

22.1 AUTHORITY

Sections 25-8-202 (1) (e); 25-8-202 (1)(i) and (2); 25-8-702 C.R.S.

22.2 DEFINITIONS

- (1) "APPLICATION" means the combined materials necessary to fulfill the requirements of section 22.4 or 22.5 or 22.6 as appropriate. This may include the appropriate application form, engineering report, review agency recommendations and certifications.
- (2) "APPROVAL" means the final action of the Water Quality Control Division on an application for site approval or certification. This action may take the form of an approval, conditional approval, or denial of the application.
- (3) "COMMISSION" means the Water Quality Control Commission created by section 25-8-201, C.R.S.
- (4) "CONSTRUCTION" means entering into a contract for the erection or physical placement of materials, equipment, piping, earthwork, or buildings which are to be part of a domestic wastewater treatment works.
- (5) "DESIGN CAPACITY" means the rated capacity (capability of a treatment plant to meet effluent limitations). This rated capacity shall be given in gallons per day (MGD) and organic loading in pounds per day. This rated capacity can be expressed as: (a) annual average; (b) maximum monthly average; or (c) another capacity measure certified by the Division as appropriate for the treatment plant.
- (6) "DIVISION" means the Division of Administration, Colorado Department of Public Health and Environment.
- (7) "DOMESTIC WASTEWATER" means a combination of liquid wastes which may include chemicals, household wastes, human excreta, animal or vegetable matter in suspension or solution.
- (8) "DOMESTIC WASTEWATER TREATMENT PLANT" (TREATMENT PLANT) means an arrangement of devices and structures for treating, neutralizing, stabilizing, or disposing of domestic wastewater, industrial wastes, and biosolids. The term "domestic wastewater treatment plant" does not include industrial wastewater treatment plants or complexes whose primary function is the treatment of industrial wastes, notwithstanding the fact that human wastes generated incidentally to the industrial process are treated therein.
- (9) "DOMESTIC WASTEWATER TREATMENT WORKS" (TREATMENT WORKS) means a treatment plant or facility for treating, neutralizing, stabilizing, or disposing of domestic wastewater which system or facility has a designed capacity to receive more than two thousand gallons of domestic wastewater per day. The term "domestic wastewater treatment works" also includes appurtenances to such system or facility such as vaults, outfall sewers, interceptor sewers and pumping stations and to equipment related to such appurtenances. The term "domestic wastewater treatment works" does not include industrial wastewater treatment plants or complexes whose primary function is the treatment of industrial wastes, notwithstanding the fact that human wastes generated incidentally to the industrial process are treated therein.
- (10) "EXPANSION" means any "construction" which increases the design capacity of any facility meeting the definition of "domestic wastewater treatment works" which would involve increased organic or hydraulic loading to the sewage treatment plant. It does not mean the replacement in kind of facilities or equipment which would be considered ordinary maintenance. If a modification or replacement does not increase design capacity of the domestic wastewater treatment works, it is

not an expansion.

- (11) "GPD" (gallons per day) or "MGD" (million gallons per day) means the total estimated or measured liquid waste flow during any twenty-four hour period to a domestic wastewater treatment works.
- (12) "INTERCEPTOR SEWER" - a sewer line will be considered as an interceptor sewer if it has an internal pipe diameter equal to or greater than 24 inches and it meets one or more of the following criteria:
 - (a) It intercepts domestic wastewater from a final point in a collection system and conveys such waste directly to a treatment plant, the interceptor sewer may also collect wastes from limited numbers (fewer than 5 connections per mile of sewer) of building services and sewer laterals along its route to the wastewater treatment plant;
 - (b) It serves in place of a treatment plant and transports the collected domestic wastes to an adjoining collection system or interceptor sewer for treatment;
 - (c) It transports the domestic wastes from one or more municipal collection systems to another municipality or to a regional treatment plant;
 - (d) It intercepts an existing major discharge of raw or inadequately treated wastewater for transport directly to another interceptor or to a treatment plant.
- (13) "LIFT STATION" (PUMPING STATION) means a wastewater pumping station that pumps the wastewater to a different point when the continuance of the sewer at reasonable slopes would involve excessive depths of bury or that pumps wastewater from areas too low to drain into available sewers. This definition of lift station does not include wastewater pumping stations for single family residences or clusters of five or fewer single family residences.
- (14) "MANAGEMENT AGENCY" means a municipality, appropriately designated by the governor, in accordance with Section 208 of the Federal Clean Water Act and State Law, with responsibilities to implement all or part of an approved water quality management plan.
- (15) "MUNICIPALITY" means any regional commission, county, metropolitan district offering sanitation service, sanitation district, water and sanitation district, water conservancy district, metropolitan sewage disposal district, service authority, city and county, city, town, Indian tribe or authorized Indian tribal organization or any two or more of them which are acting jointly in connection with a domestic wastewater treatment works.
- (16) "OUTFALL SEWER" means a sewer that receives treated wastewater from a treatment plant and carries it to a point of final discharge.
- (17) "PERSON" means an individual, corporation, partnership, association, state, or political subdivision thereof, federal agency, state agency, municipality, commission or interstate body.
- (18) "PLANNING AGENCY" means an entity appropriately designated by the Governor, in accordance with section 208 of The Federal Clean Water Act and State Law, to produce and update a water quality management plan.
- (19) "STATE WATERS" means any and all surface and subsurface waters which are contained in or flow in or through this state, but does not include waters in sewage systems, waters in treatment works or disposal systems, waters in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed.
- (20) "TREATMENT ENTITY" means a "municipality" responsible for treating the domestic wastewater.

- (21) "VAULT" means a receptacle, which is designed to receive and store domestic wastewater either from a sewer or from a privy and is accessible for the periodic removal of its contents. If designed to accept a flow greater than two thousand gallons of domestic wastewater per day, the vault shall be deemed to be a treatment works.
- (22) "WATERCOURSE" means the natural or humanmade channels or ditch or conveyance or standing body of water into which the effluent from a domestic wastewater treatment works is discharged and does not necessarily contain water at all times.
- (23) "WATER QUALITY MANAGEMENT PLAN" consists of wastewater management and water quality plans produced in accordance with sections 208 and 303(e) of the federal Clean Water Act and state law, and certified and approved updates to that plan. A water quality management plan must identify a system of treatment plants necessary to meet the anticipated municipal and industrial waste treatment needs of the designated area over a 20-year period.

22.3 DECLARATION OF POLICY FOR CONSTRUCTION OR EXPANSION OF DOMESTIC WASTEWATER TREATMENT WORKS

- (1) In evaluating the suitability of a proposal to construct or expand a domestic wastewater treatment works, the Division shall:
 - (a) consider the local long-range comprehensive plan for the area as it effects water quality and any approved water quality management plan;
 - (b) determine that the proposed domestic wastewater treatment works can be managed to minimize the potential adverse impact on water quality and in accordance with the appropriately issued discharge permit, where applicable; and
 - (c) encourage the consolidation of wastewater treatment works whenever feasible with consideration for such issues as water conservation, water rights utilization, stream flow, water quality, and economics.
- (2) Each site application for domestic wastewater treatment works shall be reviewed to insure:
 - (a) that the existing treatment works is not overloaded when connecting new lift stations or interceptors subject to site application requirements of 22.6
 - (b) that the proposed treatment works is developed considering the local long-range comprehensive plan for the area as it affects water quality and the approved water quality management plan(s) for the area;
 - (c) that the proposed treatment works can protect water supplies by meeting its discharge permit (where applicable) which is based on water quality standards and/or appropriate waste load allocation;
 - (d) that the proposed treatment works has been properly reviewed by all appropriate local, state, and federal government agencies and planning agencies;
 - (e) that the proposed location will have no foreseeable adverse effects on the public health, welfare, and safety;
 - (f) that the applicant is capable of providing for adequate operational management, including legal authority and financial capabilities, to meet its proposed effluent limitations, where applicable, and minimize potential adverse impacts on water quality on a long-term basis;

- (g) that the proposed treatment works be so located that it is not unnecessarily endangered by natural hazards; and
 - (h) that the objectives of other water quality regulations will not be adversely affected.
- (3) In addition to approval of the site application, the applicant must obtain approval of the design of the treatment works from the Division through a review of the plans and specifications prior to beginning construction.
- (4) The applicant's professional engineer, registered to practice in the State of Colorado must certify at the completion of construction that the treatment works was constructed according to plans, specifications, and significant amendments thereto approved by the Division. Significant amendments are considered those which change the treatment process, the capacity of the treatment works or the ability to operate the treatment works.
- (5) In the interest of facilitating a more effective and timely review of individual applications, counties, other local governments and planning agencies are encouraged to establish and implement a coordinated review and comment process.
- (6) In the interest of facilitating a more effective and timely review of proposed new and expanded domestic wastewater treatment works, each planning agency may establish and implement a coordinated review and comment process to carry out the provisions of this regulation in coordination with its water quality planning responsibilities. Where a planning agency wishes to establish such a coordinated process, the Division may enter into an agreement with the planning agency specifying the procedures for this coordinated process. The intent is to establish a single process 1) to meet these site approval requirements and 2) to meet the requirements for amendments to the water quality management plan. The process should be designed so that a new or expanded domestic wastewater treatment works which is approved as a part of the water quality management plan may be concurrently deemed to also meet the requirements of these site approval regulations at the time of its inclusion in the plan. Under such a coordinated process, the Division retains final authority for approval or denial of each project which is regulated under these site approval regulations.

22.4 APPLICATION PROCEDURES FOR CONSTRUCTION OF NEW DOMESTIC WASTEWATER TREATMENT PLANTS

- (1) The application for site approval of any new domestic wastewater treatment plant, shall be made to the Division on the proper form with recommended action by all applicable local authorities and planning agencies.
- (a) These forms shall be available from the Water Quality Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530.
 - (b) Accompanying the application shall be an adequate engineering report describing the proposed new domestic wastewater treatment plant and showing the applicant's capabilities to manage and operate the facility over the life of the project. The report shall be considered the culmination of the planning process and as a minimum shall address the following:
 - (i) Service area definition including existing and projected population , site location, staging or phasing, flow/loading projections, and relationship to other water and wastewater treatment plants in the area.
 - (ii) Proposed site location, evaluation of alternative sites, and evaluation of treatment alternatives.

- (iii) Proposed effluent limitations as developed in coordination with the Division.
 - (iv) Analysis of existing facilities within the service area(s).
 - (v) Analysis of opportunities for consolidation of treatment works in accordance with the provisions of 22.3(1)(c), including those recommended in the water quality management plan, unless the approved water quality management plan recommends no consolidation.
 - (vi) Evidence that the proposed site and facility operations will not be adversely effected by floodplain or other natural hazards. Where such hazards are identified at the selected site, the report shall describe means of mitigating the hazard.
 - (vii) Evidence shall be presented in the form of a report, containing soils testing results and design recommendations and prepared by a Professional Geologist and a Geotechnical Engineer, or by a professional meeting the qualifications of both Professional Geologist and Geotechnical Engineer, with an appropriate level of experience investigating geologic hazards, stating that the site will support the proposed facility.
 - (viii) Detailed description of selected alternatives including legal description of the site, treatment system description, design capacities, and operational staffing needs.
 - (ix) Legal arrangements showing control of the site for the project life or showing the ability of the entity to acquire the site and use it for the project life. Approval by the Division of an application for site approval shall not be deemed to be a determination that the proposed treatment works is or is not necessary, that the proposed site is or is not the best or only site upon which to locate such a treatment works, or that location of a treatment works on the site is or is not a reasonable public use justifying condemnation of the site. Approval by the Division shall only be deemed to be a determination that the site application meets the requirements of this regulation 22 (5 CCR 1002-22).
 - (x) Institutional arrangements such as contract and/or covenant terms which will be finalized to pay for acceptable waste treatment.
 - (xi) Management capabilities for controlling the wastewater loadings within the capacity limitations of the proposed treatment works, i.e., user contracts, operating agreements, pretreatment requirements and/or the management capabilities to expand the facilities as needed (subject to the appropriate, future review and approval procedures).
 - (xii) Financial system which has been developed to provide for necessary capital and continued operation, maintenance, and replacement through the life of the project. This would include, for example, anticipated fee and rate structure.
 - (xiii) Implementation plan and schedule including estimated construction time and estimated start-up date.
- (c) Where the site application indicates that a discharge to a ditch or other manmade conveyance structure is contemplated for the proposed plant, or that an easement, right-of-way or other access onto or across private property of another person may be necessary to construct the facility or to effectuate the discharge, the applicant shall furnish to the Division evidence that a notice of the intent to construct a new domestic wastewater treatment plant has been provided to the owner of such private property.

(2) The applicant shall be responsible for submitting the application and engineering report described in section 22.4(1)(b) for the proposed new domestic wastewater treatment plant to all appropriate local governments, planning agencies and State agencies for review and comment prior to submission to the Division. After receipt of an application for site approval, each agency shall have a period of sixty (60) days in which to review and comment on the application and to make a recommendation to the Division. After that sixty (60) day period, the applicant may submit the application to the Division without such comments and/or recommendations. Upon receipt of any application lacking the comments or recommendation of an appropriate review entity, the Division shall contact that agency and provide a period of seven (7) days for the agency to provide comments and/or a recommendation or to explain the absence of such comments and/or recommendation. The review and commenting agencies shall include the following:

(a) Management agency, if different from other entities listed below;

(b) County if the proposed facility is located in the unincorporated area of a county. The county, through its commissioners or its designee, is requested to review and comment upon the relationship of the treatment works to the local long-range comprehensive plan for the area as it affects water quality, proposed site location alternatives including the location with respect to the flood plain, and capacity to serve the planned development.

(c) City or Town if the proposed facility is to be located within the boundaries of a city or town or within three miles of those boundaries if the facility is to be located in an unincorporated area of the county. The city or town, through its mayor, council or its designee, is requested to review and comment upon the relationship of the treatment works to the local comprehensive plan and/or utility plan for the community as it affects water quality, proposed site location alternatives including the location with respect to the flood plain, and capacity to serve the planned development.

(d) Local Health Authority is requested to review and comment on local issues, policies and/or regulations related to public health safety and welfare as affected by the proposal;

(e) Water Quality Planning Agency, if designated or if such function has been delegated by the State, should comment on the consistency of the proposed treatment plant to the water quality management plan; and

(3) If the proposed facility will be on or adjacent to any land owned or managed by a state or federal agency, a copy of this application shall be sent to such agency.

(4) The applicant must perform all necessary coordination and supply all information and obtain all necessary signoffs on the form before sending it to the Division.

(5) The burden is on the applicant to supply all information necessary for the Division to make an adequate review.

(6) Unless posted in accordance with local permitting requirements, the following posting requirements apply to all new treatment plants:

(a) Signs are to be posted for 15 continuous days prior to the time the site application is submitted to the Division. However, the Division should be notified of the project at the time of posting so that necessary public information can be made available as required under (b) of this Section.

(b) The sign shall be not less than 3' x 4' on a post not less than 4' above the natural grade where allowable, or else in conformance with applicable county or municipal sign codes. Notice shall contain the following information:

NOTICE OF PROPOSED FACILITY (IDENTIFY) (Title must be 4' in red, or maximum allowable under sign code.)

Notice is hereby given that the property upon which this sign is posted shall be considered for the construction of a facility (identify) Additional information may be obtained by contacting the applicant (include applicant's phone number) or the Colorado Department of Public Health and Environment, Water Quality Control Division, (303) 692-3500.

22.5 APPLICATION PROCEDURES FOR MODIFICATION AND EXPANSION OF EXISTING DOMESTIC WASTEWATER TREATMENT PLANTS

- (1) The application for site approval for any modified and expanded domestic wastewater treatment plant shall be made to the Division on the proper form with recommended action by all applicable local authorities and the planning agency, subject to the provisions of 22.3(6). These forms shall be available from the Water Quality Control Division, 4300 Cherry Creek Drive South, Denver, Colorado, 80222-1530.
- (2) The treatment entity shall also provide an adequate engineering report which documents the need for the modifications and construction, consistency with local wastewater facility plans and any approved water quality management plans, and, as a minimum, shall address the following:
 - (a) Changes to existing service area, population and loading projections;
 - (b) Proposed additional or modified effluent limitations, as developed in coordination with the Division;
 - (c) Analysis of the performance of the existing treatment works;
 - (d) Analysis of alternative means to treat additional loading or accomplish necessary process modifications, in accordance with 22.3(1), including any consolidation alternatives recommended in the approved water quality management plan, if the plan recommends no consolidation, that option does not need to be considered;
 - (e) Changes in the financial system which will result from the proposed modification or expansion, including changes to the fee structure;
 - (f) Implementation plan and schedule, including estimated construction time and estimated date on which the modified or expanded plant will be in operation.
- (3) The Division may require that the applicant present evidence, in the form of a report, containing soils testing results and design recommendations and prepared by a Professional Geologist and a Geotechnical Engineer, or by a professional meeting the qualifications of both Professional Geologist and Geotechnical Engineer, with an appropriate level of experience investigating geologic hazards, stating that the site will support the proposed facility.
- (4) The treatment entity shall be responsible for submitting the application and engineering report described in section 22.5(2) for the modified or expanded domestic wastewater treatment works to all appropriate local governments, planning agencies, and state agencies for review and comment prior to submission to the Division. If after 60 days the agencies have not commented on an application, the treatment entity may submit the application to the Division without such comments. In accordance with the roles and responsibilities described in 22.4 (2)(b-e), the review and comment agencies shall include the following:
 - (a) Management agency if different from other entities listed below;

- (b) County if the treatment plant is located in the unincorporated area of the county;
- (c) City or town if the treatment plant is located within the boundaries of the city or town;
- (d) Local health authority; and
- (e) Water Quality Planning Agency.

22.6 APPLICATION AND CERTIFICATION PROCEDURES FOR LIFT STATIONS AND INTERCEPTORS

- (1) Ninety days prior to the commencement of construction of an interceptor line, the person responsible for that line shall notify the planning agency and the Division of such construction. This notification shall be accompanied by a certification from the agency receiving the wastewater for treatment that it has, or will have, the capacity to treat the projected wastewater from that interceptor line in accordance with the treatment agency's site approval and discharge permit. Within 30 days of receipt of notification, the planning agency or the Division, if a planning agency does not exist, shall certify that the proposed interceptor line has the capacity to carry the projected flow and is consistent with the water quality management plan. In the event the interceptor line cannot be certified by the treatment agency and the planning agency, the person responsible shall be required to obtain approval from the Division, as set forth in section 22.6(2) of these regulations, prior to construction.

For notification received pursuant to section 22.6(1), the Division shall acknowledge in writing, to the responsible person, the receipt of such notification and certification.

- (2) The application for site approval for interceptors not eligible for certification as provided for in section 22.6(1) and all lift stations shall consist of an adequate engineering report describing the proposed lift station and/or interceptor sewer and its potential impacts on the receiving domestic wastewater treatment plant. As a minimum, the report shall address the following:

- (a) Name and address of the applicant;
- (b) A map identifying the site of the proposed facilities, topography of the area, and neighboring land uses;
- (c) Service area, including existing and projected population, and flow/loading projections;
- (d) Identification of the treatment entity responsible for receiving and treating the wastewater;
- (e) Legal arrangements showing control of the site or right-of-way for the project life or showing the ability of the entity to acquire the site or right-of-way and use it for the project life. Approval by the Division of an application for site approval shall not be deemed to be a determination that the proposed interceptor or lift station is or is not necessary, that the proposed site or right-of-way is or is not the best or only location for such an interceptor or lift station, or that the proposed location of an interceptor or right-of-way is or is not a reasonable public use justifying condemnation of the site. Approval by the Division shall only be deemed to be a determination that the site application meets the requirements of this regulation 22 (5 CCR 1002-22);
- (f) Confirmation, in writing, from the wastewater treatment entity that it:
 - (i) Will treat the wastewater;
 - (ii) Is not presently receiving wastes in excess of its design capacity as defined in its site

approval and/or discharge permit, or is under construction, or will be in a phased construction of new or expanded facilities, and will have necessary capacity completed and operational prior to the discharge from the new interceptor or from the new or expanded lift station;

(iii) Is not presently in violation of any effluent parameters of its discharge permit or operating under a Notice of Violation and/or Cease and Desist Order from the Division resulting from discharge permit violations;

(g) Evidence that the lift station and/or interceptor sewer will be operated and maintained by a responsible person, as defined herein, if the applicant is not the treatment entity; and

(h) Implementation plan and schedule including estimated construction time and estimated start-up date.

(3) The application shall be forwarded to the city, town, or county planning agency in whose jurisdiction(s) the lift station and/or interceptor sewer is to be located. The applicant shall obtain from the appropriate local planning agency (agencies) a statement of consistency of the proposal with the local comprehensive plan(s) as they relate to water quality (subject to the provisions of 2.2.3(6)).

(4) The application shall be forwarded to the water quality planning agency for the area in which the facilities are to be constructed and for the area to be served by those facilities. The applicant shall obtain from the appropriate planning agency (agencies) a statement of consistency of the proposal with any adopted water quality management plan(s).

(5) For all applications meeting the above criteria, the Division will adopt the recommendation of the planning agency unless it is aware of potential adverse impacts from the project to water quality or the public health, safety or welfare not identified or addressed in the application.

22.7 APPLICATION PROCEDURES FOR AMENDMENT OF AN EXISTING SITE APPROVAL

(1) The application for amendment of an approved site application, and, where necessary, the discharge permit shall be made to the Division on the proper form with a list of all applicable local authorities and the planning agency to whom the amendment proposal has been provided. These forms shall be available from the Water Quality Control Division, 4300 Cherry Creek Drive South, Denver, Colorado, 80246-1530.

(2) An amendment to the site approval and the discharge permit, where applicable, shall be required for any of the following changes from conditions reflected in an approved site application or from conditions at a domestic wastewater treatment plant constructed prior to November 1967 and not expanded since that date:

(a) The addition of a treatment process dealing with the liquid stream;

(b) A change from the type of treatment process approved to a different process for dealing with the liquid stream;

(c) A decrease or increase in the approved, rated hydraulic and/or organic treatment capacity of the treatment plant;

(d) A change in the type of discharge employed; or

(e) A change in the location of the discharge point, unless that change is within the same defined segment of the same receiving surface water.

22.8 CRITERIA FOR DIVISION OR COMMISSION DECISION MAKING

- (1) The Division shall review the site application and engineering report, and in making its determination as to whether or not to approve or deny, shall consider a number of factors including:
 - (a) Designation of the legally responsible person and the legal description of the location;
 - (b) The existing domestic wastewater treatment facilities and feasibility (including the cost effectiveness, water quality management and local comprehensive plans, and legal, political and physical limitations) of treating wastes in an areawide facility;
 - (c) Relationship to and potential effect of proposed facility on any water supply intake;
 - (d) Location of proposed project to any flood plain or other natural hazard;
 - (e) Impact on public health, welfare, and safety;
 - (f) Proper notice;
 - (g) Review and comment of all required local government agencies and all planning agencies including recommendations for approval or disapproval with any conditions which should be a part of the Division approval;
 - (h) Long-range comprehensive planning for the area as it affects water quality;
 - (i) The water quality management plan for the area. The Division shall rely substantially upon such plan in deciding whether to grant site approval where the plan is current and comprehensive with respect to its analysis of population growth and distribution as it relates to wastewater treatment. In those areas where water quality management planning has not been conducted, or where such planning is not current or comprehensive, the Division shall rely upon the factors (a) through (i) of this section and upon the information submitted in the application for site approval as the primary determinants in making the site application decision. Where portions of a water quality management plan are adopted as regulation regulation, pursuant to § 25-8-105(3)(a), they shall be binding on the site approval; and
 - (j) The policies set forth in 22.3.
- (2) The Division will act expeditiously on all complete applications which have been submitted. The Division may require that the applicant ask for review and comments from other agencies (including the State Geologist regarding potential geologic hazards) for applications under sections 22.4, 22.5, and 22.6; however, the Division will make the final decision regarding approval or disapproval of the application.
- (3) If the application is denied, the Division will specify which items were not satisfied by the application and what measures the applicant may take, if any, to satisfy requirements.
- (4) All site approvals become effective on the date of approval and will expire one year from the date of approval, or on such other date as approved by the Division or the Commission. In the event of an appeal of the Division's action, the approval period will be stayed pending the outcome of the appeal before the Water Quality Control Commission. The date of a Commission ruling, upholding the Division's action, shall commence the one year approval period where applicable. Any project not commencing construction on or before the date of expiration must reapply or request a time extension. If there are no significant changes from the original application, this can be accomplished by a letter request.

- (5) Notice of the decision by the Division shall be included in the next Water Quality Information Bulletin.
- (6) Written notification of the Division's decision shall be sent to the applicant and all persons who have shown interest.
- (7) Decisions by the Division on site applications or facility designs must be appealed to the Commission by any person adversely affected or aggrieved as a prerequisite to the right of judicial review pursuant to the State Administrative Procedures Act. The appeal shall be made in writing to the office of the Administrator and be postmarked no later than thirty (30) days after the date of the mailing of the bulletin notice of the Division action. Within ninety (90) days of the filing of the appeal the Commission shall commence a hearing to consider such appeals in accordance with the provisions of section 24-4-105, C.R.S. If appeal is made to the Commission, the decision shall be made in accordance with the criteria specified in these regulations. Approval of a site application or facility design by the Division or the Commission in no way negates the necessity for all applicants to obtain all required approvals from other state and local agencies.

22.9 STATEMENT OF BASIS AND PURPOSE

A written statement of the basis and purpose of these regulations and the amendments adopted by the Commission on November 18, 1981 has been prepared and adopted by the Commission. The written statements are hereby incorporated in these regulations by reference in accordance with 24-4-103, C.R.S., as amended.

22.10 COLORADO DEPARTMENT OF HEALTH

Water Quality Control Commission

Adopted: November 17, 1981

STATEMENT OF BASIS AND PURPOSE FOR THE AMENDMENTS TO THE REGULATIONS ENTITLED "REGULATIONS FOR SITE APPLICATIONS FOR DOMESTIC WASTEWATER TREATMENT WORKS"

The subject regulations are for the implementation of the Colorado Water Quality Control Act, C.R.S., 25-8-101, et seq. Section 25-8-702 (1)(a) specifically requires the Water Quality Control Division to approve the site location of any domestic wastewater treatment works with designed capacity greater than 2,000 gallons per day prior to the commencement of the construction or expansion of the treatment works.

The regulations are intended to advise applicants for site approvals of the proper procedures for obtaining the site approvals and as to the minimum information necessary for the Division to determine if a site application should be approved.

Section 25-8-702 (2) specifically states: "In evaluating the suitability of a proposed site location for a domestic wastewater treatment works, the Division shall: (a) Consider the local long-range comprehensive plan for the area as it affects water quality and any approved regional water quality management plan for the area; (b) Determine that the plant on the proposed site will be managed to minimize the potential adverse impacts on water quality and; (c) Encourage the consolidation of wastewater treatment facilities whenever feasible". These factors are contained in the regulations and information necessary to evaluate those considerations are required by the regulations.

The only scientific and technological issues involved in these regulations are the preliminary design data, comprehensive planning, and facility management considerations which must be submitted to the Division so it may evaluate the site application against the statutory mandate. However, these regulations do not specify the details of such requirements since each application must be evaluated on its own terms. Therefore, further explanation here is unnecessary.

The site application forms will require submittal of technical data which allow the Division staff to evaluate such things as service area and population, treatment capabilities and alternatives, floor plain information, financial capabilities, and legal and institutional arrangements. Also, in regard to comprehensive planning, the forms will require information as to the relation of the proposed facility to existing and regional facilities and require that appropriate local governments and planning agencies have an opportunity to review the proposed project. An explanation of the costs of compliance with these regulations is discussed in the fiscal impact statement.

In considering the economic reasonableness of its action in adopting these regulations the Commission considered the cost of compliance with the expected benefits of maintaining existing uses of State waters. It found the costs of compliance to be an insignificant part of the overall scheme for protecting the State's waters. In addition, much of the cost of compliance with these regulations was considered by the General Assembly in adopting the site approval requirement and would be incurred in the planning process and in obtaining a State discharge permit.

22.11 COLORADO DEPARTMENT OF HEALTH

Water Quality Control Commission

Adopted: November 17, 1981

FISCAL STATEMENT REGARDING AMENDMENTS TO THE REGULATIONS ENTITLED

"Regulations for Site Application for Domestic Wastewater Treatment Works"

Private and municipal applicants for approval of sites for the location of wastewater treatment works shall directly bear the cost of the rule and it is presumed that their cost will become a component of subsequent wastewater treatment fees imposed on persons or entities ultimately using the proposed treatment works. Such costs are those incurred by the site applicants for preparation of engineering studies and reports. The specific dollar amount will be a function of the complexity and size of the proposed wastewater treatment plant. The beneficiaries of this rule are those persons or entities utilizing the waters of the State into which the discharge from the proposed site would flow. The positive fiscal impact of this rule on beneficiaries will be from preservation of existing uses of the waters of the State from which users receive economic gain and other benefits.

Although there will be additional costs involved in the compliance with the requirements of this regulation, there was no specific economic data submitted to the Commission through the public hearing process and no testimony was given that the regulations themselves would cause an adverse economic burden. Furthermore such costs would be incurred as a part of the planning and permit processes.

22.12 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY, AND PURPOSE; 1996 AMENDMENTS

The provisions of 24-4-103(4), 25-8-202(1)(e), (l), and (2) and 25-8-702, C.R.S., provide the specific statutory authority for consideration of the regulatory amendments proposed by this Notice. The Commission also adopted, in compliance with 24-4-103(4), C.R.S., the following statement of basis and purpose.

BASIS AND PURPOSE:

A. Overview

The existing requirements which are being addressed in this proceeding have been in place since their original adoption in 1981. During this time, the Commission has become aware of minor deficiencies with these requirements. The changes adopted in this proceeding will further clarify already existing

requirements for applicants as well as easing time constraints on all parties affected by appeal proceedings.

B. Title

The title of the regulations has been shortened to make it less cumbersome and to reflect the process to which it applies.

C. Vault

A definition of a vault has been incorporated as 2.2.2(22) to clarify the status of this type of Individual Sewage Disposal System (ISDS) with respect to this process. Vaults are recognized as a form of ISDS through 25-10-105(1)(h) and, as provided by Paragraph II.A. of the Guidelines On Individual Sewage Disposal Systems, required to obtain site approval when design flows exceed 2,000 gallons per day.

D. Consolidation

The required elements of the engineering report have been modified to include an analysis of opportunities for consolidation of treatment works together with other treatment alternatives at 2.2.4(3)(c) (iv). This should serve to reduce site application review times by providing information on feasibility necessary to comply with 25-8-702(2)(c).

E. Effective Date

The status of an approval which is under appeal to the Commission has been clarified by modifying 2.2.5(4). In at least two instances, applicants have questioned whether the approval date was the date of the Division action or the date of the Commission action. To clarify this confusion, the Commission has defined the date of its ruling on an appeal as the effective date of the approval.

F. Notice

The means of providing public notice of site application actions has been changed to reflect the correct title of the Commission's bulletin.

G. Appeals

The present requirements provided only a sixty (60) day time frame within which to commence a hearing. This has created scheduling problems for the Commission and placed an undue hardship on all parties in adequately preparing for a hearing on such short notice. The Commission has, therefore, amended 2.2.5(7) of the regulation to allow up to ninety (90) days from receipt of an appeal to the commencement of a hearing.

22.13 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; JULY, 1997 RULEMAKING

The provisions of sections 25-8-202 and 25-8-401, C.R.S., provide the specific statutory authority for adoption of the attached regulatory amendments. The Commission also adopted, in compliance with section 24-4-103(4) C.R.S., the following statement of basis and purpose.

BASIS AND PURPOSE

The Commission has adopted a revised numbering system for this regulation, as a part of an overall renumbering of all Water Quality Control Commission rules and regulations. The goals of the renumbering are: (1) to achieve a more logical organization and numbering of the regulations, with a system that provides flexibility for future modifications, and (2) to make the Commission's internal numbering system

and that of the Colorado Code of Regulations (CCR) consistent. The CCR references for the regulations will also be revised as a result of this hearing.

22.14 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; JANUARY, 1998 RULEMAKING

The provisions of sections 25-8-202 and 25-8-401, C.R.S., provide the specific statutory authority for adoption of the attached regulatory amendments. The Commission also adopted, in compliance with section 24-4-103(4) C.R.S., the following statement of basis and purpose.

BASIS AND PURPOSE

Introduction: These revisions to the Regulations for the Site Approval Process 22 (5 CCR 1002-12) were initiated by an informational hearing in September, 1995. At that hearing, the Commission heard from several parties regarding improvements that could be made in the rules and, based on that input, decided to make several minor improvements without further public input. However, the Commission also realized that there were more substantive issues that would be best addressed by receiving more thorough input, and subsequently assigned the task of proposing major rule revisions to an advisory committee. The Water Quality Control Division was given the responsibility of preparing the list of minor changes as well as organizing the review team that would grapple with the larger issues.

Both processes were set in motion in late 1995, and the set of minor amendments was adopted by the Commission in May of 1996. The critical review team was organized in December, 1995, and was comprised of representation from consulting engineers, local government, regional planning agencies, wastewater treatment agencies, and the real estate development industry. The changes to the rule adopted in this action were the result of the work of the review team during 1996 and 1997. The following is a description of the rationale behind each of the changes.

Definitions. (22.2): Significant changes to the definitions included:

- "Application" was added to the definitions to avoid confusion as to what constituted an appropriate set of information from which to reach a decision.
- "Approval" was added to clarify that the Division's final action could take several forms.
- "Design Capacity" was modified to indicate that the means of expressing capacity is an important feature that must be provided consistently.
- "Domestic Wastewater" was modified to clarify that it does not mean process wastewater. This modification does not alter the terms usage and is consistent with the definitions of "domestic wastewater treatment plant" and "domestic wastewater treatment works."
- "Interceptor Sewer" was modified to clarify that a small number of taps does not automatically nullify the concept of a large receiving sewer, and that sewers less than 24 inches in diameter are not significant conveyances requiring site approval, except in unusual circumstances.
- "Population Equivalent, Throughput, and Transporting Entity" were deleted since they were no longer used in these regulations.
- "Process Wastewater" was added only to clarify the regulation. Its definition is the same as that contained in the Commission's Colorado Discharge Permit System Regulations, Regulation 61 (5 CCR 1002-61)
- "Vault" was modified by deleting the words "watertight, covered" to remove a perceived loophole in the regulation. It was determined that this is not inconsistent with the ISDS regulation, but that

the Division would review the ISDS regulation to determine if it also should be modified.

- "Water Quality Management Plan" was added to clarify that not all plans are oriented towards managing water quality, a point of some confusion in the past.

Declaration of Policy (22.3): Much of the previous language in the section which sets forth Commission policy for issuing site approval was taken directly from the statute (§ 25-8-702, C.R.S.). To avoid redundancy and provide focus, only those three statutory policies expressly requiring certain considerations were repeated. The previous regulation also included a list of other policy considerations that were largely left intact, but included several important modifications. "Interceptor" was deleted from each policy where it appeared since they are not part of a "treatment works". Also, the statutory reference to design and construction of expansions, after certain capacity thresholds were reached, was deleted as redundant. Finally, a new policy, 22.3(6), which set forth conditions and procedures for a planning agency to enter into a coordinated review process with the Division, was included. This new policy addressed one of the main concerns with the previous rule in that plan amendment requirements were seen as duplicative of site approval requirements where viable area wide water quality management plans were in existence. This new policy will allow a coordinated and efficient review at both the regional and state level. A few minor changes to the list of policies, including a new, easy-to-read format, were also made.

Application Procedures - New (22.4): Another significant concern with the previous regulation was that it did not recognize the difference in complexity between application for an entirely new site as opposed to an expansion at an existing approved site. The changes made in this action recognize those differences by streamlining application procedures for expansions in a separate section. The prior rule also included application procedures for interceptors and lift stations under one set of requirements. Since these processes could be much more streamlined, they, too, were addressed in a separate section.

Section 22.4 now deals only with application procedures for new wastewater treatment plant sites. A number of minor wording changes help clarify the revised section, but several significant changes were also necessary. The requirement for an analysis of opportunities for consolidation has always been a subject of controversy, but the changes to 22.4(1)(b)(iv) should help by linking that analysis to a water quality management plan, thus avoiding redundancy. The flood plain analysis requirement was also clarified (22.4(1)(b)(vi)), and a new requirement to include soils and geologic hazard evaluation, prepared by qualified professionals, should help to assure that suitable plant sites are selected (22.4(1)(b)(vii)). The requirement of legal arrangements showing control of the site for the project life was expanded to include the ability of the entity to acquire the site and use it for the project life. It was clarified that any approval based on this was not to be used as a justification in a condemnation proceeding (22.4(1)(b)(ix)).

The review and sign-off procedures in 22.4(2) were extensively revised to make the process more efficient. Among the more significant changes was the inclusion of a requirement that the Division solicit comments from any review agency who has not submitted comments on an application. This requirement will help assure that nearly all applications have the full review of appropriate agencies. More definition of the scope of the review requested from municipalities and local health authorities was also included.

The requirement that the State Geologist review each application was deleted from the list of review agencies. This action was taken largely because of the inclusion of more extensive geologic information now required as part of the engineering report (see 22.4(1)(b)(iv)), including the requirement that the information be developed by a professional geologist and a geotechnical engineer, or a professional who meets the qualifications of both geologist and geotechnical engineer. This review was also considered a costly evaluation which produced little in the way of added value. A new provision was added allowing the Division to require that an applicant ask for review and comment from other agencies, including the State Geologist regarding potential geologic hazards, if it feels such review is needed (22.8(2)).

Application Procedures - Expansions (22.5): Since expansions at existing approved sites do not have to meet the same threshold tests as new sites in the areas of site suitability, financing, institutional and management considerations, the application and review requirement should be streamlined accordingly. This has been addressed by adding a new section specifically for expansions. Section 22.5 includes less

complex application requirements and a somewhat abbreviated review process. These changes were made in response to review committee input that stresses the importance of a discharger's treatment "track record" as the most important consideration when an application to expand was pending. The typical questions of site suitability and long term ability to treat wastes asked of new applicants were largely moot in the case of expansions. A provision allowing the Division to require a geologic report, as in section 22.5, was included. Section 22.8(2), which allows the Division to require that an applicant ask for review and comment from other agencies, is also applicable to section 22.5.

Application Procedures - Lift Stations/Interceptors (22.6): In the previous regulations, application requirements for all types of facilities were merged into one section. This has created some confusion and unnecessary work, particularly for new interceptor sewers and lift stations. Section 22.6 alleviates this confusion by separating out the application, certification, and review procedures for interceptors and lift stations. The certification procedures for interceptors is largely unchanged, but is now less confusing since it is dealt with in a separate (section 22.6(1)). The application procedures for ineligible interceptors and all lift stations is streamlined and clarified in 22.6(2), and the approval process is much improved by requiring only statements of consistency with appropriate plans as the heart of the review. Division oversight of that determination of consistency is correspondingly minimized.

Application Procedures - Amendments (22.7): Experience with the site approval process has revealed that occasionally it is necessary to amend approved applications. These changes are often the result of new effluent requirements brought about because of revised stream standards or other regulatory changes. Occasionally, it is simply a matter of upgrading a facility with new technology without expanding the capacity (expansions require site approval via 22.5). An informal amendment process has been in place since that need was recognized, but this process is now formalized with the inclusion of 22.7. That section sets forth the circumstances when an amendment is necessary, the minimal information requirements in the application, and the streamlined review process.

Criteria for Decision Making - (22.8): Most of the criteria guiding Division and Commission decision-making was retained from the existing regulation. However, some modification to the criteria dealing with consolidation opportunities was made for clarification purposes, and a new criteria was added to emphasize the important role that current and comprehensive area wide water quality management plans play in reaching a site approval decision.

Parties to the Rulemaking Hearing

1. Denver Regional Council of Governments
2. Metro Wastewater Reclamation District
3. Aspcol Corporation, N.V., Douglas and Barbara Scheffer, and Puma Paw Ranch, Inc.
4. The City of Colorado Springs
5. North Front Range Water Quality Planning Association
6. Pike Peak Area Council of Governments