

Wyoming Department of Environmental Quality
Water Quality Division
WYPDES Program

Statement of Basis
Renewal

APPLICANT NAME: Patriot Production, LLC

MAILING ADDRESS: PO Box 2023
Gillette, WY 82717

FACILITY LOCATION: BBC Terra CBM facility located in the SENE of Section 9, the NESW, SWSE of Section 10, Township 48 North, Range 73 West in Campbell County. The produced water will be discharged to unnamed ephemeral tributaries (class 3B waters) to Bluegate Creek (class 3B waters) which is tributary to Caballo Creek (class 2ABWW) in the Belle Fourche River (class 2ABWW) watershed. The daily maximum permitted discharge flow rate for this facility is 0.185 MGD, originating from the Wyodak and Felix coal seams. There are three outfalls in this permit.

NUMBER: WY0037150

This renewal updates the effluent limit for pH to 6.5-9.0 standard units. Also, according to current guidelines, limits for dissolved manganese, total petroleum hydrocarbons, total radium & sulfates have been removed, and monitoring for bicarbonate & alkalinity have been reduced to annual. All other effluent limits and monitoring requirements in this permit reflect current state and federal standards and guidelines.

EPA Guidelines: This facility is a typical coal bed methane production facility in which groundwater is pumped from a coal bearing formation resulting in the release of methane from the coal bed. The permit authorizes the discharge to the surface of groundwater produced in this way provided the effluent quality is in compliance with effluent limits that are established by this permit. In developing effluent limits, all federal and state regulations and standards have been considered and the most stringent requirements incorporated into the permit. The EPA Effluent Guidelines and Standards for Oil and Gas Extraction Point Source Category (Part 435, Subpart E) predate the development of coal bed methane extraction technology; however the technology is similar enough to conventional gas extraction that, in the professional judgment of the WDEQ, this effluent limit guideline is appropriately applied to coal bed methane gas production. This permit does not cover activities associated with discharges of drilling fluids, acids, stimulation waters or other fluids derived from the drilling or completion of the wells.

DEQ Option and Designated Uses: The permittee has chosen option 2 of the coal bed methane permitting options. Under this permitting option, the produced water is immediately discharged to a class 2 or class 3 receiving stream which is eventually tributary to a class 2AB perennial water of the state. The permit establishes effluent limits for the end of pipe, which are protective of all the designated uses defined in *Wyoming Water Quality Rules and Regulations, Chapter 1*. This may include drinking water, game and non-game fish, fish consumption, aquatic life other than fish, recreation, agriculture, wildlife, industry and scenic value.

Anti-Backsliding Provision: This permit originally established a total radium²²⁶ limit of 1 pCi/l, a sulfate limit of 3000 mg/l, a total petroleum hydrocarbons (TPH) limit of 10 mg/l and a dissolved manganese limit of 760 µg/l at the end of pipe. Based upon water quality data collected by WDEQ since the time this permit was originally issued, a permitting approach for establishing total radium limits in coal bed methane permits has been developed. This

approach is based upon the distance of the outfall from a class 2 water. The removal of the originally-established total radium²²⁶ limit is based on this permitting approach. In addition, review of discharge monitoring report data for this facility and other CBM facilities in Northeast Wyoming indicates that the maximum reported concentrations for total petroleum hydrocarbons (TPH), dissolved manganese and sulfate in the discharge were well below the effluent limit of 760 µg/l for dissolved manganese and the water quality standards of 10 mg/l for TPH and 3000 mg/l for sulfates as established in *Chapter 1 of the Wyoming Water Quality Rules and Regulations*. Therefore, WDEQ has removed the effluent limit and monitoring requirements for TPH, dissolved manganese and sulfate in this permit. Based on evaluation of the available data, it is WDEQ's determination that removing the total radium, sulfate, dissolved manganese and total petroleum hydrocarbons limits from this permit conforms to the anti-backsliding requirements established in *Section 402(o).2.B.i of the Clean Water Act*.

Effluent Limits: Permit effluent limits are based on federal and state regulations and are effective as of the date of issuance. The daily maximum discharge flow rate for this facility is 0.185 MGD and must be monitored monthly. The pH must remain within 6.5 and 9.0 standard units and an effluent limit for total dissolved solids (5,000 mg/l) is included to protect for stock and wildlife watering. These limits are based upon *Wyoming Water Quality Rules and Regulations, Chapter 2* and apply to discharge from any permitted outfall. The permit also establishes a chlorides limit of 46 mg/l which is based up on chronic aquatic life standards for class 2AB waters as established in *Wyoming Water Quality Rules and Regulations, Chapter 1*. In addition, the permit establishes a total barium limit of 1800 µg/l and a total arsenic limit of 2.3 µg/l, both of which are based on Water Quality Criteria as established in *Wyoming Water Quality Rules and Regulations, Chapter 1*, for Human Health values. The limits established in this permit for metals and chlorides reflect the application of the antidegradation provisions required under *Wyoming Water Quality Rules and Regulations, Chapter 1*. In addition, the permit establishes a dissolved iron limit of 1000 µg/l. This limit is based upon chronic aquatic life standards for class 3B waters greater than one mile from the confluence of a class 2 water, and reflects the application of standards required under *Wyoming Water Quality Rules and Regulations, Chapter 1*. All limits described in this section are intended to protect for the above listed designated uses, on both the immediate receiving water and the perennial mainstem, and apply at the end of pipe.

Reporting and Initial Monitoring: Results are to be reported twice-yearly and if no discharge occurs then "no discharge" is to be reported. The permit also requires that an initial monitoring of the effluent be conducted within the first 60 days of discharge and the results submitted to WDEQ and the U.S. Environmental Protection Agency within 120 days of the commencement of discharge.

Irrigation Effluent Limits and Monitoring: In order to monitor and regulate coal bed methane discharge for compliance with Chapter 1, Section 20 (protection of agricultural water supply), effluent limits for sodium adsorption ratio (SAR) and specific conductance are included in this permit. The Wyoming DEQ has determined that an SAR of 10 and specific conductance of 2,000 micromhos/cm is intended to be protective of agriculture use in the Belle Fourche River and Cheyenne River drainages. The specific conductance limit of 2,000 micromhos/cm is based on the threshold value for alfalfa which is considered to be the most salt sensitive plant irrigated in northeastern Wyoming (USDA George E. Brown Jr. Salinity Laboratory, Salt Tolerance Database, Grasses and Forage Crops). The SAR limit of 10 was determined to not reduce the rate of infiltration relative to ambient water quality in the Belle Fourche and Cheyenne Rivers, given the specific conductance threshold referenced above as ascertained from Figure 3 (page 44) of *Agricultural Salinity and Drainage*, Hanson et al., 1999 revision. Additionally, a SAR limit of 10 and specific conductance limit of 2,000 micromhos/cm will maintain the baseline C3-S2 irrigation suitability category for these drainages (see Figure 25, of *Diagnosis and Improvement of Saline and Alkali Soils*, US Dept. of Agricultural Handbook No. 60, 1954). Monitoring will be required for total alkalinity, dissolved calcium, dissolved magnesium, dissolved sodium, bicarbonate, sodium adsorption ratio and specific conductance monthly at the outfall(s) during the irrigation months of April, May, June, July, August and September.

Erosion Control and Other Standards: There shall be no discharge of floating solids or visible foam in other than trace amounts, nor shall the discharge cause formation of visible deposits of iron, hydrocarbons or any other constituent on the bottom or shoreline of the receiving water. In addition, erosion control measures will be implemented to prevent significant damage to or erosion of the receiving water channel at the point of discharge.

Antidegradation: The discharge of wastewater and the effluent limits that are established in this permit have been reviewed to ensure that the levels of water quality necessary to protect the designated uses of the receiving waters are maintained and protected. An antidegradation review has been conducted and verifies that the permit conditions, including the effluent limitations established, provide a level of protection to the receiving water consistent with the antidegradation provisions of Wyoming surface water quality standards.

Self Monitoring and Expiration Date: Self monitoring of effluent quality and quantity is required on a regular basis with reporting of results semiannually. The permit is scheduled to expire on March 31, 2009. This expiration date was determined through review of the watershed permitting schedule which the WDEQ is implementing in order to synchronize the permitting and expiration of facilities within the same watershed. This holistic approach will provide for more efficient permitting of point-source discharges.

Originally drafted:

Barb Sahl

Water Quality Division

Department of Environmental Quality

June 15, 1998

Renewed:

Becky Peters

Water Quality Division

Department of Environmental Quality

August 22, 2006

AUTHORIZATION TO DISCHARGE UNDER THE
WYOMING POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Federal Water Pollution Control Act, (hereinafter referred to as "the Act"), and the Wyoming Environmental Quality Act,

Patriot Production, LLC

is authorized to discharge from the wastewater treatment facilities serving the

BBC Terra CBM facility

located in

the SENE of Section 9, the NESW, SWSE of Section 10, Township 48 North, Range 73 West in Campbell County


to receiving waters named

unnamed ephemeral tributaries (class 3B water) to Bluegate Creek (class 3B water) which is tributary to Caballo Creek (class 2ABWW) in the Belle Fourche River (class 2ABWW) watershed

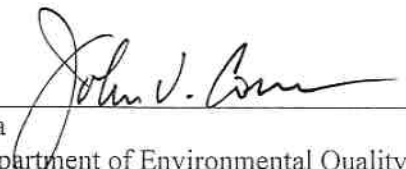
in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II and III hereof.

The original permit became effective on July 31, 1998 and expires on November 30, 2006. **This renewed permit shall become effective on December 1, 2006.**

This renewed permit and the authorization to discharge shall expire at midnight, March 31, 2009.


John F. Wagner
Administrator - Water Quality

11/1/06
Date


John V. Corra
Director - Department of Environmental Quality

11/2/06
Date

PART I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Effective immediately and lasting through March 31, 2009, the quality of effluent discharged by the permittee shall, at a minimum, meet the limitations set forth below. The permittee is authorized to discharge from outfall(s) serial number(s) 001, 003, 004.

1. Such discharges shall be limited as specified below:

Effluent Characteristic	Daily Maximum
Chlorides, mg/l	46
Dissolved Iron, µg/l	1000
pH, su	6.5 – 9.0
Sodium Adsorption Ratio	10
Specific Conductance, micromhos/cm	2000
Total Recoverable Arsenic, µg/l	2.3
Total Recoverable Barium, µg/l	1800
Total Dissolved Solids, mg/l	5000
Total Flow, MGD*	0.185

*This shall be the combined flow from outfall(s) 001, 003, 004. The daily maximum permitted discharge flow rate for this facility is 0.185 million gallons per day (MGD). The effluent discharged at this facility will originate from the Wyodak and Felix coal seams.

The pH shall not be less than 6.5 standard units nor greater than 9.0 standard units in any single grab sample.

The permittee may, if so desired, discharge produced water from any authorized well to any permitted outfall, as long as all permit limits and requirements can be met.

Information gathered from the water quality monitoring stations may result in modification of the permit to protect existing uses on the tributary and the mainstem.

There shall be no discharge of floating solids or visible foam in other than trace amounts, nor shall the discharge cause formation of a visible sheen or visible hydrocarbon deposits on the bottom or shoreline of the receiving water.

All waters shall be discharged in a manner to prevent erosion, scouring, or damage to stream banks, stream beds, ditches, or other waters of the state at the point of discharge. In addition, there shall be no deposition of substances in quantities which could result in significant aesthetic degradation, or degradation of habitat for aquatic life, plant life or wildlife; or which could adversely affect public water supplies or those intended for agricultural or industrial use.

2. Discharges shall be monitored by the permittee as specified below:

a. Monitoring of the Initial Discharge

Within 60 days of commencement of discharge, a sample shall be collected from *each outfall that has not been previously sampled for initial monitoring* and analyzed for all the constituents specified below, at the required detection limits and chemical states. Within 120 days of commencement of discharge, a summary report on the produced water must be submitted to the Wyoming Department of Environmental Quality and the U.S. EPA Region 8 at the addresses listed below. This summary report must include the results and detection limits for each of the constituents listed below. In addition, the report must include written notification of the established location of the discharge point (refer to Part I.B.11). This notification must include a confirmation that the location of the established discharge point(s) is within 1,510 feet of the location of the identified discharge point(s), is within the same drainage, and discharges to the same landowner's property as identified on the original application form. The legal description and location in decimal degrees of the established discharge point(s) must also be provided. After receiving the monitoring results for the initial discharge, the effluent limits and monitoring requirements established in this permit may be modified.

Parameter*	Required Detection Limits & Units
Alkalinity, Total	1 mg/l as CaCO ₃
Aluminum, Total Recoverable	50 µg/l
Arsenic, Total Recoverable	1 µg/l
Barium, Total Recoverable	100 µg/l
Bicarbonate	10 mg/l
Cadmium, Dissolved	5 µg/l
Calcium, Dissolved	50 µg/l, report as me/l
Calcium, Dissolved	50 µg/l, report as mg/l
Chlorides	5 mg/l
Copper, Dissolved	10 µg/l
Dissolved Solids, Total	5 mg/l
Fluoride, Dissolved	0.1 mg/l
Hardness, Total	10 mg/l as CaCO ₃
Iron, Dissolved	50 µg/l
Lead, Dissolved	2 µg/l
Magnesium, Dissolved	100 µg/l, report as me/l
Magnesium, Dissolved	100 µg/l, report as mg/l
Manganese, Dissolved	50 µg/l
Mercury, Dissolved	1 µg/l
pH	to 0.1 standard units
Total Radium ²²⁶	0.2 pCi/l
Selenium, Total Recoverable	5 µg/l
Sodium Adsorption Ratio	Calculated as unadjusted ratio
Sodium, Dissolved	100 µg/l, report as me/l

Parameter*	Required Detection Limits & Units
Sodium, Dissolved	100 µg/l, report as mg/l
Specific Conductance	5 micromhos/cm
Sulfates	10 mg/l
Zinc, Dissolved	50 µg/l

*Dissolved is the value based on the dissolved amount, which is the amount that will pass through a 0.45 µm membrane filter prior to acidification to pH 1.5 - 2.0 with nitric acid. Total is the value expressed in terms of total recoverable metal in the water column.

Initial monitoring reports are to be sent to the following addresses:

Planning and Targeting Program, 8ENF-PT Office of Enforcement, Compliance, and Environmental Justice U.S. EPA Region 8 999 18th St., Suite 300 Denver, CO 80202-2466	AND	Wyoming Department of Environmental Quality Water Quality Division Herschler Building, 4 West 122 West 25th Street Cheyenne, WY 82002
---	------------	---

b. Routine Monitoring End of Pipe Outfall(s) 001, 003, 004

For the duration of the permit, at a minimum, samples for the constituents described below shall be collected at the indicated frequencies. The first routine monitoring for the time frame during which the monitoring of initial discharge occurs will, at a minimum, consist of flow measurements for the duration of the six-month monitoring time frame. Monitoring will be based on semi-annual time frames, from January through June, and from July through December.

Parameter	Measurement Frequency	Sample Type
Bicarbonate, mg/l	Annually	Grab
Chloride, mg/l	Annually	Grab
Dissolved Calcium, mg/l	Monthly April through September	Grab
Dissolved Calcium, me/l	Monthly April through September	Grab
Dissolved Iron, µg/l	Annually	Grab
Dissolved Magnesium, mg/l	Monthly April through September	Grab
Dissolved Magnesium, me/l	Monthly April through September	Grab
pH, su	Once Every Six Months	Grab
Dissolved Sodium, mg/l	Monthly April through September	Grab
Dissolved Sodium, me/l	Monthly April through September	Grab
Sodium Adsorption Ratio	Monthly April through September	Calculated
Specific Conductance, µmhos/cm	Monthly April through September	Grab
Total Alkalinity, mg/l	Annually	Grab
Total Recoverable Arsenic, µg/l	Annually	Grab
Total Recoverable Barium, µg/l	Annually	Grab
Total Flow - (MGD)	Monthly	Continuous

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): At the outfall of the final treatment unit which is located out of the natural drainage and prior to admixture with diluent waters at outfall(s) 001, 003, 004.

B. MONITORING AND REPORTING

1. Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring points specified in this permit and, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points shall not be changed without notification to and approval by, the permit issuing authority.

2. Reporting

Results of initial monitoring, including the date the discharge began, shall be summarized on a Monitoring Report Form for Monitoring of Initial Discharge and submitted to the state water pollution control agency at the address below postmarked no later than 120 days after the commencement of discharge.

Results of routine end of pipe and water quality station monitoring during the previous six (6) months shall be summarized and reported semiannually on a Discharge Monitoring Report Form (DMR). If the discharge is intermittent, the date the discharge began and ended must be included. The information submitted on the first semiannual DMR shall contain a summary of flow measurements and any additional monitoring conducted subsequent to the submittal of the initial monitoring report. If required by this permit, whole effluent toxicity (biomonitoring) results must be reported on the most recent version of EPA Region VIII's Guidance for Whole Effluent Reporting. Monitoring reports must be submitted to the state water pollution control agency at the following address postmarked no later than the 15th day of the second month following the completed reporting period. The first report following the issuance of this renewal is due on February 15, 2007.

Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the Signatory Requirements contained in Part II.A.11.

Wyoming Department of Environmental Quality
Water Quality Division
Herschler Building, 4 West
122 West 25th Street
Cheyenne, WY 82002
Telephone: (307) 777-7781

If no discharge occurs during the reporting period, "no discharge" shall be reported. If discharge is intermittent during the reporting period, sampling shall be done while the facility is discharging.

3. Definitions

- a. The "monthly average" shall be determined by calculating the arithmetic mean (geometric mean in the case of fecal coliform) of all composite and/or grab samples collected during a calendar month.
- b. The "weekly average" shall be determined by calculating the arithmetic mean (geometric mean in the case of fecal coliform) of all composite and/or grab samples collected during any week.
- c. The "daily maximum" shall be determined by the analysis of a single grab or composite sample.

- d. "MGD", for monitoring requirements, is defined as million gallons per day.
- e. "Net" value, if noted under Effluent Characteristics, is calculated on the basis of the net increase of the individual parameter over the quantity of that same parameter present in the intake water measured prior to any contamination or use in the process of this facility. Any contaminants contained in any intake water obtained from underground wells shall not be adjusted for as described above and, therefore, shall be considered as process input to the final effluent. Limitations in which "net" is not noted are calculated on the basis of gross measurements of each parameter in the discharge, irrespective of the quantity of those parameters in the intake waters.
- f. A "composite" sample, for monitoring requirements, is defined as a minimum of four grab samples collected at equally spaced two hour intervals and proportioned according to flow.
- g. An "instantaneous" measurement for monitoring requirements is defined as a single reading, measurement, or observation.
- h. A "pollutant" is any substance or substances which, if allowed to enter surface waters of the state, causes or threatens to cause pollution as defined in the Wyoming Environmental Quality Act, Section 35-11-103.
- i. "Total Flow" is the total volume of water discharged, measured on a continuous basis and reported as a total volume for each month during a reporting period. The accuracy of flow measurement must comply with Part III.A.1.

4. Test Procedures

Test procedures for the analysis of pollutants, collection of samples, sample containers, sample preservation, and holding times, shall conform to regulations published pursuant to 40 CFR, Part 136, unless other test procedures have been specified in this permit.

5. Recording of Results

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

- a. The exact place, date and time of sampling;
- b. The dates and times the analyses were performed;
- c. The person(s) who performed the analyses and collected the samples;
- d. The analytical techniques or methods used; and
- e. The results of all required analyses including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine the results.

6. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the Discharge Monitoring Report Form. Such increased frequency shall also be indicated.

7. Records Retention

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 administrator at any time. Data collected on site, copies of Discharge Monitoring Reports and a copy of this WYPDES permit must be maintained on site during the duration of activity at the permitted location.

8. Penalties for Tampering

The Act provides that any person who falsifies, tampers with or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years per violation, or both.

9. Compliance Schedules

Reports of compliance or noncompliance with, or any progress reports on interim and final requirements contained in any Compliance Schedule of this permit shall be submitted no later than 14 days following each schedule date.

10. Facility Identification

All facilities discharging produced water shall be clearly identified with an all-weather sign posted at each outfall and flow monitoring locations (points of compliance). This sign shall, as a minimum, convey the following information:

- a. The name of the company, corporation, person(s) who holds the discharge permit, and the WYPDES permit number;
- b. The contact name and phone number of the person responsible for the records associated with the permit,
- c. The name of the facility (lease, well number, etc.) and the outfall number as identified by the discharge permit.

11. Identification and Establishment of Discharge Points

According to 40 CFR 122.21(k)(1), the permittee shall identify the expected location of each discharge point on the appropriate WYPDES permit application form. The location of the discharge point must be identified to within an accuracy of 15 seconds. This equates to a distance of 1,510 feet.

In order for the permit not to be subjected to additional public notice, the location of the established discharge point must be within 1,510 feet of the location of the discharge point originally identified on the permit application. In addition, the discharge must be within the same drainage and must discharge to the same landowner's property as identified on the original application form. If the three previously stated requirements are not satisfied, modification of the discharge point location(s) constitutes a major modification of the permit as defined in Part I.B.12. The permittee shall provide written notification of the establishment of each discharge point in accordance with Part I.A.2.a above.

12. Location of Discharge Points

As of the date of permit issuance, authorized points of discharge were as follows:

Table 1

outfall	receiving stream description	mainstem	stream miles to 2AB	QQ	sec	twm (N)	rng (W)	lat	long
001	UET to Bluegate Creek	Belle Fourche River	11.8	SENE	9	48	73	44.153116	105.631862
003	UET to Bluegate Creek	Belle Fourche River	11.9	NESW	10	48	73	44.152380	105.621488
004	UET to Bluegate Creek	Belle Fourche River	11.5	SWSE	10	48	73	44.145993	105.613831

*UET=unnamed ephemeral tributary

Requests for modification of the above list will be processed as follows. If the requested modification satisfies the definition of a minor permit modification as defined in 40 CFR 122.63 modifications will not be required to be advertised in a public notice. A minor modification constitutes a correction of a typographical error, increase in monitoring and/or reporting, revision to an interim compliance schedule date, change in ownership, revision of a construction schedule for a new source discharger, deletion of permitted outfalls, and/or the incorporation of an approved local pretreatment program.

A request for a minor modification must be initiated by the permittee by completing the form titled National Pollutant Discharge Elimination System Permit Modification Application For Coal Bed Methane. Incomplete application forms will be returned to the applicant.

The outfalls listed in the above table may be moved from the established location without submittal of a permit modification application provided all of the following conditions are satisfied:

1. The new outfall location is within 2640 feet of the established outfall location.
2. The new outfall location is within the same drainage or immediate permitted receiving waterbody.
3. There is no change in the affected landowners.
4. Notification of the change in outfall location must be provided to the WYPDES Permits Section on a form provided by the WQD Administrator within 10 days of the outfall location change. The form must be provided in duplicate and legible maps showing the previous and new outfall location must be attached to the form.

Moving an outfall location without satisfying the four above listed conditions will be considered a violation of this permit and subject to full enforcement authority of the WQD.

An outfall relocation as described above will not be allowed if the new outfall location is less than one mile from the confluence of a Class 2 waterbody and the dissolved iron limits established in the permit for the outfall are based upon Class 3 standards.

PART II

A. MANAGEMENT REQUIREMENTS

1. Changes

The permittee shall give notice to the administrator of the Water Quality Division as soon as possible of any physical alterations or additions to the permitted facility. Notice is required when:

- a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR 122.29 (b); or
- b. The alteration or addition could change the nature or increase the quantity of pollutants discharged.

2. Noncompliance Notification

- a. The permittee shall give advance notice of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- b. The permittee shall report any noncompliance which may endanger health or the environment as soon as possible, but no later than 24 hours from the time the permittee first became aware of the circumstances. The report shall be made to the Water Quality Division, Wyoming Department of Environmental Quality at (307) 777-7781.
- c. For any incidence of noncompliance, including noncompliance related to non-toxic pollutants or non-hazardous substances, a written submission shall be provided within five (5) days of the time that the permittee becomes aware of the noncompliance circumstance.

The written submission shall contain:

- (1) A description of the noncompliance and its cause;
 - (2) The period of noncompliance, including exact dates and times;
 - (3) The estimated time noncompliance is expected to continue if it has not been corrected; and
 - (4) Steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance.
- d. The following occurrences of unanticipated noncompliance shall be reported by telephone to the Water Quality Division, Watershed Management Section, NPDES Program (307) 777-7781 as soon as possible, but no later than 24 hours from the time the permittee first became aware of the circumstances.
- (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
 - (2) Any upset which exceeds any effluent limitation in the permit; or

- (3) Violation of a maximum daily discharge limitation for any toxic pollutants or hazardous substances, or any pollutants specifically identified as the method to control a toxic pollutant or hazardous substance listed in the permit.
- e. The administrator of the Water Quality Division may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Water Quality Division, Watershed Management Section, NPDES Program (307) 777-7781.
- f. Reports shall be submitted to the Wyoming Department of Environmental Quality at the address in Part I under Reporting and to the Planning and Targeting Program, 8ENF-PT, Office of Enforcement, Compliance, and Environmental Justice, U.S. EPA Region 8, 999 18th St., Suite 300, Denver, CO 80202-2466.
- g. The permittee shall report all instances of noncompliance that have not been specifically addressed in any part of this permit at the time the monitoring reports are due.

3. Facilities Operation

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 the permittee only when the operation is necessary to achieve compliance with the conditions of the permit. However, the permittee shall operate, as a minimum, one complete set of each main line unit treatment process whether or not this process is needed to achieve permit effluent compliance.

4. Adverse Impact

The permittee shall take all reasonable steps to minimize any adverse impact to waters of the state resulting from noncompliance with any effluent limitations specified in this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

5. Bypass of Treatment Facilities

- a. Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
- b. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs c. and d. of this section. Return of removed substances to the discharge stream shall not be considered a bypass under the provisions of this paragraph.
- c. Notice:
 - (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice at least 60 days before the date of the bypass.
 - (2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part II.A.2.

- d. Prohibition of bypass.
- (1) Bypass is prohibited and the administrator of the Water Quality Division may take enforcement action against a permittee for a bypass, unless:
 - (a) The bypass was unavoidable to prevent loss of life, personal injury or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (c) The permittee submitted notices as required under paragraph c. of this section.
- e. The administrator of the Water Quality Division may approve an anticipated bypass, after considering its adverse effects, if the administrator determines that it will meet the three conditions listed above in paragraph d. (1) of this section.

6. Upset Conditions

- a. 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, improper designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- b. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of paragraph c. of this section are met.
- c. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:
 - (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - (2) The permitted facility was at the time being properly operated;
 - (3) The permittee submitted notice of the upset as required under Part II.A.2; and
 - (4) The permittee complied with any remedial measures required under Part II.A.4.
- d. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

7. Removed Substances

Solids, sludges, filter backwash or other pollutants removed in the course of treatment or control of wastewaters or intake waters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering waters of the state.

