

2	BLM Response	<p>1.2.3 The first place the abbreviation – BMP – is used it is not identified as an acronym for the term “best management practices.”</p> <p>You are correct. ‘BMP’ first appears in Part 1.2.3. The full text has been added.</p>
3	CC, DOT Response	<p>1.3.6 CC: In the list of “Storm water discharges not covered under this permit” should this section also mention bodies of water that are on the state’s 303(d) report for sediment, suspended solids or turbidity in addition to those that have TMDLs?</p> <p>DOT: The TMDL issue is confusing. There needs to be extensive training provided to provide a better understanding of what this entails. The list for Wyoming is not extensive at this time; however, I can foresee more waters changing from “impaired” to a TMDL listing. If a waterway is encountered on a construction project with a TMDL, the SWPPP is going to have to be extensive.</p> <p>Including impaired waters in 1.3.6 is not appropriate in this part. Listing a water as impaired due to one or more pollutants is a step that precedes the development of a Total Maximum Daily Load (TMDL). An impaired listing generally only identifies the contributing pollutant(s) and one or more possible sources. It is only when a TMDL is developed that the source(s) and quantities of a pollutant are more thoroughly defined. A TMDL typically not only quantifies the current pollutant loads and sources of those loads, but also requires certain reductions in loads (across various sources) that are necessary for the water to meet its designated uses. Part 1.3.6 only limits coverage where a project’s storm water pollution prevention plan (SWPPP) does not meet the specific allocations for sediment, suspended solids or turbidity in storm water. Since impaired waters do not have quantitative allocation for pollutants there isn’t any target for storm water discharges to meet.</p> <p>WDEQ will be providing training throughout the state on all aspects of the new LCGP, including TMDLs and impaired waters. To assist permittees and applicants, the Department has developed a web-based application that will allow operators to locate their projects on a Wyoming map and determine if it is within 2000 feet of a water that is listed as impaired or has an EPA-approved TMDL for sediment, total suspended solids or turbidity. For the convenience of organizations needing LCGP coverage, the map also shows all Class 1 waters.</p> <p>The web-application should be available at the time the final LCGP is issued. However, if it is delayed, a static PDF map has been created and will be posted on the WDEQ storm water website until the web application is ready.</p>
4	MOC, PAW, TRU	<p>1.3.6, 3.5.11 and 8.2.2.9 Language in the Storm Water Pollution Prevention Plan (SWPPP) requiring SWPPP development (Part 1.3.6) and BMPs (Part 8.2.2.9) to be consistent with the assumptions, allocations and</p>

	<p>Response</p>	<p>requirements in an approved TMDL for sediment, suspended solids or turbidity, should be deleted from the permit for the following reasons:</p> <ul style="list-style-type: none"> ○ There is not a clear indication that construction sites are causing streams to be put on 303(d) list. Based on the data presented on page 84 of the "2010 WY Integrated Report," construction sites are not listed as one of the sources for Wyoming's impaired streams on the 303(d) list (49 percent of streams on the 303(d) list are attributed to municipal stormwater or wastewater treatment plants, 51 percent are attributed to irrigated agriculture, and 1 percent are nonpoint sources). ○ Implementation of BMPs to minimize offsite sediment transport already occurs, per permit requirements. There is not a need to add additional permit language and requirements to require measures to comply with TMDL requirements for sediment, suspended solids or turbidity. ○ Requiring a construction site to comply with TMDL allocation requirements implies a necessity to measure effluent water quality from the site, which would be difficult to implement. ○ As such, requiring operators to develop a SWPPP that is consistent with the requirements in the approved TMDL will, when applicable, place a significant burden on operators and will result in minimal additional environmental protection in the form of sediment and erosion control. As the operational burden greatly outweighs the potential environmental benefit, MOC requests DEQ eliminate this language and this requirement from the permit. <p>The requirement cannot be removed. Federal regulation at 40CFR122.44(d)(1)(vii)(B) requires that NPDES permits (called WYPDES permits in Wyoming) be consistent with the "assumptions and allocations" of any TMDL.</p> <p>For TMDL water bodies where construction is not considered a major sediment source and which have not been assigned a waste load allocation (WLA), it is still essential that sediment from construction (and other sources) be limited to the extent practicable. To that end, the WDEQ sees a benefit to ensuring that SWPPPs for projects, whose discharges may affect a water quality-limited surface water, minimize further discharge of sediment to the extent practicable. Many companies already achieve this standard and would not be greatly impacted.</p> <p>Complying with a TMDL allocation (<u>where construction has an identified WLA</u>) does not necessarily lead to a numeric effluent limitation. Non-numeric alternatives such as BMP design and selection (e.g., choosing BMPs with a specific sediment removal rate) may also be acceptable.</p>
5	YPC	<p>2.4 and 3.5.9 Yates would like clarification on what would be considered a larger common plan of development. Often operators' plans for CBM and conventional wells are developed as stand-alone projects including one to thirty or forty wells and associated infrastructure. These plans are distinct projects which are assessed individually based on economics, geology,</p>

	Response	<p>regulatory and environmental concerns as well as other factors. In the past, Yates has submitted these projects as individual NOIs and developed a SWPPP for each project accordingly. Yates suggests oil and gas operators continue to identify each project and its estimated disturbance separately in the appropriate NOI and SWPPP.</p> <p>WDEQ understands that the size and scope of most conventional oil and gas and coal bed methane (CBM) can change very quickly based on the factors mentioned above. Determining what is or isn't a common plan is not always straight forward, however, there are some basic guidelines for the oil and gas and CBM industries. For example, if a specific 'package' of well prospects are permitted with another agency or advertised to investors as an investment package, it should be considered a single project for storm water permitting. WDEQ staff will assist any operator with questions regarding their project.</p>
6	MOC, RMP, SEP, DOT	<p>2.8 MOC: Addition of a requirement specifying that vegetation used to stabilize a site must be adaptable to site conditions is a reasonable revision. To maximize the effectiveness of vegetation used to stabilize a site, it is in the best interest of the operator to use adaptable vegetation.</p> <p>RMP: New verbiage states that "vegetation must be plants or seed mixtures of forbs, grasses and/or woody vegetation that are adapted to the conditions of the site" must be used. How are weeds (weeds not on the invasive [noxious] weed list) then viewed? Weeds in an area may comprise a significant percentage of the vegetation. If weeds grow and provide a stable environment and meet the density requirement, is that satisfactory (for cases where weeds may be the dominant vegetation type)?</p> <p>SEP: Final stabilization should have the emphasis on stabilization of soils such that erosion and sediment transport off site is appropriately managed and storm water monitoring can be ceased. Long term reclamation or revegetation criteria equaling a cover density or percentage of vegetation from an offsite reference area is a different goal and typically takes substantially longer to meet. One can achieve storm water stability prior to reaching the long term revegetation or reclamation criteria.</p> <p>The recommended definition for consideration is below:</p> <p><i>"Finally Stabilized means that all soil disturbing activities at the site have been completed, and a perennial vegetative cover with a density or frequency sufficient to control erosion has been established on disturbed unpaved areas and areas not covered by permanent structures. Erosion control should be sufficient such that water naturally infiltrates into the soil and gullyng, headcutting, slumping, excessive rilling or excessive sheet erosion is not observed. Final stabilization using vegetation should be accomplished using plants or seed mixtures of forbs, grasses and/or woody vegetation that is adapted to the conditions of the site."</i></p> <p>DOT1: It may be helpful to give examples of what a permanent structure is. Are rock and graveled areas considered a permanent structure?</p> <p>DOT2: This is going to require the permit originator to do an extensive survey of the existing conditions prior to construction to inventory the</p>

		<p>no maximum acreage that can be covered under the LCGP. Many LCGP authorizations, particularly in the oil and gas field, cover many townships. The decision to cover very large areas is made on a case-by-case basis. Generally, when the decision is made to cover a very large area it is the consideration of the WDEQ that the large area operates essentially as a large, single project and that managing the erosion, sedimentation and other pollutants will be more efficient and more effective than managing parts of the project under several authorizations.</p>
8	MOC, RMP	<p>2.10 MOC: Expanding the definition of “operator” to include those with the ability to modify project plans and specifications related to the SWPPP is a reasonable revision. An individual or organization with the ability to modify project plans and specifications related to the SWPPP should be considered an “operator” as related to the SWPPP.</p> <p>RMP: The Company has concern with the proposed revisions to the definition of operator, specifically with the example given in the fact sheet for the large construction general permit, which states, “where a contractor does not have the authority or resources to make project modifications that are necessary to protect surface waters of the state, the owner of the project may be considered the operator.” The term ‘resources’ and the way it is used in the example appears to give an ‘out’ or an excuse for noncompliance to the contractor conducting the ground disturbing activities. The contractor ... should not be given such an ‘out’ regarding their activities and the requirement for them to adhere to the stipulations of the general permit. The contractor should continue to be held liable for failure to comply with the general permit. Typically compliance with the general permit is part of [the] contractor’s responsibilities as they are the entity conducting ground disturbing activities and they are contractually bound to do so. It is in the best interest of the owner of the project to conduct due diligence and procure the services of a contractor with a track record of compliance.</p> <p>Response WDEQ agrees that the project operator (the party with day-to-day control and supervision of the site; typically the contractor during construction) is the party responsible for compliance. However, WDEQ has found that occasionally, contractors do not have the required authority or resources to fully meet the definition of an operator. In these cases the WDEQ may determine that a project operator is, in fact, the owner.</p>
9	MOC, PAW	<p>2.11 Defining “reportable quantity” in the permit is a beneficial modification that helps clarify when a spill must be reported to DEQ. As such, MOC supports the inclusion of this definition in the Draft Permit.</p> <ul style="list-style-type: none"> • The definition provided in the Draft Permit is not consistent with Chapter 4 of the Wyoming Water Quality Rules and Regulations (WWQRR), which regulate the containment, cleanup and disposal of oil or hazardous substances accidentally released to waters of the state, or which threaten to enter waters of the state. Chapter 4 of the WWQRR states that the following accidental releases are reportable to the Wyoming DEQ: 1) Releases of "oil" and "hazardous substances" which enters or threatens to enter waters of the state; 2) Releases that are determined to be a threat to enter waters of the state and are: a) considered a "hazardous

		<p>substance", or b) any amount greater than either 10 barrels of any combination of crude oil/petroleum condensate/produced water OR 25 gallons of refined crude oil products.</p> <ul style="list-style-type: none"> • The DEQ definition of <i>reportable quantity</i> should be slightly revised to specify that the spill reporting is necessary only when the spilled material does physically enter waters of the state or threatens to enter waters of the state. This will make the SWPPP definition of a <i>reportable quantity</i> match the wording contained in Chapter 4 of the WWQRR.
	Response	WDEQ agrees that this information needs to be corrected and has made the appropriate changes to Part 2.11.
10	MOC	<p>2.12 A definition of the section 303(d) list and information on where this list may be obtained is helpful and necessary if the Draft Permit is going to contain new requirements based on this list. Substantive comments on the addition of the section 303(d) list and TMDL consideration to the SWPPP are provided in Part 1.3.6 above.</p>
	Response	<p>WDEQ agrees. In addition to the list, the WDEQ has developed an interactive map that will help operators locate their projects in relation to 303(d) listed, TMDL and class 1 waters. Only water bodies that are listed as impaired or have TMDLs for sediment, suspended solids or turbidity are included.</p> <p>The web-application should be available at the time the final LCGP is issued. However, if it is delayed, a static PDF map with the same information has been created and will be posted on the WDEQ storm water website until the web application is ready.</p>
11	BLM, DOT	<p>2.18 BLM: It might be helpful to have a separate definition for intermittent and ephemeral drainages. "Surface waters of the State" may be misleading and one might not think of considering intermittent and ephemeral drainages as surface waters.</p> <p>DOT: DOT suggests modifying the first sentence to read – "...which are not man-made retention ponds <u>or conveyances</u>..." This may provide clarification on our highway man-made ditches....</p>
	Response	The current definition, which is found in Chapter 1 of the Wyoming Water Quality Rules and Regulations, is the formally adopted regulatory definition for surface waters of the state. It cannot be changed for a permit and is repeated in this section for convenience.
12	DOT	2.20 Mulch, riprap and other landscaped treatments could be considered "final stabilization."
	Response	Yes, they can as long as they are adequate to minimize erosion.
13	RMP	3.2 It is common practice that the construction contractor develops the SWPPP and submits the NOI. The requirement of submitting this information to the WDEQ at least 30 days prior to construction activities is excessive. In states where EPA is the permitting authority, there is a seven day waiting period for review. The Company requests WDEQ to consider decreasing this requirement to a similar timeframe as the EPA.

	Response	<p>Project development and the process of procuring contractors contain inherent issues that conflict with meeting the 30 day waiting period.</p> <p>Part 3.3 already allows for expedited (10 day) processing of NOIs (except where sediment ponds are to be used) where necessary. WDEQ believes this is adequate.</p> <p>As in the past, the WDEQ storm water program will continue to try to accommodate operators who find that they must start work very quickly on certain projects. However, this type of “emergency” processing of applications is constrained by staff resources and operators should not expect that very rapid processing will always be available. Though the storm water program’s typical processing time is around two weeks, in general, operators should plan for a 30 day process.</p>
14	RMP Response	<p>3.3 There should still be allowance for an expedited process if the SWPPP contains designs for sediment ponds or basins as these designs are typically part of the grading and drainage plans for the project that have been designed and vetted by professional engineers.</p> <p>The WDEQ will process NOIs for projects incorporating ponds or basins as quickly as possible, however, every pond/basin design will be reviewed either by District Engineers in the WDEQ Water and Wastewater (W&WW) Program (sediment ponds) or by Storm Water Program staff (sediment basins). The time for such a review depends on staff availability and the completeness and clarity of the design.</p> <p>To expedite the design process for sediment basins, a WDEQ W&WW engineer is developing a standard design protocol for sediment basins. A design that follows the protocol will carry the stamp of the WDEQ engineer who designed the procedure. It will allow anyone to “design” a sediment basin that meets the state’s requirements. “Sediment basin” designs that deviate from the protocol will still need to be stamped by a Wyoming PE. Basin designs that follow the protocol will be easier and faster to review. However, applicants incorporating sediment ponds or basins need to be aware up front that processing may take a little more time.</p> <p>In all cases, a complete application (NOI and SWPPP) will be processed in 30-days or less. Applicants who submit incomplete NOIs or SWPPPs will be so notified within 45 days.</p>
15	DEV, BLM, DOT	<p>3.4, 3.5.15.2, 9.5 Devon does not support the requirement to submit a SWPPP with the NOI for an oil and gas construction project. The LCGP Fact Sheet states that not all SWPPPs will be reviewed or approved by the WDEQ. If there is no approval process, Devon does not feel that it is necessary to hold permittees accountable to have and follow a SWPPP by requiring the submittal of a copy of the initial SWPPP with the NOI. Operators are already held accountable to follow the terms of the general permit, including the development and implementation of an adequate SWPPP, when WDEQ issues an authorization to discharge stormwater.</p>

		<p>Operators must have the SWPPP available for inspection by the WDEQ and must follow its requirements. The SWPPP could be an evolving document (depending on what is actually encountered during construction activities) and the copy of the SWPPP that is filed at the time of NOI submission will most likely be out of date at the time of an inspection, a fact that may cause additional confusion for all parties involved.</p> <p>BLM: It needs to be clearer when the SWPPP needs to be submitted. Is it required with the NOI 30 days before construction begins? Do all NOIs require a SWPPP?</p> <p>DOT: This will impact contractors developing SWPPP and NOI when bidding Storm water Lump Sum item. Depending on time of letting, Spring to early Summer jobs will be very tight to develop a proper SWPPP on-site, research, write and then wait for DEQ 30-day process time. This anticipated 60-day permit delay after Letting will actually increase potential site erosion by pushing some early summer jobs into a second year and reseeding in the droughty second summer period.</p>
	Response	<p>Since the SWPPP is required to be developed before construction begins WDEQ believes that it will not be especially burdensome to ensure that it is ready at the time the NOI is submitted. The typical time to process an NOI (where the NOI is complete) has been around two weeks for the last 10 years. While always somewhat dependent on competing priorities within the storm water program, WDEQ does not expect the typical processing time to change. Do keep in mind that NOIs and SWPPPs that are incomplete will now be returned without processing which will extend the processing time.</p> <p>WDEQ acknowledges that the SWPPP submitted at the beginning of a project will, in most cases, be modified by the time an inspector arrives on site. Inspectors are aware that SWPPPs change frequently and will review the on-site SWPPP for compliance at the time of an inspection.</p> <p>Part 3.15 requires that a SWPPP be submitted with the NOI.</p>
16	RMP	<p>3.5.10 How does WDEQ envision this to be applicable to linear projects, where there may be several unnamed drainages? A linear project could be 'near' hundreds of drainages. Is there a distance component to this?</p>
	Response	<p>This requirement is not new with this permit. If there is a potential storm for water discharges from the construction site to reach a "surface water of the state" then it should be noted in the SWPPP and in the NOI. Typically, operators of linear projects develop a table of waters that will be crossed or that the construction area will come very close to and that could be impacted. Such a table can be attached to the NOI. There is no specific distance component since whether a drainage may receive discharges depends not only on how close the disturbed area is to a drainage, but also on slope, vegetation and soil type. Applicants are expected to exercise "best professional judgment" in determining which waters may receive storm water discharges from the project.</p>
17	CC, DOT	<p>3.5.11 and 8.2.2.9 CC: In the list of required contents of an NOI (3.5.11)</p>

	<p>Response</p>	<p>and again in Section 8.2.2.9, there is a discussion of identifying water bodies within 2000 feet of the construction site that are on the state's 303(d) report or have TMDLs due to sediment, suspended solids or turbidity.</p> <p>As portions of Cheyenne's storm sewer system is currently designed and operated, especially in the older sections of town, once storm water enters the system it is conveyed directly to the receiving body of water. Consequently, any sediment or other contaminants that enter the storm sewer will also be directly discharged to the receiving body of water.</p> <p>Therefore, we believe that all construction projects that directly drain to a body of water on the state's 303(d) report or that have TMDLs due to sediment, suspended solids or turbidity, regardless of distance, should take those requirements into account in their SWPPP. For those situations whereby the construction site is so far removed from the receiving water body that sediment will not be transported into the receiving water, we would consider a statement of such (possibly with supporting calculations or figures) in the SWPPP as adequate.</p> <p>DOT: Contractor or WYDOT will now have to identify US Waters (e.g., State waters) within 2,000 ft.(0.4 mile) surrounding a project with potential to receive runoff into Section 303(d) "non-point" sediment listed, impaired water bodies. Since NPDES is under the Clean Water Act (CWA) Section 402-Point Source Pollution appears expansion of Regulatory powers not intended in Revised CWA of 1987 (i.e., Water Quality Act). The identified 303(d) Listing is user non-friendly, comprising five different Tables including TMDL listings. To further confuse, the DEQ listing priorities change from year-to-year. The contractor can only access the approximate watershed(s) in question by understanding Hydrologic Units (HUCs), 8-digit sub-basin codes utilized in Federal Water bureaucracy. That's only to sub-basin level, but the actual watershed ID is a separate code of 16-digits in a different database! Now imagine what a 10-mile linear project crosses in the number of individual watersheds plus reaches to be researched by a general contractor, not hydrologists by training.</p> <p>WDEQ agrees that sediment discharges to storm drains are not mitigated by distance to receiving waters. 3.5.11 has been rewritten to address construction site discharge to storm drain systems.</p> <p><i><u>"Identify any water bodies that are listed on the state's 303(d) report as impaired due to sediment, suspended solids or turbidity or have an approved TMDL for sediment, suspended solids or turbidity that:</u></i> <i><u>3.5.11.1 are within 2000 feet the construction site and that may receive runoff from the construction site or;</u></i> <i><u>3.5.11.2 will receive construction site storm water discharges that enter a storm sewer system regardless of the distance from the receiving water. For this paragraph, storm sewer systems are considered to be piped systems that are typical in developed areas."</u></i></p>
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		<p>Sources of sediment to impaired or TMDL-listed waters can be from point or non-point sources. Federal regulation at 40CFR122.44(d)(1)(vii)(B) requires that NPDES permits (WYPDES permits in Wyoming) be consistent with the “assumptions and allocations” of any TMDL. Where a TMDL is developed that assigns construction site runoff a specific “Wasteload Allocation” (WLA), the SWPPP must be consistent with that WLA. Where a TMDL has not assigned a specific “load” to construction or for waters listed as impaired due to sediment, it is still incumbent on the WDEQ and the permittee to limit further harm to the receiving water by minimizing sediment discharges.</p> <p>WDEQ has developed a web-based application to assist applicants in locating impaired or TMDL-listed waters. See the response to comment 3 for more information.</p>
18	MOC, PAW, TRU, SEP, WEA, WP	<p>3.5.15 MOC does not agree with the requirement to submit all SWPPPs with the NOIs. This requirement should only be on a case by case basis as determined by the authorized DEQ representative, and as is stated in the existing LCGP. The SWPPP is a living document that is continuously changing as site conditions evolve and site construction progresses. Consequently, in many cases, a SWPPP submitted with the NOI will be out of date almost immediately after a construction project is started. Since this does not appear to be a federal requirement, MOC does not believe DEQ should incorporate this requirement into the new LCGP.</p> <ul style="list-style-type: none"> • MOC believes that requiring submittal of the SWPPP with the NOI will cause a delay in implementing a construction project. The current practice of allowing a SWPPP to be developed after the NOI is submitted, but prior to commencing any ground disturbing activities is a more reasonable requirement, and will still result in adequate protection of the environment. • As such, MOC requests DEQ strike this requirement from Part 3.5 such that the NOI does not have to include a SWPPP, unless requested by the authorized DEQ representative, or if the discharge could affect a Class 1 water. <p>TRU: ...Requiring a complete SWPPP to be submitted before the NOI will be processed may cause unnecessary delay in construction operations while the SWPPP is being processed and authorized by WDEQ. Since the Draft permit provides that an NOI and SWPPP must be submitted to WDEQ and coverage under the permit must be authorized in writing prior to the start of soil disturbing activities, operators will be forced to delay construction activities until the SWPPP has been authorized. This revision places an unnecessary burden on oil and gas operators that often must adhere to a rigid schedule when developing well locations. Waiting for SWPPP authorization could significantly interfere with site development. Requiring operators to wait for SWPPP authorization is unnecessary because operators will begin implementation of the SWPPP immediately upon submitting the NOI.</p> <p>SEP: The current general permit provides for submittal of the NOI and certifying that the SWPPP will be complete and on site prior to start of construction. Early submittal of the SWPPP with the NOI may cause</p>

	<p>Response</p>	<p>significant rework of the SWPPP following submittal as construction plans are finalized. The preferred approach is to retain flexibility under the existing permit by requiring that the SWPPP be available onsite prior to construction start. If this practice is no longer acceptable it is recommended that the SWPPP be submitted at any time prior to construction start, but not necessarily at the time of NOI submittal. This submittal prior to construction start provides for the best alignment of the SWPPP and construction plans by providing additional time to align final construction plans and the SWPPP. Our understanding of the proposed general permit is that the SWPPP is not being formally approved by WDEQ when submitted but rather placed on file along with the NOI so the NOI and the SWPPP are readily available to the agency.</p> <p>WEA: For WYR10-0000, the large construction general permit, we recommend that the requirement to submit the SWPPP with the NOI be revised to apply only to projects disturbing at least 100 acres or discharging to class 1 waters. This requirement is referenced in Sections 3.4 and 3.5.15. If all projects disturbing 5 or more acres are to include the SWPPP, the Department will be swamped with documentation that it will not be able to review and the applicant will not have any added assurance that their SWPPP is in compliance. However, it makes sense that the WDEQ would want to verify that the SWPPP is adequate for the largest and for discharges to outstanding waters.</p> <p>WDEQ disagrees that submission of the SWPPP will cause delays in the issuance of letters of authorization (LOA). It is expected that NOIs will be processed and LOAs will be issued at a pace similar to the recent past.</p> <p>For projects where the SWPPP will not be complete until relatively close to construction, operators may request expedited processing under Part 3.3 (unless sediment ponds or basins are included). Operators requesting expedited processing should ensure their NOI and SWPPP are complete or processing will be delayed. Applicants should also make the storm water staff aware of any time constraints as early as possible.</p> <p>SWPPPs may be submitted later than the NOI, but an LOA will not be issued until a SWPPP is received.</p> <p>WDEQ understands that oil and gas construction projects are quite different from traditional construction in that each new construction activity is dependent on the information obtained from each new well or other newly developed data as well as market forces. Pipeline companies also rarely know very far in advance where their next construction activity will occur as it depends on where and when new producing wells are ready for connection to a pipeline. For these types of operations the permit does not require that the applicant know where, when or how all future construction will occur. As in the past, applicants may outline an area where they expect to conduct activities throughout the life of the project, but only specifically address in the initial SWPPP the construction</p>
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	Response	<p>WDEQ agrees with the commenters that a transfer prior to a change in operational control may not always be possible. The deadline for submitting an NOTA in 4.2 has been changed to within 14 days of the change of operational control. This allows a 28-day window to complete the transfer.</p> <p>Late submission of NOTAs has been an ongoing issue on many transfers. In an effort to encourage timely submission of NOTAs the following language has been added to <u>remind</u> permittees that submitting a late NOTA may result in an enforcement action: <i><u>“Late submittals will not be rejected; however, the Department reserves the right to take enforcement with the current operator for any unpermitted discharges or permit noncompliance.”</u></i></p> <p>WDEQ also added language to 4.3 to remind all parties of a transfer that the storm water program notifies both parties when a transfer is complete. If notification is not received, the transfer was not completed and one or both parties should follow up with program staff.</p>
21	WEA	<p>4.5 We recommend the elimination of the requirement in Section 4.5 of WYR10-0000 for the permittee relinquishing coverage to “provide the new permittee with copies of the site SWPPP and inspection and maintenance records.”</p> <p>This transfer of records requires the generation of potentially significant amounts of paper and is unnecessary because the permittee transferring the permit continues to have requirements to maintain those records as specified in the permit. Requiring the transfer of the historic records blurs the distinction between the responsibilities of the original owner and the new owner. The original owner had responsibility for the permit and required actions up until the time of the permit transfer while the new owner has responsibility for the permit and required actions from the time of permit transfer forward.</p> <p>Response This provision is not intended to “blur” the line between former and current permittees. It is intended to provide the permittee accepting a transfer complete information on the site BMPs and any difficulties with site pollution control experienced by the previous permittee. It also aids WDEQ inspectors, especially when they are inspecting a newly transferred site, by providing a more complete record.</p> <p>However, WDEQ agrees that transferring a long record is unnecessary. WDEQ will limit the records transfer to the most recent 12 months. This should limit the work required, especially for oil and gas permittees whose authorizations may be in effect for many years. Added language to 4.5 is: <i><u>“For inspection and maintenance records, only the most recent 12 months’ records need be provided to the new permittee.”</u></i></p>
22	DOT	<p>5.4 DOT1: This part requires the removal of temporary BMPs. Does this include removal of erosion control blankets that are designed to have vegetation grow through it? To avoid disturbing revegetation, is it</p>

		<p>acceptable to cut silt fence down at ground level and leave the buried portion in place?</p> <p>DOT2: Notice of Termination (NOT) now requires temporary synthetic and structural BMP removal prior to 'NOT' submittal. This would seem counter to good erosion prevention and could increase sediment production. Removal of installed erosion blankets incurs extensive vegetative cover disruption, removal of buried silt fences involves significant sediment exposure once vegetation has rooted down, removal of rock check dams involves ditch bottom exposure using machine work. Removal of soil stabilization items is site dependant and engineering oversight and should not be a layman one size-fits-all requirement.</p>
	Response	<p>WDEO does not intend that rolled erosion control products that are designed for vegetation to grow through be removed. Most of these products are not intended to be removed and usually degrade fairly quickly. The silt fence material can be cut to the ground (with landowner consent). Posts should be removed. In regards to rock check dams, those that are intended to be permanent installations certainly do not need to be removed. Rock check dams that are intended to be temporary should be removed.</p>
23	WEA, DOT	<p>5.4.3 WEA: We recommend that Section 5.4.3 be revised to allow alternate level of stabilization for all oil and gas facilities, including transmission facilities.</p> <p>The alternate level of stabilization was developed in 2006 to accommodate BLM requirements for oil and gas facilities. However, the use of the term "producing oil and gas facilities" implies that this only applies to oil and gas wells. Because surface facilities and access roads for oil and gas pipeline facilities share similar conditions and BLM requirements, it is requested that this alternate level of stabilization would apply to those facilities as well.</p> <p>DOT: Why is Oil & Gas, is not required to revegetate their dormant haul roads(i.e., site access roads) and WYDOT Staging sites and gravel pits/quarries are required to revegetate haul roads once mining or construction activity ceases? A haul road is a haul road and has potential to generate significant sediment from wind and water erosion, long term.</p>
	Response	<p>WDEO believes the current language is adequate to include limited facilities along oil and gas pipelines such as block valve locations and meter stations as well as associated access roads.</p> <p>Only O&G the roads to producing facilities may be left unvegetated for purposes of terminating coverage. Those roads which to run to "dry holes" or other "abandoned" facilities must be revegetated to LCGP standards.</p>
24	MOC, PAW, TRU, WP	<p>Part 7 MOC suggests changing "Part 7 Effluent Limits" to "Part 7 Pollution Prevention Measures." Section Title, "Effluent Limits" is not representative of section content. MOC suggests changing the title for clarification and</p>

	Response	alignment with section content. This section, formerly titled Additional Terms and Conditions, is essentially a compilation of narrative effluent limits. WDEQ believes the title is appropriate.
25	MOC, PAW, TRU	7.1.2 The term "best which is attainable" is ambiguous and difficult for permittees to define or achieve. As such MOC suggests DEQ further clarify this standard for water discharge. PAW suggests striking Part 7.1.2 from the permit because the information stated in Sections 7.1 and 7.1.1 is sufficient. TRU suggests the following language change: <i>"The quality of permitted storm water discharges shall reflect the best <u>a standard of practice</u> which is attainable through proper implementation of all items in the facility SWPPP."</i>
	Response	A permittee achieves this standard when installing, operating and maintaining BMPs according manufacturers' specifications or accepted industry standard. Operating BMPs in this manner should provide the most effective pollutant removal from each BMP.
26	PAW, BLM	7.4 PAW: Move Parts 7.4.1, 7.4.2, and 7.4.3 to Part 2 Definitions to define visible or measurable erosion and reference in Part 7.4. Modify language as follows: <i>"Visible or measureable erosion, as defined in Part 2 Definitions, associated with a construction activity, which leaves the construction site as a result of inadequate or ineffective SWPPP design or maintenance of BMPs is prohibited."</i> BLM: It might be helpful to specifically mention rills and gullies. These are technically "evidence of concentrated flows" but I think it would click with people better if they hear "rills and gullies."
	Response	While the definition could be moved to Part 2, WDEQ believes it is most helpful to leave the complete discussion of Visible and Measurable Erosion where it is. WDEQ agrees that reminding permittees that rills and gullies are evidence of erosion and has added that language to Part 7.4.2.
27	MOC, PAW	7.4.1 Prohibiting "[d]eposits of mud, dirt, sediment, or similar material exceeding one cubic foot volume in any area of 100 square feet or less on public or private roads, adjacent property, or into waters of the state by deliberate actions or as a result of water or wind erosion" is an unreasonable sediment control standard. One cubic foot per 100 square feet is equivalent to 0.01' (or <1/8") sediment thickness. This degree of sediment deposit can, and often does, occur during even a moderate Wyoming wind event. Efforts to recover such a small amount of sediment could potentially result in damage to adjacent vegetation and additional topsoil disturbance. As such, MOC requests DEQ modify this standard to allow for increased deposits of sediment – at least double the existing standard to two cubic feet per 100 square feet (or approximately <1/4"). Doubling this standard will adequately limit allowable sediment deposits and establish a more reasonable standard that operators can adhere to

	Response	<p>without having to conduct extensive sediment control operations every time the wind blows.</p> <p>Part 7.4.1 only defines what “visible and measurable erosion” is. This section does not require that such deposits be removed. Part 7.5 discusses when offsite sediment deposits must be removed. This part does not require that all offsite deposits must be removed. Deposits must be removed when necessary to minimize adverse offsite impacts. WDEQ agrees that in some cases, it may be more harmful to remove deposited sediment than to leave and stabilize it.</p>
28	PAW, TRU, WP, BLM	<p>7.5 PAW requests DEQ retain the “as soon as is prudent” standard as used in the existing general permits for oil/gas operations. Requiring removal of offsite accumulations of sediment to minimize offsite impacts is reasonable. However, establishing a rigid timeframe for which such action must be taken (7-days or prior to next precipitation event) may place an unreasonable requirement on operators to respond to an erosion event sooner than possible. Under some circumstances (i.e. remote locations), it may be impossible for operators to respond within 7-days of determination.</p> <p>WP: The revised draft LCGP requires that operators remove offsite sediment that is a threat to surface waters within 7 days of determination or before the next precipitation event, whichever is sooner. Williams believes that removal of offsite sediment is not necessary in every instance, and could lead to surface damage that might not have occurred if sediment was stabilized in place. Additionally, by requiring operators to access a location too soon and/or too often may lead to undesirable effects such as increased traffic, surface damage to adjacent land, etc. Williams recommends that WDEQ modify the language to allow for sediment removal activities to commence “within fourteen days of determination or as soon as environmental conditions allow.”</p> <p>As you are well aware, oil and gas activities that are required to comply with either the Small or Large CGP are de-centralized and cover large areas. Unlike most conventional construction sites where the disturbance is 70 – 100% of the proposed location, the disturbance in our plans is often less than 10% of the total area. These disturbances are spread out over many miles of pipelines, roads and pads, which makes it difficult to access all the areas quickly and/or frequently without potential adverse impacts. Additionally, construction activity associated with these large plans takes place in stages over extended periods of time. This dynamic environment makes the new requirements for updating plans and BMPs associated with temporary and final stabilization difficult to implement, especially for temporary stabilization activities.</p> <p>BLM: It needs to be clearer where deposited sediment that is cleaned out needs to be moved to. Is it supposed to go to a stockpile? Is it allowed to be deposited on a topsoil stockpile?</p>
	Response	<p>The WDEQ agrees that immediate sediment removal in rural, remote areas is not always possible or advisable if conditions are too muddy. The following language has been added to these situations (7.5.2 and 7.5.3). A section discussing stabilization in place has also been added (7.5.4).</p>

Appendix C, 2.3 (in the proposed permit) has also been removed because 7.5 adequately covers the topic.

Clarification as to where removed sediment can be placed has not been added. WDEQ believes that the erosion and sediment control requirements of the permit adequately address sediment management.

“7.5.2 Operators of projects in remote, rural sites that do not have “all season” road access may delay sediment removal until site conditions are appropriate for access. The reason for such a delay must be documented in the SWPPP.

7.5.3 Sediment removal may also be delayed where there is access to the area, but field conditions are too wet or muddy to work without causing damage to the area. If necessary to prevent discharge of sediment to surface waters or storm drain systems, and if practicable, the permittee should install additional sedimentation controls to contain the sediment until it can be removed. Actions taken under this paragraph should be documented in the SWPPP.

7.5.4 In certain situations where removing sediment from an area will likely result in greater sediment discharges than if it is permanently stabilized in place, then it may be advisable to seed or otherwise stabilize that area rather than remove the deposit. Such stabilization must be acceptable to the landowner or manager and be accomplished as soon as practicable and documented in the SWPPP.”

29 APC, DEV, DNS, MOC, PAW, DOT

7.5.1 APC: More times than not, soil conditions are such that if equipment is brought in to remove sediment that has been deposited due to erosion before conditions are allowed to dry up, more damage will be incurred than is being prevented by removing sediment. APC proposes the language be modified to read, “...then it must be removed as soon as practical to prevent further damage to the site and preferably before the next precipitation event ...”

DEV notes that operators are often bound by legal surface-use agreements that restrict access to prevent surface damage during adverse conditions. Devon suggests that this provision be amended to read “within 7 days or as soon as field conditions allow access.” This language would also be consistent with Appendix C, 2.1.1.

DNS suggests extending the time frame for cleanup to 14 days on remote construction sites while maintaining the seven-day limit for road projects, urban projects and where discharges occur to a class 1 water.

MOC: Under some circumstances (i.e. remote locations), it may be impossible for operators to respond within 7-days of determination or prior to the next precipitation event. It is highly speculative to determine when the next precipitation event may occur at any particular construction site. Furthermore, considering the cumulative effect of very small amounts of sediment that might leave the site and be incorporated into drifting snow during numerous events over the course of winter, the permit holder might not even recognize that a significant amount of sediment (consistent with the above specified thickness [see MOC comments at 7.4.1]) had left the

		<p>site until snow drifts have finally melted. As such, MOC requests DEQ retain the “as soon as is prudent” standard as used in the existing SWPPPs for oil/gas operations.</p> <p>DOT1: Who makes the determination that sediment must be removed?</p> <p>DOT2: Salvage of off-site sediment is now limited to 7-days from discovery or the next 0.5-inch storm. This is focused more on urban street construction but not always practical in rural, Wyoming isolated road construction. Rural mud flows or landslides have incurred large volumes of material taking more than one week to remove. Depending on location, constructing pioneer roads to a slide toe can sometimes involve Federal Agency NEPA approval far surpassing 7 days prior to any equipment mobilization. The previous “soon as prudent” remains a good flexible action statement.</p>
	Response	<p>See the response to 7.5 above for a response to most of comments on 7.5.1.</p> <p>DEV: Part 7.5, which addresses offsite sediment removal, and Appendix C, 2.1.1, addressing BMP maintenance, are unrelated and consistency in the timelines described in each paragraph is not necessary.</p> <p>DOT1: The permittee’s own inspector must, in most cases, make the determination that sediment from the construction site offsite sediment is or is not likely to enter surface waters of the state or a storm drain system. In the event of an onsite inspection from the WDEQ, the state’s inspector may also make the determination.</p>
30	PAW	<p>7.8 The use of sediment ponds or basins would be critical in an emergency response capacity to prevent spilled material from reaching waters of the state. Suggested additional language:</p> <p><i>“Sediment ponds or basins temporarily constructed for the purpose of emergency response to contain spills are allowed without stamped approval by a Wyoming-licensed, professional engineer.”</i></p>
	Response	<p>WDEQ would not consider a temporary containment structure built as an emergency spill containment feature to be a sediment pond or basin and would not be subject to 7.8.</p>
31	MOC, BLM, DOT	<p>7.9 MOC: This Part requires that “[a]ll design plans and calculations for sediment ponds must be included with the SWPPP at the time of application. Sediment pond designs must be stamped by a Wyoming-licensed, professional engineer (PE).”</p> <ul style="list-style-type: none"> • Obtaining a Wyoming-licensed PE to stamp sediment pond designs is a burdensome requirement for operators to comply with. This will require companies to incur the expense of hiring a PE to review and stamp their sediment pond design, costing the company additional time and money to complete the SWPPP. By including such a requirement, DEQ is making it more burdensome to use settling ponds as a method of sediment control, thus discouraging companies from designing and building sediment ponds. DEQ’s objective should be to encourage the use of sediment ponds as an effective method of sediment control rather than discourage their use through the implementation of onerous requirements. • Additionally, the professional and effective design of sediment ponds has

		<p>been achieved for years without the oversight of a licensed PE further eliminating the need for this requirement.</p> <ul style="list-style-type: none"> • As such, MOC suggests DEQ eliminate the requirement that plans and calculations for sediment ponds be stamped by a PE. <p>BLM: Need to be clearer what designs and calculations will be included in the SWPPP. I suggest requiring trapping efficiency, effluent concentration and maybe the sediment outflow from a given storm.</p> <p>DOT: <u>7.9 and 7.10</u> Requiring all sediment ponds and some small sediment basins (i.e., 2 yr/24 hr. storm) to be designed and stamped by a WY-licensed consulting engineer is probably illegal on Federal projects but not on 100% financed State projects. This will further delay SWPPP development by out-of-state contractors and in-state contractors seeking local Federal Agency (NRCS) design assistance. See Part 3-3.4 “delay-of-project” comment.</p>
	Response	<p>Part 7.9 addresses sediment ponds as defined and regulated in WWQRR Chapter 11, Section 31 (called “sediment control facilities” in Chapter 11). Chapter 11 specifically requires that the design of such projects be prepared under the supervision of a Wyoming-licensed engineer. Other engineers may approve designs only as allowed under Wyoming Statute, Title 33, Chapter 29. These requirements are not new to this permit.</p> <p>BLM: The specific designs and calculations are specified in the WWQRR, Chapter 11, Section 31.</p>
32	WEA	<p>7.10.5 We recommend that Section 7.10.5 be revised to additionally allow certification of sediment basin design by a certified landscape architect or a certified professional in erosion and sediment control.</p>
	Response	<p>Wyoming Statute, Title 33, Chapter 29 governs what must be stamped by an engineer and pond and basin designs fall into this category. However, for sediment basins, a WDEQ W&WW engineer is developing a standard design protocol that will not require an applicant to provide a Wyoming Professional Engineer’s stamp. A design that follows the protocol will carry the stamp of the WDEQ engineer who designed the procedure. It will allow anyone to “design” a sediment basin that meets the state’s requirements. “Sediment basin” designs that deviate from the protocol will still need to be stamped by a Wyoming PE.</p>
33	PAW	<p>7.13.4 The definition of significant groundwater, Part 7.13.4, should be included in Part 2 Definitions.</p>
	Response	<p>While the definition could be moved to Part 2, WDEQ believes it is most helpful to leave the complete discussion of significant groundwater where it is.</p>
34	APC, DEV, DNS, MOC, PAW, TRU, WP, DOT	<p>7.14.1 APC: Weather is an overlying factor that affects all development in Wyoming. Especially when Oil and Gas operators are required to work around timing stipulations invoked by other agencies forcing much of the work associated with development to be done in the fall when weather is a determining factor affecting completion of work. APC proposes the language be modified to read,</p>

“...be initiated as soon as practicable following any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 30 calendar days...”

DNS suggests that retaining the 28-day period is appropriate where stipulations required by a land-management agency or environmental conditions preclude access to an area. The 28-day period should also apply to remote locations where less than 10% of the permitted area will be disturbed.

MOC: During construction of oil and gas sites it is not uncommon for 14 days to pass without earth disturbing activities taking place (i.e. when moving equipment on-site, conducting other site preparation, unexpected delay due to weather or change in priorities). Consequently, the stabilization requirements in this part may be regularly triggered placing a significant burden on operators.

- MOC is not opposed to initiating necessary and **temporary** stabilization of disturbed areas when earth disturbing activities have permanently or temporarily ceased. However, requiring operators to initiate **permanent** stabilization where earth disturbing activities won't resume for at least 14 days may place an unnecessary and onerous burden on operators.

- Additionally, the term *immediately* is unreasonable as immediate stabilization may not be feasible for several reasons including weather limitations and availability of equipment and personnel.

- As such, MOC suggests DEQ modify this requirement suggests the following language change:

“~~Final or~~ Temporary stabilization of disturbed areas must, at a minimum, be initiated ~~immediately~~ as soon as practical whenever any clearing, grading, ~~excavating~~ or other earth disturbing activities have permanently or ~~ceased on any portion of the site, or~~ temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days.”

WEA: *Immediate initiation of stabilization on portions of the project where earth disturbing activities will cease for 14 or more days.* The previous general permit stipulated that temporary stabilization would be installed in areas “where further work is not expected.” The change to using soil disturbing activities as the trigger makes this requirement impractical for pipeline construction, given the limited access to the ROW and the fact that construction progresses in waves (first is clearing and grading, then laying and constructing pipe, then trenching, etc.). Under these circumstances, it would not be uncommon for earth disturbing activities to cease on a portion of the project for more than 14 days, but for construction activities in the area to be ongoing. The construction ROW is also the access route to accomplish activities that are not typically considered to be soil disturbing but are intrinsic to the project, such as laying down pipe along the right-of-way, welding the pipe joints together, creating bends in the pipe to accommodate route and terrain, lowering the pipe into the trench, testing the pipe, and connecting it to the rest of the system. Because the temporary stabilization mechanisms listed would

	<p>Response</p>	<p>inhibit access or would be damaged by access, it would be impractical to apply them repeatedly during the project. And while the draft does allow practices that provide equivalent erosion protection, it is not practical to achieve this level of stabilization during an active construction project.</p> <p>WP: Part 7.14 of the new LCGP requires operators to <i>immediately</i> initiate permanent or temporary stabilization of disturbed areas where earth disturbing activities have stopped either permanently or won't resume for at least 14 days. This section is based on new federal regulations. Williams feels that the term "immediately" is subjective and will be difficult to comply with and enforce. Williams proposes modifying the language to "as soon as practical" to retain the original intent but provide a more pragmatic requirement. This proposed modification also applies to Part 8.2.4.1.c.</p> <p>Additionally, Williams proposes that the timeframe be changed from 14 days to 28 days, as originally required in the 2006 permit. Unforeseen circumstances like weather, contractor availability, etc., that might delay construction activities for a week or more, would also delay the ability for an operator to implement stabilization measures at the same location. Regulatory and permit requirements from other agencies, particularly timing limitations from BLM, may also affect our ability to implement BMPs within the proposed 14 day timeframe. Williams believes the language in the previous (2006) permit provided a practical timeframe for site stabilization to take place and should also apply to Part 8.2.4.1.c.</p> <p>DOT: Reducing temporary stabilization requirements from 28 days to 14 days maximum of ceased earth moving is not practical under Wyoming weather conditions. Late Fall in Wyoming, usual to have high blow, windy periods exceeding 7 days. Wind-scoured straw is not effective erosion prevention if forced in winds >15 mph. Application of erosion blankets similarly impacted by Wyoming "blow" weeks. Blanket attachment pins require unfrozen topsoil. Cover crops, although effective in humid climates, are nonfunctional under arid Wyoming climate and more likely to be wind scoured ahead of any Spring germination moisture. Soil roughening (ripping or disking) better fits Wyoming harsh climate at the end of the Fall construction window but may take more than 14 days on 10-mile long linear project undergoing early winter storms.</p> <p>WDEQ must retain the 14-day period as the trigger to initiate stabilization. The 14-day period is a new provision in federal regulation (at 40CFR451.21(b)) and the state may be no less stringent than the federal standard. It is important to emphasize that stabilization must be <u>started</u> in 14 days. It does <u>not</u> have to be completed in that time. The permit does not specify a completion time. WDEQ expects that the time to complete stabilization will be dependent on factors such as project size, use/access restrictions by landowners and land managers and weather.</p> <p>To make it clear that areas of a construction site that are needed for site access or ongoing work activities are not subject to the 14-day window to initiate stabilization, even though earth moving may be completed, the following sentence has been added to the end of 7.14.1: <i>Operators are</i></p>
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		<p><u><i>not required to initiate stabilization measures in areas of a project that are essential for site access or work activities (such as pipeline assembly and installation) until those areas are no longer needed for ongoing access or work.</i></u></p> <p>The concern that that the permit requires initiation of <u>permanent</u> stabilization immediately when earth moving activities will not resume for 14 days or more is unfounded. Temporary stabilization may be used anytime; whether the cessation of earthwork is temporary or permanent. Temporary stabilization may be used as an interim practice until the operator is ready to begin installing permanent stabilization measures. Part 7.14.2 has been modified to further clarify this point: <u><i>“... or when weather or other conditions are not appropriate for initiation of permanent stabilization seeding or landscaping.”</i></u></p> <p>WDEQ agrees that not all stabilization measures are equally effective in all parts of Wyoming. High winds, lack of predictable moisture, variable soil types, periodic access restrictions and innumerable other difficulties will make planning the most important aspect of this paragraph. WDEQ does expect operators to make a reasonable effort to implement this paragraph and, to the best of their ability, to prioritize implementation for areas that are most likely to cause impacts to surface waters if left unprotected. When weather, access restrictions or other factors outside of the operator’s control delay implementation the operator should document the causes and complete implementation as they are able.</p>
35	BLM	<p>7.14.3 Where it says that graded slopes must be protected, it might be helpful to set a minimum slope value that requires protection; i.e., “Slopes greater than x% require protection.”</p> <p>Response WDEQ believes setting a minimum slope requiring protection is not particularly helpful since slope erodibility also depends soil type and slope length. It will be left to individual operators to make that determination.</p>
36	DOT	<p>7.14.4 Would storm water control ditches (contour ditches or temporary diversions) be considered temporary stabilization?</p> <p>Response Contour or temporary diversion ditches could certainly be considered a part of a stabilization plan, but should not be used as a sole practice. Stabilization of the ground in between the ditches would also need to be addressed.</p>
37	APC	<p>7.14.5 APC proposes the language be modified to read “... <i>Where stabilization within 30 days is precluded by ...</i>”</p> <p>Response As discussed in the response to comments on 7.14.1, 14 days is now the national standard. However, the paragraph has been modified to be clear that it is only discussing the initiation of stabilization measures, not completion: <u><i>“Where initiation of stabilization within 14 days is precluded by snow cover or frozen ground conditions, stabilization measures must be initiated as soon as practicable.”</i></u></p>
38	BLM	<p>7.16 The sentence “Visible and measurable erosion that leaves the</p>

		<p>construction site from such storm events should be minimal” is very vague.</p> <p>Response WDEQ believes the paragraph offers appropriate flexibility to accommodate the many types of construction sites covered by this permit.</p>
39	DOT	<p>7.18.1 Concrete grindings (e.g., pavement dowel pin replacement, etc.) has now been equated to concrete washout. Cured concrete does not have the high alkaline pH issue due to inherent aggregate buffering unlike concrete washout or slurry (unbuffered) prior to reaction.</p> <p>Response At the time this draft was written the WDEQ Solid and Hazardous Waste Division was evaluating how concrete grindings and slurry should be managed. They have since concluded that grindings and grinding slurry do not require special management. “Grindings and slurry” have been removed from 7.18.1. Under the LCGP grindings and slurry should be managed as sediment.</p>
40	DNS, MOC, PAW	<p>7.19 DNS: Portable toilets may also be permanently attached to a trailer or adequately staked to prevent being upset.</p> <p>MOC: The requirement under this Part that “<i>portable toilets must be properly staked to prevent tipping by vandals or blowing over in the wind</i>” will be difficult and sometimes impossible to comply with at certain times of the year and under certain circumstances. When the ground is frozen or weather conditions prevent construction site access, it may be impossible to properly stake portable toilets.</p> <ul style="list-style-type: none"> • As such, MOC requests DEQ eliminate this staking requirement or modify the language as follows: <i>“Portable toilets must be properly staked to prevent tipping by vandals and blowing over in the wind <u>when staking can be reasonably accomplished.</u>”</i> <p>Response The word “staked” has been replace by “secured” to allow any equivalent alternative to staking, such as trailer mounting.</p>
41	APC	<p>7.21 APC proposes that while all storm water discharges must comply with reasonable guidelines of other agencies in regards to Storm Water management, it should be established in this permit that WDEQ has primacy over the Storm Water program in the State of Wyoming. There have been instances in the past where other agencies requested actions that were not reasonable or a requirement of the existing SWPPP permit.</p> <p>Response The state storm water program does not and cannot supersede the requirements of other agencies.</p>
42	BLM	<p>8.1.1 The last sentence needs to be changed to “It is not required that the SWPPP be prepared by a registered engineer.” In some cases the SWPPP may need to be prepared by a PE, but it is not required.</p> <p>Response WDEQ agrees that the proposed change is clearer and has changed the language.</p>
43	PAW, TRU	<p>8.1.3.1 PAW requests DEQ limit the scope of potential sources of pollution that must be identified in the SWPPP. The phrase “<i>which may reasonably be expected</i>” is ambiguous and open to interpretation. This places a</p>

		<p>burden on operators to determine which sources of pollution fit this definition. Additionally, it requires operators to identify potential sources for pollution that may be broader than necessary to prevent discharge of a pollutant.</p> <p>Response The SWPPP is a general “pollution prevention plan” and not just an erosion and sediment control plan. This section is intended to remind operators to look at any source of pollutants that could be expected to leave the site in storm water. As such, WDEQ believes this section is a useful reminder to operators.</p>
44	BLM	<p>8.1.3.2 It would be helpful to specify what shall be included in a thorough description of the specific BMPs, i.e., “The description should include a the location, a diagram, how it will be installed, etc.”</p> <p>Response WDEQ believes the current language is adequate.</p>
45	BLM	<p>8.1.3.3 This sentence sounds redundant. It might sound better to reword it to: “Ensure that the practices selected are in accordance with good engineering...”</p> <p>Response WDEQ agrees and has made the following correction: <i>“Ensure the practices described shall be selected and described...”</i></p>
46	MOC, PAW, TRU, DOT	<p>8.1.4 MOC: Six months from when the existing permit expires (March 15, 2011) is not enough time for operators to update their SWPPPs to comply with the new requirements. Unlike previous SWPPP revisions, the changes and new requirements contained within these revisions are significant and will require more time for operators to assess and implement. Additionally, it appears that DEQ will need more time to develop the SWPPP template that operators may choose to use to complete their SWPPPs.</p> <ul style="list-style-type: none"> • As such, MOC requests DEQ modify this Part to give operators one year from when the existing permit expires (until March 15, 2012) to update their SWPPPs to comply with the new requirements. <p>TRU suggest nine months from the date of permit renewal to update SWPPPs.</p> <p>DOT: For sites with permit coverage before March 15, 2011, suggest that the permittee be allowed to continue work under the previous permit SWPPP until January 1, 2012.</p> <p>Response WDEQ agrees that the required changes are significant and that additional time after the construction season to update SWPPPs would be beneficial. Since the SWPPP template should be available within days of issuing this permit, a full year extension should not be necessary. WDEQ will extend the SWPPP update deadline until January 1, 2012.</p>
47	APC, DNS, MOC, PAW, QEP, SEP, WRW, WP	<p>8.1.5.3 APC proposes the language be modified to read “... the SWPPP shall be revised within 30 day[s] following the inspection ...” This will allow the permittee time to analyze the data collected during the inspection and make the necessary corrections to the plan and map.</p> <p>DNS suggests necessary changes to the SWPPP should be 14 days instead of 7 for active construction areas and 28 days for areas that are</p>

	<p>Response</p>	<p>not under active construction, but have not reached final stabilization. This will allow crews to complete work before the next inspection and in relatively large areas of primarily linear construction.</p> <p>MOC: Requiring operators to make necessary changes to the SWPPP within 7 days of an inspection places an undue burden on operators. It may not be feasible to update the SWPPP within 7 days of inspection due to availability of staff, contractors, etc. For example, if an operator does not actually finish implementing the necessary changes in the field until the end of the 7 day period (which is often a reality) then they will be left with no additional time to update the SWPPP and associated paperwork. Under most circumstances operators will need a minimum of 30 days to make necessary changes in the field following a site inspection and finalize SWPPP revisions and other paperwork associated with those changes.</p> <ul style="list-style-type: none"> • As such, MOC requests DEQ modify this revision to require necessary changes be made <i>as soon as reasonably possible or within 30 days of inspection.</i> <p>PAW: The suggested language makes sense for traditional construction activities such as construction sites for buildings where the project is short term. However, PAW suggests that there be a separate requirement for ongoing activities such as oil and gas where SWPPPs may be kept active for many years. For oil and gas construction activities, revisions to the SWPPP would be made within 1 month of the end of the authorized alternative inspection schedule range (i.e. for an authorized alternative inspection schedule that requires inspection to occur semi-annually in April-May and Sept-October, the revisions to the SWPPP would be made by July 1 and December 1).</p> <p>SEP: As noted in our general comments, we believe the SWPPP should be formatted such that a wide variety of field conditions can be addressed through BMP implementation without changes to the SWPPP. If the proposed language anticipates updates of maps and changes to the SWPPP with a change of BMP implementation then we are moving from a field based program with a focus on effective field implementation to a more prescriptive or engineering based program. This adds administrative work but may not improve sediment control in the field, which should continue to be the focus. The requirement to change a SWPPP should be limited to those circumstances where the SWPPP does not provide effective sediment control for the situation in the field. The identified 7 days to address a necessary change should be extended to 14 days or longer.</p> <p>WRW: [T]he requirement for the SWPPP to be revised within seven days may be unreasonably difficult to comply with for large construction areas, such as occurs in oil and gas developments, where full inspection alone on one area may take several days to complete.</p> <p>WDEQ acknowledges that a large portion of the construction activities covered under the LCGP are remote projects comprised of many relatively small construction activities dispersed over very large areas. Conducting a complete inspection, implementing repairs and changing the SWPPP might not be possible in a seven-day period on many of these projects. Part</p>
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		<p>8.1.5.3 will be revised to require that the SWPPP be updated within 30 days following the inspection.</p> <p>SEP comment, "The requirement to change a SWPPP should be limited to those circumstances where the SWPPP does not provide effective sediment control for the situation in the field: " WDEQ believes that Part 8.1.5.1, which states that " <i>The permittee shall modify the plan whenever there is a change in design, construction, operation, or maintenance that changes the potential for the discharge of pollutants to waters of the state,</i>" addresses this concern.</p>
48	BLM	<p>8.1.5.4 Can it also be worded that if a cooperating agency (such as BLM) requests to see the SWPPP, that a copy shall be submitted?</p>
	Response	See response to 8.1.6.2
49	MOC, PAW, TRU, WEA, WP	<p>8.1.6 MOC: Keeping the SWPPP on site is not always practical. As such, MOC supports allowing operators to keep the SWPPP offsite under such circumstances.</p> <p>PAW suggests DEQ modify the language to be consistent with Part 8.1.6.2.c:</p> <p><i><u>"The most current version of the SWPPP and inspection records shall be retained at the construction site during active construction when feasible, or at a designated off-site location provided to WQD as outlined below and readily available for inspection."</u></i></p> <p>WEA: We recommend that in Section 8.1.6.1, the requirement to retain the SWPPP onsite be revised to state that the SWPPP be retained onsite or at the closest permanent manned facility. On pipeline construction projects, it is often not practical to retain the SWPPP onsite because many pipeline projects do not have a permanent building associated with them, much less a manned facility. This means that there is no secure place to store a SWPPP and inspection records at the construction site.</p>
	Response	Part 8.1.6 has been modified to allow off-site SWPPPs where it is impractical to keep them on site. Parts 8.1.6.2 a and b have been removed and c has been renumbered 8.1.6.2. Paragraph 8.1.6.2 (without a, b and c) has been renumbered 8.1.6.3.
50	BLM	<p>8.1.6.2 [and 8.1.5.4] Can it also be worded that if a cooperating agency requests to see the [SWPPP and] inspection records, that they shall be provided? Recently BLM, WYG&F, WYDEQ and some industry folks have been trying to put together a monitoring plan for an area containing oil and gas development. We want to see a copy of the current SWPPP and corresponding inspection forms to ensure that our monitoring didn't overlap with the work already being done for the SWPPP.</p>
	Response	Language requiring permittees to provide access to SWPPPs and inspection reports to federal, state or local government officials or operators of municipal separate storm sewer systems has been added as 8.1.7.
51	BLM	<p>8.1.7 [renumbered 8.1.8 in the final permit] It might also be helpful to refer to the EPA's National Menu of Stormwater BMPs; it is a very extensive</p>

	Response	database and is relatively easy to navigate. WDEO agrees that this is a helpful website. While it has not been added to the LCGP, a link to the EPA National Menu of BMPs has been added to the guidance section of the WDEO Storm Water Program website.
52	BLM Response	8.2.2 It might also be helpful to know the average precipitation in the area. For example, one could conclude that a vegetative buffer might not be very effective in an area with only 8 inches of annual precipitation because not very much vegetation grows in such an area. WDEO doesn't feel that this information will provide additional benefit in the design of SWPPPs and won't require that it be provided.
53	MOC, PAW, SEP, YPC, DOT	8.2.2.6 MOC: This requirement is ambiguous. It is unclear how operators should proceed to characterize and quantify erodibility. Characterization of soil erodibility could prove to be difficult as there are many soil types in Wyoming with differing erodibility factors depending on slope, texture, clay content, saturation, rain, wind, etc. <ul style="list-style-type: none"> • Additionally, characterizing the erodibility of soil may not alter the design or implementation of BMPs because BMPs are already installed in anticipation of highly erodible soil (worst case scenario). As a result, characterizing the erodibility of soil will not improve erosion control practices or result in any additional environmental benefits. Finally, site characteristics (vegetative cover, slope, etc.) are more important than soil characteristics (i.e. erodibility) when selecting BMPs. • As such, MOC requests DEQ eliminate the requirement that operators provide a description of the characteristics of erodibility of the site soils in the SWPPP. SEP: Character of erodibility of soils can be completed over broad areas. This is particularly important for field wide permits where multiple smaller construction sites such as oil and gas drilling and production pads are constructed in the same field over many years. It is recommended that a provision be added allowing characterization of soils over large areas in field wide SWPPPs. YPC: The site description is to include a narrative description of the character and erodibility of soil(s) and other earth material to be disturbed at the project site. Many oil and gas project areas include very diverse soil and subsoil conditions within a large and diverse project area that will be difficult to accomplish except in the most general terms and will have limited potential to increase BMP effectiveness. The Johnson County soil information is not yet completely compiled and available without paying research fees. Yates suggests the NRCS soil information not be required in areas where it is unavailable. DOT: Requiring contractors to know the soil mapping on their projects is problematic since many locations in Wyoming are yet to be mapped by NRCS. This then relates to erodibility class of those particular soil mapping units. The K, T and wind group RUSLE factors may not be updated in older surveys. As a service, a link to NRCS Soil Surveys at http://websoilsurvey.nrcs.usda.gov/ and the erosion database at http://soildatamart.nrcs.usda.gov/ or listing of NRCS Wyoming Field

		Offices and contact numbers highly advised. Otherwise, contractor alternative is to hire a consulting Soil Scientist and months of delay developing a SWPPP.
	Response	WDEQ agrees with the comments and has removed the requirement.
54	QEP	8.2.2.8 [renumbered 8.2.2.7 in the final permit] Requires the name of the drainage or water body that may receive storm water discharge from the construction activity. QEPFS suggests WYDEQ modify the language to be consistent with Sections 3.5.11 and 8.2.2.9. <i>“Identify the name of the drainage or water body that is within 2000 feet of the construction site and that may receive storm water discharge from the construction activity.”</i>
	Response	The proposed language would require far more waters to be listed than the current standard. WDEQ does not believe that listing many additional waters is necessary. However, for discharges that are to an unnamed drainage paragraph 8.2.2.8 (a) has been modified to: <i>“You must note where discharges are to unnamed drainages and provide the name of the first named drainage that will receive that discharge if the first named drainage is within 1000 feet of the discharge.”</i>
55	DOT	8.2.2.9 [renumbered 8.2.2.8 in the final permit] Identifying all non-point, Section 303(d) water bodies within 2,000 ft. or 0.4 mile of project very onerous as discussed under part 3-3.5.11 particularly to construction types, given complexity of current WYDEQ databases.
	Response	A web-based interactive map has been developed to assist applicants. The interactive map is should be available about the time the new LCGP is final. However, in the event of a delay, a static PDF map has been created that will provide the same information.
56	DEV, DNS, MOC, PAW, TRU, SEP, WP, YPC	8.2.3 DEV: It is difficult to know prior to project initiation what types of BMPs are going to be effective and ultimately required for all phases of construction in a large scale development such as is seen in oil and gas projects. BMP selection and installation evolves as the project proceeds and those changes/additions can and will be added to the SWPPP map as they occur. DNS: This is often not practical for the large areas of oil and gas development since changes continually occur during development, time frames that the project maybe developed in, or locations, and unexpected conditions that may occur. Regular inspections with areas positively identified in the inspection [reports] with the mandated repairs should address this without having to put every proposed BMP on a site map that may include 35-200 miles of potential linear disturbance. MOC: Requiring operators to submit a map clearly showing what BMPs will be installed at each phase of construction may not be feasible under some circumstances and places an unreasonable burden on operators. Due to the dynamic nature of construction schedules and their susceptibility to change because of unforeseen events (i.e. weather-related delays), it is not practical to prepare maps that identify exactly what BMPs <i>will</i> be installed during a future phase of development. • Operators will be able to identify BMPs they <i>plan</i> to install in future

phases of, but these *planned* BMPs may change as development progresses and site conditions evolve. Allowing operators to update existing maps with the required information during site construction activities rather than prior to commencing site construction activities is more practical. As written, this requirement sets operators up to have to modify their original SWPPP immediately and more frequently than necessary as site conditions evolve and BMPs change.

• As such, MOC suggests the following language revision to this Part:

“Site Maps. Each plan shall provide at least two site maps. The first map should show the undeveloped site and its current features. One or more additional maps should be prepared that provide, at a minimum, the following information. Maps should be prepared so that it is clear what BMPs operators plan to install specific to construction activities in each major phase of construction, ~~including the time between cessation of active construction and final stabilization.~~ ~~Provide additional.~~ Operators shall update maps as necessary to clearly describe BMP placement as BMPs change during the construction process.”

SEP: The site maps provided in the SWPPP should provide *general* information as to planned facilities and activities with the recognition that there may be changes of the actual locations within the disturbance boundaries during the construction period. Identification of BMPs at the planning stage can be identified but should remain flexible to fit changing field conditions with the criteria of retaining sediment on the construction location. Our desire is again to retain the field fit for purpose approach to SWPPP implementation through review, repair and modification of BMPs as necessary to maintain effectiveness for sediment control. In a field wide permit, with many operational pads, changing of BMPs should not trigger modification and resubmittal of site maps. SWPPP implementation should remain a field program based on effective control of sediment rather than becoming a prescriptive program with an increase in administrative and submittal requirements that may have no bearing on field effectiveness in control of sediment.

WP: The draft plan requires that all existing and planned temporary BMPs must be noted in the SWPPP and located on the site maps. Due to the high number of BMPs associated with a plan that potentially covers several hundred miles of linear disturbance, and the constant evolution of the effective BMPs being used, Williams does not believe it is practical to identify every BMP for projects that only disturb a small portion of the total area in the plan. With the scope of the de-centralized oil and gas plans, Williams feels that it would be more effective to utilize regular inspections that positively identify any BMPs that need maintenance, repair or modifications rather than identifying all the BMPs on the map.

Williams also believes that it is impractical to provide maps that not only identify every BMP but also identify various phases of activity and the BMPs associated with each phase. Given the dynamic construction schedules and unforeseen events such as weather-related delays that are commonplace for the oil and gas industry, Williams believes that updating

	<p>Response</p>	<p>maps periodically based on inspection information is a more practical way to manage the information without placing undue burdens on the operators.</p> <p>YPC: ... For oil and gas development the topography and drainage patterns are not altered significantly. A single map showing existing and proposed features for the project would characterize the area conditions both before and after development. Construction is not generally done in phases for many oil and gas projects. ... Some BMP locations are easily identified during the planning phase of the project. Many other BMP locations are identified during active construction and after the construction is complete utilizing the supervisors' and lease operators' training and experience to place them in the most appropriate areas for maximum effectiveness. ... Also other oil and gas companies, private landowners and other entities often construct facilities within the project areas before, during and after the construction of the facilities detailed in the SWPPP and NOI. As a result the preconstruction and post construction conditions may change without Yates' knowledge. Yates suggests that one project map is sufficient if it able to characterize the pre-and post-construction conditions adequately. Yates also believes that many BMP locations can be chosen more effectively during and after construction is complete. The map should continue to be updated as additional controls are placed.</p> <p>WDEQ has replaced the word "phase" with "stage" in 8.2.3 and 8.2.4. This change is intended to clarify that future "phases" of construction (such as a new "phase" or addition to a subdivision or future well drilling operations that are currently undefined and which may or may not occur depending on project economics, future demand, etc.) do not need to be included in the SWPPP until such time that construction becomes certain.</p> <p>The SWPPP scope (8.1.1) has also been modified to allow planned, but speculative phases of construction to be added to the SWPPP only when construction becomes certain:</p> <p><i><u>"A Storm Water Pollution Prevention Plan (SWPPP) shall be developed for all construction activities covered under this permit. For construction projects where construction of planned, future phases is speculative, those areas may be added to the SWPPP when construction becomes certain – prior to any earth disturbance occurs."</u></i></p> <p>WDEQ does expect that all BMPs that are installed or planned for construction that is imminent should be included in the SWPPP and on SWPPP maps. While still a significant undertaking for some projects, WDEQ believes that changes made to the draft permit as a result of comments received allows companies to focus more narrowly on completed, current and impending construction.</p> <p>Language has been modified to allow just one map if all of the required information can be clearly displayed. WDEQ expects this to be particularly helpful for small, short-term construction activities.</p>
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57	BLM Response	8.2.3.5 [renumbered 8.2.3.6 in the final permit] BLM supports this provision. No response.
58	MOC Response	8.2.3.6 [renumbered 8.2.3.7 in the final permit] This Part requires that the location of “portable toilets and trash disposal locations” must be identified on the site maps. Identification of these items adds to the growing list of requirements contained within the revised SWPPPs and does not have any practical foundation for inclusion. Identifying toilets and trash disposal locations will not alter the design and implementation of BMPs or other sediment and erosion control activities at the construction site. As such, MOC suggests DEQ remove this requirement from the SWPPP. WDEO has removed the reference to portable toilets and trash disposal from this section. These operations are adequately addressed in 8.2.4.4(a)
59	WEA, BLM, YPC Response	8.2.3.7 [renumbered 8.2.3.8 in the final permit] WEA: Please confirm that “8.2.3.7 Site topography or storm water drainage patterns including lines showing boundaries between different drainage areas in the project area(s)” requires showing boundaries between different drainage areas only if site topography is not provided. BLM: Need to specify pre-, during or post-project topography. YPC: The site map requires topography or storm water drainage patterns including showing boundaries between different drainage areas in the project area(s). Yates suggests that a topographic map adequately shows the drainage patterns and the boundaries between watersheds. If watershed boundaries are required they should be limited to order 2 and higher. Topographic contours are adequate provided they are legible and are relevant to the stage of construction represented in the map.
60	MOC, PAW	8.2.3.8 [renumbered 8.2.3.9 in the final permit] In effect, this Part requires that operators include site maps for “offsite support activities including offsite concrete/asphalt batch plants, borrow areas and/or fill material disposal areas, and equipment/material staging and storage areas.” Providing site maps for these offsite support activities places a significant burden on operators to include this information and reaches beyond the scope of the SWPPP which should be focused on storm water control associated with site construction activities. This requirement makes it difficult for an operator to determine the scope of activities that should be included in the SWPPP. Offsite information that should be included in the SWPPP becomes vague and ambiguous – to what extent should offsite activities be considered? This requirement will result in more questions and headaches for DEQ. • Providing these areas on a site map will not modify BMP design and implementation or erosion control activities. Consequently, this

		<p>requirement will not result in improved sediment control or other environmental benefits.</p> <ul style="list-style-type: none"> • Parts 8.2.2.3 and 8.2.2.4 (<i>Site description – narrative</i>) already require that the SWPPP shall include a narrative description of the offsite support areas as well as a description of storm water discharges from these offsite support areas. • The potential benefit associated with this site map requirement is greatly outweighed by the ambiguity it creates and the burden it places on operators. As such, MOC requests DEQ eliminate the requirement that operators include site maps for offsite support activities in the SWPPP. <p>The language in this part is broader than intended. Only activities that are included under the construction site authorization should be included in the facility SWPPP. The paragraph has been rewritten to state:</p> <p><i><u>“Include areas where dedicated support activities (e.g., operations producing earthen materials such as sand and gravel, staging areas, portable asphalt or concrete batch plants) occur and are to be covered under the same general permit authorization as the construction activity. See Part 1.2.2 for more information on what can be covered under an authorization. Activities covered under another WYPDES storm water authorization (such as a mineral mine with separate coverage) do not need to be included.”</u></i></p>
61	BLM	<p>8.2.3.10 [renumbered 8.2.3.11 in the final permit] Also needs a legend and a scale</p> <p>Response: A scale is not necessary for most SWPPP maps since they are not maps for construction. A map must be clear enough so that a WDEQ inspector can relate what’s happening on the ground to what is depicted on a map. This section has been modified to request a legend when needed for clarity.</p>
62	BLM	<p>8.2.4 What exactly is “grubbing?” Maybe another word could be used or maybe grubbing could be defined.</p> <p>Response: “Grubbing” means to clear vegetation.</p>
63	APC, MOC, PAW, TRU, SEP, WP	<p>8.2.4.1 APC: Part ‘c’ of this section addresses stabilization measures. Again, weather is an overlying factor that affects all development in Wyoming. Especially when Oil and Gas operators are required to work around timing stipulations invoked by other agencies forcing much of the work associated with development to be done in the fall when weather is a determining factor affecting completion of work. APC proposes the language be modified to read, “... shall be initiated as soon as practical in areas where further work is not expected for 30 calendar days or more ...”</p> <p>MOC suggests the following language for this Part:</p> <p><i>“Stabilization measures. The SWPPP shall describe temporary or permanent stabilization measures (such as cover crop plantings, mulching or erosion control blankets, surface roughening, etc.) for exposed soil areas where activities have permanently or temporarily ceased. Temporary or permanent stabilization measures shall be initiated immediately <u>as soon as practical</u> in areas where further</i></p>

	<p>Response</p>	<p><i>work is not expected for 14 days or more.”</i></p> <p>SEP: Stabilization is important but may be achieved through a variety of BMPs or design considerations. It should be recognized that the practical measure of stabilization is the lack of sediment transport off the site rather than requiring additional stabilization measures by permit condition triggered by short term construction cessation. Prescriptive requirements for seeding, mulching or erosion control blankets, surface roughening etc. may not be necessary or beneficial in some cases. In many cases it will be an expense for additional activities or measures that are then removed shortly after installation when construction work resumes. Construction sites should have effective BMPs installed such that sediment does not leave the site. If temporary measures are required to meet that field effectiveness criteria (no sediment leaving the site) then that is already contemplated by the SWPPP and the general permit and a specific prescriptive requirement or permit condition to implement temporary measures is not needed. We believe this section should be eliminated or modified so that it is responsive to field conditions (no sediment leaving the site) rather than a prescriptive requirement for additional actions triggered by short term construction cessation.</p> <p>New federal regulations (40CFR450.21(b)) now set the “trigger” for initiating stabilization when earthwork is expected to stop for more than 14 days. States with arid and semi-arid areas have flexibility to allow methods other than vegetation for temporary stabilization.</p> <p>To avoid confusion, this part has been modified to refer the reader back to 7.14 for more detailed information on requirements and timing of stabilization.</p> <p><i>“Refer to Part 7.14 for additional information on stabilization requirements and timing. Temporary or permanent stabilization measures shall be initiated immediately in areas where further work is not expected for 14 days or more.”</i></p> <p>While the permit provides some examples of acceptable practices, they are not intended to be the only acceptable practices available to achieve “temporary stabilization.”</p> <p>If there is interest, WDEQ would be receptive to assembling a temporary workgroup with representatives from the regulated community to help define what kinds of temporary stabilization are useful, effective and acceptable in Wyoming’s climate and for the kinds of construction activities that occur in the state.</p>
64	MOC, PAW, TRU, SEP, WRW, WP	<p>8.2.4.4(b) MOC: The Wyoming Oil and Gas Conservation Commission Rules (Chapter 4, Section 4(a)(vii)) and Federal Regulations (EPA’s Spill Prevention Control and Countermeasure Regulations, 40 CFR 112) already establish secondary containment requirements that operators must comply with. These state and federal secondary containment regulations are consistent with the requirements in this Part. Additionally, operators are already required to provide the requested secondary containment</p>

	<p>Response</p>	<p>information in their SPCC Plans. Consequently, a provision in the SWPPP requiring the use of secondary containment (or equivalent BMP) where a spill has the potential to enter a surface water of the state is redundant and unnecessary.</p> <ul style="list-style-type: none"> • The addition of secondary containment requirements in this Part indicates that DEQ intends to take over regulatory authority of spill prevention control via SWPPP regulations. This exercise of authority by DEQ reaches beyond the intended objective and scope of a SWPPP, which is to regulate the discharge of storm water associated with construction activities. • As such, MOC requests DEQ strike the reference to attach portions of the SPCC Plan to SWPPP and offers the following revision: <i>“The facility spill prevention control and countermeasures (SPCC) plan may be referenced in the SWPPP as fulfillment of this requirement and <u>must be readily available for inspection. Relevant portions of the SPCC must be attached to the SWPPP if it is referenced.</u>”</i> • However, if DEQ insists that operators provide this information in the SWPPP, referencing the existing SPCC Plan in the SWPPP and its availability for inspection should satisfy this requirement without the need to include it in the SWPPP. <p>The LCGP has always allowed operators to use compliance with other fuel storage and spill response regulations (such as the federal SPCC rule) to satisfy the petroleum management section of the permit. However, the LCGP covers many construction sites where petroleum storage does not meet the threshold for requiring an SPCC plan or other equivalent plan. The additional language in this permit is intended for those sites.</p> <p>The following language has been added to make it more clear that an SPCC plan (or other equivalent plan) may substitute for the requirements of this section:</p> <p style="padding-left: 40px;"><i>b. <u>Bulk storage of petroleum products. Except as described in paragraph 5 below, tThe SWPPP shall describe specific practices for the bulk storage of petroleum products. Construction sites that are covered by, and in compliance with, other rules or regulations that address petroleum storage and spill response, such as the federal Spill Prevention Control and Countermeasure (SPCC) rule may follow those requirements as long as their plans are available for WDEQ storm water inspection.</u></i></p> <p>WDEO also agrees that having the facility SPCC plan available for inspection is adequate and has made the recommended change.</p>
65	DOT	<p>8.2.4.4(c) Although we do agree that cured concrete grindings should not be disposed of in surface waters or storm drains, we do not agree that the grindings are a hazardous waste that need disposing of according to the DEQ Solid and Hazardous Waste Division.</p>

	Response	At the time this draft was written the WDEQ Solid and Hazardous Waste Division was evaluating how concrete grindings and slurry should be managed. They have since concluded that grindings and grinding slurry do not require special management. The sentence <i>“Concrete grindings must be disposed of in accordance with the regulations and policies of the WDEQ Solid and Hazardous Waste Division.”</i> has been removed. Under the LCGP grindings and slurry will be considered sediment and should be managed as such.
66	APC	8.2.5.2 APC proposes the last sentence reads, “... <i>Repair/Maintenance activities shall be documented and maintained with the SWPPP ...</i> ” be deleted from the permit. BMP’s in need of maintenance or repair are documented on each inspection report. There is no need to duplicate that documentation in the SWPPP as well.
	Response	WDEQ agrees that this item can be confusing. The last sentence has been changed to reference 9.7 which addresses documentation of maintenance in the inspection record. <i>“Repair/ maintenance activities shall be documented and maintained in accordance with Part 9.7 with the SWPPP.”</i>
67	WGF	Part 9 With the increase in oil and gas development, wind development, and uranium in-situ development, the Department has seen an increase in the potential for sediment to reach streams that support important fisheries. In discussions with Wyoming Department of Environmental Quality (DEQ) and industry, we believe photo monitoring may provide a more efficient and cost-effective method to monitor the best management practices (BMPs) outlined in the storm water pollution prevention plan (SWPPP). For projects with a surface disturbance of 100 acres or greater, within 0.5 miles of a Class 1 or 2 water, we recommend the monitoring of BMPs, culverts and roads with a 5% or greater slope be accomplished by using photo points. Additionally, the photo point monitoring could occur under DEQ’s Alternative Inspection Schedule of three times a year (spring, summer and fall) instead of monthly.
	Response	While photographing BMPs, culverts and ditches through time may have utility in certain situations and the WDEQ certainly encourages the use of photographs, the suggested change will not be incorporated into the LCGP at this time as a “blanket” condition for a couple of reasons: 1. The suggested change is a significant new requirement and was not available in the draft permit for the public to consider and comment. 2. It is not clear how the agency would manage and use the information in the implementation and enforcement of the storm water program and is, therefore, reluctant to impose such a requirement without a more developed concept of how the data would be handled and analyzed. That being said, the WDEQ will consider the utility of requiring photo monitoring on a case-by-case basis when permittees submit requests for alternative inspection plans.
68	APC, RMP	9.2.1.1 APC: Inspections during construction activity every 14 days are

		<p>accepted and good practice. Performing these inspections within 24 hours of a precipitation event are difficult and will usually cause more damage to the soil surface due to mudding conditions within active construction areas. APC proposes the language be modified to read</p> <p><i>“... once every 14 days and following any precipitation and/or snow melt event, which exceeds 0.5 inches and as soon as practical due to site conditions and access ...”</i></p> <p>APC also proposes the last two sentences be modified to read,</p> <p><i>“... using the nearest National Weather Service precipitation gauge station in remote areas of Wyoming, and if possible rain measurements shall be taken from an area within 10 miles of the construction project, ...”</i></p> <p>RMP: It is noted that inspections are to take place after 0.5 inches of snow melt. The company requests additional information/guidance for determining what constitutes 0.5 inches of snow melt (how many inches of snow over time) and a prudent way to monitor this.</p> <p>Response WDEO agrees that on remote, rural projects meeting the required inspection schedules is not always possible. Part 9.2.3 has been added to provide a procedure to document weather-related delays on remote project sites.</p> <p><i><u>“9.2.3 Weather-related delays. Operators of projects in remote, rural sites that do not have “all season” road access may delay inspections until site conditions are appropriate for access. The reason for such a delay must be documented in the SWPPP. Inspections must occur as soon as access is feasible.”</u></i></p> <p>Because keeping track of precipitation events is only necessary for active construction sites (when people will frequently be onsite) that choose the 14-day inspection schedule, WDEO does not feel that it is unreasonable to require rain data from an area near the construction site even if that requires the permittee to use their own rain gauge.</p> <p>WDEO does not specifically define a ½” snow melt event. A general rule of thumb is to include events where snow is melting rapidly enough to cause noticeable sediment movement.</p>
69	PAW	<p>9.4 Qualified person definition should be incorporated in Part 2 Definitions.</p> <p>Response While the definition could be moved to Part 2, WDEO believes it is most helpful to leave the complete discussion of a qualified person where it is.</p>
70	MOC	<p>9.5 MOC suggests that DEQ allow previously approved alternative inspection plans to be “grandfathered into the new proposed permit” under this Part. This will allow for a smooth transition from one permit to the next regarding inspections, and continuation of established schedules that have been proven effective. MOC requests that language be inserted into the new permit or the new Fact Sheet, which spells this out. Also, it would be prudent to insert language stating that any alternative inspection plans and schedules will automatically transfer to the new owner, in the event of a property transaction.</p>

	Response	<ul style="list-style-type: none"> • Additionally, MOC suggests that DEQ allow mapping requirements and descriptions of linear projects to be provided in a narrative format rather than on a map. There are several practical and logistical difficulties preventing the use of maps to satisfy the mapping requirements for linear projects including scale, size, legibility and functionality of the map. A narrative description will provide a more practical and useful description. <p>WDEO agrees that management of alternative inspection plans should be specified. The following paragraphs have been added to 9.5:</p> <p><u><i>9.5.1 Alternative inspection plans approved under the previous permit are considered valid under this permit.</i></u></p> <p><u><i>9.5.2 Alternative inspection plans are considered part of the SWPPP and transfer to a new operator with the SWPPP when a project is transferred.</i></u></p> <p><u><i>9.5.3 WDEO may review any alternative inspection plan and require modification of the plan if the Administrator or his agent finds it deficient or ineffective.</i></u></p> <p><u><i>9.5.4 The WDEO may also rescind approval of an alternative inspection plan that is found to be ineffective.</i></u></p> <p>WDEO agrees that the mapping requirements for linear projects are more challenging than for other projects. However, maps are an essential part of the overall plan and the requirements will be retained.</p>
71	BLM Response	<p>9.7.3.2 Also needs to include a description of what maintenance is needed.</p> <p>WDEO believes the current language is adequate.</p>
72	BLM Response	<p>9.7.3.3 Also needs to include a description of the failure. If one knows how or why a BMP failed, they may be better equipped to implement a BMP that will avoid a repetitive failure.</p> <p>WDEO believes the current requirements are adequate.</p>
73	QEP, WEA	<p>9.7.5 QEP: Records must be kept of the rainfall events greater than 0.5 inches occurring in a 24-hour period. QEPFS requests that this requirement only apply to active construction projects where the Permittee has selected the option of maintaining a rain gauge (9.2.1.1). As an operator of numerous inactive and unmanned construction sites, especially of long, narrow, linear construction sites such as pipelines – which is one of QEPFS’s core businesses – in remote areas, QEPFS cannot effectively or efficiently determine the dates and amounts of rainfall events for its inactive sites.</p> <p>Requiring an inactive construction site operator to comply with recording rainfall events greater than 0.5 inches in a 24-hour period implies a necessity to measure rainfall on a daily basis, which would be difficult, if not impossible, to implement.</p> <p>WEA: We recommend that Section 9.7.5 be revised to require the retention of rainfall events only for facilities utilizing the biweekly plus post-precipitation inspection schedule.</p>

		<p>This requirement is appropriate for projects utilizing the biweekly plus post-precipitation event inspection schedule, as it documents events triggering the post-precipitation schedule. For either the weekly inspection schedule for active projects or the monthly inspection schedule for inactive construction, it adds a record keeping requirement that is unrelated to the inspection schedule. While this may not add significant manpower demand for a discrete, consolidated, manned facility in a populated area, it is a labor intensive requirement for linear projects. For linear projects, particularly those in unmanned or remote locations or for long projects, it is difficult to track if such a rainfall occurred on any portion of the project. This concern is even more pronounced after active construction ends.</p> <p>Response WDEO agrees and has modified the language to: <i><u>"Dates and amount of all rainfall events greater than 0.5 inches in a 24-hour period for active construction projects that are inspecting under the 14-day schedule described in 9.2.1.1"</u></i></p>
74	APC	<p>9.7.6 If changes are made to the SWPPP or the SWPPP site map, those changes will be documented in the version number or date of the site map or document. It would duplicate documentation to provide an additional way to document those changes. APC proposes that 9.7.6 be deleted from the permit because this information will already be documented.</p> <p>Response The permit does require that the SWPPP be modified when it is found to be ineffective and it is important to know what changes were made. However, for companies that generate a new version of their SWPPP after an inspection, a reference to the modified version will meet the requirement of this paragraph.</p>
75	APC	<p>9.7.7 Inspection reports document the current conditions of the areas covered by the SWPPP. It would duplicate documentation to provide an additional way to show the current status of the areas covered by the appropriate SWPPP. APC proposes that 9.7.7 be deleted from the permit because this information will already be documented.</p> <p>Response Certifying that a facility is in compliance with its permit and SWPPP (when no instances of noncompliance are identified) is a federal and state requirement. See federal regulation at 40CFR122.44(i)(4)(ii) and state regulation at WWORR Chapter 2(6)(d)(ii)(B). To make meeting this requirement as simple as possible, WDEO suggests that permittees have a check box with a statement noting the site is in compliance on their standard inspection form. When the site is in compliance, the box can be checked. Or it can be left blank when compliance issues are noted.</p>
76	BLM	<p>9.7.9, 9.10 and 9.11 Can this be reworded so that cooperating agencies are also able to see these records?</p> <p>Response Inspection records are retained with the SWPPP and are available to cooperating agencies. Also see the response to 8.1.6.2.</p>
77	DOT	10.7.1.3 For WYDOT work, suggest that the signature level be changed to

		the Resident Engineer and District Maintenance Engineer level.
	Response	WDEO accepts Resident Engineers and District Maintenance Engineers as meeting the standard of 10.7.1.3 and will continue to do so.
78	WG	10.9 The permit indicates that all hazardous substances of reportable quantity be reported to the Wyoming DEQ via the Department's 24-hour telephone number. I suggest adding "or other DEQ-approved method" as faxed reports of releases are accepted. The Department also has an online form that will likely be in place prior the next Storm Water permit review.
	Response	WDEO agrees. The following sentences have been added to this section (as well as to the definition of "Reportable Quantity" in Part 2.11). <i>"An online reporting form is also available at http://deq.state.wy.us/out/spills.htm. Refer to this website or Chapter 4 of the WWQRR for more information."</i>
79	BLM	App. B SPCC should be included in Appendix B
	Response	WDEO agrees and has added SPCC.
80	BLM	App. C The sentence "General guidelines for designing, implementing and maintaining erosion and sediment controls construction site housekeeping" doesn't make sense. Is it supposed to read: "General guidelines for designing, implementing and maintaining erosion and sediment controls and construction site housekeeping?"
	Response	Yes it is. The correction has been made.
81	APC, MOC, PAW, TRU, WP, BLM	<p>App. C, 1.2 APC: Once again, it's very difficult to work around unforeseen changes in the weather which is very common in Wyoming. Additionally, Oil and Gas operators are required to work around timing stipulations invoked by other agencies forcing much of the work associated with development to be done in the fall when inclement weather is a determining factor as to timing and whether work is completed or not. APC proposes the language be modified to read, "...<i>permanent cover must be applied within 30 calendar days of completing or ceasing ...</i>"</p> <p>MOC: This section addresses final and temporary stabilization methods previously addressed in Part 7.14 Soil stabilization section of the Draft Permit. If included in Appendix C, MOC suggests modifying the language for clarification purposes and to allow sufficient time for scheduling, coordination and completion of temporary or permanent stabilization methods. Modify the language to reference final and temporary stabilization, and weather exceptions to be consistent with permit language. Include cross-reference to Part 7.14 of permit. MOC suggests striking this language from Appendix C since it is adequately addressed in Part 7.14 of the Draft Permit.</p> <ul style="list-style-type: none"> • MOC suggests the following language revision: <i>"Provide temporary erosion protection or permanent cover <u>Final or temporary stabilization must be initiated on</u> for the <u>exposed soil areas where <u>clearing, grading, excavating or other earth disturbing activities have been completed or temporarily ceased.</u></u> For those</i>

		<p><i>Stabilization should be completed within 24 hours of connecting to a surface water <u>or direct conduit to a surface water.</u></i></p> <p><i><u>“Completed stabilization” in this case means that the ditch can handle the expected flow of at least a 2-year/24-hour storm event immediately upon stabilization. Seeding alone will not be considered adequate. More immediately effective BMPs such as appropriate matting (rated for expected flows) or appropriately sized riprap must be used. Any other BMP that offers equivalent protection may be used.”</u></i></p> <p>In general, the 24-hour requirement should be considered a minimum standard. WDEQ expects operators who install ditches that will leave the property or connect with a surface water be prepared to stabilize those ditches very quickly. A single precipitation event can move a considerable amount of sediment from an unstabilized ditch to a receiving water. WDEQ understands that this standard can be difficult to meet on some projects, particularly on road construction. Where it is exceptionally difficult to meet this standard, other flow and sediment control BMPs may need to be substituted.</p>
83	APC	<p>App. C, 1.6 [renumbered 1.5 in the final permit] APC proposes the language should be modified to read,</p> <p><i>“... Pipe outlets must be provided with temporary or permanent energy dissipation within 30 days of completing construction work and connection to a surface water is established ...”</i></p> <p>Response WDEQ disagrees. Installing pipe outlets without installing energy dissipation poses a significant and unnecessary risk of sedimentation to receiving waters.</p>
84	BLM, DOT	<p>App. C, 1.7 [renumbered 1.6 in the final permit] BLM: Clarification needs to be given as to what would constitute a “break” in slope.</p> <p>DOT: The Design Guideline that no slope length >75 ft. where grade 3:1 and steeper. This would lead to “broken” slope designs that accelerate runoff flow at the slope break, create a hydraulic jump and thereby increase soil shear stress and increased sediment loss, not the opposite.</p> <p>Response BLM: A break in slope is any abrupt change in slope. In the case of this paragraph, generally a break in slope will be a change to a slope of less than 3:1.</p> <p>DOT: Appendix C sets only a minimum standard. If hydraulic jump is likely to be an issue on any slope, then the permittee should take that into account with appropriate BMP design. For example BMPs may need to be installed closer together or the operator may need to provide some sort of “apron” under and below BMPs to eliminate scour on the down slope side.</p>
85	BLM	<p>App. C, 1.8 [renumbered 1.7 in the final permit] The word “only” would discourage people from implementing additional BMPs that may be beneficial. Although going above and beyond with sediment control practices may not be required; it should not be discouraged. The omission</p>

		of the word “only” still relays the same information without encouraging only the minimal sediment control.
	Response	WDEQ believes the language is appropriate and allows flexibility when ponds, basins, or checked ditches are part of an overall treatment system or “treatment train.” In such a “system,” individual parts may exceed the minimum maintenance standards described in 2.1 of Appendix C, but the system, as a whole, may still function quite effectively.
86	WEA, DOT	<p>App. C, 1.10 [renumbered 1.9 in the final permit] WEA: <i>The use of vegetated buffer zones and the limitation on offsite sediment transport.</i> Pipeline projects are typically constructed within an easement on property owned by others. The construction right-of-way is therefore typically limited to the width of disturbance. Further, for interstate gas transmission projects regulated by the Federal Energy Regulatory Commission (FERC), there is pressure from FERC to minimize construction right-of-way widths to the minimum which allows safe construction (ditch, spoil, and travel), but do not allow enough width for vegetative buffer zones. However, at least one best management practice typically used on pipeline construction projects (and required by FERC for interstate transmission projects) is a water bar or slope breaker designed such that the outfall is directed “to a stable, well vegetated area or construct an energy-dissipating device at the end of the slope breaker and <u>off the construction right-of-way</u>” (FERC Upland Erosion Control, Revegetation, and Maintenance Plan, January 17, 2003). Additionally, trench dewatering discharges are constructed to discharge from a filtration structure placed in a stable, well vegetated area typically off the construction right-of-way.</p> <p>DOT: [T]here are few rural Wyoming locations allowing < 5% cross-slope on vegetated buffers and the inflow zone above at < 6% grades. Mountains aren’t formed this way without some serious mining disturbance. Further, Wyoming’s arid climate doesn’t grow uniform native grasses with 90% foliar cover and greater. This is a shrub state so native woody cover is always > 10%, unless the rancher is using some serious brush-killer herbicide. Even with rancher favored exotics like smooth brome grass or crested wheatgrass 70% foliage cover about maximum without irrigation.</p>
	Response	<p>WDEQ agrees that there are very few areas in Wyoming that could meet the conditions described in 1.10. The language has been modified to make it clear that it applies to vegetated buffers that are intended to be the primary or sole BMP between a disturbed area and a surface water of the state. It does not apply to using stable vegetated areas for energy dissipation and infiltration. Vegetated buffers (between the project and a surface water) that do not meet this standard must be supplemented with other erosion or sediment control BMPs above the buffer.</p> <p><i><u>“Where used as a primary sediment control between a disturbed area and a surface water of the state (or a direct conduit to a surface water of the state, such as a storm drain system), vegetated buffers must have...”</u></i></p>
87	APC, CC, DEV, MOC, PAW,	App. C, 2.1.1 APC: Maintaining BMPs when they are only partially utilized is inefficient. BMPs should be maintained in accordance with the

QEP, TRU, SEP,
WRW, WP, WG,
BLM, DOT

manufacturer's recommendations. APC proposes the language should be modified to read,

"... when they become nonfunctional. These repairs must be made within 30 calendar days or as soon as field conditions allow access ..."

CC: It is our opinion that 24 hours is a reasonable period of time in which repairs can and should be made, at least for active construction sites located within urban areas. The late summer weather patterns in Cheyenne typically feature weeks whereby it rains every afternoon. It is essential that erosion control features be maintained promptly in this scenario.

DEV: Suggests that it is not practical to make repairs to sediment control devices within 24 hours of the discovery that they are not functional. Experience dictates that it is not practicable to secure new BMPs and mobilize crews for their installation within a 24 hour time period. A more reasonable deadline to repair such BMPs would be 14-28 days.

MOC: Due to the constraints of deploying equipment, materials, and personnel to repair BMPs in remote areas such as pipeline corridors, MOC requests that the timeframe to make repairs be re-worded to read:
"These repairs shall be made within 24 hours of discovery, or must be made within 14 days of discovery, or as soon as field conditions, equipment availability, and appropriately trained personnel allow."

PAW, TRU believes 14 days is a more appropriate timeframe to allow sufficient time for scheduling, coordination and completion of required maintenance, repair, or replacement. PAW suggests the following modification:

"All control devices similar to silt fence or fiber rolls must be repaired, replaced, or supplemented when they become nonfunctional or the sediment reaches 1/3 of the height of the device. These repairs actions must be made within 24 hours 14 days of discovery, or as soon as weather or field conditions allow access."

QEP: QEPFS believes seven days is a more appropriate timeframe to complete maintenance or replacement of control devices, *"or as soon as weather and field conditions allow access."*

SEP: The requirement for BMP repair within 24 hours of discovery is impractical in remote areas and often not necessary to effect storm water control. We recommend consideration be given to allowing 14 days to effect BMP repair or replacement unless there is an imminent threat of release of sediment to surface water at which point the 24 hour requirement should apply.

WRW: [T]he requirement to make repairs within 24 hours of discovery of a problem may be feasible on construction projects where the same entity is performing the repairs as is performing the inspections. However on construction projects where contractors/individuals perform the inspection and separate construction contractors are responsible for making repairs, this is an unrealistic timeframe. It would be impossible to complete an inspection, review and deliver the inspection report to the operator, have the operator arrange for a crew to make repairs, and then to have the crew make the actual BMP repairs or maintenance all within that time period. I believe requiring BMP problems be addressed before the next scheduled

	<p>Response</p>	<p>inspection (not including precipitation event inspections) is more reasonable. It would still require the work be done in a timely manner, as the <i>regular</i> active construction inspections occur either every week or every two weeks.</p> <p>BLM: It may be helpful to say that all control devices... when they become nonfunctional or when sediment reaches 1/3 of the height of the device (whichever comes first). A silt fence may have sediment 2/3 up the height of it and still be holding back sediment so therefore it is still functional. The next storm may cause it to collapse; after this storm it is “nonfunctional” but the sediment will have probably already be washed downstream. If the sediment would [have] been cleaned out when it was 1/3 the height of the fence this could have been avoided.</p> <p>DOT: The 1/3rd Rule seems arbitrary. Actual functioning sediment loads should be based on Manufacturers’ recommendations and installation methods. Silt fences, for example can vary significantly by installation method (e.g., trenching, slicing, compaction, post spacing, wire-backed, and fastening). National ASTM-D-6462 Standard calls out ½ height of the fence, not 1/3rd before cleaning. Likewise, most major manufacturers of wattles (e.g., fiber rolls) recommend leaving them in place to reinforce vegetation roots. Anytime temporary BMP’s are disturbed resuspension of trapped sediment good possibility along with more additional soil disturbance.</p> <p>WDEQ agrees that when construction is not actively occurring and equipment and personnel are not onsite, it may be difficult to repair or maintain BMPs within 24 hours. However, during active construction, personnel and equipment capable of conducting maintenance activities are normally onsite. To accommodate the additional challenges that can occur during inactive construction WDEQ has added section 2.1.1.2 to allow additional time during inactive construction. BMP repairs during active construction should still be made within 24 hours or as field conditions allow. See the rewritten section 2.1.1 below.</p> <p>WDEQ also agrees that not all BMPs need to be maintained in the same manner. A provision deferring to the manufacturer’s specifications has been added. See the addition below.</p> <p>Allowing repairs to occur before the next scheduled inspection is not acceptable as many operators with alternative inspection schedules may only inspect two or three times a year. Allowing months for a repair does not adequately protect surface water of the state.</p> <p>The language in this paragraph covers synthetic BMPs that rely on ponding. WDEQ believes the language is sufficiently broad.</p> <p><i>2.1.1 “All control devices similar to silt fence or fiber rolls must be repaired, replaced, or supplemented when they become nonfunctional, or the sediment reaches 1/3 of the height of the device or as recommended in the manufacture’s specification [if</i></p>
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		<p><i>manufacturer's specifications are different, then a copy of the specifications should be kept with the SWPPP]. These repairs must be made within 24 hours of discovery, or as soon as field conditions allow access. Repairs and maintenance should be made within the following time frames.</i></p> <p><i>2.1.1.1 Active construction sites. These repairs must be made within 24 hours of discovery, or as soon as field conditions allow access.</i></p> <p><i>2.1.1.2 Inactive construction sites. These repairs must be made within 14 days of discovery, or as soon as field conditions allow access."</i></p>
88	<p>PAW, TRU, WP, BLM</p> <p>Response</p>	<p>App. C, 2.1.2 PAW believes 14 days is a more appropriate timeframe to allow sufficient time for scheduling, coordination and completion of required maintenance, repair, or replacement. PAW suggests the following modification:</p> <p><i>"Temporary and permanent sedimentation ponds or basins must be drained and the sediment removed when the depth of sediment collected in the basin reaches 1/2 the sediment storage volume. Drainage and removal must be completed within 72 hours 14 days of discovery, or as soon as <u>weather or field conditions allow access."</u></i></p> <p>BLM: Clarification is needed as to where the cleaned out sediment will be placed.</p> <p>WDEO agrees that when construction is not actively occurring and equipment and personnel are not onsite, it may be difficult to maintain sediment ponds within 72 hours. However, during active construction, personnel and equipment capable of conducting maintenance activities are normally onsite. To accommodate the additional challenges that can occur during inactive construction WDEO has added section 2.1.2.2 to allow additional time during inactive construction. Sediment pond maintenance during active construction should still be made within 72 hours or as field conditions allow. See the rewritten section 2.1.2 below.</p> <p><i>"...Drainage and removal must be completed within 72 hours of discovery, or as soon as field conditions allow access. within the following time frames.</i></p> <p><i>2.1.2.1 Active construction sites. Drainage and removal must be completed within 72 hours of discovery, or as soon as field conditions allow access.</i></p> <p><i>2.1.2.2 Inactive construction sites. Drainage and removal must be completed within 14 days of discovery, or as soon as field conditions allow access."</i></p> <p>WDEO believes that the LCGP's sediment control requirements sufficiently addresses placement of sediment removed from ponds or basins.</p>
89	PAW, TRU	<p>App. C, 2.2 To be consistent with the requirements found in 7.5 Recovery of Offsite Sediment, and in terms of a field construction location, this requirement seems hard to enforce simply because sources of sediment</p>

	<p>Response</p>	<p>tracked onto paved roads can come from sources other than those directly related to the construction activities. PAW proposes the following revision: <i>“Construction site egress locations must be inspected for evidence of sediment being tracked off-site by vehicles or equipment onto paved surfaces. Accumulations of tracked and deposited sediment must be removed from paved surfaces within 24 hours or, within 7 days or before the next precipitation event, whichever is sooner, or if applicable, within a shorter time if specified by local authorities...”</i></p> <p>Part 7.5 is intended to address offsite sedimentation other than to paved roads; 7.7 and Appendix C, 2.2 address tracking to paved areas. Part 7.5 has been modified to make that clear. Cleaning sediment from paved areas quickly is essential given Wyoming’s frequent summer thunderstorms and no changes have been made to C, 2.2.</p> <p>Relevant changes to Part 7.5 are: <i>Off-site accumulations of sediment (except tracking onto paved roads) must be removed in a manner and at a frequency sufficient to minimize off-site impacts. (e.g., fugitive sediment in streets could be washed into storm sewers by the next rain and/or pose a safety hazard to users of public streets). See Part 7.7 for addressing offsite tracking onto paved roads.</i></p>
90	DNS, SEP	<p>DNS: General Comment: Unlike conventional construction, active O&G construction may only last a few days. Temporary construction BMPs may be installed for only a few days and are quickly replaced with long-term BMPs. In the past SWPPPs at remote O&G construction sites have only shown locations for long-term BMPs once active construction was complete. Inspections are still completed on the construction time frame, and all deficiencies will be corrected as they are identified. This has helped out by not having to put every temporary BMP on the maps and has helped in the development of adequate BMPs for the reduction of erosive potential and off-site deposits. If at all possible, these practices need to be continued to reduce cost, paperwork and manpower associated with oil and gas development.</p> <p>SEP: <u>Field-Wide SWPPP for Oil and Gas Fields:</u> Specific consideration should be given to allow a Field Wide SWPPP for an Oil and Gas Field to be fit for purpose and based on site conditions for the specific field location. Application of residential large construction storm water requirements to an oil or gas field that is developed over many years or decades within a defined area is substantially different than short term residential or commercial construction projects. As such there should be an allowance for voluntary submittal of a fit for purpose field wide SWPPP for review and approval by DEQ for a specific oil or gas field with a defined boundary.</p> <p>General Comment: The storm water program is a combination of planning (Storm Water Pollution Prevention Plans or SWPPP) and field implementation. As such we believe it is important to continue to provide flexibility in the planning documents to readily address field implementation of Best Management Practices (BMPs) under various conditions.</p>

	<p>Response</p>	<p>Flexibility should include the ability to readily field fit BMP installations to meet field requirements without revisions to the overarching SWPPP or without revisions to site maps. This is particularly important when implementing field wide storm water plans for oil and gas where multiple locations are addressed in a field wide plan. The Storm Water Program has been largely performance based rather than prescriptive. Our desire is to retain that focus and minimize the addition of administrative or prescriptive requirements unless proven necessary for improved field performance.</p> <p>The WDEQ has made a number of changes to the draft LCGP in response to the many comments received. While the new permit is still more prescriptive than the previous permit, a number of originally proposed requirements have been modified so that the permit retains more of the field focus of the previous permit.</p> <p>It is a challenge to cover such disparate types of construction under one permit. WDEQ may consider a separate permit for oil and gas projects in the future.</p>
<p>91</p>	<p>WEA</p>	<p>General comment: [F]or interstate natural gas transmission facilities, there is also a difference in regulatory environment. During the development of Effluent Limitations Guidelines and New Source Performance Standards, EPA recognized the “unique regulatory circumstances of interstate gas transmission pipeline construction projects” which are subject to erosion and sediment control requirements established and implemented by FERC since 1989 (Federal Register Volume 74, No. 229, page 63006). EPA stated of the FERC requirements, “some of which are more stringent than those contained in today’s rule”. EPA further concluded that interstate natural gas transmission facilities would be exempt from numeric emission limits “due to the comprehensive regulatory program that FERC requires and enforces for construction of these projects”. This program is most recently described in the FERC “Upland Erosion Control, Revegetation, and Maintenance Plan” and the “Wetland and Waterbody Construction and Mitigation Procedures”, both dated January 17, 2003.</p> <p>Accordingly, while we understand that it is WDEQ’s intent to have the proposed permits apply to pipelines for the time being, we encourage WDEQ to work with stakeholders in the near future to develop a separate general permit for pipeline and other linear projects.</p> <p>General comment: Construction activities associated with oil and gas transmission facilities are by nature very different from the discrete, consolidated facilities for which both the state and the federal construction general permit programs were designed. Because of this, erosion and sediment control requirements designed for typical construction activities do not translate well to oil and gas transmission construction activities. This is one of the reasons that industry sought and Congress included the construction of oil and gas facilities in the oil and gas exemption from federal National Pollutant Discharge Elimination System (NPDES)</p>

	Response	<p>permitting requirements.</p> <p>It is a challenge to cover such disparate types of construction under one permit. WDEQ may consider a separate permit for oil and gas projects in the future.</p>
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Commenters	Abbreviation
Anadarko Petroleum Corporation	APC
City of Cheyenne	CC
Devon	DEV
DNS Environmental LLC	DNS
Fidelity-endorsed PAW comments	PAW
Marathon Oil Company	MOC
Petroleum Association of Wyoming	PAW
QEP Field Services Company	QEP
Rocky Mountain Power	RMP
Shell Exploration & Production	SEP
True Oil LLC	TRU
US Bureau of Land Management - Rawlins Field Office	BLM
US Environmental Protection Agency - Region 8	EPA
Western Energy Alliance	WEA
Western Range & Water, Inc.	WRW
Williams Production RMT Company	WP
Wood Group Production Services, Inc.	WG
Wyoming Department of Transportation	DOT
Wyoming Game and Fish Department	WGF
Yates Petroleum Corporation	YPC

Acronyms	
CBM	Coalbed Methane
CGP	Construction General Permit
FERC	Federal Energy Regulatory Commission
HUC	Hydrologic Unit Code
LCGP	Large Construction General Permit
LOA	Letter of Authorization
NOI	Notice of Intent
NOT	Notice of Termination
NOTA	Notice of Transfer and Acceptance
NPDES	National Pollutant Discharge Elimination System
PDF	Portable Document Format
PE	Professional Engineer
ROW	Right of Way
RUSLE	Revised Universal Soil Loss Equation
SPCC	Spill Prevention Control and Countermeasure
SWPPP	Storm Water Pollution Prevention Plan
TMDL	Total Maximum Daily Load
WDEQ	Wyoming Department of Environmental Quality
WLA	Waste Load Allocation
WWQRR	Wyoming Water Quality Rules and Regulations
W&WW	Water and Wastewater Program
WYPDES	Wyoming Pollutant Discharge Elimination System