shall not be less than
5097 65 percent.

5098
5099 (B) TSS. Except where TSS values have been adjusted in accordance
5100 with paragraph (c) (iii) (C) of this appendix:

5101
5102 (I) The 30-day average shall not exceed 45 mg/l.
5103
5104 (II) The 7-day average shall not exceed 65 mg/l.
5105
5106 (III) The 30-day average percent removal shall not be less than
5107 65 percent.

5108
5109 (C) pH. The requirements of paragraph (c) (ii) (C) of this appendix
5110 shall be met.

5111
5112 (D) Alternative requirements. Except as limited by paragraph (c) (v)
5113 (F) of this appendix, and after public notice and opportunity for public comment, the
5114 administrator may adjust the minimum levels of effluent quality set forth in paragraphs (c) (v)
5115 (A) (I), (A) (II), (B) (I) and (B) (II) of this appendix for trickling filter facilities and in
5116 paragraphs (c) (v) (A) (I) and (A) (II) of this section for waste stabilization pond facilities, to
5117 conform to the BOD₅ and TSS effluent concentrations consistently achievable through proper
5118 operation and maintenance by the median (50th percentile) facility in a representative sample of
5119 facilities within the state or an appropriate contiguous geographical area that meet the definition
5120 of facilities eligible for treatment equivalent to secondary treatment.

5121
5122 (E) CBOD₅ limitations.

5123
5124 (I) Where data are available to establish CBOD₅ limitations for
5125 a treatment works subject to this Section, the administrator may substitute the parameter CBOD₅
5126 for the parameter BOD₅. In paragraph (c) (v) (A) (I)-(III) of this appendix, on a case-by-case
5127 basis provided that the levels of CBOD₅ effluent quality are not less stringent than the following:

5128
5129 (1.) The 30-day average shall not exceed 40 mg/l.

5130
5131 (2.) The 7-day average shall not exceed 60 mg/l.

5132

5133 (3.) The 30-day average percent removal shall not be
5134 less than 65 percent.

5135
5136 (II) Where data are available, the parameter CBOD5 may be
5137 used for effluent quality limitations established under paragraph (c) (v) (D) of this appendix.
5138 Where concurrent BOD₅ effluent data are available, they must be submitted with the CBOD5
5139 data as part of the approval process outlined in paragraph (c) (v) (D) of this appendix.

5140
5141 (F) Permit adjustments. Any permit adjustment made pursuant to this
5142 part may not be any less stringent than the limitations required pursuant to paragraph (c) (v) (A)
5143 through (E) of this appendix. Furthermore, more stringent limitations shall be required when
5144 adjusting permits if:

5145
5146 (I) For existing facilities, the administrator determines that the
5147 30-day average and 7-day average BOD₅ and TSS effluent values that could be achievable
5148 through proper operation and maintenance of the treatment works, based on an analyses of the
5149 past performance of the treatment works to achieve more stringent limitations;, or

5150
5151 (II) For new facilities, the administrator determines that the 30-
5152 day average and 7-day average BOD₅ and TSS effluent values that could be achievable through
5153 proper operation and maintenance of the treatment works, considering the design capability of
5154 the treatment process and geographical and climatic conditions, would enable the treatment
5155 works to achieve more stringent limitations.

5156
5157 (d) Permits for publicly owned treatment works will require that the permittee must
5158 provide adequate notification to the administrator of the following:

5159
5160 (i) Any new introduction of pollutants into the publicly owned treatment
5161 works from an indirect discharger which would be subject to Sections 301 or 306 of the CWA if
5162 it were directly discharging those pollutants, and

5163
5164 (ii) Any substantial change in the volume or character of pollutants being
5165 introduced into that publicly owned treatment works by a source introducing pollutants into the
5166 publicly owned treatment works at the time of issuance of the permit.

5167
5168 (iii) For the purposes of Appendix E (d) (i) and (ii), adequate notification shall
5169 include information on the quality and quantity of effluent introduced into the publicly owned
5170 treatment works; and any anticipated impact of the change on the quantity or quality of effluent
5171 to be discharged from the publicly owned treatment works.

5172
5173
5174
5175

5176

Table E1 Effluent Parameters for All POTWs
Biological oxygen demand (BOD ₅ or CBOD ₅)
Fecal Coliform
pH
Temperature
Total Suspended Solids

5177

5178

5179

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

5180

5181 **APPENDIX F: Additional Requirements Applicable to New and Existing Aquatic Animal**
5182 **Production Facilities**
5183

5184 (a) Discharges into aquaculture projects, as defined in Section 3 (b) of these
5185 regulations, are subject to the WYPDES permit program in accordance with these regulations.
5186

5187 (b) A hatchery, fish farm, or other facility is a concentrated aquatic animal production
5188 facility for purposes of these regulations if it contains, grows, or holds aquatic animals in either
5189 of the following categories:
5190

5191 (i) Cold water fish species or other cold water aquatic animals in ponds,
5192 raceways, or other similar structures which discharge at least 30 days per year but does not
5193 include:
5194

5195 (A) Facilities which produce less than 9,090 harvest weight kilograms
5196 (approximately 20,000 pounds) of aquatic animals per year; and
5197

5198 (B) Facilities which produce less than 2,272 kilograms (approximately
5199 5,000 pounds) of food during the calendar month of maximum feeding.
5200

5201 (ii) Warm water fish species, or other warm water aquatic animals in ponds,
5202 raceways, or other similar structures which discharge at least 30 days per year, but does not
5203 include:
5204

5205 (A) Closed ponds which discharge only during periods of excess
5206 runoff; or
5207

5208 (B) Facilities which produce less than 45,454 harvest weight kilograms
5209 (approximately 100,000 pounds) of aquatic animals per year.
5210

5211 (iii) “Cold water aquatic animals” include, but are not limited to the
5212 Salmonidae family of fish: e.g., trout and salmon.
5213

5214 (iv) “Warm water aquatic animals” include but are not limited to, the
5215 Ameiuridae, Centrarchidae and Cyprinidae families of fish; e.g. respectively, catfish, sunfish and
5216 minnows.
5217

5218 (c) Application requirements for new and existing aquatic animal production
5219 facilities. New and existing concentrated aquatic animal production facilities shall provide the
5220 following information, in addition to that described in Section 5 (a) (v), to the administrator,
5221 using the application form provided by the administrator.
5222

5223 (d) The maximum daily and average monthly flow from each outfall.

- 5224
- 5225 (e) The number of ponds, raceways, and similar structures.
- 5226
- 5227 (f) The name of the receiving water and the source of intake water.
- 5228
- 5229 (g) For each species of aquatic animals, the total yearly and maximum harvestable
- 5230 weight.
- 5231
- 5232 (h) The calendar month of maximum feeding and the total mass of food fed during
- 5233 that month.
- 5234
- 5235
- 5236
- 5237
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- 5242
- 5243
- 5244
- 5245
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- 5247
- 5248
- 5249 Intentionally left blank
- 5250

5251 **APPENDIX G: Criteria for Determining a Concentrated Animal Feeding Operation and**
5252 **Additional Requirements Applicable to New and Existing Concentrated Animal Feeding**
5253 **Operations**
5254

5255 (a) Applicability and permit requirement for concentrated animal feeding operations
5256 (CAFOs). In accordance with W.S. 35-11-103 (a) (xi) and 35-11-302 (a) (v), CAFOs, as defined
5257 in Appendix G (b) of these regulations, are point sources that require WYPDES permits for
5258 discharges or potential discharges. Once an operation is defined as a CAFO, the WYPDES
5259 requirements for CAFOs apply with respect to all animals in confinement at the operation and all
5260 manure, litter and process wastewater generated by those animals or the production of those
5261 animals, regardless of the type of animal. All CAFOs have a duty to apply to seek coverage
5262 under a WYPDES permit as described in these regulations.
5263

5264 (b) Definitions applicable to this appendix:
5265

5266 (i) Analytical methods. The parameters that are regulated or referenced in this
5267 appendix and listed with approved methods of analysis in Table 1B at 40 CFR 136.3 are defined
5268 as follows:
5269

5270 (A) “Ammonia (as N)” means ammonia reported as nitrogen.
5271

5272 (B) “BOD₅” means 5-day biochemical oxygen demand.
5273

5274 (C) “Nitrate (as N)” means nitrate reported as nitrogen.
5275

5276 (D) “Total dissolved solids” means nonfilterable residue.
5277

5278 (ii) Analytical methods. The parameters that are regulated or referenced in this
5279 part and listed with approved methods of analysis in Table 1A at 40 CFR 136.3 are defined as
5280 follows:
5281

5282 (A) “Fecal coliform” means fecal coliform bacteria.
5283

5284 (B) “Total coliform” means all coliform bacteria.
5285

5286 (iii) “Animal feeding operation” (AFO) means a lot or facility (other than an
5287 aquatic animal production facility) where the following conditions are met:
5288

5289 (A) Animals have been, are, or will be stabled or confined and fed or
5290 maintained for a total of 45 days or more in any 12-month period; and
5291

5292 (B) Crops, vegetation forage growth or post harvest residues are not
5293 sustained in the normal growing season over any portion of the lot or facility.

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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);

5336 (M) 30,000 ducks (if the AFO uses other than a liquid manure handling
5337 system); or

5338
5339 (N) 5,000 ducks (if the AFO uses a liquid manure handling system).

5340
5341 (vi) “Manure” is defined to include animal excreta or other commonly
5342 associated wastes of animal husbandry including but not limited to bedding, compost and raw
5343 materials or other materials commingled with manure or set aside for disposal.

5344
5345 (vii) “Medium concentrated animal feeding operation” (medium CAFO) means
5346 any AFO with the type and number of animals that fall within any of the ranges listed in
5347 Appendix G (b) (vii) (A) and which has been defined or designated as a CAFO. An AFO is
5348 defined as a medium CAFO if:

5349
5350 (A) The type and number of animals that it stables or confines falls
5351 within any of the following ranges:

5352
5353 (I) 200 to 699 mature dairy cattle, whether milked or dry;

5354
5355 (II) 300 to 999 veal calves;

5356
5357 (III) 450 to 1499 buffalo (Bison bison);

5358
5359 (IV) 300 to 999 cattle other than mature dairy cows or veal
5360 calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs;

5361
5362 (V) 750 to 2,499 swine each weighing 55 pounds or more;

5363
5364 (VI) 3,000 to 9,999 swine each weighing less than 55 pounds;

5365
5366 (VII) 150 to 499 horses;

5367
5368 (VIII) 3,000 to 9,999 sheep or lambs;

5369
5370 (IX) 16,500 to 54,999 turkeys;

5371
5372 (X) 9,000 to 29,999 laying hens or broilers, (if the AFO uses a
5373 liquid manure handling system);

5374
5375 (XI) 37,500 to 124, 999 chickens (other than laying hens), (if the
5376 AFO uses other than a liquid manure handling system);

5377

5378 (XII) 25,000 to 81,999 laying hens, (if the AFO uses other than a
5379 liquid manure handling system);

5380
5381 (XIII) 10,000 to 29,999 ducks (if the AFO uses other than a liquid
5382 manure handling system); or

5383
5384 (XIV) 1,500 to 4,999 ducks (if the AFO uses a liquid manure
5385 handling system); and

5386
5387 (B) Either one of the following conditions are met:

5388
5389 (I) Pollutants are discharged into surface waters of the state
5390 through a man-made ditch, flushing system, or other similar man-made device; or

5391
5392 (II) Pollutants are discharged directly into surface waters of the
5393 state which originate outside of and pass over, across, or through the facility or otherwise come
5394 into direct contact with the animals confined in the operation.

5395
5396 (viii) “New source” means any building, structure, facility or installation from
5397 which there is or may be the discharge of pollutants, the construction of which is commenced
5398 after the effective date of these regulations.

5399
5400 (ix) “Overflow” means the discharge of manure or process wastewater
5401 resulting from the filling of wastewater or manure storage structures beyond the point at which
5402 no more manure, process wastewater, or storm water can be contained by the structure.

5403
5404 (x) “Process wastewater” means water directly or indirectly used in the
5405 operation of the AFO for any or all of the following: spillage or overflow from animal or poultry
5406 watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO
5407 facilities; direct contact swimming, washing, or spray cooling of animals; or dust control.
5408 Process wastewater also includes any water which comes into contact with any raw materials,
5409 products, or byproducts including manure, litter, feed, milk, eggs or bedding.

5410
5411 (xi) “Production area” means that part of an AFO that includes the animal
5412 confinement area, the manure storage area, the raw materials storage area, and the waste
5413 containment areas. The animal confinement area includes but is not limited to open lots, housed
5414 lots, feedlots, confinement houses, stall barns, free stall barns, milk rooms, milking centers,
5415 cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure
5416 storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stock piles, under
5417 house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials
5418 storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The
5419 waste containment area includes but is not limited to settling basins, and areas within berms and
5420 diversions which separate uncontaminated storm water. Also included in the definition of

5421 production area is any egg washing or egg processing facility, and any area used in the storage,
5422 handling, treatment, or disposal of mortalities.

5423

5424 (xii) "Twenty-five-year, 24-hour rainfall event" and 100-year, 24-hour rainfall
5425 event mean precipitation events with a probable recurrence interval of once in 25 years, or 100
5426 years, respectively, as defined by the National Weather Service in Technical Paper No. 40,
5427 "Rainfall Frequency Atlas of the United States," May, 1961, or equivalent regional or state
5428 rainfall probability information developed from this source.

5429

5430 (c) CAFO designation. The director may designate any AFO as a CAFO upon
5431 determining that it is a significant contributor of pollutants to surface waters of the state. The
5432 director may also designate an AFO as a CAFO at the request of the Regional Administrator, but
5433 only where the Regional Administrator has determined that one or more pollutants in the AFOs
5434 discharge contributes to an impairment in a downstream or adjacent state water that is impaired
5435 for that pollutant.

5436

5437 (i) In making this designation, the director shall consider the following
5438 factors:

5439

5440 (A) The size of the AFO and the amount of wastes reaching surface
5441 waters of the state;

5442

5443 (B) The location of the AFO relative to surface waters of the state;

5444

5445 (C) The means of conveyance of animal wastes and process waste
5446 waters into surface waters of the state;

5447

5448 (D) The slope, vegetation, rainfall, and other factors affecting the
5449 likelihood or frequency of discharge of animal wastes manure and process waste waters into
5450 surface waters of the state; and

5451

5452 (E) Other relevant factors.

5453

5454 (ii) No AFO shall be designated under these regulations unless the director or
5455 the Regional Administrator has conducted an on-site inspection of the operation and determined
5456 that the operation should and could be regulated under the WYPDES permit program. In
5457 addition, no AFO with numbers of animals below the minimum numbers established in
5458 Appendix G (b) (vii) (A) may be designated as a CAFO unless:

5459

5460 (A) Pollutants are discharged into surface waters of the state through a
5461 manmade ditch, flushing system, or other similar manmade device; or

5462

5463 (B) Pollutants are discharged directly into surface waters of the state
5464 which originate outside of the facility and pass over, across, or through the facility or otherwise
5465 come into direct contact with the animals confined in the operation.

5466
5467 (d) Application for permit and exceptions.

5468
5469 (i) All CAFO owners and operators must seek coverage under a WYPDES
5470 permit, except as provided in Appendix G (d) (ii) of these regulations. If the director has not
5471 made a general permit available, the CAFO owner or operator must submit an application for an
5472 individual permit to the director.

5473
5474 (ii) Exception. An owner or operator of a large CAFO does not need to seek
5475 coverage under a WYPDES permit otherwise required by this section once the owner or operator
5476 has received from the director notification of a determination under Appendix G (f) of these
5477 regulations that the CAFO has “no potential to discharge” manure, litter or process wastewater.

5478
5479 (iii) New and existing concentrated animal feeding operations shall provide the
5480 following information, in addition to that described in Section 5 (a) (v) for individual permits, to
5481 the administrator, using an application form provided by the administrator.

5482
5483 (A) The type and number of animals in open confinement and housed
5484 under roof;

5485
5486 (B) The type of containment and storage (anaerobic lagoon, roofed
5487 storage shed, storage ponds, underfloor pits, above ground storage tanks, below ground storage
5488 tanks, concrete pad, impervious soil pad, other) and total capacity for manure, litter, and process
5489 wastewater storage (tons/gallons);

5490
5491 (C) The total number of acres under control of the applicant available
5492 for land application of manure, litter, or process wastewater;

5493
5494 (D) The number of acres used for confinement feeding;

5495
5496 (E) Estimated amounts of manure, litter and process wastewater
5497 generated per year (tons/gallons);

5498
5499 (F) Estimated amounts of manure, litter and process wastewater
5500 transferred to other persons per year (tons/gallons);

5501
5502 (G) The design basis for the runoff diversion and controls system, if
5503 one exists, including the number of acres of contributing drainage, the storage capacity, and the
5504 design safety factor to ensure no discharge except under conditions of a 25-year 24-hour, or
5505 greater, storm event; and

5506
5507 (H) A nutrient management plan, in accordance with Appendix G (i)
5508 developed and implemented upon the date of coverage.
5509

5510 (e) Land application discharges from a CAFO are subject to WYPDES requirements.
5511 The discharge of manure, litter or process wastewater to surface waters of the state from a CAFO
5512 as a result of the application of that manure, litter or process wastewater by the CAFO to land
5513 areas under its control is a discharge from that CAFO subject to WYPDES permit requirements,
5514 except where it is an agricultural storm water discharge as provided in 33 U.S.C. 1362(14). For
5515 purposes of Appendix G (e), where the manure, litter or process wastewater has been applied in
5516 accordance with site specific nutrient management practices that ensure appropriate agricultural
5517 utilization of the nutrients in the manure, litter or process wastewater, as specified in Appendix G
5518 (i) (ii) (F) - (H) a precipitation related discharge of manure, litter or process wastewater from
5519 land areas under the control of a CAFO is an agricultural storm water discharge.
5520

5521 (f) “No potential to discharge” determination for large CAFOs.
5522

5523 (i) Determination by the director. The director, upon request, may make a
5524 case-specific determination that a large CAFO has “no potential to discharge” pollutants to
5525 surface waters of the state. In making this determination, the director must consider the potential
5526 for discharges from both the production area and any land application areas. The director must
5527 also consider any record of prior discharges by the CAFO. In no case may the CAFO be
5528 determined to have “no potential to discharge” if it has had a discharge within the five (5) years
5529 prior to the date of the request submitted under Appendix G (f) (ii). For purposes of this section,
5530 the term “no potential to discharge” means that there is no potential for any CAFO manure, litter
5531 or process wastewater to be added to surface waters of the state under any circumstances or
5532 climatic condition. A determination that there is “no potential to discharge” for purposes of this
5533 section only relates to discharges of manure, litter and process wastewater covered by this
5534 appendix.
5535

5536 (ii) Information to support a “no potential to discharge request”. In requesting
5537 a determination of “no potential to discharge,” the CAFO owner or operator must submit any
5538 information that would support such a determination, within the time frame provided by the
5539 director and in accordance with Appendix G (g) and (h) of these regulations. Such information
5540 must include all of the information specified in Appendix G (f) and (i) (i) and Section 5 (a) of
5541 these regulations. The director has discretion to require additional information to supplement the
5542 request, and may also gather additional information through on-site inspection of the CAFO.
5543

5544 (iii) Process for making a “no potential to discharge” determination. Before
5545 making a final decision to grant a “no potential to discharge” determination, the director must
5546 issue a notice to the public stating that a “no potential to discharge” request has been received.
5547 This notice must be accompanied by a fact sheet which includes, when applicable:
5548

5549 (A) A brief description of the type of facility or activity which is the
5550 subject of the “no potential to discharge” determination;
5551

5552 (B) A brief summary of the factual basis, upon which the request is
5553 based, for granting the “no potential to discharge” determination; and
5554

5555 (C) A description of the procedures for reaching a final decision on the
5556 “no potential to discharge” determination.
5557

5558 (iv) The director must base the decision to grant a “no potential to discharge”
5559 determination on the administrative record, which includes all information submitted in support
5560 of a “no potential to discharge” determination and any other supporting data gathered by the
5561 administrator. The director must notify any CAFO seeking a “no potential to discharge”
5562 determination of its final determination within 90 days of receiving the request.
5563

5564 (v) Deadline for requesting a “no potential to discharge” determination. The
5565 owner or operator must request a “no potential to discharge” determination by the applicable
5566 permit application date specified in Appendix G (g) of these regulations. If the director’s final
5567 decision is to deny the “no potential to discharge” determination, the owner or operator must
5568 seek coverage under a permit within 30 days after the denial.
5569

5570 (vi) The “no potential to discharge” determination does not relieve the CAFO
5571 from the consequences of an actual discharge. Any unpermitted CAFO that discharges pollutants
5572 into surface waters of the state is in violation of the CWA, the Environmental Quality Act and
5573 these regulations even if it has received a “no potential to discharge” determination from the
5574 director. Any CAFO that has received a determination of “no potential to discharge,” but who
5575 anticipates changes in circumstances that could create the potential for a discharge, should
5576 contact the director, and apply for and obtain permit authorization prior to the change of
5577 circumstances.
5578

5579 (vii) The director retains authority to require a permit. Where the director has
5580 issued a determination of “no potential to discharge,” the director retains the authority to
5581 subsequently require WYPDES permit coverage if circumstances at the facility change, if new
5582 information becomes available, or if there is other reason for the director to determine that the
5583 CAFO has a potential to discharge.
5584

5585 (g) Deadlines to apply.
5586

5587 (i) For operations that are defined as CAFOs under regulations that were in
5588 operation prior to April 14, 2003, the owner or operator must have or sought to obtain coverage
5589 under a WYPDES permit as of April 14, 2003, and comply with all applicable WYPDES
5590 requirements, including the duty to maintain permit coverage in accordance with Appendix G (h)
5591 of these regulations.

5592
5593 (ii) Owners or operators of operations defined as CAFOs as of April 14, 2003,
5594 who were not defined as CAFOs prior to that date must seek to obtain coverage under a
5595 WYPDES permit by a date specified by the director, but no later than February 13, 2006.

5596
5597 (iii) Operations that become defined as CAFOs after April 14, 2003, but which
5598 are not new sources. For AFOs that make changes to their operations that result in becoming
5599 defined as CAFOs for the first time, after April 14, 2003, but are not new sources, the owner or
5600 operator must seek to obtain coverage under a WYPDES permit, as follows:

5601
5602 (A) Facilities defined as CAFOs resulting from operational changes
5603 (e.g. resulting from an increase in the number of animals), as soon as possible but no later than
5604 90 days after becoming defined as a CAFO; except that

5605
5606 (B) If an operational change that makes the operation a CAFO would
5607 not have made it a CAFO prior to April 14, 2003, the operation has at least until April 13, 2006,
5608 or 90 days after becoming defined as a CAFO, whichever is later.

5609
5610 (iv) New sources. New sources must seek to obtain coverage under a permit at
5611 least 180 days prior to the time that the CAFO commences operation, unless otherwise approved
5612 by the administrator.

5613
5614 (v) Operations that are designated as a CAFO in accordance with Appendix G
5615 (c) of these regulations, the owner or operator must seek to obtain coverage under a permit no
5616 later than 90 days after receiving notice of the designation.

5617
5618 (vi) “No potential to discharge.” Notwithstanding any other provision of this
5619 section, a CAFO that has received a “no potential to discharge” determination in accordance with
5620 Appendix G (f) of these regulations is not required to seek coverage under a WYPDES permit
5621 that would otherwise be required by this section. If circumstances materially change at a CAFO
5622 that has received a “no potential to discharge” determination, such that the CAFO has a potential
5623 for a discharge, the CAFO shall immediately notify the director, and seek coverage under a
5624 WYPDES permit within 30 days after the change in circumstances.

5625
5626 (h) Duty to maintain permit coverage. Not later than 180 days before the expiration of
5627 the permit, the permittee must submit an application to renew its permit, in accordance with
5628 Section 9 of these regulations. However, the permittee need not continue to seek continued
5629 permit coverage or reapply for a permit if:

5630
5631 (i) The facility has ceased operation or is no longer a CAFO; and

5632
5633 (ii) The permittee has demonstrated to the satisfaction of the director that
5634 there is no remaining potential for a discharge of manure, litter or associated process wastewater

5635 that was generated while the operation was a CAFO, other than agricultural stormwater from
5636 land application areas; or

5637
5638 (i) Permit conditions applicable to all CAFOs. Any permit issued to a CAFO shall
5639 include:

5640
5641 (i) Nutrient management plan development and implementation
5642 requirements. At a minimum, a nutrient management plan must include best management
5643 practices and procedures necessary to implement applicable effluent limitations and standards.

5644
5645 (A) Permitted CAFOs must have their nutrient management plans
5646 developed (or updated if a nutrient management plan was required in the existing permit) and
5647 implemented by December 31, 2006.

5648
5649 (B) CAFOs that seek to obtain coverage under a permit after December
5650 31, 2006 must have a nutrient management plan developed and implemented upon the date of
5651 permit coverage.

5652
5653 (ii) The nutrient management plan must, to the extent applicable:

5654
5655 (A) Ensure adequate storage of manure, litter, and process wastewater,
5656 including procedures to ensure proper operation and maintenance of the storage facilities;

5657
5658 (B) Ensure proper management of mortalities (i.e., dead animals) so
5659 they are not disposed of in a liquid manure, storm water, or process wastewater storage or
5660 treatment system that is not specifically designed to treat animal mortalities;

5661
5662 (C) Ensure that stormwater runoff is diverted, as appropriate, from the
5663 production area;

5664
5665 (D) Prevent direct contact of confined animals with surface waters of
5666 the state;

5667
5668 (E) Ensure that chemicals and other contaminants handled on-site, are
5669 not disposed of in any manure, litter, process wastewater, or storm water storage or treatment
5670 system unless specifically designed to treat such chemicals and other contaminants;

5671
5672 (F) Identify appropriate site specific conservation practices to be
5673 implemented, including as appropriate buffers or equivalent practices, to control runoff of
5674 pollutants to surface waters of the state;

5675
5676 (G) Identify protocols for appropriate testing of manure, litter, process
5677 wastewater and soil;

5678
5679 (H) Establish protocols to land apply manure, litter or process
5680 wastewater in accordance with site specific nutrient management practices that ensure
5681 appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater;
5682 and
5683
5684 (I) Identify specific records that will be maintained to document the
5685 implementation and management of the minimum elements described in Appendix G (i) (ii) (A
5686 through H).
5687
5688 (iii) Record keeping requirements.
5689
5690 (A) The permittee must create, maintain for five (5) years, and make
5691 available to the director, upon request, the following records:
5692
5693 (I) All applicable records identified pursuant to Appendix G (i)
5694 (i) (I) of these regulations.
5695
5696 (II) All CAFOs subject to these regulations must comply with
5697 the record keeping requirements of Appendix G (i) (iii) (B) and (C).
5698
5699 (B) Record keeping requirements for the production area. Each CAFO
5700 must maintain on-site for a period of five (5) years from the date they are created a complete
5701 copy of the information required by Appendix G (d) (iii) and Appendix G (i) (ii) (I) and the
5702 records specified in Appendix G (i) (iii) (I) through (VI) of these regulations. The CAFO must
5703 make these records available to the director and or his designee upon request.
5704
5705 (I) Records documenting the inspections required under
5706 Appendix G (m) (ii) (C) (I) of these regulations.
5707
5708 (II) Weekly records of the depth of the manure and process
5709 wastewater in the liquid impoundment as indicated by the depth marker under Appendix G (m)
5710 (ii) (C) (II) of these regulations.
5711
5712 (III) Records documenting any actions taken to correct
5713 deficiencies required under Appendix G (m) (ii) (C) (III) of these regulations. Deficiencies not
5714 corrected within 30 days must be accompanied by an explanation of the factors preventing
5715 immediate correction.
5716
5717 (IV) Records of mortalities management and practices used by
5718 the CAFO to meet the requirements of Appendix G (m) (ii) (C) (IV) of these regulations.
5719

5720 (V) Records documenting the current design of any manure or
5721 litter storage structures, including volume for solids accumulation design treatment volume, total
5722 design volume, and approximate number of days of storage capacity.

5723
5724 (VI) Records of the date, time, and estimated volume of any
5725 overflow.

5726
5727 (C) Record keeping requirements of the land application area. Each
5728 CAFO must maintain on-site a copy of its site-specific nutrient management plan. Each CAFO
5729 must maintain on-site for a period of five (5) years from the date they created a complete copy of
5730 the information required by Appendix G (j) (ii), Appendix G (i) (i) and (ii), and the records
5731 specified in Appendix G (i) (iii) (C) (I through IX) of these regulations. The CAFO must make
5732 these records available to the director or his designee, for review upon request.

5733
5734 (I) The date(s) manure, litter, or process waste water is applied
5735 to each field;

5736
5737 (II) Weather conditions at time of application and for 24-hours
5738 prior to and following application;

5739
5740 (III) Test methods used to sample and analyze manure, litter,
5741 process waste water, and soil;

5742
5743 (IV) Results from manure, litter, process waste water, and soil
5744 sampling;

5745
5746 (V) Explanation of the basis for determining manure
5747 application rates;

5748
5749 (VI) Calculations showing the total nitrogen and phosphorus to
5750 be applied to each field, including sources other than manure, litter, or process wastewater;

5751
5752 (VII) Total amount of nitrogen and phosphorus actually applied
5753 to each field, including documentation of calculations for the total amount applied;

5754
5755 (VIII) The method used to apply the manure, litter, or process
5756 wastewater;

5757
5758 (IX) Date(s) of manure application equipment inspection.

5759
5760 (D) A copy of the CAFO=s site-specific nutrient management plan
5761 must be maintained on site and made available to the director upon request.
5762

5763
5764 (iv) Requirements relating to transfer of manure or process wastewater to other
5765 persons. Prior to transferring manure, litter or process wastewater to other persons. Large CAFOs
5766 must provide the recipient of the manure, litter or process wastewater with the most current
5767 nutrient analysis. The analysis provided must be consistent with requirements of this appendix.
5768 Large CAFOs must retain for five (5) years records of the date, recipient name and address, and
5769 approximate amount of manure, litter or process wastewater transferred to another person.
5770

5771 (v) Annual reporting requirements for CAFOs. The permittee must submit an
5772 annual report to the administrator. The annual report must include:
5773

5774 (A) The number and type of animals, whether in open confinement or
5775 housed under roof (buffalo, beef cattle, broilers, layers, swine weighing 55 pounds or more,
5776 swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and
5777 lambs, horses, ducks, turkeys, other);
5778

5779 (B) Estimated amount of total manure, litter and process wastewater
5780 generated by the CAFO in the previous 12 months (tons/gallons);
5781

5782 (C) Estimated amount of total manure, litter and process waste water
5783 transferred to other person(s) by the CAFO in the previous 12 months (ton/gallons);
5784

5785 (D) Total number of acres for land application covered by the nutrient
5786 management plan developed in accordance with Appendix G (i) (i) of these regulations;
5787

5788 (E) Total number of acres under control of the CAFO that were used
5789 for land application of manure, litter, and process wastewater in the previous 12 months;
5790

5791 (F) Summary of all manure, litter and process wastewater discharges
5792 from the production area that have occurred in the previous 12 months, including date, time, and
5793 approximate volume; and
5794

5795
5796 (G) A statement indicating whether the current version of the CAFO=s
5797 nutrient management plan was developed or approved by a certified nutrient management
5798 planner.
5799

5800 (j) This paragraph applies to manure, litter, and/or process wastewater discharges
5801 resulting from CAFOs.
5802

5803 (i) General pretreatment standards. Any source subject to Appendix G (j) that
5804 introduces process wastewater pollutants into a publicly owned treatment works (POTW) must
5805 comply with the general pretreatment regulations of 40 CFR 403.

5806
5807 (ii) Best Management Practices (BMPs) for land application of manure, litter,
5808 and process wastewater.

5809
5810 (A) Appendix G (j) (ii) applies to any CAFO subject to Appendix G
5811 (m) of these regulations (buffalo, dairy and beef cattle other than veal calves) Appendix G (n) of
5812 these regulations (swine, poultry, and veal calves).

5813
5814 (B) Specialized definitions.

5815
5816 (I) “Setback” means a specified distance from surface waters
5817 of the state or potential conduits to surface water where manure, litter, and process wastewater
5818 may not be land applied. Examples of conduits to surface waters of the state include but are not
5819 limited to: open tile line intake structures, sinkholes, and agricultural well heads.

5820
5821 (II) “Vegetated buffer” means a narrow, permanent strip of
5822 dense perennial vegetation established parallel to the contours of and perpendicular to the
5823 dominant slope of the field for the purposes of slowing water runoff, enhancing water
5824 infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the field
5825 and reaching surface waters of the state.

5826
5827 (III) “Multi-year phosphorus application” means phosphorus
5828 applied to a field in excess of the crop needs for that year. In multi-year phosphorus applications,
5829 no additional manure, litter, or process wastewater is applied to the same land in subsequent
5830 years until the applied phosphorus has been removed from the field via harvest and crop
5831 removal.

5832
5833 (C) Requirement to develop and implement best management
5834 practices. Each CAFO subject to Appendix G (j) (ii) that land applies manure, litter, or process
5835 wastewater, must do so in accordance with the following practices:

5836
5837 (I) Nutrient management plan. The CAFO must develop and
5838 implement a nutrient management plan that incorporates the requirements of Appendix G (j) (ii)
5839 (C) (II) through (VI) of these regulations based on field-specific assessment of the potential for
5840 nitrogen and phosphorus transport from the field and that addresses the form, source, amount,
5841 timing, and method of application of nutrients on each field to achieve realistic production goals,
5842 while minimizing nitrogen and phosphorus movement to surface waters of the state.

5843
5844 (II) Determination of application rates. Application rates for
5845 manure, litter, and other process wastewater applied to land under the ownership or operation
5846 control of the CAFO must minimize phosphorus and nitrogen transport from the field to surface
5847 and groundwaters of the state in compliance with technical standards, established by the director,
5848 for nutrient management. These shall include:

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(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.

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(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.

5935 (i) This paragraph applies to discharges resulting from the production areas at
5936 the following types of CAFOs:

5937

5938 (A) Mature dairy cows (either milking or dry).

5939

5940 (B) Cattle other than mature dairy cows which includes, but is not
5941 limited to heifers, steers, and bulls.

5942

5943 (C) Buffalo.

5944

5945 (ii) Except as provided in Section 8 of these regulations and subject to the
5946 provisions of Appendix G (j) (ii) (C), any point source subject to this source must meet the
5947 following limitations:

5948

5949 (A) There shall be no discharge of manure, litter, or process
5950 wastewater pollutants into surface waters of the state from the CAFO production area, except
5951 under the following conditions:

5952

5953 (I) Whenever precipitation causes an overflow of manure,
5954 litter, or process wastewater, pollutants in the overflow may be discharged to surface waters of
5955 the state provided:

5956

5957 (1.) The production area is designed, constructed,
5958 operated and maintained to contain all manure, litter, and process wastewater including the
5959 runoff and the direct precipitation from a 25-year, 24-hour rainfall event.

5960

5961 (2.) The production area is operated in accordance with
5962 the additional measures and records required by Appendix G (i) (iii) (B) and Appendix G (m) (ii)
5963 (C) of these regulations.

5964

5965 (II) Voluntary alternative performance standards. Any CAFO
5966 subject to Appendix G (m) of these regulations may request the administrator to establish
5967 WYPDES permit effluent limitations based upon site-specific alternative technologies that
5968 achieve a quantity of pollutants discharged from the production area equal to or less than the
5969 quantity of pollutants that would be discharged under the baseline performance standards as
5970 provided by Appendix G (m) (ii) (A) of these regulations.

5971

5972 (1.) Supporting information. In requesting site-specific
5973 effluent limitations to be included in the WYPDES permit, the CAFO owner or operator must
5974 submit a supporting technical analysis and any other relevant information and data that would
5975 support such site-specific effluent limitations within the time frame provided by the director. The
5976 supporting technical analysis must include calculation of the quantity of pollutants discharged,
5977 on a mass basis where appropriate, based on a site specific analysis of a system designed,

5978 constructed, operated, and maintained to contain all manure, litter, and process wastewater,
5979 including the runoff from a 25-year, 24-hour rainfall event. The technical analysis of the
5980 discharge of pollutants must include:

5981

5982 (a.) All daily inputs to the storage system,
5983 including manure, litter, all process waste waters, direct precipitation, and runoff.

5984

5985 (b.) All daily outputs from the storage system,
5986 including losses due to evaporation, sludge removal, and the removal of waste water for use on
5987 cropland at the CAFO or transport off site.

5988

5989 (c.) A calculation determining the predicted
5990 median annual overflow volume based on a 25-year period of actual rainfall data applicable to
5991 the site.

5992

5993 (d.) Site-specific pollutant data, including N, P,
5994 BOD5, TSS, for the CAFO from representative sampling and analysis of all sources of input to
5995 the storage system, or other appropriate pollutant data.

5996

5997 (e.) Predicted annual average discharge of
5998 pollutants, expressed where appropriate as a mass discharge on a daily basis (lbs/day), and
5999 calculated considering (A through D above).

6000

6001 (2.) The administrator has the discretion to request
6002 additional information to supplement the supporting technical analysis, including inspection of
6003 the CAFO.

6004

6005 (III) The CAFO shall attain the limitations and requirements of
6006 this paragraph as of the date of permit coverage.

6007

6008 (B) Discharges from land application areas are subject to the following
6009 requirements:

6010

6011 (I) Develop and implement the best management practices
6012 specified in Appendix G (j) (ii) of these regulations.

6013

6014 (II) Maintain the records specified in Appendix G (i) (iii) (C) of
6015 these regulations.

6016

6017 (III) Attain the limitations and requirements for discharges form
6018 land application areas as of the date of permit coverage.

6019

6020 (C) Additional measures. Each CAFO subject Appendix G (m) of these
6021 regulations must implement the following requirements:

6022
6023 (I) Visual Inspections. There must be routine visual
6024 inspections of the CAFO production area. At a minimum, the following must be visually
6025 inspected:

6026
6027 (1.) Weekly inspections of all storm water diversion
6028 devices, runoff diversion structures, and devices channeling contaminated storm water to the
6029 wastewater and manure storage and containment structure;

6030
6031 (2.) Daily inspection of water lines, including drinking
6032 water or cooling water lines and documented weekly at a minimum, for the purpose of
6033 identifying leaks, corrosion, mechanical defects or other conditions that may result in an
6034 inadvertent discharge from the facility;

6035
6036 (3.) Weekly inspections of the manure, litter, and
6037 process wastewater impoundments; the inspection will note the level in liquid impoundments as
6038 indicated by the depth marker in paragraph (E) (II) of this appendix; and

6039
6040 (4.) The visual inspection requirements may be waived
6041 if insurmountable or dangerous weather conditions exist and the weather conditions justifying
6042 the waiver are documented.

6043
6044 (II) Depth marker. All open surface liquid impoundments must
6045 have a depth marker which clearly indicates the minimum capacity necessary to contain the
6046 runoff and direct precipitation of the 25-year, 24-hour rainfall event.

6047
6048 (III) Corrective actions. Any deficiencies found as a result of
6049 these inspections must be corrected as soon as possible.

6050
6051 (IV) Mortality handling. Mortalities must not be disposed of in
6052 any liquid manure or process wastewater system, and must be handled in such a way as to
6053 prevent the discharge of pollutants to surface water, unless alternative technologies pursuant to
6054 Appendix G (m) (ii) (II) and approved by the director are designed to handle mortalities.

6055
6056 (n) Effluent limitations applicable to swine, poultry, and veal calves.

6057
6058 (i) This paragraph applies to discharges resulting from the production areas at
6059 the following types of CAFOs:

6060
6061 (A) Swine,
6062

6063 (B) Chickens,
6064
6065 (C) Turkeys, and
6066
6067 (D) Veal calves.
6068
6069 (ii) Except as provided in Section 8 of these regulations, any point source
6070 subject to this source must meet the following limitations.
6071
6072 (iii) There shall be no discharge of manure, litter, or process wastewater
6073 pollutants into surface waters of the state from the CAFO production area, except under the
6074 following conditions.
6075
6076 (A) Waste management and storage facilities are designed,
6077 constructed, operated, and maintained to contain all manure, litter, and process wastewater
6078 including the runoff and the direct precipitation from a 100-year, 24-hour rainfall event and
6079 operated in accordance with the additional measures and records required by Appendix G (i) (iii)
6080 (B) and Appendix G (n) (vi) (A) of these regulations.
6081
6082 (B) The production area is operated in accordance with additional
6083 measures required by Appendix G (i) (iii) (B) and Appendix G (n) (vi) of these regulations.
6084
6085 (C) The discharge is an upset/bypass consistent with the provisions for
6086 upset/bypass, as provided in Section 5 (c) (i) (Z) and (AA) of these regulations.
6087
6088 (iv) Discharges from land application areas are subject to the following
6089 requirements.
6090
6091 (A) Develop and implement the best management practices specified in
6092 Appendix G (j) (ii) of these regulations.
6093
6094 (B) Maintain the records specified in Appendix G (i) (iii) (C) of these
6095 regulations.
6096
6097 (C) Attain the limitations and requirements for discharges from land
6098 application areas as of the date of permit coverage.
6099
6100 (v) Voluntary superior environmental performance standards. Any new source
6101 CAFO subject to Appendix (G) (n) may request the director to establish alternative WYPDES
6102 permit limitations based upon a demonstration that site-specific innovative technologies will
6103 achieve overall environmental performance across all media which is equal to or superior to the
6104 reductions achieved by baseline standards as provided by Appendix G (n) (iii). The quantity of
6105 pollutants discharged from the production area must be accompanied by an equivalent or greater

6106 reduction in the quantity of pollutants released to other media from the production area (e.g., air
6107 emissions from housing and storage) and/or land application areas for all manure, litter, and
6108 process wastewater at on-site and off-site locations. The comparison of quantity of pollutants
6109 must be made on a mass basis where appropriate. The director has the discretion to request
6110 supporting information to supplement such a request.

6111
6112 (vi) Additional measures. Each CAFO subject to Appendix G (n) of these
6113 regulations must implement the following requirements:

6114
6115 (A) Visual inspections. There must be routine visual inspections of the
6116 CAFO production area. At a minimum, the following must be visually inspected:

6117
6118 (I) Weekly inspections of all storm water diversion devices,
6119 runoff diversion structures, and devices channeling contaminated storm water to the wastewater
6120 and manure storage and containment structure;

6121
6122 (II) Daily inspection of water lines, including drinking water or
6123 cooling water lines;

6124
6125 (III) Weekly inspections of the manure, litter, and process
6126 wastewater impoundments; the inspection will note the level in liquid impoundments as
6127 indicated by the depth marker in paragraph (E) (II) of this appendix.

6128
6129 (B) Depth marker. All open surface liquid impoundments must have a
6130 depth marker which clearly indicates the minimum capacity necessary to contain the runoff and
6131 direct precipitation of the 100-year, 24-hour rainfall event.

6132
6133 (C) Corrective actions. Any deficiencies found as a result of these
6134 inspections must be corrected as soon as possible.

6135
6136 (D) Mortality handling. Mortalities must not be disposed of in any
6137 liquid manure or process wastewater system, and must be handled in such a way as to prevent the
6138 discharge of pollutants to surface water, unless alternative technologies pursuant to Appendix G
6139 (n) (v) and approved by the director are designed to handle mortalities.

6140
6141

6142 **APPENDIX H: Additional Requirements Applicable to Produced Water Discharges from**
6143 **Oil and Gas Production Facilities**
6144

6145 (a) Application requirements specific to all produced water discharges from oil and
6146 gas production facilities must provide the following information in addition to that described in
6147 Section 5 (a) (v), to the administrator, using the application form provided by the administrator.
6148

6149 (i) The produced water discharged into surface waters of the state shall have
6150 use in agriculture or wildlife propagation. The produced water shall be of good enough quality to
6151 be used for wildlife or livestock watering or other agricultural uses and actually be put to such
6152 use during periods of discharge.
6153

6154 (b) Permits for all produced water discharges from oil and gas production facilities
6155 shall include the following conditions and limitations:
6156

6157 (i) In no case shall any produced water discharge contain toxic materials in
6158 concentrations or combinations which are toxic to human, animal or aquatic life.
6159

6160 (ii) Diffuse discharges. Water shall not be discharged in a diffuse manner such
6161 that damage to land and/or vegetation occurs.
6162

6163 (iii) Facility identification. All facilities authorized to discharge produced
6164 water shall be clearly identified with an all-weather sign posted at a visually prominent location.
6165 The sign shall be securely mounted and maintained to prevent the sign from being knocked down
6166 by livestock or wind. In the case where multiple outfalls are permitted or authorized, a sign shall
6167 be posted to identify each outfall. Signs shall, as a minimum, convey the following information:
6168

6169 (A) The name of the company, corporation, person or persons who
6170 hold(s) the discharge permit;

6171 (B) The name of the facility (lease, tank battery number, etc.) as
6172 identified by the discharge permit; and
6173

6174 (C) The WYPDES permit number assigned to the facility and outfall
6175 identification number assigned to each outfall.
6176

6177 (iv) Measures must be implemented to minimize erosion of the drainage at the
6178 point of discharge.
6179

6180 (v) Discharges of produced water will not contain substances that will settle to
6181 form sludge, bank or bottom deposits in quantities sufficient to result in significant aesthetic
6182 degradation, significant degradation of habitat for aquatic life or adversely affect public water
6183 supplies, agricultural or industrial water use, plant life or wildlife.
6184

6185
6186 (vi) Discharges of produced water may not result in the formation of a visible
6187 hydrocarbon sheen on the receiving water.

6188
6189 (vii) The following effluent limitations are protective for stock and wildlife
6190 consumption. Limitations on additional parameters or limitations more stringent will be imposed
6191 when such limitations are necessary to assure compliance with Wyoming Water Quality Rules
6192 and Regulations, Chapter 1.

6193
6194 (A) Chlorides. The chloride content of any produced water discharge
6195 shall not exceed 2,000 mg/l in any single properly preserved grab sample except in those cases
6196 where a modification is granted in accordance with paragraph (c) of this appendix.

6197
6198 (B) Sulfates. The sulfate content of any produced water discharge shall
6199 not exceed 3,000 mg/l in any single properly preserved grab sample except in those cases where
6200 a modification is granted in accordance with paragraph (c) of this appendix.

6201
6202 (C) Total dissolved solids and specific conductance. The total
6203 dissolved solids content of any produced water discharge shall not exceed 5,000 mg/l for total
6204 dissolved solids or 7500 μ mhos/cm for specific conductance in any single properly preserved
6205 grab sample except in those cases where a modification has been granted in accordance with
6206 paragraph (c) of this appendix.

6207
6208 (D) pH. In no case shall the pH of any produced water discharge be
6209 less than 6.5 or greater than 9.0 standard units as measured by a single grab sample.

6210
6211 (viii) Samples collected to demonstrate compliance with effluent limitations
6212 specified in this appendix shall be collected as grab samples and reported as an instantaneous
6213 maximum, unless otherwise specified.

6214
6215 (ix) There shall be no discharge of waste pollutants into surface waters of the
6216 state from any source (other than produced water) associated with production, field exploration,
6217 drilling, well completion, or well treatment (i.e., drilling muds, drill cuttings, and produced
6218 sands). These materials shall be managed in accordance with applicable state and federal
6219 regulations.

6220
6221 (x) All water quality samples collected by the Department and discharge
6222 permit holders subject to this Appendix shall be taken from the free fall of water from the last
6223 treatment unit which is located out of the natural drainage. The sample must not be mixed with
6224 waters of any other surface water or with water from another discharge point.

6225
6226 (c) Additional Permit Conditions and Limitations Specific to Oil and Natural Gas
6227 (other than coal bed natural gas) Production Facilities.

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(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.

6271 (ii) For discharge permit applications filed after the date of adoption of these
6272 regulations, modification of effluent limits described in paragraph (b) (vii) of this appendix may
6273 be granted on a case by case basis. The Water Quality Administrator shall review all requests for
6274 modification of effluent limits submitted under this section and make a determination based upon
6275 the technical merits of a Use Attainability Analysis. Such requests shall also provide a signed
6276 “letter of agricultural or wildlife use” by the land owner specifically requesting that the discharge
6277 will serve a specific agricultural or wildlife use or a demonstration that the conditions of
6278 Appendix (H) (d) (i) have been met.

6279
6280 (iii) Location of disposal pits. Location of disposal pits shall be managed in
6281 accordance with applicable state (e.g. Oil and Gas Conservation Commission) and federal (e.g.
6282 Bureau of Land Management) regulations.

6283
6284 (iv) The permittee shall take all reasonable measures to prevent downstream
6285 erosion that would be attributable to the discharge of produced water.

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APPENDIX I: RESERVED

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6329 **APPENDIX J: Additional Requirements Applicable to Coal Mining Operations**

6330
6331 (a) General definitions applicable to Appendix J.

6332
6333 (i) “Abandoned mine” means a mine where mining operations have occurred
6334 in the past and:

6335
6336 (A) The applicable reclamation bond or financial assurance has been
6337 released or forfeited; or

6338
6339 (B) If no reclamation bond or other financial assurance has been
6340 posted, no mining operations have occurred for five years or more.

6341
6342 (ii) “Acid or ferruginous mine drainage” means mine drainage which, before
6343 any treatment, either has a pH of less than 6.0 or a total iron concentration equal to or greater
6344 than 10 mg/l.

6345
6346 (iii) “Active mining area” means the area, on and beneath land, used or
6347 disturbed in activity related to the extraction, removal, or recovery of coal from its natural
6348 deposits. This term excludes coal preparation plants, coal preparation plant associated areas and
6349 post-mining areas.

6350
6351 (iv) “Alkaline, mine drainage” means mine drainage which, before any
6352 treatment, either has a pH of greater than 6.0 or a total iron concentration less than 10 mg/l.

6353
6354 (v) “Bond release” means the time at which the appropriate regulatory
6355 authority returns a reclamation or performance bond based upon its determination that
6356 reclamation work (including, in the case of underground mines, mine sealing, and abandonment
6357 procedures) has been satisfactorily completed.

6358
6359 (vi) “Coal preparation plant” means a facility where coal is subjected to
6360 cleaning, concentrating, or other processing or preparation in order to separate coal from its
6361 impurities and then is loaded for transit to a consuming facility.

6362
6363 (vii) “Coal preparation plant associated areas” means the coal preparation plant
6364 yards, immediate access roads, coal refuse piles, and coal storage piles and facilities.

6365
6366 (viii) “Coal preparation plant water circuit” means all pipes, channels, basins,
6367 tanks, and all other structures and equipment that convey, contain, treat, or process any water
6368 that is used in coal preparation processes within a coal preparation plant.

6371 (ix) "Coal refuse disposal pile" means any coal refuse deposited on the earth
6372 and intended as permanent disposal or long-term storage (greater than 180 days) of such
6373 material, but does not include coal refuse deposited within the active mining area or coal refuse
6374 never removed from the active mining area.

6375
6376 (x) "Controlled surface mine drainage" means any surface mine drainage that
6377 is pumped or siphoned from the active mining area.

6378
6379 (xi) "Mine drainage" means any drainage, and any water pumped or siphoned,
6380 from any active mining area or a post mining area.

6381
6382 (xii) "ml/l" means milliliters per liter.

6383
6384 (xiii) "New source coal mine" means a coal mine (excluding coal preparation
6385 plants and coal preparation plant associated areas) including an abandoned mine which is being
6386 reminded:

6387
6388 (A) The construction of which is commenced after May 4, 1984; or

6389
6390 (B) Which is determined by the administrator to constitute a "major
6391 alteration." In making this determination, the administrator shall take into account whether one
6392 or more of the following events resulting in a new, altered or increased discharge of pollutants
6393 has occurred after May 4, 1984 in connection with the mine for which the WYPDES permit is
6394 being considered:

6395
6396 (I) Extraction of a coal seam not previously extracted at the
6397 mine;

6398
6399 (II) Discharge into a drainage area not previously affected by
6400 wastewater discharge from the mine;

6401
6402 (III) Extensive new surface disruption at the mining operation;

6403
6404 (IV) A construction of a new shaft, lope, or drift; and

6405
6406 (V) Such other factors as the administrator deems relevant.

6407
6408 (xiv) "One year, 2-year, and 10-year, 24-hour precipitation events" means the
6409 maximum 24-hour precipitation event with a probable recurrence interval of once in one (1), two
6410 (2), and ten (10) years respectively as defined by the National Weather Service Technical Paper
6411 No. 40, "Rainfall Frequency Atlas of the U.S." May 1961, or equivalent regional or rainfall
6412 probability information developed therefrom.

6413

6414 (xv) “Post-mining area” means:

6415

6416 (A) A reclamation area; or

6417

6418 (B) The underground workings of an underground coal mine after the
6419 extraction, removal, or recovery of coal from its natural deposit has ceased and prior to bond
6420 release.

6421

6422 (xvi) “Reclamation area” means the surface area of a coal mine which has been
6423 returned to required contour and on which revegetation (specifically, seeding, or planting) work
6424 has commenced.

6425

6426 (xvii) “Settleable solids” is that matter measured by the volumetric method
6427 specified in Appendix J (f).

6428

6429 (xvii) “Treatment facility” and “treatment system” mean all structures which
6430 contain, convey, and as necessary, chemically or physically treat coal fine drainage, coal
6431 preparation plant process wastewater, or drainage from coal preparation plant associated areas,
6432 which remove pollutants regulated by this part from such waters. This includes all pipes,
6433 channels, ponds, basins, tanks, and all other equipment serving such structures.

6434

6435 (b) Application requirements specific to discharges from coal mines must provide the
6436 following information, in addition to that described in Section 5 (a) (v), and where applicable the
6437 information described in Appendix B, Appendix C, and/or Appendix D, to the administrator,
6438 using an application form provided by the administrator.

6439

6440 (i) Construction application requirements. A permit application, which may
6441 include an approved sedimentation structure control plan, in accordance with the provisions
6442 outlined in Wyoming Water Quality Rules and Regulations, Chapter 3, is required for the
6443 construction of any sedimentation ponds or runoff control facilities associated with surface coal
6444 mining operations. By agreement between the Land Quality Division and the Water Quality
6445 Division, this may take the form of one consolidated application for surface coal mining
6446 operations.

6447

6448 (ii) Minimum design standards for sedimentation control facilities. The
6449 minimum design standards for runoff control facilities of surface coal mining operations are set
6450 forth in this subparagraph. The department reserves the right to impose more stringent design
6451 requirements to ensure compliance with the effluent limitations contained in Section 5 (c) (iii) of
6452 these regulations.

6453

6454 (A) Scope. These standards pertain only to permits for surface coal
6455 mining sedimentation control facilities required pursuant to Wyoming Water Quality Rules and
6456 Regulations, Chapter 3.

6457
6458 (B) Sedimentation ponds and sedimentation control structures.
6459
6460 (I) Design.
6461
6462 (1.) Inlet ditches or structures shall be designed to
6463 minimize erosion, disturbance of the pond bottom, and resuspension of silts or colloidal soil
6464 particles.
6465
6466 (2.) Outlet structures, if used, shall have an overflow
6467 device, minimize short-circuiting, minimize floating solids from discharging and shall not erode
6468 or disturb the dike. All pipe protruding through a dike shall have adequate seepage control. The
6469 point of discharge into a channel shall be protected against erosion and erosion control devices
6470 shall be designed based on flow velocities.
6471
6472 (3.) The design, construction and maintenance of a
6473 sedimentation pond or other sediment control measures shall not relieve the person from
6474 compliance with applicable effluent limitations.
6475
6476 (4.) Computations showing the facility volume to
6477 include runoff from a 10-year 24-hour precipitation event shall be provided. The pond treatment
6478 or containment volume shall be in addition to sediment storage required by Land Quality
6479 Division regulations. A lesser design event may be approved by the administrator based on
6480 terrain, climate, other site-specific conditions and on a demonstration by the applicant that the
6481 effluent limitations of Section 5 (c) (iii) will be met. The design for the runoff control facilities
6482 shall contain all supportive documentation, calculations and drawings necessary to determine
6483 compliance with the effluent limitations of Section 5 (c) (iii) of these regulations.
6484
6485 (5.) Each person who conducts surface mining activities
6486 shall design, construct and maintain sedimentation ponds to minimize short-circuiting where the
6487 facility is not designed to contain the 10-year 24-hour precipitation runoff.
6488
6489 (II) Construction. This paragraph pertains only to
6490 impoundments not defined as major impoundments by the State Engineer's regulations. Below
6491 grade sedimentation ponds may be exempted provided site specific contours indicate a slope that
6492 will provide wall structure stability and minimize seepage.
6493
6494 (1.) Where pond bottoms and sidewalls are made of fill
6495 material, the soils used shall be relatively incompressible, have a low permeability, and be free
6496 from organic material and trash. The soil shall be compacted at a water content that will ensure
6497 structural stability, minimize hydraulic seepage, and minimize settling.
6498

6499 Fill material containing rocks larger than six (6) inches in the longest dimension shall not
6500 be placed within five (5) feet of the interior slope surface of any pond embankment. Material
6501 containing by volume less than 25 percent of rock larger than six (6) inches and less than 12 inch
6502 in the longest dimension may be placed in the remainder of the embankment.

6503
6504 (2.) Outer dike slopes shall not be steeper than one
6505 vertical to two (2) horizontal. Flatter slopes may be required to maintain slope stability. Inner
6506 dike slopes shall be sloped one vertical to three horizontal or flatter.

6507
6508 (3.) The minimum top dike width shall be sufficient to
6509 provide structural stability.

6510
6511 (4.) The application shall contain an evaluation of the
6512 need for riprap. This evaluation shall address site specific conditions such as surrounding
6513 topography, predominant wind directions, highest predicted peak wind velocity, calculation of
6514 predicted wave heights, data on windy months versus potential of water and water depths in the
6515 impoundment, impoundment life or any other relevant parameters. If necessary, riprap or other
6516 acceptable erosion control shall be installed on the inner dike slopes at all anticipated levels of
6517 water. Sedimentation control structures shall be exempted from requirements of this appendix.

6518
6519 (III) Dewatering. The storage resulting from inflow shall be
6520 removed by a nonclogging dewatering device or a spillway as soon as possible but not prior to
6521 the time that the discharge will comply with the effluent standards of these regulations. The
6522 application shall contain documentation that equipment or outlet structures are available for
6523 draining the pond.

6524
6525 (C) Discharge structures. Outfall structures and related equipment
6526 which is sufficient to meet the self-monitoring requirements of the WYPDES permit shall be
6527 properly installed, maintained, operated, and shall be removed when no longer required.

6528
6529 (c) Permit condition. Identification of outfalls. Point source discharges which consist
6530 of process wastewater or a combination of process wastewater and water from affected lands
6531 shall be identified as specific points of discharge in the discharge permit for each mine. Point
6532 source discharges which consist of water discharged from affected lands only may not be
6533 required to be identified as specific points of discharge in the discharge permit for each mine.
6534 Even if a discharge is not designated as a specific point of discharge, such discharges shall be
6535 required to meet the applicable self-monitoring and effluent requirements of the permit.

6536
6537 (d) Effluent limitations.

6538
6539 (i) The following types of mine discharges are subject to the effluent
6540 limitations of Appendix J (d) (ii):

6541

6542 (A) Coal preparation plants and coal preparation plant associated areas,
6543 as indicated, including discharges which are pumped, siphoned, or drained from the coal
6544 preparation plant water circuit and coal storage, refuse storage, and ancillary areas related to the
6545 cleaning or beneficiation of coal of any rank including, but not limited to, bituminous, lignite,
6546 and anthracite.

6547
6548 (B) Acid or ferruginous mine drainage from an active mining area
6549 resulting from the mining of coal of any rank including, but not limited to, bituminous, lignite,
6550 and anthracite.

6551
6552 (C) Alkaline mine drainage from an active mining area resulting from
6553 the mining of coal of any rank including, but not limited to, bituminous, lignite, and anthracite.

6554
6555 (D) Post-mining underground mine drainage from the underground
6556 workings of underground mines until Surface Mining Control and Reclamation Act (SMCRA)
6557 bond release.

6558
6559 (ii) All point source mine discharges, as described in Appendix J (d) (i), which
6560 enter or will directly affect surface waters of the state shall meet the following effluent
6561 limitations except during a precipitation event of any duration within any 24-hour period which
6562 results in a rainfall depth greater than the 10-year, 24-hour precipitation amount (or snowmelt of
6563 equivalent volume). During such precipitation events only the limitation on pH shall apply:

6564

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

6565 *Applicable only when pH of the discharge, prior to any treatment, is less than 6.0 standard
6566 units.

6567
6568 (iii) Post-Mining Areas. The provisions of this paragraph are applicable to
6569 discharges from post mining areas, except as provided in Appendix J (h).

6570
6571 (A) Reclamation Areas. The following limitations apply to discharges
6572 from reclamation areas until the performance bond issued to the facility by the appropriate
6573 SMCRA authority has been released. The following limitations establish the concentration or
6574 quality of pollutants which may be discharged.

6575

6576

Pollutant or Pollutant Property	Limitations
Settleable Solids	0.5 ml/l maximum not to be exceeded
pH	Within the range of 6.0 and 9.0 at all times

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(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 form 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

6613
 6614 (iii) The following alternate limitations apply with respect to acid or
 6615 ferruginous drainage from coal refuse disposal piles: Any discharge or increase in the volume of
 6616 a discharge caused by precipitation within any 24-hour period greater than the 1-year, 24-hour
 6617 precipitation event, but less than or equal to the 10-year, 24-hour precipitation event (or
 6618 snowmelt of equivalent volume) may comply with the following limitations instead of the
 6619 otherwise applicable limitations:
 6620

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

6621
 6622 (iv) The following alternate limitations apply with respect to acid or
 6623 ferruginous mine drainage, except for discharges addressed in: Appendix J (e) (i) (B)
 6624 (mountaintop removal and steep slope areas) and Appendix J (e) (vii) (discharges from
 6625 underground workings of underground mines):
 6626

6627 (A) Any discharge or increase in the volume of a discharge caused by
 6628 precipitations within any 24-hour period or less or equal to the 2-year, 24-hour precipitation
 6629 event (or snowmelt of equivalent volume) may comply with the following limitations instead of
 6630 the otherwise applicable limitations:
 6631

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

6632
 6633 (B) Any discharge or increase in the volume of a discharge caused by
 6634 precipitation within any 24-hour period greater than the 2-year, 24-hour precipitation event, but
 6635 less than or equal to the 10-year, 24-hour precipitations event (or snowmelt of equivalent
 6636 volume) may comply with the following limitations instead of the otherwise applicable
 6637 limitations:
 6638

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

6639
 6640 (v) Any discharge which occurs during a precipitation event of any duration
 6641 within any 24-hour period which results in a rainfall depth greater than the 10- year, 24-hour
 6642 precipitation amount (or snowmelt of equivalent volume) shall be required to meet an
 6643 instantaneous maximum pH limitation of 6.0 - 9.0 only.
 6644

6645 (vi) The operator shall have the burden of proof that the discharge or increase
6646 in discharge was caused by the applicable precipitation event described Appendix J (e) (ii), (iii),
6647 (iv) and (v).
6648

6649 (vii) Discharges of mine drainage from underground workings or underground
6650 mines which are not commingled with discharges eligible for alternate limitations set forth in
6651 Appendix J (e) shall in no event be eligible for the alternate limitations set forth in Appendix J
6652 (e).
6653

6654 (f) If effluent limitations more stringent than those given in paragraph (c) (i) or (ii) of
6655 this appendix are necessary to assure compliance with Wyoming Water Quality Rules and
6656 Regulations, Chapter 1, such limitations shall be established in accordance with Section 5 (c) (iii)
6657 (C).
6658

6659 (g) Procedure and method detection limit for measurement of settleable solids. For
6660 the purposes of this appendix, the following procedure shall be used to determine settleable
6661 solids: Fill an Imhoff cone to the one-liter mark with a thoroughly mixed sample. Allow to settle
6662 undisturbed for 45 minutes. Gently stir along the inside surface of the cone with a stirring rod.
6663 Allow to settle undisturbed for 15 minutes longer. Record the volume of settled material in the
6664 cone as milliliters per liter. Where a separation of settleable and floating materials occurs, do not
6665 include the floating material in the reading. Notwithstanding any provision of 40 CFR Part 136,
6666 the method detection limit for measuring settleable solids under this part shall be 0.4 ml/l.
6667

6668 (h) Western alkaline coal mining.
6669

6670 (i) Applicable to alkaline mine drainage at western coal mining operations
6671 from reclamation areas, brushing and grubbing areas, topsoil stockpiling areas, and regraded
6672 areas where the discharge, before any treatment, meets all of the following requirements:
6673

6674 (A) pH is equal to or greater than 6.0,
6675

6676 (B) Dissolved iron concentration is less than 10 mg/l, and
6677

6678 (C) Net alkalinity is greater than zero.
6679

6680 (ii) Special definitions.
6681

6682 (A) “Brushing and grubbing” area means the area where woody plant
6683 materials that would interfere with soil salvage operations have been removed or incorporated
6684 into the soil that is being salvaged.
6685

6686 (B) “Regraded area” means the surface area of a coal mine that has
6687 been returned to required contour.

6688
6689 (C) “Sediment” means undissolved organic and inorganic material
6690 transported or deposited by water.
6691
6692 (D) “Sediment yield” means the sum of the soil losses from a surface
6693 minus deposition in macro-topographic depressions, at the toe of the hillslope, along field
6694 boundaries, or in terraces and channels sculpted into the hillslope.
6695
6696 (E) “Topsoil stockpiling area” means the area outside the mined-out
6697 area where topsoil is temporarily stored for use in reclamation, including containment berms.
6698
6699 (F) “Western coal mining operation” means a surface or underground
6700 coal mining operation located in the interior western United States, west of the 100th meridian,
6701 west longitude, in an arid or semiarid environment with an average annual precipitation of 26
6702 inches or less.
6703
6704 (iii) The effluent limitations of Appendix J (h) (iv) apply until the appropriate
6705 SMCRA authority has authorized bond release.
6706
6707 (iv) Effluent limitations.
6708
6709 (A) The operator must submit a site specific sediment control plan to
6710 the permitting authority that is designed to prevent an increase in the average annual sediment
6711 yield from pre-mined, undisturbed conditions. The sediment control plan must be approved by
6712 the administrator and be incorporated into the permit as an effluent limitation. The sediment
6713 control plan must identify best management practices (BMPs) and also must describe design
6714 specifications, construction specifications, maintenance schedules, criteria for inspection, as well
6715 as expected performance and longevity of the best management practices.
6716
6717 (B) Using watershed models, the operator must demonstrate that
6718 implementation of the sediment control plan will result in average annual sediment yields that
6719 will not be greater than the sediment yield levels from pre-mined, undisturbed conditions. The
6720 operator must use the same watershed model that was, or will be, used to acquire the SMCRA
6721 permit.
6722
6723 (C) The operator must design, implement, and maintain BMPs in the
6724 manner specified in the sediment control plan.
6725
6726 (l) Coal remining. Applicable to pre-existing discharges that are located within or are
6727 hydrologically connected to pollution abatement areas of a coal mining operation.
6728
6729 (i) Specialized definitions.
6730

6731 (A) “Coal remining operation” means a coal mining operation at a site
6732 on which coal mining was previously conducted and where the site has been abandoned or the
6733 performance bond has been forfeited.

6734
6735 (B) “Pollution abatement area” means the part of the permit area that is
6736 causing or contributing to the baseline pollution load of pre-existing discharges. The pollution
6737 abatement area must include, to the extent practicable, areas adjacent to and nearby the remining
6738 operation that also must be affected to reduce the pollution load of the pre-existing discharges
6739 and may include the immediate location of the pre-existing discharges.

6740
6741 (C) “Pre-existing discharge” means any discharge resulting from
6742 mining activities that have been abandoned prior tot the time of a remining permit application.
6743 The term shall include a pre-existing discharge that is relocated as a result of the implementation
6744 of BMPs contained in the Pollution Abatement Plan.

6745
6746 (D) “Steep slope” means any slope above 20 degrees or such lesser
6747 slope as may be defined by the administrator after consideration of soil, climate, and other
6748 characteristics of the State. The term does not apply to those situations in which an operator is
6749 mining on flat or gently rolling terrain, on which an occasional steep slope is encountered and
6750 through which the mining operation is to proceed, leaving a plain or predominantly flat area.

6751
6752 (E) “New source remining operation” means a remining operation at a
6753 coal mine where mining first commences after February 22, 2002 and subsequently becomes an
6754 abandoned mine.

6755
6756 (ii) A pre-existing discharge that is intercepted by active mining or that is
6757 commingled with waste streams from active mining areas for treatment is subject to the
6758 provisions of Appendix J (d) (iv) of these regulations only during the time when the pre-existing
6759 discharge is intercepted by active mining or is commingled with active mine wastewater for
6760 treatment or discharge. After commingling has ceased, the pre-existing discharge is subject to the
6761 provisions of Appendix J (i) of these regulations.

6762
6763 (iii) In situations where coal remining operations seek reissuance of an existing
6764 remining permit with BPJ limitations and the administrator determines that it is not feasible for a
6765 remining operator to re-establish baseline pollutant levels in accordance with the statistical
6766 procedures contained in 40 CFR Part 434 Appendix B pre-existing discharge limitations at
6767 existing remining operations shall remain subject to baseline pollutant levels established during
6768 the original permit application.

6769
6770 (iv) The effluent limitations of Appendix J (i) apply to pre-existing discharges
6771 until the appropriate SMCRA authority has authorized bond release.

6772
6773 (v) Effluent limitations applicable to coal remining.

6774
6775 (A) The operator must submit a site-specific pollution abatement plan
6776 to the administrator for the pollution abatement area. The plan must be approved by the
6777 administrator and incorporated into the permit as an effluent limitation. The Pollution Abatement
6778 Plan must identify characteristics of the pollution abatement area and the pre-existing discharges.
6779 The Pollution Abatement Plan must be designed to reduce pollution load from pre-existing
6780 discharges and must identify the selected BMPs to be used. The plan must describe the design
6781 specifications, construction specifications, maintenance schedules, criteria for monitoring and
6782 inspection, and expected performance of the BMPs. The BMPs must be implemented as
6783 specified in the plan.

6784
6785 (B) Except as provided in Appendix J (h) (v) (C) of these regulations,
6786 the following effluent limits shall apply to pre-existing discharges:

6787
6788 (I) Total iron may not exceed baseline loadings (as defined 40
6789 CFR Part 434 Appendix B).

6790
6791 (II) Total manganese may not exceed baseline loadings (as
6792 defined 40 CFR Part 434 Appendix B).

6793
6794 (III) Net acidity may not exceed baseline loadings (as defined
6795 40 CFR Part 434 Appendix B).

6796
6797 (IV) TSS, during remining and reclamation, may not exceed
6798 baseline loadings (as defined 40 CFR Part 434 Appendix B).

6799
6800 (V) Prior to bond release, the pre-existing discharge must meet
6801 the applicable standards for TSS or SS contained in Appendix J (d) (iii).

6802
6803 (VI) A pre-existing discharge is exempt from meeting standards
6804 in Subpart E for TSS and SS when the administrator determines that Subpart E standards are
6805 infeasible or impractical based on the site-specific conditions of soil, climate, topography, steep
6806 slopes, or other baseline conditions provided that the operator demonstrates that significant
6807 reductions of TSS and SS will be achieved through the incorporation of sediment control BMPs
6808 into the Pollution Abatement Plan as required by Appendix J (i) (v) of these regulations.

6809
6810 (C) If the administrator determines that it is infeasible to collect
6811 samples for establishing the baseline pollutant levels pursuant to Appendix J (i) (v) (B) of these
6812 regulations and that remining will result in significant improvement that would not otherwise
6813 occur, the numeric effluent limitations in Appendix J (i) (v) (B) of these regulations do not apply.

6814
6815 (D) Pre-existing discharges for which it is infeasible to collect samples
6816 for determination of baseline pollutant levels include, but are not limited to:

6817
6818 (I) Discharges that exist as a diffuse groundwater flow that
6819 cannot be assessed via sample collection;

6820
6821 (II) A base flow to a receiving surface water of the state that
6822 can not be monitored separate from the receiving surface waters of the state;

6823
6824 (III) A discharge on a steep or hazardous slope that is
6825 inaccessible for sample collection; or

6826
6827 (IV) A number of pre-existing discharges so extensive that
6828 monitoring of individual discharges is infeasible.

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APPENDIX K: RESERVED

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6855 **APPENDIX L: Criteria and Standards for Determining Fundamentally Different Factors**
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6857 (a) Purpose and scope.
6858

6859 (i) This appendix establishes the criteria and standards to be used in
6860 determining whether effluent limitations alternative to those required by promulgated EPA
6861 effluent limitations guidelines under sections 301 and 304 of the CWA (hereinafter referred to as
6862 “national limits”) should be imposed on a discharger because factors relating to the discharger=
6863 facilities, equipment, processes or other factors related to the discharger are fundamentally
6864 different from the factors considered by EPA in development of the national limits. This subpart
6865 applies to all national limitations promulgated under sections 301 and 304 of the CWA, except
6866 for the BPT limits contained in 40 CFR 423.12 (steam electric generating point source category).
6867

6868 (ii) In establishing national limits, EPA takes into account all the information
6869 it can collect, develop and solicit regarding the factors listed in section 304 (b) of the CWA. In
6870 some cases, however, data which could affect these national limits as they apply to a particular
6871 discharge may not be available or may not be considered during their development. As a result, it
6872 may be necessary on a case-by-case basis to adjust the national limits, and make them either
6873 more or less stringent as they apply to certain dischargers within an industrial category or
6874 subcategory. This will only be done if data specific to that discharger indicates it presents factors
6875 fundamentally different from those considered by EPA in developing the limit at issue. Any
6876 interested person believing that factors relating to a discharger=
6877 facilities, equipment, processes
6878 or other facilities related to the discharger are fundamentally different from the factors
6879 considered during development of the national limits may request a fundamentally different
6880 factors variance under Section 8 of these regulations. In addition, such a variance may be
6881 proposed by the director in the draft permit.

6882 (b) Criteria.
6883

6884 (i) A request for the establishment of effluent limitations under this appendix
6885 shall be forwarded to the Administrator of the EPA (or his delegate) with a written concurrence
6886 only if:
6887

6888 (A) There is an applicable national limit which is applied in the permit
6889 and specifically controls the pollutant for which alternative effluent limitations or standards have
6890 been requested; and
6891

6892 (B) Factors relating to the discharge controlled by the permit are
6893 fundamentally different from those considered by EPA in establishing the national limits; and
6894

6895 (C) The request for alternative effluent limitations or standards is made
6896 in accordance with the requirements of Section 8 of these regulations.
6897

6898 (ii) A request for the establishment of effluent limitations less stringent than
6899 those required by national limits guidelines shall be forwarded to the Administrator of the EPA
6900 (or his delegate) with a written concurrence only if:
6901
6902 (A) The alternative effluent limitation or standard requested is no less
6903 stringent than justified by the fundamental difference; and
6904
6905 (B) The alternative effluent limitation or standard will ensure
6906 compliance with Sections 208 (e) and 301 (b) (1) (C) of the CWA; and
6907
6908 (C) Compliance with the national limits (either by using the
6909 technologies upon which the national limits are based or by other control alternatives) would
6910 result in:
6911
6912 (I) A removal cost wholly out of proportion to the removal
6913 cost considered during development of the national limits; or
6914
6915 (II) A non-water quality environmental impact (including
6916 energy requirements) fundamentally more adverse than the impact considered during
6917 development of the national limits.
6918
6919 (iii) Factors which may be considered fundamentally different are:
6920
6921 (A) The nature of quality of pollutants contained in the raw waste load
6922 of the applicant=s process wastewater;
6923
6924 (B) The volume of the discharger=s process wastewater and effluent
6925 discharged;
6926
6927 (C) Non-water quality environmental impact of control and treatment
6928 of the discharger=s raw waste load;
6929
6930 (D) Energy requirements of the application of control and treatment
6931 technology;
6932
6933 (E) Age, size, land availability, and configuration as they relate to the
6934 discharger=s equipment or facilities, processes employed, process changes, and engineering
6935 aspects of the application of control technology;
6936
6937 (F) Cost of compliance with required control technology.
6938

6939 (iv) A variance request or portion of such a request under this section shall not
6940 be forwarded to the Administrator of the EPA (or his delegate) with a written concurrence on any
6941 of the following grounds:

6942

6943 (A) The infeasibility of installing the required waste treatment
6944 equipment within the time the CWA allows.

6945

6946 (B) The assertion that the national limits cannot be achieved with
6947 appropriate waste treatment facilities installed, if such assertion is not based on factor(s) listed in
6948 Appendix L (iv);

6949

6950 (C) The discharger's ability to pay for the required waste treatment; or

6951

6952 (D) The impact of a discharge on local receiving water quality.

6953

6954 (v) Nothing in this appendix shall be construed to impair the right of any
6955 locality under Section 510 of the CWA to impose more stringent limitations than those required
6956 by federal law.

6957

6958 (c) Method of application.

6959

6960 (i) A written request for a variance under this appendix shall be submitted in
6961 triplicate to the director in accordance with Section 8 of these regulations.

6962

6963 (ii) The burden is on the person requesting the variance to explain that:

6964

6965 (A) Factor(s) listed in Appendix L (b) (ii) of these regulations
6966 regarding the discharger's facility are fundamentally different from the factors EPA considered
6967 in establishing the national limits. The requester should refer to all relevant material and
6968 information, such as the published guideline regulations development document, all associated
6969 technical and economic data collected for use in developing each national limit, all records of
6970 legal proceedings, and all written and printed documentation including records of
6971 communication, etc., relevant to the regulations which are kept on public file by the EPA;

6972

6973 (B) The alternative limitations requested are justified by the
6974 fundamental difference alleged in Appendix L (c) (ii) (A) of these regulations; and

6975

6976 (C) The appropriate requirements of Appendix L (b) of these
6977 regulations have been met.

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6989 **APPENDIX M: Criteria for Determining Alternative Effluent Limitations**
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6991 (a) With respect to any point source otherwise subject to the provisions of Section
6992 301 or Section 306 of the CWA, whenever the owner or operator of any such source, after
6993 opportunity for public hearing can demonstrate to the satisfaction of the administrator that any
6994 effluent limitation proposed for the control of the thermal component of any discharge from such
6995 source will require effluent limitations more stringent than necessary to assure the protection and
6996 propagation of shellfish, fish and wildlife in and on the body of water into which the discharge is
6997 to be made, the administrator may impose an effluent limitation on such plant, with respect to the
6998 thermal component of such discharge (taking into account the interaction of such thermal
6999 component with other pollutants), that will assure the protection and propagation of a balanced
7000 indigenous population of shellfish, fish and wildlife in and on that body of water. This appendix
7001 describes the factors, criteria and standards for the establishment of alternative thermal effluent
7002 limitations.

7003
7004 (b) Definitions.

7005
7006 (i) “Alternative effluent limitations” means all effluent limitations or
7007 standards of performance for the control of the thermal component of any discharge which are
7008 established under this appendix.

7009
7010 (ii) “Representative important species” means species which are
7011 representative, in terms of their biological needs, of a balanced, indigenous community of
7012 shellfish, fish and wildlife in the body of water into which a discharge of heat is made.

7013
7014 (iii) The term “balanced, indigenous community” is synonymous with the term
7015 “balanced, indigenous population” in the CWA and means a biotic community typically
7016 characterized by diversity, the capacity to sustain itself through cyclic seasonal changes,
7017 presence of necessary food chain species and by a lack of domination by pollution tolerant
7018 species. Such a community may include historically non-native species introduced in connection
7019 with a program of wildlife management and species whose presence or abundance results from
7020 substantial, irreversible environmental modifications. Normally, however, such a community
7021 will not include species whose presence or abundance is attributable to the introduction of
7022 pollutants that will be eliminated by compliance by all sources with section 301 (b) (2) of the
7023 CWA; and may not include species whose presence or abundance is attributable to alternative
7024 effluent limitations imposed pursuant to this appendix.

7025
7026 (c) Early screening of applications.

7027
7028 (i) Any initial application for an alternative effluent limitation under this
7029 appendix shall include the following early screening information:

7030
7031 (A) A description of the alternative effluent limitation requested;

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(B) A general description of the method by which the applicant proposes to demonstrate that the otherwise applicable thermal discharge effluent limitations are more stringent than necessary;

(C) A general description of the type of data, studies, experiments and other information which the applicant intends to submit for the demonstration; and

(D) Such data and information as may be available to assist the administrator in selecting the appropriate representative important species.

(ii) After submitting the early screening information under Appendix M (c), the applicant shall consult with the administrator at the earliest practicable time (but not later than 30 days after the application is filed) to discuss the applicant's early screening information. Within 60 days after the application is filed, the applicant shall submit for the administrator's approval a detailed plan of study which the applicant will undertake to support its demonstration under this appendix. The applicant shall specify the nature and extent of the following type of information to be included in the plan of study: biological, hydrographical and meteorological data; physical monitoring data; engineering or diffusion models; laboratory studies; representative important species; and other relevant information. In selecting representative important species, special consideration shall be given to species mentioned in applicable water quality standards. After the applicant submits its detailed plan of study, the administrator shall either approve the plan or specify any necessary revisions to the plan. The applicant shall provide any additional information or studies which the administrator subsequently determines necessary to support the demonstration, including such studies or inspections as may be necessary to select representative important species. The applicant may provide any additional information or studies which the applicant feels are appropriate to support the demonstration.

(iii) Any application for the renewal of an alternative effluent limitation under this appendix shall include only such information described in Appendix M (c) (i) and (ii) as the administrator requests within 60 days after receipt of the permit application.

(iv) The administrator shall promptly notify the Regional Administrator of the EPA and any affected state of the filing of the request and shall consider any timely recommendations they submit.

(v) In making the demonstration, the applicant shall consider any information or guidance published by EPA to assist in making such demonstrations.

(vi) If an applicant desires a ruling on an application under this appendix, 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.

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(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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7124 **APPENDIX N: Toxic Pollutant Effluent Standards and Prohibitions**

7125

7126 (a) Scope and purpose.

7127

7128 (i) The provisions of this appendix apply to owners or operators of specified

7129 facilities discharging into surface waters of the state.

7130

7131 (ii) The effluent standards or prohibitions for toxic pollutants established in

7132 this appendix shall be applicable to the sources and pollutants hereinafter set forth, and may be

7133 incorporated in any WYPDES permit, modification or renewal thereof, in accordance with the

7134 provisions of this appendix.

7135

7136 (iii) The provisions of these regulations shall apply to any WYPDES permit

7137 proceedings for any point source discharge containing any toxic pollutant for which a standard or

7138 prohibition is established under this appendix.

7139

7140 (b) Definitions. All terms not defined herein shall have the meaning given them in the

7141 CWA or in Section 3 of these regulations. As used in this appendix, the term:

7142

7143 (i) “Effluent standard” means any restriction established by the administrator

7144 on quantities, rates, and concentrations of chemical, physical, biological, and other

7145 concentrations of chemical, physical, biological, and other constituents which are discharged

7146 from point sources into surface waters of the state but does not include a schedule of compliance.

7147

7148 (ii) “Prohibited” means that the constituent shall be absent in any discharge

7149 subject to these standards, as determined by any analytical method.

7150

7151 (iii) “Working day” means the hours during a calendar day in which a facility

7152 discharges effluents subject to this part.

7153

7154 (iv) “Ambient water criterion” means that concentration of a toxic pollutant in

7155 a surface water of the state that, based upon available data, will not result in adverse impact on

7156 important aquatic life, or on consumers of such aquatic life, after exposure of that aquatic life for

7157 periods of time exceeding 96 hours and continuing at least through one reproductive cycle; and

7158 will not result in a significant risk of adverse health effects in a large human population based on

7159 available information such as mammalian laboratory toxicity data, epidemiological studies of

7160 human occupational exposures, or human exposure data, or any other relevant data.

7161

7162 (v) “New source” means any source discharging a toxic pollutant, the

7163 construction of which is commenced after proposal of an effluent standard or prohibition

7164 applicable to such source if such effluent standard or prohibition is thereafter promulgated in

7165 accordance with Section 307 of the CWA.

7167 (vi) “Existing source” means any source which is not a new source as defined
7168 in Appendix N (b) (v).

7169
7170 (vii) “Source” means any building, structure, facility, or installation from which
7171 there is or may be the discharge of toxic pollutants designated as such by the administrator.

7172
7173 (viii) “Owner or operator” means any person who owns, leases, operates,
7174 controls, or supervises a source as defined in Appendix N (b) (vii).

7175
7176 (ix) “Construction” means any placement, assembly, or installation of facilities
7177 or equipment (including contractual obligations to purchase such facilities or equipment) at the
7178 premises where such equipment will be used, including preparation work at such premises.

7179
7180 (x) “Manufacturer” means any establishment engaged in the mechanical or
7181 chemical transformation of materials or substances into new products, including but not limited
7182 to, the blending of materials such as pesticidal products, resins, or liquors.

7183
7184 (xi) “Process wastes” means any designated toxic pollutant, whether in
7185 wastewater or otherwise present, which is inherent to or unavoidably resulting from any
7186 manufacturing process, including that which comes into direct contact with or results from the
7187 production or use of any raw material, intermediate product, finished product, by product or
7188 waste product and is discharged into surface waters of the state.

7189
7190 (xii) “Air emissions” means the release or discharge of a toxic pollutant by an
7191 owner or operator into the ambient air either 1) by means of a stack or 2) as a fugitive dust, mist
7192 or vapor as a result inherent to the manufacturing or formulating process.

7193
7194 (xiii) “Fugitive dust, mist or vapor” means dust, mist or vapor containing a toxic
7195 pollutant regulated under this part which is emitted from any source other than through a stack.

7196
7197 (xiv) “Stack” means any chimney, flue, conduit, or duct arranged to conduct
7198 emissions to the ambient air.

7199
7200 (xv) “Ten year 24-hour rainfall event” means the maximum precipitation event
7201 with a probable recurrence interval of once in ten (10) years as defined by the National Weather
7202 Service in Technical Paper No. 40, Rainfall Frequency Atlas of the United States, May 1961, and
7203 subsequent amendments or equivalent regional or state rainfall probability information
7204 developed therefrom.

7205
7206 (c) Abbreviations. The abbreviations used in this part represent the following terms:

7207
7208 (i) lb=pound (or pounds)

7209

- 7210 (ii) g=gram
7211
7212 (iii) ug/l=micrograms per liter (1 one millionth gram/liter)
7213
7214 (iv) kg=kilogram(s) kkg=1000 kilogram(s)
7215
7216 (d) Toxic pollutants. The following are the pollutants subject to regulation under the
7217 provisions of this appendix:
7218
7219 (i) Aldrin/Dieldrin - Aldrin means the compound aldrin as identified by the
7220 chemical name, 1,2,3,4,10,10 hexachloro-1,4,4a,5,8,8a hexahydro-1,4 -endo 5,8 -exo-
7221 dimethanonaphthalene; "Dieldrin" means the compound the dieldrin as identified by the chemical
7222 name 1,2,3,4,10,10 -hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a octahydro-1,4-endo 5,8-exo-
7223 dimethanonaphthalene.
7224
7225 (ii) DDT - DDT means the compounds DDT, DDD, and DDE as identified by
7226 the chemical names:(DDT)-1,1,1 -trichloro-2,2-bis(p- chlorophenyl) ethane and someo,p'
7227 isomers; (DDD) or (TDE) -1,1-dichloro-2,2- bis(p-chlorophenyl) ethane and some o,p'-isomers;
7228 (DDE) -1,1-dichloro -2,2-bis(p-chlorophenyl) ethylene.
7229
7230 (iii) Endrin - Endrin means the compound endrin as identified by the chemical
7231 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-
7232 endodimethanonaphthalene.
7233
7234 (iv) Toxaphene - Toxaphene means a material consisting of technical grade
7235 chlorinated camphene having the approximate formula of C₁₀H₁₀Cl₈ and normally containing 67-
7236 69 percent chlorine by weight.
7237
7238 (v) Benzidine - Benzidine means the compound benzidine and its salts as
7239 identified by the chemical name 4,4'-diaminobiphenyl.
7240
7241 (vi) Polychlorinated Biphenyls (PCBs) - Polychlorinated biphenyls (PCBs)
7242 means a mixture of compounds composed of the biphenyl molecule which has been chlorinated
7243 to varying degrees. [42 FR 2613, Jan. 12, 1977, as amended at 42 FR 2620, Jan. 12, 1977; 42 FR
7244 6555, Feb. 2, 1977]
7245
7246 (e) Compliance.
7247
7248 (i) Within 60 days from the date of promulgation of any toxic pollutant
7249 effluent standard or prohibition each owner or operator with a discharge subject to that standard
7250 or prohibition must notify the director of such discharge. Such notification shall include such
7251 information and follow such procedures as the director may require.
7252

7253 (ii) Any owner or operator who does not have a discharge subject to any toxic
7254 pollutant effluent standard at the time of such promulgation but who thereafter commences or
7255 intends to commence any activity which would result in such a discharge shall first notify the
7256 director in the manner herein provided at least 60 days prior to any such discharge.

7257
7258 (iii) Upon receipt of any application for issuance or reissuance of a permit or
7259 for a modification of an existing permit for a discharge subject to a toxic pollutant effluent
7260 standard or prohibition the permitting authority shall proceed thereon in accordance with these
7261 regulations.

7262
7263 (iv) Every permit which contains limitations based upon a toxic pollutant
7264 effluent standard or prohibition under this appendix is subject to revision following the
7265 completion of any proceeding revising such toxic pollutant effluent standard or prohibition
7266 regardless of the duration specified on the permit.

7267
7268 (v) For purposes of this section, all toxic pollutants for which standards are set
7269 under this appendix are deemed to be injurious to human health within the meaning of Section
7270 402 (k) of the CWA unless otherwise specified in the standard established for any particular
7271 pollutant.

7272
7273 (vi) Upon the compliance date for any toxic pollutant effluent standard or
7274 prohibition, under Section 307 (a) of the CWA, each owner or operator of a discharge subject to
7275 such standard or prohibition shall comply with such monitoring, sampling, recording, and
7276 reporting conditions as the director may require for that discharge. Notice of such conditions
7277 shall be provided in writing to the owner or operator.

7278
7279 (vii) In addition to any conditions required pursuant to Appendix N (e) (vi) and
7280 to the extent not required in conditions contained in WYPDES permits, within 60 days following
7281 the close of each calendar year each owner or operator of a discharge subject to any toxic
7282 standard or prohibition shall report to the director concerning the compliance of such discharges.
7283 Such report shall include, as a minimum, information concerning 1) relevant identification of the
7284 discharger such as name, location of facility, discharge points, receiving waters, and the
7285 industrial process or operation emitting the toxic pollutant; 2) relevant conditions (pursuant to
7286 Appendix N (e) (vi) or to an WYPDES permit) as to flow, toxic pollutant concentrations under
7287 Section 307 (a) of the CWA, and toxic pollutant mass emission rate under Section 307 (a) of the
7288 CWA; and 3) compliance by the discharger with such conditions.

7289
7290 (viii) When samples collected for analysis are composited, such samples shall
7291 be composited in proportion to the flow at time of collection and preserved in compliance with
7292 requirements of the director, but shall include at least five (5) samples, collected at
7293 approximately equal intervals throughout the working day.

7294

7295 (ix) Nothing in these regulations shall preclude the director from requiring in
7296 any permit a more stringent effluent limitation or standard pursuant to Section 301 (b) (1) (C) of
7297 the CWA and implemented pursuant to the provisions of these regulations.

7298
7299 (x) Any owner or operator of a facility which discharges a toxic pollutant to
7300 surface waters of the state and to a publicly owned treatment system shall limit the summation of
7301 the mass emissions from both discharges to the less restrictive standard, either the direct
7302 discharge standard or the pretreatment standard; but in no case will this paragraph allow a
7303 discharge to surface waters of the state greater than the toxic pollutant effluent standard
7304 established for a direct discharge to the surface waters of the state.

7305
7306 (xi) In any permit hearing or other administrative proceeding relating to the
7307 implementation or enforcement of these standards, the parties thereto may not contest the
7308 validity of any national standards established in this appendix, or the ambient water criterion
7309 established herein for any toxic pollutant.

7310
7311 (f) Adjustment of effluent standard for presence of toxic pollutant in the intake water.

7312
7313 (i) Upon the request of the owner or operator of a facility discharging a
7314 pollutant subject to a toxic pollutant effluent standard or prohibition, the director shall give
7315 credit, and shall adjust the effluent standard(s) in such permit to reflect credit for the toxic
7316 pollutant(s) in the owner's or operator's water supply if 1) the source of the owner's or operator's
7317 water supply is the same body of water into which the discharge is made, and if 2) it is
7318 demonstrated to the director that the toxic pollutant(s) present in the owner's or operator's intake
7319 water will not be removed by any wastewater treatment systems whose design capacity and
7320 operation were such as to reduce toxic pollutants to the levels required by the applicable toxic
7321 pollutant effluent standards in the absence of the toxic pollutant in the intake water.

7322
7323 (ii) Effluent limitations established pursuant to this section shall be calculated
7324 on the basis of the amount of the toxic pollutant(s) under Section 307(a) of the CWA present in
7325 the water after any water supply treatment steps have been performed by or for the owner or
7326 operator.

7327
7328 (iii) Any permit which includes toxic pollutant effluent limitations established
7329 pursuant to this appendix shall also contain conditions requiring the permittee to conduct
7330 additional monitoring in the manner and locations determined by the director for those toxic
7331 pollutants for which the toxic pollutant effluent standards have been adjusted.

7332
7333 (g) Requirement and procedure for establishing a more stringent effluent limitation.

7334
7335 (i) In exceptional cases:

7336

7337 (A) Where the director determines that the ambient water criterion
7338 established in these regulations is not being met or will not be met in the receiving water as a
7339 result of one or more discharges at levels allowed by these regulations, and
7340

7341 (B) Where the director further determines that this is resulting in or
7342 may cause or contribute to significant adverse effects on aquatic or other organisms usually or
7343 potentially present, or on human health, the director may issue to an owner or operator a permit
7344 or a permit modification containing a toxic pollutant effluent limitation at a more stringent level
7345 than that required by these regulations. In any proceeding in connection with such action the
7346 burden of proof and burden of going forward with evidence with regard to such more stringent
7347 effluent limitation shall be upon the director as the proponent of such more stringent effluent
7348 limitation.
7349

7350 (C) Evidence in such proceeding shall include at a minimum: An
7351 analysis using data and other information to demonstrate receiving water concentrations of the
7352 specified toxic pollutant, projections of the anticipated effects of the proposed modification on
7353 such receiving water concentrations, and the hydrologic and hydrographic characteristics of the
7354 receiving waters including the occurrence of dispersion of the effluent.
7355

7356 (ii) Any effluent limitation in a WYPDES permit proposed to be issued which
7357 is more stringent than the toxic pollutant effluent standards promulgated by the director is subject
7358 to review by the Administrator of the EPA under Section 402 (d) of the CWA. The
7359 Administrator of the EPA may approve or disapprove such limitation(s) or specify another
7360 limitation(s) upon review of any record of any proceedings held in connection with the permit
7361 issuance or modification and any other available evidence. If the Administrator of the EPA takes
7362 no action within 90 days of receipt of the notification of the action of the director and any record
7363 thereof, the action of the director shall be deemed to be approved.
7364

7365 (h) Aldrin/Dieldrin.
7366

7367 (i) Specialized definitions.
7368

7369 (A) "Aldrin/Dieldrin manufacturer" means a manufacturer, excluding
7370 any source which is exclusively an aldrin/dieldrin formulator, who produces, prepares or
7371 processes technical aldrin or dieldrin or who uses aldrin or dieldrin as a material in the
7372 production, preparation or processing of another synthetic organic substance.
7373

7374 (B) "Aldrin/Dieldrin formulator" means a person who produces,
7375 prepares or processes a formulated product comprising a mixture of either aldrin or dieldrin and
7376 inert materials or other diluents, into a product intended for application in any use registered
7377 under the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135, et
7378 seq.).
7379

7380 (C) The ambient water criterion for aldrin/dieldrin in surface waters of
7381 the state is 0.003 ug/l.

7382
7383 (ii) Aldrin/Dieldrin manufacturer.

7384
7385 (A) Applicability.

7386
7387 (I) These standards or prohibitions apply to:

7388
7389 (1.) All discharges of process wastes; and

7390
7391 (2.) All discharges from the manufacturing areas,
7392 loading and unloading areas, storage areas and other areas which are subject to direct
7393 contamination by aldrin/dieldrin as a result of the manufacturing process, including but not
7394 limited to:

7395
7396 a. Storm water and other runoff except as
7397 hereinafter provided in Appendix N (h) (ii) (A) (II); and

7398
7399 b. Water used for routine cleanup or cleanup of
7400 spills.

7401
7402 (II) These standards do not apply to storm water runoff
7403 or other discharges from areas subject to contamination solely by fallout from air emissions of
7404 aldrin/dieldrin; or to storm water runoff that exceeds that from the 10-year 24 hour rainfall event.

7405
7406 (B) Analytical method acceptable. EPA method specified in 40 CFR
7407 Part 136, except that a 1 liter sample size is required to increase the analytical sensitivity.

7408
7409 (C) Effluent standard.

7410
7411 (I) Existing sources. Aldrin or dieldrin is prohibited in any
7412 discharge from any aldrin/dieldrin manufacturer.

7413
7414 (II) New Sources. Aldrin or dieldrin is prohibited in any
7415 discharge from any aldrin/dieldrin manufacturer.

7416
7417 (iii) Aldrin/Dieldrin formulator.

7418
7419 (A) Applicability.

7420
7421 (I) These standards or prohibitions apply to:

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(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.

7466
7467 (A) Applicability.
7468
7469 (I) These standards or prohibitions apply to:
7470
7471 (1.) All discharges of process wastes; and
7472
7473 (2.) All discharges from the manufacturing areas,
7474 loading and unloading areas, storage areas and other areas which are subject to direct
7475 contamination by DDT as a result of the manufacturing process, including but not limited to:
7476
7477 a. Storm water and other runoff except as
7478 hereinafter provided in Appendix N (i) (ii) (A) (II); and
7479
7480 b. Water used for routine cleanup or cleanup of
7481 spills.
7482
7483
7484 (II) These standards do not apply to storm water runoff or other
7485 discharges from areas subject to contamination solely by fallout from air emissions of DDT; or
7486 to storm water runoff that exceeds that from the 10-year 24 hour rainfall event.
7487
7488 (B) Analytical method acceptable. EPA method specified in 40 CFR
7489 Part 136, except that a 1 liter sample size is required to increase the analytical sensitivity.
7490
7491 (C) Effluent standard.
7492
7493 (I) Existing sources. DDT is prohibited in any discharge from
7494 any DDT manufacturer.
7495
7496 (II) New sources. DDT is prohibited in any discharge from any
7497 DDT manufacturer.
7498
7499 (iii) DDT formulator.
7500
7501 (A) Applicability.
7502
7503 (I) These standards or prohibitions apply to:
7504
7505 (1.) All discharges of process wastes; and
7506

7507 (2.) All discharges from the formulating areas, loading
7508 and unloading areas, storage areas and other areas which are subject to direct contamination by
7509 DDT as a result of the formulating process, including but not limited to:

7510
7511 a. Storm water and other runoff except as
7512 hereinafter provided in Appendix N (i) (iii) (A) (II); and

7513
7514 b. Water used for routine cleanup or cleanup of
7515 spills.

7516
7517 (II) These standards do not apply to storm water runoff or other
7518 discharges from areas subject to contamination solely by fallout from air emissions of DDT or to
7519 storm water runoff that exceeds that from the 10-year 24 hour rainfall event.

7520
7521 (B) Analytical method acceptable. EPA method specified in 40 CFR
7522 Part 136, except that a 1 liter sample size is required to increase the analytical sensitivity.

7523
7524 (C) Effluent standard.

7525
7526 (I) Existing sources. DDT is prohibited in any discharge from
7527 any DDT formulator.

7528
7529 (II) New Sources. DDT is prohibited in any discharge from any
7530 DDT formulator.

7531
7532 (j) Endrin.

7533
7534 (i) Specialized definitions.

7535
7536 (A) “Endrin manufacturer” means a manufacturer, excluding any
7537 source which is exclusively an endrin formulator, who produces, prepares or processes technical
7538 endrin, or who uses endrin as a material in the production, preparation or processing of another
7539 synthetic organic substance.

7540
7541 (B) “Endrin formulator means” a person who produces, prepares or
7542 processes a formulated product comprising a mixture of endrin and inert materials or other
7543 diluents into a product intended for application in any use registered under the Federal
7544 Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135 et seq.).

7545
7546 (C) The ambient water criterion for endrin in surface waters of the
7547 state is 0.004 ug/l.

7548
7549 (ii) Endrin manufacturer.

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(A) Applicability.

(I) These standards or prohibitions apply to:

(1.) All discharges of process wastes; and

(2.) All discharges from the manufacturing areas, loading and unloading areas, storage areas and other areas which are subject to direct contamination by endrin 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 (j) (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 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.

(C) Effluent standard.

(I) Existing sources. Discharges from an endrin manufacturer shall not contain endrin concentrations exceeding an average per working day of 1.5 ug/l calculated over any calendar month; and shall not exceed a monthly average daily loading of 0.0006 kg/kkg of endrin produced; and shall not exceed 7.5 ug/l in a sample(s) representing any working day.

(II) New sources. Discharges from an endrin manufacturer shall not contain endrin concentrations exceeding an average per working day of 0.1 ug/l calculated over any calendar month; and shall not exceed a monthly average daily loading of 0.00004 kg/kkg of endrin produced; and shall not exceed 0.5 ug/l in a sample(s) representing any working day.

(III) Mass emission standard during shutdown of production. In computing the allowable monthly average daily loading figure required under the preceding Appendix N (j) (ii) (C) (I) and (II), for any calendar month for which there is no endrin being manufactured at any plant or facility which normally contributes to the discharge which is

7593 subject to these standards, the applicable production value shall be deemed to be the average
7594 monthly production level for the most recent preceding 360 days of actual operation of the plant
7595 or facility.

7596

7597 (iii) Endrin formulator.

7598

7599 (A) Applicability.

7600

7601 (I) These standards or prohibitions apply to:

7602

7603 (1.) All discharges of process wastes; and

7604

7605 (2.) All discharges from the formulating areas, loading
7606 and unloading areas, storage areas and other areas which are subject to direct contamination by
7607 endrin as a result of the formulating process, including but not limited to:

7608

7609 a. Storm water and other runoff except as
7610 hereinafter provided in Appendix N (j) (iii) (A) (II); and

7611

7612 b. water used for routine cleanup or cleanup of
7613 spills.

7614

7615 (II) These standards do not apply to storm water runoff or other
7616 discharges from areas subject to contamination solely by fallout from air emissions of endrin, or
7617 to storm water runoff that exceeds that from the 10-year 24 hour rainfall event.

7618

7619 (B) Analytical method acceptable. EPA method specified in 40 CFR
7620 Part 136, except that a 1 liter sample size is required to increase the analytical sensitivity.

7621

7622 (C) Effluent standard.

7623

7624 (I) Existing sources. Endrin is prohibited in any discharge
7625 from any endrin formulator.

7626

7627 (II) New sources. Endrin is prohibited in any discharge from
7628 any endrin formulator.

7629

7630 (iv) The standards set forth in this section shall apply to the total combined
7631 weight or concentration of endrin, excluding any associated element or compound.

7632

7633 (k) Toxaphene.

7634

7635 (i) Specialized definitions.

7636
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(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.

7678 (I) Existing sources. Discharges from a toxaphene
7679 manufacturer shall not contain toxaphene concentrations exceeding an average per working day
7680 of 1.5 ug/l calculated over any calendar month; and shall not exceed a monthly average daily
7681 loading of 0.00003 kg/kkg of toxaphene produced, and shall not exceed 7.5 ug/l in a sample(s)
7682 representing any working day.

7683
7684 (II) New sources. Discharges from a toxaphene manufacturer
7685 shall not contain toxaphene concentrations exceeding an average per working day of 0.1 ug/l
7686 calculated over any calendar month; and shall not exceed a monthly average daily loading of
7687 0.000002 kg/kkg of toxaphene produced, and shall not exceed 0.5 ug/l in a sample(s)
7688 representing any working day.

7689
7690 (III) Mass emission during shutdown of production. In
7691 computing the allowable monthly average daily loading figure required under the preceding
7692 Appendix N (k) (ii) (C) (I) and (II), for any calendar month for which there is no toxaphene
7693 being manufactured at any plant or facility which normally contributes to the discharge which is
7694 subject to these standards, the applicable production value shall be deemed to be the average
7695 monthly production level for the most recent preceding 360 days of actual operation of the plant
7696 or facility.

7697
7698 (iii) Toxaphene formulator.

7699
7700 (A) Applicability.

7701
7702 (I) These standards or prohibitions apply to:

7703
7704 (1.) All discharges of process wastes; and

7705
7706 (2.) All discharges from the formulating areas, loading
7707 and unloading areas, storage areas and other areas which are subject to direct contamination by
7708 toxaphene as a result of the formulating process, including but not limited to:

7709
7710 a. Storm water and other runoff except as
7711 hereinafter provided in Appendix N (k) (iii) (A) (II); and

7712
7713 b. Water used for routine cleanup or cleanup of
7714 spills.

7715
7716 (II) These standards do not apply to storm water runoff or other
7717 discharges from areas subject to contamination solely by fallout from air emissions of toxaphene,
7718 or to storm water runoff that exceeds that from the 10-year 24 hour rainfall event.

7719

7720 (B) Analytical method acceptable. EPA method specified in 40 CFR
7721 Part 136, except that a 1 liter sample size is required to increase the analytical sensitivity.
7722
7723 (C) Effluent standards.
7724
7725 (I) Existing sources. Toxaphene is prohibited in any discharge
7726 from any toxaphene formulator.
7727
7728 (II) New sources. Toxaphene is prohibited in any discharge
7729 from any toxaphene formulator.
7730
7731 (iv) The standards set forth in this section shall apply to the total combined
7732 weight or concentration of toxaphene, excluding any associated element or compound.
7733
7734 (l) Benzidine.
7735
7736 (i) Specialized definitions.
7737
7738 (A) "Benzidine manufacturer" means a manufacturer who produces
7739 benzidine or who produces benzidine as an intermediate product in the manufacture of dyes
7740 commonly used for textile, leather and paper dyeing.
7741
7742 (B) "Benzidine based dye applicator" means an owner or operator who
7743 uses benzidine based dyes in the dyeing of textiles, leather or paper.
7744
7745 (C) The ambient water criterion for benzidine in surface waters of the
7746 state is 0.1 ug/l.
7747
7748 (ii) Benzidine manufacturer.
7749
7750 (A) Applicability.
7751
7752 (I) These standards apply to:
7753
7754 (1.) All discharges into the surface waters of the state of
7755 process wastes, and
7756
7757 (2.) All discharges into the surface waters of the state of
7758 wastes containing benzidine from the manufacturing areas, loading and unloading areas, storage
7759 areas, and other areas subject to direct contamination by benzidine or benzidine containing
7760 product as a result of the manufacturing process, including but not limited to:
7761

7762 a. Storm water and other runoff except as
7763 hereinafter provided in Appendix N (I) (ii) (A) (II), and

7764
7765 b. Water used for routine cleanup or cleanup of
7766 spills.

7767
7768 (II) These standards do not apply to storm water runoff or other
7769 discharges from areas subject to contamination solely by fallout from air emissions of benzidine
7770 or to storm water runoff that exceeds that from the 10-year 24 hour rainfall event.

7771
7772 (B) Analytical method acceptable. EPA method specified in 40 CFR
7773 Part 136.

7774
7775 (C) Effluent standards.

7776
7777 (I) Existing sources. Discharges from a benzidine
7778 manufacturer shall not contain benzidine concentrations exceeding an average per working day
7779 of 10 ug/l calculated over any calendar month, and shall not exceed a monthly average daily
7780 loading of 0.130 kg/kkg of benzidine produced, and shall not exceed 50 ug/l in a sample(s)
7781 representing any working day.

7782
7783 (II) New sources. Discharges from a benzidine manufacturer
7784 shall not contain benzidine concentrations exceeding an average per working day of 10 ug/l
7785 calculated over any calendar month, and shall not exceed a monthly average daily loading of
7786 0.130 kg/kkg of benzidine produced, and shall not exceed 50 ug/l in a sample(s) representing any
7787 working day.

7788
7789 (D) The standards set forth in Appendix N (I) (ii) shall apply to the
7790 total combined weight or concentration of benzidine, excluding any associated element or
7791 compound.

7792
7793 (iii) Benzidine based dye applicators.

7794
7795 (A) Applicability.

7796
7797 (I) These standards apply to:

7798
7799 (1.) All discharges into the surface waters of the state of
7800 process wastes, and

7801
7802 (2.) All discharges into the surface waters of the state of
7803 wastes containing benzidine from the manufacturing areas, loading and unloading areas, storage

7804 areas, and other areas subject to direct contamination by benzidine or benzidine containing
7805 product as a result of the manufacturing process, including but not limited to:

- 7806
- 7807 a. Storm water and other runoff except as
7808 hereinafter provided in Appendix N (l) (iii) (A) (II), and
7809
- 7810 b. Water used for routine cleanup or cleanup of
7811 spills.

7812

7813 (II) These standards do not apply to storm water runoff or other
7814 discharges from areas subject to contamination solely by fallout from air emissions of benzidine
7815 or to storm water that exceeds that from the 10-year 24 hour rainfall event.

7816

7817 (B) Analytical method acceptable.

7818

7819 (I) EPA method specified in 40 CFR Part 136; or

7820

7821 (II) Mass balance monitoring approach which requires the
7822 calculation of the benzidine concentration by dividing the total benzidine contained in dyes used
7823 during a working day (as certified in writing by the manufacturer) by the total quantity of water
7824 discharged during the working day.

7825

7826 (C) Effluent standards.

7827

7828 (I) Existing sources. Discharges from benzidine based dye
7829 applicators shall not contain benzidine concentrations exceeding an average per working day of
7830 10 ug/l calculated over any calendar month; and shall not exceed 25 ug/l in a sample(s) or
7831 calculation(s) representing any working day.

7832

7833 (II) New sources. Discharges from benzidine based dye
7834 applicators shall not contain benzidine concentrations exceeding an average per working day of
7835 10 ug/l calculated over any calendar month; and shall not exceed 25 ug/l in a sample(s) or
7836 calculation(s) representing any working day.

7837

7838 (D) The standards set forth in Appendix N (l) (iii) shall apply to the
7839 total combined concentrations of benzidine, excluding any associated element or compound [42
7840 FR 2620, Jan. 12, 1977].

7841

7842 (m) Polychlorinated biphenyls (PCBs).

7843

7844 (i) Specialized definitions.

7845

7846 (A) "PCB manufacturer" means a manufacturer who produces
7847 polychlorinated biphenyls.

7848
7849 (B) "Electrical capacitor manufacturer" means a manufacturer who
7850 produces or assembles electrical capacitors in which PCB or PCB containing compounds are part
7851 of the dielectric.

7852
7853 (C) "Electrical transformer manufacturer" means a manufacturer who
7854 produces or assembles electrical transformers in which PCB or PCB containing compounds are
7855 part of the dielectric.

7856
7857 (D) The ambient water criterion for PCBs in surface waters of the state
7858 is 0.001 ug/l.

7859
7860 (ii) PCB manufacturer.

7861
7862 (A) Applicability.

7863
7864 (I) These standards or prohibitions apply to:

7865
7866 (1.) All discharges of process wastes;

7867
7868 (2.) All discharges from the manufacturing or
7869 incinerator areas, loading and unloading areas, storage areas, and other areas which are subject to
7870 direct contamination by PCBs as a result of the manufacturing process, including but not limited
7871 to:

7872
7873 a. Storm water and other runoff except as
7874 hereinafter provided in Appendix N (m) (ii) (A) (II); and

7875
7876 b. Water used for routine cleanup or cleanup of
7877 spills.

7878
7879 (II) These standards do not apply to storm water runoff or other
7880 discharges from areas subject to contamination solely by fallout from air emissions of PCBs, or
7881 to storm water runoff that exceeds that from the 10 year 24 hour rainfall event.

7882
7883 (B) Analytical Method Acceptable. EPA method specified in 40 CFR
7884 Part 136 except that a 1 liter sample size is required to increase analytical sensitivity.

7885
7886 (C) Effluent standards.

7887

7888 (I) Existing sources. PCBs are prohibited in any discharge
7889 from any PCB manufacturer;
7890
7891 (II) New sources. PCBs are prohibited in any discharge from
7892 any PCB manufacturer.
7893
7894 (iii) Electrical capacitor manufacturer.
7895
7896 (A) Applicability.
7897
7898 (I) These standards or prohibitions apply to:
7899
7900 (1.) All discharges of process wastes; and
7901
7902 (2.) All discharges from the manufacturing or
7903 incineration areas, loading and unloading areas, storage areas and other areas which are subject
7904 to direct contamination by PCBs as a result of the manufacturing process, including but not
7905 limited to:
7906
7907 a. Storm water and other runoff except as
7908 hereinafter provided in Appendix N (m) (iii) (A) (II); and
7909
7910 b. Water used for routine cleanup or cleanup of
7911 spills.
7912
7913 (II) These standards do not apply to storm water runoff or other
7914 discharges from areas subject to contamination solely by fallout from air emissions of PCBs or to
7915 storm water runoff that exceeds that from the 10 year 24 hour rainfall event.
7916
7917 (B) Analytical method acceptable. EPA method specified in 40 CFR
7918 Part 136, except that a 1 liter sample size is required to increase analytical sensitivity.
7919
7920 (C) Effluent standards.
7921
7922 (I) Existing sources. PCBs are prohibited in any discharge
7923 from any electrical capacitor manufacturer;
7924
7925 (II) New sources. PCBs are prohibited in any discharge from
7926 any electrical capacitor manufacturer.
7927
7928 (iv) Electrical transformer manufacturer.
7929
7930 (A) Applicability.

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(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]

7974 **APPENDIX O: Additional Requirements Applicable to Colorado River Basin Salinity**
7975 **Control**

7976
7977 (a) Definitions. The following definitions supplement those definitions contained in
7978 Section 35-11-103 of the Wyoming Environmental Quality Act.

7979
7980 (i) Colorado River Basin Salinity Control Forum - The organization
7981 composed of water quality and water resource representatives of the states of Arizona,
7982 California, Colorado, Nevada, New Mexico, Utah and Wyoming, with the responsibility for
7983 developing salinity standards and criteria for the waters of the Colorado River Basin.

7984
7985 (b) Salinity Standards/Criteria. The State of Wyoming shall cooperate with the other
7986 states of the Colorado River Basin and the government of the United States to maintain salinity
7987 levels in the main stem of the Colorado River at or below the following:

<u>Location</u>	<u>Salinity in mg/L of total dissolved solids</u>
Below Hoover Dam	723
Below Parker Dam	747
Imperial Dam	879

7989
7990 The above are flow-weighted average annual values and temporary increases above these
7991 values are allowed provided that with completion of salinity control projects, salinity
7992 concentrations would return to or below criteria level. These increases above the numeric criteria
7993 are provided for in order to allow development projects to be completed before control measures
7994 are brought on line, and to allow for unfavorable reservoir conditions or periods of below normal
7995 annual river flows.

7996
7997 (c) Point Source Discharges to Surface Waters. Point source discharges to the surface
7998 waters in the Colorado River Basin of Wyoming shall be controlled as described in the following
7999 policies adopted by the Colorado River Basin Salinity Control Forum:

8000
8001 (i) "Policy for Implementation of the Colorado River Basin Salinity
8002 Standards through the NPDES Permit Program", October 30, 2002;

8003
8004 (ii) "Policy for Implementation of the Colorado River Basin Salinity
8005 Standards through the NPDES Permit Program for Intercepted Groundwater, October 20, 1980";
8006 and

8007
8008 (iii) "Policy for Implementation of the Colorado River Basin Salinity
8009 Standards through the NPDES Permit Program for Fish Hatcheries, October 28, 1988"

8010
8011 (d) Interstate Compacts, Court Decrees and Water Rights. It is the policy of the
8012 Department that the adoption and enforcement of these regulations is not intended to prevent the

8013 utilization of water apportioned to the State of Wyoming through any interstate compact or court
8014 decree or to prevent the diversion of water under future or existing water rights.