



Colorado Department
of Public Health
and Environment

WATER QUALITY INFORMATION BULLETIN

Highlights For January 2009

- **Agenda: Rulemaking Hearing and Business Meeting, January 12, 2009**
<http://www.cdphe.state.co.us/op/wqcc/MeetingsandNotices/wqag.htm>
- **Notice of Final Adoption**
 - Colorado Primary Drinking Water Regulations (5 CCR 1003-1),
<http://www.cdphe.state.co.us/regulations/wqccregs/index.html>
- **Summary of Proceedings/Motions (DRAFT)**
Water Quality Control Commission Regular Meeting, December 8, 2008
<http://www.cdphe.state.co.us/op/wqcc/MeetingsandNotices/meetingsummaries/0812SUM.pdf>

PUBLICATION DATE: December 31, 2008

A. PERMIT ACTIONS

1. PERMITS SENT TO PUBLIC NOTICE ON DECEMBER 19, 2008 – COMMENTS DUE BY JANUARY 19, 2008

The website to view public notices and drafts:

www.cdphe.state.co.us/wq/PermitsUnit/publicnotice/publiccomment.html

2. DISCHARGE PERMITS ISSUED – NOVEMBER 2008

<u>PERMITTEE</u>	<u>PERMIT NO.</u>	<u>COUNTY</u>	<u>DATE ISSUED</u>
Durango/La Plata County Airport Water Treatment Facility	CO-047457	La Plata	11/25/2008

(A) Denotes Amendment

3. GENERAL PERMIT CERTIFICATIONS – NOVEMBER 2008

<u>PERMITTEE</u>	<u>PERMIT NO.</u>	<u>COUNTY</u>	<u>DATE ISSUED</u>
Allen Mitchek Cattle Company #3 (A)	COA-931036	Logan	11/11/2008
Long's Peak Dairy Johnstown (A)	COA-931051	Weld	11/11/2008
Beefco Feedyard, LLC	COA-931075	Washington	11/21/2008
Overland Pass Pipeline	COG-604052	Rio Blanco	11/03/2008
GH Phipps Construction Companies	COG-072900	Denver	11/03/2008
DCP Midstream LP	COG-604009	Statewide	11/10/2008
Marathon Oil Company	COG-072895	Garfield	11/10/2008
City of Thornton	COG-072896	Adams	11/10/2008
Marathon Oil Company	COG-072897	Garfield	11/10/2008
Arapahoe Utilities & Infrastructure	COG-072901	Douglas	11/10/2008
The Neenan Company, LLLP	COG-072881	Larimer	11/11/2008
Lawrence Construction	COG-072905	Douglas	11/12/2008
Tezak Heavy Equipment Company, Inc	COG-072904	Fremont	11/13/2008
Saunders Construction	COG-072899	Douglas	11/20/2008
Jalisco International, Inc	COG-072903	Arapahoe	11/20/2008
American Infrastructure	COG-072906	Arapahoe	11/20/2008
Terra Construction	COG-072912	Adams	11/20/2008
Rocky Mountain Natural Gas, LLC	COG-072911	Garfield	11/20/2008
Town of Seibert (A)	COG-589028	Kit Carson	11/25/2008
St. Anthony's Central	COG-072909	Jefferson	11/25/2008
Bone Construction	COG-072827	San Miguel	11/28/2008
St. Malo Retreat Center	COX-632005	Boulder	11/04/2008
Dotsero Mobile Home Park, LLC	COX-631012	Eagle	11/04/2008
Town of Wiggins	COX-631013	Morgan	11/04/2008
Holt's Guest Ranch	COX-621025	Gunnison	11/14/2008

(A) Denotes Amendment

B. STORMWATER DISCHARGE GENERAL PERMIT CERTIFICATIONS – NOVEMBER 2008

COR-010000	Light Industrial Activities	3
COR-020000	Heavy Industrial Activities	1
COR-030000	Construction Activities	108
COR-340000	Sand and Gravel Mining	2
COR-320000	State Highway Sand and Gravel	0
COR-040000	Metal Mining	0
COR-060000	Recycling	0

Stormwater permit applications, guidance documents, etc, are available at:

<http://www.cdphe.state.co.us/wg/PermitsUnit/stormwater/index.html>

To find out more about the Stormwater Program contact: Nathan Moore (303) 692-3555 nathan.moore@state.co.us,

Matt Czahor (303) 692-3575 matthew.czahor@state.co.us, or Kathy Rosow (303) 692-3521 kathleen.rosow@state.co.us

C. ENFORCEMENT/CIVIL PENALTIES/CONSENT OF SETTLEMENT AGREEMENTS

1. ENFORCEMENT – NEW ACTION

<u>RESPONSIBLE PARTY</u>	<u>ACTION</u>	<u>COUNTY</u>	<u>DATE</u>
EnCana Oil & Gas Inc (Mamm Creek)	Stormwater- Compliance Order on Consent	Garfield	11/24/2008
Beulah Water Works District	Drinking Water- Enforcement Order	Pueblo	11/28/2008
Cedar Park Road Maintenance Corporation, Cedar Springs Improvement Association, White Trucking and Construction, LLC	Industrial- Compliance Order on Consent	Larimer	12/01/2008
Petroleum Development Corporation	Stormwater – Notice of Violation/ Cease and Desist Order	Garfield	12/03/2008
Johnson's Corner, Inc	Domestic – Amendment to Notice of Violation/ Cease and Desist Order	Larimer	12/11/2008
Gilpin County Public Library	Drinking Water- Enforcement Order	Gilpin	12/11/2008
Town of Johnstown	Domestic – Compliance Order on Consent	Weld	12/11/2008
EnCana Oil & Gas (Paradox Basin)	Stormwater – Order for Civil Penalty	Montrose and San Miguel	12/19/2008
Hidden Valley Water Company, Inc	Drinking Water- Amendment to EO	Mesa	12/19/2008
Steamboat Lake Water & Sanitation District	Drinking Water – Enforcement Order and Admin Penalty Assessment	Routt	12/19/2008
Fort Garland Water & Sanitation District	Drinking Water – Enforcement Order and Admin Penalty Assessment	Costilla	12/19/2008

2. CONSENT OR SETTLEMENT AGREEMENTS TO PUBLIC NOTICE

NONE SINCE LAST PUBLICATION

3. FINAL AGENCY ACTIONS

NONE SINCE LAST PUBLICATION

4. NOTICE OF ENFORCEMENT HEARINGS

NONE SINCE LAST PUBLICATION

D. CONSTRUCTION ACTIONS

1. Site Applications Reviews

<u>APPLICANT</u>	<u>TYPE</u>	<u>FACILITY DESCRIPTION</u>	<u>ACTION</u>	<u>COUNTY</u>
YMCA of the Pikes Peak Region – Camp Shady Brook	Site Application #4519 Correction	The approved 30-day average hydraulic and organic capacities of the Camp’s recirculation sand filter wastewater treatment facility are 12,000 gpd and 28.8 lb BOD ₅ /day respectively	Approved 11/12/2008	Douglas
CRV Indian Shadow Preserves, LP	Site Application #5026	Integrated Surge/Anoxic/Mix Sequencing Batch Reactor (ISAM SBR), and chlorination disinfection	Approved 11/19/2008	La Plata
Fraser Valley Metropolitan Recreation District – Pole Creek Golf Course Clubhouse	Site Application #5027	Septic tanks followed by an AdvanTex advanced wastewater treatment system and a leachfield	Approved 12/10/2008	Grand
Crested Butte South Metropolitan District	Site Application #5028	New 0.125 Anoxykaldness IFAS treatment train, in parallel with existing 0.1 MGD activated sludge train	Approved 12/02/2008	Gunnison
Ridgway River Development LLC	Site Application #5029	Lift Station and force main. Design capacities 0.0236 MGD Average Capacity, 0.0944 MGD Peak Capacity	Approved 11/18/2008	Ouray
City of Rocky Ford – Fairgrounds Lift Station	Site Application #5030	Lift Station and force main. Design capacities 0.029 MGD Average Capacity, 0.144 MGD Peak Capacity	Approved 11/19/2008	Otero
City of Las Animas – 8 th & Moore Lift Station	Site Application #5031	Lift Station and force main. Design capacities 0.256 MGD Average Capacity, 0.936 MGD Peak Capacity	Approved 12/04/2008	Bent
City of Las Animas – North Moore Lift Station	Site Application #5032	Lift Station and force main. Design capacities 0.021 MGD Average Capacity, 0.078 MGD Peak Capacity	Approved 12/04/2008	Bent
Town of Hudson	Site Application #5035	Influent lift station and headworks,; sequencing batch reactor basins; aerobic biosolids digester; post equalization tank; ultraviolet disinfection; effluent chlorination; effluent metering and monitoring with an outfall to Box Elder Creek	Approved 12/09/2008	Weld

D. CONSTRUCTION ACTIONS (cont.)

2. Plans and Specifications Reviews

<u>APPLICANT</u>	<u>SITE APPLICATION</u>	<u>FACILITY DESCRIPTION</u>	<u>ACTION</u>	<u>COUNTY</u>
Eastern Adams County Metropolitan District	No Site Approval Required	Installation of a single 6-inch ABB electro-magnetic flowmeter; construction of new 30-inch manhole with cover and frame to house flowmeter	Approved 11/17/2008	Adams
St. Vrain Sanitation District	Site Application #4976	48" and 36" interceptor (Tri-Area Trunkline)	Approved 12/11/2008	Weld
Town of New Castle	Site Application #4995	Expansion of existing facility with combination extended aeration activated sludge/fixed film attached growth processes for biological nutrient removal, circular clarifiers, UV disinfection, aerobic digestion, and solids dewatering	Approved 12/09/2008	Garfield
City of Rocky Ford – Fairgrounds Lift Station	Site Application #5030	Lift Station and force main. Design capacities 0.029 MGD Average Capacity, 0.144 MGD Peak Capacity	Approved 12/08/2008	Otero
City of Las Animas – 8 th & Moore Lift Station	Site Application #5031	Lift Station and force main. Design capacities 0.256 MGD Average Capacity, 0.936 MGD Peak Capacity	Approved 12/18/2008	Bent

E. WATER QUALITY CERTIFICATIONS (Section 401)

Water Quality Certifications, under Section 401 of the Clean Water Act, provide for Division determinations that federally issued permits and licenses will comply with the Basic Standards and Methodologies for Surface Water, the Basic Standards for Ground Water, surface and ground water classifications and water quality standards, and all other applicable water quality requirements for the affected waters.

- For the purposes of the antidegradation requirements found in Section 31.8 of the Basic Standards and Methodologies, the following projects have been reviewed to make a preliminary determination of the significance of such projects. Public comment on these preliminary determinations will be received for thirty days following the date of publication of this newsletter. More information on the specific projects can be obtained from John Hranac (john.hranac@state.co.us), (303) 692-3586) or Christy Pickens (christy.pickens@state.co.us), (303) 692-3584. The U.S. Army Corp of Engineers also reviews these projects, under Section 404 of the Clean Water Act, and a list of their current public notice can be found on their web site.***

E. WATER QUALITY CERTIFICATIONS (Section 401) (cont.)

1. PRELIMINARY DETERMINATION

<u>APPLICANT</u>	<u>C.O.E PERMIT #</u>	<u>ACTIVITY</u>	<u>COUNTY</u>	<u>WATERBODY</u>	<u>DETERMINATION</u>
#4211 Town of Castle Rock / Sellars Gulch Improvement Phase II	NOW-2008-1606-DEN	Project will consist of channel stabilization and create a trail in the project. Construct a drop structure on the tributary with two trail extensions. The proposed work would modify the existing channel under and downstream of the street bridge. Drop control structure to consist of a seepage cutoff wall, grouted boulder, and riprap. Install culverts and pave trail extensions. Applicant would also create more diverse riparian habitat with the project boundaries	Douglas	Unnamed tributary to Sellars Gulch, South Platte River Basin, Seg. COSPUS11a of Upper South Platte River Sub-basin	No further antidegradation review required
#4212 City of Fort Collins / Robert Benson Reservoir Re-Construction	NOW-2008-2391-DEN	Reconstruct the dam by removing existing vegetation, rip rap and other surficial materials, lowering the crest to the design level, and reconstructing the downstream embankment slopes. Applicant to build an emergency spillway and dredging to clear over 120 years of sediment which has accumulated in front of the drain	Larimer	Fossil Creek, Robert Benson Reservoir, South Platte River Basin, Seg. COSPCP13a of Cache le Poudre River Sub-basin	No further antidegradation review required

E. WATER QUALITY CERTIFICATIONS (Section 401) (cont.)

1. PRELIMINARY DETERMINATION

<u>APPLICANT</u>	<u>C.O.E PERMIT #</u>	<u>ACTIVITY</u>	<u>COUNTY</u>	<u>WATERBODY</u>	<u>DETERMINATION</u>
#4213 Timbers Estates Metropolitan District/ North Turkey Creek	NOW-2008-2658-DEN	Construct the stream diversion structure within the North Turkey Creek channel bed, provide erosion control at the upstream and downstream ends of the diversion structure, and place a pumping vault within the wetland area that will be recessed such that the top of the vault is at grade	Jefferson	North Turkey Creek, South Platte River Basin, Seg. COSPBE06 of Bear Creek Sub-basin	Potential long term water quality impacts
#4214 Will-O-Wisp Metropolitan District / Raw Water diversion and pipeline	NOW-2008-2659-DEN	Project purpose is to divert and direct water to the water treatment plant	Park	Elk Creek, South Platte River Basin, Seg. COSPUS04 of Upper South Platte River Sub-basin	Potential long term water quality impacts
#4215 Ouray Hydroelectric Plant	FERC-733-010	FERC re-license of hydroelectric facility	Ouray	Uncompahgre River, Gunnison River Basin, Seg. COGUUN03a of Uncompahgre River Sub-basin	Only temporary impacts to water quality

2. *The following projects have received a certification determination from the Division. For further information regarding these projects, please call the Division at (303) 692-3500.*

NONE SINCE LAST PUBLICATION

F. OUTREACH AND PROJECT ASSISTANCE UNIT

1. LOAN APPLICATIONS RECEIVED

NONE SINCE LAST PUBLICATION

2. LOANS APPROVED BY CWRPDA

<u>ENTITY</u>	<u>COUNTY</u>	<u>AMOUNT</u>	<u>PROJECT DESCRIPTION</u>	<u>DATE</u>
Town of Arriba	Lincoln	\$705,007	The project consists of installation of a new storage standpipe, rerouting the existing wells to the new standpipe, upgrading the existing distribution system, and improving disinfection	12/05/2008

F. OUTREACH AND PROJECT ASSISTANCE UNIT (cont.)

3. LOANS EXECUTED

NONE SINCE LAST PUBLICATION

4. STATE GRANT CONTRACTS EXECUTED

NONE SINCE LAST PUBLICATION

5. \$10,000 PLANNING AND/OR DESIGN GRANTS

<u>LOANEE</u>	<u>COUNTY</u>	<u>PROJECT DESCRIPTION</u>	<u>DATE</u>
Town of Cheyenne Wells	Cheyenne	The project consists of improvements to the existing wastewater treatment facility including lining of lagoons, upgrading surface aerator system, and treatment replacement	12/01/2008

6. WATER QUALITY IMPROVEMENT FUND

NONE SINCE LAST PUBLICATION

7. DRINKING WATER ELIGIBILITY ASSESSMENT

<u>LOANEE</u>	<u>COUNTY</u>	<u>PROJECT DESCRIPTION</u>	<u>DATE</u>
City of Lamar	Prowers	The project consists of includes upgrades to the town's treatment and distribution system, and storage tank improvements	12/02/2008
Town of Seibert	Kit Carson	The project consists of improvements and modifications to the existing wells, upgrades to the town's treatment and distribution system, and storage tank improvements	12/18/2008

8. PUBLIC HEARING/PUBLIC MEETING

NONE SINCE LAST PUBLICATION

9. FINDING OF NO SIGNIFICANT IMPACT AND CATEGORICAL EXCLUSION DETERMINATIONS

<u>LOANEE</u>	<u>COUNTY</u>	<u>PROJECT DESCRIPTION</u>	<u>DATE</u>
Town of Creede	Mineral	The project consists of water distribution line replacement and storage tank rehabilitation	11/18/2008
Town of La Veta	Huerfano	Replace segments of distribution system, upgrade treatment, chlorine contact, storage	11/20/2008
Town of Elizabeth	Elbert	The project consists of expansion of the Gold Creek Wastewater Treatment Facility from 0.12 MGD to 0.35 MGD and decommission of the older Running Creek Wastewater Treatment Plant	12/04/2008
Town of Romeo	Conejos	Upgrade WWTF, I/I problems, replace leaking connections	11/18/2008

F. OUTREACH AND PROJECT ASSISTANCE UNIT (cont.)

10. CONSTRUCTION LOAN COMPLETIONS

NONE SINCE LAST PUBLICATION

G. TOTAL MAXIMUM DAILY LOADS

NONE SINCE LAST PUBLICATION

SPECIAL NOTES

STATE OF COLORADO

Bill Ritter, Jr., Governor
James B. Martin, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S. Denver, Colorado 80246-1530 Phone (303) 692-2000 TDD Line (303) 691-7700 Located in Glendale, Colorado	Laboratory Services Division 8100 Lowry Blvd. Denver, Colorado 80230-6928 (303) 692-3090
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<http://www.cdphe.state.co.us>



Colorado Department
of Public Health
and Environment

December 16, 2008

To: Parties with an interest in the certified operator requirements for industrial wastewater facilities in the State of Colorado

From: Facility-Operator Program
Water Quality Control Division
Colorado Department of Public Health and Environment

Re: (1) Proposed changes to Regulation 100 (5 CCR 1003-2), "Water and Wastewater Facility Operators Certification Requirements"
(2) Announcement of pre-rulemaking stakeholder group: January 13, 2009, 1:30 PM in the Sabin Room at CDPHE – 43400 Cherry Creek Drive South, Denver CO 80246

During its spring 2008 session, the state legislature adopted an amendment, HB 1073, to the state's certified operator requirements (§25-9-101, *et seq.*, CRS). This amendment gives the Water and Wastewater Facility Operators Certification Board ("the Board") the authority to exempt certain classes of industrial wastewater facilities from the general requirement of supervision by a certified operator.

The Water Quality Control Division has been asked to propose amendments to Regulation 100 (5 CCR 1003-2) in order to implement this new authority. The Division intends to request that a rulemaking be scheduled for the Board's regular meeting on April 28, 2009.

After consultation with a variety of interests, the Division has developed a draft amendment to Regulation 100, sections 100.2, 100.6 and 100.44. The Division would appreciate receiving comments on the proposed rule by **Friday January 16, 2009**. For those who prefer to present their comments in person, the Division will host a stakeholder group on **Tuesday January 13, 2009 at 1:30 PM** in the Sabine Room (Bldg. A) at CDPHE at 4300 Cherry Creek Drive South, Denver CO 80246.

Both HB 1073 and the draft amendment to Regulation 100 are included at the end of this memorandum and may be accessed at www.cdphe.state.co.us/wq/WhatsNew/Reg100.html.

(cont.)

For more detailed information or directions, please contact Betsy Beaver at the Division at 303-692-3503 or at betsy.beaver@state.co.us.

**Part One:
Text of HB 1073**

25-9-104. Duties of the Board – rules. (4) The Board shall maintain for each water and wastewater facility a minimum class of certified operators required for its supervision; except that the Board may exempt certain industrial wastewater treatment facilities or classes of facilities from the requirement to operate under the supervision of a certified operator, based upon a determination that such an exemption is not inconsistent with the goal of assuring adequate operation of water facilities to protect the public health and environment. In determining whether to provide such an exemption, the Board may consider criteria including, but not limited to:

- (a) discharges of limited duration;
- (b) the sensitivity of the receiving waters;
- (c) the level of toxic pollutants in the discharge; and
- (d) situations where chemical, mechanical, or biological treatment techniques are not required to meet permit limits, including, but not limited to, sedimentation ponds at mining operations for construction materials, as that term is defined in section 34-32.5-103(3), C.R.S. (*Italics indicate new material in the statute.*)

**Part Two:
Draft proposed rule implementing HB 1073
(Proposed additions to Regulation 100 – 5 CCR 1003-2 – appear as underlined text. There are no proposed deletions to the existing text of Regulation 100.)**

100.2 DEFINITIONS

100.2(12) “Environmental Professional” means an individual with a post-secondary degree in environmental engineering, a directly related engineering field, environmental science, or a basic science such as chemistry, biology, or physics.

100.2(18) “Passive Wastewater Treatment” means treatment in which chemical, mechanical, or biological treatment techniques are not utilized.

100.6 INDUSTRIAL WASTEWATER TREATMENT FACILITY CLASSIFICATION

100.6.1 Classification

(a) Pursuant to §25-9-104(4), C.R.S., industrial wastewater treatment facilities shall be classified by the Board as Class 1 or Class 2 facilities. Class 2 facilities shall be exempt from the requirement to operate under the supervision of a certified operator. Facilities not classified by the Board as Class 2 facilities shall be classified as Class 1 facilities.

b) Class 2 Facilities

(i) Class 2 facilities shall include facilities:

A) which discharge only pursuant to an industrial stormwater permit, a construction stormwater permit, or a municipal stormwater permit, or

(B) which discharge pursuant to the Division's Low Risk Discharge Policy and follow the associated Low Risk Guidance documents.

(cont.)

(ii) Facilities which discharge pursuant to one of the following Colorado Discharge Permit System general industrial wastewater permits are eligible for classification as class 2 facilities:

COG-070000 Construction Dewatering Activities,

COG-130000 Aquatic Animal Production with Continuous and Intermittent Discharge,

COG-380000 Treated Water Distribution System Wastewater,

COG-500000 Sand and Gravel Process Water and Stormwater Combined,

COG-603000 Subterranean Dewatering and Well Development,

COG-604000 Hydrostatic Testing of Pipelines, Tanks and Similar Vessels,

COG-605000 Non-Contact Cooling Water, and

COG-607000 Commercial Washing of Outdoor Structures.

(A) Such a facility shall be classified as a class 2 facility following verification by the Division of the facility's written certification that:

- (I) the quality of the wastewater discharged is such that discharge permit limits can be met utilizing only passive treatment or no treatment, and
- (II) the facility has designated an environmental professional who is specifically responsible for overseeing the facility's operation and for ensuring compliance with the facility's discharge permit, including monitoring and reporting requirements.

(B) The Division shall notify the facility in writing of its classification determination.

(C) Each facility classified as a class 2 facility under the authority of this subsection shall re-certify in writing, by December 31st of each year, that the conditions in part (A) of this subsection continue to be met.

(D) The Board has the authority to reclassify any facility if the facility fails to comply with the requirements of its discharge permit or if the facility's operational practices result in a direct, negative impact on the public health or the environment.

(iii) A facility which discharges pursuant to either an individual industrial wastewater discharge permit or a general industrial permit not listed in 100.6.1(b)(ii) above may request classification by the Board as a class 2 facility.

(A) Considering the criteria in §§25-9-104(4)(a) through (d), C.R.S., the Board may approve class 2 classification for such a facility where it determines that the facility has demonstrated that:

- (I) the quality of the wastewater discharged is such that discharge permit limits can be met utilizing only passive treatment or no treatment, and
- (II) the facility has designated an environmental professional who is specifically responsible for overseeing the facility's operation and for ensuring compliance with the facility's discharge permit, including monitoring and reporting requirements.

(B) The Division shall evaluate a written request from the facility and shall provide the Board with a classification recommendation based upon the criteria in part (A) of this subsection and upon the criteria listed in §§25-9-104(4)(a) through (d), C.R.S.

(cont.)

- (C) The Board shall approve or deny such classification requests at an adjudicatory hearing to be held at a regularly scheduled Board meeting.
- (D) Each facility classified as a class 2 facility under the authority of this subsection shall re-certify in writing, by December 31st of each year, that the conditions in part (A) of this subsection continue to be met.
- (E) The Board has the authority to reclassify any facility if the facility fails to comply with the requirements of its discharge permit or if the facility's operational practices result in a direct, negative impact on the public health or the environment.

(c) Class 1 Facilities.

Class 1 industrial wastewater treatment facilities shall be further classified by the Division in accordance with the following four classes: Class D, Class C, Class B, or Class A. Class A is the highest level of classification

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**100.44 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE: APRIL 28, 2009
RULEMAKING; ADOPTED JULY 31, 2009; EFFECTIVE SEPTEMBER 30, 2009**

The provisions of section 25-9-104(4), C.R.S. (2008), provide the specific statutory authority for the adoption of these amendments to the established regulatory provisions of Regulation 100 (5 CCR 1003-2). The Board also adopted, in compliance with section 24-4-103(4), C.R.S., the following statement of basis and purpose.

BASIS AND PURPOSE

Subsection 100.2(12). The Board added a definition of "Environmental Professional" that sets requirements for persons charged with the responsibility for supervising industrial wastewater operations and for ensuring compliance with CDPS permit requirements. The Board intends that such persons be trained in fields relevant to their responsibilities.

Subsection 100.2(18). The Board adopted a definition of "Passive Wastewater Treatment" that parallels the statutory language of §25-9-104(4)(d), C.R.S.

Subsection 100.6.1. The Board adopted this amendment to Regulation 100 (5 CCR 1003-2) to implement the provisions of section 25-9-104(4), C.R.S., as amended by the Colorado General Assembly in 2008. The Board recognizes that there are wastewater treatment activities in Colorado that require only passive treatment in order to meet Colorado Discharge Permit System ("CDPS") effluent limitations. The Board also recognizes that many of these activities are currently managed under a variety of Best Management-Practice ("BMP") requirements. Additionally, the Board recognizes that it is current practice in many of these industrial activities to place the facility/activity under the supervision of an environmental professional responsible for effluent quality, for overseeing monitoring, and for ensuring timely and accurate discharge monitoring reporting.

In light of the above considerations, the Board divided permitted industrial wastewater facilities into two distinct classes. Class 2 facilities shall not be subject to the requirements to operate under the supervision of a certified operator. The Board maintained the requirement for all industrial wastewater facilities not classified as class 2 facilities to remain subject to the requirements of Regulation 100 to operate under the supervision of a certified operator and designated these facilities as class 1 facilities.

Subsection 100.6.1(b)(i). The Board has determined that facilities/activities which discharge solely under the authority of stormwater permits shall be classified as class 2 facilities without the need for specific Board action other than the adoption of this amendment to Regulation 100. The Board recognizes that such facilities utilize only passive treatment or no treatment of stormwater and are subject to significant requirements, including the filing of and adherence to Stormwater Management Plans. The Board has determined that facilities subject to stormwater discharge permits are appropriately classified as class 2 pursuant to the criteria in 25-9-104(4) C.R.S. since these discharges generally do not contain substantial concentrations of toxic pollutants and do not require chemical, mechanical, or biological treatment. The Board intends that the designation as class 2 shall include facilities discharging under the authority of municipal stormwater

permits, industrial stormwater permits and construction stormwater permits. The Board does not grant automatic class 2 classification to facilities discharging under the authority of combined process water and stormwater permits.
(cont.)

The Board has further determined that facilities/activities discharging pursuant to the Water Quality Control Division's "Low Risk Discharge Policy" shall be classified as class 2 facilities. The Board recognizes that the discharge from such activities is considered to pose minimal risk of environmental degradation. Such discharges generally do not contain substantial concentrations of toxic pollutants and do not require chemical, mechanical, or biological treatment.

Section 100.6.1(b)(ii). The Board recognizes that there are additional CDPS general industrial discharge permits whose effluent requirements can ordinarily be met by utilizing, at most, passive treatment techniques. These general industrial permits are listed within the amendment in subsection 100.6.1(b)(ii). The Board has provided that facilities holding these discharge permits shall be recognized as class 2 facilities based upon the Water Quality Control Division's verification of a facility's written certification that effluent limitations can be met utilizing only passive treatment and that the facility is under the supervision of an environmental professional as defined in subsection 100.2(12) of this regulation. Verification by the Division will serve to confirm that a facility qualifies as a class 2 facility consistent with the classification determinations made by the Board in revisions to Regulation 100. The Board intends that the Division retain a record of such classifications. The Board recognizes that facilities denied a class 2 classification may appeal the Division's determination to the Board pursuant to section 100.24 of this regulation.

Section 100.6.1(b)(iii). The Board further recognizes that certain facilities are required to hold individual industrial discharge permits rather than general industrial discharge permits. Individual permits are usually required either because of the sensitivity of the receiving waters, the nature of the effluent, or the complexity of the treatment required in order to meet effluent limitations. The Board has reserved to itself the authority to grant a class 2 classification to such facilities. The Board has provided that such facilities may submit a request for reclassification to the Board. This request shall include a demonstration that the facility's operations meet the applicable considerations of section 25-9-104(4), C.R.S.; that effluent limitations can be met utilizing only passive treatment; and that the facility is under the supervision of an environmental professional as defined in subsection 100.2(12) of this regulation. The Board will forward the material submitted with the request to the Division for evaluation and recommendation. The Board will approve or deny such requests at an adjudicatory hearing at a regular Board meeting.

The Board recognizes that there are certain general industrial permits that authorize discharges from types of activities which are inherently more complex than those described in section 100.6.1(b)(ii) above. It is the Board's intention that facilities discharging under the authority of general permits other than those listed in section 6.1(b)(ii) should follow the reclassification procedure outlined for facilities holding individual industrial discharge permits.

Conditions Applicable to Subsections 100.6.1(b)(2) and 100.6.1(b)(iii). In order to ensure that facilities meet the requirements for class 2 classification on a continuing basis, the Board has provided that each facility classified as a class 2 facility under subsection 100.6.1(b)(ii) or subsection 100.6.1(b)(iii) shall submit an annual certification confirming that the conditions under which its classification was granted are still being met.

The Board may reclassify a class 2 facility to class 1 if that facility fails to meet the requirements of its discharge permit or if the facility's operational practices result in a direct, negative impact on the public health or the environment.