

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 WYNKOOP STREET
DENVER, COLORADO 80202-1129

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. §1251 et seq; "the Act"),

the United States Department of the Air Force, Cheyenne Mountain Air Force Station,

is authorized to discharge from the interior storm drainage system and air exhaust stacks at the Cheyenne Mountain Complex, located in El Paso County, Colorado,

to unnamed tributaries of Fountain Creek,

in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions set forth herein. Authorization for discharge is limited to those outfalls specifically listed in the permit.

This permit shall become effective March 1, 2011.

This permit and the authorization to discharge shall expire at midnight, December 31, 2015

Signed this 16 day of February


Authorized Permitting Official

Stephen S. Tuber, Assistant Regional Administrator
Offices of Partnerships and Regulatory Assistance

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1. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1.1. Definitions.

The *30-day (and monthly) average*, other than for microbiological organisms (e.g., bacteria, viruses, etc.), is the arithmetic average of all samples collected during a consecutive 30-day period or calendar month, whichever is applicable. Geometric means shall be calculated for microbiological organisms unless specified otherwise in the permit. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.

The *7-day (and weekly) average*, other than for microbiological organisms (e.g., bacteria, viruses, etc.), is the arithmetic mean of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. Geometric means shall be calculated for microbiological organisms unless specified otherwise in the permit. The 7-day and weekly averages are applicable only to those effluent characteristics for which there are 7-day average effluent limitations. The calendar week, which begins on Sunday and ends on Saturday, shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. Weekly averages shall be calculated for all calendar weeks with Saturdays in the month. If a calendar week overlaps two months (i.e., the Sunday is in one month and the Saturday in the following month), the weekly average calculated for that calendar week shall be included in the data for the month that contains the Saturday.

Daily Maximum (Daily Max.) is the maximum measured value for a pollutant discharged during a calendar day or any 24-hour period that reasonably represents a calendar day for purposes of sampling. For pollutants with daily maximum limitations expressed in units of mass (e.g., kilograms, pounds), the daily maximum is calculated as the total mass of pollutant discharged over the calendar day or representative 24-hour period. For pollutants with limitations expressed in other units of measurement (e.g., milligrams/liter, parts per billion), the daily maximum is calculated as the average of all measurements of the pollutant over the calendar day or representative 24-hour period. If only one measurement or sample is taken during a calendar day or representative 24-hour period, the single measured value for a pollutant will be considered the daily maximum measurement for that calendar day or representative 24-hour period.

Daily Minimum (Daily Min.) is the minimum value allowable in any single sample or instantaneous measurement collected during the course of a day.

Grab sample, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.

Instantaneous measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.

Composite samples shall be flow proportioned. The composite sample shall, at a minimum, contain at least four (4) samples collected over the compositing period. Unless otherwise specified, the time between the collection of the first sample and the last sample shall not be less than six (6) hours, nor more than twenty-four (24) hours. Acceptable methods for the preparation of composite samples are as follows:

- a. Constant time interval between samples, sample volume proportional to flow rate at the time of sampling;
- b. Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time of the first sample was collected may be used;
- c. Constant sample volume, time interval between samples proportional to flow (i.e., sample taken every "X" gallons of flow); and,
- d. Continuous collection of sample with sample collection rate proportional to flow rate.

Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

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.

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

Director means the Regional Administrator of EPA Region 8 or an authorized representative.

EPA means the United States Environmental Protection Agency.

Storm Water means storm water runoff, snow melt runoff, and surface runoff and drainage.

CWA means the Clean Water Act (formerly referred to as either the Federal Water Pollution Act or the Federal Water Pollution Control Act Amendments of 1972), Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, Pub. L. 97-117, and Pub. L. 100-4. In this permit the CWA may be referred to as "the Act".

Sewage Sludge is any solid, semi-solid or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary or advanced wastewater treatment processes; and a material derived from sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.

Whole Effluent Toxicity, Acute occurs when 50 percent or more mortality is observed for either species (see Part 1.3) at any effluent concentration. Mortality in the control must simultaneously be 10 percent or less for the effluent results to be considered valid.

- 1.2. Description of Discharge Point(s). The authorization to discharge provided under this permit is limited to those outfalls specifically designated below as discharge locations. Discharges at any location not authorized under an NPDES permit is a violation of the Clean Water Act and could subject the person(s) responsible for such discharge to penalties under Section 309 of the Act.

Outfall 001 is the discharge from the internal storm drainage system from the underground tunnels and chambers of the Cheyenne Mountain Air Force Station. The actual discharge point is located on the side of a hill down the slope from the north entrance to the underground complex. (The outfall is located at latitude 38⁰ 44' 41" N and longitude 104⁰ 50' 36" W.) Because of the difficulty of monitoring the actual outfall and other storm water runoff entering the outfall line outside the underground complex, effluent limitations and monitoring requirements in this permit are applied at the three internal outfalls described below.

Internal Outfall

<u>Serial Number(s)</u>	<u>Description of Discharge Point(s)</u>
001A	This compliance point is the portion of the interior storm drainage system at the grate located in the main tunnel near the Diesel Maintenance blast door. Water samples shall be taken at the tap just upstream of the grate. Visual observations may be taken at the grate. The effluent limitations and monitoring requirements at 001A do not apply when the valve at Internal Outfall 001B is closed so that there is no discharge from the interior storm drainage system (ISDS) to the exterior storm drainage system.
001B	This compliance point is the valve box located just to the north of Building P106, which is located just outside the North Portal. There is no practical access at this point to take samples. The position of the valve is the only documentation required at this point.
001C	This compliance point is the discharge from the middle reservoir of the industrial reservoirs. Samples for Outfall 001C shall be taken from the middle industrial reservoir.

Outfall

<u>Serial Number(s)</u>	<u>Description of Discharge Point(s)</u>
002	This outfall is the drain from the north air exhaust stack. It is located at approximately latitude 38 ⁰ 44' 37" N and longitude 104 ⁰ 50' 43" W.
003	This outfall is the drain from the south air exhaust stack. It is located at approximately latitude 38 ⁰ 43' 56" N and longitude 104 ⁰ 50' 47" W.

1.3. Specific Limitations and Self-Monitoring Requirements

1.3.1. General Effluent Limitations and Prohibitions Effective immediately and lasting through the life of this permit, there shall be no discharge of sanitary wastes, cooling tower blowdown, wastes from the cleaning of cooling tower basins, water from Pit 48, and water from Pit 52. There shall be no discharge of water from the closed loop cooling system except as the result of the industrial reservoirs being used as cooling reservoirs.

Any proposed change in the chemicals used in the closed loop cooling system must be approved by the permit issuing authority. If approval is granted, the use of the chemical shall be in accordance with the conditions of approval. The information submitted to the permit issuing authority for approval should contain: name of chemical compound, name and address of the manufacturer, Chemical Abstract Registry Number, copy of product label (if available), copy of the Material Safety data Sheet, amounts and frequency of application, a summary of aquatic toxicity data, and a summary of the fate of the chemical compound in the environment.

1.3.2. Effluent Limitations - Internal Outfall 001A. Effective immediately and lasting through the life of this permit, the quality of effluent discharged at Internal Outfall 001A shall, as a minimum, meet the limitations as set forth below:

Effluent Characteristic	Effluent Limitation		
	30-Day Average <u>a/</u>	7-Day Average <u>a/</u>	Daily Maximum <u>a/</u>
BOD ₅ , mg/L	30	45	N/A
Total Suspended Solids, mg/L	30	45	N/A
Total Petroleum Hydrocarbons, mg/L <u>b/</u>	N/A	N/A	10
The pH of the discharge shall not be less than 6.5 or greater than 9.0 in any sample.			
There shall be no discharge of floating oil nor shall there be a visible sheen.			

a/ See Definitions, Part 1.1 for the definition of terms.

b/ Total petroleum hydrocarbons for purposes of this permit shall include gasoline range organics plus diesel range organics as determined by SW-846 Method 8015C or an equivalent method.

Note: The effluent limitations and self-monitoring requirements for Compliance Point 001A do not apply when the valve at Internal Outfall 001B is closed so that there is no discharge from the interior storm drainage system to the exterior storm drainage system.

1.3.3. Effluent Limitations - Internal Outfall 001B. Effective immediately and lasting through the life of this permit, the valve in the valve box located just to the north of Building P106 shall be closed so that there is no discharge from the interior storm drainage system to the exterior storm drainage system when any of the following conditions occur:

1.3.3.1. When there are “washing” operations (i.e., hosing down of the interior rock walls and ceilings of the tunnels and chambers) occurring within the underground portion of the complex;

1.3.3.2. When there are known operations within the underground portion of the complex that are known to have a reasonable likelihood of significant concentrations or quantities of pollutants to reach the interior storm drainage system;

- 1.3.3.3. A spill is known to have occurred within the underground portion of the complex and there is a reasonable potential for pollutants from that spill to reach the interior storm drainage system; and/or,
- 1.3.3.4. A sheen and/or floating oil is observed at Internal Outfall 001A. The valve shall be promptly closed and remain closed until a sheen and/or floating oil is no longer observed at 001A.
- 1.3.4. Effluent Limitations - Internal Outfall 001C. Effective immediately and lasting through the life of this permit, there shall be no discharge from the industrial reservoirs to the interior storm drainage system when the valve at Internal Outfall 001B is open until it can be demonstrated by monitoring that a discharge would, as a minimum, meet the limitations as set forth below. See Part 1.3.8 for the self-monitoring requirements.

Effluent Characteristic <u>a/</u>	Effluent Limitation
	Daily Maximum
Total Petroleum Hydrocarbons, mg/L <u>d/</u>	10
Whole Effluent Toxicity, Acute <u>b/</u>	There shall be no acute toxicity ($LC_{50} > 100\%$ effluent) <u>c/</u>
The pH of the discharge shall not be less than 6.5 or greater than 9.0 at any time.	

a/ Based on a grab sample taken from the middle reservoir of the industrial reservoirs or Internal Outfall 001C.

b/ The permittee shall conduct acute static-renewal toxicity tests on a grab sample taken from the middle reservoir of the industrial reservoirs or Internal Outfall 001C. The samples for the toxicity tests must be chilled to 0 to 6°C until used.

The static-renewal toxicity tests shall be conducted in accordance with the procedures set out in the latest revision of "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms", EPA-821/R-02-012 (October 2002). The permittee shall conduct an acute 48-hour static-renewal toxicity test using *Ceriodaphnia dubia*. A multi-dilution test consisting of five concentrations and a control is required.

If more than 10 percent control mortality occurs, the test is not valid. The test shall be repeated until satisfactory control survival is achieved.

c/ Acute toxicity occurs when 50 percent or more mortality is observed for *Ceriodaphnia dubia* at any effluent concentration.

d/ Total petroleum hydrocarbons for purposes of this permit shall include gasoline range organics plus diesel range organics as determined by SW-846 Method 8015C or an equivalent method.

- 1.3.5. Effluent Limitations - Outfalls 002 and 003. Effective immediately, there are no numerical effluent limitations for the discharges from these two outfalls. (See Part 4.15.4. for provision to add numerical effluent limitations if considered appropriate.) See Part 1.4. for the applicable pollution prevention plan requirements.

1.3.6. Self-Monitoring Requirements - Internal Outfall 001A As a minimum, upon the effective date of this permit, the following constituents shall be monitored at the frequency and with the type of measurement indicated; samples or measurements shall be representative of the volume and nature of the monitored discharge. If the discharge is intermittent, the appropriate monitoring shall be done when a discharge is occurring to the exterior storm drainage system. If no discharge occurs during the entire monitoring period, it shall be stated on the Discharge Monitoring Report Form (EPA No. 3320-1) that no discharge occurred.

Effluent Characteristic	Frequency	Sample Type a/
Total Flow, gpd b/	b/	Reading b/
Visible sheen and/or floating oil, c/	3/Week	Visual c/
Total Suspended Solids, mg/L	Monthly	Grab
pH, s.u.	Monthly	Grab
Total BOD ₅ , mg/L	Quarterly	Grab
Total Petroleum Hydrocarbons, mg/L d/	Quarterly	Grab

Note: The effluent limitations and self-monitoring requirements for Internal Outfall 001A do not apply if the valve at Internal Outfall 001B is closed so that there is no discharge from the interior storm drainage system to the exterior storm drainage system. Samples shall be taken when there is a discharge to the external storm drainage system (i.e., Over the Hill). **Only the results of monitoring that occurred when there was a discharge to the exterior storm drainage system shall be reported on the discharge monitoring report form.**

a/ See Definitions, Part I.A. for definition of terms.

b/ The total volume of water (in gallons rounded down to the 100 gallons) discharged to the exterior storm drainage system (i.e., Over the Hill) and the average daily flow (in gallons per day) discharged to the exterior storm drainage system during the reporting period shall be reported on the discharge monitoring report (DMR) form. In addition, a monthly log shall be maintained that at a minimum includes the following: (1) the dates when flow is being discharged to the exterior storm water drainage system; (2) all flow meter readings taken when flow is being directed to the exterior storm drainage system; and (3) the total volume of water discharged since the previous meter reading. (NOTE: a format similar to the log used during the previous permit is acceptable.) A copy of the log shall be reported along with the quarterly discharge monitoring report required in Part 2.4 of this permit. Flow measurements of effluent volume shall be made in such a manner that the permittee can affirmatively demonstrate that representative values are being obtained.

c/ The discharge shall be visually examined at the floor grate for the presence of a visual sheen and/or floating oil. The observations should be taken during weekdays at approximately 2 day intervals. Adjustments in sampling days may be made for holidays and other unusual conditions. If a visible sheen is observed, the valve in the valve box at Internal Outfall 001B shall be promptly closed so that there is no discharge from the interior storm drainage system to the exterior storm drainage system. In addition, a grab sample shall be promptly taken and promptly analyzed for total petroleum hydrocarbons.

d/ Total petroleum hydrocarbons for purposes of this permit shall include gasoline range organics plus diesel range organics as determined by SW-846 Method 8015C or an equivalent method.

- 1.3.7. Self-Monitoring Requirements - Internal Outfall 001B. As a minimum, upon the effective date of this permit, the permittee shall maintain a daily record of whether the valve in the valve box is closed (i.e., so that there is no direct discharge to the exterior storm drainage system) or the valve is open (i.e., so that there is a direct discharge to the exterior storm drainage system). A copy of the log of the daily record shall be reported along with the quarterly monitoring report required in Part. 2.4. of this permit.
- 1.3.8. Self-Monitoring Requirements - Internal Outfall 001C. Monitoring at Internal Outfall 001C is only required after the industrial reservoirs have been used as cooling reservoirs and water is to be discharged from the industrial reservoirs to the interior storm drainage system when the valve at Internal Outfall 001B is open. The monitoring is to be conducted until it can be shown that the effluent limitations in Part 1.3.4 will be met. Monitoring is not required if the industrial reservoirs have not been used as cooling reservoirs since the last monitoring showed that the quality of water in the industrial reservoirs was in compliance with the effluent limitations specified in Part 1.3.4. When monitoring is required, grab sample(s) of water from the middle industrial reservoir shall be monitored for the following pollutants:

Effluent Characteristic	Sample Type <u>a/</u>
Total Petroleum Hydrocarbons, mg/L <u>c/</u>	Grab
Whole Effluent Toxicity, Acute <u>b/</u>	Grab
pH, units	Grab
Zinc, Total Recoverable, mg/L	Grab
Molybdenum, Total Recoverable, mg/L	Grab

a/ See Definitions, Part 1.1 for definition of terms.

b/ The permittee shall conduct acute static-renewal toxicity tests on a grab sample taken from the middle reservoir of the industrial reservoirs or Internal Outfall 001C. The samples for the toxicity tests must be chilled to 0 to 6°C until used.

The static-renewal toxicity tests shall be conducted in accordance with the procedures set out in the latest revision of "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms", EPA-821/R-02-012 (October 2002). The permittee shall conduct an acute 48-hour static-renewal toxicity test using *Ceriodaphnia dubia*. A multi-dilution test consisting of five concentrations and a control is required.

If more than 10 percent control mortality occurs, the test is not valid. The test shall be repeated until satisfactory control survival is achieved.

c/ Total petroleum hydrocarbons for purposes of this permit shall include gasoline range organics plus diesel range organics as determined by SW-846 Method 8015C or an equivalent method.

Each reporting period, the permittee shall submit, along with the required Discharge Monitoring Report Form, the following information: a signed certified statement as to whether or not the industrial reservoirs were used for cooling reservoirs during the reporting period; the dates the industrial reservoirs were used for cooling reservoirs during the reporting period; and the number of days a discharge occurred from the industrial reservoirs to the interior storm drainage system when the valve at Internal Outfall 001B was open. This additional information may be submitted in letter format. Whole effluent toxicity (biomonitoring) results must be reported on the most recent version

of EPA Region 8's Guidance For Whole Effluent Reporting. The certification statement shall be signed in accordance with the Signatory Requirements in Part 4.7 of this permit.

- 1.3.9. Self-Monitoring Requirements - Outfalls 002 and 003: At least annually, Outfalls 002 and 003 and the immediate areas down gradient from them shall be inspected for signs of sediment, oil and grease, and/or other pollutants having been discharged from either outfall. To the extent practical, the inspections should be conducted within a week after a rainfall event of 1 inch or greater. A written record shall be maintained of all inspections. A summary of the observations, in letter format, shall be included with the next reporting of the self-monitoring data for Internal Outfall 001A. Until Outfall 002 is uncovered, the inspection for that outfall shall determine if there are any visible signs of water from the area of that outfall reaching a surface drainageway.
- 1.4. Pollution Prevention Plan Requirements. The permittee shall continue to implement the pollution prevention plan (PPP) for the interior storm drainage system and Outfalls 002 and 003 that was developed and implemented as a requirement of the previous permit. The PPP must be amended whenever there is a change in design, construction, operation, or maintenance at the facility which has a significant effect on the discharge, or potential for discharge, of pollutants from the interior storm drainage system and/or Outfalls 002 and 003. The PPP is also to be amended whenever during an inspection or investigation by the permittee or Federal officials it is determined that the PPP is ineffective in eliminating or significantly minimizing the discharge of pollutants from the interior storm drainage system and/or Outfalls 002 and 003. The PPP shall be reviewed annually to determine if it needs to be amended to meet the objectives of the PPP. If appropriate, the PPP shall be amended.

2. MONITORING, RECORDING AND REPORTING REQUIREMENTS

- 2.1. Representative Sampling. Samples taken in compliance with the monitoring requirements established under Part 1 shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge. Sludge samples shall be collected at a location representative of the quality of sludge immediately prior to use-disposal practice.
- 2.2. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit. Sludge monitoring procedures shall be those specified in 40 CFR 503, or as specified in the permit.
- 2.3. Penalties for Tampering. The Act provides that any person who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than two years, or by both. Second conviction is punishable by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or both.
- 2.4. Reporting of Monitoring Results. Effluent monitoring results obtained during the previous three months shall be summarized and reported on one Discharge Monitoring Report Form (EPA No. 3320-1), postmarked no later than the 28th day of the month following the completed reporting period. If no discharge occurs during the reporting period, "no discharge" shall be reported. Until further notice, sludge monitoring results may be reported in the testing laboratory's normal format (there is no EPA standard form at this time), but should be on letter size pages. Whole effluent toxicity (biomonitoring) results must be reported on the most recent version of EPA Region 8's Guidance For Whole Effluent Reporting. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the Signatory Requirements (see Part 4), and submitted to the EPA Region 8 Policy, Information Management & Environmental Justice Program and the State of Colorado at the addresses given below:

original to: U.S. EPA, Region 8
Policy, Information Management & Environmental Justice Program (8ENF-PJ)
Attention: Director
1595 Wynkoop Street
Denver, Colorado 80202-1129

copy to: Colorado Department of Public Health and the Environment
Water Quality Control Division
WQCD-PE-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

- 2.5. Additional Monitoring by the Permittee. If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136, 40 CFR 503, or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated.
- 2.6. Records Contents. Records of monitoring information shall include:
 - 2.6.1. The date, exact place, and time of sampling or measurements;
 - 2.6.2. The initials or name(s) of the individual(s) who performed the sampling or measurements;
 - 2.6.3. The date(s) analyses were performed;
 - 2.6.4. The time(s) analyses were initiated;
 - 2.6.5. The initials or name(s) of individual(s) who performed the analyses;
 - 2.6.6. References and written procedures, when available, for the analytical techniques or methods used; and,
 - 2.6.7. The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.
- 2.7. Retention of Records. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application. Records of monitoring required by this permit related to sludge use and disposal activities must be kept at least five years (or longer as required by 40 CFR 503). This period may be extended by request of the Director at any time. Data collected on site, data used to prepare the DMR, copies of Discharge Monitoring Reports, and a copy of this NPDES permit must be maintained on site.
- 2.8. Twenty-four Hour Notice of Noncompliance Reporting.
 - 2.8.1. The permittee shall report any noncompliance which may endanger health or the environment as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of the circumstances. The report shall be made to the EPA, Region 8, Site Assessment/Emergency Response Program at (303) 293-1788, the State of Colorado at (877) 518-5608.
 - 2.8.2. The following occurrences of noncompliance shall be reported by telephone to the EPA, Region 8, NPDES Enforcement Unit at (800) 227-8917 (8:00 a.m. - 4:30 p.m. Mountain Time) and the State of

Colorado at (303) 692-3590 (8:00 a.m. - 4:30 p.m. Mountain Time) by the first workday following the day the permittee became aware of the circumstances:

- 2.8.2.1. Any unanticipated bypass which exceeds any effluent limitation in the permit (See Part 3.7, Bypass of Treatment Facilities.);
 - 2.8.2.2. Any upset which exceeds any effluent limitation in the permit (See Part 3.8, Upset Conditions.); or,
 - 2.8.2.3. Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit to be reported within 24 hours.
- 2.8.3. A written submission shall also be provided to the USEPA, Office of Enforcement, Compliance and Environmental Justice and to the State of Colorado within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
- 2.8.3.1. A description of the noncompliance and its cause;
 - 2.8.3.2. The period of noncompliance, including exact dates and times;
 - 2.8.3.3. The estimated time noncompliance is expected to continue if it has not been corrected; and,
 - 2.8.3.4. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
- 2.8.4. The Director may waive the written report on a case-by-case basis for an occurrence of noncompliance listed under Part 2.8.2 above, if the incident has been orally reported in accordance with the requirements of Part 2.8.2.
- 2.8.5. Reports shall be submitted to the addresses in Part 2.4, Reporting of Monitoring Results.
- 2.9. Other Noncompliance Reporting. Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for Part 2.4 are submitted. The reports shall contain the information listed in Part 2.8.3.
- 2.10. Inspection and Entry. The permittee shall allow the State of Colorado or the Regional Administrator, or authorized representative (including an authorized contractor acting as a representative of the Administrator) upon presentation of credentials and other documents as may be required by law, to:
- 2.10.1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
 - 2.10.2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
 - 2.10.3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and,
 - 2.10.4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

3. COMPLIANCE RESPONSIBILITIES

- 3.1. Duty to Comply. The permittee must comply with all conditions of this permit. Any failure to comply with the permit may constitute a violation of the Clean Water Act and may be grounds for enforcement action, including, but not limited to permit termination, revocation and reissuance, modification, or denial of a permit renewal application. The permittee shall give the director advance notice of any planned changes at the permitted facility that will change any discharge from the facility, or of any activity that may result in failure to comply with permit conditions.
- 3.2. Penalties for Violations of Permit Conditions. The Clean Water Act provides for specified civil and criminal monetary penalties for violations of its provisions. However, the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, requires EPA to adjust the civil monetary penalties for inflation on a periodic basis. EPA previously adjusted its civil monetary penalties on December 31, 1996 (61 Fed. Reg. 69359-69365), with technical corrections and additions published on March 20, 1997 (62 Fed. Reg. 13514-13517), June 27, 1997 (62 Fed. Reg. 35037-35041) and February 13, 2004 (69 Fed. Reg. 7121-7127). On December 11, 2008 (73 Fed. Reg. 75340-75346) EPA once again adjusted its civil monetary penalties. The civil and criminal penalties, as of January 12, 2009, for violations of the Act (including permit conditions) are given below:
- 3.2.1. Any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$37,500 per day for each violation.
- 3.2.2. Any person who *negligently* violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment for not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment for not more than 2 years, or both.
- 3.2.3. Any person who *knowingly* violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment for not more than 6 years, or both.
- 3.2.4. Any person who *knowingly* violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment for not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment for not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.
- 3.2.5. Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Where an administrative

enforcement action is brought for a Class I civil penalty, the assessed penalty may not exceed \$16,000 per violation, with a maximum amount not to exceed \$37,500. Where an administrative enforcement action is brought for a Class II civil penalty, the assessed penalty may not exceed \$16,000 per day for each day during which the violation continues, with the maximum amount not to exceed \$177,500.

- 3.3. Need to Halt or Reduce Activity not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- 3.4. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- 3.5. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. However, the permittee shall operate, at a minimum, one complete set of each main line unit treatment process whether or not this process is needed to achieve permit effluent compliance.
 - 3.5.1 The permittee shall, as soon as reasonable and practicable, but no later than six (6) months after the effective date of this permit, do the following as part of the operation and maintenance program for the wastewater treatment facility:
 - 3.5.1.1. Have a current O & M Manual(s) that describes the proper operational procedures and maintenance requirements of the wastewater treatment facility;
 - 3.5.1.2. Have the O & M Manual(s) readily available to the operator of the wastewater treatment facility and require that the operator become familiar with the manual(s) and any updates;
 - 3.5.1.3. Have a schedule(s) for routine operation and maintenance activities at the wastewater treatment facility; and,
 - 3.5.1.4. Require the operator to perform the routine operation and maintenance requirements in accordance with the schedule(s).
 - 3.5.2. The permittee shall maintain a daily log in a **bound notebook(s)** containing a summary record of all operation and maintenance activities at the wastewater treatment facility. At a minimum, the notebook shall include the following information:
 - 3.5.2.1. Date and time;
 - 3.5.2.2. Name and title of person(s) making the log entry;
 - 3.5.2.3. Name of the persons(s) performing the activity;
 - 3.5.2.4. A brief description of the activity; and,
 - 3.5.2.5. Other information, as appropriate.

The permittee shall maintain the notebook in accordance with proper record-keeping procedures and shall make the log available for inspection, upon request, by authorized representatives of the U.S. Environmental Protection Agency or the State of Colorado.

3.6. Removed Substances. Collected screenings, grit, solids, sludge, or other pollutants removed in the course of treatment shall be buried or disposed in a manner consistent with all applicable federal and state regulations (i.e., 40 CFR 257, 40 CFR 258, 40 CFR 503) and in a manner so as to prevent any pollutant from entering any waters of the United States or creating a health hazard. **In addition, the use and/or disposal of sewage sludge shall be done under the authorization of an NPDES permit issued for the use and/or disposal of sewage sludge by the appropriate NPDES permitting authority for sewage sludge.** Sludge/digester supernatant and filter backwash shall not be directly blended with or enter either the final plant discharge and/or waters of the United States.

3.7. Bypass of Treatment Facilities.

3.7.1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts 3.7.2 and 3.7.3.

3.7.2. Notice:

3.7.2.1. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass to the USEPA, Technical Enforcement Program, and the State of Colorado.

3.7.2.2. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part 2.8, Twenty-four Hour Noncompliance Reporting, to the USEPA, Technical Enforcement Program, and the State of Colorado.

3.7.3. Prohibition of bypass.

3.7.3.1. Bypass is prohibited and the Director may take enforcement action against a permittee for a bypass, unless:

3.7.3.1.1. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

3.7.3.1.2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,

3.7.3.1.3. The permittee submitted notices as required under Part 3.7.2.

3.7.3.2. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in Part 3.7.3.1.

3.8. Upset Conditions

3.8.1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part 3.8.2 are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review (i.e., Permittees will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with technology-based permit effluent limitations).

- 3.8.2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
- 3.8.2.1. An upset occurred and that the permittee can identify the cause(s) of the upset;
 - 3.8.2.2. The permitted facility was at the time being properly operated;
 - 3.8.2.3. The permittee submitted notice of the upset as required under Part 2.8, Twenty-four Hour Notice of Noncompliance Reporting; and,
 - 3.8.2.4. The permittee complied with any remedial measures required under Part 3.4, Duty to Mitigate.
- 3.8.3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.
- 3.9. Toxic Pollutants. The permittee shall comply with effluent standards or prohibitions established under Section 307 (a) of the Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- 3.10. Changes in Discharge of Toxic Substances. Notification shall be provided to the Director as soon as the permittee knows of, or has reason to believe:
- 3.10.1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - 3.10.1.1. One hundred micrograms per liter (100 ug/L);
 - 3.10.1.2. Two hundred micrograms per liter (200 ug/L) for acrolein and acrylonitrile; five hundred micrograms per liter 500 ug/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
 - 3.10.1.3. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or,
 - 3.10.1.4. The level established by the Director in accordance with 40 CFR 122.44(f).
 - 3.10.2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - 3.10.2.1. Five hundred micrograms per liter (500 ug/L);
 - 3.10.2.2. One milligram per liter (1 mg/L) for antimony;
 - 3.10.2.3. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or,
 - 3.10.2.4. The level established by the Director in accordance with 40 CFR 122.44(f).

4. GENERAL REQUIREMENTS

- 4.1. Planned Changes. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
 - 4.1.1. The alteration or addition could significantly change the nature or increase the quantity of pollutant discharged. This notification applies to pollutants which are not subject to effluent limitations in the permit; or,
 - 4.1.2. There are any planned substantial changes to the existing sewage sludge facilities, the manner of its operation, or to current sewage sludge management practices of storage and disposal. The permittee shall give the Director notice of any planned changes at least 30 days prior to their implementation.
 - 4.1.3. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source.
- 4.2. Anticipated Noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- 4.3. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- 4.4. Duty to Reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The application should be submitted at least 180 days before the expiration date of this permit.
- 4.5. Duty to Provide Information. The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.
- 4.6. Other Information. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Director, it shall promptly submit such facts or information.
- 4.7. Signatory Requirements. All applications, reports or information submitted to the Director shall be signed and certified.
 - 4.7.1. All permit applications shall be signed by either a principal executive officer or ranking elected official.
 - 4.7.2. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - 4.7.2.1. The authorization is made in writing by a person described above and submitted to the Director; and,
 - 4.7.2.2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

- 4.7.3. Changes to authorization. If an authorization under Part 4.7.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part 4.7.2 must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.
- 4.7.4. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- 4.8. Penalties for Falsification of Reports. The Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both.
- 4.9. Availability of Reports. Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Director. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.
- 4.10. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.
- 4.11. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, tribal or local laws or regulations.
- 4.12. Severability. The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.
- 4.13. Transfers. This permit may be automatically transferred to a new permittee if:
- 4.13.1. The current permittee notifies the Director at least 30 days in advance of the proposed transfer date;
- 4.13.2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and,
- 4.13.3. The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part 4.13.2.
- 4.14. State Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Act.

- 4.15. Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations (and compliance schedule, if necessary), or other appropriate requirements if one or more of the following events occurs:
- 4.15.1. Water Quality Standards: The water quality standards of the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
 - 4.15.2. Wasteload Allocation: A wasteload allocation is developed and approved by the State of Colorado and/or EPA for incorporation in this permit.
 - 4.15.3. Water Quality Management Plan: A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this permit.
- 4.16. Toxicity Limitation-Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include whole effluent toxicity limitations if whole effluent toxicity is detected in the discharge.