

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 U.S. Department of Energy**

is authorized to discharge from municipal separate storm sewer system outfalls at the National Renewable Energy Laboratory, South Table Mountain site existing as of the effective date of this Permit,

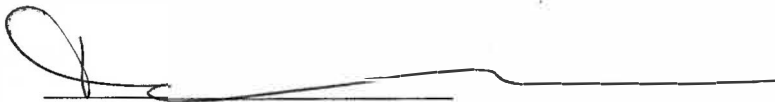
to, Lena Gulch and other associated waters of the United States within the exterior boundaries of the National Renewable Energy Laboratory in the City of Golden, Jefferson County, Colorado, latitude 39.740907 and longitude -105.168594.

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 **December 1, 2018**

This Permit and the authorization to discharge shall expire at midnight, **November 30, 2023**

Signed this 26<sup>th</sup> day of October, 2018



Authorized Permitting Official

Darcy O'Connor  
Assistant Regional Administrator  
Office of Water Protection

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## 1. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

### 1.1. Definitions.

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.

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.

*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.

*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".

*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.

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

*EPA* means the United States Environmental Protection Agency.

*E. coli* means Escherichia coli.

*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.

*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.

*Stormwater* means storm water runoff, snow melt runoff, and surface runoff and drainage.

## 1.2. Permit Area.

This Permit covers all areas of the municipal separate storm sewer system (MS4) within the exterior boundary of the National Renewable Energy Laboratory (NREL) – South Table Mountain (STM) site.

## 1.3. Description of Discharge Point(s):

During the Effective Dates of this Permit, the Permittee is authorized to discharge stormwater from all portions of the MS4 within the exterior boundaries of the NREL-STM.

- 1.3.1. This Permit also authorizes the discharge of stormwater commingled with those discharges (allowable non-stormwater discharges) set forth in **Part 1.4.2** of this Permit.

## 1.4. Limitations on Permit Coverage

- 1.4.1. The Permittee must prohibit all types of non-stormwater discharges into its MS4, except for allowable non-stormwater discharges described in **Part 1.4.2**.

### 1.4.2. Allowable Non-Stormwater Discharges:

The following sources of non-stormwater discharges are allowed to be discharged into the MS4 unless the Permittee determines they are significant contributors of pollutants. If the Permittee identifies any of the following categories as a significant contributor of pollutants, the Permittee must include the category as an illicit discharge (see **Part 2.5**).

- Discharges authorized by a separate NPDES permit;
- Discharges in compliance with instructions of an On-Scene-Coordinator pursuant to 40 CFR Part 300 or 33 CFR 153.10(e);
- Water line flushing;
- Landscape irrigation;
- Diverted stream flows;
- Rising ground waters;
- Uncontaminated ground water infiltration;
- Uncontaminated pumped ground water;
- Discharges from potable water sources;
- Foundation drains;
- Air conditioning condensate;
- Irrigation water;
- Springs;
- Water from crawl space pumps;
- Footing drains;
- Lawn watering;
- Flows from riparian habitats and wetlands;
- Dechlorinated swimming pool discharges;
- Street wash water;
- Power washing where no chemicals are used;
- Roof drains;
- Fire hydrant flushings;
- Emergency discharges required to prevent imminent threat to human health or severe property damage, provided that reasonable and prudent measures have been taken to minimize the impact of such discharges; and
- Discharges or flows from firefighting

#### 1.4.3. Stormwater Discharges Associated with Industrial Activity.

This Permit does not authorize stormwater discharges associated with industrial activity as defined in 40 CFR § 122.26(b)(14)(i)-(ix) and (xi).

#### 1.4.4. Stormwater Discharges Associated with Construction Activity.

This Permit does not authorize stormwater discharges associated with construction activity as defined in 40 CFR § 122.26(b)(14)(x) or 40 CFR § 122.26(b)(15).

## 2. STORMWATER MANAGEMENT PROGRAM (SWMP)

### 2.1. General Requirements

- 2.1.1. The Permittee must develop, implement, and enforce a SWMP designed to reduce the discharge of pollutants from the small MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy Colorado's water quality standards. The SWMP must include management practices; control techniques, system design, engineering methods, and other provisions EPA determines appropriate for the control of pollutants in discharges from the MS4.

- 2.1.2. The Permittee must fully implement and enforce the SWMP, including meeting its measurable goals as required by 2.1.3, within 5 years after the date of authorization under this permit. Implementation and enforcement should take place in approximate equal intervals throughout the permit and progress will be tracked in the annual report (see Part 3.2).
- 2.1.3. The SWMP must include each of the six minimum control measures of Parts 2.2-2.8. For each of the minimum control measures the SWMP must include the BMPs that will be implemented and the measurable goals for each of the BMPs including, as appropriate, the months and years in which the required actions of each BMP will be started and completed, and the frequency of the action.
- 2.1.4. Transfer of Ownership, Operational Authority, or Responsibility for SWMP Implementation. The Permittee must implement the SWMP on all new areas added to the Permittee's MS4 (or for which the Permittee becomes responsible for implementation of storm water quality controls) as expeditiously as practicable, but not later than one year from addition of the new areas. Implementation may be accomplished in a phased manner to allow additional time for controls that cannot be implemented immediately.
- 2.2. Reviewing and Updating Storm Water Management Plan
- 2.2.1. The Permittee must conduct an annual review of the SWMP in conjunction with preparation of the annual report required under Part 3.2.
- 2.2.2. The Permittee may change the SWMP during the life of the permit according to the following procedures:
- 2.2.2.1. Changes adding (but not subtracting or replacing) components, controls, goals, or requirements to the SWMP may be made at any time upon written notification to the EPA;
- 2.2.2.2. Requests to change or replace an ineffective or unfeasible BMP or goal, with an alternate BMP, may be made at any time. Unless denied by the EPA, changes proposed in accordance with the criteria below shall be deemed approved and may be implemented 60 days from the date the request is submitted to EPA. Modification requests must include the following:
- 2.2.2.2.1. An analysis of why the BMP or goal is ineffective or infeasible (including cost prohibitive);
- 2.2.2.2.2. Expectations on the effectiveness of the replacement BMP or goal; and
- 2.2.2.2.3. An analysis of why the replacement BMP or goal is expected to better achieve the SWMP requirements.
- 2.2.3. The EPA may request documentation of the minimum control measures as required by the SWMP. The EPA may review and subsequently notify the Permittee that changes to the SWMP are necessary to:
- Address discharges from the MS4 that are causing or contributing to water quality impacts;

- Include more stringent requirements deemed necessary by the EPA to comply with water quality standards, Endangered Species Act (ESA) related requirements, and/or other goals and requirements of the Clean Water Act; and/or
- Address the SWMP requirements of this Permit, if the EPA determines that the Permittee's current SWMP does not meet Permit requirements.

- 2.2.4. If the EPA notifies the Permittee that changes are necessary to ensure that stormwater discharges are not causing or contributing to a violation of water quality standards, the notification will offer the Permittee an opportunity to propose alternative program changes to meet the objectives of the requested modification. Following this opportunity, the Permittee must implement any required changes according to the schedule set by the EPA.
- 2.2.5. Change requests or notifications must be made in writing and signed in accordance with Part 5.7.

### 2.3. Public Education and Outreach

- 2.3.1. The Permittee must implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and the steps that the public can take to reduce pollutants in storm water runoff.
- 2.3.2. The SWMP must document the following information related to public education and outreach;
- 2.3.2.1. A description of the public education program and outreach activities;
- 2.3.2.2. A description of the methods and frequency of disseminating information;
- 2.3.2.3. A description of the target audiences and target pollutants and sources that the Permittee will address in the program and how they were selected;
- 2.3.2.4. An estimation of the number of people expected to be reached by the program over the permit term;
- 2.3.2.5. A list of measurable goals for the public education and outreach programs;
- 2.3.2.6. Dates by which the Permittee will achieve each of the measurable goals; and
- 2.3.2.7. The name or title of the person(s) responsible for coordination and implementation of the storm water public education and outreach program.

### 2.4. Public Involvement/Participation

- 2.4.1. The Permittee must implement a public involvement and participation program to involve the public in the development and implementation of the SWMP.
- 2.4.2. The Permittee must comply with applicable State and local public notice requirements when implementing a public involvement/participation program.
- 2.4.3. The Permittee is encouraged to make the SWMP and permit application available to the public, including, but not limited to, the operator of any MS4 affected by the Permittee's



MS4 facility.

- 2.4.4. The SWMP must document the following information related to public involvement/participation:
- 2.4.4.1. A description of the plan to involve the public in the development and implementation of the SWMP;
  - 2.4.4.2. The types of activities for public involvement that the program will include and the target audiences;
  - 2.4.4.3. A list of measurable goals for the public involvement/participation program;
  - 2.4.4.4. Dates by which the Permittee will achieve each of the measurable goals; and
  - 2.4.4.5. The name or title of the person(s) responsible for coordination and implementation of the storm water public involvement/participation program.

2.5. Illicit Discharge Detection and Elimination

An illicit discharge is any discharge to a MS4 that is not composed entirely of stormwater. Exceptions are described in **Part 1.4.2**. The Permittee must:

- 2.5.1. Develop, implement, and enforce a program to detect and eliminate illicit discharges into the MS4;
- 2.5.2. Develop, if not already completed, a storm sewer system map showing the location of all outfalls and the names and location of all waters of the United States that receive discharges from those outfalls;
- 2.5.3. Effectively prohibit, through ordinance or other regulatory mechanism available under the legal authorities of the small MS4, non-storm water discharges into the storm sewer system and implement appropriate enforcement procedures and actions;
- 2.5.4. Develop and implement a plan to detect and address non-storm water discharges, including illegal dumping, to the system;
- 2.5.5. Inform public employees of hazards associated with illegal discharges and improper disposal of waste; and
- 2.5.6. Address the categories of non-storm water discharges or flows listed in Part 1.4.2. Only those discharges identified by the Permittee as significant contributors of pollutants to the small MS4 need to be addressed as illicit discharges. The Permittee must document in the SWMP any local controls or conditions placed on the discharges. All other non-storm water discharges must be prohibited according to Part 1.4 and Part 2.5.3.
- 2.5.7. The SWMP must document the following information related to illicit discharge detection and elimination:
  - 2.5.7.1. A description of procedures to identify priority areas. This includes areas suspected of having illicit connections (e.g., areas with older sanitary sewer lines);

- 2.5.7.2. A description of procedures for identifying illicit discharges. The Permittee must consider using dry weather field screening for non-storm water flows and field tests of selected chemical parameters as indicators of discharge sources; or ambient sampling to locate impacted reaches; or dye or smoke testing;
- 2.5.7.3. A description of procedures for locating and removing the source of the illicit discharge;
- 2.5.7.4. A description or citation of the established ordinance or other regulatory mechanism used to prohibit illicit discharges into the MS4. If the Permittee needs to develop this mechanism, describe the plan and a schedule to do so;
- 2.5.7.5. A description of the enforcement procedures and jurisdiction required under Part 2.5.3;
- 2.5.7.6. A description of the methods for informing/training public employees about illicit discharges;
- 2.5.7.7. A description of the methods for informing the public of hazards associated with illegal discharges and improper disposal of waste;
- 2.5.7.8. A list of measurable goals for the illicit discharge detection and elimination program;
- 2.5.7.9. Dates by which the Permittee will achieve each of the measurable goals; and
- 2.5.7.10. The name or title of the person(s) responsible for coordination and implementation of the illicit discharge detection and elimination program.

## 2.6. Construction Site Stormwater Runoff Control

The Permittee must:

- 2.6.1. Develop, implement, and enforce a program to reduce pollutants in any storm water runoff to the small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre including construction activities disturbing less than one acre if it is part of a larger common plan of development or sale. If EPA waives the permit requirements for storm water discharges associated with a specific small construction activity (i.e., a single project) in accordance with §122.26(b)(15)(i)(A) or (B), the Permittee is not required to develop, implement, and/or enforce a program to reduce pollutant discharges from that particular site;
- 2.6.2. Use an ordinance or other regulatory mechanism available under the legal authorities of the small MS4 to require erosion and sediment controls and sanctions to ensure compliance;
- 2.6.3. Develop requirements for construction site operators to implement appropriate erosion and sediment control best management practices;
- 2.6.4. Develop requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;
- 2.6.5. Develop procedures for site plan review which incorporate consideration of potential water quality impacts;

- 2.6.6. Develop procedures for receipt and consideration of information submitted by the public; and
- 2.6.7. Develop procedures for site inspection and enforcement of control measures.
- 2.6.8. The SWMP must document the following information related to construction site runoff control:
  - 2.6.8.1. A description or citation of the established ordinance or other regulatory mechanism used to require erosion and sediment controls at construction sites. If the Permittee needs to develop the required regulatory mechanism, describe the plan and a schedule to do so;
  - 2.6.8.2. A description of the sanctions and enforcement mechanisms (e.g. stop work order) the Permittee will use to ensure compliance;
  - 2.6.8.3. A description of the requirements for construction site operators to implement appropriate erosion and sediment control BMPs and control waste at construction sites that may cause adverse impacts to water quality. Such waste includes discarded building materials, concrete truck washouts, chemicals, litter, and sanitary waste;
  - 2.6.8.4. A description of the procedures for site plan review, including the review of pre-construction site plans, which incorporate consideration of potential water quality impacts. Describe the procedures and the rationale for how certain sites will be identified for site plan review. Describe the estimated number and percentage of sites that will have pre-construction site plans reviewed;
  - 2.6.8.5. A description of the procedures for receipt and consideration of information submitted by the public;
  - 2.6.8.6. A description of the procedures for site inspection, including how sites will be prioritized for inspection;
  - 2.6.8.7. A list of measurable goals for the construction site runoff control program;
  - 2.6.8.8. Dates by which the Permittee will achieve each of the measurable goals; and
  - 2.6.8.9. The name or title of the person(s) responsible for coordination and implementation of the construction site runoff control program.

## 2.7. Post-Construction Stormwater Management for New Development and Redevelopment

The Permittee must:

- 2.7.1. Develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the small MS4. The program must ensure that controls are in place that would prevent or minimize water quality impacts;
- 2.7.2. Develop and implement strategies which include a combination of structural and/or non-structural BMPs appropriate for the community;
- 2.7.3. Use an ordinance or other regulatory mechanism available under the legal authorities of the

small MS4 to address post-construction runoff from new development and redevelopment projects; and

- 2.7.4. Ensure adequate long-term operation and maintenance of BMPs by following, at a minimum, manufacture's specifications for clean-outs and routine maintenance.
- 2.7.5. The SWMP must document the following information related to post-construction storm water management:
  - 2.7.5.1. A description of the structural and non-structural BMPs that will be used to manage post-construction runoff from new development and redevelopment projects within the MS4. Also, list any specific priority areas for this program;
  - 2.7.5.2. An explanation of the design features of the chosen BMPs that are intended to minimize water quality impacts;
  - 2.7.5.3. A description or citation of the established ordinance or other regulatory mechanism used to address post-construction runoff control. If the Permittee needs to develop the required regulatory mechanism, describe the plan and a schedule to do so;
  - 2.7.5.4. A description of how long-term operation and maintenance of the selected BMPs will be performed;
  - 2.7.5.5. A list of measurable goals for the post-construction runoff control program;
  - 2.7.5.6. Dates by which the Permittee will achieve each of the measurable goals; and
  - 2.7.5.7. The name or title of the person(s) responsible for coordination and implementation of the post-construction storm water management program.

## 2.8. Pollution Prevention and Good Housekeeping for Municipal Operations

The Permittee must:

- 2.8.1. Develop and implement an operation and maintenance program with the ultimate goal of preventing or reducing pollutant runoff from NREL-STM operations. The program must include an employee training component;
- 2.8.2. As part of maintenance activities and employee training, address the following activities at a minimum, as applicable: park and open space maintenance, fleet and building maintenance, new construction and land disturbances, storm water system maintenance, and snow disposal.
- 2.8.3. The SWMP must document the following information related to pollution prevention/good housekeeping:
  - 2.8.3.1. A description of the operation and maintenance program to prevent or reduce pollutant runoff from the NREL-STM operations. The description must include:

- 2.8.3.1.1. Maintenance activities, maintenance schedules, and long-term inspection procedures for controls to reduce floatables and other pollutants to the MS4;
- 2.8.3.1.2. Employee training program used to prevent and reduce storm water pollution;
- 2.8.3.1.3. Controls for reducing or eliminating the discharge of pollutants from streets, roads, parking lots, maintenance and storage yards, waste transfer stations, fleet or maintenance shops with outdoor storage areas, salt/sand storage locations, and snow disposal areas operated by the MS4;
- 2.8.3.1.4. Procedures for the proper disposal of waste removed from the MS4 and the MS4's operations including dredge spoil, accumulated sediments, floatables, and other debris;
- 2.8.3.1.5. Procedures to ensure that new flood management projects are assessed for impacts on water quality and existing projects are assessed for incorporation of additional water quality protection devices or practices;
- 2.8.3.1.6. A list of the NREL-STM operations that are impacted by this operation and maintenance program;
- 2.8.3.1.7. A list of industrial facilities owned or operated, if any, by the Permittee that ultimately discharge to the small MS4. The list must include industrial facilities that are subject to EPA's Multi-Sector General Permit (MSGP) or individual NPDES permits for discharges of storm water associated with industrial activity. Include the EPA permit number or a copy of the Industrial NOI form for each facility;
- 2.8.3.1.8. A list of measurable goals for the pollution prevention and good housekeeping program;
- 2.8.3.1.9. Dates by which the Permittee will achieve each of the measurable goals; and
- 2.8.3.1.10. The name or title of the person(s) responsible for coordination and implementation of the pollution prevention and good housekeeping program.

### **3. RECORDKEEPING AND ANNUAL REPORTS**

#### **3.1. 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. This period may be extended by request of the Director at any time.

- 3.1.1. The Permittee must submit the records referred to in Part 3.1. to the EPA only when specifically asked to do so. The Permittee must retain a description of the SWMP required by this Permit (including a copy of the Permit language) at a location accessible to the EPA. The Permittee must make records, including the application and the description of the SWMP, available to the public if requested to do so in writing.

#### **3.2. Annual Report**

- 3.2.1. The Permittee must submit an annual report to the EPA for each year of the Permit term. The first report is due April 1, 2020, and must cover the activities during the period beginning on the effective date of the Permit through December 31, 2019. Each subsequent annual report is due on April 1 of each year following 2020 for the remainder of the Permit term. Reports must be signed in accordance with the signatory requirements in **Part 5.7**. Reports may be posted on the EPA Region 8 web site. Therefore, parts of the annual report which cannot be publicly available should be marked as “confidential” or “for official use only.” Reports must be submitted to the EPA at the following address:

U.S. EPA, Region 8  
Attention: Stormwater Coordinator  
1595 Wynkoop Street (Mail Code: 8WP-CWW)  
Denver, Colorado 80202-1129

#### 4. COMPLIANCE RESPONSIBILITIES

##### 4.1. 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 termination, revocation and reissuance, modification, or denial of a permit renewal application. The Permittee shall give the Director advanced 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.

##### 4.2. 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 the EPA to adjust the civil monetary penalties for inflation on a periodic basis. The EPA has adjusted its civil monetary penalties on January 15, 2018 (83 Fed. Reg. 1190-1194). The civil and criminal penalties for violations of the Act are as follows:

- 4.2.1. 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 Section 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$53,484 per day for each violation.
- 4.2.2. Any person who *negligently* violates Section 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 one 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 two years, or both.
- 4.2.3. Any person who *knowingly* violates Section 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 three 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 six years, or both.

- 4.2.4. 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.
- 4.2.5. 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 \$21,393 per violation, with a maximum amount not to exceed \$53,484. Where an administrative enforcement action is brought for a Class II civil penalty, the assessed penalty may not exceed \$21,393 per day for each day during which the violation continues, with the maximum amount not to exceed \$267,415.

4.3. 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.

4.4. 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.

4.5. 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.

## 5. GENERAL REQUIREMENTS

### 5.1. 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:

- 5.1.1. 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;
- 5.1.2. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source.

### 5.2. 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.

### 5.3. 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.

### 5.4. 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.

### 5.5. 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.

### 5.6. 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.

### 5.7. Signatory Requirements:

All applications, reports or information submitted to the Director shall be signed and certified.

- 5.7.1. All permit applications shall be signed by either a principal executive officer or ranking elected official.
- 5.7.2. 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:

- 5.7.2.1. The authorization is made in writing by a person described above and submitted to the Director; and,
- 5.7.2.2. 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.)
- 5.7.3. Changes to authorization: If an authorization under section 5.7.2 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 section 5.7.2 must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.
- 5.7.4. 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."

#### 5.8. 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.

#### 5.9. Availability of Reports:

Except for data determined to be confidential under 40 C.F.R. Part 2, Subpart B, 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.

#### 5.10. 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.

#### 5.11. 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, or local laws or regulations.

5.12. 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.

5.13. Transfers:

This Permit may be automatically transferred to a new Permittee if:

- 5.13.1. The current Permittee notifies the Director at least 30 days in advance of the proposed transfer date;
- 5.13.2. 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,
- 5.13.3. 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 section 5.13.2.

5.14. 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.

5.15. 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:

- 5.15.1. **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.
- 5.15.2. **Wasteload Allocation:** A wasteload allocation is developed and approved by the state of Colorado and/or the EPA for incorporation in this Permit.
- 5.15.3. **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.