

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"),

Fort Carson

hereinafter "permittee", is authorized to discharge from all municipal separate storm sewer system outfalls

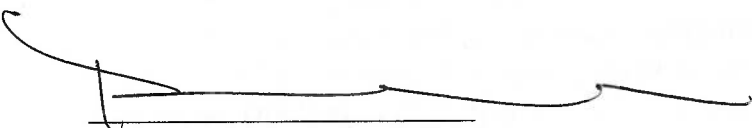
to receiving waters which include B-Ditch, Clover Ditch, Infantry Creek, Rock Creek, and other waters of the United States within the exterior boundaries of Fort Carson in El Paso County, Colorado, latitude 38.7434°N, and longitude 104.7879°W

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 January 1, 2016

This permit and the authorization to discharge shall expire at midnight, December 31, 2020

Signed this 2nd day of December, 2015


Authorized Permitting Official

Darcy O'Connor
Acting Assistant Regional Administrator
Office of Partnerships and Regulatory Assistance

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1. COVERAGE UNDER THIS PERMIT

1.1. Permit Area. This permit covers all areas of the municipal separate storm sewer system (MS4) within the exterior boundaries of Fort Carson.

1.2. Discharges Authorized Under This Permit.

1.2.1. The permittee is authorized to discharge stormwater from all portions of the MS4 within the exterior boundaries of Fort Carson.

1.2.2. This permit also authorizes the discharge of stormwater commingled with flows contributed by process wastewater, non-process wastewater, and stormwater associated with industrial activity, provided that the stormwater is commingled only with those discharges set forth in **Part 1.3** of this permit.

1.3. Limitations on Permit Coverage.

1.3.1. The permittee must prohibit all types of non-stormwater discharges into its MS4, except for allowable non-stormwater discharges described in **Part 1.3.2**.

1.3.2. 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 2.4**).

- 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;
- Individual residential car washing;
- 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;
 - Non-storm water discharges resulting from a spill which are the result of an unusual and severe weather event where reasonable and prudent measures have been taken to minimize the impact of such discharge;
 - 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 fire fighting activities.
- 1.3.3. 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).
- 1.3.4. 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).
- 1.4. Changes to MS4 Area of Responsibility. The permittee must implement the Effluent Limits and Monitoring Requirements in **Part 2** 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. EFFLUENT LIMITS & MONITORING REQUIREMENTS

- 2.1. Stormwater Management Plan. The permittee must maintain a Stormwater Management Plan (SWMP). The SWMP must describe how the permittee will comply with each of the requirements in **Parts 2.2-2.7**. The SWMP can include citations of documents and electronic records (e.g., manuals, guidance, procedures, electronic management systems, intergovernmental agreements) used to comply with permit requirements. It is not required that the SWMP repeat information included in the cited documents or information systems, but the SWMP must include the names of the most recent versions of the cited documents or information systems and the locations where the supporting documentation is maintained.
- 2.1.1. SWMP Availability. The SWMP must be immediately available to EPA. It does not need to be stored or maintained in hardcopy format, but it must be available immediately for printout upon request. Alternatively, the SWMP can be maintained and available for printout as a summary of activities managed through an electronic data management system so long as the data management system can be made available for review sufficient to determine compliance with the terms of this permit..
- 2.1.2. Annual SWMP Review. The permittee must conduct an annual review of the SWMP in conjunction with preparation of the annual report required under **Part 3.2** and update the document with the most current information.
- 2.2. Public Education and Outreach on Stormwater Impacts. The permittee must:

- 2.2.1 Continue to implement an education and outreach program for Fort Carson which targets project managers, contractors, tenants, and environmental staff in an effort to provide education and outreach about the impacts of stormwater discharges on local water bodies and the steps that can be taken to reduce pollutants in stormwater runoff;
- 2.2.2 At a minimum, produce and disseminate informational material to inform the public (i.e., project managers, contractors, tenants, students, and environmental staff) of the effects of erosion and runoff on water quality. Informational materials shall be updated and distributed as necessary throughout the duration of this permit, and should provide a location where all annual reports and/or SWMP updates as required by this permit may be viewed;
- 2.2.3 Provide and document training to appropriate planning staff, project managers, contracting officers and other parties as applicable to learn about Low Impact Development (LID) practices, green infrastructure practices, and to communicate the specific requirements for post-construction control and the associated Stormwater Control Measures (SCMs) laid out within the SWMP;
- 2.2.4 Provide a stormwater awareness brochure and track its distribution;
- 2.2.5 Ensure, to the extent feasible, that any new resident guides include terms for occupancy which relate to household waste management, pet policy, lawn watering, petroleum management, fertilizer/pesticide management, and car washing;
- 2.2.6 At a minimum, produce and disseminate informational material to inform employees and contractors working on site of proper hazardous waste collection processes. These materials should be updated and distributed as necessary throughout the duration of the permit; and
- 2.2.7 Document education and outreach activities in the SWMP, including documents created for distribution and a training schedule which notes the dates that trainings occurred and the target audiences reached.
- 2.2.8 The annual report (**See Part 3.2**) must document the following information related to public education and outreach:
- 2.2.8.1 A description of the methods, frequency, type, and target audience of stormwater outreach performed during the permit term;
- 2.2.8.2 A copy or representation of public outreach materials provided to the target audience(s);
- 2.2.8.3 An estimation of the number of people expected to be reached by the program over each year of the permit term; and
- 2.2.8.4 The name or title of the person(s) responsible for coordination and implementation of the stormwater public education and outreach program.
- 2.3 Public Involvement/Participation. The permittee must:

- 2.3.1 Comply with applicable State and local public notice requirements when implementing a public involvement/participation program;
- 2.3.2 Make all relevant Annual Reports available on the permittee web site or on another platform which is available to the public in an electronic format;
- 2.3.3 Provide volunteer activities (e.g., cleanup days) as practicable to help actively engage residents and personnel at Fort Carson in understanding water resources and how their activities can affect water quality;
- 2.3.4 Maintain a log of public participation and outreach activities performed in the permittee's SWMP;
- 2.3.5 Maintain a copy of the most recent version of the facility SWMP and permit in a publicly accessible format (e.g., available in electronic format, online or in a publicly accessible location).
- 2.3.6 The annual report (**See Part 3.2**) must document the following information related to public involvement/participation:
 - 2.3.6.1 Documentation of any events or other activities to clean up MS4 receiving waters; and
 - 2.3.6.2 Documentation of any volunteer activities conducted to help actively engage residents and personnel at Fort Carson in understanding water resources and how their activities can affect water quality.
- 2.4 **Illicit Discharge Detection and Elimination.** An illicit discharge is any discharge to a municipal separate storm sewer that is not composed entirely of stormwater. Exceptions are described in **Part 1.3.2**. The permittee must:
 - 2.4.1 Implement a program, policies, and/or procedures to detect and eliminate illicit discharges into its MS4. The program shall include procedures for detection, identification of sources, and removal of non-stormwater discharges from the storm sewer system. This program shall address illegal dumping into the storm sewer system, shall include inventories and investigations of interior floor drains in buildings for evidence of cross-connections between the storm and sanitary sewer systems, and shall include training for staff on how to respond to reports of illicit discharges;
 - 2.4.2 Effectively prohibit, through ordinance or other regulatory mechanism available under the legal authorities of the MS4, non-stormwater discharges into the storm sewer system and implement appropriate enforcement procedures and actions;
 - 2.4.3 Provide a mechanism for reporting of illicit discharges and provide this number on the Fort Carson stormwater web site and any outreach materials as appropriate;
 - 2.4.4 Investigate any illicit discharge within fifteen (15) days of its detection, and shall take action to eliminate the source of the discharge within forty five (45) days of its detection (or obtain permission from EPA for such longer periods as may be necessary in particular instances);

- 2.4.5 Maintain an updated storm sewer system map. At a minimum, the map or system of maps maintained within a Geographic Information System (GIS) shall show jurisdictional boundaries, the location of all inlets and outfalls, names and locations of all waters that receive discharges from those outfalls, locations of post-construction BMPs installed since the effective date of this permit, and locations of all facilities operated by the permittee, including any public or private snow disposal sites. The map shall be available in electronic or digital format as appropriate;
- 2.4.6 Develop and maintain an Illicit Discharge Detection and Elimination (IDDE) tracking mechanism which tracks dry weather screening efforts and the location and any remediation efforts to address identified illicit discharges;
- 2.4.7 Conduct dry weather screening annually at each of the major drainages within Fort Carson (B-Ditch, Clover Ditch, Infantry Creek, Rock Creek) for the presence of non-stormwater discharges;
- 2.4.8 Have a household hazardous waste collection day as needed or as practicable, either as a separate Fort Carson activity or in conjunction with nearby civilian jurisdictions;
- 2.4.9 Stencil all storm drains (e.g., paint, placards, stenciling), as practicable, in all areas with industrial uses and residential uses by the end of year four of this permit.
- 2.4.10 The annual report (See **Part 3.2**) must document the following information related to illicit discharge detection and elimination:
- 2.4.10.1 A description of the program used to detect and eliminate illicit discharges into the MS4s, including procedures for detection, identification of sources, and removal of non-stormwater discharges from the storm sewer system;
- 2.4.10.2 A description of the location and method of dry weather screening performed;
- 2.4.10.3 A description of illicit discharges located and all actions taken to eliminate sources of illicit discharges;
- 2.4.10.4 A description of training materials used and the frequency at which training was provided to the target audience(s) on how to respond to reports of illicit discharges;
- 2.4.10.5 A description or citation of the established ordinance or other regulatory mechanism used to prohibit illicit discharges into the MS4;
- 2.4.10.6 A copy or excerpt from the information management system used to track illicit discharges;
- 2.4.10.7 A description of the categories of non-stormwater discharges evaluated as potentially being significant contributors of pollutants to the MS4 (see **Part 1.3.2**) and any local controls placed on these discharges;
- 2.4.10.8 A description of household hazardous waste collection events conducted by the MS4 if any, or a description of alternative household hazardous waste disposal options

offered by nearby civilian jurisdictions for use by MS4 residents;

- 2.4.10.9 A description of the activities taken to inventory and investigate interior floor drains in buildings for evidence of cross-connections between the storm and sanitary sewer systems; and
- 2.4.10.10 For the Year 1 annual report (due on April 1, 2017 for activities between January 1, 2016 and December 31, 2016), provide an inventory of industrial areas that discharge into the permittee's MS4 or to waters of the United States within the Air Force Academy. This inventory must include the location of the activity, the location of its outfall and corresponding receiving water, and the NPDES permit status for its stormwater discharge.

2.5 Construction Site Stormwater Runoff Control. The permittee must:

- 2.5.1 Require all contractors having a potential of disturbing one or more acres of land within the exterior boundaries of Fort Carson to obtain NPDES permit coverage for their construction stormwater discharges under an applicable EPA permit, and to comply with other applicable State or local construction stormwater requirements. For sites disturbing less than one acre, contractors shall comply with requirements as determined by the facility in its SWMP;
- 2.5.2 Use an ordinance or other regulatory mechanism available under the legal authorities of Fort Carson to require erosion and sediment controls and sanctions to ensure compliance with the terms of the NPDES General Permit for Stormwater Discharges for Construction Activity in Colorado, COR12000F (Construction General Permit). This shall include working with contract officers to determine methods for stopping work or penalizing contractors who violate the terms of the aforementioned construction stormwater permit;
- 2.5.3 Maintain a list of policies and procedures which can be used to enforce construction site compliance within Fort Carson independent of EPA staff directly enforcing the CGP;
- 2.5.4 Implement procedures for site plan review which incorporate consideration of potential water quality impacts;
- 2.5.5 Implement procedures for receipt and consideration of information, including complaints of construction site non-compliance, submitted by the public;
- 2.5.6 Review the Scope of Work for construction projects in order to ensure that the SWMP and SCMs for erosion and sediment control and construction dewatering can be determined to be effective given the regulations and environmental conditions at Fort Carson;
- 2.5.7 Implement an inspection plan and keep a copy of that plan in the SWMP which provides inspection triggers and a required timeframe upon which construction sites must be inspected by Fort Carson staff. All sites within this plan must be inspected at a minimum quarterly;
- 2.5.8 Maintain a site inspection form in the SWMP for use by Fort Carson construction management and oversight personnel when performing inspections required by **Part**

2.5.7; and

- 2.5.9 Maintain and utilize a Notice of Termination (NOT) form or alternative process for Fort Carson independent of the CGP NOT form and have Fort Carson staff inspect all construction sites prior to termination to ensure final stabilization of the site has been met at all areas of the site utilizing vegetative stabilization.
- 2.5.10 The annual report (See **Part 3.2**) must document the following information related to construction site stormwater runoff control:
- 2.5.10.1 A description of “regulated construction activities” which occurred at Fort Carson during the term of this permit;
 - 2.5.10.2 A description or citation of the established ordinance or other regulatory mechanism used to require erosion and sediment controls;
 - 2.5.10.3 A description of the sanctions and enforcement mechanisms Fort Carson uses to ensure that all “regulated construction activities” are in compliance with the terms of the Construction General Permit. This should include a description of any methods developed for Fort Carson staff to stop work on construction sites in non-compliance independent of contracting procedures;
 - 2.5.10.4 A description of any sanctions and/or enforcement actions levied by Fort Carson against construction site operators to require compliance with the Construction Site Stormwater Control Program;
 - 2.5.10.5 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 and applicable contract language;
 - 2.5.10.6 A description of the procedures for receipt and consideration of information submitted by the public;
 - 2.5.10.7 A description of the procedures for site inspection, including how sites will be prioritized for inspection, including documentation of the frequency of site inspections and methods for prioritizing site inspections; and
 - 2.5.10.8 The name or title of the person(s) responsible for coordination and implementation of the construction site runoff control program.
- 2.6. Post-Construction Stormwater Management for New Development and Redevelopment. The permittee must:
- 2.6.1. Establish and implement a process to ensure that all new and re-development projects that disturb equal to or greater than one acre and that discharge into permittee’s small MS4, are designed and constructed with permanent post-construction stormwater control measures designed to prevent or minimize water quality impacts using structural or nonstructural best management practices (BMPs) appropriate for Fort Carson;

- 2.6.2. For purposes of this permit, such BMPs shall be selected based on their ability to maintain onsite predevelopment runoff conditions and be implemented onsite, except to the extent it is impracticable to do so;
- 2.6.3. To the extent the permittee determines it is impracticable to maintain predevelopment runoff conditions by implementing such BMPs at a new or redevelopment site, it shall install or utilize, and maintain, alternative stormwater control measures to prevent or minimize water quality impacts from the runoff from the new or redevelopment site.
- 2.6.3.1. **Impracticability Determinations.** Reasons for impracticability in Part **2.6.2** include:
- Low soil infiltration capacity;
 - Shallow depth to bedrock;
 - Downgradient erosion;
 - High groundwater table;
 - High potential for groundwater contamination;
 - Flooding;
 - Existing underground facilities or utilities;
 - Insufficient space due to the small size of the site;
 - Conflicts with requirements of State or local law that impact the use of stormwater controls;
 - Safety considerations; and
 - Other operational or design considerations specific to the military function of Fort Carson
- 2.6.4. The following information regarding any project for which it is deemed by the permittee to be impracticable during an annual reporting period must be documented and included in the corresponding annual report:
- Name, location, and identifying project description;
 - The reason(s) for making the impracticability determination;
 - Any information developed or relied upon to support the impracticability determination (e.g., feasibility analyses, geologic studies, groundwater data, etc.); and
 - A description of other stormwater control measures implemented to meet the requirements of **Part 2.6.3**.
- 2.6.5. When updated, include hydrologic performance specifications and information related to the design and maintenance of permanent stormwater control measures in natural resource plans;
- 2.6.6. Include post-construction BMP “as-builts” for all newly installed permanent stormwater control measures in a georeferenced data management system;
- 2.6.7. Ensure that all newly installed post-construction stormwater control measures are working as designed prior to closing out contracts;
- 2.6.8. Upon closeout of new construction projects, include maintenance requirements for newly installed permanent post-construction stormwater control measures into a long-term maintenance plan (e.g., the recurring work program); and

- 2.6.9. Ensure that permanent post-construction stormwater control measures are included in any applicable warranty reviews.
- 2.6.10. The annual report (See **Part 3.2**) must document the following information related to post-construction site stormwater runoff control:
 - 2.6.10.1. A description of any impracticability determinations made during the reporting period, including the information required by **Part 2.6.4**.
 - 2.6.10.2. A description of the review procedures and the assumptions provided to ensure the long-term operation and maintenance of permanent stormwater control measures, including an excerpt from any data management system that includes maintenance requirements and schedules for permanent stormwater control measures installed during the year;
 - 2.6.10.3. A description of the process used to ensure that all Fort Carson scopes of work initiated after the effective date of the permit contain language which requires the installation of permanent stormwater control measures and an excerpt of applicable scopes of work language;
 - 2.6.10.4. A description of any activities to include requirements or planning for permanent stormwater control measures in the natural resource plan; and
 - 2.6.10.5. The name or title of the person(s) responsible for coordination and implementation of the post-construction stormwater management program.
- 2.7. Pollution Prevention and Good Housekeeping. The permittee must:
 - 2.7.1. Provide annual training for facility maintenance contracted companies, environmental program managers, and other people identified as having fleet maintenance activities in line with the SWMP. Each of the categories of municipal activities referenced in the SWMP should receive stormwater training;
 - 2.7.2. Provide deicing training to minimize the use of and runoff from chemical deicers and traction aggregates;
 - 2.7.3. Implement a schedule for cleanout of storm sewer inlets in a manner which prevents significant deposition of sediment or other debris to receiving waters and provide data or a description of this schedule and its implementation in the SWMP for the facility;
 - 2.7.4. Implement a schedule for sweeping streets in a manner which prevents significant deposition of sediment or other debris to receiving waters and provide data or a description of this schedule and its implementation in the SWMP for the facility; and
 - 2.7.5. Consider the need for and application of cover to prevent airborne deposition of particulates from storage piles at the municipal materials storage yard.
 - 2.7.7. The annual report (See **Part 3.2**) must document the following information related to pollution prevention and good housekeeping for municipal operations:

- 2.7.7.1. A description of the operation and maintenance program intended to prevent or reduce pollutant runoff from municipal operations including a list of each of the activities evaluated under this program and a description of the controls for reducing or eliminating the discharge of pollutants from streets, roads, highways, parking lots, maintenance and storage yards, waste transfer stations, fleet or maintenance shops with outdoor storage areas, snow disposal areas, and salt/sand storage locations;
- 2.7.7.2. A description of the contents and frequency of the training program (see **Part 2.7.1**) for municipal personnel and a list of the personnel or positions trained during the term of the permit; and
- 2.7.7.3. A description of the evaluation performed on the street cleaning operations, catch basin cleaning operations, and street sanding/salt practices and any measures taken as a result of the evaluation to minimize negative impacts to water quality.

3. RECORDKEEPING AND ANNUAL REPORTS

3.1. Recordkeeping.

- 3.1.1. The permittee must 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 and documents required by this permit, a copy of the NPDES 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, or for the term of this permit, whichever is longer. This period may be extended by request of the EPA at any time.
- 3.1.2. The permittee must submit the records referred to in **Part 3.1.1** to 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 EPA for each year of the permit term. The first report is due April 1, 2016, and must cover the activities during the period beginning on the effective date of the permit through December 31, 2015. Each subsequent annual report is due on April 1 of each year following 2016 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 EPA at the following address:

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

3.2.2 The annual reports must, at a minimum, include:

- The requirements which specify what must be included in the annual report for each of the minimum measures in **Parts 2.2-2.7**;
- A description of all construction activities constructed or proposed to be constructed which disturb equal to or greater than one acre of land during the reporting period;
- Documentation of any public notices and/or meetings held to meet the conditions in **Part 2.3.1**;
- A description of any changes to the illicit discharge detection and elimination program including description of illicit discharges which were either addressed or eliminated in the past year;
- For sites disturbing equal to or greater than one acre of land, documentation of the inspection process and frequency of construction site inspections as well as a summary of findings from inspections conducted during the reporting period;
- A short summary of the progress towards meeting the goal of reducing pollutant discharges from the Fort Carson MS4. This should include any successes made during the reporting period, a general assessment of the appropriateness of stormwater controls and progress towards meeting measurable goals for each of the minimum control measures in **Parts 2.2-2.7**, results of information collected and analyzed such as monitoring data during the reporting period, and a summary of the storm water activities planned during the next reporting cycle;
- A description of any changes made to the SWMP as a result of the annual review required by **Part 2.1.2**; and
- A description of concerns with permit compliance moving forward, and if applicable, input on how the MS4 permitting process could be made more effective in meeting the goals of protecting water quality.

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 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.
- 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 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), February 13, 2004 (69 Fed. Reg. 7121-7127) and December 11, 2008 (73 Fed. Reg. 75340-75346). On November 6, 2013 (78 Fed. Reg. 66643-66648) EPA once again adjusted its civil monetary penalties. The civil and criminal penalties, as of December 6, 2013, for violations of the Act (including permit conditions) are given below:

- 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 \$37,500 per day for each violation.
- 4.2.2. 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.
- 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 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.
- 4.2.4. Any person who *knowingly* violates Section 301, 302, 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 \$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 \$187,500.

- 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; or,
 - 5.1.2. 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.
 - 5.1.3. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source.
- 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 **Part 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 **Part 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 CFR 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, tribal 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 **Part 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 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.

6. DEFINITIONS

All definitions contained in Section 502 of the Act and 40 CFR 122 shall apply to this permit and are incorporated herein by reference. For convenience, simplified explanations of some regulatory/statutory definitions have been provided but, in the event of a conflict, the definition found in the Statute or Regulation takes precedence.

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

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

Construction Activity refers to ground surface disturbing and associated activities, which include, but are not limited to, clearing, grading, excavation, demolition, installation of new or improved haul roads and access roads, staging areas, stockpiling of rill materials, and borrow areas. Construction does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility.

Control Measure as used in this permit, refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to waters of the United States.

CWA or The Act means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub.L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483 and Pub. L. 97-117, 33 U.S.C. 1251 et.seq.

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

Discharge, when used without a qualifier, refers to “discharge of a pollutant” as defined at 40 CFR 122.2.

Discharge-related Activities include: activities which cause, contribute to, or result in storm water point source pollutant discharges and measures to control storm water discharges, including the siting, construction, and operation of best management practices to control, reduce or prevent storm water pollution.

EPA means the EPA Regional Administrator or an authorized representative.

Green Infrastructure is an approach that communities can choose to maintain healthy waters, and provide other benefits such as stormwater management, flood mitigation, air quality management, by weaving natural processes into the built environment. “Green Infrastructure” generally refers to systems and practices that use or mimic natural processes to infiltrate, evapotranspire (the return of water to the atmosphere either through evaporation or by plants), or reuse stormwater or runoff on the site when it is generated.

Low Impact Development (LID) is an approach to land development (or re-development) that works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat stormwater as a resource rather than a waste product. There are many practices that have been used to adhere to these principles such as bioretention facilities, rain gardens, vegetated rooftops, rain barrels, and permeable pavements.

MS4 means "*municipal separate storm sewer system*" and is used to refer to either a Large, Medium, or Small Municipal Separate Storm Sewer System. The term, as used within the context of this permit, refers to small MS4s (see definition below) and includes systems operated by a variety of public entities (e.g., military facilities, prisons, and systems operated by other levels of government).

Municipal Separate Storm Sewer means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man made channels, or storm drains): (i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States; (ii) Designed or used for collecting or conveying storm water; (iii) Which is not a combined sewer; and (iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

NOT means Notice of Termination to be covered under EPA’s Construction General Permit.

Outfall means a point source (defined below) at the point where a municipal separate storm sewer discharges to waters of the United States and does not include open conveyances connecting two municipal separate storm sewers or pipes, tunnels, or other conveyances which connect segments of the same stream or other waters of the United States and are used to convey waters of the United States.

Point Source means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

Post-construction stormwater control measures are permanent control measures designed to retain, detain, infiltrate, or treat stormwater discharges from newly developed impervious surfaces.

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.

Small Municipal Separate Storm Sewer System is defined at 40 CFR 122.26(b)(16) and refers to all separate storm sewers that are owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States, but is not defined as “large” or “medium” municipal separate storm sewer system. This term includes systems similar to separate storm sewer systems in municipalities such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas such as individual buildings.

Stormwater is defined at 40 CFR 122.26(b)(13) and means storm water runoff, snow melt runoff, and surface runoff and drainage.

Storm Water Management Plan (SWMP) refers to a comprehensive plan which describes how the permittee manages the quality of storm water discharged from the municipal separate storm sewer system.

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.

Water Quality Capture Volume (WQCV) is the volume of runoff that is to be treated for water quality purposes as part of the design, construction, and maintenance of post-construction stormwater control measures. The WQCV is a specific term used by the Urban Drainage and Flood Control District and varies depending on local rainfall data.

Water Quality Standards are provisions of State or Federal law that consist of a designated use or uses for the waters of the United States, water quality criteria for such waters based upon such uses, and an antidegradation policy to protect high-quality waters. Water quality standards protect the public health or welfare, enhance the quality of water and serve the purposes of the Act.