I. Response to Comments Received During Public Notice Period

Legend

Color of Background	Meaning for Comment
Blue	Original comment that has a response
Green	Responsive
Light gray	Rebuttal

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1		General	The division should issue a second draft of this permit for stakeholder review and comment.		Adam Walters – Southwest Airlines	The division does not typically issue more than one draft for public comment. Changes to the final permit reflect comments received and are not substantial enough to warrant an additional public comment period. Following this permit issuance, the division anticipates providing training and guidance in order to assist permittees with remaining concerns they may have.
2		General	The City of Aurora supports related comments submitted by the Colorado Wastewater Utility Council (CWWUC) and Metro Water Recovery.	N/A	City of Aurora	Comment noted
3		General	The FWQC is a group of industrial companies, municipal entities, agricultural parties, and trade associations that are directly affected, or which have members that are directly affected, by regulatory decisions made by EPA and States under the federal Clean Water Act (CWA or Act). FWQC membership includes entities in the aluminum, agricultural, automobile, chemicals, coke and coal chemicals, electric utility, home building, iron and steel, mining, municipal, paper,		Coalitions[1]	Comment noted

[1] Joint Comments of the Federal Water Quality Coalition, Federal StormWater Association, and PFAS Regulatory Coalition.

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			petroleum, pharmaceutical, rubber, and other sectors. FWQC members, for purposes of these comments, include: The Aluminum Association; American Chemistry Council; American Coke and Coal Chemicals Institute; American Forest & Paper Association; American Iron and Steel Institute; American Petroleum Institute; Association of Idaho Cities; Auto Industry Water Quality Coalition; Cargill, Inc.; China Clay Producers Association; City of Pueblo (CO); City of Tempe (AZ); City of Superior (WI); Eli Lilly and Company; Freeport-McMoRan Inc.; Hecla Mining Company; Kennecott Utah Copper LLC; Mid America CropLife Association; National Association of Home Builders; National Oilseed Processors Association; Portland Cement Association; Shell; Treated Wood Council; U.S. Tire Manufacturers Association; Utility Water Act Group; and Western States Petroleum Association. FSWA is a group of industrial, municipal, and construction-related entities that are directly affected, or which have members that are directly affected, by regulatory decisions made by federal and state permitting authorities under the CWA. FSWA members, for purposes of these comments, include: Airports Council International – North America; American Petroleum Institute; Associated General Contractors of America; Association of American Railroads; Auto Industry Water Quality Coalition; Institute of Scrap Recycling Industries; National Association of Home Builders; Pavement Coatings Technology Council; and Western States Petroleum Association. The PFAS Coalition is a group of industrial companies, municipal entities, agricultural parties, aviation representatives and trade associations, many of which have members or			

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			facilities in Colorado that are directly affected by the State's development of policies and regulation related to per- and poly-fluoroalkyl substances (PFAS). Other members are concerned about the precedential impact that the Board action may have on other states' efforts to establish PFAS-related conditions in NPDES permits. Coalition membership includes entities in the automobile, airport, coke and coal chemicals, iron and steel, municipal, paper, petroleum, and other sectors. None of the Coalition members manufacture PFAS compounds. Coalition members, for purposes of these comments, include: Airports Council International – North America; American Coke and Coal Chemicals Institute; American Forest and Paper Association; American Fuel and Petrochemical Manufacturers; American Iron and Steel Institute; Barr Engineering; Brown & Caldwell; City of Lowell, MA; City of Pueblo, CO; Gary Sanitary District (IN); HDR; Illinois Association of Wastewater Agencies; Trihydro; and Yucaipa Valley Water District (CA). Members of the Coalitions own and operate facilities located in Colorado and throughout the country. Many conduct operations that generate "stormwater associated with industrial activity" as defined at 40 C.F.R. § 122.26(b)(14). The Proposed SGP will require coverage and impose conditions on Coalition members in Colorado, and the conditions may serve as a precedent for other states developing stormwater general permits, to which Coalition members may be subject. Therefore, the Coalitions have a direct interest in the Proposed SGP that Colorado is developing. Beyond the issues raised in these comments, individual members of the Coalitions may have additional concerns with various aspects of the			

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			proposed SGP and may file additional comments separately.			
4		General	The City and County of Denver, through its Department of Aviation, ("Denver") appreciates the opportunity to provide comments to the Division's proposed new CDPS General Permit COR900000 for Stormwater Discharges Associated with Non-Extractable Industrial Activities (the "Draft Permit"). Denver is presenting its concerns about the Draft Permit for several reasons: (1) certain Denver operations at Denver International Airport ("DEN") are covered by the current COR900000 Permit (e.g., concrete and recycling areas); (2) several DEN tenants/business partners are covered by the Current Permit; and (3) the provisions proposed in the Draft Permit are reasonably expected to be included in the next individual stormwater permit the Division issues for DEN.		David Steinberger – Denver City Attorney's Office	Comment noted
5		General	**VIII. <u>Conclusion.</u>** Based upon the numerous concerns raised by Denver, the Division should issue a second draft of this proposed permit, for stakeholder review and comment, that takes into account these comments. This Draft Permit contains numerous provisions that are improper, unnecessary, unattainable, and that are not explained or substantiated in the Fact Sheet. The Division should model its permit after the federal MSGP, including the organization, overall content, and specific language. The MSGP is well vetted and serves as a model permit for many states. Adhering closely to the MSGP promotes compliance, since the language is well understood across organizations and consultants. Adhering closely to the MSGP streamlines the permitting and oversight process for the Division, thereby limiting resource needs. If there are situations		David Steinberger – Denver City Attorney's Office	Delegated states are authorized to implement the NPDES program. At a minimum, State regulations must afford the same level of protection as EPA regulations. States are not required to conform with EPA issued permits and are not prohibited from requiring additional protections. The EPA MSGP is constructed to apply on a national level. Because Colorado has unique stormwater characteristics the division is customizing the permit to be protective of Colorado waters, rather than adopt EPA permit language in its entirety. The division held 4 stakeholder meetings prior to public notice and incorporated feedback into the draft

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			where the Division intends to deviate from the MSGP, each of those deviations should be clearly identified, explained, and substantiated in the Fact Sheet.			permit from those meetings as well as informal feedback from permittees. Ignoring this feedback and adopting the EPA permit in its entirety, does not adequately serve Colorado citizens including Colorado permittees and does not adequately support Colorado Water Quality. The division is not required to justify differences from EPA's permit. The Fact sheet explains differentiation from the previous division permit section by section. Where specific comments requested further explanation, the division has provided it in this response to comments document. See Comment 1
6		General	The Institute of Scrap Recycling Industries, Inc. (ISRI) would like to submit the following comments for the Water Quality Control Division's (WQCD's) consideration in response to its notice for public input on its proposed "CDPS General Permit COR900000 for Stormwater Discharges Associated with Non- Extractive Industrial Activity STATEWIDE" (March 10, 2022) (henceforth, "the Proposed Permit"). ISRI appreciates the WQCD's extension of the comment period on the Proposed Permit. ISRI is the *Voice of the Recycling Industry*®. With headquarters in Washington, DC and 18 chapters nationwide, including the Rocky Mountain Chapter that includes Colorado, ISRI represents more than 1,300 companies that process, broker, and consume recyclable commodities, including		David Wagger -Institute of Scrap Recycling Industries, Inc	Comment noted.

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			metals, paper, plastics, glass, rubber, electronics, and textiles. ISRI provides education, advocacy, and safety and compliance training, and promotes public awareness of the essential role that recycling plays in the U.S. economy, global trade, the environment, and sustainable development. Nationally, the recycling industry produces $117 billion in annual economic impact, supporting more than 500,000 good jobs and generating $7.3 and $5.0 billion in Federal and State taxes, respectively. In Colorado, the recycling industry produces nearly $1 billion in annual economic impact, supporting 4,500 good jobs and generating $63 and $33 million in Federal and Colorado taxes.			
7		General	ISRI also supports the comments on the Proposed Permit submitted by the Federal StormWater Association (FSWA). ISRI is a member of FSWA. FSWA's comments may address issues other than those addressed in ISRI's comments below.		David Wagger –Institute of Scrap Recycling Industries, Inc	Comment noted
8		General	Since the 1990 National Pollutant Discharge Elimination System (NPDES) regulations were promulgated, stormwater management has become one of the most important operational and regulatory issues for the recycling industry. Stormwater permits typically affect every aspect of facility operations. ISRI has developed and provided information to its members on stormwater management and compliance and has been an advocate for the industry during the development and renewal of state general permits and the Federal Multi-Sector General Permit (MSGP). The industry's preferred approach to stormwater management is the design, implementation, operation, and maintenance of appropriate, effective nonstructural and structural control measures and BMPs to reduce the impact of recycling activities on the quality of		David Wagger –Institute of Scrap Recycling Industries, Inc	Permitting authorities must have a metric for determining whether pollutants may be causing or contributing to exceedances of water quality standards. This is typically done through narrative and numeric performance-based limits and WQBELS. Due to the large number of industrial stormwater permittees the division, as well as EPA and most other states, the WQCD chooses an approach that includes the use of benchmarks for some sectors. Benchmarks are not numeric performance-based limits, and while they may not precisely measure the effectiveness of control measures, they do represent a

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			stormwater discharges. However, the use of benchmark monitoring with its associated benchmarks as indicators of the effectiveness of stormwater pollution prevention plans (SWPPPs) and the control measures and BMPs described in SWPPPs has been problematic. Benchmarks have been problematic not simply because they are unrelated to the intrinsic capabilities of control measures and BMPs to limit or reduce benchmark parameter concentrations in stormwater runoff that is discharged (i.e., they do not reflect control measure or BMP effectiveness). Exceedances of these benchmarks have been used as "evidence" of permit violations in threats of Clean Water Act Section 505 citizen lawsuits by third parties against ISRI members, despite EPA's correct view that a benchmark exceedance is not per se a permit violation. In 2020, ISRI submitted detailed comments[1] (as did FSWA[2]) on the Proposed Federal 2020 MSGP because of its many problematic aspects regarding benchmark monitoring and other provisions and especially because of its potential influence on state permits (e.g., the Proposed Permit). ISRI refers WQCD to these comments, especially regarding issues with AIM. Some of the problematic aspects of the Proposed 2020 MSGP survived to be contained in the 2021 MSGP. The Proposed Permit's Fact Sheet[3] makes reference to the 2021 MSGP. Since the Proposed 2020 MSGP, other stormwater permit issues have emerged, especially regarding PFAS. These include U.S. EPA's Interim PFAS Strategy[4] and its issuance of Draft Method 1633[5] for analyzing samples of stormwater and other environmental media for PFAS.			threshold of elevated concern for impacting receiving waters. The commenter proposes the approach of *the design, implementation, operation, and maintenance of appropriate, effective nonstructural and structural control measures and BMPs to reduce the impact of recycling activities on the quality of stormwater discharges*. The division agrees that this is essential and has requirements throughout the permit that reflect this. However, the presence of specific pollutants in stormwater runoff from some industrial categories is well established. In these cases, benchmarks and subsequent actions required through AIM provide additional assurance that control measures are appropriate for the specific pollutants resulting from the facilities' industrial activities.

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			For these reasons, ISRI provides the comments below on the Proposed Permit. II. Comments ISRI's comments on the Proposed Permit generally follow the sequence of its provisions. [1] See https://www.regulations.gov/comment/EPA-HQ-OW-2019-0372-0184. [2] See https://www.regulations.gov/comment/EPA-HQ-OW-2019-0372-0245. [3] "Colorado Discharge Permit System (CDPS) Fact Sheet To Permit Number COR900000—General Permit for Discharges from Stormwater Runoff Associated with Non-Extractive Industrial Activity" (March 10, 2022). [4] U.S. EPA. 2020. Memorandum: Recommendations from the PFAS NPDES Regional Coordinators Committee—Interim Strategy for Per and Polyfluoroalkyl Substances in Federally Issued National Pollutant Discharge Elimination System Permits (https://www.epa.gov/sites/default/files/2020-11/documents/pfas_npdes_interim_strategy_november_2020_signed.pdf). [5] U.S. EPA. 2021. "Draft Method 1633: Analysis of Per- and Polyfluoroalkyl Substances (PFAS) in Aqueous, Solid, Biosolids, and Tissue Samples by LC-MS/MS" (https://www.epa.gov/cwa-methods/cwa-analytical-methods-and-polyfluorinated-alkyl-substances-pfas#draftmethod-1633).			
9		General	We have reviewed this draft permit in our capacity as a COR080000 permit holder (SEMSWA	No change requested.	Southeast Metro	Comment noted

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			and Arapahoe County) and as a COR070000 permit holder (SEMSWA) and understand that we are not regulated under the draft permit (COR900000). We believe it is important to comment on this permit because stormwater from industrial sites discharge into MS4s and into our local streams. Thank you for the opportunity to comment. **Request:** No change requested.		Stormwater Authority (SEMSWA) Arapahoe County CP Compliance	
10		General	Please provide an additional public comment period for the opportunity to review division's responses to 1st draft comments.	Please provide the opportunity for an additional public comment period	Troy Nedved, RT Civil Consultants- For and on behalf of Meridian Metropolitan District	See Comment 1
11	Permit	Cover Page- Effective [30 days after issued date, 202X]	Thirty (30) days is not sufficient time to implement new permit requirements. Budgets already are established and approved. Financial resources are not available with only 30 days advanced notice.	Please revise effective date to at least 180 days after issue date.	Troy Nedved, RT Civil Consultants- For and on behalf of Meridian Metropolitan District	Comment incorporated The division has extended the effective date in the permit.
12	Fact Sheet	I.E.1.d Cost-Benefit Analysis	What are the guidelines, standards or templates available for the cost-benefit analysis?	Please provide the guidelines, standards or template for a cost-benefit analysis.	Troy Nedved, RT Civil Consultants- For and on behalf of Meridian Metropolitan District	The division does not develop cost-benefit analysis guidelines, standards, or templates. Permittees may construct a cost benefit analysis as they see fit. Note that there was not a formal request for a cost benefit analysis associated with the draft COR900000 permit.
13	Fact Sheet	I.E.3 Opportunity to Submit Public Comment	"Note that if you do not identify an issue in your comments on the draft permit, you may not be allowed to raise that issue in an administrative adjunction." How will this be administered?	Please explain the reason for this restriction. What if the division's response to another permittee's comment clouds or provides	Troy Nedved, RT Civil Consultants- For and on behalf of Meridian	The process for addressing permit appeals is established in Regulation 61.7 and 24-4-105 C.R.S. The basis of these regulations is outside the scope of this permit. Permittees requesting additional clarity on the

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		on the Draft Permit		less clarity in other sections of the permit?	Metropolitan District	division's response to comments can do so by directly contacting the division.
14	Fact Sheet	I.1 Major changes to Permit, Benchmarks – Total Recoverable Iron and Magnesium)	The paragraph on total iron benchmark references a study published in 2018 by researchers with the Colorado Department of Wildlife (now CPW). As noted in the enclosed testimony by GEI Consultants submitted in the 2021 WQCC Regulation 31 rulemaking hearing, this study is "intended to replicate substrate characteristics created as a result of Fe precipitate from hard-rock mine drainage conditions." GEI concluded that "the conditions created within mesocosm study sites should not be considered representative of stream sites statewide." Lastly, the mesocosm studies "did not meet the minimum requirements established by the EPA in the Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses (National Guidelines; Stephan et al. 1985)." The COR900000 permit will be applicable to multiple categories of industries statewide, so it is imperative for the Division to use representative studies that apply to statewide conditions and meet the EPA National Guidelines for use in developing water quality criteria. Based on the enclosed GEI testimony and review of the basis of the argument used in the Fact Sheet, the Division should re-evaluate the need for a total iron benchmark. As the EPA concluded in the 2021 MSGP that removing the iron benchmark is appropriate, the Division should strongly consider consistency with that approach.	Remove reference to 2018 CDW study as not applicable statewide for support of a total recoverable iron benchmark. Division should be consistent with EPA's approach to remove iron benchmarks based on the 2021 MSGP.	Colorado Mining Association	No change Iron is applied as a benchmark rather than a limit. A benchmark is a measure of control measure effectiveness. Concentrations above the benchmark indicate a stormwater discharge could adversely affect receiving water quality (and control measures must be evaluated). Concentrations below the benchmark are not expected to have an impact on receiving water quality. Removal of the iron benchmark could result in permittees removing their existing control measures. In order to allow this the division would need assurance that it would not have an impact on water quality. At this time the division does not have this assurance. There are currently no EPA or Colorado acute aquatic life criteria for iron to gauge the level at which impacts may occur from short term stormwater exposure. Therefore, the division is retaining the iron benchmark in order to ensure that permittees continue efforts to minimize iron in stormwater discharges. Additionally, the division noted in the Fact Sheet that the 1 mg/L benchmark is being retained from the previous permit term and is not being reduced to the level of the

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						CPW FCV (0.251 mg/L) due to incomplete data.
15	Fact Sheet	I.3.b RDA	United Airlines, Inc. ("United") appreciates the opportunity to submit comments to the Colorado Department of Public Health & Environment on its draft CDPS General Permit COR900000 (the "General Permit"). United operates one of its largest and fastest-growing hubs at the Denver International Airport (DEN), operated by the City and County of Denver's Department of Aviation ("City"). United's operations at DEN are classified as transportation facilities under SIC code 4512. As such, "only those portions of the facility that are either involved in vehicle maintenance ..., equipment cleaning operations, airport deicing operations," or fall under another category of industrial activity identified in the regulations, are subject to permit coverage. Colorado Code Regs. 61.3(2)(e)(iii)(H). The only stormwater outfall to which United discharges under its stormwater permit is shared by the City, so United works closely with the City to facilitate compliance with stormwater permitting requirements and best management practices applicable to its operations at DEN. United also generally supports the concerns raised in the City's public comments. United is not categorically opposed to PFAS sampling in all instances. However, CDPHE has not made a determination required to impose PFAS monitoring requirements and practice effluent limitations under residual designation authority. As codified under state and federal law, residual designation authority ("RDA") allows CDPHE to require stormwater permitting for discharges that		Christine Landmeier – United Airlines	The division disagrees with arguments made by several commenters regarding the appropriate scope of the division's residual designation authority. The division is not limited to using that authority for individual facilities or specific case-by-case determinations. Rather, as set forth in Regulation 61.3, the division is authorized to require permits for any stormwater discharges which the Division determines contribute to a violation of a water quality standard or are a significant contributor of pollutants to state waters. This designation may include a discharge from any conveyance or system of conveyances used for collecting and conveying stormwater runoff. It is important to note that this authority does not require a finding that a discharge contributes to a water quality standard violation. Rather, the division can properly use this authority if it determines that a discharge is a significant contributor of pollution to state waters. This provision of Regulation 61 is fully in line with federal law governing residual designation authority. As noted in the preamble to EPA's final Phase II stormwater rule, EPA's regulations "preserve[] the regulatory authority to

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			either CDPHE or U.S. EPA determine "contribute to a violation of a water quality standard or is a significant contributor of pollutants to state waters." Colorado Code Regs. 61.3(2)(e)(vii); CWA § 402(p)(2)(E). Due to the potential precedent-setting nature of applying this authority, United respectfully requests CDPHE only impose stormwater permitting requirements where there actually has been a determination that specific stormwater discharges are actually contributing to violations of a water quality standard or are significantly contributing pollutants to state waters. CDPHE has not provided sufficient data to support such a determination at this time. Instead, CDPHE is invoking RDA to require stormwater permitting broadly for all areas where AFFF has been used, stored, or released, characterizing these areas as "significant contributors of pollutants [that] may reasonably be expected to cause a violation of the State's narrative standard for toxicity." The cited basis of a reasonable expectation of causing a water quality standard violation is not allowed under the applicable legal provisions for the exercise of RDA. While permitting can also be required for the other cited basis of a discharge being a "significant contributor of pollutants" to state waters, this appears to be based generally on "data showing widespread detection throughout the state, and documented contamination at several civil and military airports nationwide." Fact Sheet at page 23. This data is not sufficient to support the imposition of permitting requirements for the mere presence of materials that may contain a particular pollutant, as is the case with United's indoor storage of fire			subsequently address a source (or category of sources) of stormwater discharges of concern on a localized or regional basis." 64 Fed. Reg. at 68,781 (Dec. 8, 1999) (emphasis added). See also Environmental Defense Center, Inc. v. EPA, 344 F.3d 832, 873-76 (9th Cir. 2003) (State permitting authorities can address a source or category of sources of stormwater discharges of concern that are otherwise unregulated on a localized or regional basis.) EPA further explained that the final Phase II rule clarified that the designation authority can be applied within different geographic areas to any single discharge (i.e., a specific facility) or category of discharges that are contributing to a violation of a water quality standard or are significant contributors of pollutants to waters of the United States. Accordingly, the division may use its residual designation authority under Regulation 61 to determine that a category of stormwater discharge sources is a significant contributor of pollution to state waters and may impose controls on those sources through a regionally applicable permit. Several commenters suggest that the division has not made an appropriate determination that PFAS in stormwater from airports is a

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			suppression foam. CDPHE cites no evidence that could support a determination the limited use of PFAS-containing materials within aircraft hangars, which are entirely contained indoors, are causing discharges that are significantly contributing pollutants to state waters. Again, United is not categorically opposed to PFAS sampling in all cases. CDPHE could conduct investigations outside of CDPS permitting requirements on a case-by-case basis where factual circumstances warrant. Alternatively, CDPS could require such sampling as part of the development of water quality- based effluent limitations ("WQBELs")[1]. In conclusion, United appreciates the opportunity to submit comments and CDPHE's consideration of our letter. [1] U.S. EPA NPDES Permit Writers Manual, 6.2.1.5 Pollutants Otherwise Expected to be Present in the Discharge, Sept. 2010			significant contributor of pollution to state waters. The division disagrees that it has not established the additional airport areas as a significant contributor of pollutants; however, it does wish to gather additional information to inform the scale of PFAS in stormwater discharges from airports. This is especially important in light of EPA's interim Health Advisory Limits (HAL) for PFOA and PFOS and EPA's draft Drinking Water rule, which both reflect potential health impacts at levels lower than the levels in Commission Policy 20-1. The division has therefore reconsidered the residual designation and decided to remove it from the final permit pending collection of additional data. The final permit retains, from the draft, monitoring requirements for discharges from areas where vehicle maintenance, equipment cleaning, and deicing occur. This will be a first step towards better understand PFAS in industrial stormwater. The division is also considering alternative means to collect sample data on PFAS in airport stormwater discharges. Additional data can be used to develop a more focused approach to a future RDA, either through permit modification, or at the next permit renewal.

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						Permittees that have no exposure conditions for all industrial materials may be eligible for no exposure certifications. However, to qualify the facility must meet checklist items in the No Exposure application. Checklist Item No. 1 describes, in part, "In addition, areas with residuals from using, storing or cleaning industrial machinery or equipment must not remain and be exposed to stormwater." PFAS chemicals degrade very slowly; therefore, if the permittee had any PFAS releases, the potential for it to remain at concentrations above levels with the potential for health impacts remains high. Permittees that have determined there is no potential for PFAS materials to be present outside and can certify No Exposure conditions for other industrial materials have the option of applying for a No Exposure certification. See comment 254.
16	Permit Fact Sheet	I.A.1.a.i and ii I.4 RDA	The division's proposed use of RDA is inappropriate. See attached comment letter.	See attached comment letter	City and County of Denver Department of Aviation	See comment 15
17	Permit Fact Sheet	I.D.1.m.iii III I.4 RDA	[1] The Coalitions understand that the State is invoking its Residual Designation Authority (RDA) as a basis to impose conditions related to PFAS, but this is not appropriate. RDA can be invoked only on a case-by-case basis based on site-specific information regarding the water quality impacts		Coalitions	See comment 15

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			of a pollutant. *See* 55 Fed. Reg. 47990, 47993 (November 16, 1990). Beyond that RDA authority, if the agency wants to designate classes of industries and impose conditions on a sector-wide basis, it must do so through the regulatory process. The State has not followed this process and cannot exercise RDA to impose PFAS-related conditions on a sector-wide or statewide basis.			
18	Permit Fact Sheet	I.D.1.m.iii III I.4 PFAS Monitoring, RDA	**A. The Proposed SGP's Conditions Relating to PFAS Are Inappropriate and Should Be Removed** The Coalitions appreciate the State's efforts to identify potential sources of PFAS and develop regulations to control the sources of PFAS that pose risks to human health and the environment. However, the conditions relating to PFAS in the Proposed SGP exceed the scope of the State's authority to regulate stormwater discharges associated with industrial activity under the Clean Water Act. These conditions are inappropriate from a scientific standpoint as well, as discussed further below. [refers to comments 21, 102, 105, and 184]		Coalitions	See comment 15
19	Permit Fact Sheet	I.D.1.m.iii III I.3 and 4 PFAS Monitoring, RDA	Clean Water Action strongly disagrees that the PFAS conditions in the permit are inappropriate and should be removed. These PFAS conditions are necessary to protect water quality, especially in rivers like the South Platte that are sources of drinking water and also used for agriculture. Requiring PFAS monitoring at facilities with the potential to discharge PFAS into Colorado waters will provide additional valuable information on the extent of PFAS contamination in the state. Having this vital information will also help inform future CDPHE actions to better protect our communities from PFAS.		Clean Water Action - **Responsive** Coalitions draft permit comments, 6-13-22	Comment partially incorporated. The division agrees with the commenter that the permit should include PFAS requirements for facilities with the potential to discharge them; however, additional time to collect and analyze monitoring data will ultimately enable the division to ensure that monitoring efforts are focused and provide useful data. Rather than including the RDA in the final permit the division may still incorporate it into a future modification or the next renewal.

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						See comment 15
20	Permit Fact Sheet	I.D.1.m.iii III I.3 and 4 PFAS Monitoring, RDA	Significantly, Clean Water asserts several bases for supporting the Division's efforts to regulate PFAS through the Draft Permit. However, as Denver presented in its primary comments, the Division's approach to regulating PFAS through the Draft Permit is improper. Clean Water states that "[r]equiring PFAS monitoring *at facilities* with the potential to discharge PFAS into Colorado waters will provide additional valuable information on the extent of PFAS contamination in the state." (Emphasis added.) However, the Draft Permit is a discharge permit associated with industrial activities, not just facilities. With respect to airports, the only areas where "industrial activities" occur are those associated with vehicle maintenance, equipment cleaning, and deicing. See 55 FR 48065-66 (Nov. 16, 1990).		City and County of Denver Department of Aviation **Rebuttal** Clean Water Action – Responsive 7-15-22	See comment 15
21	Permit Fact Sheet	I.D.1.m.iii III I.3 and 4 PFAS Monitoring RDA	**1. SGP Conditions Should be Limited to Stormwater from Industrial Activity that Results in PFAS Discharges** The Proposed SGP Fact Sheet explains that the State seeks to use industrial stormwater permitting program "to require monitoring for PFAS to better understand the extent of contamination of this emerging contaminant that is sometimes found in the industrial activities this permit covers, and develop future responses to address PFAS contamination." However, these agency efforts must stay within its authority under the NPDES permit program. The industrial stormwater program regulates "stormwater associated with industrial activity" as defined by 40 CFR § 122.26(b)(14). That does not include all stormwater from industrial sites, but only that stormwater determined to be associated with		Coalitions	See comment 15 Both the previous permit and the renewal permit authorize the discharge of emergency firefighting. This has not changed. The requirement does not apply to non-emergency situations, such as fire training and testing of equipment, or spills or leaks during non-emergencies. It also does not relieve the permittee from implementing control measures following the emergency response. In 2020, the division sent a survey to COR900000 permittees requesting information on the use, storage, and release of AFFF. Some instances of AFFF

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			industrial activity. For example, the Proposed SGP's regulation of PFAS focuses, but is not limited to, sectors that use or store aqueous film forming foam (AFFF). The storage or use of AFFF, however, is not part of a sector's "industrial activity."[1] Discharges associated with firefighting historically have been characterized as authorized non-stormwater discharges. Accordingly, the State must act within its statutory and regulatory authority in imposing conditions related to PFAS for stormwater discharges. 1 The Coalitions understand that the State is invoking its Residual Designation Authority (RDA) as a basis to impose conditions related to PFAS, but this is not appropriate. RDA can be invoked only on a case-by-case basis based on site-specific information regarding the water quality impacts of a pollutant. See 55 Fed. Reg. 47990, 47993 (November 16, 1990). Beyond that RDA authority, if the agency wants to designate classes of industries and impose conditions on a sector-wide basis, it must do so through the regulatory process. The State has not followed this process and cannot exercise RDA to impose PFAS-related conditions on a sector-wide or statewide basis.			releases occurred that were not during emergencies, rather were due to other reasons such as equipment malfunction.
22	Permit Fact Sheet	I.D.1.m.iii III I.3 and 4 PFAS Monitoring RDA	Clean Water Action believes CDPHE is acting within its regulatory authority by including PFAS conditions in this revised general permit. These required conditions are consistent with Policy 20-1, which gives CDPHE the authority to require practice based limits for industrial stormwater to protect water quality. We disagree with the comment that the storage of aqueous firefighting foam (AFFF) is not "part of a sector's industry activity." Industrial facilities store and use AFFF because of the fire risk directly associated with their industrial activities. Moreover, The		Clean Water Action – **Responsive** Coalitions draft permit comments, 6-13-22	Comment noted. See comment 15, 102, and Rebuttal comment 104

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			Coalitions do not provide a legal definition of "industrial activity" to substantiate their comment.			
23	Permit Fact Sheet	I.D.1.m.iii, III I.4 PFAS Monitoring RDA	C. *The HMWMD is better suited to address residual PFAS Contamination.* As set forth above, it is improper for the Division to exercise RDA to regulate residual PFAS contamination at airports. It makes more sense to regulate this issue through the risk-based programs administered by the HMWMD.		David Steinberger – Denver City Attorney's Office	The division disagrees with the comment. While there are many aspects of AFFF contamination that are appropriately addressed through the HMWMD, this program is not responsible for implementing CDPS regulations. The COR900000 permit is the appropriate authority to regulate PFAS in stormwater discharges. See comment 15
24	Permit Fact Sheet	I.D.1.m.iii, III I.4 RDA	D. *The Division's use of RDA authority is limited, and does not include authority for a category of discharges.* The Division proposes that it can use authority contained at 40 CFR 122.26(a)(9)(i)(D), that does not exist at Regulation 61, to designate a category of discharges as needing permit coverage. The Division then proposes to cover those discharges under this general permit. The Division does not have such authority and must issue permits in accordance with the provisions of Regulation 61. EPA's authority to designate a category of discharges was added through the Phase II stormwater rule, and as described at 61.49, the WQCC was intentional in amending the language of EPA's rule, which was considered "suggested" language, regarding RDA. Expansion of the categories of stormwater discharges needing permit coverage under the NPDES program has been considered many times during the history of the program. Recently, as discussed in the NASEM Report[8], that Committee recommended that EPA		David Steinberger – Denver City Attorney's Office	The commenter's reference to the WQCC intentionally amending the language is not relevant to the division's RDA of additional airport areas. The division has residual designation authority as set forth in Regulation 61.3(2)(e)(vii). The WQCC's reference to "EPA's suggested designation criteria" in 61.49 does not alter the authority adopted in the regulation. See comment 32 See comment 15

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			update the MSGP industrial sector classifications. EPA considered that recommendation during development of the 2021 MSGP and acknowledged that "such an expansion would require *separate regulatory action* to the definition of "stormwater discharges associated with industrial activity". The Division, would need WQCC regulatory action to have the authority to designate a category of industrial discharges other than those identified at 5 CCR 1002-61.3(2)(e)(iii), as requiring permit coverage. The Division should remove all permit provisions related to Sector AD. [8] National Academies of Sciences, Engineering, and Medicine (NASEM) 2019. Improving the EPA Multi-Sector General Permit for Industrial Stormwater Discharges. Washington, DC: The National Academies Press. https://doi.org/10.17226/25355 (the 2019 NASEM Report).			
25	Permit Fact Sheet	I.D.1.m.iii, III I.4 RDA	**I. Comment 1: Use of RDA Authority, Including for Regulation of PFAS in this Draft Permit is Inappropriate.** **1. Inclusion of PFAS Requirements in this Draft Permit is improper since the proposed activities are not industrial activities.** The regulation of certain PFAS locations at airports, as proposed in the Draft Permit, is inappropriate and these provisions should be removed, since those areas are not part of industrial activities at airports. Specifically, the Division seeks to impose stormwater permit requirements on "those portions of the air transportation facility that are involved in: (1) past or present fire training; (2)		David Steinberger – Denver City Attorney's Office	See comment 15

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			past emergency firefighting activities where PFAS-containing foam has been released to the ground. [and] iii. past or present use, storage, or release of PFAS-containing foam to land or surface water." Draft Permit Part III, Sector S. However, the listed areas (e.g., those associated with PFAS use) are not "associated with industrial activities." Specifically, Regulation 61.3(2)(e)(iii)(H) states that "*Only those portions* of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (A)-(G) or (I)-(K) of this subsection are associated with industrial activity ...." Id. (emphasis added). Therefore, the Draft Permit exceeds the Division's authority with respect to regulating industrial stormwater at airports.			
26	Permit Fact Sheet	Part III I.4 RDA	Responding to PFAS controls in airports not defined as industrial activities. Would 61.3(2)€(ii)(B) statement "stormwater discharge associated with industrial activity" includes, but is not limited to…" allow expansion beyond the limitations of 61.3(2)(e)(iii)	No specific change requested. Rebuttal comment. Seeking on clarification if this would expand defined industrial activities at airports.	Paul Hamilton - **Responsive**	See comment 15
27	Permit Fact Sheet	I.D.1.m.iii III I.4 RDA	**2. The Division's Proposed Use of RDA is Improper.** Denver shares concerns regarding PFAS, including historical releases of PFAS-containing AFFF associated with firefighting activities. However, the State's delegated authority under the Clean Water Act is not the right regulatory framework to address the potential of PFAS contamination at sites were PFAS-containing AFFF may have been released historically. More specifically, managing historical PFAS releases has been, and should continue to be, addressed		David Steinberger – Denver City Attorney's Office	See comment 15

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			through the Hazardous Materials and Waste Management Division of the CDPHE and the various authorities and voluntary programs that are in place and managed by HMWMD			
28	Permit Fact Sheet	III.S, Intro paragraph I.4 RDA	The division proposes that any area where PFAS foam has been stored, used, or released to the ground be subject to the permit. Remove for the reasons described in previous comments	See attached comment letter	City and County of Denver Department of Aviation	See comment 15
29	Permit Fact Sheet	III.S I.4 RDA	*B. The Division's proposed use of RDA in the Draft Permit is unlawful.* In the Fact Sheet, the Division first quotes the RDA authority directly from Regulation 61.3(2)(d)(vii) to set forth and describe the Divisions RDA authority. The Division then proceeds to identify, at page 23, three "additional" bases for exercising RDA authority: • In the first bullet, the Division states that it has RDA where a facility "is a 'significant contributor of pollutants' to waters of the state, which includes surface water *and groundwater*." The Division takes the term "waters of the state" out of context. This is not a lawful basis to assert permitting authority, and RDA authority, for discharges to groundwater. • In the third bullet, the Division states that it has RDA where a facility "Conducts industrial activity, or has a NAICS code, with stormwater characteristics similar to any industrial activity or SIC code listed in Table A (Appendix A)." Under the federal CWA and Regulation 61, this is not a basis for the Division to assert RDA. • Finally, in the second bullet the Division asserts its "additional authority" to use its		David Steinberger – Denver City Attorney's Office	The permit does not regulate discharges to groundwater and the division's intent in the fact sheet is not to provide basis for an RDA to groundwater. However, waters of the state" in Colorado includes both surface and groundwater and omitting groundwater in this description would be inaccurate. EPA proposed for public comment the US Space Force Buckley MS4 Draft NPDES permit COR042003 on October 28, 2021. The draft Buckely permit contains monitoring requirements for PFAS. The draft Buckely permit and statement of basis can be viewed at: https://www.epa.gov/npdes-permits/draft-npdes-permit-buckley-space-force-base-municipal-separate-storm-sewer-system. Presence of PFAS in groundwater is typically the result of their release to land which makes them likely to

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			RDA where it finds that a facility "May reasonably be expected to cause a violation of any water quality standard." As explained below, this is not a lawful basis to assert RDA. Exercising RDA with respect to a facility, let alone an entire class of facilities within the state, merely based upon the possibility that the facility "may be reasonably expected to cause a violation of any water quality standard" is *ultra vires*. The federal statute and Regulation 61 clearly require a finding that a stormwater discharge is *in fact* contributing to violation of a water quality standard – the federal act and Regulation 61 confer no RDA authority to a state based upon a "reasonable expectation." A "reasonable expectation" is not a "determination", which the law requires. Any exercise of RDA based simply on the Division's "reasonable expectation" that a facility may cause a violation of a water quality standard would be arbitrary, capricious and unreasonable. And as set forth in the Fact Sheet, the Division is exercising its RDA based in part on a "reasonable expectation," which is an authority the Division simply does not have. The Division specifically declares that "For the renewal permit, the Division is using its RDA and *has determined* that stormwater discharges from airport areas where firefighter training has been performed; or where AFFF has been used, stored, or released to the ground are significant contributors of pollutants and *may reasonably be expected to cause a violation of the State's narrative standard for toxicity* (see Policy 20-1). This determination is based on the literature on the toxicity, fate, and transport of PFAS from AFFF, history of usage, data showing widespread			continue to be present in stormwater runoff. The commenter asserts that the division does not have sufficient data to support the RDA. The division disagrees. The Fact Sheet clearly describes common use of foam containing PFAS at Sector S facilities and the reasons for expecting it to be present in the discharge. Survey data received from Sector S COR900000 permittees indicate AFFF use and release. The division further makes the connection between PFAS in surface waters following release based on numerous cases cited in the fact sheet. However, the division is not including the RDA in the final permit at this time as discussed in comment 15.

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			detection throughout the state, and documented contamination at several civil and military airports nationwide." Fact Sheet, Page 24 (emphasis added). In short, the Division has proposed two bases for assertion of RDA: those identified "PFAS locations" that (1) are significant contributors of pollutants to waters of the state or (2) may reasonably be expected to cause a violation of a water quality standard. As noted above, there is no basis to assert RDA based upon a "reasonable expectation" that a facility may be contributing to such violation of a water quality standard – the law requires the Division to determine that a facility *is* contributing to that violation. As such, the only lawful basis the Division sets forth for exercising RDA is the assertion that the identified PFAS locations are significant contributors of pollutants to waters of the state. However, the information the Division provides to support its conclusion that PFAS release locations are a significant contributor of PFAS pollutants to waters of the state does not establish the requisite individualized finding (a "determination") that is required to exercise the RDA. • First, the Division makes clear that it does not yet have sufficient data. For instance, the Division states that "Additionally, the permit requires monitoring for PFAS to better understand the extent of contamination of this emerging contaminant that is sometimes found in the industrial activities this permit covers and develop future responses to address PFAS contamination." Fact Sheet, Page 12. The Division further states that "Monitoring of discharges would help to better			

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			understand the extent to which PFAS chemicals are present in stormwater discharges from areas where they have been used, stored, or released." Fact Sheet, Page 21. It is clear that the Division is using the Draft Permit, and the RDA, as a means of *collecting data* that could then be used to support the RDA authority, rather than using the RDA authority because the Division has made the necessary factual determination regarding PFAS. • Second, in asserting its RDA, the Division concludes that "The common use of AFFF at airports and the occurrences in ground and surface water, as documented in the examples above, constitute a significant contribution of pollutants that *could* cause or contribute to an exceedance of a water quality standard. Practice-based limits therefore apply. In addition, monitoring for PFAS applies." Fact Sheet, page 24-25 (emphasis added). Evidence that a pollutant source *could* cause a violation of a water quality standard is, again, not a lawful basis for asserting RDA. • Third, the Division presents only limited information to support its proposed use of RDA. The Division has presented insufficient additional information to make a determination that PFAS associated with airport uses are significant contributors of pollutants to waters of the state warranting the use of RDA. o The Division sites examples of PFAS contamination at eight[3] commercial airports and military installations, out of an estimated total of 20,231 public use airports and military installations in the United States[4]. Of those eight examples presented by the Division, only two			

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			facilities, both military installations, are located in Colorado.[5] o The Division's examples do not substantiate that PFAS in stormwater runoff is a significant contributor of pollutants to waters of the state. The "examples" are generally about PFAS in groundwater, not the occurrence of PFAS in stormwater. o For two military installations in Colorado (Peterson and Buckley[6]), the surface water exposure pathway was recently investigated, and determined to not be of concern.[7] Factors leading to those conclusions included: that all surface water drainages in the areas were dry, that surface water appears to drain into surrounding grassed areas where it percolates into the subsurface, and that the nearest surface water features are intermittent. o The Fact Sheet contains eighteen references on pages 41-42. Of those, six relate to PFAS (Nos. 3, 5, 6, 10, 11, and 13). With respect to the States reference to its own PFAS sampling program from 2020, it's noteworthy that of 71 surface water sites sampled, only one surface water site contained PFAS above the Policy 20-1 translation levels for PFAS. The other literature sources likewise do not support the Division's use of RDA. o In short, the Division has presented insufficient data to support a formal "determination" that stormwater discharges from each and every location of historical AFFF releases at all airports in Colorado are in fact significant			

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			contributors of pollutants to waters of the state. [Footnotes to Comment 16] [2] There is a typo in the Fact Sheet – the Division states the RDA as being set forth in 61.32(d)(vii) [3] Surprisingly, for two of the eight examples presented in the Fact Sheet, the Division simply linked to newspaper articles as the source of information used for this permitting action. That is not the type of reliable evidence the Division is required to invoke in exercising RDA. [4] As reported by the Bureau of Labor Statistics for 2020. https://www.bts.gov/content/number-us-airportsa. [5] Denver is sensitive that this may simply reflect a data gap. But if that's the case – that there is a data gap – then there is insufficient support for using RDA. [6] It is surprising that the Division didn't discuss PFAS issues at Buckley. Even if the information available regarding PFAS in stormwater discharges at Buckley do not support the Division's findings for statewide use of RDA at airports, that information should nevertheless have been presented to allow a fair and accurate discussion of the issues. [7] Final Site Inspection Report of Aqueous Film Forming Foam Areas at Peterson Air Force Base El Paso County, Colorado (July 2017) and Final Site Inspection Report of Aqueous Film Forming Foam Areas at Buckley Air Force Base Arapahoe County, Colorado (April 2019).			

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30	Permit Fact Sheet	III.S.2.a I.4 RDA	The division proposes to drop language that clarifies the permit covers discharges "from only those portions of the air transportation facility that are involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling and lubrication), equipment cleaning operations or deicing operations" This language is direct from Regulation 61 and was specifically included for the air transportation sector (see if there is preamble to the rule language from the Phase I SW rule). See previous comments	Drop the proposed langue and retain the language from the current permit that is consistent with Regulation 61 and the MSGP. See attached comment letter	City and County of Denver Department of Aviation	See comment 15
31	Permit Fact Sheet	Part III I.4 RDA	*A. Residual Designation Authority under the Clean Water Act and State law.* The Division is improperly proposing, through this Draft Permit, to use the CWA to address possible historic contamination at a wide range of locations, including areas not otherwise covered by this general industrial stormwater permit. Specifically, as discussed below, based upon the information the Division has presented in the Draft Permit Fact Sheet (the "Fact Sheet"), the Division cannot use "residual designation authority" ("RDA") to address AFFF issues as proposed. The Division's proposed use of the RDA far exceeds what is allowed under federal law. The Division's proposed changes within the Permit to Sector AD are therefore also improper. The RDA is established in Section 402(p)(2)(E) of the Clean Water Act: "A discharge for which the Administrator or the State, as the case may be, *determines* that the stormwater discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States." (emphasis added). Under the CWA, the permitting		David Steinberger – Denver City Attorney's Office	See comment 15 Sector AD requirements have not changed from the previous permit. See comment 32

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			authority must make a determination that either (1) the stormwater discharge is contributing to a specific violation of a water quality standard or (2) the stormwater discharge is a significant contributor of pollutants to waters of the United States or water of the state. Mere speculation, rather than an actual *determination*, would be insufficient to warrant use of the RDA. It is clear that the CWA RDA was intended to only to be implemented on a case-by-case basis, rather than on a sector-wide, state-wide basis, as the Division proposes in the Draft Permit. As discussed in the preamble to EPA's regulations for stormwater applications and related legislative history[1] "Section 402(p)(2)(E) of the CWA authorizes *case-by-case designations* of storm water discharges for immediate permitting if the Administrator or the State Director determines that the storm water discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States." (emphasis added). Further, "EPA will consider a number of factors when determining whether a storm water discharge is a significant contributor of pollution to the waters of the United States. These factors include: the location of the discharge with respect to waters of the United States; the size of the discharge; the quantity and nature of the pollutants reaching waters of the United States; and any other relevant factors." Id. By establishing state-wide blanket use of RDA for potential PFAS discharges, the Division has not properly considered the factors identified by the EPA as being necessary to exercise RDA. The State's RDA is set forth in Regulation 61.3(2)(e)(vii).2 The regulation states:			

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			A discharge which either the Division or the EPA Regional Administrator determines to contribute to a violation of a water quality standard or is a significant contributor of pollutants to state waters. This designation may include a discharge from any conveyance or system of conveyances used for collecting and conveying stormwater runoff or a system of discharges from municipal separate storm sewers, except for those discharges from conveyances which do not require a permit under paragraph section 61.3(2)(c) or irrigation return flow which is exempted from the definition of point source in this regulation. (emphasis added). As such, the requirements for state RDA are that the state must determine that a stormwater discharge either (1) contributes to a violation of a water quality standard or (2) is a significant contributor of pollutants to state waters. The determination must be made on a case-by-case basis, and the determination must be final agency action subject to appeal. Absent those specific findings and procedures, the Division has no RDA authority. 1 55 FR 47993			
32	Permit	III.AD Appendix A RDA	The division proposes designated categories of facilities. See attached comments.	Remove the Sector AD section and all reference to sector AD.	City and County of Denver Department of Aviation	Sector AD is retained from the previous permit. It was created within EPA's MSGP to account for additional designated facilities. Its removal would remove protection afforded to stormwater runoff from facilities that for various reasons do not precisely fall under an SIC code listed in Regulation 61.3(2)(e)(iii)

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						But have characteristics similar to these industrial categories and are therefore considered significant contributors of pollutants. See comment 15
33	Permit	I.A I.D.2.b.vii I.D.6 I.I.5 Watershed Protection Control regulations	Comment: The Cherry Creek Basin Water Quality Authority (CCBWQA) has reviewed the Colorado Discharge Permit System (CDPS) general permit COR900000 for stormwater discharges associated with non-extractive industrial activity that was issued for public notice by the Water Quality Control Division (WQCD) on March 10th. The CCBWQA requests that language be included in the general permit that states that when the permittee/discharge is located within a watershed protection control regulation basin, such as the Cherry Creek Reservoir Basin, that the applicable control regulation and all additional requirements as included in said control regulation apply in the specific COR900000 permit certification. An example of such language that could be modified to fit the COR900000 general permit is provided below: From the COR070000 permit, page 6: *"Cherry Creek Watershed Requirements This permit includes terms and conditions for regulated MS4s in the Cherry Creek watershed. Within this permit, "Cherry Creek watershed" refers only to specific areas in the upper portion of the watershed as defined in Regulation 72.2.4. As per the Cherry Creek Reservoir Control Regulation (5 CCR 1002-72), additional requirements are included in the Public Education Program, Construction Program and Post-construction Program (also known as the New Development and*	Include language in the general permit that states that when the permittee/discharge is located within a watershed protection control regulation basin, such as the Cherry Creek Reservoir Basin, that the applicable control regulation and all additional requirements as outlined in said control regulation apply in the specific COR900000 permit certification.	Cherry Creek Basin Water Quality Authority (CCBWQA)	Comment partially incorporated Sections 25-8-202(1)(c) and 25-8-205, C.R.S. authorize the Water Quality Control Commission to promulgate control regulations which describe prohibitions, standards, concentrations, and effluent limitations on the extent of specifically identified pollutants that any person may discharge into any specified class of state waters. Control regulations are implemented through discharge permits and are similar to TMDLs in that they can specify wasteload allocations for point source discharges as well as other conditions designed to achieve water quality standards. The division has added language throughout the permit to specifically reference the Watershed Protection Control Regulations such that the regulations are implemented in a similar manner to TMDLs. The division has added text to Part I.D 2.b.8.vii and Part I.D.6 referencing Regulations 71-74.

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			Redevelopment Program). Requirements in the Cherry Creek Reservoir Control Regulation are in addition to (not a replacement of) requirements in Colorado Discharge Permit System (Regulation 61)." The CCBWQA appreciates the opportunity to review and comment on this draft permit, and thanks the WQCD for its time and consideration of the request.			
34	Permit	I.A I.D.2.b.vii I.D.6 I.I.5 Watershed Protection Control regulations	Please include language in the general permit referencing applicable control regulation(s) and all additional requirements included in the control regulation(s) apply to discharges located within a watershed protection control regulation basin. This includes Regulation No. 71 (5CCR 1002-71) for the for Dillon Reservoir watershed, Regulation No. 72 (5 CCR 1002-72) for the Cherry Creek Reservoir watershed, Regulation No. 73 (5 CCR 1002-73) for the Chatfield Reservoir watershed, and Regulation No 74 (5 CCR 1002-74) for the Bear Creek watershed. Although some Control Regulations may not currently include specific provisions for industrial permitted discharges, they do contribute stormwater discharges and will be considered during development/revisions of Control Regulations and TMDLs. Specifically, Regulation 72 applies to all regulated stormwater. Per the definition of regulated stormwater in Regulation 72, COR900000 permit holders are required to comply with the conditions of the regulation. Please remember to add phosphorus sampling requirements to facilities that discharge "industrial process wastewater" in the Cherry	Please consider adding the following language or similar language to Part I.A. Coverage Under this Permit, a new section, "Watershed Requirements. This permit includes additional requirements as specified in the Watershed Protection Control Regulations adopted by the Water Quality Control Commission which are hereby adopted and incorporated by reference. Requirements in the Watershed Protection Control Regulations are in addition to and not a replacement of requirements in this permit." Please add phosphorus to Table 3. Monitoring Requirements for applicable facilities.	SEMSWA, Arapahoe County CP Compliance	Comment partially incorporated The division agrees that the permit should implement control regulations and has revised the Fact Sheet and Permit to be clearer on report only monitoring for some sectors within the ISGP. However, it is unnecessary for all permittees within the Cherry Creek Reservoir Watershed to conduct monitoring, unless phosphorus is a specific pollutant of concern associated with a facility's industrial activity. The ISGP covers many different sectors under one general permit and is structured so that the permit requirements are tailored to the pollutant types found in each particular sector. Data on the contributions from industries is already widely available. For some industrial activities, phosphorus may be a pollutant of concern associated with manufacturing, for example, fertilizer. Under the previous permit, for discharges to impaired waters, the division qualitatively considered the nature of the

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			Creek Reservoir Watershed in accordance with Section 72.4.1 of the Regulation.			industrial activity to make a determination as to whether compliance with the other terms and conditions of the permit would control discharges as necessary to meet water quality standards. During the term of this final permit, the division will apply monitoring for phosphorus where appropriate, to implement Watershed Protection Control Regulations; however, Regulation 72 does not require industrial stormwater permittees to monitor for phosphorus. Regulation 72 requirements for monitoring apply to other types of discharges, such as “process wastewater.” Stormwater regulated under the COR900000 permit are not process wastewater. For this reason, the permit does not require phosphorus monitoring. If CCBWQA and MS4s have additional information within the Cherry Creek Reservoir Watershed on types of industries contributing phosphorus through stormwater discharges within the ISGP, please contact the division.
35	Permit	I.A.1 Facilities Covered	Recommend the word “non-extractive” be defined for clearer understanding. 40 CFR 122.26(b)(14)(i)-(xi) indicates an NPDES permit is required for "a discharge associated with industrial activity" and doesn't specify non-extractive, therefore this additional term causes confusion and may insinuate a separate permit is required for other industrial activity that is not	Define “non-extractive” within the permit. Or as an alternative specific change suggestion would-be to delete the word “non-extractive”.	City of Aurora	Comment partially incorporated Industrial activities defined in 40 CFR 122.26(b)(14)(i)-(xi) includes mineral extraction (mining) industries. The division permits mineral extraction (mining) industries separately from the rest of the industrial activities defined in

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			non-extractive. If a separate permit is required, a sentence explaining that would be helpful.			the regulation. See the division's webpage at https://cdphe.colorado.gov/wq-commerce-and-industry-permitting for a list of other discharge permits issued to commerce and industry. A definition is unnecessary because permit applicability for the COR900000 is primarily determined by SIC or activity codes listed in Appendix A. See Part I.A.1.a.i of the permit. However, the division has added information to Part C of the fact sheet listing the types of permits available to cover extractive industries.
36	Permit	I.A.1.a.i Allowable Stormwater Discharges	Recommend revising the language to provide consistency with Part I.A.2.e:	Revise the language to: "those subject to the national stormwater-specific effluent limitation guidelines (ELGs) under 40 CFR Subchapter 9 that have been identified in the relevant sector-specific sections(s) in Part III."	City of Aurora	No change The current language in Part I.A.1.a.i is consistent with Part I.A.2.e. The permit does not cover stormwater discharges subject to ELGs unless they are listed in Part III (except that existing discharges for which ELGs become effective after permit issuance will remain covered).
37	Permit	I.A.1.a.i and ii Allowable Stormwater Discharges	It is not appropriate for the Division to regulate residual PFAS contamination at airports. This issue should be regulated by existing groundwater programs within the HMWMD. Through those programs, risk-based approaches to residual PFAS contamination make far more sense and scientifically proven.	Remove PFAS monitoring in the draft permit.	Adam Walters - Southwest Airlines	Comment partially incorporated HMWMD does not issue stormwater discharge permits. The division is responsible for issuing CDPS permits to control the discharge of pollutants from point sources. As described in the Fact Sheet, PFAS in surface water can be the result of contaminated sediments from Stormwater Ponds or contaminated

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						soil. In addition, PFAS sources at airports are not entirely legacy as firefighting foams containing PFAS continue to be used and stored at airports. However, the division is limiting PFAS monitoring requirements to industrial stormwater discharges to waters with drinking water classification (including downstream water supply segments and alluvial wells) in alignment with Policy 20-1. See the Fact Sheet for additional information on downstream receiving waters. See comment 15
38	Permit	I.A.1.a.ii Allowable Stormwater Discharges	Recommend revising the language to "needing an industrial stormwater permit" to clarify what stormwater permit would be needed as to not to confuse with an MS4 or General Construction stormwater permit.	Revise the language to "needing an industrial stormwater permit" to clarify what stormwater permit would be needed as to not to confuse with an MS4 or General Construction stormwater permit.	City of Aurora	Comment incorporated The division changed “as needing a stormwater permit” to “requiring coverage under this permit” for clarity.
39	Permit	I.A.1.a.iv Allowable Stormwater Discharges	If run-on water does not currently meet water quality requirements, how can the receiving water industrial permittee be responsible for treatment?	Please revise permit such that the permittee is not responsible for run-on stormwater.	Troy Nedved, RT Civil Consultants- For and on behalf of Meridian Metropolitan District	See comment 138
40	Permit	I.A.1.b.ii Allowable Non-Stormwater Discharges	“applied in accordance with the approved labeling”	Please revise to “applied in accordance with manufacturers instruction”	Troy Nedved, RT Civil Consultants- For and on behalf of Meridian	No change The term “approved labeling” is used because EPA reviews the product label as part of the licensing/registration process for

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					Metropolitan District	pesticides, including herbicides. Similarly, Colorado regulates labeling of fertilizers. This regulation ensures that the user obtains necessary information on how to handle and safely use the product and avoid harm to human health and water quality. Manufacturer's instructions that are not provided on approved labeling may or may not meet this standard.
41	Permit	I.A.1.c I.D.1.m Allowable Non-Stormwater Discharges, PFAS	2. Part I.A.1.c. of the draft permit authorizes fire-fighting water as an allowable non-stormwater discharge provided that the permittee complies with Part I.D.2.m (please note this appears to be Part I.D.1.m). This section of the draft permit has several layers of Per-and polyfluoroalkyl substances (PFAS) storage and release requirements that the permittee must comply with before emergency fire-fighting water is considered an allowable non-stormwater discharge. The following are comments related to each subsection of the permit condition: i. A longstanding permitting principle that EPA has employed in stormwater permitting is that runoff from areas with industrial activity must be included in the permitting activity. Areas that do not have industrial stormwater runoff are not included in industrial stormwater permitting activities. We request that you clarify the condition to areas with industrial activity rather than all areas that contribute. ii. Please clarify the requirements for fire-fighting foam that does not contain PFAS material. We request that no further evaluation		Kate Sinner on behalf of Anonymous client	Comment partially incorporated The permit as a whole applies to stormwater discharges from all areas with industrial activity as defined in Regulation 61. Part I.D.1.m would therefore apply to these areas except for the discharges resulting from emergency firefighting. The permit also applies to discharges that include runoff from non-industrial areas that commingles with industrial stormwater runoff. The requirements in Part I.D.1.m do not apply to firefighting foam that does not contain PFAS; however, the foam would be still be subject to other permit requirements pertaining to pollutant sources. The division has changed language to only require identification of PFAS containing materials used in operations that may be exposed to stormwater (this is NOT applicable to happenstantial items such as

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			be needed for approval of non- PFAS fire-fighting foam. iii. This condition requires the facility to evaluate all materials at the facility regardless of whether they have the potential to be discharged to stormwater. Undoubtedly, many facilities will have purchased materials on site that are used in manufacturing or maintenance that do not have the potential to enter stormwater runoff. We request that CDPHE modify the language of the permit to limit the extent of the identification to sources of PFAS at the facility that have the potential to enter stormwater runoff. Otherwise, the list of materials could be large and of no value in controlling PFAS runoff.			employee clothing, fast food wrappers, or employee cars that may have wax on them). Note however, that permittees must maintain an up-to-date inventory of exposed materials containing PFAS. This means that prior to moving a material from no exposure to exposure areas they must determine whether the material contains PFAS and update the inventory as necessary. The division has removed the cross reference to Part I.D.2.m and has added text to part I.D.1.m.i and iii that clarifies that exceptions for discharges resulting from emergency firefighting are allowed.
42	Permit	I.A.1.c Allowable Non-Stormwater Discharges, PFAS	New language narrows allowable non-stormwater discharges associated with emergency firefighting by cross referencing Part I.D.1.m (presumably the reference to Part I.D.2.m is a typo). The cross reference should be removed since the provisions at Part I.D.1.m are inappropriate.	Strike "that comply with Part I.D.1.m" See attached comment letter	City and County of Denver Department of Aviation	Comment incorporated See Comment 41
43	Permit	I.A.2.b, I.A.2.c Limitations on Coverage – Construction Activity, Discharges Covered by Other Permits	The Vance Brand Municipal Airport and City of Longmont Wastewater Treatment Plant are located within the jurisdictional boundaries of the City of Longmont. The City of Longmont is covered under the MS4 General Permit (COR090000). Since the Airport and WWTP's discharges are covered under this "alternate" general permit (COR090000), they appear to not be eligible for coverage under this permit (COR900000). Is that a correct interpretation? If not, and both permits	Clarification on how to apply overlapping general permits. Specific clarification on how to apply Construction Activity and Post-Construction requirements.	Judah Gaioni City of Longmont	No change Although industrial facilities are a source of runoff to an MS4, MS4 permits do not regulate the discharge of *stormwater associated with industrial activity*, rather they regulate discharges from the MS4 through program requirements to minimize pollutants entering their system, such as the construction, post-construction and industrial

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			are intended to effectively co-govern these sites, this subsection appears to be incorrect as written. If not, and the sites are only covered under this permit (and not covered under the MS4 General Permit at all), what are the legal obligations for the City of Longmont regarding Construction Activity discharges from sites disturbing one acre or more at these sites? Which of the two above referenced general permits are used to establish Post-Construction requirements on these sites? While Construction Activity is specifically listed as not eligible for coverage under this permit, Post-Construction requirements go unmentioned. Does the lack of further reference to these requirements therefore imply that Post-Construction control measures do not need to be installed when one or more acres of land are disturbed? Again, if the intent is for the MS4 General Permit to apply to Post-Construction requirements, then this language would seem to indicate that the Airport and WWTP are ineligible for coverage under this permit.			programs. Therefore, the division's MS4 general permits are not an alternative to permit requirements for stormwater discharges associated with industrial activity. An MS4 could have a permitting program for industrial facilities if it chose to where the facility would have a permit through the city/county AND a permit with the state ISGP. This is similar to the construction MS4 program in some cities/counties where they require a permit AND a state construction stormwater (COR400000) permit is required. A municipality must obtain coverage for airports and wastewater treatment plants that meet the definition of industrial activity. This coverage is typically through the COR900000 permit, but may be under an individual industrial permit. If the municipality has an MS4 permit, then the MS4 permit requirements, (e.g., construction, post-construction, illicit discharges, and stormwater runoff to the MS4) apply to the municipalities' entire jurisdictional boundary unless specifically exempted. Note that the MS4 permit requirements for pollution prevention/good housekeeping for municipally owned facilities and activities does not apply to an MS4

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						permittee's operations and facilities that are authorized by a separate CDPS permit, which could be COR900000 permitted facilities but the rest of the MS4 program requirements, including construction and post construction do apply. The Limitation on coverage reference to stormwater discharges associated with construction activity means that the COR900000 permit is not a substitute for coverage under the COR400000 permit for stormwater discharges associated with construction activity, and a facility may have both permits when conducting construction on their site (e.g. expanding a landfill).
44	Permit	I.A.2.d Limitations on Coverage Low Risk Discharges	Do Low Risk Guidance Documents 'cover a discharge' like a permit does? Are they intended to act as 'regulatory requirements' akin to the legal language found throughout this permit, or as 'guidance documents' to assist permittees in preventing illegal discharges? If they are intended as regulatory requirements, then do changes to, or establishment of new Low Risk Guidance Documents require a public comment period? Is there a 'master' set of these governing documents that are easily accessible to permittees, and which permittees are expected to stay apprised of? Please note, the example provided of a Low Risk Guidance Document (Clean Water Policy #14 – Reporting and Permitting of Discharges from Gravity Flow Dewatering Systems for Select	Clarify the role of Low Risk Discharges established in WQP27 on permittee obligations established in general permits. Formally establish a 'master set' of up-to-date Low Risk Guidance Documents, and provide permittees easy access to all such regulations.	Judah Gaioni City of Longmont	Low Risk Discharge Guidance documents are not permits and do not authorize discharges. It is not required by regulation that guidance, such as Low Risk Guidance, be public noticed. The division announces the issuance of, or revisions to, low risk guidance documents through the Water Quality Information Bulletin [https://cdphe.colorado.gov/water-quality-information-bulletin]. The division has revised the text in the final permit to reflect that a Low Risk Discharge Guidance does not constitute permit coverage. The division also added a sentence specifying that Low Risk Guidance documents are those developed in

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			Activities) is not included on the following webpage, which is where I have historically looked for these guidance documents: https://cdphe.colorado.gov/clean-water-policies If CDPHE has already formally established a master set of these documents, can it be referenced in this permit?			accordance with Water Quality Policy-27. A description of the change was added to the Fact Sheet along with a reference to the division's website containing a list of guidance documents developed in accordance with WQP-27 (https://cdphe.colorado.gov/clean-water-policies). The Division Low Risk Discharge Policy is a division strategy to prioritize and focus permitting and compliance resources on discharges that have the greatest potential to cause water quality impacts. The division does not believe it is an efficient use of its limited resources to develop permits for certain categories of low risk discharges. Instead, the division has issued guidance for low risk categories of discharges including control measures intended to be protective of water quality. The Division Low Risk Discharge Policy and guidance documents describe that while regulations do require that operators of point source discharges obtain a CDPS permit, the division will not take enforcement action for those operators which have not obtained CDPS permit coverage providing that the operator can prove that they meet criteria and conditions in the applicable Low Risk Discharge Guidance document and all

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						appropriate control measures identified in the guidance have been fully implemented. This approach to enforcement does not apply to criminal violations or in situations where there are egregious circumstances, such as those resulting in serious environmental harm, adverse impacts to the quality of state waters, or which pose an imminent or substantial endangerment to public health and/or the environment. Because Low Risk Discharge Guidance documents are added or changed from time to time, the division included a hyperlink to the webpage where all division policies are located. (https://cdphe.colorado.gov/clean-water-policies)
45	Permit	I.A.2.e Limitations on Coverage Stormwater Subject to ELGs	Recommend providing a table for clarity since some discharges identified in Subchapter 9 of 40 CFR have been incorporated as eligible for permit coverage and some have been excluded. A table identifying those would be beneficial to ensure compliance. Reference to the non-exposure certification appears to be appropriate to include in this section of the permit.	Provide a table of the excluded discharges and include reference to the non-exposure certification.	City of Aurora	No change The stormwater ELGs that are covered under the permit are listed in Part III for sector specific categories. Section I.A.2.e refers to discharges that are not covered by the permit and should not be discharged unless separately permitted; whereas "no exposure" is an allowance to discharge stormwater without obtaining permit coverage.
46	Permit	I.A.2.f	III. Summary		David Wagger -Institute of Scrap	See comments 47, 84, 88, 106, 138, 183, 191, 209, 225, and 226

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		Limitations on Coverage – High PAH Sealant	ISRI's comments on the Proposed Permit cover several issues. The PAH coverage limitation should emphasize use of high PAH sealant in areas of industrial activity. The PFAS effluent limitation should apply to only materials with ingredient lists or SDSs that identify PFAS. Documentation of problematic run-on should provide the basis for a permittee to demonstrate that a benchmark exceedance was caused by the contribution of that benchmark parameter in run-on. Concerning AIM triggers, one quarterly sampling result above the benchmark is inappropriate, response conditions need to be harmonized between receipt of laboratory results and knowledge of a triggering condition, and exceptions should be added for run-on, abnormal events, and no actual WQS exceedance. PFAS monitoring is not ready to be included in the Final Permit because of analytical-method and sample- collection issues. Finally, Sector N should not be included among the High Risk Sectors for PFAS because Sector N does not intentionally use PFAS.		Recycling Industries, Inc	
47	Permit	I.A.2.f Limitations on Coverage - High PAH Sealant	In overview of ISRI's comments below on the Proposed Permit, the coverage limitation on polycyclic aromatic hydrocarbons (PAHs) should emphasize its use in areas of industrial activity. ***** **A. The PAH Coverage Limitation in Part I.A.2.f. Should Emphasize Areas of Industrial Activity.** Part I.A.2.f., "Discharges from Areas Where High PAH sealant is Applied", identifies the following unauthorized discharges: *Stormwater discharges from paved surfaces that will be initially sealed or re-sealed with high PAH*		David Wagger –Institute of Scrap Recycling Industries, Inc	Comment partially incorporated Stormwater discharges from permitted areas are subject to the permit as a whole are already described in Part I.A. The division has added language to the fact sheet that clarifies that the limitation on coverage concerning stormwater from areas where high PAH sealcoat is newly applied or reapplied would have no bearing on areas that are not industrial activities, such as employee parking lots.

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			sealants on or following the effective date of this permit or permit certification. Neither the above title nor text specifies where the paved surface is located at the permittee's facility. In contrast, Part I.K.3., "Annual Report", provides greater specificity concerning the location of paved surfaces: "high PAH sealant on paved surfaces where industrial activities are located". Part I.A.2.f. should indicate that its coverage limitation applies to only paved surfaces in areas of industrial activity.			
48	Permit	I.A.2.g Limitations on Coverage – Chemical Addition	The permit indicates that discharges with chemical additions are not authorized unless expressly approved by the Division. It is not clear what is meant by discharges with chemical additions, since the intent of this general permit is to allow stormwater discharges associated with industrial activity, which could include contact with chemicals stored or used on site. Furthermore, control measures are implemented to control pollutants in stormwater discharges.	This requirement should be removed from the permit.	Christine Johnston and Cade Wilson/Public Service Company of Colorado	No change Chemical addition in the context of this permit refers to chemicals intentionally added to stormwater and typically refers to treatment chemicals like flocculants. While the permit relies on control measures to minimize pollutants associated with incidental contact it does not include measures to address the intentional addition of chemicals. As a result, the renewed permit incorporates this requirement to protect against unintended impacts to receiving waters. See comment 49
49	Permit	I.A.2.g Limitations on	*"Discharges with chemical additions (including release agents) are not authorized unless expressly approved by the division, and the*	Please clarify the limitation on coverage with respect to chemical addition within the context of this draft permit.	Metro Water Recovery	No change This is not a new requirement or prohibition of chemical use in

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		Coverage - Chemical Addition	*division provides notification of such approval to the permit"* In the 2012 Division Response to Public Comments, the Division stated that *"…After further consideration, the Division has determined that this limitation is not warranted, and has removed it from the renewal permit, thereby allowing discharges with chemical addition to be eligible for coverage under this permit."*	Please provide additional information as to why the Division has reversed prior determination regarding limitations on coverage associated with chemical additions.		permits. Colorado Discharge Permit System Regulation 61.8(5)(h), requires WQCD notification if chemical addition will significantly change the nature or increase the quantity of pollutants discharged or may result in noncompliance with permit requirements. Part II.A.2 of the previous permit incorporates this regulation. Note that Part I.A.2.g does require notification and approval of chemicals, only those that will be present in the discharge.
50	Permit	I.A.2.g Limitations on Coverage - Chemical Addition	A notification and approval process for the use of chemical additions would be difficult to implement. Magnesium chloride and other compounds may be used on un-paved roads as dust suppressants and soil binders to reduce erosion. The list of materials may periodically change over time. Use of these products can be driven by air quality requirements. It is unclear what compounds are acceptable and the timing of the notice/approval process.	Need additional clarification on how this will be implemented. Will permittees potentially need to delay use of certain products while waiting for approval of additional chemicals?	Tri-State Generation and Transmission Association, Inc	The permit does not require permittees to submit chemical use evaluations for all chemical additions, only those that the permittee determines would meet the threshold of notification requirements in Regulation 61.8(5), 5 CCR 1002-61. Chemicals such as dust suppressants might not meet that threshold; depending on the substance and the manner and extent to which it is applied and it is up to the permittee to make that initial determination. Under the previous permit, the application required permittees to identify chemicals used for treatment of industrial stormwater. Permittees can review their application and determine if their chemical addition meets the notification threshold. A modification to the permit may be required and the division may require the submittal of a chemical

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						use evaluation form and/or SDS sheets to the division.
51	Permit	I.A.3.b.ii Permit Certification Procedures	If authorization is delayed, how will the applicant comply with the stormwater discharge regulations? A delay in authorization of the Certificate could result in the applicant being in non-compliance due to the lack of a timely response by the Division.	Please provide clarification.	City of Aurora	With a delayed implementation date, the terms of the previous permit would remain in effect until the renewal permit effective date. New applications received prior to 90 days before the effective date will be issued a certification based on the previous permit that has an expiration date of the day before the effective date. At the same time these applicants will also be issued a certification under the new permit with an effective date equal to that of the renewal master permit. The division is committed to reissuing existing certifications prior to the effective date. For new applications received less than 90 days prior to the permit effective date the division will issue two certifications if time allows; however, if the division is unable to issue both certifications prior to the effective date, then the applicant would receive only the certification based on the renewal permit. Note that both the previous permit and the renewal permit require applications to be submitted at least 90 days prior to discharging stormwater associated with industrial activity.
52	Permit	I.A.3.d	Previous permit expired June 30, 2017 and was administratively extended.	Please provide additional information on administratively continued permits and division	Metro Water Recovery	Existing permittees have already applied either six months prior to the existing permit's expiration date of June 30, 2017 or more recently.

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		Permit Expiration & Continuation		preferred method of receiving renewal applications or updating original renewal applications.		As such, they are not required to reapply at this time. As the division begins issuing certifications it is possible we may request supplemental information or updated information on facilities. This request would most likely be limited to information that facilities have readily available.
53	Permit	I.A.3.d Permit Expiration & Continuation	*"A permittee desiring continued coverage under the general permit must reapply at least 180 days in advance of this permit expiration."* This language implies all permittees have to reapply within 180 days of the permit expiration. During the March 2022 stakeholder meeting, the division implied that permittee would not have to reapply unless notified.	Please add an option under the administratively continued section to include the option of the division reissuing new certifications to existing permittees.	Wright Water Engineers on behalf of various clients	The current permit expired on June 30 2017. Permittees were therefore required to reapply for coverage by January 1, 2017. The division followed up with permittees to ensure that they reapplied for permit coverage. Because reapplication was tied to the permit expiration date rather than once every five years, permittees that have reapplied and permittees that were new as of January 1, 2017 are not required to submit an application for the renewal permit. The division will use the existing applications to develop new certifications under the renewal permit, therefore, the suggested language is unnecessary. Because the renewal permit will be different from the previous permit there may be instances where the division needs additional or updated information from the permittees. The division will specifically request any necessary information as we

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						draft the permittee's new certification. Upon issuance, the renewal permit also requires permittees to reapply 180 days before the expiration date, as this is required by federal regulations and Regulation 61. This reapplication will be for the next permit renewal and will not be due until 2027 at the earliest.
54	Permit	I.A.4.b.iii No Exposure	As drafted, it appears that permittees can only submit "No Exposure Certification" by mail to the physical address listed in Part I.A.3	The permit should be revised to allow electronic submission.	Tri-State Generation and Transmission Association, Inc	The division has updated the application section to include relevant submittal requirements.
55	Permit	I.B.2 I.D.2 Compliance with Water Quality Standards	These sections indicate that discharges authorized by the permit must not cause, or have the reasonable potential to cause, an exceedance of an applicable water standard and that site specific numeric limits can be established in a certification. The condition to allow numeric water quality-based effluent limits is overly vague and provides no criteria that will be used by the Division to determine if numeric limitations are needed and what they would be. Furthermore, application of numeric limitations to stormwater discharges is inappropriate given the intermittent flows and the variance in the nature, source, and concentration of pollutants depending on the type of storm event. For those reasons, implementation of best management practices and non-numeric limits are more appropriate for stormwater discharges. It is unclear how the Division would perform a reasonable potential analysis given those factors	Conditions relating to numeric and narrative water-quality based effluent limits should be removed from the permit, and instead focus on the use of technology-based controls (best management practices) to minimize pollutant discharges in stormwater.	Christine Johnston and Cade Wilson/Public Service Company of Colorado	Comment partially incorporated The division has revised the statement to clarify expectations for permittees meeting water quality standards. The division disagrees that the condition to allow numeric WQBELs is overly vague and does not provide criteria for determining if numeric limits are needed. In fact, this is not a new requirement. The previous permit specified "where information in the application, required reports, or from other sources indicates that compliance with the other terms and conditions of this permit will not control the discharge as necessary to meet applicable water quality standards, the Division may include a

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			and determine the potential impacts of stormwater discharges on water quality.			site specific water quality-based effluent limitation in the permit certification, or require the permittee to obtain coverage under an individual permit in accordance with Part I.A.3.c." The division did add additional detail to Part I.D.2.b in the final permit, describing that the division may include numeric WQBELs, only if results continued to exceed benchmarks after an AIM Level 3 corrective action, after modifying the permittee's certification to include site-specific control measure requirements, and after consideration of other site specific factors. Additionally, the division included language in the Fact Sheet explaining reasonable potential and already had a list in the permit outlining possible information the division would use in the determination. This approach does not expand the scope of the requirement from the previous permit. Additionally, the division has added clarifying language to the Fact Sheet.
56	Permit	I.B.2 Compliance with Water Quality Standards	New language goes beyond requiring a discharge to be controlled as necessary to meet water quality standards, to require a discharge to eliminate reasonable potential to cause or contribute to exceedance of water quality standard. See attached comment letter	Remove this subsection	City and County of Denver Department of Aviation	See comment 55
57	Permit	I.B.2	Part I.B.2. "Discharges authorized by this permit must not cause, have the reasonable potential to cause, or measurably contribute to an exceedance	Delete Section I.B.2. Include a narrative water quality-	Colorado Wastewater	Comment partially incorporated

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		Compliance with Water Quality Standards	of any applicable water quality standard, including narrative standards for water quality." WWUC agrees with the comments of the Federal Water Quality Coalition, Federal Storm Water Association, and PFAS Regulatory Coalition, that this condition inappropriately conflates "reasonable potential" and "water quality-based effluent limitations." Furthermore, this sentence should be deleted because it is unlawfully vague and is not authorized by Regulation 61. In essence, the Draft Permit is directing permittees "to comply with the law," whatever that might be and however it may change in the future. As such, it is an unlawful provision because it does not provide permittees with fair warning about what behavior is prohibited (e.g., what specific limit in a discharge does the permittee have to achieve for the duration of the Permit). See, e.g., *Wisconsin Res. Prot. Council v. Flambeau Mining Co.*, 727 F.3d 700, 707 (7th Cir. 2013) ("[I]t is 'a cardinal rule of administrative law' that a regulated party must be given 'fair warning' of what conduct is prohibit or required of it."). As written, a permittee could be in violation of the permit through no fault of its own if, for example, there is a change in the water quality standard, or a change in the assimilative capacity of the receiving water or downstream segment (if applied) caused by a new upstream discharger or a new upstream water rights diverter, or a change in the Division's methodology to develop WQBELs. Those changes, together with the proposed requirement, would, in turn, unfairly subject the permittee to a state, federal, or citizen suit enforcement action.	based effluent limitation as described in the comment.	Utility Council	The division has revised the statement to clarify expectations for permittees meeting water quality standards. The division disagrees with the commenter's assertion that the requirement to meet water quality standards is not a proper "condition." See the Fact Sheet for further discussion on division authority to include effluent limits in permits. See comment 55

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			The Draft Permit includes the language in the "Permit Compliance" section. However, the language does not state a permit term or condition or an effluent limitation. An "effluent limitation" is defined by Reg. 61, Section 61.2(26) as a "restriction or prohibition established under this article or Federal law on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into state waters . . . ." A permit may also include best management practices "when numeric effluent limitations are infeasible, when the practices are reasonably necessary to achieve effluent limitations and standards, or when authorized under 304(e) of the federal act for control of toxic pollutants and hazardous substances." Reg. 61, Section 61.8(3)(r). "Best management practices" are "schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of 'state waters.'" Reg. 61, Section 61.2(9). The vague provision is neither an "effluent limitation" nor a "best management practice." It does not provide a sufficiently specific restriction on quantities, rates, or concentrations of constituents. It also does not define any "management practices" to prevent or reduce pollution. Therefore, it is not authorized by Regulation 61. The EPA's Multi Sector General Permit (MSGP) and previous permits issued by the Water Quality Control Division included alternative, authorized language as narrative, water quality-based effluent limitations. The Fact Sheet does not explain the basis for the departure from this language in the Draft Permit, or the authority for			

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			the Division to do so. Therefore, the Final Permit should implement a requirement substantially like the following narrative water-quality based effluent limitation as is included in the 2021 EPA MSGP or previously-issued Colorado stormwater permits, including the previously-issued industrial general permit COR090000: Discharges authorized under this permit must be controlled as necessary to meet applicable water quality standards. The division expects that compliance with the other terms and conditions in this permit will control discharges as necessary to meet applicable water quality standards. If at any time the permittee becomes aware, or the division determines, that the authorized discharge causes or contributes to an exceedance of applicable water quality standards, the permittee must take corrective action as required, document the corrective actions as required, and report the corrective actions to the Division as required (see CORRECTIVE ACTIONS). If the division becomes aware of information indicating that compliance with the other terms and conditions of this permit will not control the discharge as necessary to meet applicable water quality standards, the division may include additional site-specific water quality-based effluent limitation(s) to the discharge.			
58	Permit	I.B.2 Compliance with Water	II. **Comment 4: Reasonable Potential and Compliance with Water Quality Standards.** The Draft Permit at Part I.B.2 states that "Discharges authorized by this permit must not		David Steinberger – Denver City Attorney's Office	See comments 55

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		Quality Standards	cause, have the reasonable potential to cause, or measurably contribute to an exceedance of any applicable water quality standard, including narrative standards for water quality." This language is commonly referred to as "reasonable potential" or "RP." The inclusion of RP language in the permit makes permittees responsible for interpreting the language and determining what constitutes "RP." This is inappropriate. The Division is responsible for determining what constitutes "RP." This issue was addressed in detail during the development of the 2008 MSGP and EPA was clear in the Fact Sheet for the 2008 MSGP[9] about why the inclusion of "reasonable potential" language in narrative WQBELs is inappropriate. The Division should continue with the approach taken in the current permit and the current federal MSGP of including a narrative water quality based effluent limit that discharges must be controlled as necessary to meet applicable water quality standards and language in the permit that the Division expects that compliance with the other conditions in the permit will result in the discharge being controlled as necessary to meet applicable water quality standards.			
59	Permit	I.B.2 Compliance with Water Quality Standards	1. The draft permit, in Part I.B.2. indicates that discharges authorized by the permit must not cause, have the reasonable potential to cause...an exceedance of any applicable water quality standard, including narrative standards for water quality. This condition has language that is similar to 40 CFR 122.44(d) regarding the usage of reasonable potential in determining the need for permit conditions when a discharge has been determined to cause or contribute or have the reasonable potential to cause/contribute to an exceedance of a water quality criteria. 40 CFR 122.44(d)(ii) indicates that in this analysis the		Kate Sinner on behalf of Anonymous client	See comment 55

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			permitting authority shall consider, where appropriate, the dilution of the receiving water. However, the language of this permit condition would appear to misapply the concept of reasonable potential to use this to assess the discharge's compliance with water quality criteria (including narrative) post-permit issuance. This concept does not conform to the standard permitting practices described in EPA's Technical Support Document for Water Quality-based Toxics Control, March 1991 (EPA TSD). In Chapter 3 of the EPA TSD, specific procedures are utilized to determine whether a discharge has the reasonable potential to exceed a water quality criterion. Should "reasonable potential" be determined, the permitting authority calculates a water quality based effluent limit using appropriate receiving stream characteristics to determine water quality based effluent limits that are protective of water quality for the pollutant in question. Therefore, as we have described, CDPHE has developed permit language that extends beyond what EPA has intended for reasonable potential. We believe that it is clear from the federal regulations and commonly used permitting guidance, that EPA intends for reasonable potential to be used as a tool to assess whether a pollutant to a receiving waterbody has the potential to exceed the water quality and, in such instances, develop a water based effluent limit to restrict the loading of pollutants to levels that will not exceed water quality criteria. In this case, the permit condition authorizes reasonable potential as an assessment tool to determine whether discharges authorized by this permit exceed water quality criteria. Since reasonable potential is a very conservative prediction of the impact of a discharge on water quality, this approach would			

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			go well beyond what EPA and many other states have determined for assessment of discharges from permitted outfalls on the receiving water's criteria. We request that CDPHE remove or revise this language to something that is closer to EPA's 2021 Multi-Sector General Permit such as, "...controlled as necessary such that the receiving water will meet applicable water quality standards. If CDPHE determines prior to your authorization to discharge that your stormwater discharges will not be controlled as necessary by this permit, CDPHE will notify you that an individual permit application is necessary...".			
60	Permit	I.B.2 Compliance with Water Quality Standards	Metro supports the comments of the Federal Water Quality Coalition, Federal Storm Water Association, PFAS Regulatory Coalition, and Colorado Wastewater Utility Council regarding this section of the permit.	Adopt changes as requested by Federal Water Quality Coalition, Federal Storm Water Association, PFAS Regulatory Coalition, and Colorado Wastewater Utility Council	Metro Water Recovery	See comment 55
61	Permit	I.B.2 Compliance with Water Quality Standards	This new provision is vague, does not provide permittees with a clear indication of how and what they would need to do to comply and is not authorized by Regulation 61. Permittees would not know the quality of effluent necessary to comply with such a broad compliance provision. A permittee could inadvertently be out of compliance due to factors beyond their control such as changed water quality standards, changes to assimilative capacity of receiving waters or changes to division methods. Additionally, the process by which reasonable potential would be determined for the purposes of this permit is not clear for situations involving total suspended solids (TSS) in portions of Colorado with naturally elevated TSS levels due to sparse vegetation and a dry climate.	This sentence should be omitted in the final permit.	Tri-State Generation and Transmission Association, Inc	See comment 55
62	Permit	I.B.2	*"Discharges authorized by this permit must not cause, have the reasonable potential to cause, or*	Proposed revised language: "Discharges	Wright Water Engineers on	See comment 55

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		Compliance with Water Quality Standards	*measurably contribute to an exceedance of any applicable water quality standard, including narrative standards for water quality.*" This language forces permittees to be responsible for interpreting what has the reasonable potential to cause or measurably contribute to an exceedance of any standard. Third parties may interpret reasonable potential in a very different light than the permittee resulting in potential conflicts in what is required by the permit.	authorized under this permit must be controlled as necessary to meet applicable water quality standards."	behalf of various clients	
63	Permit	I.B.2, I.D.2.b Compliance with Water Quality Standards	**1. The State Has Misapplied the Concept of Reasonable Potential** The Proposed SGP sets both narrative and numeric effluent limits based on the concept of the pollutant's reasonable potential to exceed water quality standards. Specifically, the permit states that "[d]ischarges authorized by this permit must not cause, have the reasonable potential to cause, or measurably contribute to an exceedance of any applicable water quality standard, including narrative standards for water quality." The wording of this condition uses the reasonable potential concept to define narrative and numeric effluent limits. This is a misapplication of the reasonable potential analysis. A reasonable potential analysis is a purposely conservative assessment that is used to determine whether or not to place limits in a permit based on water quality standards. Once the permit authority determines that a water quality-based effluent limitation (WQBEL) is warranted (the discharge causes, has the "reasonable potential" to cause, or contributes to non-attainment of applicable water quality standards), the development of the actual effluent limit involves a different calculation process that does not involve a reasonable potential analysis.		Coalitions	The draft permit, for which public notice was provided, defined "water quality standards" on p. 116. Applicable water quality standards are contained in Regulations 31 through 39. The division has added the definition of "applicable water quality standards" to the final permit for improved clarity. See comment 55

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			The language in the Proposed SGP conflates these two steps by prohibiting discharges that have the reasonable potential to cause an exceedance. If limits are going to be imposed, they should be imposed based on what is necessary to meet water quality standards as required by the statute, not on the reasonable potential concept[2]. As discussed below, however, the Coalitions believe that numeric effluent limits are not appropriate to control stormwater discharges. [2] Moreover, it is critical that binding limits not be applied without an opportunity for public review and comment on those limits. The Proposed SGP appears to contemplate that limits will be imposed in a certification, without any public review and comment on the proposed limits. That violates basic notions of due process.			
64	Permit	I.B.2, I.D.2.b Compliance with Water Quality Standards	Clean Water Action does not agree with this comment. See our responsive comment directly above [division comment 111].		Clean Water Action – **Responsive** Coalitions 6-13-22	Comment noted See comment 55
65	Permit	I.C.2 Maintenance of Control Measures and Associated Documentation	The previous version of COR90000 provided, *"Corrective actions associated with maintaining control measures must be conducted with due diligence, as soon as possible after the need is discovered…"* The public notice draft changes this provision to to instead state:	Do not adopt this change within the draft per.	Colorado Wastewater Utility Council	Comment partially incorporated. A control measure that is not operational due to lack of maintenance is out of compliance with the permit, therefore it must be corrected immediately.

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			"Corrective actions associated with maintaining control measures must be conducted immediately upon discovery, to achieve the effluent limits required by this permit." The expectation that corrective actions associated with maintaining control measures must be conducted immediately upon discovery is not practical. If a control measure requires evaluation, planning, engineering, purchasing, etc. to correct the control measure corrective action immediately upon discovery. Further, if approval to alter or modify a control measure is required by a local jurisdiction then the corrective action will not occur "immediately," even if the permittee is proceeding diligently. The existing permit language already includes the expectation that interim control measures be used while the primary is undergoing the corrective action process.			The permit language acknowledges situations where it is infeasible to perform corrective actions immediately. The division added to the permit a definition of "infeasible" that is used in other division issued permits. With the added definition the language is more specific than the previous permits use of terms "due diligence" and "as soon as possible." Furthermore, the language was changed to specify corrective actions as replacement of, or modification to, existing control measures, or the installation of new control measures to achieve effluent limits. See comment 71
66	Permit	I.C.2 Maintenance of Control Measures and Associated Documentation	The language within this section was changed from the previous language, *"Corrective actions associated with maintaining control measures must be conducted with due diligence, as soon as possible after the need is discovered…"* to the following language *"Corrective actions associated with maintaining control measures must be conducted immediately upon discovery, to*	Do not adopt this change within the draft permit.	Metro Water Recovery	See comment 65

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			achieve the effluent limits required by this permit." The expectation that corrective actions associated with maintaining control measures must be conducted immediately upon discovery is not practical. If a control measure requires evaluation, planning, engineering, purchasing, etc. to correct, there needs to be flexibility. If approval to alter/modify a control measure is required by a local jurisdiction then the corrective action will not occur "immediately", but it does not mean the permittee has not started its due diligence. The existing permit language already includes the expectation that interim control measures be used while the primary is undergoing the corrective action process. See comment FS-1.			
67	Permit	I.C.2.b Maintenance of Control Measures and Associated Documentation	The language in the draft permit changes the requirement for corrective actions associated with maintaining control measures from "with due diligence, as soon as possible after the need is discovered" to "immediately upon discovery" and where "infeasible" to "immediately implement interim control measures to achieve the effluent limits". These are unreasonable and unattainable conditions. The Division does not clearly identify these deviations from the MSGP in the fact sheet or explain or substantiate the deviations. The Division should adopt EPAs MSGP language to set realistic requirements that are also more specific and measurable than the current permit.	Replace language in draft with EPA's MSGP language contained at 2.1.2.3.b	City and County of Denver Department of Aviation	See comment 65
68	Permit	I.C.2.b Maintenance of Control Measures	The term "immediately" can be interpreted differently among various permittees. In addition, this language as written imposes an impracticable compliance burden on a permittee and is unreasonable to require or expect an	Revise the language to be consistent with Part I.F.10. See language below. "Where corrective actions are performed under Part	City of Aurora	See comments 65 and 71

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		and Associated Documentation	"immediate" repair after the initial discovery of a deficiency.	I.C.2.b, the permittees must document in the SWMP a description of the correction action performed and date it was completed. Corrective action records must be maintained in accordance with the recordkeeping requirements in Part I.K. If it is infeasible to immediately perform corrective actions, the permittee must document the following information. i. A description of why it is infeasible to initiate the installation or repair immediately; and ii. A schedule for installing or repairing the control measure and returning it to an effective operating condition as soon as possible. b. The permittee must document corrective actions associated with maintaining control measures, in accordance with Parts I.C.2.b (Corrective actions associated with maintaining control measures) and I.J (Corrective Actions) of this permit. A copy of documentation of corrective actions taken must be		

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				included in the onsite SWMP."		
69	Permit	I.C.2.b Maintenance of Control Measures and Associated Documentation	Corrective Actions must be conducted immediately or immediately implementing interim control measures is not practical.	Keep the same requirement from previous permit.	Kristine Andrews – City of Colorado Springs	Interim control measures are a backup method while corrective actions are being performed on the primary control measure. See comment 65
70	Permit	I.C.2.b Maintenance of Control Measures and Associated Documentation	There can be circumstances where it is infeasible to implement interim control measures due to safety or other reasons.	Additional flexibility should be added regarding interim measures by adding language to the effect of "if it can be safely accomplished".	Tri-State Generation and Transmission Association, Inc	No change The division understands there may be circumstances where permittees need to prioritize safety before interim control measures; however, these situations will be uncommon. In such situations, permittees should contact the division for guidance.
71	Permit	I.C.2.b Maintenance of Control Measures and Associated Documentation	*"Corrective actions associated with maintaining control measures must be conducted immediately upon discovery, to achieve the effluent limits required by this permit."* Maintenance is listed as preventative and routine maintenance, modification, repair, replacement, or installation of new control measures. Routine maintenance that does not have the potential to cause a release of a pollutant should not need to be addressed immediately upon discovery nor should other corrective action items that do not have a potential for a discharge of the pollutant such as a modification or repair within a treatment system where there are other downgradient controls in place that are in compliance with the permit.	Suggest rewording: "Corrective actions to maintain proper function of control measures must be implemented in a timely manner to maintain compliance with effluent limits required by this permit." (Note: "As soon as possible" could be substituted for "timely manner" if preferred by the division.)	Wright Water Engineers on behalf of various clients	Comment partially incorporated The language refers to corrective actions. Preventative and routine maintenance are different than corrective actions. The division has changed the permit language to be clearer that only replacement of, or modification to, existing control measures, or the installation of new control measures to achieve effluent limits is considered a corrective action that must be conducted immediately upon discovery.

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				Additionally, allow a timeline for corrective actions for control measures that are part of an effectively operating treatment system to be addressed "as soon as possible."		See comment 65
72	Permit	I.D Effluent Limitations	**2. Numeric Effluent Limits Are Not Appropriate to Control Stormwater Discharges** In addition to modifying the reasonable potential language, the State should clarify that performing a reasonable potential analysis and imposing narrative or numeric effluent limitations should be used only in the rare situations that other permit conditions are not achieving water quality standards. Stormwater discharges are often intermittent and characterized by periods of high flows over short time periods (during wet weather) and the nature, source, and concentration of pollutants in the discharges varies widely. For these reasons, narrative and numeric effluent limits are not easily applied to stormwater discharges. Because of the challenges associated with imposing narrative and numeric effluent limits, EPA and federal courts have routinely recognized that best management practices (BMPs) and non-numeric effluent limits are appropriate where numeric effluent limits are infeasible, as they often are in the context of stormwater.[3] Here, the State has not justified the need for narrative or numeric effluent limits in the SGP. In order to establish WQBELs for a particular pollutant, the State must evaluate whether a point-source discharge will cause an exceedance of water quality criteria *after* technology-based		Coalitions	Comment partially incorporated Both narrative and numeric WQBELs are retained from the previous permit. Regulation 61 does not restrict the division from establishing either narrative or numeric limits for stormwater. In fact, establishing control measures (BMPs) is specified in Regulation 61.8(3)(r) when numeric effluent limitations are infeasible. The ELG development process inherently accounts for feasibility. There may be instances the division may find that numeric water quality-based limits are both feasible and necessary for water quality protection. See comment 55 for clarifications on this process. The division has added a statement to the permit and Fact Sheet specifying that permittees will not be subject to numeric limits for PFAS.

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			limits are applied. Moreover, making a determination that any particular discharge has a reasonable potential to contribute to an exceedance of water quality standards is difficult in the stormwater context, because of the lack of understanding regarding factors contributing to pollutant concentrations in stormwater and lack of understanding regarding the potential impacts of stormwater discharges on water quality and designated uses. Here, the State has not explained why WQBELs are necessary or how they are feasible[4]. In the absence of a clear determination that technology-based conditions are inadequate to protect water quality, a thorough assessment determining that a pollutant has a reasonable potential to exceed water quality standards, and an evaluation of the feasibility of imposing WQBELs, there is no basis to include conditions establishing water quality-based numeric or narrative conditions in the SGP. Accordingly, the Coalitions request that the State acknowledge the infeasibility of numeric effluent limits for stormwater discharges, remove all conditions relating to numeric and narrative water quality-based effluent limits, and emphasize the use of technology-based controls to minimize pollutant discharges in stormwater. [3] *See* Exhibit 2 for a more detailed discussion of the challenges of applying effluent limits to stormwater discharges [4] CDPHE has also not explained how the imposition of effluent limits in the Proposed SGP comports with the clear statement in the State's recently adopted PFAS policy that, "Given the ubiquitous nature of PFAS, it is not the commission's intent that this policy be used to require numeric effluent limits for PFAS in			

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			stormwater discharges." Water Quality Control Commission Policy 20-1: Policy for Interpreting the Narrative Water Quality Standards for Per- and Polyfluoroalkyl Substances (PFAS) (July 14, 2020) at p. 16.			
73	Permit	I.D Effluent Limitations	Clean Water Action does not agree that "numeric effluent limits are not appropriate to control stormwater discharges." Effluent limits in all types of discharge permits, including stormwater discharge permits, are necessary to safeguard water quality, especially when best management practices alone are not protective enough.		Clean Water Action – **Responsive** Coalitions 6-13-22	Comment noted
74	Permit	I.D Effluent Limitations in Certifications	**3. The Division proposes to establish enforceable effluent limits in a permit certification, without public notice and comment.** The Division proposes to include additional effluent limits in any permit certification (see Draft Permit, Part I.D), including narrative and numeric effluent limits. The Division describes more specifically that effluent limits will be included in permit certifications for discharges to meet water quality standards, for discharges to impaired waters without an approved TMDL, for discharges to impaired waters with an approved TMDL, for discharges to waters designated as critical habitat for threatened and endangered species, for new or increased discharges to reviewable waters, and for discharges subject to ELGs. The Division is improperly using permit certifications to establish enforceable effluent limits. Regulation 61.2 defines the following: (72) "PERMIT" means a permit issued pursuant to these regulations and therefore includes		David Steinberger – Denver City Attorney's Office	The division is responsible for ensuring that the permit is protective of water quality standards. With general permits, unique circumstances among permittees arise that could not have been contemplated during permit development. As a result, the permit language must provide the division flexibility necessary to fulfill our requirements to protect water quality. The inclusion of requirements in permit certifications, on case-by-case basis is retained from the previous permit. For the most part, permit requirements concerning effluent limits have not changed, rather, the division has added detail in Part I.D, to more clearly describe the types of limits that can be applied and the factors the division would consider in applying them.

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			Colorado Discharge Elimination System permits, including new permits, renewals, general permits, GPPA permits and temporary permits. (85) “PROPOSED PERMIT” means a permit prepared after the close of the public comment period which is sent to EPA for review before final issuance. A proposed permit is not a draft permit. (24) “DRAFT PERMIT” means a document prepared under these regulations indicating the Division's decision to issue or deny, modify, revoke and reissue, terminate, or reissue a permit and includes the “Division's preliminary analysis.” A notice of intent to terminate a permit, and a notice of intent to deny a permit, are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination is not a draft permit. (26) “EFFLUENT LIMITATION” means any restriction or prohibition established under this article or Federal law on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into state waters, including, but not limited to, standards of performance for new sources, toxic effluent standards and schedules of compliance. (35) “GENERAL PERMITS” means a permit authorizing a category of discharges under the Clean Water Act designated category of activities within a geographical area, issued under section 61.9(2). (47) “ISSUE OR ISSUANCE” means the mailing to all parties of any order, permit, determination, or notice other than notice by publication, by certified mail to the last address furnished to the agency by the person subject thereto or personal service on such person, and the date			During the term of the previous permit, the division has found that when permittees have concerns, they can often be resolved through communication between the permit writer and the permittee. See comment 55

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			of issuance of such order, permit, determination, or notice shall be the date of such mailing or service or such later date as is stated in the order, permit, determination, or notice. The review, determination, notice, and public participation requirements contained at 61.5 apply to permits, including the following contained at 61.5(b): If the analysis is to issue a permit, the Division shall prepare a draft permit with terms and conditions. Public notice of the Division's draft permit shall be given as provided in paragraph (e) of this section. Such draft permit and permit rationale shall be available to the public for inspection and copying and shall include at least the following: (i) Proposed effluent limitations for each discharge point for those pollutants proposed to be limited; (ii) Delineation of the service area based on population and design flow of the treatment and sewer system for domestic permits and delineation of the maximum expected production rate for industrial permits; (iii) A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed effluent limitations if the permittee is not presently doing so; (iv) All monitoring requirements under section 61.8(4); (v) All terms and conditions under sections 61.8 through 61.8(10) of these regulations; and all applicable terms and conditions			

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			under sections 61.8(11) and 61.8(12) of these regulations; and (vi) For major facilities, any additional information which may be required pursuant to 40 C.F.R. 124.8 or 40 C.F.R. 124.56. The requirements contained at 61.6 for issued permits, 61.7 for permit adjudicatory hearings, and 61.8 apply to permits. Under the application requirements contained at 61.4, it is clear that an application for coverage under a general permit, is an application for a general permit, not for a permit certification with additional terms and conditions. The Division is required to include "all conditions determined to be necessary by the state for protection of the waters of the state" (see Regulation 61.9(f)). The Division should remove all language regarding inclusion of effluent limits, or any other conditions deemed necessary for protection of waters of the state, from the draft permit.			
75	Fact Sheet	I.D.1 – Practice Based Effluent Limitations	The fact sheet states: *"In particular, the renewal permit requires permittees to identify whether they have PFAS at their facility, determine whether product substitution can be made, and require facilities to develop appropriate procedures for their safe storage, use, and disposal."* The corresponding section of the permit does not require any product substitution determinations to be completed or documented within the renewal permit recordkeeping.	If the Division's intent is for permittees to follow the requirements listed in the fact sheet, the requirements should be clearly listed within the draft permit.	Colorado Wastewater Utility Council	Comment incorporated The division has clarified the text in the permit to indicate that the evaluation is only required if the permittee currently uses PFAS containing foam for emergency firefighting and has removed the requirement to identify specific types of fires. In addition, since product substitution is a type of non-

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						structural control measure, the division has added text to Part I.F.6.b of the permit to specifically document the evaluation as a control measure.
76	Fact Sheet	I.D.1 – Practice Based Effluent Limitations	The fact sheet states: *"In particular, the renewal permit requires permittees to identify whether they have PFAS at their facility, determine whether product substitution can be made, and require facilities to develop appropriate procedures for their safe storage, use, and disposal."* The corresponding section of the permit does not require any product substitution determinations to be completed or documented within the renewal permit recordkeeping.	If the Division's intent is for permittees to follow the requirements listed in the fact sheet, the requirements should be clearly listed within the draft permit. See comment PN – 6. [division comment 100]	Metro Water Recovery	See comment 75
77	Permit	I.D.1.c Practice Based Effluent Limitations	This section about maintenance of control measures is redundant with language contained at Part I.C.2.a	Remove this subsection	City and County of Denver Department of Aviation	No change The division agrees there is some repetition, but believes it is important to emphasize that maintenance of control measures is necessary to meet the requirement to implement control measures in Part I.C and it is necessary to meet effluent limits in Part I.D.
78	Permit	I.D.1.f Practice Based Effluent Limitations	It is understood this section of the draft permit authorizes a permittee to 'infiltrate' potentially contaminated stormwater. This could lead to potential contamination of groundwater and soil on the permittee's property. Furthermore, 'reuse' assumes the permittee maintains water rights and authority to capture and use the stormwater for their benefit. Some municipalities prohibit this activity.	Please provide clarification of the intent of this section and the use of the terms "infiltrate and reuse" as it can be confusing when these terms are used in other regulations with different meanings.	City of Aurora	Comment incorporated The division has reworded the sentence to be clearer that "divert, infiltrate, reuse, or contain" refers to stormwater and not pollutants. Since this is a statewide permit, the division does not want to restrict the possibility of reuse to manage runoff

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						where the permittee is compliant with other state and local requirements. Some treatment methods for stormwater involve infiltration through a bioretention or sand filter media (for example) that is designed to remove the targeted pollutants. These treatment methods should be designed following good engineering, hydrologic and pollution control practices that would minimize impacts to groundwater, including regular inspection and maintenance.
79	Permit	I.D.1.i.iii Employee Training	The permit requires at a minimum all employees <u>who work in areas of industrial activity</u> subject to this permit be trained annually. This requirement is overly broad and does not take into account facilities that have campuses. These types of facilities will have many administrative employees that have no direct responsibilities for the industrial activity under permit. This includes administrative support staff, security, and other employees who work in areas of industrial activity but are not actually responsible for the industrial activity or any activities related to implementing the stormwater permit. WWUC suggests the language mirror the 2021 MSGP which states that all employees must be trained **<u>or</u>** who are responsible for implementing activities necessary to comply with this permit.	CWWUC requests the training language of the draft permit be modified to align with the 2021 MSGP.	Colorado Wastewater Utility Council	No change This requirement is retained from the previous permit. The requirement requires a proactive approach to educate staff in order to prevent stormwater pollution problems, such as littering, creating unpermitted non-stormwater discharges, not leaving materials exposed. The permit allows permittees to tailor the subject of training based on staff responsibilities in that it states: "Training must be conducted at least **annually**, and must address the following, ***as applicable to the trainee's activities*** [emphasis added]." Furthermore, staff that are not working in areas of industrial activity, i.e., many administrative

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						staff, would not require training under this requirement.
80	Permit	I.D.1.i.iii Employee Training	The permit requires at a minimum all employees who work in areas of industrial activity subject to this permit be trained annually. This requirement is overly broad and does not take into account facilities that have campuses. In the campus situation, there may be administrative type employees that have no direct responsibilities for the industrial activity under permit. Metro suggests the language mirror the 2021 MSGP which states that all employees must be trained **or** who are responsible for implementing activities necessary to comply with this permit.	Metro requests the training language of the draft permit be modified to align with the 2021 MSGP.	Metro Water Recovery	See comment 79
81	Permit	I.D.1.j Eliminate Non-Stormwater Discharges	The comma in the first sentence makes is less clear that this applies to non-stormwater discharges NOT conducted in accordance with low risk guidance	Remove the comma	City and County of Denver Department of Aviation	Comment incorporated The term "Guidance" was updated to the current document title of "Policy.
82	Permit	I.D.1.k Waste, Garbage and Floatable Debris	"*The permittee must minimize the discharge of waste, garbage, and floatable debris from the site by keeping exposed areas free of such materials or by intercepting them before they are discharged using structural control measures (e.g., screens, racks).*" Non-structural controls and good housekeeping programs are effective programs that should be given credit as part of the treatment process. These practices may be used instead of or in combination with structural control measures.	Proposed revised language: "The permittee must minimize the discharge of waste, garbage, and floatable debris from the site by keeping exposed areas free of such materials or by intercepting them before they are discharged using structural (e.g., screens, racks) and/or non-structural control measures (e.g., debris and trash pick-up, containment systems)."	Wright Water Engineers on behalf of various clients	No change Non-structural control measures can be very effective means to keep exposed areas free of waste, garbage, and floatable debris. This section already provides for nonstructural debris and track pickup "by keeping exposed areas free of materials. Despite the use of non-structural control measures, trash is easily transported by wind and is likely to become entrained in stormwater discharged from

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						industrial sites. Trash racks and screens are simple, effective back-ups to non-structural control measures.
83	Permit Fact Sheet	I.D.1.m III.A III.B III.C III.E III.N III.O III.P III.AA III.AC l III I.3.b Part III Conditional PFAS Monitoring	The process for which PFAS monitoring requirements would be included in certifications under this general permit is unclear. The fact sheet refers to the permittee providing information about PFAS in a renewal application; however, renewal applications have already been submitted. In addition, Part III of the fact sheet indicates that PFAS monitoring would be required only if a facility has used, stored, or had a release of PFAS containing material to land or surface water. In addition, facilities that use or store PFAS containing materials, but have not had a release, are excluded from PFAS monitoring if they can maintain no exposure conditions for PFAS containing materials.	The fact sheet should include the process for the submittal of information regarding PFAS at the permittee's facility and provide the ability for the permittee to demonstrate that monitoring of PFAS is not required before the requirement is arbitrarily included in the facility's permit certification.	Christine Johnston and Cade Wilson/ Public Service Company of Colorado	The division has added additional information to the Fact sheet explaining how PFAS monitoring will be included in permit certifications. The division will use results from a survey previously sent to permittees, and will allow opportunity for facilities to update information they sent in the survey. In addition, new permittees and permittees that did not respond to the original survey will be given opportunity to provide information in the application or follow up letter to be issued after the issuance of the permit. The division will also notify these permittees that failure to complete the survey will result in PFAS monitoring within high risk sectors.
84	Permit Fact Sheet	I.D.1.m I.3.b PFAS Practice-Based Limits	Section D.1.m.i. indicates that the "permittee must prevent the contribution of an PFAS-containing materials to stormwater dischargers". This will be a difficult provision to meet since the presence of PFAS is not typically identified in materials (products). In addition, D.m.iii, seems to indicate that all materials at the site that contain PFAS. However, it seems that identification should only include those chemicals that may come into contact with stormwater from industrial activities. The use of "all" materials is too broad given how ubiquitous PFAS is in the environment and in consumer products. Given this fact, stormwater that	Revise the second sentence in D.m.iii should be revised as follows, "The permittee is responsible for documenting any known PFAS containing products at the facility that have the potential to come into contact with, and impact stormwater". The language in the permit should be clarified to indicate that only those compounds, such as PFOA/PFOS, or more specific	Christine Johnston & Cade Wilson/ Public Service Company of Colorado	Comment partially incorporated The division's expectation is for facilities to make reasonable efforts to determine whether materials contain PFAS. As such, the division revised text to require the permittee to exercise due diligence in identifying sources of PFAS. In addition, the division added a reference to the fact sheet for recommendations on how to determine whether materials contain PFAS. If their facility is subject to TRI reporting they may

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			contains PFAS has the potential to come from off-site sources and may affect sampling results. As stated above, it can be difficult to identify whether PFAS is present in materials used at the facility because product specification sheets and/or SDS do not identify whether products contain PFAS. This makes it more difficult to identify all materials that may come into contact with stormwater. Based on the many different types of PFAS, and the limited data, the requirements in 1.D.m. are overly broad and infeasible to meet.	compounds where there is sufficient toxicity data, and not all PFAS compounds is applicable. PFAS is a generic term and covers many different substances.		already have information on which of chemicals contain PFAS. Limiting identification to only PFOA or PFOS leaves many other PFAS compounds that by themselves, holistically, or through the breakdown process could impact surface waters. See comment 100
85	Permit	I.D.1.m PFAS Practice-Based Limits	Practice-Based Limits for Controlling PFAS Section D.1(m) of the draft General Permit includes practice-based effluent limitations for controlling PFAS discharges that broadly apply to United's indoor storage and use of AFFF materials. These provisions would require United to identify whether PFAS-containing products are located at its facility, determine whether product substitution can be made, and develop appropriate procedures for the safe storage, use, and disposal of PFAS-containing products. This task is not practicable as many Safety Data Sheets typically do not identify PFAS substances, and permittees have no authority to force product manufacturers to identify products that may contain PFAS. These are essentially a type of facility inventory and assessment specific to PFAS, but the facility inventory and assessment requirements at Section F.5 correctly exclude "interior areas that are not exposed to precipitation." United requests CDPHE revise the draft General Permit such that these requirements do not apply to PFAS-containing		Christine Landmeier – United Airlines	See comments 84 and 100

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			products entirely used indoors that do not come in contact with stormwater.			
86	Permit	I.D.1.m ID III PFAS Practice-Based Limits PFAS Monitoring	Forthcoming U.S. EPA PFAS Guidance Lastly, United respectfully requests that CDPHE consider delaying the consideration of PFAS-related effluent limitations and monitoring requirements until U.S. EPA issues its PFAS guidance for NPDES permitting later this year, as the Agency has indicated it will do in its PFAS Strategic Roadmap. If CDPHE delays this effort until that time, it would have the ability to incorporate the most current U.S. EPA guidance.		Christine Landmeier – United Airlines	On April 28, 2022, EPA issued a memorandum (*Addressing PFAS Discharges in EPA-Issued NPDES Permits and Expectations Where EPA is the Pretreatment Control Authority*) describing how EPA will address PFAS discharges in EPA-issued permits. The memo also serves as guidance for states. The memo recommends BMPs and monitoring requirements using (at this time draft) Method 1633 and requirements for BMPs. The renewal permit has been updated to be consistent with the memo and require (at this time draft) Method 1633 for PFAS monitoring. The fact sheet has been modified to include information contained in the memorandum.
87	Permit	I.D.1.m PFAS Practice-Based Limits	The division proposes to add extensive practice based effluent limits for PFAS storage and release. See attached comment letter	Remove this subsection	City and County of Denver Department of Aviation	See comments 84 and 100
88	Permit	I.D.1.m PFAS Practice-Based Limits	Should Apply to Only Materials with Listed Ingredients or Safety Data Sheets Identifying PFAS. The discussion in Part I.D.1.m., "Per- and polyfluoroalkyl substances (PFAS) Storage and Release", refers to PFAS-containing materials that have ingredient lists or safety data sheets (SDSs) that identify the PFAS contained in them. Such PFAS-containing materials are effective because of the PFAS contained in them and are acquired and used for purposes directly related to the	WQCD needs to specify that Part I.D.1.m. and related provisions (e.g., Part I.F.5.b.iii.) apply to only PFAS-containing materials with ingredient lists or SDSs that identify PFAS.	David Wagger –Institute of Scrap Recycling Industries, Inc	The division expects permittees to not rely solely on ingredient lists or safety data sheets because these materials may not exist or PFAS content may be difficult to distinguish. Other information, such as contacting the manufacturer and the permittee's TRI reporting might also be helpful in identifying materials containing PFAS.

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			benefits that their PFAS provide. Table 1 lists some of these PFAS-containing materials.			See comments 84 and 100
89	Permit	I.D.1.m PFAS Practice-Based Limits	**B. The PFAS Effluent Limitation in Part I.D.1.m. Should Apply to Only Materials with Listed Ingredients or Safety Data Sheets Identifying PFAS.** The discussion in Part I.D.1.m., "Per- and polyfluoroalkyl substances (PFAS) Storage and Release", refers to PFAS-containing materials that have ingredient lists or safety data sheets (SDSs) that identify the PFAS contained in them. Such PFAS-containing materials are effective because of the PFAS contained in them and are acquired and used for purposes directly related to the benefits that their PFAS provide. Table 1 lists some of these PFAS-containing materials. WQCD needs to specify that Part I.D.1.m. and related provisions (e.g., Part I.F.5.b.iii.) apply to only PFAS-containing materials with ingredient lists or SDSs that identify PFAS.		David Wagger -Institute of Scrap Recycling Industries, Inc	See comments 84, 88 and 100
90	Permit	I.D.1.m I.F.5.b.iii PFAS Practice-Based Limits	Given that PFAS are ubiquitous in a wide variety of consumer items as well as industrial products, these sections are worded too absolutely to be feasible for permittees. Reference to "any" and "all" PFAS- containing materials is too broad and would be a moving target over time, thus challenging to implement.	The division should add further description of the scope of "PFAS-containing materials", perhaps through a definition or added clarity in the Fact Sheet. The Fact Sheet clarification on page 31 regarding the exclusion of things like employee clothing is helpful but should be expanded. The scope of this term should be bound by materials that are used in the industrial process, manufactured at the facility, and generally an integral	Tri-State Generation and Transmission Association, Inc	See comments 84 and 100

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				part of the permitted facility. Incidental materials should be excluded. This Section should use more practicable wording such as preventing contribution "to the extent possible". Wording that implies prevention of any contribution from all areas is impractical for permittees.		
91	Fact Sheet	I.D.1.m PFAS Practice-Based Limits	PFAS may not be minimized in stormwater discharges until remediation is complete due to known widespread contamination at certain airports. This goes beyond airport's ability to ensure that a federal facility tenant where PFAS contamination originated and beyond permit requirements on some practice-based limits for controlling the discharge of PFAS.	Modify	Kristine Andrews – City of Colorado Springs	No change The permit's definition of "minimize" allows for consideration of technological constraints and economic practicability. A remediation effort may incorporate control measures that meet the definition of "minimize."
92	Permit	I.D.1.m.i I.D.1.m.iii PFAS Practice-Based Limits	**III. Comment 7: PFAS Storage and Release Effluent Limits Present an Unreasonable and Unworkable Regulatory Burden.** 1. The Draft Permit Part I.D.1.m.i and iii present an unrealistic and unreasonable requirement, because it is impossible for a permittee to identify all "PFAS-containing materials" as necessary to "prevent" the contribution of PFAS to stormwater discharges. The reference to EPA's master list of substances is not helpful. This is a list of 12,034 chemicals that may be in the PFAS family – it is not a list of *products* or *materials* that contain PFAS. The direction to "consult with the manufacturer" is not reasonable or realistic. PFAS are prevalent in numerous commercial products		David Steinberger – Denver City Attorney's Office	See comments 84 and 100

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			and manufacturers do not currently have to disclose the presence of proprietary ingredients, including PFAS. Manufacturers likely will not voluntarily disclose the presence of PFAS in commercial products simply because an industrial stormwater permittee in Colorado contacts them and requests they do so. Therefore, it's unrealistic for permittees of large and complex facilities to be able to identify all potential sources of PFAS containing materials. 2. The Draft Permit Part I.D.1.m.ii presents an unrealistic and unreasonable requirement because industrial stormwater permittees do not conduct fire-fighting activities. The Draft Permit language requires all industrial stormwater permittees to "evaluate types of fires where foams that do not contain PFAS may be used" and "develop procedures to prevent or minimize releases to stormwater including removal of residuals." EPA has characterized firefighting as a local government operation, not an industrial activity. In guidance developed by the EPA Office of Compliance, the agency has identified fire response and suppression (e.g., firefighting) in the category of local government operations or activities.[10] This is an important distinction given the control over firefighting activities at facilities where industrial activities occur, including airports. 3. The Draft Permit Part I.D.1.m.ii requirements are preempted by federal law. For federally regulated airports, the state has no authority to regulate how an entity providing Aircraft Rescue and Firefighting (ARFF) services fights fires. The Draft Permit is not the correct place to decide policy regarding how and when PFAS-containing AFFF can be used at a federally regulated airport.			

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			[9] EPA Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) – Fact Sheet (2008). [10] EPA Office of Compliance Sector Notebook Project, Profile of Local Government Operations, No. EPA 310-R-99-001, at 3-42–3-55 (1999).			
93	Permit	I.D.1.m.i PFAS Practice-Based Limits	The effluent limitation on per- and polyfluoroalkyl substances (PFAS) should apply to only materials with listed PFAS.		David Wagger –Institute of Scrap Recycling Industries, Inc	See comments 84, 88 and 100
94	Permit	I.D.1.m.i PFAS Practice-Based Limits	Does the storage and release of already contaminated media apply?	Clarify	Kristine Andrews – City of Colorado Springs	The permit covers stormwater discharges from areas of industrial activity which is defined in Appendix C. If the contaminated media at the permitted facility is located in an area described in this definition it would be subject to the requirement of Part I.D.1.m.i.
95	Permit	I.D.1.m.ii PFAS Practice-Based Limits	The language in this section, as written, is confusing and not feasible. The permittee does not have control over what type of foam the Fire Department uses on a fire, nor would the permittee know at the time of the active response which foam is anticipated to be used.	Recommend removing this language, or revising the language to: "For emergency fire-fighting, the Division recommends using foams that do not contain PFAS."	City of Aurora	No change The permit applies to industrial activities as defined in 5 CCR 1002-61.3(2). Part I.A.1.c authorizes discharges resulting from emergency firefighting activities during the active emergency response. However, the permittee is responsible for complying with practice-based limits in Part D.1.m, which include an evaluation of whether foams that do not contain PFAS may be used in some or all types of fires at the facility. The evaluation is done prior to an

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						emergency and may require consultation with local fire departments and consideration of factors such as safety and compliance with other local, state, or federal regulations. The division anticipates that application of PFAS containing foams will be uncommon due to state and federal actions to phase out their use. Per Part D.1.m, the permittee must develop procedures to prevent or minimize releases to stormwater including removal of residuals following the emergency response period. After complying with Part D.1.m, if there are cases where the permittee believes that a discharge that occurs after an emergency response results in non-compliance they may propose an affirmative defense under the Upset provisions in Part II.N of the permit for the Division to consider. Permittees with increased risk of fire often have some firefighting capability on-site. For example, tank farms, airports, and some chemical manufacturers will have fire suppression systems that they operate. These permittees have the ability to review the appropriateness of using PFAS foams. In addition, facilities with large amounts of petrochemicals can consult the local fire department to determine the likelihood of the fire department using PFAS foam if a fire occurs at their site.

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96	Permit	I.D.1.m.ii PFAS Practice-Based Limits	When the permittee is an airport, the type of foam to be used is determined by FAA requirements.	Modify	Kristine Andrews – City of Colorado Springs	This section applies to all industrial sectors. Some permittees may have existing fire suppression systems with PFAS containing foam. The intent of the permit requirement is for permittees to review whether its use is necessary and become aware of potential alternatives. The permit does not direct the permittee to use foams that contradict FAA regulations. This part of the permit only requires them to evaluate whether they *may* use AFFF that does not contain PFAS. The division understands that FAA regulations would be a major factor in this evaluation. See comment 107
97	Permit	I.D.1.m.iii PFAS Practice-Based Limits	The division proposes to require all permittees to identify all materials containing PFAS. Such materials may contain proprietary ingredients that cannot be obtained. In addition, many of the chemicals used for aviation maintenance are mandated by aircraft manufacturers.	Remove this subsection	Adam Walters – Southwest Airlines	With the exception of firefighting training, the permit does not prohibit the use of PFAS containing materials, rather the requirement in Part I.D.1.m.iii requires proper management of PFAS containing materials to prevent their release in stormwater discharges. See comments 84 and 100
98	Permit	I.D.1.m.iii PFAS Practice-Based Limits.	The draft permit states: *"The permittee is responsible for identifying sources of PFAS at the permitted facility. Table 1 provides a list of common materials containing PFAS."* The requirement to "identify sources of PFAS as the permitted facility" is vague and unattainable. As stated in CDPHE's Action Plan for Toxic Firefighting Foam and Related chemicals, PFAS	Modify the language to require the permittee to identify sources of PFAS that have a reasonable potential, in either quantity, storage location, or use, to contaminate stormwater at the facility. Proposed	Colorado Wastewater Utility Council	See comments 84 and 100

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			chemicals have been and continue to be used for everyday household items, carpets, food packaging, etc. The vague language allows different interpretation of the requirements and creates regulatory uncertainty.	language is as follows: "The permittee is responsible for documenting PFAS containing chemicals onsite within the SWMP that have potential to come into contact with stormwater or are stored outside."		
99	Permit.	I.D.1.m.iii PFAS Practice-Based Limits	The draft permit states: *"The permittee is responsible for identifying sources of PFAS at the permitted facility. Table 1 provides a list of common materials containing PFAS."* The requirement to "identify sources of PFAS as the permitted facility" is vague and unattainable. As stated in CDPHE's Action Plan for Toxic Firefighting Foam and Related chemicals, PFAS chemicals have been and continue to be used for everyday household items, carpets, food packaging, etc. The vague language allows different interpretation of the requirements and creates regulatory uncertainty.	Modify the language to require the permittee to identify sources of PFAS that have a reasonable potential, in either quantity, storage location, or use, to contaminate stormwater at the facility. Proposed language is as follows: "The permittee is responsible for documenting PFAS containing chemicals onsite within the SWMP that have potential to come into contact with stormwater or are stored outside."	Metro Water Recovery	See comments 84 and 100
100	Permit	I.D.1.m.iii PFAS Practice-Based Limits	*"The permittee is responsible for identifying sources of PFAS at the permitted facility. Table 1 provides a list of common materials containing PFAS."* The requirement to "identify sources of PFAS as the permitted facility" is challenging since PFAS could be unknowingly contained in some products and many products are stored in a no-exposure location. As stated in CDPHE's Action Plan for Toxic Firefighting Foam and Related	Proposed revised language: "The permittee is responsible for documenting within the SWMP any known PFAS containing chemicals onsite that have potential to come into contact with stormwater or are stored outside."	Wright Water Engineers on behalf of various clients	Comment incorporated The requirement holds the discharger responsible for preventing the discharge of PFAS in stormwater. In order to prevent the discharge of PFAS in stormwater runoff, the permittees must first have knowledge of materials containing

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			chemicals, PFAS Chemicals have been and continue to be used for everyday household items, carpets, food packaging, etc. Providing an extensive list of materials within no exposure areas does not appear to support identifying pollutants that have the potential to be discharged.			PFAS. Therefore, the division's expectation is for the permittee to actively evaluate products containing PFAS. Without this step, permittees may unknowingly be discharging PFAS in stormwater at levels that could impact water quality. The draft requirement did not specifically address indoor versus outdoor areas; however, the permittee must be aware that if they move materials to outdoor areas, they are responsible for containing, collecting, and legally disposing of materials containing PFAS without reintroduction to wastewater, stormwater or surface water. The division agrees to limit identification of PFAS containing materials to those with higher potential to come into contact with stormwater. Language in Part I.D.1.m.iii and Part I.F.5.b.iii reflect this. See comment 84
101	Permit	Part I.F.5.b.iii Inventory of Materials	*"A list of all materials containing PFAS."* See comment PN- *5* [comment 85].	Proposed revised language: List known materials containing PFAS that have potential to come into contact with stormwater or are stored outside.	Wright Water Engineers on behalf of various clients	See comments 84 and 100
102	Permit	I.D.1.m.iii III	**2. The State Does Not Have Authority to Impose Practice-Based Limits Related to PFAS, and the Proposed Limits Are Inappropriate.**		Coalitions	The division disagrees that its authority to require practice-based limits must be tied to a

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		PFAS Practice-Based Limits	The Proposed SGP discusses the imposition of practice-based effluent limits to minimize the discharge of PFAS in stormwater, but the State lacks authority to do so. The regulation that the State cites in support of its authority to regulate PFAS through stormwater permitting prohibits discharges in harmful "amounts, concentrations, or combinations." *See* 5 CCR 1002-31, Reg. 31.11(1)(a)(iv). Here, the State has not identified which PFAS are harmful to humans, animals, plants, or aquatic life and at what concentrations. Unless and until it identifies specific PFAS compounds and the concentrations at which those PFAS compounds are harmful, the State does not have authority to regulate any discharge of PFAS. If the State seeks to impose practice-based effluent limits, it must specify the types and quantities or concentrations of PFAS that would trigger permit conditions. Additionally, the State should provide sector-specific examples of source reduction measures that will be required, confirm that source reduction is related to industrial activities (as opposed to diffuse other sources) and explain the authority under which the State is imposing the practice-based effluent limits and standards. Moreover, the State must also consider the fact that source identification and elimination is particularly complex in the industrial stormwater context. For example, there could be historical uses that take time to identify; sometimes, the stormwater issue could be caused by run-on from neighboring properties. Once the presence of PFAS is detected, identifying the specific sources in order to meet source reduction objectives can			concentration of a specific pollutant. The COR900000 permit, the 2021 EPA MSGP permit, and general permits from other states rely on practice-based limits to address pollutants, including specific pollutants (For example, Part III.E.3, M.2, N.3 and more). Monitoring only requirements in discharge permits is the standard permitting procedure when there is reason to believe a pollutant is present, but additional information is necessary to determine if it is present at a level that would cause or contribute to an exceedance of a water quality standard, including a narrative standard. The fact sheet references policy 20-1 which lists the types of PFAS to be monitored and discusses the role of EPA's human health advisory level in establishing a numeric translation of the narrative criteria. Regulation 61.8(3)(r) specifies "The permit shall include best management practices to control or abate the discharge of pollutants when numeric effluent limitations are infeasible, when the practices are reasonably necessary to achieve effluent limitations and standards, or when authorized under 304(e) of the federal act for control of

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			be very difficult. Even the determination of which products contain one (or more) of the thousands of PFAS compounds is challenging, because the product ingredients are often proprietary or not identified. Once sources are identified, it can be difficult to address the contamination, which could require costly treatment technologies, such as soil washing. Additionally, if the source is not associated with the site conducting sampling, but instead is located on a neighboring site, the industrial site would have no authority to demand that its neighbor meet CDPHE's standards. Further, since PFAS is often found in background conditions, such as in rainwater, finding PFAS in stormwater discharges doesn't mean that it came from the industrial site itself. The specific practice-based effluent limits proposed by CDPHE follow none of the necessary steps specified above. Instead, they provide broad dictates that are not justified and, in fact, cannot be attained. For instance, the Proposed SGP states as follows: "The permittee must prevent the contribution of any PFAS-containing materials to stormwater discharges, including from all areas that contribute stormwater runoff to the outfalls." This restriction seems to apply well beyond the areas of industrial activity at the site, so goes beyond the agency's permitting authority. But in addition, CDPHE has made no showing that dischargers can actually meet this condition, which for many facilities will simply not be feasible to meet. Further, the permit requires that "All materials containing PFAS must be contained, collected, and legally disposed of without reintroduction to wastewater, stormwater or surface water." This condition is also both unjustified and not attainable.			toxic pollutants and hazardous substances. The fact sheet and Policy 20-1 explain how numeric limits for PFAS in stormwater discharges are infeasible at this time. 61.8(3)(r) and that practice-based limits are currently the preferred approach over numeric WQBELs. The division further notes that since public notice of the draft, EPA has revised the interim human health advisory levels for PFOA and PFOS to 0.004 parts per trillion (ppt) and 0.02 ppt, respectively. EPA has also issued a draft Drinking Water rule with draft maximum contaminant levels (MCLs). These are orders of magnitude lower than the 70 ppt established as the translation level in Policy 20-1. The draft human health advisory levels and draft MCLs came out after public notice of the draft permit. This information is added to Section I.3.a. of the Fact Sheet. The division relies on EPA guidance such as the Industrial Stormwater Fact Sheet Series for sector-specific guidance. Source reduction techniques for other chemicals likely will be effective for PFAS containing materials, for example, product substitution, storing in enclosed buildings, and secondary containment. For guidance on

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			Source reduction and elimination of PFAS in stormwater at industrial sites will need to be tailored to the type of facility and the particular uses of PFAS. Even among the sectors identified as high priority in the Proposed SGP, source reduction and elimination approaches may vary widely. To address those sources will require much more comprehensive, longer-term solutions, which are beyond the proper scope of the State's stormwater permitting authority.			disposal, permittees may refer to EPA's Interim PFAS Destruction and Disposal Guidance The division agrees that source identification may be complex and therefore has not imposed benchmarks or other specific requirements to be triggered by PFAS detection in the discharge. Policy 20-1 does emphasize source investigations and source control at large industrial facilities when monitoring shows specific PFAS are present at or above the reporting levels (pg. 14). For pollutants, in general, permittees are expected to take measures to prevent pollutant run-on from off-site (see comment 138). As new information is learned about controlling PFAS in stormwater discharges the division will make this available on our website at: https://cdphe.colorado.gov/pfas-resources. The permit as a whole applies to all areas with industrial activity as defined in Regulation 61. The permittee's certification will establish outfalls that contain discharges of stormwater runoff associated with industrial activity. As such, the permit requirements do

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						not extend beyond the division's permitting authority.
103	Permit	I.D.1.m.iii III PFAS Practice-Based Limits	As we state in our responsive comment directly above [division comment], Policy 20-1 gives CDPHE the authority to impose practice-based limits related to PFAS, as does the Clean Water Act. Industrial stormwater dischargers that use, store, or have untreated releases of materials containing PFAS need to do their part to ensure there are practices in place to avoid discharges of these toxic chemicals to Colorado waters.		Clean Water Action – **Responsive** 7-15-22 Coalitions draft permit comments, 6-13-22	See comments 84 and 100
104	Permit Fact Sheet	I.D.1.m.iii I.D.3.b III I.3, I.4 PFAS Monitoring	Further, Clean Water states that it: believes CDPHE is acting within its regulatory authority by including PFAS conditions in this revised general permit. These required conditions are consistent with Policy 20-1, which gives CDPHE the authority to require practice based limits for industrial stormwater to protect water quality. We disagree with the comment that the storage of aqueous firefighting foam (AFFF) is not 'part of a sector's industry activity.' Industrial facilities store and use AFFF because of the fire risk directly associated with their industrial activities. Moreover, The Coalitions do not provide a legal definition of 'industrial activity' to substantiate their comment. There are several flaws in Clean Water's statement: • First, Clean Water overstates the reach of Policy 20-1. Specifically, Policy 20-1 does not confer authority for the Division to regulate facilities or parts of facilities that are not in fact engaged in "industrial activities." Nothing about Policy 20-1 can reasonably be viewed as expanding the Divisions stormwater permitting		CCD Department of Aviation **Rebuttal** to comment 21, related to comment 102 and Clean Water Action Responsive 7-15-22	See comments 21, 55, and 57 Regulation 61.8(3)(R), only requires BMPs instead of numeric limits when numeric limits are infeasible, it does not state that numeric limits for stormwater are infeasible. Furthermore, the commenter is incorrect in stating that "EPA and the Division have had a longstanding practice of recognizing that numeric limits are infeasible for stormwater discharges." The division and EPA have issued numerous individual permits with numeric limits that apply to stormwater.

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			authority under the Clean Water Act the Colorado Water Quality Control Act, or the Colorado Discharge Permitting Regulations. • Second, the fact that a facility may store and use AFFF as part of fire-fighting activities does not turn that facility into an industrial facility subject to regulation under the Draft Permit. Again, the federal and state acts and permit regulations address the industrial activities subject to stormwater regulation. • Finally, Clean Water complains that a legal definition of "industrial activity" was not provided in comments. With respect to airports, EPA defined the covered industrial activities at 55 FR 48065-66. "The following categories of facilities are considered to be engaging in 'industrial activities' … : transportation facilities …which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, … are associate with additional activities." Id. Colorado adopted conforming provisions in Regulation 61 Clean Water Action disagrees that the proposed numeric limits for stormwater are inappropriate for this permit and provides citations and discussion based on EPA's permit writer's manual. Clean Water Action fails to recognize the provision in Regulation 61.8(3)(R) "The permit shall include best management practices to control or abate the discharge of pollutants when numeric effluent limits are infeasible." (Emphasis added.) EPA and the Division have had a longstanding practice of recognizing that numeric			

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			limits are infeasible for stormwater discharges, due to factors such as the episodic nature of the discharges, the variability of discharge durations and concentrations, and the disconnect between how water quality standards are derived, measured for attainment, and the methods used to derive numeric effluent limits for low flow conditions and steady state discharges. These factors that make numeric effluent limits infeasible for stormwater discharges are expressed in EPA's memos about permitting stormwater discharges[1], California's Blue Ribbon panel report[2], and the reports published by the National Academies of Science on stormwater discharges[3]. In conclusion, Denver believes that its original comments continue to weigh in favor of the Division not proceeding with the Draft Permit. The comments presented by Clean Water do not change that analysis and conclusion [1] See the following EPA Memoranda: *Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs* (November 22, 2002); *Revisions to the November 22, 2002 Memorandum "Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs*" (November 12, 2010); and *Revisions to the November 22, 2002 Memorandum "Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs*" (November 26, 2014) [2] California State Water Board Storm Water Panel Recommendations—The Feasibility of Numeric			

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			Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial, and Construction Activities (2006) https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/numeric/swpanel_final_report.pdf [3] National Research Council 2009. *Urban Stormwater Management in the United States*. Washington, DC: The National Academies Press (https://doi.org/10.17226/12465 the 2009 NRC Report) and National Academies of Sciences, Engineering, and Medicine (NASEM) 2019. *Improving the EPA Multi-Sector General Permit for Industrial Stormwater Discharges*. Washington, DC: The National Academies Press. https://doi.org/10.17226/25355 (the 2019 NASEM Report)			
105	Permit	I.D.1.m.iii III PFAS Practice-Based Limits	**4. The Proposed SGP Must Recognize the Challenges of Regulating AFFF Use and Storage at Part 139 Airports** Moreover, the State must recognize the unique issues facing municipal airports regulated by Part 139, which are governed by federal law. The entities have no choice but to use AFFF in ways that the FAA has mandated. Coalition members in this sector are already engaged nationally and at the state level on issues related to PFAS and AFFF. State laws, regulations, and initiatives that attempt to address these same issues risk creating conflict with federal law and imposing needless state requirements. Notably, Congress required FAA to authorize a fluorine-free AFFF by October 2021 and the Department of Defense to modify its Military Specification by October 2024. The COVID-19 pandemic, however, has delayed the FAA in its		Coalitions	See comment 96

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			research and testing of non-fluorinated foam. Accordingly, the State should not assume that source reduction efforts could immediately include replacing existing fluorinated AFFF with non-fluorinated AFFF. The State should be mindful of the numerous complexities and challenges of approving new foams, producing them, distributing them, updating existing equipment, and collecting old AFFF for appropriate disposal.			
106	Permit	I.D.1.m.iii III	PFAS monitoring is not ready to be included in the Final Permit. Finally, Sector N should not be included among the High Risk Sectors for PFAS		David Wagger –Institute of Scrap Recycling Industries, Inc	The fact sheet explains the justification for including sector N as a high risk sector. Monitoring is not mandatory for this sector unless a permittee uses, stores, or releases materials containing PFAS in an exposed area of the permitted facility.
107	Permit	I.D.1.m.iii III PFAS Monitoring	DIA Fuel is a committee composed of passenger airlines and air cargo carriers which operates the bulk fuel storage tank facility (BFSF) at Denver International Airport (DIA) under a lease with the City and County of Denver through its Department of Aviation (Denver). DIA Fuel incorporates and adopts Denver's June 2022 comments to the Draft Permit as submitted, and opposes approval of this Draft Permit in its present form. Adoption of the Draft Permit as written would place a significant burden on DIA Fuel with respect to the ability of DIA to comply with the terms of the discharge permit. The Federal Aviation Administration (FAA) requires all commercial service airports certificated under Part 139 to maintain and provide, when necessary, aircraft rescue and firefighting (ARFF) services to respond to certain emergency situations that may arise. (14 C.F.R. § 139.203.) These services include maintaining and utilizing, if		Meghan Burlager – DIA Fuel Committee	Comment partially incorporated The permit does not prevent the storage or use of AFFF for emergency purposes. The permit requirements are consistent with recent State amendments that, as of January 1, 2023 prohibit the use of PFAS containing foam for testing or training. See Colo. Rev. Stat Section 24-33.5-1234(4). See comments 183 and 96

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			necessary, a minimum level of aqueous film-forming foam (AFFF) extinguishing agent. (Id. § 139.317(j).) As CDPHE is aware from the historic Stapleton International Airport storage facility fire, Jet A storage tank fires are similar to ARFF activities in complexity and harm to airport operations. Because these storage facilities require adequate quantities and compatibility of AFFF, airport fire departments across the U.S. utilize the same military specification AFFF as used on ARFF fires. Simply put, the AFFF at the DIA fuel storage facility contains PFAS, and there are currently no alternatives to the use of such foam. FAA and the DOD continue to work toward approving PFAS-free AFFF, but such transition is likely two – four years into the future. Pursuant to Part 139 regulations and to the terms of its lease with Denver, the BFSF operates under certain requirements to store and use AFFF. It is premature for CDPHE to require sampling of PFAS chemicals as part of the DIA discharge permit. EPA continues to accept comments and evaluate regulatory requirements related to PFAS in groundwater and stormwater. DIA functions as critical infrastructure and services to the State of Colorado. For CDPHE to move ahead of EPA in attempting to regulate stormwater that may contain trace amounts of PFAS on a facility the size of DIA is not technologically feasible at this point for many reasons, not the least of which the fuel storage facility and ARFF activities are still required to maintain AFFF that meets military specifications. While both the fuel storage facility and the DIA ARFF activities would attempt to capture and contain for disposal any PFAS-containing AFFF discharged, at ppt levels, any			

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			inability to contain all AFFF discharged must be compared to preventing a catastrophic storage tank fire or ARFF life safety issues. DIA Fuel strongly urges CDPHE to either defer specific PFAS storage and release effluent limitations, or exempt DIA from the same. Upon the event of FAA approving for ARFF use a PFAS-free AFFF, the DIA Fuel Committee and the DIA ARFF operations can then work toward a transition to such AFFF.			
108	Permit Fact Sheet	I.D.2 I.3.c PFAS Monitoring	[4.] CDPHE has also not explained how the imposition of effluent limits in the Proposed SGP comports with the clear statement in the State's recently adopted PFAS policy that, "Given the ubiquitous nature of PFAS, it is not the commission's intent that this policy be used to require numeric effluent limits for PFAS in stormwater discharges." Water Quality Control Commission Policy 20-1: Policy for Interpreting the Narrative Water Quality Standards for Per- and Polyfluoroalkyl Substances (PFAS) (July 14, 2020) at p. 16.		Coalitions	Clarification included. In accordance with Policy 20-1, the permit does not contain numeric limits for PFAS. To clarify, the division has added a statement to the permit (Part I.D.2.b.iii) and fact sheet (Part I.3.c) that numeric PFAS limits will not be included in permit certifications in this permit term.
109	Permit	I.D.2.b I.D.3 I.D.4 I.D.5 I.D.6 I.D.7 I.D.8 Site-Specific Numeric Water Quality-Based	The division proposes several revisions regarding effluent limits, including to establish numeric water quality based effluent limits for industrial stormwater discharges, to establish numeric effluent limits using the "TSD method", and to include effluent limits as enforceable case-by-case conditions in permit certifications without public notice and comment, These approaches are inappropriate. See attached comment letter.	Remove this subsection	City and County of Denver Department of Aviation	The comment is incorrect in stating that the renewal permit establishes numeric limits using the TSD method. The permit does not specify use of the TSD method, nor is it even mentioned in the permit or the fact sheet. In any reasonable potential analysis that would be done to determine inclusion of WQBELs, the division would follow Policy CW-1. While portions of the division's policy CW-1 (Determination of the Requirement to Include Water Quality Standards-Based Limits in CDPS Permits Based on Reasonable Potential) are based on the TSD, the

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		Effluent Limitations				division's methods for performing qualitative reasonable potential and establishing limitations are unique. The division has added text to Part I.D.2 clarifying the general process for developing numeric water quality-based limits. See comment 55
110	Permit	I.D.2.b Site-Specific Numeric Water Quality-Based Effluent Limitations	**B. The Proposed Numeric Limits for Stormwater Are Inappropriate for Assessing Compliance with Water Quality Standards and Should Be Removed From the Permit** The Proposed SGP purports to ensure compliance with water quality standards by requiring that discharges not cause, or have the reasonable potential to cause, an exceedance of water quality standards. This Proposed SGP's requirement mischaracterizes the function of the Clean Water Act's reasonable potential language in setting limits. Additionally, the imposition of numeric effluent limits to control stormwater discharges is infeasible and inappropriate.		Coalitions	No change See comments 55, 72 and 74
111	Permit	I.D.2.b Site-Specific Numeric Water Quality-Based Effluent Limitations	Clean Water Action disagrees with this comment. According to the EPA NPDES Permit Writers' Manual: "Limitations must control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level that will cause, have the reasonable potential to cause, or contribute to an excursion above any [s]tate water quality standard, including [s]tate narrative criteria for water quality." [emphasis added] Because of that regulation, EPA and many authorized		Clean Water Action – **Responsive** Coalitions 6-13-22	The division agrees with the comment. See comment 55.

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			NPDES states refer to the process that a permit writer uses to determine whether a WQBEL is required in an NPDES permit as a reasonable potential analysis. Wording the requirements of the regulation another way, a reasonable potential analysis is used to determine whether a discharge, alone or in combination with other sources of pollutants to a waterbody and under a set of conditions arrived at by making a series of reasonable assumptions, could lead to an excursion above an applicable water quality standard. The regulation also specifies that the reasonable potential determination must apply not only to numeric criteria, but also to narrative criteria (e.g., no toxics in toxic amounts, presence of pollutants or pollutant parameters in amounts that would result in nuisance algal blooms). A permit writer can conduct a reasonable potential analysis using effluent and receiving water data and modeling techniques, as described above, or using a non-quantitative approach."[6] [6] EPA NPDES Permit Writers' Manual at 6-23, available at: https://www.epa.gov/sites/default/files/2015-09/documents/pwm_2010.pdf			
112	Permit Fact Sheet	I.D.2.b I.D.2 Site-Specific Numeric Water	WWUC agrees with the comments of the Federal Water Quality Coalition, Federal Storm Water Association, and PFAS Regulatory Coalition, that numeric water quality-based effluent limitations are inappropriate, infeasible, unnecessary, and not authorized in a stormwater permit. Furthermore, this condition is overly vague and provides no notice to permittees about the criteria that the division intends to use to determine whether to include numeric effluent limitations, or what the values of those effluent	Remove Part I.D.2.b	Colorado Wastewater Utility Council	The renewal permit does not include numeric limits for PFAS. This has been clarified in the Fact Sheet Section I.3.c. See comments 55 and 74

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		Quality-Based Effluent Limitations	limitations will be. The draft Permit lists several sources of information that the Division plans to use, but does not indicate how a permittee should know whether the final permit will or will not include numeric effluent limitations, or what those numeric effluent limitations will be. The draft Fact Sheet does not provide any guidance or notice about how the Division intends to determine whether to include numeric water quality-based effluent limitations, or how the Division would calculate water quality-based effluent limitations for stormwater discharges. The Fact Sheet merely describes that the Division may require numeric water quality-based effluent limitations, but does not explain how the Division will derive limitations or how the Division will consider available information. The permit and fact sheet do not provide information about whether the Division will include numeric effluent limitations for PFAS in any permit certifications. However, numeric effluent limitations would be inconsistent with Water Quality Control Commission Policy 20-1, pg. 16, which said that the Commission did not intend for Policy 20-1 to be used to require numeric effluent limitations for PFAS in stormwater permits. Finally, for general permit certifications there are no published draft permit certifications for authorizations to discharge under a general permit, and there is no public comment process for certifications. This means that permittees and members of the public have no opportunity at all to comment on this significant new condition of the draft Permit. Furthermore, the Division consistently asserts that general permit			

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			certifications are ineligible for adjudicatory hearings, even though they are defined as "permits" and the Division asserts that it can include additional terms and conditions and effluent limitations at the time of certification. The effect is to convert the general permit certification into an individual permit without notice, comment, or the opportunity for a hearing. This is inconsistent with the Colorado WQCA and Colorado APA requirement that permits and other final decisions of the Division be subject to administrative adjudicatory hearing. C.R.S. §§ 25-8-403; 24-4-104(6).			
113	Permit	I.D.2.b Site-Specific Numeric Water Quality-Based Effluent Limitations	**IV. <u>Comment 8: Effluent Limits.</u>** **1. In Part I.D.2.b the Division proposes to establish numeric effluent limits for stormwater discharges.** The Division's proposed establishment of numeric effluent limits for industrial stormwater discharges is not substantiated by information provided by the Division in the Fact Sheet. The Division's proposal deviates from national recognition that numeric effluent limits are "infeasible" for industrial stormwater discharges, and that in accordance with Regulation 61.8(3)(r) and conforming regulations nationally, practice-based effluent limits are appropriate. Information that is lacking to establish numeric effluent limits includes monitoring data, industry specific information, BMP performance analyses, water quality information, monitoring guidelines, and information on costs and overall effectiveness of control. This type of information was recognized by EPA, in the baseline stormwater permits and all versions of the MSGP, including the 2021 MSGP,[11] as being necessary for the development of such effluent limits. EPA's conclusion is that numeric		David Steinberger – Denver City Attorney's Office	See comment 55 and 74

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			effluent limits are feasible only where predictably reliable treatment technologies are employed. EPA recognized the data shortfalls needed to substantiate the development of numeric effluent limits, and the higher variability (i.e., coefficients of variation) for industrial stormwater, which is much greater than for drinking water and wastewater. The infeasibility of establishing numeric effluent limits was affirmed by the committee of the National Academies of Science, Engineering, and Medicine, tasked with evaluating the feasibility of certain types of numeric standards for stormwater discharges. See 2019 NASEM Report. The Division's approach of including numeric effluent limits is inconsistent with the requirements of Regulation 61.8(2). • "Effluent limitations designed to meet water quality standards shall be based on application of appropriate physical, chemical, and biological factors reasonably necessary to achieve the levels of protection required by the standards. Such determination shall be made on a case-by-case basis." Regulation 61.8(2)(b)(i). • "The Division shall use procedures, including appropriate water quality modeling, which account for existing controls on point and nonpoint sources of pollution, the variability of the pollutant or pollutant parameter in the effluent, the sensitivity of the species to toxicity testing (when evaluating whole effluent toxicity), and where appropriate, the dilution of the effluent in the receiving water." Regulation 61.8(2)(b)(i)(B) (emphasis added).			

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			• "When the Division determines, using the procedures in subsection (b)(i)(B) of this section, that a discharge causes, has the reasonable potential to cause, or measurably contributes to an in-stream excursion above the allowable ambient concentration of a numeric water quality standard for an individual pollutant, the permit must contain effluent limits for that pollutant." Regulation 61.8(2)(b)(i)(C) (emphasis added). The Division should remove all language regarding numeric effluent limits from the permit, adhere to language contained in EPA's MSGP, and be clear in the Fact Sheet that numeric effluent limits are infeasible. [11] EPA Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) – Fact Sheet (2021).			
114	Permit	I.D.2.b Site-Specific Numeric Water Quality-Based Effluent Limitations	The draft permit states site specific numeric water quality-based effluent limitations may be established for dischargers and would be listed in individual certifications. The draft Fact Sheet and permit do not provide guidance or notice about how numeric water quality-based effluent limitations would be calculated. For general permit certifications there are no published draft permit certifications for authorizations to discharge under a general permit, and there is no public comment process for certifications. This means that permittees and members of the public have no opportunity at all to comment on this significant new condition of the draft Permit.	Remove Part I.D.2.b	Metro Water Recovery	See comment 55 and 74
115	Permit	I.D.2.b	The ability for the division to establish numeric water quality based effluent limits in the	The final permit should omit this portion of the draft	Tri-State Generation	See comment 55 and 74

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		Site-Specific Numeric Water Quality-Based Effluent Limitations	certification is problematic for several reasons. There is insufficient information in the permit regarding the basis for adding numeric limits or how the division would determine those limits. This could lead to permittees receiving additional numeric limits in their general permit certification without the benefit of a public comment process and no notice in the general permit about how those limits will be determined.	permit. If not omitted, the final permit should revert to the previously authorized wording in the current permit in Part 1.D.3.a or use EPA's 2021 MSGP wording.	and Transmission Association, Inc	
116	Permit	I.D.2.b.v Site-Specific Numeric Water Quality-Based Effluent Limitations	Recommend including additional language to be consistent with Part I.A.D.3.a. Recommend language: "whether the discharge is to an impaired water with an EPA approved or established Total Maximum Daily Load (TMDL)." This would be consistent with the language in Part I.A.D.3.a since it implies narrative limitations will be given when there is not an EPA approved or established TMDL, therefore the permittee does not expect numeric limits to be given without an approved TMDL.	Revise the language to: "whether the discharge is to an impaired water with an EPA approved or established Total Maximum Daily Load (TMDL)."	City of Aurora	No change The division disagrees with the comment. Regardless of whether there is an EPA approved TMDL, the division retains the ability to include numeric limits when other terms and conditions of the permit will not control the discharge as necessary to meet applicable water quality standards. See comment 55 and 74
117	Permit	I.D.2.b.v Site-Specific Numeric Water Quality-Based Effluent Limitations	How does the Division determine how far downstream is taken into consideration for a numeric limitation to be implemented? The permittee can only control the direct discharge and should be not be responsible for meeting water quality standards in a downstream impaired water when other sources (non-point and point) may be contributing to the water quality that is outside the permittees control. Recommend removing the language "or if the discharge needs to be controlled as necessary in order to meet the water quality standards in a downstream impaired water."	Provide clarification. Remove the language "or if the discharge needs to be controlled as necessary in order to meet the water quality standards in a downstream impaired water."	City of Aurora	The permit only addresses the permittee's discharge. It does not require that the permittee ensure that a receiving water meets water quality standards. During the previous permit term, the division evaluated a discharge's potential effect on a downstream segment on a case-by-case basis. As provided in previous permitting webinars, the division has multiple ways of determining when downstream receiving waters are evaluated, including, but not limited to: • Whether the standards or hardness in the downstream

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						waters are more or less stringent than the immediate receiving water; • Whether the downstream segment has a water supply classification; • Overall flow of facility • Distance to downstream segments • Flow of immediate segment
118	Permit	I.D.3 Effluent Limitations	In the 2012 permit, the requirements between existing dischargers to an impaired water with or without an approved TMDL was very clear. Since the last final permit, there have been multiple additions to the 303(d) list as well as EPA approved TMDLs throughout the state. For example, COSPUS 14 has had an approved TMDL for E. coli since 2007, COSPUS 15 recently gained approval for a TMDL in 2015. However, not all dischargers in COSPUS 14 had limitations or monitoring requirements for E. coli specified within the certification. In the previous Permit COR900000, the requirement to meet applicable water quality standards at the point of discharge applied only to *new* discharges to impaired segments *without* an EPA-approved TMDL. At most, the renewal permit may include a condition for such new discharges based on the prohibitions in Regulation 61, Section 61.8(1)(b). This condition should be removed from the Final Permit for the same reasons stated in the comment about Part I.B.2. This is not an “effluent limitation” or “best management practice” as	Remove the condition in Part I.D.3.a. Replace this condition with the language in the comment on Part I.B.2 above.	Metro Water Recovery	Comment incorporated The division changed the requirement consistent with the previous permit language.

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			authorized by Regulation 61. This condition should be replaced with the language included in previous Division-issued stormwater permits			
119	Permit	I.D.3.a Narrative Limitations	A reference to the applicable segment should be included in the Certification, for the benefit and interest of the permittee.	Please provide document citation of the WQS for the affected segment.	City of Aurora	Under the previous permit, certification fact sheets identified the receiving water segment. The fact sheets for renewal certifications will also identify the receiving water segments and reference to the water quality standards regulation.
120	Permit	I.D.3.a Narrative Limitations	Part I.D.3.a. "Where a discharge is to an impaired water without an EPA approved or established Total Maximum Daily Load (TMDL), the division will include a narrative water quality-based effluent limitation consistent with the following statement: Discharges authorized under this permit must be controlled as necessary to meet the applicable water quality standard for (the subject pollutant) at the point of discharge (end of pipe)." This condition should be removed from the Final Permit for the same reasons stated in the comment about Part I.B.2. This is not an "effluent limitation" or "best management practice" as authorized by Regulation 61. This condition should be replaced with the language included in previous Division-issued stormwater permits as explained above. In the previous Permit COR900000, the requirement to meet applicable water quality standards at the point of discharge applied only to *new* discharges to impaired segments *without* an EPA-approved TMDL. At most, the renewal permit may include a condition for such new discharges based on the prohibitions in Regulation 61, Section 61.8(1)(b).	Remove the condition in Part I.D.3.a. Replace this condition with the language in the comment on Part I.B.2 above.	Colorado Wastewater Utility Council	See comment 118

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121	Permit	I.D.3.a Narrative Limitations	“Discharges authorized under this permit must be controlled as necessary to meet the applicable water quality standard for (the subject pollutant) at the point of discharge (end of pipe).” This statement is very broad in its description.	Please provide more specific options vs. “as necessary” or remove “as necessary”	Troy Nedved, RT Civil Consultants- For and on behalf of Meridian Metropolitan District	See comment 118 The permit regulates the discharge of stormwater associated with non-extractive industrial activity in order to prevent discharges from causing or contributing to an exceedance of a water quality standard. The division cannot contemplate all circumstances where a stormwater discharge would cause or contribute to an exceedance of a water quality standard. If the permittee becomes aware of other information that indicates their discharge may exceed a water quality standard, then the requirement in Part I.D.3.a prevents the permit from being a shield when the discharger did not disclose pollutants to the division or when the discharge was not within the reasonable contemplation of the division. This requirement is included in the 2021 EPA MSGP permit and similar requirements are common in many other NPDES permits.
122	Permit	I.D.3.b Narrative Limitations	Additional language is needed to provide clarity. Without this language, the permittee would not be able to understand or predict what conditions they will be required to meet once their permit certification is issued.	Revise language to: "The division will include in the permit certification any additional narrative terms or conditions that the division determines are necessary to ensure that the discharge meets water quality standards in the receiving stream."	City of Aurora	Comment incorporated. As in the previous permit term the division primarily evaluates water quality standards within the receiving water segment. There may be circumstances where the impact of the discharge extends beyond the immediate receiving water. When issuing certifications under the previous permit, the division considered site specific factors to assess the discharge’s impact on

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						downstream segments. The division intends to continue this practice under the renewal permit. To clarify this practice, the renewal permit adds language to Part I.D.3.b that terms or conditions will also ensure protective of water quality standards in downstream segments. Regulation 61 requires protection of water quality standards including the standards in a downstream segment. See Comment 117.
123	Permit	I.D.3.b Narrative Limitations	Regulation 61.8(4) states "Any discharge authorized by a discharge permit may be subject to such monitoring, recordkeeping, and reporting requirements as may be reasonably required in writing by the Division, including the requirements concerning the installation, use and maintenance of monitoring with standard procedures and methods established by the Division." Conducting monitoring to provide the Division with enough information to establish site-specific benchmarks is not reasonable and is not pursuant to Regulation 61.8(4). Pursuant to regulation 61.8(4)n, it is required for the permittee to report monitoring results for stormwater discharges associated with industrial activity that are subject to an effluent limitation guideline, not to provide the Division with enough information to establish site-specific benchmarks. In addition, "The CWQCA limits monitoring requirements in discharge permits by providing that monitoring requirements must be "reasonably related to the potential for the presence of such pollutants in the discharge at levels inconsistent	Recommend removing the language "The division will include in the permit certification any additional narrative terms or conditions that the division determines are necessary to ensure that the discharge meets water quality standards. This may include site-specific benchmarks or monitoring only requirements where the division does not have sufficient information to establish site-specific benchmarks."	City of Aurora	No change This requirement is retained from the previous permit. The text "where the division does not have sufficient information to establish site-specific benchmarks" means that the division has the option to require monitoring only instead of site specific benchmarks. This might be the case where there is some evidence that the pollutant of concern is used at a specific type of industry, but the division does not have information on the prevalence of it in discharges in Colorado. Rather than applying site specific benchmarks with corrective actions, the division may opt to apply monitoring only until the actual discharges are better characterized.

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			with water quality standards." C.R.S. § 25-8-204(6).			
124	Permit	I.D.8 Compliance Schedules	The division proposes to include compliance schedules in permit certifications for new or revised effluent limits that are included in permit certifications. The division does not have authority to include effluent limits in a permit certification. Therefore, the provision regarding compliance schedules is unnecessary	Remove this subsection	City and County of Denver Department of Aviation	No change. The division disagrees that it does not have authority to include effluent limits that are numeric, narrative, or through a TMDL or control regulation and subsequent compliance schedules in the permit certification. Compliance schedules are authorized in certain circumstances under Regulation 31.9(2) and the manner in which the division includes compliance schedules is described in Policy CW-3.
125	Permit	I.E Stormwater Management Plan (SWMP)	See previous comments for why it's inappropriate to include PFAS provisions for Sector S. Those provision should be removed	Remove the PFAS provisions See attached comment letter	City and County of Denver Department of Aviation	See comments 84 and 100
126	Permit	I.E SWMP	"An existing permittee authorized under the previous versions of this permit must modify the existing SWMP to comply with the requirements of this permit within 90 days of the certification effective date or by a compliance schedule due date." Ninety (90) days is not sufficient time to implement new permit requirements. Budgets already are established and approved. Financial resources are not available with only 90 days advanced notice.	Please revise to at least 180 days after certification date.	Troy Nedved, RT Civil Consultants- For and on behalf of Meridian Metropolitan District	Comment partially incorporated The division agrees to extend the time to 120 days, consistent with the previous permit.
127	Permit	I.E.4.h PFAS Documentation	A SWMP is not an appropriate place to identify historic PFAS contamination. An appropriate processes for identification of historic sites of possible contamination is a Phase I/II Environmental Site Assessment.	Remove the PFAS provisions.	Adam Walters - Southwest Airlines	No change. See comment 37

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						A common tool used in stormwater permitting is the use of a stormwater management plan which allows a permittee the opportunity to document the pollutant sources and the necessary control measures to manage the pollutants in stormwater. PFAS are no different than other pollutants.
128	Permit	I.E.7.a.iii SWMP Modification	Recommend including language that clarifies the Division will use the "Reasonable Potential" policy (CW-1) to determine if there is reasonable potential for the discharge to exceed a water quality standard.	Provide language to indicate policy CW-1 will be used to determine reasonable potential.	City of Aurora	The division assumed the comment for "I.E.7.iii" refers to I.E.7.a.iii. This requirement refers to situations where a permittee does not meet effluents and the result would be to require an action plan. CW-1 is a procedures to determine the reasonable potential of a pollutant to determine if effluent limitations are necessary to be protective of water quality standards.
129	Fact Sheet	I.F Specific SWMP Requirements	Clean Water Action supports the Division adopting more stringent benchmarks and additional implementation procedures in this permit in order to support the protection of residents of North Denver and other communities disproportionately impacted by industrial pollution. Our organizations also support including conditions in this permit to eliminate or minimize PFAS in industrial stormwater discharges.	No specific change requested.	Clean Water Action	Comment noted
130	Permit	I.F.10 Corrective Action Documentation	See comment PN-4. [division comment 65]	See comment PN-4. [division comment 65]	Metro Water Recovery	See comment 65

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131	Permit	I.F.11 I.I.7 Natural Background Demonstration	The division proposes new language that significantly narrows the natural background exception and puts permittees in an untenable situation. There are numerous waters in Colorado where pollutant levels are likely attributable to natural background conditions and table value standards were applied in the absence of information showing they were unattainable. The division should retain the prior approach that aligns with the MSGP and lets the water quality standard review process reconsider the appropriateness of the water quality standard. As proposed the division is putting a burden on permittees to remove naturally occurring pollutants. Not only is this unreasonable, but its infeasible as control measures selected and designed in accordance with best industry practice cannot effectively remove naturally occurring pollutants to levels that meet benchmarks. The type of analysis proposed in the draft permit, including establishment of a reference site, collecting and analyzing data from the reference site, and compiling peer reviewed publications, are types of work that are more appropriately done during review of water quality standards, and are inappropriate to include as a permit requirement for a single stormwater discharger on a particular stream segment.	Revise the language so it mirrors the MSGP	City and County of Denver Department of Aviation	Comment partially incorporated The natural background exception is not more stringent than in the previous permit. Throughout the previous permit term, the division received numerous requests on how to demonstrate benchmark exceedances due to natural background. The requirements in this permit specify what our expectations are and provide flexibility in how permittees determine natural background. EPA's permit contains general language, but describes acceptable documentation in the Fact Sheet (p. 110 and 11). The division added text to clarify that permittees only have to use one of the demonstration methods in Part I.I.7.a.ii.
132	Permit	I.F.11 Natural Background Demonstration	This new section is very detailed and would be a substantial amount of work, especially for portions of Colorado where parameters like TSS are naturally elevated due to watershed conditions. This would require a much higher level of effort than the current permit's approach for natural background. If permittees need to collect this information for each discharge event at each outfall, it could delay field work such that completing the sampling while outfalls are still discharging would be challenging and some	The division should clarify if the process described in this part would be necessary for every sampling event, particularly for certain parameters like TSS which is often naturally elevated due to watershed conditions. The final permit should allow for periodic, annual evaluations of natural background to	Tri-State Generation and Transmission Association, Inc	See comments 213 and 131

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			discharge events could be missed. This is further complicated if permittees would be sampling during non-daylight hours where visual assessments and photographs would be infeasible. Sub-section ix and the need to evaluate for "other human activities upstream of the proposed reference site" appears like a very high threshold to overcome, especially for urban and suburban settings. In many areas of Colorado, it would be reasonable to expect some type of human activity upstream of most reference sites.	avoid the need for repeated documentation at each quarterly sampling event.		
133		I.F.11 Natural Background Demonstration	This process for establishing background pollutant levels appears to be invalid for receiving waters that are impaired. As proposed, the division is putting a burden on permittees to remove naturally occurring pollutants. A process should be developed to adjust for natural background pollutant levels, especially those that are in offsite run-on; however, the process should be based on readily obtainable data and not on compiling reference sites and peer reviewed publications.	Revise the language so it mirrors the EPA MSGP.	Wright Water Engineers on behalf of various clients	Comment partially incorporated The division has removed language restricting a natural background demonstration to when the discharge is NOT to a water impaired by the parameter exceeding the benchmark. However, the final permit requires that natural background determinations for pollutants for which the receiving water is impaired must be made using local data. This is necessary to ensure that discharges do not contribute additional pollutants beyond the receiving water's assimilative capacity. See comment 131
134	Permit	I.F.11.a Natural Background Demonstration	Citation Part I.I.6 is incorrect	Correct citation should be Part I.I.7	Metro Water Recovery	Comment incorporated Citation corrected

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135	Permit	I.F.2.a SWMP Documentation	SWMP requirements. The division changes the previous language of "industrial activities conducted at the facility" to "items manufactured and major activities conducted at the facility" The division does not have authority to require descriptions of activities at the site that are not industrial activities subject to permit coverage. Additionally, the new draft language is unclear	Replace language with that contained in the current permit	City and County of Denver Department of Aviation	Comment partially incorporated The division agrees to limit the description to permitted discharges, rather than the entire facility. The final permit limits the description to items manufactured and major activities associated with the industrial activity. Industrial activity is defined in the permit and may include co-located industrial activities.
136	Permit	I.F.3 Run-On	Documentation of problematic run-on should provide the basis for adjusting monitoring results due to the contribution of a benchmark parameter in run-on. Several aspects of Additional Implementation Measures (AIM) triggers are problematic and must be revised.		David Wagger -Institute of Scrap Recycling Industries, Inc	See comment 138
137	Permit	I.F.3 Run-On	**C. Documentation of Problematic Run-On in Part I.F.3. Should Provide a Basis for Adjusting Monitoring Results Because of the Contribution of a Benchmark Parameter in Run-On.** Part I.F.3., "Run-On", requires the permittee to identify in its Stormwater Management Plan (SWMP) any run-on "from adjacent property that the permittee believes contributes to elevated pollutant concentrations in the permittee's run-off". While it may be possible to isolate the permitted facility from potential run-on (e.g., see Part I.F.6., "Description of Control Measures"), such isolation can be problematic in certain circumstances (e.g., the adjacent facility slopes substantially downward towards the permitted facility) and cause problems elsewhere. Because WQCD acknowledges the potential for run-on to cause or contribute to benchmark		David Wagger -Institute of Scrap Recycling Industries, Inc	See comment 138

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			exceedances, the permit should allow the permittee to demonstrate that a benchmark exceedance occurred because of the contribution of a benchmark parameter in run-on. Such a demonstration would negate any corrective action required because that benchmark exceedance. More generally, the permit should allow a permittee to demonstrate that a benchmark exceedance occurred because of a contributing source of that benchmark parameter beyond the control of the facility and not associated with the facility's industrial activities (e.g., a benchmark parameter present in precipitation[6]). Similarly, such a demonstration would negate any corrective action required because of that benchmark exceedance.			
138	Permit	I.F.3 Run on	The draft permit does not include the allowable exemptions listed for run-on in the 2021 MSGP.	Modify the draft permit language to include the 2021 MSGP exemption allowances for pollutants due to run-on.	Metro Water Recovery	No change The previous permit did not allow an exception for corrective actions when a benchmark exceedance is due to run-on from offsite. The division maintains that an exception for run-on could allow for insufficient protection of water quality in heavily industrialized areas. The division is retaining the former approach as it is protective of water quality and does not impose unreasonable expectations on the permittee. Where a permittee's discharge is impacted by run-on from offsite there are steps they can take to address this. First, if the run-on is

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						consistent with natural background concentrations the permittee may evaluate whether they can make a determination that benchmark exceedances are due solely to natural background. Second, they may implement control measures which prevent outside runoff from commingling with their stormwater discharges. Third, they can notify the off-site owner/operator and request they address the issue. Finally, they can notify the division if the off-site facility requires, but does not have a permit coverage. In the Phase I stormwater rule, EPA clarified that "operators of facilities are generally responsible for [their] discharge in its entirety regardless of the initial source of discharge. However, where an upstream source can be identified and permitted, the liability of a downstream facility for other stormwater entering that facility may be minimized. Facilities in such circumstances may be required to develop management practices or other run-on/run-off controls, which segregates or otherwise prevents outside runoff from commingling with its stormwater discharge." 55 Fed. Reg. 48010, November 16, 1990. Note that the EPA MSGP contains an exception to corrective actions and AIM but it is only under limited

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						circumstances and is subject to EPA approval. COR900000 permittees that experience exceedances due to run-on may also contact the division for guidance on their specific circumstances.
139	Permit	I.F.4.f SWMP Documentation	The need to reference "non-structural control measures" on the Facility Map appears unnecessary because these items are better described by text. Doing so would lead to a very cluttered facility map.	The permit should omit the reference to non-structural measures here as these measures are better covered in SWMP text.	Tri-State Generation and Transmission Association, Inc	Comment incorporated Reference to non-structural control measures has been removed as they are more appropriately addressed in Part I.F.6.
140	Permit	I.F.5.b.ii SWMP Documentation	The division proposes new language that drops the distinction of "significant" and requires permittees to document the location of *all* leaks or spills that drained to a stormwater conveyance. This is unreasonable, and unnecessary. CDPHE has reporting requirement and guidance for spills, a process to determine whether response activities are adequate, and authorities to require additional action where CDPHE determines that spill response activities are inadequate. The industrial stormwater permit focus on future spill potential and defer to the CDPHE spill response process for past spills	Adopt EPA's language from the MSGP "Spills and Leaks. You must document where potential spills and leaks could occur that could contribute pollutants to stormwater discharges, and the corresponding discharge point(s) that would be affected by such spills and leaks. You must document all significant spills and leaks of oil or toxic or hazardous substances that actually occurred at exposed areas, or that drained to a stormwater conveyance, in the three years prior to the date you prepare or amend your SWPPP. Also adopt their Note that describes "significant spills	City and County of Denver Department of Aviation	Comment incorporated This requirement is removed from the final permit. Part I.F.5.b.i requires the permittee to identify types of materials that pose increased risk of spills or leaks that could result in stormwater pollution.

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141	Permit	I.F.5.b.ii Inventory of materials	What is the intent of this requirement? Will the results yield future obligations for the permittee? If so, what are they? Is the expectation that future material discharges also be record- kept in this manner? Or just the ones that occurred within three years of SWMP preparation? If permittees are expected to continue tracking these occurrences as referenced, please update Part I.K for consistency in recordkeeping obligations.	Clarify long-term permittee obligations resulting from this information collection requirement. Clarify recordkeeping obligations for the referenced 'types of materials' moving forward.	Judah Gaioni City of Longmont	See comment 140
142		Part I.F.5.b.ii Inventory of Materials	Provide a list of "*types of materials that within 3 years prior to the SWMP preparation, leaked or spilled and drained to a stormwater conveyance*." The SWMP may have been written 5 years ago and the division should have records of any reportable spill. Asking permittees to go back to past spills does not seem to be an effective use of resources. Conversely, the focus on preventing spills does seem like an effective use of resources. Additionally, spills may occur within a facility stormwater conveyance that is cleaned and removed prior to any discharge. Providing information on past spills of this nature seems like a time-consuming effort without much benefit.	Please remove this language. Research into past spills, especially those that did not result in a reportable discharge, does not appear to be a good use of resources.	Wright Water Engineers on behalf of various clients	See comment 140
143	Permit	I.F.5.b.iii PFAS Inventory	The division proposes to require all permittees to list all materials containing PFAS that have the potential to contribute pollutants to stormwater, and where the materials are stored and disposed. Such materials may contain proprietary ingredients.	Remove this subsection	Adam Walters - Southwest Airlines	The division has modified the corresponding SWMP requirements in Part I.F.5.b.iii and I.D.1.m.ii and iii. See comments 84 and 100
144	Permit	I.F.5.b.iii PFAS Inventory	The division proposes to require *all* permittees to list *all* materials containing PFAS that have the potential to contribute pollutants to stormwater,	See previous comments	City and County of Denver	Comment incorporated

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			and where the materials are stored and disposed of.		Department of Aviation	The division has modified the corresponding SWMP requirements in Part I.F.5.b.iii and I.D.1.m.ii and iii. See comments 84 and 100
145	Permit	I.F.5.b.iii PFAS Inventory	The permit requires "a list of all materials containing PFAS." As explained in the comment on Part I.D.1.m.iii, PFAS is found in everyday household items, carpets, and other items that will be found in an office or industrial setting that are indoors and will not have any contact with stormwater under any circumstances. Therefore, the requirement for a list of "all materials" containing PFAS is overly broad and outside the authority of the Division in implementing the stormwater permit.	Modify the draft permit language to require to identify sources of PFAS that have a reasonable potential, in either quantity, storage location, or use, to contaminate stormwater at the facility. Proposed language is as follows: "The permittee is responsible for documenting any PFAS containing chemicals onsite within the SWMP that have potential to come into contact with stormwater or are stored outside."	Colorado Wastewater Utility Council	Comment incorporated The division has modified the corresponding SWMP requirements in Part I.F.5.b.iii and I.D.1.m.ii and iii. See comments 84 and 100
146	Permit	I.F.5.b.iii PFAS Inventory	Is there a master list of 'all PFAS containing materials' that can be referenced? Table 1 is a list of 'common substances', which is very helpful. However, by requiring 'all' such materials be listed by the permittee, the burden of identification of 'uncommon substances' not listed in Table 1 appears to fall to permittees. This seems like a very high bar to remain in compliance, particularly as knowledge about what materials contain PFAS continues to evolve.	Specify which PFAS materials need to be inventoried and listed by permittees.	Judah Gaioni City of Longmont	Comment incorporated The division has modified the corresponding SWMP requirements in Part I.F.5.b.iii and I.D.1.m.ii and iii. See comments 84 and 100
147	Permit	I.F.5.b.iii PFAS Inventory	Part 1.F.5.b.(iii) of the draft permit appears to go beyond the scope of the initial permit condition which states "...inventory must list materials that contribute, or have the potential to contribute, pollutants to stormwater...". Section iii indicates that all materials that contain PFAS material must have their location documented, the quantity,		Kate Sinner on behalf of Anonymous client	Comment incorporated The division has modified the corresponding SWMP requirements in Part I.F.5.b.iii and I.D.1.m.ii and iii.

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			method of storage and current disposal practices (if any). The language of this draft permit condition is well beyond the requirements of the stated permit condition by requiring a list of all materials (regardless of their potential to enter stormwater), the quantity, method, and disposal. It is unclear how all these requirements factor into the potential for PFAS compounds to enter stormwater. Rather than require the facilities to compile a global list of PFAS materials at the facility and include that information in the SWPPP, we suggest that the permit condition be re-worded to require the facilities to include information and make an assessment (to be included in the SWPPP) that focuses on identifying potential releases of PFAS into stormwater. We also do not understand what regulatory authority that CDPHE is using related to disposal practices and including that information in the SWPPP. This seems to go well beyond the state's clean water authority.			The permit does not specify how the permittee must dispose of materials, only that their disposal method must not reintroduce pollutants to stormwater discharged. The division uses the term "legally disposed" to convey that the permit is not a shield for any illegal disposal methods. See comments 84 and 100
148	Permit	I.F.5.b.iii PFAS Inventory	The permit requires "a list of all materials containing PFAS." See PN - 6 above. [division comment 99]	Modify the draft permit language to require identifying sources of PFAS that have a reasonable potential, in either quantity, storage location, or use, to contaminate stormwater at the facility. Proposed language is as follows: "The permittee is responsible for documenting PFAS containing chemicals onsite within the SWMP that have potential to	Metro Water Recovery	Comment incorporated The division has modified the corresponding SWMP requirements in Part I.F.5.b.iii and I.D.1.m.ii and iii. See comments 84 and 100

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				come into contact with stormwater or are stored outside."		
149	Permit	I.F.8.c Inspection Procedures and Documentation	Appears to be a typo. Inspection requirements are quarterly rather than monthly.	Clarify exception to [duration] inspections.	Judah Gaioni City of Longmont	Comment incorporated
150	Permit	I.F.8.c Inspection Procedures and Documentation	The permit states: *"Permittees that invoke the exception to monthly inspections for inactive and unstaffed facilities…"* This references monthly inspections; current inspection requirements are listed as quarterly.	Change monthly to quarterly.	Metro Water Recovery	Comment incorporated
151	Permit	I.F.8.c Inspection Procedures and Documentation	*"Permittees that invoke the exception to monthly inspections for inactive and unstaffed facilities…."* Part I.G.a states that the permittee must conduct and document inspections of the facility at least quarterly	Proposed revised language: "Permittees that invoke the exception to quarterly inspections for inactive and unstaffed facilities…."	Wright Water Engineers on behalf of various clients	Comment incorporated
152	Permit	I.F.9.a.iv Sample Collection Time	This section indicates that procedures must be developed for sample collection outside of normal operating hours. PSCo is concerned about the safety implications associated with sampling at night or requiring an employee to travel to a site (i.e. weekends) to collect samples in adverse weather conditions. Our facility is in a rural area and the areas where the outfalls are located are remote and not lit.	This requirement should be removed from the permit.	Christine Johnston and Cade Wilson/Public Service Company of Colorado	No change The division assumes the commenters original reference of I.F.9.iv refers to I.F.9.a.iv. In order for the iterative cycle of benchmark monitoring and corrective actions to be successful, permittees must be able to collect samples during quarters where there

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						is a stormwater discharge. The division recognizes there are many reasons permittees cannot meet the 30-minute time frame in the previous permit and has extended the sample period to within 2 hours of a storm event.
153	Permit	I.F.9.a.iv Sample Collection Time	The division proposes to require permittees to develop procedures for when samples will be collected outside of normal operating hours. Part I.H.6 of the permit already requires samples to be collected within the first 30 minutes, and as soon as practicable after 30 minutes, and if sampling was not possible to explain why. The division says in the fact sheet that this language is needed because some permittees thought that sampling was only necessary during normal business hours. It is not reasonable to add this provision. Instead the division should publish guidance and communicate the proper interpretation of permit language during compliance inspections	Remove this subsection	City and County of Denver Department of Aviation	The division disagrees that guidance is the only appropriate solution. The division has communicated and will continue to communicate sampling expectations. In addition, the division anticipates new written guidance or training. However, the first step is to clarify that the permittee must have procedures in place for collecting samples outside of business hours.
154	Permit	I.F.9.a.iv Sample Collection Time	Draft permit Language: "Procedures for when samples will be collected outside of normal operating hours including determining how discharge events will be identified (e.g., checking weather reports, noting rainfall depth or snowmelt conditions that result in discharges). Note that you are required to collect quarterly samples for each quarter for which there is a discharge event, even if all discharge events occurred outside of normal operating hours." We support this permit requirement. Stormwater sampling is a key element of this permit to determine adequacy of control measures implemented onsite.	No change requested.	SEMSWA, Arapahoe County CP Compliance	Comment Noted
155	Permit	I.F.9.a.iv	We understand the requirement to collect quarterly samples, but it is not clear how a	The final permit should make clear that this provision is	Tri-State Generation	This requirement is retained from the previous permit. The division's

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		Sample Collection Time	permittee would be expected to know if a hypothetical discharge occurred for a few hours after midnight. Permitted sites are often not staffed 24 hours per day and this provision would appear difficult or very costly to implement.	not setting an expectation that permittees would need to call in employees for special assignments after normal working hours. This provision could have multiple unintended consequences for permittees.	and Transmission Association, Inc	expectations are that permittees understand conditions that are likely to produce a discharge event. Initially, permittees can use rain gages, cameras, inspect discharge points after storm events to look for evidence of a discharge. Once the permittee understands this, they are better able to predict when a discharge event occurs. If the only discharge event for a quarter occurs outside of business hours the division expects the permittee to make efforts to collect a sample keeping in mind any safety considerations.
156	Permit	I.G.2.a Inspection Scope	Repeat condition. Observations for the presence of non-stormwater discharges not authorized in Part I.A.1.b is already required in section Part I.A.G.2.a	Recommend removing Part I.A.G.2.d	City of Aurora	No change. The requirement in Part I.G.2.a.ii is to look for signs of illicit discharges at the outfall, such as excess sediment or foul odors, whereas Part I.G.2.d refers to inspection over the entire site for illicit discharges that are not necessarily observable at the outfall. For example, wash water dumped onto the ground may not be visually distinguishable by the time it combines with other runoff at the outfall, yet still contributes pollutants to the discharge.
157	Permit	I.G.2.a Inspection Scope	In many settings, outfalls and sampling locations are one in the same.	It may be clearer to reference “inspection locations” rather than “sampling locations” because sample collection would not occur at the two categories	Tri-State Generation and Transmission Association, Inc	No change. The permit distinguishes inspections at the area of the outfall and the sampling location from inspections over the rest of the site.

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				referenced in sub- section i and ii.		
158	Permit	I.G.2.a.ii I.G.2.d Inspection Scope	These two provisions appear duplicative.	The division should consider deleting one of these in the final permit.	Tri-State Generation and Transmission Association, Inc	See comment 156
159		I.G.3 Inspections for Inactive and Unstaffed Sites	Draft permit language**: Exception to Inspection Frequency for Inactive and Unstaffed Sites That Meet the Condition of No Exposure** The requirement that permittees conduct and document quarterly inspections of the facility, and conduct at least one (1) inspection per calendar year during a runoff event, does not apply at a facility that is inactive and unstaffed, as long as a condition of no exposure exists at its facility, i.e., there are no industrial materials or activities exposed to stormwater. Such facilities are required to conduct two site inspections annually, one between March 1 – May 31 and one between August 1 – October 31, in accordance with the requirements of this Subpart. We support the flexibility for reduced inspections for inactive and understaffed sites and also support a minimum of two site inspections annually for such sites. Inactive and understaffed industrial sites that store certain materials outdoors or conduct operations outdoors have the potential to contribute pollutants to stormwater and should inspect their sites to ensure that the site is not impacting water quality in MS4s or state waters.	No change requested.	SEMSWA, Arapahoe County CP Compliance	Comment Noted
160	Permit	I.G.5.k	This is much more specific than the current permit, particularly the certification statement. There is no definition for “corrective action” and how it differs from ordinary maintenance that is	This section should be revised to better distinguish between “corrective action” which can imply a permit	Tri-State Generation and Transmission	Comment incorporated into the permit

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		Inspection Documentation	associated with inspections. This provision appears challenging for large sites that may span several hundred acres.	violation versus regular/routine maintenance which commonly occurs during a permit certification term. The amount of information required in this section would be difficult and burdensome for larger sites that may span several hundred acres. It would be unreasonable to expect this level of documentation detail for regular/routine maintenance, especially on large sites with numerous structural measures.	Association, Inc	The division revised language in Parts I.C.2 and I.F.10 to distinguish corrective actions from routine or preventative maintenance. In addition, Part I.G.5.i is revised so that corrective actions but not routine or preventative maintenance performed must be documented. As a result of this clarification, the certification statement in Part I.G.5.k only applies to corrective actions and not routine or preventative maintenance.
161	Fact Sheet	I.H.2 Corrective Actions and Additional Implementation Measures (AIM)	"If a triggering event occurs while in Level 2, an operator proceeds to AIM Level 3...while corrective actions under Level 3 require additional control measures or treatment to remove pollutants." What are the additional control measures?	Please provide examples of acceptable additional control measures.	Troy Nedved, RT Civil Consultants- For and on behalf of Meridian Metropolitan District	Additional control measures will be site specific, pollutant specific and must go beyond the control measures implemented for Level 2. An example of a corrective action under Level 2 might be to replace a damaged concrete washout basin and implement training for employees to prevent leakage or spills. If, despite taking these steps the permittee reaches Level 3, a corrective action might be to install additional or larger capacity basins to prevent overflow.
162	Fact Sheet	I.H.2 Corrective Actions and AIM	"The division chose not to include EPA's exceptions due to site run-on, site specific determinations, and one-time exceedances in order to simplify the renewal permit."	The permit was administratively extended for almost five (5) years, so it seems reasonable to include the exceedances. Please clarify.	Troy Nedved, RT Civil Consultants- For and on behalf of Meridian Metropolitan District	See comment 138

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163	Fact Sheet	I.H.3 PFAS Monitoring	Clean Water Action supports the Division prohibiting permittees from sampling for PFAS at substantially identical outfalls. Given that PFAS is ubiquitous in surface waters and the environment, its presence in stormwater is likely more widespread and difficult to predict than other contaminants.	No specific change requested.	Clean Water Action	Comment noted
164	Fact Sheet	I.H.3 PFAS Monitoring-Method	"The division is currently in the process of evaluating whether EPA Draft Method 1633 is consistent with Policy 20-1 and seeks comment on whether it should be required in the final version of the permit." The fact sheet and permit consist of 161 pages of technical information. Additional review time for Draft Method 1633 is not adequately allotted for in this comment period.	Please provide additional subsequent public comment periods for permittees to review division responses to permittee comments.	Troy Nedved, RT Civil Consultants- For and on behalf of Meridian Metropolitan District	No change The division allowed a 90-day public comment period followed by a 10-day responsive comment period and a 10-day rebuttal period. This provided sufficient time and opportunity to contemplate use of Draft Method 1633. See comment 183
165	Permit	I.H.3.c Substantially Identical Outfalls	The division proposes to not allow substantially identical outfalls to apply for PFAS monitoring. There is no basis to not allow substantially identical outfalls for PFAS as compared to other pollutants.	Remove this subsection	Adam Walters – Southwest Airlines	See comment 165
166	Permit	I.H.3.c Substantially Identical Outfalls	The division proposes to not allow substantially identical outfalls to apply for PFAS monitoring. See comments above that PFAS monitoring should not be included in this permit. Also, there is no basis to not allow substantially identical outfalls for PFAS as compared to other pollutants	Remove this subsection See attached comment letter	City and County of Denver Department of Aviation	Comment incorporated In light of comments received, the division evaluated outfall locations at some of the air transportation permittees. The division found that there were cases where outfalls were numerous and close together such that additional results from each outfall would not provide more useful information. The final permit allows for substantially identical outfalls. In

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						cases where outfalls are close together and drain the same area the presence of PFAS is likely to be similar and thus represented by one outfall. However, due to the uncertainty in the use, fate and transport of PFAS containing foam, the division requires if a claim for substantially identical outfalls is made, the permittee must rotate samples among outfalls and perform any additional sampling necessary to ensure that each outfall with a discharge is sampled at least once during the first five years of the permit term.
167	Permit	I.H.3.c Substantially Identical Outfalls	Why does this permit only allow for 'combined discharges' for PFAS monitoring, while excluding 'Substantially Identical Outfalls'? The Vance Brand Municipal Airport has 12 discrete outfalls direct to a ditch. Combining these discharges into one downstream sample point may not yield representative results due to potential upstream flows in the ditch during weather events or snow melt. If there is then no allowance for 'Substantially Identical Outfalls' to be sampled quarterly, the costs for PFAS monitoring greatly increase due to the number of outfalls that require sampling. For a small municipal airport, PFAS monitoring will then represents a significant cost – and one that has no clear end date (minimum of 10 consecutive quarters, but with no guarantee that monitoring ends then). Adding more flexibility into PFAS monitoring options, such as allowing for Substantially Identical Outfalls, would help alleviate the financial burden on the Airport,	Allow for 'Substantially Identical Outfalls' in PFAS monitoring. Increase the flexibility in PFAS monitoring to allow for representative sampling, but with less financial burden on small airports.	Judah Gaioni City of Longmont	Comment incorporated See comment 166 regarding substantially identical outfalls and comment 254 regarding reduced sample events. The division has re-considered the requirement for smaller airports to monitor for PFAS. The use of PFAS containing foams is mostly associated with FAA regulations that apply to Part 139 airports, whereas, some of the smaller airports in Colorado do not fall under Part 139 and have not stored, used, or released PFAS containing foams. As a result, Sector S monitoring for PFAS has been changed in the final permit to apply only to Part 139 airports and other airports that have used,

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			while still affording the State, and the site, collection of representative data points regarding PFAS.			stored, or released PFAS containing foam.
168	Permit	I.H.3.c Substantially Identical Outfalls	The permit states: *"Monitoring for PFAS under must not be applied to substantially identical outfalls."*	This is an incomplete sentence or remove the word "under".	Metro Water Recovery	See comment 166
169	Permit	I.H.3.c Substantially Identical Outfalls	The word "under" appears to be a typo. While we understand the rationale for excluding PFAS monitoring from the substantially identical outfall approach, there are likely to be case-specific situations where it would be appropriate such as where the site history/condition is well known and the area contributing to multiple outfalls is substantially the same/similar.	The division should add the ability to develop case-specific monitoring rather than the blanket exclusion of PFAS.	Tri-State Generation and Transmission Association, Inc	See comment 166
170	Permit	I.H.3.c	[Monitoring for PFAS under must not be applied to substantially identical outfalls.] This seems an unnecessary loss of this functionality. Let PFAS research catch up before eliminating useful functionality.		Troy Leitschuh, GFL Environmental	See comment 166
171	Permit	I.H.3.c Substantially Identical Outfalls	1) Page 20, Section I.H.3.c appears to be missing a word, phrase, or citation between the words "under" and "must". Also the elimination of the use of Substantially Similar Outfalls just because of the uncertainties of PFAS extent, seems to be a knee-jerk reaction to the hysteria going on about PFAS. I concur with collecting additional data where practical, but adding this requirement negates any gain from using this provision for the rest of the constituents to be monitored. If PFAS must be monitored, why monitor the rest of the parameters, then.		Troy Leitschuh, GFL Environmental	See comment 166
172	Permit	I.H.4.a I.H.5.a.ii I.H.6.b	Do samples collected in support of monitoring requirements need to be collected within 72 hours of the end of a measurable storm event, or within thirty minutes of the start of the event?	Clarify sampling requirements regarding timeframe for sample collection.	Judah Gaioni City of Longmont	The 72 hours is an antecedent dry period that delineates when one storm event ends and another begins. With revisions, the permittee has 2 hours from the start of a

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		Sample Collection Time				measureable storm event to collect the sample. See Comment 179
173	Permit	I.H.5.a.i Storm Event Documentation	The division proposes that the permittee document the date and time the discharge commenced, for rainfall events. It is unreasonable and unworkable to know the date and time the discharge commenced for rainfall events. The division should replace the language with that contained in the MSGP, that requires documentation of the date and duration in hours of the rainfall event	Remove "date and time the discharge commenced". Replace with "date and duration (in hours) of the rainfall event)"	City and County of Denver Department of Aviation	The date and time the discharge commenced is necessary to be able to determine compliance with the 2-hour timeframe to collect the sample. The division's expectations are that permittees make reasonable efforts to determine when the discharge begins. If the permittee is uncertain on whether the sample was collected within the first two hours they may document this in the SWMP in accordance with Part I.H.6.b.
174	Permit	I.H.5.a.i Storm Event Documentation	We understand that the requirement to document the date and time of discharges is not new. However, it can be very challenging to accomplish this, especially for remote/rural facilities where access to each outfall can be challenging. Exacerbating this concern is that for some sectors, the substantially similar outfalls approach is going away for PFAS reasons, which may lead to much greater sampling costs and effort.	The division should evaluate this provision in light of the various other provisions, such as documenting natural background, and consider making this more practicable for permittees.	Tri-State Generation and Transmission Association, Inc	Comment incorporated See Comments 166, 173 and 179
175	Permit	I.H.5.a.i Storm Event Documentation	Documentation includes the date and time that discharge commenced at each outfall, duration, and magnitude. Collecting this type of flow data requires that there be a sophisticated flow recording device and sensors in each outfall. Collection of precipitation data would be a more reasonable requirement.	Proposed language revision: Replace with "date, duration (in minutes) and amount of rainfall (inches)."	Wright Water Engineers on behalf of various clients	The division assumes the commenters original reference to I.H.5.i was meant to reference I.H.5.a.i In most cases, the time that a measureable storm event begins at an outfall can be easily observed. For larger sites with numerous outfalls, the permittee should work to understand the drainage of the

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						site and the conditions that would produce a discharge. With this information, the use of a rain gauge to estimate the commencement of a discharge is acceptable. The permit does not require the use of equipment to record storm event information. See comment 173
176	Permit	I.H.6 Sample Type and Requirements	The division should allow composite sample types. See EPA's MSGP and the NASEM Report for the scientific basis on why composite samples should be allowed.	Add composite sampling as an option	City and County of Denver Department of Aviation	Comment incorporated Benchmark monitoring serves to measure the effectiveness of control measures at a facility. Most structural control measures are designed to treat the first flush. In addition, non-structural control measures, such as pollution prevention and good housekeeping methods primarily reduce first flush pollutant concentrations. A grab sample collected during the first 2 hours (30 minutes was specified in the previous permit) can sometimes provide a more accurate characterization of effluent from structural control measures. Grab samples can be effective at capturing a sample representative of first flush; however, the timing of first flush will vary with site's topography, control measures, and by parameter. In order to provide permittees more flexibility with meeting sampling requirements and benchmark concentrations, the

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						division added the option of composite sampling to the permit. Flow-weighted composite samples for a stormwater discharge may be taken with a continuous sampler or as a combination of a minimum of three sample aliquots (sample portions) taken in each hour of discharge for the entire discharge or for the first three hours of the discharge, with each aliquot being separated by a minimum period of fifteen minutes. Note that composite sampling is not allowed for pH, oil and grease, phenols, volatile organics or other parameters when the approved methods are incompatible with composite sampling (e.g., sample holding time too short, chemical monitored adheres to plastic equipment).
177	Permit	I.H.6 Sample Type and Requirements	The permit states: *"Grab samples must be used for all monitoring and must not be combined."* The 2021 MSGP includes additional language allowing for automatic samplers to be used for indicator monitoring. Additionally the *MSGP Industrial Stormwater Monitoring and Sampling Guide, April 2021* discusses the benefits of an automatic sampler such ad reduced labor costs, convenience, and safety. The draft permit does not have requirements for indicator monitoring however the explicit allowance to use automatic samplers as a sampling technique should be considered.	WWUC requests that language from Section 4.1.4 of the MSGP be incorporated into the draft permit for allowance of automatic sampling equipment.	Colorado Wastewater Utility Council	The permit does not prohibit the use of automatic samplers when they are compatible with approved analytical methods. See comment 176

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			Monitoring requirements such as visual assessment or benchmark fall in line with the intent of the MSGP indicator monitoring and would provide relief to a large portion of permittees if automatic samplers were permitted.			
178	Permit	I.H.6 Sample Type and Requirements	The permit states: *"Grab samples must be used for all monitoring and must not be combined."* The 2021 MSGP includes additional language allowing for composite sampling to be used for indicator monitoring. Additionally, the *MSGP Industrial Stormwater Monitoring and Sampling Guide, April 2021* discusses the benefits of an automatic sampler such ad reduced labor costs, convenience, and safety. The draft permit does not have requirements for indicator monitoring however the explicit allowance to use automatic samplers as a sampling technique should be considered. Monitoring requirements such as visual assessment or benchmark fall in line with the intent of the MSGP indicator monitoring and would provide relief to a large portion of permittees if automatic samplers were permitted.	Metro requests that language from Section 4.1.4 of the MSGP be incorporated into the draft permit for allowance of automatic sampling equipment.	Metro Water Recovery	See comment 176 and 177
179	Permit	I.H.6 Sample Collection Time	The CDPS Permit Part I.H.6 states, "Grab samples must be collected within the first 30 minutes of the start of a measurable storm event (see Part I.H.4). If it is not possible to collect the sample within the first 30 minutes of a measurable storm event, the sample must be collected as soon as practicable after the first 30 minutes, and	Increase the grab sample timeframe from "the first 30 minutes of the start of a measurable storm event" to a more feasible timeframe. This commenter recommends	WGR Southwest, Inc.	Comment incorporated. The division recognizes there are facilities at remote locations or with limited staff that are unable to collect a sample within 30 minutes. As a result, the division has

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			documentation must be kept with the SWMP explaining why it was not possible to take samples within the first 30 minutes." Besides Colorado, other states also use this sample collection requirement based on the Federal Multi-Sector General Permit (MSGP). Although there exists a practicable alternative including a requirement for documentation, the 30-minute sample collection requirement is all too often not practicable and should be reconsidered as the baseline timeframe. Since many storm events begin in the early evening or early morning hours, numerous opportunities to collect samples are lost because Permittees cannot obtain samples during the first 30 minutes of discharge. Additionally, Permittees with facilities that have multiple discharge locations have difficulties collecting samples within such a short timeframe, which has a direct effect on data quality. Examples of some other states' Industrial Storm Water General Permit sample collection requirements that differ from the Federal MSGP are as follows (bolded emphasis added): • California General Permit Section XI.B.5 states, "Samples from each discharge location shall be collected within four (4) hours of, a. The start of the discharge; or, b. The start of facility operations if the QSE occurs within the previous 12-hour period (e.g., for storms with discharges that begin during the night for facilities with day-time operating hours). Sample collection is required during scheduled facility operating hours and when sampling conditions are safe in accordance with Section XI.C.6.a.ii." • Illinois General Permit Part J.1.b states, "Visual observation must be made on samples collected within 1 hour of an actual discharge	a feasible timeframe of at least two (2) hours		increased the timeframe to collect benchmarks to 2 hours.

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			from a storm event equal to or greater than 0.25 inch in 24 hours. If it is not possible to take a sample within the first hour of the discharge, the sample must be collected as soon as practicable after the first hour and the Permittee must explain why it was not possible to take samples within the first hour." Kentucky General Permit Section 2.4 includes no timeframe and states, "Samples and measurements taken in accordance with this Section, shall be collected during periods of stormwater discharge. The permittee may establish a sampling schedule provided the minimum number of samples specified are obtained. In the event the minimum number of samples cannot be obtained, the permittee shall provide the necessary documentation as specified in this Section. Samples are to be collected from the compliance point and are not to be collected from within any sediment control structure. • Oregon General Permit Schedule B.7.d states, "Timing - The discharge must be monitored during the first 12 hours of the discharge event, which is a storm event or snowmelt resulting in an actual discharge from a site. If it is not practicable to collect the sample within this period, collect the sample as soon as practicable and provide documentation with the Discharge Monitoring Report why it was not practicable to take samples within the first 12-hour period. The permit registrant is not required to sample outside of regular business hours of operation or during unsafe conditions." • Washington General Permit Condition S4.B.1.c states, "Permittees shall collect samples within the first 12 hours of stormwater discharge events. If it is not possible to collect a sample within the first 12 hours of a			

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			stormwater discharge event, the Permittee must collect the sample as soon as practicable after the first 12 hours, and keep documentation with the sampling records (Condition S4.B.3) explaining why they could not collect samples within the first 12 hours; or if it is unknown (e.g., discharge was occurring during start of regular business hours).			
180	Permit	I.H.6.a Sample Type and Requirements	May automatic samplers be used to collect grab samples?	Clarification requested from the division on the use of automatic samplers being allowed as an option.	Wright Water Engineers on behalf of various clients	See comment 176 and 177
181	Permit Fact Sheet	I.H.7 I.I.3 PFAS Monitoring-Method	In the fact sheet, the WQCD noted its request for comments as to whether EPA Draft Method 1633 is consistent with Policy 20-1 and whether it should be required in the final version of this permit. The fact sheet recognizes that there are no analytical methods for analyzing PFAS in wastewater that are approved per 40 CFR Part 136. The fact sheet indicates that under such circumstances, the Division can specify the required method in the permit. Generating reliable, reproducible, water quality sampling data for comparison to the translation levels in Policy 20- 1 requires valid analytical methods. As noted, there is not a validated and promulgated method for PFAS compounds in wastewater. EPA did release Method 1633 in August 2021, but the multi-laboratory validation study is not yet complete. PSCo is concerned about the validity of data collected using this not yet approved method. PSCo is also concerned about the risk of cross-contamination and the significant potential for false positives. Along with the approved analytical	The Division should delay PFAS monitoring in COR900000 until EPA approves a test method for PFAS compounds in wastewater. It is important that the information when collected, is valid and provides the value for which it was intended. It will also be important to allow laboratories sufficient time to begin accepting samples for analysis and that there are enough local laboratories available to perform the analysis.	Christine Johnston and Cade Wilson/Public Service Company of Colorado	See comment 183 and 187

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			method, sampling guidance should be provided to reduce these factors and provide a method to resolve false positives.			
182	Permit	I.H.7 Analytical Methods	**V. Comment 19: Practical Quantitation Limits (PQLs).** The PQLs that have been developed by the Division and published at WQCD Policy CW-6[14] would become performance requirements for laboratories for all stormwater samples collected in accordance with this permit, based on the definition of sufficiently sensitive test procedure contained in Appendix C and the manner in which the Division has included the PQLs in the draft permit at Part I.H.7. Specifically, under item iii of the definition, in the absence of a valid positive result, the laboratory must be able to achieve a specific numerical minimum level, often referred to by laboratories as a reporting limit, less than or equal to the benchmark level or the Division's PQL. This approach is inappropriate and puts permittees in a situation of permit non-compliance when a laboratory is not able to meet these requirements for reasons that are well understood, such as sample matrix and method performance. Sample matrix is a determinant of the accuracy and precision of laboratory analysis. The NASEM Committee addressed the challenges of quantifying stormwater pollutant discharge and summarized sources of sampling error and variability in the NASEM Report, including variation in sample processing and analysis. Regulation 61 does not require the Division to continue the practice[15] of establishing PQLs as performance requirements and there is significant justification to change the practice for this permit, given that it is for stormwater, not process water, discharges. The entirety of the		City and County of Denver Department of Aviation	See comment 185

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			context of the WQCD Policy CW-6 is a wastewater, not a stormwater matrix. The PQLs were developed based on lab surveys, and the participating entities and survey-based samples were representative of process water discharges, largely municipal. The Division now proposes to establish those PQLs as performance requirements for over 1,000 different discharges of industrial stormwater. It is not reasonable to impose these as performance requirements, when it is well understood that the stormwater matrix differs significantly from the wastewater matrix. The Division can, and should, make the performance requirement that laboratories adhere to 40 CFR Part 136 methods. The Division should either model the MSGP and eliminate the definition of sufficiently sensitive test method and rely on the provisions of 40 CFR Part 136, or modify its definition of sufficiently sensitive test method, to model the definition contained at 40 CFR 122.44 (iv)(A), as follows: Sufficiently sensitive test procedure. An analytical method is "sufficiently sensitive" when: (1) The method minimum level (ML) is at or below the level of the effluent limit or benchmark level established in the permit for the measured pollutant or pollutant parameter; or (2) The method has the lowest ML of the analytical methods approved under 40 CFR part 136 or required under 40 CFR chapter I, subchapter N or O for the measured pollutant or pollutant parameter. Consistent with 40 CFR part 136, permittees have the option of providing matrix or sample specific minimum levels rather than the published levels. Further, where a permittee can demonstrate that, despite a good faith effort to use a			

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			method that would otherwise meet the definition of "sufficiently sensitive", the analytical results are not consistent with the QA/QC specifications for that method, then the Division may determine that the method is not performing adequately, and the permittee should select a different method from the remaining EPA-approved methods that is sufficiently sensitive. Where no other EPA-approved methods exist, the permittee shall submit a proposed appropriate test procedure to the Division for approval. It is not a realistic or reasonable option to apply these laboratory performance requirements to 1,000 plus stormwater discharges, wait for a compliance problem, and then direct each of the 1,000 plus permittees develop discharge/site specific PQLs, which would then need to be implemented under an individual permit. [14] WQCD Implementation Policy CW-6, Practical Quantitation Limits (PQLs), February 3, 2015.			
183	Permit	I.H.7 PFAS Monitoring-Method	EPA Draft Method 1633 can accurately detect and measure 15 more PFAS compounds than the analytical method the Division proposes to use in this proposed general stormwater permit. DM 1633 can also detect PFAS concentrations at much lower levels than the PFAS Quantification Limits listed in Table-1 of Policy 20-1. *See* EPA Draft Method 1633 at 50, tbl.6. Using DM 1633 would enable the Division to have more accurate information on a wider range of PFAS compounds present in industrial stormwater discharges (40 compounds as opposed to the 25 listed in Table 1 of the Division's Policy 20-1).	The Division should revise note #6 on page 23 of this permit section to include the following suggested text: "Though there is no EPA-approved analytical method for analyzing PFAS in wastewaters (non-potable) at the time of permit issuance, EPA and DoD are already using Draft Method 1633, and EPA has encouraged state permit writers to do the same. Until there is an analytical method approved in 40 C.F.R. 136 for PFAS,	Clean Water Action	Comment incorporated The most recent version of the DoD Quality Systems Manual (QSM, version 5.4) was revised in October 2021 to incorporate DM 1633. See Dep't of Def. & Dep't of Energy, Consolidated Quality Systems Manual (QSM) for Environmental Laboratories: Version 5.4 at 283, tbl. B-24 (Oct. 2021). As of January 1, 2022, DoD began requiring all new contracts and task orders to use DM 1633. Following the March 9, 2022 public notice of this draft renewal

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			Having more accurate information on a wider range of PFAS compounds being discharged in industrial stormwater is critical and the Division should require industrial stormwater dischargers to monitor for all 40 PFAS compounds listed in EPA Draft Method 1633 at 50, tbl.6	monitoring shall be conducted using Draft Method 1633. Any 40 C.F.R. Part 136 (Appendix B) approved method for analyzing PFAS in non-potable waters available in the future shall replace Draft Method 1633" Alternatively, the Division could revise this permit section to read "Permittees must select an analytical method compliant with the requirements set forth in the Department of Defense (DoD) Quality Systems Manual (QSM) for Environmental Laboratories (DoD QSM 5.4 or later [Table B-24: Per- and Polyfluoroalkyl Substances (PFAS) Using Liquid Chromatography Tandem Mass Spectrometry (LC/MS/MS) With Isotope Dilution or Internal Standard Quantification in Matrices Other Than Drinking Water])."		permit EPA issued a memorandum describing how EPA would address PFAS discharges in EPA issued NPDES permits. In light of these recent developments the division is requiring the use of DM 1633 in the final permit. After considering comments and recent information on DM 1633, the division has changed the draft permit to require the use of DM 1633 for analysis of PFAS compounds. DM 1633 includes 15 more PFAS compounds than are listed in Policy 20-1. The division will require analyses and reporting for all 40 PFAS compounds. The final permit also includes PQLs that reflect the lower detection levels for PFOA/PFOS/PFNA+parents constituents that can be achieved by DM 1633.
184	Permit Fact Sheet	I.H.7 I.3 PFAS Monitoring-Method	**3. It Is Premature to Impose Monitoring Requirements Before a Uniform Test Method is Approved** The State should require monitoring only for those PFAS for which there is a validated and approved analytical test method. The Coalitions are		Coalitions	See comment 183

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			concerned that the Proposed SGP will require reliance on a test method that is not yet approved, not approved for all of the PFAS analytes specified, or not approved for sampling effluent. For example, USEPA's main validated test methods for PFAS are for drinking water. Method 537.1 measures 18 PFAS compounds. Method 533 measures 25 PFAs compounds. Method 533 measures 11 "short-chain" compounds not covered by Method 537.1, but doesn't measure 4 other PFAS compounds that are covered by Method 537.1. Therefore, the entire scope of USEPA's approved test methods can measure no more than 29 different PFAS compounds, using multiple methods to obtain results for all 29 compounds. Moreover, these methods are approved only for sampling PFAS in drinking water, but not in effluent. As the Proposed SGP Fact Sheet acknowledges, no validated test methods exist for testing PFAS compounds in any other environmental media, such as wastewater or stormwater. For example, Draft Method 1633, which the Fact Sheet references, is a method to test for 40 PFAS compounds in wastewater, surface water, groundwater, soil, biosolids, sediment, landfill leachate, and fish tissue. This draft method has been published, but is currently undergoing multi-laboratory validation and is not yet approved. The Coalitions have significant concerns regarding the suitability of using this method in the NPDES context. In fact, the PFAS Regulatory Coalition, along with several other groups, recently submitted comments to USEPA, attached as Exhibit 1, detailing its concerns with Draft Method 1633.			

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			Beyond these concerns with Draft Method 1633 itself, requiring the use of this unapproved test method is simply premature. Draft Method 1633 has only gone through single lab validation at this time. Clean Water Act regulations outline a clear process for the establishment of test procedures for the analysis of pollutants, and that process has not been completed with respect to Draft Method 1633. As such, it is inappropriate for the State to develop a stormwater general permit that requires reliance on an unapproved test method. Accordingly, the Coalitions urge the State to remove all monitoring requirements for PFAS in this Proposed SGP, and defer incorporating monitoring requirements for PFAS in the stormwater permitting context, at least until a validated test method is approved according to the process outlined in 40 C.F.R. § 136.			
185	Permit Fact Sheet	I.H.7 I.3 PFAS Monitoring-Method	Clean Water Action disagrees with this comment. It is expected that Draft Method 1633 (DM 1633) will be finalized and approved by the end of 2022, possibly even before this general permit is finalized. The U.S. Environmental Protection Agency (EPA) already encourages the use of DM 1633 in Clean Water Act permits.[1] DM 1633 is the only validated analytical lab method developed specifically to measure PFAS concentrations in non-potable water, such as wastewater and surface water. In January 2022 the Department of Defense (DoD) published its final single-laboratory validation study report for DM 1633. Dep't of Def.,Final Report: Single-Laboratory Validation Study of PFAS by Isotope Dilution LC-MS/MS.[2] DoD is working on a multi-laboratory validation study of the DM 1633, and is expected to complete that study in 2022. EPA will use the results of this study to		Clean Water Action – **Responsive** Coalitions 6-13-22	See comment 183

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			finalize DM 1633 and add formal performance criteria, which is expected by the end of 2022. There is no need to wait until DM 1633 is finalized as a 40 C.F.R. Part 136 method before requiring industrial stormwater dischargers to comply with the processes set forth in this method. EPA is already requiring the use of EPA Draft Method 1633 in federally administered Clean Water Act discharge permits. On April 28, 2022 EPA issued a memo outlining how it will address PFAS in these permits.[3] Requiring the use of Draft Method 1633 is also consistent with Policy 20-1, which states: > The laboratory selected should be able to perform analysis on wastewater (non-potable) matrices using a method that is compliant with the requirements set forth in the Department of Defense (DoD) Quality Systems Manual (QSM) for Environmental Laboratories **(***DoD QSM 5.1 or later* [Table B-15: Per- and Polyfluoroalkyl Substances (PFAS) Using Liquid Chromatography Tandem Mass Spectrometry (LC/MS/MS) With Isotope Dilution or Internal Standard Quantification in Matrices Other Than Drinking Water]). Policy 20-1 at 6 (emphasis added). In its citation for the DoD QSM, Policy 20-1 states "please refer to the most up-to-date version available." *Id.* at 6 n.3. The most recent version of the DoD QSM (version 5.4) was revised in October 2021 to incorporate DM 1633. *See* Dep't of Def. & Dep't of Energy, Consolidated Quality Systems Manual (QSM) for			

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			Environmental Laboratories: Version 5.4 at 283, tbl.B-24 (Oct. 2021).[4] As of January 1, 2022, DoD began requiring all new contracts and task orders to use DM 1633. *See* Memorandum from Off. Assistant Sec. of Def., to Assistant Sec. of Army, Assistant Sec. of Navy, Assistant Sec. of Air Force, Nat'l Guard Bureau Dir., Def. Logistics Agency Dir., Update for Establishing a Consistent Methodology for the Analysis of Per-and Polyfluoroalkyl Substances in Media Other than Drinking Water (Dec. 7, 2021).[5] DM 1633 is currently the best available analytical method for measuring PFAS in non-potable waters and it is appropriate for CDPHE to require industrial stormwater dischargers to use DM 1633 now and not wait until some later step in the finalization process or until it becomes a final 40 C.F.R. Part 136 method. DoD has already demonstrated that DM 1633 is a valid analytical method for PFAS testing in non-drinking water matrices and is even requiring all of its new contracts to use it, and EPA is already using it in federally-issued permits and recommends that other permit writers require use of this method in Clean Water Act permits. DM 1633 is also clearly consistent with Policy 20-1. [1] Available at: https://www.epa.gov/system/files/documents/2021-09/method_1633_draft_aug-2021.pdf [2] Available at: https://apps.dtic.mil/sti/pdfs/AD1157957.pdf [3] April 2022 EPA PFAS Memo, available at: https://www.epa.gov/system/files/documents/2022-04/npdes_pfas-memo.pdf			

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			[4] Available at: https://www.denix.osd.mil/edqw/documents/manuals/qsm-version-5-4-final/QSM%20Version%205.4%20FINAL.pdf [5] Available at: https://denix.osd.mil/dod-pfas/osd-policies/documents/pfas-in-media/			
186	Permit Fact Sheet	I.H.7 I.3 PFAS Monitoring-Method	Clean Water Action's responsive comments asserted that PFAS monitoring requirements can be imposed before a uniform test method is approved, and that Policy 20-1 requires the use of the most up-to-date version of the Department of Defense Quality Systems Manual ("DoD QSM") for Environmental Laboratories for laboratory methods. As indicated in initial comments, CWWUC believes that monitoring for PFAS should not be required until there is an approved EPA method. Monitoring before there is an approved method may lead to unreliable results, and corresponding confusion of the public, permittees, and regulatory agencies. However, even if the Division does include monitoring for PFAS compounds in the permit, the Division cannot include permit requirements that would require a permittee to refer to future updates of the DoD QSM to determine the appropriate laboratory methods. Requiring reference to future versions of a third-party guidance document is not authorized. The WQCC does not have the authority to incorporate by reference future amendments to a guideline in its rules. C.R.S. § 24-4-103(12.5)(a)(II). Therefore, the WQCC also does not have the authority to include future amendments to guidance in its Policy, and the Division does not have authority to include future amendments to guidance in a Permit. Incorporation of future revisions by reference makes the permit impossible to comply		Colorado Wastewater Utility Council **Rebuttal** Clean Water Action Responsive 7-15-22	As methods improve, the accuracy of results will improve. The permit reference to the most recent DOD QSM for Environmental Laboratories ensures data quality over the term of the permit. It is reasonable to expect the manual to result in improved data quality over time. See comment 183

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			with by reference to the permit document itself, and inhibits accurate data collection through confusion about the appropriate analytical methods. The draft permit does not include clear language about the analytical methods to be used. The permit does clearly state that the permittee must use methods approved by EPA pursuant to 40 CFR Part 136, or methods approved by the Division in the absence of an EPA-approved method. (Draft Permit, pg. 21). However, language on Page 23 of the Draft Permit also states as follows: There are no approved methods under 40 CFR Part 136 for analyses of PFAS/PFOA non-potable water at this time, but when an EPA approved method becomes available, they are required to use this method. In the interim they must select a method that is compliant with the requirements set forth in the Department of Defense (DoD) Quality Systems Manual (QSM) for Environmental Laboratories (DoD QSM 5.1 or later [Table B-15: Per- and Polyfluoroalkyl Substances (PFAS) Using Liquid Chromatography Tandem Mass Spectrometry (LC/MS/MS) With Isotope Dilution or Internal Standard Quantification in Matrices Other Than Drinking Water]). The laboratory selected by the permittee should be able to analyze, at a minimum, for the list of 25 PFAS shown in Table 1 of the division's Policy 20-1, 1 Policy for Interpreting the Narrative Water Quality Standards for Per- and Polyfluoroalkyl Substances (PFAS). Quantification limits are specified in this policy. As highlighted by the Clean Water Action responsive comment, this permit language is unclear and inconsistent with regulatory			

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			requirements. Therefore, if the final permit includes PFAS monitoring requirements despite the lack of an approved EPA method, the following revisions are needed: • The sentence that begins, “In the interim,” should be deleted. Policy 20-1 provided guidance to the Division, but was not intended to be copied into the permit. Because there is no approved method for PFAS, the permit should instead rely on a reference to Table 1 of the Commission’s Policy 20-1. Changes to the list of parameters and PQLs will need to be approved by the Commission through either a rulemaking or a revision to Policy 20-1. • Alternatively, because the Commission lacked authority to incorporate future revisions to the QSM by reference, the permit should refer to the version of the QSM effective on the effective date of Policy 20-1. • The statement “they are required to use this method” in the first sentence is unclear. Presumably, this means that the permittee is required to use an EPA approved method when one becomes available. “The permittee” should be substituted for “they.” • The reference to “the division’s Policy 20-1” must be revised to “the commission’s Policy 20-1.” • Provide what appears to be a missing footnote reference in the table or text.			

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187	Permit	I.H.7 Table 2, Footnote 6 Fact Sheet I.I.3.a PFAS Monitoring-Method	Footnote 6 of Part I.H.7.Table 2. and Fact Sheet I.I.3.a. of the draft permit acknowledges that there are currently no analytical methods for PFAS in wastewaters (non-potable) approved for Clean Water Act monitoring (40 CFR 136). The requirement for permittees to monitor for PFAS without a method that is approved under 40 CFR 136 is imprudent. Not only is the reliance on methods not yet approved for NPDES inappropriate, but the expectation for permittees to navigate PFAS monitoring and analysis coordination without founded guidance on appropriate analytical methods is overly burdensome. We recommend CDPHE remove PFAS monitoring requirements from the draft permit and postpone such requirements until, at minimum, an analytical method is approved in 40 CFR 136.		Kate Sinner on behalf of Anonymous client	See comment 183
188	Permit	I.H.7 Table 2 Analytical Methods	Footnote 6 does not appear in Table 2 of the draft permit.	Remove footnote 6 or add associated PFAS Quantification Limitation (QLs) for PFAS/PFOA.	Metro Water Recovery	Comment incorporated into the permit
189	Permit	I.H.7 b I.H.7.c I.H.7.d I.H.7.e Appendix C General Monitoring Requirements Analytical Methods	The Division's application of the WQCD Policy CW-6 PQLs as laboratory performance requirements for all stormwater samples collected in accordance with this permit is inappropriate. See attached comment letter	See attached comment letter	City and County of Denver Department of Aviation	Regulation 61.8(4)(i) requires that, when available, permittees use test procedures specified in 40 CFR Part 136.1(c). For the purposes of the CDPS program, when more than one test procedure is approved under this part for the analysis of a pollutant or pollutant parameter, the test procedure must be sufficiently sensitive as defined at 40 CFR 122.21(e)(3) and 122.44(i). The division establishes PQLS to ensure permittees provide data that have been measured at levels that will be

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						meaningful for determining compliance with limits or for making comparisons with water quality standards. CW Policy 6 states, "This policy establishes PQLs that are to be used by the Division in establishing PQL requirements within the Clean Water Program." The use of PQLs is well established in division permits including the previous COR900000 permit. PQLS are periodically updated to reflect new information and improvements in laboratory techniques. As stated in policy 20-1 "On August 19, 2014, EPA issued the final sufficiently sensitive test methods rule (EPA 2014) and the Division made minor changes to the 2014 Policy to reflect the fact that the rule is finalized and that the Division considers the content of the 2014 Policy consistent with the requirements in EPA's rule. While there is variability in matrix interference among different types of samples, a permittee has the option to establish a site specific or discharge specific PQL.
190	Permit	I.H.7.b PFAS Monitoring	There does not appear to be a documented PQL for PFAS (Table 2 - PQLs) Nor are there any listed in the referenced Policy 6. Please note, there are numerous compounds identified as "PFAS" and the permit does not appear to specify a list of compounds of concern.	Clarify monitoring requirements for PFAS.	Judah Gaioni City of Longmont	Comment incorporated into the permit The division has added additional text regarding analytical requirements for PFAS.

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						Quantification limits are established in the permit based on DM1633.
191	Permit Fact Sheet	I.H.3 I.H.7 I.I.3 PFAS Monitoring	**E. PFAS Monitoring Is Not Ready to Be Included in the Final Permit.** In November 2020, U.S. EPA's Interim PFAS Strategy included a recommendation applicable to industrial stormwater permits "for phased-in monitoring and stormwater pollutant control, as appropriate, taking into consideration when PFAS are expected to be present in stormwater discharges" [7] . At that time, there was no approved analytical method for detecting and quantitating PFAS in stormwater samples. This is still the case. In August 2021, U.S. EPA initially released Draft Method 1633 and has posted subsequent updates (e.g., an errata sheet)[8] . In the Notice for Draft Method 1633, U.S. EPA highlighted the provisional, unvalidated status of Draft Method 1633, but encouraged its use anyway: *Laboratories, regulatory authorities, and other interested parties are encouraged to review the method, and where appropriate, utilize it for their own purposes, with the explicit understanding that this is a draft method, subject to revision.* ISRI is concerned that Draft Method 1633 is potentially unreliable in its current unvalidated status. There is a question of whether there are enough laboratories in Colorado (if not elsewhere) that can perform Draft Method 1633 properly. Furthermore, Draft Method 1633 is not the only issue. Besides analyzing a stormwater sample,		David Wagger -Institute of Scrap Recycling Industries, Inc	See comment 183 The division provides links to searchable lists of laboratories that likely test for PFAS at https://cdphe.colorado.gov/pfas-resources (under heading "Get your water tested"). In addition, Michigan DNR provides sampling guidance for PFAS, which addresses methods to prevent contamination. Details on equipment and sampling considerations to prevent contamination are found in the Draft Method 1633. Permittees are also eligible to apply for monitoring grants from CDPHE, which can include contractor assistance for sample collection. See https://cdphe.colorado.gov/pfas-projects

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			there is collecting it in the first place. Because the potential for contaminating a stormwater sample with PFAS is high (i.e., PFAS is everywhere in the economy), the sample collection protocol for PFAS is extremely important. However, the Proposed Permit is silent on this very important issue, as if such sampling is no different than any other stormwater sampling. That apparent implicit assumption is false. Unfortunately, there is relatively little useful guidance on sample collection for PFAS, only "outdated" information (i.e., prior to the release of Draft Method 1633): *Due to the widespread use of PFAS, many materials normally used in field and laboratory operations contain PFAS. For example, polytetrafluoroethylene products (tubing, sample containers, and sampling tools) are often used in sampling; however, since these products can contain PFAS, they cannot be used in sampling for PFAS. In addition, many consumer goods brought to a sampling site may contain PFAS that can contaminate samples. Field sampling and laboratory hygiene protocols are critical to ensuring that testing results reflect actual PFAS levels in the analyzed media. U.S. EPA*[9]. *Due to the ubiquitous nature of the wide array of PFAS and the low parts per trillion screening levels, the aspects of a sampling and analysis protocol require a heightened level of rigor to avoid cross-contamination and achieve the level of accuracy and precision required to support defensible project decisions. ITRC*[10].			

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			Given the level of care necessary for sampling stormwater for PFAS, ISRI is concerned that such sampling is beyond the ability of permittees to conduct on their own. It will almost certainly require collection by third-party consultants at extremely high cost, even before the cost of analyzing samples for PFAS. Will there be enough third-party consultants to conduct stormwater sampling for PFAS at all industrial facilities subject to PFAS monitoring? Given the unvalidated status of Draft Method 1633 and the uncertainties about stormwater sampling for PFAS, ISRI maintains that PFAS monitoring is not ready to be included in the Final Permit. [7.] U.S. EPA. 2020. Memorandum: Recommendations from the PFAS NPDES Regional Coordinators Committee—*Interim Strategy for Per and Polyfluoroalkyl Substances in Federally Issued National Pollutant Discharge Elimination System Permits* (https://www.epa.gov/sites/default/files/2020-11/documents/pfas_npdes_interim_strategy_november_2020_signed.pdf) and "Colorado Discharge Permit System (CDPS) Fact Sheet To Permit Number COR900000—General Permit for Discharges from Stormwater Runoff Associated with Non-Extractive Industrial Activity" (March 10, 2022). [8.] See https://www.epa.gov/cwa-methods/cwa-analytical-methods-and-polyfluorinated-alkyl-substances-pfas#background. [9] U.S. EPA. 2020. "Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS): Methods and guidance for sampling and analyzing water and			

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			other environmental media" (https://www.epa.gov/sites/default/files/2020-01/documents/pfas_methodssampling_tech_brief_7jan2020-update.pdf). [10] Interstate Technology and Regulatory Council (ITRC). 2020. "Sampling Precautions and Laboratory Analytical Methods for Per- and Polyfluoroalkyl Substances (PFAS)" (https://pfas-1.itrcweb.org/wpcontent/uploads/2020/10/sampling_analytical_508_2020Aug_Final.pdf).			
192	Permit	I.H.8 Adverse Weather	The requirements concerning missed samples due to adverse weather conditions have been modified from the existing permit and offers less flexibility to sample during the next measurable storm event and is more onerous. The current permit allows sample collection during the next measurable storm event, while the draft permit indicates that the next sample cannot occur until the next quarter, and then requires samples collected from two measurable storm events. It is not clear if a third sample would be needed to comply with the regular quarterly sampling requirement.	This section should be changed to allow more flexibility for missed samples due to adverse weather conditions and PSCo suggests the language in the current permit be retained.	Christine Johnston and Cade Wilson/Public Service Company of Colorado	The renewal permit does not change the requirement for adverse weather conditions. Permittees may choose which storms to sample during a quarter. If there is adverse weather, the permittee may wait until the next storm in the quarter. The language in the renewal permit only clarifies expectations if the only measureable storm event(s) that occur during a quarter have adverse weather conditions. The previous permit language was unclear as to whether a "substitute" sample in this case would satisfy the quarterly monitoring requirement for both quarters. The permit clarifies that a single "substitute" sample does not satisfy requirements for two successive quarters.
193	Permit	I.H.8 Adverse Weather	The draft permit omits the existing permit provision on Climates with Irregular Stormwater Runoff, and the allowance to catch up on missed samples during future quarters with more than one discharge event. Under the draft permit, it	The division should add back the provisions on irregular stormwater runoff or otherwise clarify how permittees should handle	Tri-State Generation and Transmission	The division found that during the term of the previous permit this section was confusing to permittees and did not offer advantage over collecting samples during the next

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			appears that future sampling catch up could only be due to adverse weather conditions rather than a normally irregular runoff regime.	sampling in situations where runoff irregularity prevented a quarterly sample.	Association, Inc	quarter in which a discharge event occurred. Moreover, the framework of NetDMR and ICIS are such that an average of the catch up sample results must be reported in quarterly DMRs. Averaged results are not very apparent in ICIS so that if a permittee monitors two discharge events each, in two of the four quarters, it only appears as if they satisfied two quarterly monitoring samples. The division needs reporting in four quarters to be able to determine if the permittee qualifies for reduced annual monitoring. The only exception is for adverse weather as described in Part I.H.8.
194	Permit	I.H.9 Monitoring Periods	The draft permit states: "…quarterly monitoring must be conducted at least one in each of the following 3-month intervals:" With the removal of "climates with irregular stormwater runoff", Part I.I.1 does not explicitly discuss that sampling is only required during quarters where this is a stormwater discharge from permitted outfalls. Part I.I.1 was cited in the fact sheet for justification.	Add in Part I.H.9 of the draft permit the following language: "…quarterly monitoring must be conducted at least once in each of the following 3-month intervals, when there is measurable stormwater discharge from permitted outfalls:"	Metro Water Recovery	See comment 189 The division has clarified fact sheet language to explain that although permittees only report one quarterly result, they are not prohibited from monitoring more frequently than required. Monitoring should be representative of all quarters during which there is a discharge event. Therefore, unless there are adverse weather events, each monitoring event counts as one quarterly result towards meeting reduced monitoring in Part I.I.3 and 6. The proposed language may add additional uncertainty for permittees that do not discharge most of the time, for example if they have only one discharge in the permit term

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						resulting from an extreme precipitation event. Because monitoring is required for stormwater ***discharges***, if there is no discharge during a quarter, monitoring is not required.
195	Permit	I.I.1 Table 3 Note 6 Permit Monitoring Requirements	See previous comments. It is inappropriate for the division to establish numeric WQBELS for stormwater discharges in general permit certifications. See previous comments	Strike the second sentence	City and County of Denver Department of Aviation	No change See comments 55, 72 and 74
196	Permit	I.I.1 Table 3, Footnote Number 2 Permit Monitoring Requirements	Footnote number 2 of Part I.I.1.Table 3. of the draft permit indicates that for visual assessments if any of the conditions are detected, a Level 1 assessment must be performed. This standard of assessment is not a practical qualitative assessment standard in determining whether a discharge will exceed the water quality criteria for the waterbody (including narrative). The mere detection of visual pollutants does not automatically mean that the discharge does not meet the water quality criteria. An example is the benchmark values for total suspended solids (TSS) which, in some cases, is set at 100 mg/l. A TSS concentration of 100 mg/l in a sample would be detectable during a visual assessment but would not be considered to exceed the water quality criteria (including narrative) for the waterbody. We recommend that CDPHE modify the permit language to provide the permittees more flexibility in evaluating visual samples.		Kate Sinner on behalf of Anonymous client	Comment incorporated Visual assessments are an inexpensive way for permittees to discern whether there are unaddressed potential pollutant sources at the site and whether existing control measures are effective or need to be reevaluated. The division has modified the language in Part I.I.1 footnote 2 to Table 4 to allow permittees to make reasonable determinations of the quality of the stormwater discharge based on visual assessments. The division can provide future guidance on visual observation.
197	Permit	I.I.1 Table 3	Type of monitoring within the table is listed as “grab”.	See comment PN-15 [division comment 178]	Metro Water Recovery	See comment 176 and 177

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		Permit Monitoring Requirements				
198	Permit	I.I.1 Table 3 Permit Monitoring Requirements	The methods column within the table lists footnote 2, which does not clarify if 40 CFR 136 methods must be used for visual assessment (i.e., color). The 2021 MSGP section 3.2.1 includes the following language: "These samples are not required to be collected consistent with 40 CFR Part 136 procedures but must be collected in such a manner that the samples are representative of the stormwater discharge."	Include additional footnotes with 2021 MSPG language regarding methods.	Metro Water Recovery	Comment incorporated The suggested text was added to Part I.I.1 footnote 2 of Table 3
199	Permit	I.I.1 Table 3, Footnote Number 2 Permit Monitoring Requirements	The draft permit in Part I.I.1 footnote 2 of Table 3 states: *"The visual assessment must be made of sample in a clean, clear glass, or plastic container, and examined in a well-lit area. The permittee must visually inspect the sample and record the presence or absence of the characteristics in Table 3. The permittee must perform Level 1 corrective actions in Part I.J for any characteristic that is present."* The information in the footnote is redundant and not the most appropriate place for the information.	Remove footnote 2 from Table 3 and insert modify the language in Part I.I.2 to the following: *"Visual Assessment involves collection of samples in a clean, clear glass, or plastic container, and examples in a well-lit area. The permittee must visually inspect the sample and record the presence or absence of the characteristics in Table 3."*	Metro Water Recovery	No change The language is retained to provide a clear tabular reference and provides continuity within Part I.I.
200	Permit	I.I.1 Table 3, Footnote Number 1	The draft permit in Part I.I.1 footnote 1 of Table 3 is redundant with Part I.I.8.	Consolidate the remaining information from footnote 1 into Part I.I.8 or reference	Metro Water Recovery	No change The redundancy is minimal and provides continuity within Part I.I.

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		Permit Monitoring Requirements		the section within the footnote.		
201	Permit	I.I.1 Table 3 Permit Monitoring Requirements	Note 2 allows the use of a glass or plastic container, where Page 25, Section I.I.2 only refers to a glass container. Please add Plastic to the latter section.		Troy Leitschuh, GFL Environmental	Comment incorporated The option of plastic containers was added to Part I.I.1, footnote 2 of Table 3 and Part I.I.2.
202	Fact Sheet	I.I.2 Visual Assessment	Clean Water Action supports the inclusion of additional corrective actions to address benchmark exceedances as they occur in order to protect water quality. We especially support the Division requiring corrective action after a single benchmark exceedance, which is appropriately protective for Colorado's arid climate. Action to address benchmark exceedances should happen as soon as a threat to water quality is discovered.	No specific change requested.	Clean Water Action	Comment noted
203	Fact Sheet	I.I.2 Visual Assessment [division thinks reference is to AIM]	Additional Implementation Measures – how is this going to pertain to the PFAS monitoring? Will robust control measures be required for continued measurements above 35 ng/L for any outfalls over 10 samples?	Clarify	Kristine Andrews – City of Colorado Springs	PFAS monitoring within the permit is not a benchmark and is only report only requirement at this time. The division utilizes report only monitoring to inform future permit iterations on the presence of particular pollutants and necessary permit requirements to control those pollutants. The division encourages permittees to mitigate pollutants when report only monitoring indicates a presence that may cause or contribute to an exceedance of a water quality standard. See comment 254

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204	Fact Sheet	I.I.3.a Benchmark Monitoring	While it is true that there is currently no approved lab method in 40 C.F.R. Part 136 for analyzing PFAS in non-potable water, the U.S. Environmental Protection Agency (EPA) already encourages the use of Draft Method 1633 (DM 1633) in Clean Water Act permits.[1] DM 1633 is the only validated analytical lab method developed specifically to measure PFAS concentrations in non-potable water, such as wastewater and surface water. In January 2022 the Department of Defense (DoD) published its final single-laboratory validation study report for DM 1633. Dep't of Def.,Final Report: Single-Laboratory Validation Study of PFAS by Isotope Dilution LC-MS/MS.[2] DoD is working on a multi-laboratory validation study of the DM 1633, and is expected to complete that study in 2022. EPA will use the results of this study to finalize DM 1633 and add formal performance criteria, which is expected by the end of 2022. There is no need to wait until DM 1633 is finalized as a 40 C.F.R. Part 136 method before requiring industrial stormwater dischargers to comply with the processes set forth in this method. EPA is already requiring the use of EPA Draft Method 1633 in federally administered Clean Water Act discharge permits. On April 28, 2022 EPA issued a memo outlining how it will address PFAS in these permits.[3] In addition, EPA recommends that state permit writers use DM 1633 in NPDES permits immediately: This draft method can be used in various applications, including National Pollutant Discharge Elimination System (NPDES) permits. The method will support NPDES implementation by providing a consistent PFAS method that has been tested in a wide variety of wastewaters	The Division should revise this section of the fact sheet to include the following information: U.S. EPA is already using Draft Method 1633 in its own permits and recommends that state permit writers do the same. As of January 2022, DoD began requiring all new contracts to use Draft Method 1633. Requiring the use of Draft Method 1633 is consistent with Policy 20-1. Additional suggested fact sheet language: "Until there is an analytical method approved in 40 C.F.R. 136 for PFAS, monitoring shall be conducted using Draft Method 1633. Any 40 C.F.R. Part 136 (Appendix B) approved method for analyzing PFAS in non-potable waters available in the future shall replace Draft Method 1633."	Clean Water Action	Comment incorporated See comment 183

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			and contains all the required quality control procedures for a Clean Water Act (CWA) method. While the method is not nationally required for CWA compliance monitoring until EPA has promulgated it through rulemaking, *it is recommended now for use in individual permits*. Press Release, U.S. Env't Prot. Agency, EPA Announces First Validated Laboratory Method to Test for PFAS in Wastewater, Surface Water, Groundwater, Soils (Sept. 2, 2021) (emphasis added).[4] Requiring the use of Draft Method 1633 is also consistent with Policy 20-1, which states: The laboratory selected should be able to perform analysis on wastewater (non-potable) matrices using a method that is compliant with the requirements set forth in the Department of Defense (DoD) Quality Systems Manual (QSM) for Environmental Laboratories **(***DoD QSM 5.1 or later* [Table B-15: Per- and Polyfluoroalkyl Substances (PFAS) Using Liquid Chromatography Tandem Mass Spectrometry (LC/MS/MS) With Isotope Dilution or Internal Standard Quantification in Matrices Other Than Drinking Water]). Policy 20-1 at 6 (emphasis added). In its citation for the DoD QSM, Policy 20-1 states "please refer to the most up-to-date version available." *Id.* at 6 n.3. The most recent version of the DoD QSM (version 5.4) was revised in October 2021 to incorporate DM 1633. *See* Dep't of Def. & Dep't of Energy,			

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			Consolidated Quality Systems Manual (QSM) for Environmental Laboratories: Version 5.4 at 283, tbl.B-24 (Oct. 2021).[5] As of January 1, 2022, DoD began requiring all new contracts and task orders to use DM 1633. *See* Memorandum from Off. Assistant Sec. of Def., to Assistant Sec. of Army, Assistant Sec. of Navy, Assistant Sec. of Air Force, Nat'l Guard Bureau Dir., Def. Logistics Agency Dir., Update for Establishing a Consistent Methodology for the Analysis of Per-and Polyfluoroalkyl Substances in Media Other than Drinking Water (Dec. 7, 2021).[6] DM 1633 is currently the best available analytical method for measuring PFAS in non-potable waters and the Division should not wait to require industrial stormwater dischargers to use DM 1633 until some later step in the finalization process or until it becomes a final 40 C.F.R. Part 136 method. DoD has already demonstrated that DM 1633 is a valid analytical method for PFAS testing in non-drinking water matrices and is even requiring all of its new contracts to use it, and EPA is already using it in federally-issued permits and recommends that other permit writers require use of this method in Clean Water Act permits. DM 1633 is also clearly consistent with Policy 20-1. The Division, thus, should require industrial stormwater dischargers to use this validated analytical method for PFAS testing in the final permit. [1] Available at: https://www.epa.gov/system/files/documents/2021-09/method_1633_draft_aug-2021.pdf [2] Available at: https://apps.dtic.mil/sti/pdfs/AD1157957.pdf			

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			[3] April 2022 EPA PFAS Memo, available at: https://www.epa.gov/system/files/documents/2022-04/npdes_pfas-memo.pdf [4] Available at: https://www.epa.gov/newsreleases/epa-announces-first-validated-laboratory-method-test-pfas-wastewater-surface-water [5] Available at: https://www.denix.osd.mil/edqw/documents/manuals/qsm-version-5-4-final/QSM%20Version%205.4%20FINAL.pdf [6] Available at: https://denix.osd.mil/dod-pfas/osd-policies/documents/pfas-in-media/			
205	Permit	I.I.3.b I.K.1 Benchmark Monitoring	*"If there is no discharge during one or more quarters, the permittee must still submit DMRs (see Part I.K.1) and continue sampling in the following quarters until they obtain four samples." "If no discharge occurs during the reporting period, use the No Data Code (NODI) "C" for No Discharge."* Please consider requiring weather data to backup DMRs submitted that claim no discharge occurred during the quarter. For example, the permittee could provide rainfall and snowmelt data from a nearby NOAA station for the quarter and document why a sample could not have been taken for each event.	Please consider adding the following language or similar language to the permit, ***"For DMRs with a claim of no discharge, documentation of local rainfall/snowmelt data to support the no discharge claim shall be kept onsite and provided upon request."***	SEMSWA, Arapahoe County CP Compliance	No change In developing the Draft, the division considered requiring rainfall data to be reported when there is no discharge. During stakeholder engagement, several stakeholders indicated that precipitation information was not a good predictor of discharge potential. Precipitation can vary over short distances such that an off-site rain gauge would not be representative of site conditions. In addition, some facilities employ efforts at preventing discharges through retention ponds, infiltration, and evaporation. For these facilities, reporting rainfall on a quarterly basis is an unnecessary exercise if their control measure is designed to detain most storm events. As noted in the Fact Sheet, of the 538 permittees required to report DMRs, 283 permittees did not report

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						any monitoring results at any time with many of them reporting that no discharge had occurred. That is over 50% of permittees. The division's expectation in the previous permit and in this final permit include monitoring discharges that occur and failure to have staff available during a discharge event is insufficient reason to report "No Discharge." Through discharge preparation plans (Part I.I.9) the division is acquiring more useful information that reveals the reason discharges are infrequent. This also provides some assurance that permittees are ready to sample in the rare instance a discharge occurs.
206	Permit	I.I.3.c Benchmark Monitoring	Does PFAS need to be sampled at Airport's on a monthly basis from October 1 through April 30?	Clarify monitoring requirements.	Judah Gaioni City of Longmont	Footnote 4 to Table S-1 indicates which parameters must be collected during the deicing season. The deicing related samples do not have to be conducted monthly, but they must be taken when deicing is occurring. The permittee may determine more specific timeframes during the deicing season to spread out sampling at relatively equal intervals. Footnote 4 does not apply to PFAS monitoring, which is done on a quarterly basis.
207	Permit	I.I.3.d Benchmark Monitoring	Are Airports eligible to apply the 4-sample quarterly average benchmark reduction option to PFAS monitoring?	Clarify sampling requirements regarding benchmark reductions.	Judah Gaioni City of Longmont	The division has reduced the required number of PFAS samples to a total of 4 quarterly samples collected within the first year of the

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						permit effective date or the first four quarters where a discharge occurs. Note that the permit requires monitoring only for PFAS and there is no PFAS benchmark in the permit. See comment 254
208	Permit	I.I.3.d Benchmark Monitoring	Allowing for reduced monitoring for sites that demonstrate after one year of sampling that they do not exceed the benchmark or only exceeded due to natural background levels seems appropriate.	No change requested.	Wright Water Engineers on behalf of various clients	Comment noted
209	Permit	I.I.3.e.i AIM	It is concerning that a single sample exceeding a benchmark concentration could move a permittee into AIM Level 1. This concern is exacerbated in regions with irregular runoff where collecting another sample may be several quarters in the future.	The permit should instead specify a single sample moves a permittee into AIM Level 1 only if it is four times the benchmark limit and thus is mathematically certain to be an exceedance.	Tri-State Generation and Transmission Association, Inc	No change AIM Level 1 is a simple way to immediately address any control measures that are not performing correctly. Waiting for 4 quarterly samples could result in the discharge of pollutants for an extended amount of time.
210	Permit	I.I.3.e.ii(B) Benchmark Monitoring	It is unclear how a permittee would consider a rolling 4 sample quarterly average value when reporting natural background. Is the intent with this provision that only if a rolling 4 sample quarterly average exceeds benchmark when it cannot be explained as being due to natural background? Should these be reported as zero?	The division should provide additional clarity regarding how to calculate the 4-month rolling average when permittees are reporting natural background, lab results like <20 and non-detect (ND) results.	Tri-State Generation and Transmission Association, Inc	The division currently has guidance for averaging and reporting results below detection levels. See page 13 of the link for "DMR guidance" available at: https://cdphe.colorado.gov/ereporting-rule-discharge-monitoring-report-information. The rolling 4-sample average is a straightforward average of the most recent 4 quarterly samples collected. For a Level 1 exceedance, samples can be compared on an individual basis. When determining whether the natural background

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						exception applies for a Level 2 or 3 exceedance of the benchmark, the permittee must determine whether exceedance would occur if the exempted individual results were excluded. Permittees can reach out to the division for additional guidance on natural background exceptions to corrective actions.
211	Permit	I.I.5 Additional Monitoring	What are some examples of the reasons for additional monitoring that may be required by the Division?	Provide clarification.	City of Aurora	One example of where additional monitoring is required would be for a discharge to an impaired water body and the pollutant causing the impairment is commonly found at the type of facility. Another example for additional monitoring would be if a discharger has a chemical additive to remove solids. Depending on the ingredients in the additive, the division may include whole effluent toxicity or chemical monitoring to ensure that certain chemicals are not in the discharge at toxic concentrations. Additional monitoring may also be necessary if a facility has activities or materials that pose substantial risk of becoming entrained in the stormwater. The Division intends to provide a written explanation of the reasons for the additional requirements, such as the determination that the proposed discharge is to an impaired waterbody, in the transmittal letter

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						or fact sheet for the permit certification.
212	Fact Sheet	I.I.5 Additional Monitoring	Clean Water Action supports the Division adding a new limitation on permit coverage to protect water quality from coal tar sealant. The benefits to water quality far outweigh the potential costs associated with making new applications of coal tar sealant ineligible for coverage under the renewal permit.	No specific change requested.	Clean Water Action	Comment noted.
213	Permit	I.I.7.a.ii(A) Benchmark Exceedances due to Natural Background	It is unclear if an applicant is required to provide at least four ambient samples to demonstrate natural background or if this is one data source a permittee could choose to use. In regions with irregular runoff, it may be challenging to get four samples to demonstrate natural background and it becomes unclear what AIM status would apply when a sample exceeds benchmark, but a permittee needs additional quarterly sampling to determine if the exceedance is due to natural background.	The division should provide additional clarity and practicable options in this section because it appears challenging given the specific and high level of information collection.	Tri-State Generation and Transmission Association, Inc	The permit allows for either a sample-by-sample comparison to natural background, or development of a single representative natural background concentration for comparison to quarterly samples or quarterly averages. Permittees can reach out to the division for additional guidance on natural background exceptions to corrective actions.
214	Permit	I.I.7.a.iv Benchmark Exceedances due to Natural Background	It is not clear if permittees would be expected to contact the division when benchmark concentrations are exceeded but are attributable to natural background. This would appear to be an unnecessary requirement.	The division should omit this requirement or further clarify that such reporting is not needed when exceedances are due to natural background.	Tri-State Generation and Transmission Association, Inc	The division assumes the commenter's original reference to "I.I.a.iv" refers to I.I.7.a.iv The permittee is not required to notify the division of a benchmark exceedance but they must report corrective actions in the annual report and are also subject to 24-hour reporting, 5 day reporting, and other reporting requirements in the permit.
215	Permit	I.I.7.c Benchmark Exceedances	It is unclear how a permittee should consider erosive conditions when evaluating for natural background. In semi-desert regions of Colorado, erosive conditions themselves are part of background geomorphology for many waterways.	The final permit should further clarify that "erosive conditions" should be those attributable to human activities, such as	Tri-State Generation and Transmission	The permittee must control erosive conditions on their permitted site, including erosion caused by run-on. Erosive conditions combined with industrial activities and materials

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		due to Natural Background		earthmoving. The division should not reject natural background exceptions in regions/areas where streams are naturally unstable with active channel geomorphology and high sediment loads.	Association, Inc	increases the chance for pollutants to become entrained in stormwater. If benchmarks are being exceeded due to erosion, that would not be a condition that would qualify under the natural background analysis.
216	Permit	I.I.9 Discharge Preparation Plan	The requirement to develop a Discharge Preparation Plan if there is no measurable storm event will be difficult for a permittee to prepare, particularly for facilities that have large and remote sites with outfalls that are not in close proximity. In particular, it would be difficult to estimate the amount of rainfall that may result in a discharge event. Stormwater from much of PSCo's site that is covered by this permit is from the railroad loop and non-paved roads which flows through vegetated areas before flowing off-site. While there are models and calculations that can be used to predict runoff from a storm event, these models do not take into account current soil moisture conditions. It seems that the recent drier soil conditions due to drought conditions reduce the amount of runoff produced.	This requirement should be removed from the permit.	Christine Johnston and Cade Wilson/Public Service Company of Colorado	No change Benchmark monitoring is a critical component of the permit and it is essential for permittees to catch discharge events when they occur. See comments 205 and 222
217	Permit	I.I.9 Discharge Preparation Plan	The division proposes that permittees prepare a "discharge preparation plan" to determine conditions that are likely to produce a measurable storm event. In the fact sheet the division says the basis for including this new requirement is their speculation that permittees reporting "no discharge" are missing samples. Permittees have control measures in place that prevent a discharge in many precipitation events by implementing control measures such as containment and infiltration. These are legitimate reasons permittees report "no discharge" on many of their DMRS. These practices are encouraged in the permit and control measures implemented to	Remove this subsection	City and County of Denver Department of Aviation	No change During inspections the division routinely evaluates reasons why permittees report "no discharge" and educates them on sampling responsibilities. The division will continue to do so, but despite these efforts, there is frequent staff turnover among permittees and improper reports of "no discharge" continue. Discharge preparation plans make it necessary for permittees to appropriately

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			meet effluent limitations contained in the permit must identified in the SWMP. The permit requires documentation of monitoring procedures in the SWMP. The division should not include this language based on speculation that permittees are "missing samples". Instead, the division could evaluate the specific reasons each permittee reports "no discharge" during compliance inspections and review of currently required documentation.			distinguish proper versus improper reasons for failing to collect samples. See comment 205
218	Permit	I.I.9 Discharge Preparation Plan	The requirement for a Discharge Preparation Plan is overly burdensome. Due to Colorado's unique climate and topography, asking a permittee to determine what estimation of rainfall or snowmelt that will result in a discharge is not practicable. For example, a quarter inch of rainfall over an entire day may not result in a measurable event allowing capture of a sample, however a quarter inch of rainfall in a 30-minute period might. It also varies on the location of the outfall. If the permittee has an area that is landscaped/pervious around or leading to the discharge point, most likely there will not be a discharge because of infiltration. An area that has a lot of impervious area around or leading to the discharge point could potentially see a measurable discharge.	Remove Part I.I.9. Colorado is a semi-arid state. If no discharge occurs than report "No Discharge" on the DMR or visual assessment documentation.	Colorado Wastewater Utility Council	No change See comments 205, 217, and 222
219	Permit	I.I.9 Discharge Preparation Plan	The justification for adding this section was not included within the draft Fact Sheet. The requirement for a Discharge Preparation Plan is overly burdensome. Due to Colorado's unique climate and topography, asking a permittee to determine what estimation of rainfall or snowmelt that will result in a discharge is not practicable. For example, a quarter inch of rainfall over an entire day may not result in a measurable event	Remove this condition. Colorado is a semi-arid state. If no discharge occurs than report "No Discharge" on the DMR or visual assessment documentation.	Metro Water Recovery	The Fact Sheet justification for Discharge Preparation Plans was described under the reporting requirement in Part I.K.3. In the final Fact Sheet, the division has added a cross reference in Part I.I.9 to Part I.K. See comments 205, 217, and 222

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			allowing capture of a sample, however a quarter inch of rainfall in a 30-minute period might. It also varies on the location of the outfall. If the permittee has an area that is landscaped/pervious around or leading to the discharge point, most likely there will not be a discharge because of infiltration. An area that has a lot of impervious area around or leading to the discharge point could potentially see a measurable discharge.			
220	Permit	I.I.9 Discharge Preparation Plan	Draft permit language: *"For permittees that are required to submit DMRs, if there were no measurable storm events during the first four quarters following the effective date of the permit, then the permittee must prepare a Discharge Preparation Plan to determine conditions that are likely to produce a measurable storm event."* We support this permit requirement.	No change requested.	SEMSWA, Arapahoe County CP Compliance	Comment noted
221	Permit	I.I.9 Discharge Preparation Plan	We understand the intent for this provision, but it will be very challenging to implement and appears to be seeking an unobtainable level of certainty. There are so many interrelated variables that dictate whether a discharge occurs, such as localized precipitation event variability, soil moisture, recent past storm patterns, and season. It has been our experience that sometimes large precipitation events do not result in discharges while smaller precipitation events may do so. Tracking precipitation in one location, such as with a rain gauge, may miss short-distance differences in actual precipitation. Overall, these assessments are likely to be time intensive, require frequent update/revision, and result in highly qualified estimates of what conditions might lead to a discharge.	The division should drop this provision and not include it in the final permit because it likely will not provide the level of certainty hoped for and will be substantial work for permittees.	Tri-State Generation and Transmission Association, Inc	No change See comments 205, 217, and 222
222	Permit	I.I.9	"For permittees that are required to submit DMRs, if there were no measurable storm events during the first four quarters following the effective date of the permit, then the permittee must prepare a	If permittee is not required to submit DMRs, is the permittee required to submit an Assessment of Discharge	Troy Nedved, RT Civil Consultants-For and on	The requirement for assessment of Discharge Potential only applies to permittees that are required to submit DMRs. Facilities that only

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		Discharge Preparation Plan	Discharge Preparation Plan to determine conditions that are likely to produce a measurable storm event. The plan must include: 1) estimation of rainfall in inches that may result in a discharge event, 2) assessment of snowmelt conditions that may result in a discharge event, 3) procedures to track precipitation conditions in 1) and 2), and 4) methods and procedures for collecting samples, including procedures for collecting samples outside of regular business hours. The plan must be reported to the division in the annual report due for that reporting period."	Potential within the Annual Report? Also, please provide a template outline the necessary requirements for the Assessment of Discharge Potential.	behalf of Meridian Metropolitan District	have visual assessment requirements are not subject to Part I.I.9. The permit lists the elements that must be included in the assessment as 1) through 4). The division intends for this to be a straightforward explanation of what conditions might produce a discharge at a facility and allows the facilities discretion on how to describe the information in 1) through 4). For this reason, no template is provided.
223	Permit	I.I.9 Discharge Preparation Plan	*"For permittees that are required to submit DMRs, if there were no measurable storm events during the first four quarters following the effective date of the permit, then the permittee must prepare a Discharge Preparation Plan to determine conditions that are likely to produce a measurable storm event."* This requirement assumes that if there were storm events in an area that they should result in a discharge. This assumption may be incorrect for facilities that were designed to rarely discharge using large ponds and infiltration systems. Estimating what type of storm would result in a discharge seems unnecessary for these types of sites.	Revised the language to the following: "For permittees that are required to submit DMRs, if there were no measurable storm events during the first four quarters following the effective date of the permit, then the permittee must submit a statement describing why the facility may not discharge very frequently. This statement will be stored in the division's files for future reference."	Wright Water Engineers	No change A measurable storm event is defined in Appendix C as a storm event that results in an actual discharge from the facility. See comments 205, 217, and 222
224	Permit	I.J.1 Conditions That Must Be Eliminated	The division proposes to require permittees to revise control measures, after every spill or leak, to *ensure another spill or leak will not occur*. This is infeasible. The division should not include conditions in permits that are not possible to meet. This sets up facilities for failure and wastes the divisions compliance resources. The division should revise the language to be consistent with the MSGP. The MSGP language sets realistic expectations that triggers SWMPS to be reviewed,	Strike the subsection and replace with this language from Section 5.1.1. of the MSGP	City and County of Denver Department of Aviation	No change The requirement is retained from the previous permit and is a key component of the iterative nature of the permit, i.e., adjusting control measures to minimize the discharge of pollutants. The requirement is feasible, especially considering that the division has not experienced

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			and revised as appropriate, after an unauthorized spill or release *to a waters of the US occurs*, to ensure effluent limits are met.			widespread non-compliance over the previous term. Note that the requirement applies to unauthorized release or discharge not authorized by this or another permit. For example, if the permittee has a small spill that is immediately cleaned up and does not become entrained in stormwater, then they would not be required to review and revise the control measure. However, if the spill entered the stormwater discharge, the facility would be required to review and revise their control measures. The review could be as simple as assessing the cleanup response time and educating staff.
225	Permit	I.J AIM	**VI. Comment 24: Additional Implementation Measures ("AIM").** The AIM process was specifically designed to ensure that permit controlled discharges are addressed sufficiently to protect water quality, while not (i) constituting numeric effluent limits which for reasons stated previously, are infeasible, (ii) not putting permittees in the untenable situation of being faced with permit conditions that are not attainable, and (iii) preserving the practical benefits of having a general permit capable of covering a large number of discharges. The Division's proposed adoption of the AIM process, without all elements of the process, is inappropriate. The Division's deviations from the EPA MSGP AIM process include the following:		David Steinberger – Denver City Attorney's Office	The permit contains enough flexibility for managing benchmark exceedances that a demonstration that an AIM triggering event does not exceed water quality standards is unnecessary and creates additional confusion as to how that demonstration is made. Regarding resetting data and ignoring previously collected data, permittees were required under the previous permit term to make corrective actions to achieve benchmarks. The exception for natural background was allowed under the previous permit term. Permittees have had sufficient time to meet benchmarks. Having "resets" allows permittees to continue discharging at the same

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			• Triggering the AIM process when any single result exceeds a benchmark concentration. • Narrowing of the natural background exception. • Rejecting the run-on exception. • Rejecting the abnormal event exception. • Rejecting the ability to demonstrate discharge levels do not result in an exceedance of a facility specific value using national recommended water quality criteria in-lieu of a general permit benchmark value. • Rejecting the ability to demonstrate that an AIM triggering event does not result in any exceedance of water quality standards. • Rejecting the ability to reset data collecting at the start of the permit term, and after measures are implemented during the AIM process. • Rejecting flexibility to provide extensions to AIM 3 timelines, where appropriate. • Rejecting inclusion of Division response timelines and a dispute process. • Triggering the AIM process based on data collected under the previous permit. These deviations are unreasonable and unworkable. Many of the deviations are not explained in the Fact Sheet or explained only for the reason to "simplify the renewal permit." The deviations on use of sample results ignores established science that industrial stormwater has high variability, much higher than in drinking water and wastewater, particularly when taken together with the Division's rejection of EPA allowance for composite sampling that was introduced at the same time as EPA introduced the AIM process.			levels during the start of this permit and the next permit and impedes progress towards improving stormwater quality. The division has changed text in I.J.3 to specify that only Level 1 responses would result from monitoring results collected prior to issuance of the permit certification. The division disagrees that the AIM process does not allow for sufficient time and the commenter did not provide details or explanation to indicate otherwise. Regarding Division response timelines and a dispute process, the public notice and comment process, and the adjudicatory process cited.at 61.7(1) applies to the general permit, and does not apply to individual certifications issued authorizing discharges in accordance with the general permit. The Division includes site-specific conditions in many general permit certifications, including effluent limitations, monitoring requirements, and compliance schedule requirements The Division also currently includes site-specific conditions, primarily monitoring requirements, in certifications under the previous industrial stormwater permits. Through its permitting experience, the Division has found it effective to request supplemental information when needed,

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			The federal AIM elements that the Division has modified or rejected are well explained and substantiated in the Fact Sheet to the 2021 MSGP and provide the basis for our comments to include them in the Colorado permit. All of EPA's additions strike a balance of providing additional assurance that discharges are being controlled as necessary to meet water quality standards while not putting permittees into a situation where they are set up to fail.			communicate with permittees, and use other regulatory tools such as a modification to a certification to address comments and concerns when they do arise. On rare occasion where the issues become more complex and/or the permittee has significant concerns about terms and conditions included in a certification, the Division has found the facility to be more appropriately covered under an individual permit. In the individual permit process, the Division has more time to consider unique site specific factors and permittees have multiple opportunities to formally raise concerns, including public notice and appeal. See comments 5, 131, 138, 176, and 209
226	Permit	I.J.3 AIM	In 2020, ISRI commented heavily on AIM in the Proposed 2020 MSGP. Some of the issues that ISRI identified are contained in the 2021 MSGP, which informed the Proposed Permit. AIM Level 1 in Part I.J.3.b. has several problematic aspects, some of which may be more general. The trigger condition in Part I.J.3.b.i. should not include one quarterly sample result above the benchmark. From a statistical perspective, for instance, a result of 125 mg/L for Chemical Oxygen Demand (COD) is the same as 119 mg/L COD. The first exceeds the benchmark of 120 mg/L, while the latter does not. A subsequent		David Wagger -Institute of Scrap Recycling Industries, Inc	Comment partially incorporated The division has changed language in Part I.J.3.b.ii(B) to be consistent with ii(A). The 14-day response in Part I.J.3.b.ii(B) refers to a ***determination*** of whether modifications of control measures are necessary to attain benchmarks and identifying what modification is necessary. Under Part I.J.4.c, the permittee then has up to 60 days to ***install additional control measures or modify control measures***.

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			result of 100 mg/L would make the two-sample average below the COD benchmark of 120 mg/L. If one quarterly sample result is going to be an AIM Level 1 trigger, the threshold should be some multiple of a benchmark to ensure that that one result does not reflect simple statistical variation within "noisy" stormwater data. AIM has inconsistent response conditions regarding triggering events. This inconsistency is most clearly demonstrated in AIM Level 1. In Part I.J.3.b.ii., "Response", response (A) reads "[w]ithin 7 days of knowledge of the trigger condition" while response (B) reads "[w]ithin 14 days of receipt of laboratory results indicating the trigger condition". Response (B) is not specifically based on knowledge or awareness, only that a laboratory report was received. If an electronic laboratory report unexpectedly went to an e-mail junk folder or got caught in an e-mail spam filter, was that report received? When would the clock start towards 14 days? There certainly would be no knowledge until the errant report was discovered and reviewed. This circumstance could presumably prevent response (A) in the first place. More generally, it is not clear why some response conditions are based on receipt of laboratory results while others are based on knowledge of a level trigger (Levels 1, 2, and 3). (Regarding Level 2 and Level 3 AIM triggers, the Proposed Permit mentions "Tier" rather than "Level" in Part I.J.4.c., "Corrective Action Documentation Deadlines".) Part I.J.3.b.ii. has other issues. Response (B) does not seem applicable to a trigger via visual inspection, so it probably requires an alternative condition. It is further unclear that the 14-day period specified in response (B) is sufficient to			See comments 5, 131, 138, 176, and 209

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			"ensure that control measures in the area reflect conditions in the [SWMP]", especially if structural work is required. A provision for extension of response time similar to Part I.J.3.d.ii.(B) would be useful. Finally, Part I.J.3.e., "AIM Exceptions to Triggers", should not be limited to only "Natural Background Pollutant Levels" per Part I.I.7, which itself is narrow and probably impossible to use. Part I.J.3.e. should include also the following exceptions contained in the 2021 MSGP: "Due to Run- On" (Part 5.2.6.2); "Due to an abnormal event" (Part 5.2.6.3); and "Demonstrated to not result in any exceedance of water quality standards" (Part 5.2.6.5). All of these would allow a permittee to demonstrate that either its operations alone would not cause a benchmark exceedance under normal conditions or a stormwater discharge from its facility is not causing an actual exceedance of a water quality standard (WQS) in the facility's receiving water.			
227	Permit	I.J.3 AIM	Confirm AIM requirements will not pertain to PFAS monitoring since the benchmark is currently for monitoring only.	Confirm AIM requirements will not pertain to PFAS monitoring since the benchmark is currently for monitoring only.	Kristine Andrews – City of Colorado Springs	See comment 203
228	Permit	I.J.3 AIM	Please evaluate replacing the term "sum" with "average" for consistency in this section.	Please consider replacing the term "sum" with "average" for consistency in this section.	SEMSWA, Arapahoe County CP Compliance	No change If the average of less than 4 samples is above the benchmark, it is possible that the permittee could still obtain a 4-sample quarterly average below the benchmark. However if the rolling sum of the monitoring results following Level 1 corrective action is more than 4 times the benchmark, then it is

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						mathematically certain that the 4-sample average is higher than the benchmark.
229	Permit	I.J.3.a AIM	The draft permit states: "Once the permit certification is issues, the permittee must evaluate the previous 4 benchmark monitoring results to determine level status." The 2021 MSGP starts all permittees at the baseline status for all applicable benchmark parameters.	For ease of transition from the 2012 COR900000 to the 2022 draft permit, remove this provision from the permit.	Metro Water Recovery	Comment partially incorporated See comment 225
230	Permit	I.J.3.a AIM	It is unreasonable to require permittees to look back at the previous 4 benchmark samples and determine AIM level status. We are not aware of other environmental regulatory permits that establish a permittee's permit status based on past sampling results that occurred prior to the issuance of a permit. This could be especially onerous in situations with inconsistent past discharge events, requiring a permittee to look back several years for 4 samples. It is also not appropriate to establish AIM status based on past samples where additional or modified measures had been taken to rectify past benchmark exceedances. Permittees should not be required to meet new permit standards retroactively.	The provision requiring a retroactive evaluation of the previous 4 benchmark monitoring results should be removed from the permit. Each permittee should begin a new permit certification at baseline status and AIM levels should only be evaluated prospectively.	Tri-State Generation and Transmission Association, Inc	Comment partially incorporated See comment 225
231	Permit	I.J.3.B AIM	The language in this section does not accurately describe what would exceed a visual assessment which would require AIM Level 1. Many naturally occurring solids could realistically be found in a stormwater sample which would not indicate pollution. For example, blades of grass could be captured within a sample, and under Table 3 parameters could realistically be categorized as a floating solid; however, this is wouldn't	We request additional guidance on visual assessments which would trigger additional monitoring and recordkeeping.	Ball Aerospace	Comment incorporated The division has added a cross reference to text in Table 4, footnote 2, that specifies a visual assessment occurs when observations are indicative of industrial materials or pollutants in the stormwater discharge.

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			necessarily indicate stormwater pollution.			
232	Permit	I.J.3.b AIM	It is not appropriate to trigger Additional Implementation Measures (AIM) based merely on a visual assessment. Because of the lack of actual data supporting a visual assessment, it is a guide to implementation, not an indication of non-compliance. It is not uncommon to see some turbidity or suspended solids, floating solids, settled solids and foam in stormwater runoff. It does not mean control measures are malfunctioning or deficient. If those parameters are observed, permittees need to ensure the control measures are in place and functioning. This proposed permit language would escalate sectors monitoring by visual assessments to Level 1 AIM after every sampling event. By including this provision, additional resources would need to be dedicated in order to complete the additional 7 day inspection and potential requirements within the SWMP. The subsequent sections of this Part do not align with the requirements for visual assessments. For example, Part I.J.3.b.ii(B) requires 14 days of the receipt of laboratory results to trigger that all control measures in the area are updated within the SWMP. For visual assessments, there is no formal laboratory results and creates regulatory uncertainty for follow up items triggered by visual inspections.	Remove visual assessments triggering AIM responses for all sections of this part.	Colorado Wastewater Utility Council	Comment partially incorporated See comments 196 and 231.
233	Permit	I.J.3.b AIM	The inclusion of exceeding a visual assessment is not appropriate.	Remove visual assessments triggering AIM responses for all sections of this part.	Metro Water Recovery	Comment partially incorporated See comments 196, 226, and 231

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			It is not uncommon to see some turbidity or suspended solids, floating solids, settled solids and foam in stormwater runoff. It does not mean control measures are malfunctioning or deficient. If those parameters are observed, permittees need to ensure the control measures are in place and functioning. This proposed permit language would escalate sectors monitoring by visual assessments to Level 1 AIM after every sampling event. By including this provision, additional resources would need to be dedicated in order to complete the additional 7-day inspection and potential requirements within the SWMP. The subsequent sections of this Part do not align with the requirements for visual assessments. For example, Part I.J.3.b.ii(B) requires 14 days of the receipt of laboratory results to trigger that all control measures in the area are updated within the SWMP. For visual assessments, there is no formal laboratory results and creates regulatory uncertainty for follow up items triggered by visual inspections.			
234	Permit	I.J.3.b.i AIM	The division proposes to incorporate the AIM process EPA developed and included in the MSGP, but without all the elements of the process. See attached comment letter.	Revise to an AIM triggering event is if an annual average exceeds an applicable benchmark	City and County of Denver Department of Aviation	The division's permit is specialized to Colorado's program and therefore will have different elements than EPA's MSGP. For example, the division did not incorporate additional monitoring that EPA's permit requires. In addition, the AIM responses have minimal differences from EPA's MSGP, but are more sensible for Colorado. For a Level 1 exceedance the response is of much lower level

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						than EPA's Level 1 response and the Level 2 response is of the same magnitude as EPAs in that they both require the responses must "reasonably be expected to bring [your/the facilities;] exceedances below the parameter's benchmark threshold." The Level 3 response in the renewal permit is the same in purpose and content as EPA's. The division rejects EPA's exception due to extraordinary events because Colorado's precipitation events vary considerably and this could allow for too many missed opportunities for meaningful corrective actions. See Comment 5 See comment 131 and 138
235	Permit	I.J.3.b.ii AIM	AIM has inconsistent response conditions regarding triggering events. This inconsistency is most clearly demonstrated in AIM Level 1. In Part I.J.3.b.ii., "Response", response (A) reads "[w]ithin 7 days of knowledge of the trigger condition" while response (B) reads "[w]ithin 14 days of receipt of laboratory results indicating the trigger condition". Response (B) is not specifically based on knowledge or awareness, only that a laboratory report was received. If an electronic laboratory report unexpectedly went to an e-mail junk folder or got caught in an e-mail spam filter, was that report received? When would the clock start towards 14 days? There certainly would be no knowledge until the errant report was discovered and reviewed. This circumstance could presumably prevent response (A) in the first place. More generally, it is not clear why some response conditions are based on receipt of laboratory results while others are based on		David Wagger -Institute of Scrap Recycling Industries, Inc	Comment partially incorporated The division changed "Tier" to "Level." See comments 196, 221, and 231

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			knowledge of a level trigger (Levels 1, 2, and 3). (Regarding Level 2 and Level 3 AIM triggers, the Proposed Permit mentions "Tier" rather than "Level" in Part I.J.4.c., "Corrective Action Documentation Deadlines".) Part I.J.3.b.ii. has other issues. Response (B) does not seem applicable to a trigger via visual inspection, so it probably requires an alternative condition. It is further unclear that the 14-day period specified in response (B) is sufficient to "ensure that control measures in the area reflect conditions in the [SWMP]", especially if structural work is required. A provision for extension of response time similar to Part I.J.3.d.ii.(B) would be useful.			
236	Permit	I.J.3.b.iv(B) AIM	How can the Division require the permittee to apply for an individual permit when their benchmark threshold has been exceeded if those are not considered permit violations as stated in Part I.I.3.a	Provide clarification.	City of Aurora	The division assumes the commenter's original reference to "I.J.3.iv.B" refers to I.J.3.b.iv(B) The division may require an individual permit for different reasons. If a permittee has reached Level 3 and continues to exceed benchmarks, the division will work with the permittee to determine if a natural background exception applies. It would be uncommon for the division to require an individual permit but this may be an appropriate option for a large, complex discharge. Regardless of Level 3 status, the division has authority to determine where an individual permit is more appropriate for a facility.
237	Permit	I.J.3.b.iv(C)	See comment PN-24. [division comment 232]	Remove this section.	Metro Water Recovery	See comments 196, 226, and 231

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		AIM				
238	Permit	I.J.3.b.iv.(B) AIM	The language within the draft permit is as follows: "…as soon as the continued quarterly benchmark monitoring results indicate mathematical certainty that the next 4 quarterly benchmark monitoring results is exceeded for the same parameter(s)." The term "mathematical certainty" is used within this section and is not defined. Further, the explanation does not seem to align with later parts. As written, it could be interpreted that the next 4 individual results above the benchmark monitoring results would push the permittee into AIM Level 2.	Replace the draft permit language with the 2021 MSGP language for clarity.	Metro Water Recovery	Comment incorporated The division added explanation in parentheses under Part I.J.3.b.iv(B) that mathematically certain means the sum is more than 4 times higher than the benchmark concentration, when considering future results to be averaged.
239	Permit	I.J.3.c.2 AIM	Linked EPA webpage not found. [https://www.epa.gov/npdes/stormwaterdischarges- industrial-activities-fact-sheets-and-guidance]	Update link with valid URL.	Judah Gaioni City of Longmont	The division assumes the commenter's original reference to "I.J.3.c.2" refers to I.J.3.c.ii. The link in the permit may have been temporarily unavailable and it was working during and after the public comment period closed. Alternatively, interested persons can search for the webpage title: *Stormwater Discharges from Industrial Activities-Fact Sheets and Guidance*.
240	Permit	I.J.3.c.i(A) AIM	The language "mathematical certainty" is used again and defined as the exceedance of the rolling 4 samples quarterly average benchmark values. This may contradict the interpretation in Part I.J.b.iv.(B) as discussed in comment PN-25. [division comment 238]	Replace the draft permit language with the 2021 MSGP language for clarity.	Metro Water Recovery	See comment 238
241	Permit	I.J.3.c.i(B) AIM	It may be a typographical error, but additional clarity is needed on how a permittee could move	This provision should be removed, modified, or otherwise further clarified.	Tri-State Generation and Transmission	Comment incorporated

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			from Baseline status directly to Level 2 without first moving to Level 1.		Association, Inc	"Baseline" was replaced with "Level 1."
242	Permit	I.J.3.c.ii(B) I.J.3.c.iii(B) AIM	There can be seasonal, weather, safety or other logistical reasons that may prevent the installation of additional structural control measures within 60 days of moving into Level 2 AIM. There appears to be a provision allowing an alternative schedule built into Level 3 AIM but not for Level 2 AIM.	The final permit should also include an alternative schedule allowance within Level 2 AIM.	Tri-State Generation and Transmission Association, Inc	No change It is unnecessary to allow additional time during Level 1 or 2 as one of the components of the AIM process is for permittees to achieve benchmarks as soon as possible. Part I.J.3.c.ii does not contain a due date for installation or implementation of control measures, rather it mandates a review within 14 days. It is in the permittees best interest to implement any necessary source controls as soon as possible in order to avoid future benchmark exceedances that could change their status to Level 3. The allowance for an alternative schedule under Level 3 reflects a situation where substantial changes are necessary to achieve benchmarks.
243	Permit	I.J.3.e AIM	Finally, Part I.J.3.e., "AIM Exceptions to Triggers", should not be limited to only "Natural Background Pollutant Levels" per Part I.I.7, which itself is narrow and probably impossible to use. Part I.J.3.e. should include also the following exceptions contained in the 2021 MSGP: "Due to Run- On" (Part 5.2.6.2); "Due to an abnormal event" (Part 5.2.6.3); and "Demonstrated to not result in any exceedance of water quality standards" (Part 5.2.6.5). All of these would allow a permittee to demonstrate that either its operations alone would not cause a benchmark exceedance under normal conditions or a		David Wagger -Institute of Scrap Recycling Industries, Inc	See comments 5, 131, 138, 225, and 234

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			stormwater discharge from its facility is not causing an actual exceedance of a water quality standard (WQS) in the facility's receiving water.			
244	Permit	I.J.3.iv.C AIM	AIM visual assessment for current parameters such has TSS does not seem practical. Is any amount of TSS an automatic exceedance?	Clarify	Kristine Andrews – City of Colorado Springs	The division assumes the commenter's original reference to "I.J.3.iv.C" refers to I.J.3.b.iv(C) See comment 196
245	Permit	I.J.4 AIM	**D**raft permit language: Corrective Action Document Deadlines. Please consider adding the applicable MS4 permittee to the list of those to notify when any of the conditions in Part I.J.1. or I.J.2. are met. This will enable us to protect our MS4 and/or our local waterways. See comment below on Part I.L. Other Terms and Conditions.	Please consider adding the applicable MS4 permittee to the list of those to notify when any of the conditions in Part I.J.1. or I.J.2. are met.	SEMSWA, Arapahoe County CP Compliance	Comment partially incorporated Regulated MS4s are typically cities, towns, and other public entities located in urbanized areas. Division issued permits to MS4s include program requirements to minimize the discharge of pollutants from the MS4 to the maximum extent practicable. The division adds a requirement to Part I.J for permittees that discharge to an MS4 to notify that MS4 when spills or releases in Part I.J.1.a. occur and reach the MS4 system; however, is not requiring permittees to provide notification under Part I.J.2. While the division understands MS4s need to protect their systems, notification of conditions in Part I.J.2 can occur for minor reasons and result in unnecessary notifications. Alternatively, MS4s can review DMR data available through EPA's ECHO website to determine which facilities have benchmark exceedances or have attained Level 3 status.

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						MS4 notification regarding many corrective actions are also unnecessary. For example, during routine inspections, permittees may often discover the need for minor repairs such as sweeping up small spills. Minor corrective actions that fall under Part I.J.1.d or e are common, but quickly resolved, preventing impacts from the industrial stormwater discharge. For this reason, the permit only requires notifications to MS4s for conditions in Part I.J.1.a, b, c or Part I.J.2 as these conditions present a higher risk of pollutants being released to the MS4. It is also important to note that in many circumstances COR900000 permittees do not convey stormwater to a regulated MS4, rather they discharge directly to a receiving water or discharge via an unregulated storm sewer system.
246	Permit	I.J.4.a Corrective Action Documentation Deadlines	The word "notwithstanding" is defined by websters dictionary as "despite, nevertheless, however, or although". The intent of this sentence is not clear.	Reword this sentence to better clarify intent.	Metro Water Recovery	Comment incorporated into the permit The division changed text to "In addition to"
247	Permit	I.J.4.c.i(A) AIM Corrective Action Documenta	The permit states: *"Within 24 hours of receipt of laboratory results indicating the trigger condition, document inspection of all industrial areas draining to the outfall"*	Change language within this section to align with Part I.J.3.b.ii.(A)	Metro Water Recovery	Comment incorporated into the permit. The division changed Part I.J.4.c.i(A) deadline to "within 7 days of knowledge."

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		tion Deadlines	However, in Part I.J.3.b.ii.(A) the permit reads: *"Within 7 days of knowledge of knowledge of the trigger condition, inspect all industrial areas…"* This does not align with Part I.J.3.b.ii.(A)			
248	Permit	I.K Reporting and Record-keeping	The general permit makes it unclear whether visual assessment will be required to submitted through Net-DMR. We assume as previous permit that visual assessments don't apply to this requirement	If this is incorrect, please clarify within permit language.	Ball Aerospace	Comment incorporated A sentence was added to Part I.K.1 clarifying that visual assessment results are documented in the SWMP rather than reported in DMRs.
249	Permit	I.K.1 Reporting and Record-keeping	The only monitoring requirements at Vance Brand Municipal Airport should be quarterly (there are no deicing activities, see comment below). If only quarterly monitoring is required, can the DMR reporting frequency be quarterly as well? Please confirm that visual monitoring also requires digital submittal of a DMR. Please provide a link to the referenced Net-DMR service.	Clarify monitoring and reporting requirements.	Judah Gaioni City of Longmont	Regardless of the monitoring frequency, the results are reported quarterly. Visual Assessment and PFAS monitoring would occur quarterly. A sentence was added to Part I.K.1 clarifying that visual assessment results are documented in the SWMP rather than reported in DMRs.
250	Permit	I.K.3 Annual Report	"Annual reports must be received by the division March 31 the following year. The Annual Report must include:"	Please provide a template/draft of the annual report for the next public comment period.	Troy Nedved, RT Civil Consultants- For and on behalf of Meridian Metropolitan District	Upon finalizing the permit, the division will prepare annual report forms. The annual report forms reflect the requirements of the permit, therefore, there is no additional public comment period. However, the division welcomes feedback from permittees on designing the forms to simplify reporting specified in the final permit.

#	Document Permit or Fact Sheet	Part of Document	Comment	Request: Specific change you are asking for	Commenter	Response
251	Permit	I.L Other Terms	*All dischargers must comply with the lawful requirements of counties, drainage districts and other state or local agencies regarding any discharges of stormwater to storm drain systems or other water courses under their jurisdiction.*" As MS4 permit holders, SEMSWA and the County support the requirement to comply with local requirements for discharges of stormwater to our drainage systems and water courses under our jurisdiction. Please add that for discharges to a permitted MS4, notification to the permitted MS4 is required for application, exceedance of benchmark, and non-compliance notification. MS4 permit holders are responsible for discharges from the MS4 to waters of the state. When an industrial permit holder contributes to the MS4 discharge, it is important that an exceedance or non-compliance be reported to the owner of the system for the safety of employees working in the system and to address any downstream effects within the MS4 from an exceedance or non-compliance.	Please consider adding the following language or similar language to Part I.L. *Other Terms and Conditions*, "***For discharges to a permitted MS4, notification to the permitted MS4 is required for application, exceedance of benchmark, and non-compliance notification***."	SEMSWA, Arapahoe County CP Compliance	Comment partially incorporated The permit retains the requirement for permit applicants to provide a copy of the application to an MS4, to which they discharge, upon request (Part I.L) and adds Part I.A.3.a.vi, requiring that a new applicant that will discharge to an MS4 must provide the MS4 with a copy of the application. In this way MS4s are alerted to industrial activities that could impact their system. The division is not requiring notification to MS4s when a benchmark is exceeded. Benchmark monitoring is reported electronically through NetDMR. MS4s can access the results through EPA's ECHO website. The division does not believe that separate reporting of benchmark exceedances is warranted; however, to address safety and prevent impacts to the MS4 system, which could ultimately impact receiving waters, the division has added MS4 notification for Conditions That Must Be Eliminated, under Part I.J.1.a. See Comment 245
252	Permit	II.F Standard Conditions	Part II.F (Page 36) states: "The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance	Provide clear verbiage	Lauren Wiarda / Michael Fronapfel. Centennial Airport	The permit condition is required in all CDPS permits and stems from Regulation 61.8(8)(h) and 40 CFR section 122.41(f). The statement means that even if a permittee is in the process of requesting permit

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			does not stay any permit condition." This sentence is unclear in its meaning.			changes or is involved in notifications required through other parts of the permit, they are still obligated to comply with all the permit terms, even if the changes/notifications are associated with efforts to achieve compliance.
253	Permit	III PFAS Monitoring	**2. The Division proposes to apply the "TSD" method for quantitative reasonable potential.** The Draft Permit language requiring (i) a 10-sample minimum for Sectors A, B, C, E, K, L, N, O, P, S, AA, and AC and (ii) establishing a significance threshold at one-half of the Policy 20-1 PFAS translation levels, along with the Draft Permit's establishment of numeric effluent limits, demonstrates that the Division proposes to establish numeric effluent limits using the quantitative reasonable potential process described at Clean Water Policy 1[12], and based on the TSD Method[13]. This approach is unreasonable and unprecedented. The TSD Method was developed for steady state process water discharges, such as those from POTWs. The episodic nature of stormwater, the high variability of pollutant concentrations, and lack of a direct nexus to receiving water instream concentrations, render this method inappropriate for stormwater discharges. The TSD method is fundamentally based on instream exposure to aquatic life. The Division sets the stage to apply this method for PFAS, for which the WQCC Policy 20-1 translation levels apply only to segments classified for water supply and are based on long term (chronic) exposure at the point of consumption, not at the point of use. The Division should remove the proposed Draft Permit requirements related to PFAS, numeric effluent limits, 10- sample minimums, and establishment of half of a water		David Steinberger – Denver City Attorney's Office	See Comments 37, 55, 109, and 254

#	Document Permit or Fact Sheet	Part of Document	Comment	Request: Specific change you are asking for	Commenter	Response
			quality standard or translation level as thresholds and be clear that quantitative reasonable potential *and* numeric effluent limits for stormwater are infeasible. [12] WQCD Implementation Policy Clean Water 1, Determination of the Requirement to Include Water Quality Standards Based Limits in CDPH Permits Based on Reasonable Potential. Effective November 18, 2013. [13] EPA, Technical Support Document for Water Quality-based Toxics Control, 1991.			
254	Permit	III High Risk Sectors	After collecting 10 quarterly samples all PFAS samples are below 35 ng/L, the facility may discontinue monitoring. This will result in 2.5 years of costly sampling for an expensive parameter without any demonstration that it is a pollutant source for the facility.	PFAS sampling events should be significantly reduced unless there is a demonstrated release of PFAS.	Wright Water Engineers on behalf of various clients	Comment partially incorporated PFAS are well documented to be pollutants of concern at facilities in the High Risk Sectors; however, the division agrees to reduce PFAS monitoring in the final permit by 1) limiting it to cases where the permittee discharges to a receiving water with a designated use of water supply 2) allowing samples to be collected from substantially identical outfalls and 3) replacing the 10 sample minimum a requirement to collect 4 samples total. Appendix D and Part III monitoring requirements for high risk sectors incorporate these changes. The use of AFFF is largely associated with FAA requirements that apply to Part 139 airports. To reflect this, monitoring for PFAS in Sector S is changed to apply only to permittees at Part 139 airports or other airports

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						that have stored, used, or released PFAS containing foam. Permittees are also eligible to apply for monitoring grants from CDPHE, which can include contractor assistance for sample collection. See https://cdphe.colorado.gov/pfas-projects
255	Permit	III Benchmark Parameters	Monitoring parameters have expanded for most Sectors for benchmark and numeric limits	Follow EPA MSGP for required parameters.	Wright Water Engineers on behalf of various clients	The permit does not include any more numeric limits than in the previous permit with the exception of Sector S ELGs. Case-by-case numeric limits were indicated in the previous permit and have only been clarified in this permit. See comment 55. While the renewal permit contains a new pH benchmark for Sector E2 and retains an iron benchmark that EPA's MSGP does not, it is also important to note that the EPA MSGP requires several Sectors conduct new indicator monitoring for pH, TSS, and COD and requires monitoring for PAHs where coal tar sealcoat has been newly applied or reapplied. These requirements are not in the COR90000 renewal permit; rather monitoring and other permit requirements are specific to Colorado. Taking this into consideration, monitoring requirements may be less than in the EPA permit, while the overall protectiveness of COR900000 permit is similar to that of EPA's MSGP.

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256	Permit	III.L High Risk Sectors	The Draft permit would require PFAS benchmark monitoring for all Sector L facilities, subject to the possible ability to cease monitoring after 10 quarterly samples. Tri-State relies on the current permit at one of its ash disposal facilities near Nucla, CO. This disposal facility received ash from the now retired Nucla Station. Ash landfills are very different from other types of landfills in that they receive only one type of waste, often from a single/known source, and ash is an inert material that does not break down or decompose over time like organic materials. There is not an inherently higher risk of PFAS in stormwater discharges from ash landfills. Due to the nature of ash and the narrow source of the waste stream, it does not appear necessary to have an automatic PFAS monitoring requirement for this sub-category of landfills. Tri-State understands why PFAS monitoring is being sought for other types of landfills that receive mixed and variable waste streams, but ash landfills are unique and should receive different treatment within the sector-specific requirements of this permit.	The division should modify the draft requirements for Sector L PFAS monitoring in Table L- 1 by creating an exception for Sector L facilities that solely dispose of ash. Such an exception could be developed in a variety of ways, such as by a footnote specifically excluding facilities disposing of power plant ash. Another approach could be similar to how Sector P refers to specific SIC. An exception could be built into Table L-1 that specifically excludes PFAS monitoring at facilities described by SIC 49539901, collection and disposal of ashes. Regardless of the method, the final permit should not automatically require PFAS monitoring for ash landfills, based on the nature of the waste stream compared to other types of Sector L facilities.	Tri-State Generation and Transmission Association, Inc	Comment incorporated with the requirement that the landfill can only contain coal ash and no other coal combustion residual from other operations that may contain additives containing PFAS. Most coal ash landfills are permitted under Sector O; however, the final permit includes an exception for coal ash landfills.
257	Fact Sheet	III.N High Risk Sectors	**F. Sector N Does Not Use PFAS and Should Not Be a High Risk Sector for PFAS.** In the Proposed Permit, as noted in the Fact Sheet, Appendix D shows that Sector N, which includes recycling facilities, is considered one of many “High Risk Sectors” for PFAS. Many of these High Risk Sectors use PFAS-containing materials intentionally as part of their manufacturing operations because use of these PFAS-containing materials facilitates their manufacturing process		David Wagger –Institute of Scrap Recycling Industries, Inc	No change PFAS contamination of stormwater is not limited to cases where PFAS containing materials are intentionally used as part of the manufacturing process. For example, the source of PFAS at landfills can be due to wastes accepted at landfills or even contaminated soil used as a daily cover. Similarly, PFAS can

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			or adds value to the manufactured product. This is not the case for Sector N. PFAS neither facilitates the recycling process nor adds value to the materials being recycled. Sector N should not be included among the High Risk Sectors for PFAS in the Final Permit.			result from the release of firefighting foam at Sector N facilities or the use in stain resistant material in upholstery which can end up in auto shredder residue (see Interstate Technology & Regulatory Council [ITRC] Fact Sheet 2.6 PFAS Releases to the Environment). If a Sector N facility does not have auto shredder residue or other materials that are known to contain PFAS, then the permit does not require that facility to monitor.
258	Permit Fact Sheet	III.N I.3.b High Risk Sectors	F. Sector N Does Not Use PFAS and Should Not Be a High Risk Sector for PFAS. In the Proposed Permit, as noted in the Fact Sheet, Appendix D shows that Sector N, which includes recycling facilities, is considered one of many "High Risk Sectors" for PFAS. Many of these High Risk Sectors use PFAS-containing materials intentionally as part of their manufacturing operations because use of these PFAS-containing materials facilitates their manufacturing process or adds value to the manufactured product. This is not the case for Sector N. PFAS neither facilitates the recycling process nor adds value to the materials being recycled. Sector N should not be included among the High Risk Sectors for PFAS in the Final Permit.		David Wagger -Institute of Scrap Recycling Industries, Inc	See comment 257
259	Permit	III.O Steam Electric Generating Facilities	It appears that the first table in this Part should be titled as O-1. An editorial comment.	Adjust alphanumeric titles for the two tables in this section.	Tri-State Generation and Transmission Association, Inc	Comment incorporated
260	Permit	III.S.2.c.i III.S.2.c.ii	This section appears to indicate that each individual operator must obtain coverage under this permit, regardless of how Implementation Responsibilities are distributed.	Clarification on how to apply Multiple Operators regulations.	Judah Gaioni City of Longmont	An airport tenant must obtain coverage under the COR900000 permit if they have a primary SIC code of 4512, 4513, 4522, or 4581

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		Airport Tenants	If the Airport Authority 'compiles and reports on tenants', do tenants still need to obtain coverage under this permit?			and they conduct any of the following activities: vehicle maintenance, equipment washing or deicing, as described in 5 CCR 1002-61.3(2). However, Part III.S.2.e.ii allows flexibility in how airport authorities collaborate with tenants to implement permit responsibilities, particularly for SWMP requirements and monitoring.
261	Permit	III.S.2.c.ii Air Transportation Sector	The second bullet has an asterisk (*) after the word 'usage'. What does that reference?	Possible typo correction, or clarification on reference	Judah Gaioni City of Longmont	Comment incorporated into the permit The asterisk was a typographical error and has been removed for the final permit.
262	Permit	III.S.2.c.ii Airport Tenants	What if one of the airport's tenants is a military base? They operate under the EPA MSGP. Language should be added to distinguish tenants.	Modify	Kristine Andrews – City of Colorado Springs	No change The division's authority does not extend to covering federal facilities and it is unnecessary to call this out in the COR900000 permit.
263	Permit	III.S.2.c.iii Air Transportation Sector	Section S.c.iii (Page 86) of the permit uses the acronym SWPPP without context. Please provide further elaboration on the definition of SWPPP.	Include definition of SWPPP	Lauren Wiarda / Michael Fronapfel. Centennial Airport	Comment incorporated The division has corrected the typographical error by changing "SWPPP" to "SWMP." The division assumes the commenter's original reference to "S.c.iii" refers to III.S.2.c.iii
264	Permit	III.S.2.c.iv Airport Tenants	If tenants independently perform, document, and submit information on their own activities, and have their own coverage under this permit, are they fully liable for all areas within their SWMP-established coverage area? What liability does the	Clarification on how to apply Multiple Operators regulations.	Judah Gaioni City of Longmont	No change Tenants with permit coverage are responsible for complying with their permit conditions. Airport

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			Airport Authority have if an illegal discharge occurs in a tenant's area?			authorities are responsible for ensuring they meet their own permit requirements. Liability is beyond the scope of this permit. Permit responsibility associated with discharges will depend on many factors and are best addressed on a case-by-case basis by contacting the division as specific issues arise.
265	Permit	III.S.3 Airport Tenants	If there are tenants that are mandated under federal EPA requirements, and store PFAS-containing foam, this should be distinguished in permit requirements.	Clarify	Kristine Andrews – City of Colorado Springs	Part III.S.2 explains that each individual operator at an airport must obtain permit coverage. A tenant that stores PFAS containing foam, discharges stormwater associated with industrial activity, and meets the definition of "operator" in Appendix C would therefore require permit coverage.
266	Permit	III.S.3.a.vi Deicing	The proposed language requires airports and airlines to "where feasible, eliminate", instead of "minimize", the use of urea and glycol based deicing chemicals for both runway and aircraft deicing. Runway and aircraft deicing fluids are directed by FAA to ensure passenger Safety. Deicing chemicals are required to be used as necessary to maintain pavement and aircraft surfaces so they can be cleared for safe operation.	Remove the proposed language and adhere to the language in the MSGP.	Adam Walters – Southwest Airlines	Comment incorporated The division removed "and where feasible eliminate," from Part III.S.3.a.vi
267	Permit	III.S.3.a.vi(A) Deicing	The divisions proposed language for source reduction for runway and aircraft deicing operations is unreasonable and unworkable. See comment letter	Remove the proposed language and adhere to the language in the MSGP.	City and County of Denver Department of Aviation	Comment incorporated The division has replaced the language in this section with language from the 2021 EPA MSGP.
268	Permit	III.S.3.c PFAS Practice-	If fire training and firefighting are not done by permittee directly, how is the permittee supposed to conduct equipment testing?	Modify/Remove	Kristine Andrews – City of Colorado Springs	The division clarified that if the permittee owns equipment that was previously used with PFAS containing materials that they are subject to this requirement.

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		Based Limits				The division has removed the RDA for fire training at Sector S facilities. If runoff from fire training commingles with stormwater from vehicle maintenance, equipment cleaning, or deicing, then the permittee is responsible for activities that fall under their permit. Even if the permittee does not have operational control of the fire training, they are responsible for pollutants in the discharge subject to the permit, including pollutants due to run-on. See comments 138 and 260
269	Permit	III.S.3.c. III.S.3.d III.S.3.e PFAS Practice-Based Limits	The division's proposed fire-fighting requirements prescribe fire agent selection, fire response procedures, and equipment use. These requirements are unreasonable and unworkable. See previous comments.	Remove these subsections See attached comment letter	City and County of Denver Department of Aviation	No change The permit regulates the discharges of pollutants largely through practice-based limits. As in the case for other materials, it is not unreasonable to require permittees to perform pollution prevention methods in order to minimize their presence in stormwater discharges. Furthermore, the requirements in Part III.S.3.c, d, and e are similar to recommendations in *Best Practice Guidance for Use of Class B* Firefighting Foams (American Firefighting Foam Coalition, 2016).
270	Permit	III.S.3.d PFAS Practice-Based Limits	The Division does not have authority to make this requirement. What determines a significant flammable liquid hazard? Any emergency firefighting activity at an airport still requires the use of PFAS-containing foam at this time.	Remove	Kristine Andrews – City of Colorado Springs	Comment incorporated into the permit The division removed this requirement and changed Part I.D.1.m to require permittees to

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						evaluate whether foams that do not contain PFAS may be used in some or all types of fires at the facility. The division recognizes that FAA requirements will be a factor in the evaluation. See comment 75
271	Permit	III.S.3.e PFAS Practice-Based Limits	This would only pertain to storage and should be noted here.	Modify	Kristine Andrews - City of Colorado Springs	Comment partially incorporated into the permit The requirement may apply to any non-emergency use or storage of PFAS. The division clarified this requirement as applicable only to non-emergency firefighting situations.
272	Permit	III.S.4.b Air Transportation SWMP	The addition of adding a narrative on potential for activities and facilities to contribute pollutants to stormwater is not practical as all of the activities listed have a potential to contribute to stormwater pollutants. For example, all runway deicer cannot be captured or there may be small leaks from ground service equipment that comes into contact with stormwater.	Remove	Kristine Andrews - City of Colorado Springs	No change The documentation promotes awareness among staff and provides information that may be necessary for the division to determine compliance with practice-based limits. This builds upon requirements in Part I.F.5 by adding the requirement to document "activities" in addition to "areas." This information helps the facility evaluate and comply with other parts of the permit.
273	Permit	III.S.4.d PFAS Practice-Based Limits	It is unrealistic for permittees to know which products contain PFAS when those materials are proprietary and so prevalent in every-day consumer products. Suggest applying this to fire-fighting industrial activity areas only.	Delete "Document control measures for storage and transfer of PFAS containing materials and their proper collection and disposal methods in the event of a release from their	Adam Walters - Southwest Airlines	Comment incorporated The division changed "PFAS containing material" to "PFAS containing foam." Note that airports are still subject to Part I.D.1.m

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				container." Or, please change "PFAS containing materials" to "AFFF". That will provide clarity for permittees.		requirements for PFAS containing materials.
274	Permit	III.S.4.d PFAS Practice-Based Limits	Remove for the reasons described in previous comments	Delete "Document control measures for storage and transfer of PFAS containing materials and their proper collection and disposal methods in the event of a release from their container."	City and County of Denver Department of Aviation	See comment 272
275	Permit	III.S.4.d PFAS Practice-Based Limits	Documenting control measures for storage and transfer of PFAS containing materials (per Table 1) including proper collection and disposal methods is unrealistic for airports. To gather information on all products used at airport and all its tenants is not practical.	Remove	Kristine Andrews – City of Colorado Springs	Comment incorporated This requirement has been changed to refer to PFAS containing foam, instead of "materials"
276	Permit	III.S.5.a Deicing	If no deicing activities occur at an Airport, are monthly visual inspections still required?	Clarify monitoring and reporting requirements.	Judah Gaioni City of Longmont	Monthly visual inspections are only required at airports during months in which deicing occurs. The division has added text to clarify this. Quarterly visual inspections are required for areas of vehicle maintenance and equipment washing.
277	Permit	III.S.5.b Deicing	The division's additional inspection scope language for airports deviates from the MSGP, is not clearly identified, explained or substantiated in the fact sheet, and is unclear. The MSGP additional inspection requirements for airports, contained in S.5.a of the draft permit, are adequate for deicing season.	Remove this provision and adhere to the language in the MSGP.	City and County of Denver Department of Aviation	Comment incorporated into the permit The division agrees that inspection scope is already addressed in Part I.G.1.c and III.S.5.a and has removed b.
278	Permit	III.S.6.a Table S-1	The PFAS monitoring requirements are unreasonable. Southwest has purposefully engineered and built a PFAS-free facility, only to	Make an exception for airport-permitted facilities to not have to monitor for	Adam Walters – Southwest Airlines	No change

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		and other sectors PFAS Monitoring	be required to monitor for PFAS in an area with no known historic PFAS releases. Therefore, PFAS monitoring is punitive for permittees who have eliminated these potential sources. This goes against the spirit of protecting storm water.	PFAS if AFFF is not stored on the premises or if there are no records of fire-fighting activities on the premises.		As explained in the fact sheet, PFAS was found in surface and ground waters throughout the state and are commonly found in surface and ground water at airports. If permittees have collected PFAS monitoring data to indicate there is no contamination, then these results may count towards satisfying the permit requirements. Please note that only *discharges* from portions of the airport facility where vehicle maintenance, equipment washing or areas where PFAS have been stored, used, or released to the ground are subject to the permit and thus the monitoring requirements. The division has narrowed the sampling requirements as discussed in comment 254
279	Permit	III.S.6.a Table S-1 and other sectors PFAS Monitoring	The division proposed PFAS monitoring requirements are unreasonable and unworkable. See previous comments.	Remove PFAS monitoring and notes 1, 2, and 3 See attached comment letter	City and County of Denver Department of Aviation	See comment 254
280	Permit	Part III.S.a.vi Deicing	**VII. <u>Comment 27: Source Reduction for Runway and Aircraft Deicing Operations.</u>** For runway and aircraft deicing operations, the MSGP requires operators to "minimize" the use of urea and glycol-based deicing chemicals "consistent with safety considerations". The MSGP includes examples of pollutant minimization practices. The Division's draft permit modifies and		David Steinberger – Denver City Attorney's Office	Comment incorporated The division assumes the comment refers to Part III.S.3.a.vi. The division has added text consistent with EPA's 2021 MSGP.

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			changes the location and context of the MSGP language. The result is that the proposed language requires airports and airlines to "where feasible, eliminate" the use of urea and glycol based deicing chemicals" for both runway and aircraft deicing. Uses of runway[16] and aircraft deicing fluids[17], including acceptable products and performance standards, are directed by FAA. Deicing chemicals are required to be used as necessary to maintain pavement and aircraft surfaces so they can be cleared for safe operation. These requirements, and airport practices, do not promote unnecessary use of deicing chemicals, and environmental considerations are included in the FAA's requirements. EPA was intentional in their language, the Division provides no basis for their proposed language, and the Division should adhere to the language in the MSGP. [16] FAA Advisory Circular 150/5200-30D, Airport Field Condition Assessments and Winter Operations Safety, 7/29/2016. [17] FAA Advisory Circular 120-60B, Ground Deicing and Anti-Icing Program, 12/20/2004.			
281	Permit	Appendix C "Feasible"	Add the definition of feasible contained in the MSGP	Add "infeasible" means not technologically possible or not economically practicable and achievable in light of best industry practices	City and County of Denver Department of Aviation	Comment partially incorporated The division added a definition for "infeasible" that is the same as in other division permits.
282	Permit	Appendix C "Industrial Activity"	Revise the citation for clarity and consistency with the MSGP	Replace the reference to "5 CCR 1002-61.3(2)" with "5 CCR 1002-61.3(2)(e)(iii)"	City and County of Denver Department of Aviation	Comment partially incorporated The division's regulations at 61.3(2)(e)(ii)(D) includes facilities that have been designated under 61.3(2)(e)(vii) (residual designation). Since this permit includes a Sector AD, the reference should include the

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						residual designation portion of the regulation. However, the division agrees to limit the citation to 61.3(2)(e).
283	Permit	Appendix C "Stormwater Discharges Associated with Industrial Activity"	Revise the language for clarity and conformance with Regulation 61.	Replace "for the categories of industries identified in this permit" with "for the categories of industries identified in 5 CCR 1002-61.3(2)(e)(iii)"	City and County of Denver Department of Aviation	See comment 282
284	Permit	"state waters"	Appendix C Definitions and Abbreviations should contain a definition of **State Waters** including how it is selected in relation to discharge monitoring.	Include definition of State Waters	Lauren Wiarda / Michael Fronapfel. Centennial Airport	Comment incorporated The division added the definition of "State waters", taken from 25-8-103 (19), C.R.S. The state's definition of State Waters encompasses many different types of surface and ground waters. Because of the broad application, it isn't feasible to describe every type of state water. After reviewing the added definition, if persons still cannot determine whether there is a discharge to a state water they should contact the division for additional guidance. The division also notes that runoff from most industrial sites eventually discharges to State waters and that the discharge point does not have to occur on-site to require permit coverage.

#	Document Permit or Fact Sheet	Part of Document	Comment	Request: Specific change you are asking for	Commenter	Response
285	Permit	Appendix D Flow Diagram to Determine PFAS Monitoring requirements	Does this flow diagram apply to Sector S facilities with no history or PFAS use, storage, releases to the land or surface?	Please clarify	Adam Walters - Southwest Airlines	The flow diagram in Appendix D Applies to High Risk Sectors (A, B, C, E, N, O, P (SIC code 5171 only), AA, and AC) only. Automatic monitoring applies to Sectors K, L, S. Sector S applies to Part 139 airports or airports where PFAS containing foam has been stored, used, or released. Tenants and airport operators may coordinate sampling such that samples are collected at locations representative of combined discharges
286	Permit	Appendix D Flow Diagram to Determine PFAS Monitoring requirements	The division proposed PFAS monitoring requirements are unreasonable and unworkable. See previous comments.	Remove this requirement See attached comment letter	City and County of Denver Department of Aviation	See comment 254
287	Permit	Appendix D	Should read "Appendix D" not Appendix C in the header of the permit.	Edit the header.	City of Aurora	Comment incorporated

II. Division Initiated Changes Subsequent to Public Notice

#	Document Permit or Fact Sheet	Part of Document	Comment	Change	Commenter	Response
1	Permit	Part I.A.3	The waivers process for DMRs in the draft was not current.			The division updated language regarding waivers for electronic delivery of applications. This was necessary to conform to division procedures which are compliant with state and federal electronic reporting requirements. This will not affect applications received prior to the permit issuance date.
2	Permit	Part I.H.7.b	Sentence reads: "In cases where monitoring is "report only" then the analytical method used must have a ML less than the applicable water quality criteria included in the permit certification. The division established minimum PQLs for select parameters are listed in Table 2.		WQCD	The division added "for the pollutant" to clarify that the criteria will not be specified in the certification. Criteria concentrations can be found in Regulations 31-39.
3	Permit	Appendix B, 1. Permit Required Reports and Submittals	Part I.J.4.iii(C), Level status, As needed 4th Quarter DMR following discovery of Level 3 status. The requirement is Inconsistent with other areas of the permit	Change to 4th qtr to be consistent with Part I.K.2 and I.K.4	WQCD	Changed "3rd Qtr" to 4th Qtr
4	Permit	Part III.K, Table K-1	There is a typographical error for the Selenium benchmark. It was listed in the draft as 0.05 mg/L; whereas the fact sheet explained that the benchmark was to be updated to 0.0015 mg/L for lentic receiving waters and 0.0031 mg/L for lotic receiving waters.		WQCD	The benchmark in Table K-1 has been corrected to "0.0015 mg/L (lentic) or 0.0031 mg/L (lotic)". These benchmark concentrations were explained in the draft fact sheet.
5	Fact Sheet	Section I.3.a	The sentence "More information about Policy 20-1 can be found on page 5 of the Water Quality Assessment" is irrelevant to this permit and was included inadvertently in the fact sheet.		WQCD	Deleted text.
6	Fact Sheet	Section I.3.b Landfills-automatic monitoring	The sentence: "Responses from the division's PFAS survey resulted in 11 out of 55 respondents in landfill sectors K and L reporting existence of Class B firefighting foam or likely existence due to nearby potential sources (see Attachment 1 to this Fact Sheet)." was updated to remove a		WQCD	Changed results to "11 out of 55"

			duplicate response and a facility that was not in Sector K, L, and was not a landfill.			

Exhibit 1 to comments submitted by Coalitions can be accessed in the comment letter available at this link: https://oitco.hylandcloud.com/CDPHERMPop/docpop/docpop.aspx?clienttype=html&docid=9717978

Exhibit 2 (Rebuttal Testimony of GEI Consultants, Inc. on Behalf of Colorado Mining Association, In the Matter of Proposed Revisions to Basic Standards and Methodologies for Surface Water, Regulation #31 (5 CCR 1002-31), submitted by Colorado Mining Association, can be accessed at this link: https://oitco.hylandcloud.com/CDPHERMPop/docpop/docpop.aspx?clienttype=html&docid=9753501.