March 29, 2016

REVISION OF SECTION 107

WATER QUALITY CONTROL

(CONTRACTOR OBTAINED STORMWATER PERMIT

**NOTICE**

This is a standard special provision that revises or modifies CDOT’s *Standard Specifications for Road and Bridge Construction*. It has gone through a formal review and approval process and has been issued by CDOT’s Project Development Branch with formal instructions for its use on CDOT construction projects. It is to be used as written without change. Do not use modified versions of this special provision on CDOT construction projects, and do not use this special provision on CDOT projects in a manner other than that specified in the instructions unless such use is first approved by CDOT’s Standards and Specifications Unit. The instructions for use on CDOT construction projects appear below.

Other agencies which use the *Standard Specifications for Road and Bridge Construction* to administer construction projects may use this special provision as appropriate and at their own risk.

**Instructions for use on CDOT construction projects:**

Use in projects having more than one acre of disturbed area for which the Contractor obtains the CDPS-SCP stormwater permit.

The Designer should coordinate with the Resident Engineer and the Region Water Pollution Control Manger on the use of this standard special provision.

Section 107 of the Standard Specifications is hereby revised for this project as follows:

Delete subsection 107.25 and replace with the following:

**107.25 Water Quality Control.** The project work shall be performed using practices that minimize water pollution during construction. All the practices listed in (b) below shall be followed to minimize the pollution of any State waters, including wetlands.

1. *Definitions.*
2. Areas of Disturbance (AD). Locations where any activity has altered the existing soil cover or topography, including vegetative and non-vegetative activities during construction.
3. Construction Site Boundary/Limits of Construction (LOC). The project area defined by the Stormwater Construction Permit.
4. Discharge of Pollutants. One or more pollutants leaving the LOC or entering State waters or other conveyances.
5. Limits of Disturbed Area (LDA). Proposed limits of ground disturbance as shown on the Plans.
6. Pollutant. Dredged spoil, dirt, slurry, solid waste, incinerator residue, sewage, sewage sludge, garbage, trash, chemical waste, biological nutrient, biological material, radioactive material, heat, wrecked or discarded equipment, rock, sand, or any industrial, municipal, or agricultural waste, as defined in the Colorado Code of Regulations (CCR) [5 CCR 1002-61, 2(76)]
7. Pollution. Man‑made, man‑induced, or natural alteration of the physical, chemical, biological, and radiological integrity of water. [25‑8‑103 (16), CRS]
8. State waters. Defined in subsection 101.77.
9. *Construction Requirements.*
10. The Contractor shall comply with the “Colorado Water Quality Control Act” (Title 25, article 8, CRS), the “Protection of Fishing Streams” (Title 33, Article 5, CRS), the “Clean Water Act” (33 USC 1344), regulations promulgated, certifications or permits issued, and to the requirements listed below. In the event of conflicts between these requirements and water quality control laws, rules, or regulations of other Federal, or State agencies, the more restrictive laws, rules, or regulations shall apply.
11. If the Contractor determines construction of the project will result in a change to the permitted activities or LDA, the Contractor shall detail the changes in a written report to the Engineer. Within five days after receipt of the report, the Engineer, after coordination with Region Planning and Environmental Manager (RPEM), will approve or reject in writing the request for change, or detail a course of action including revision of existing permits or obtaining new permits.
12. If construction activities result in noncompliance of any permit requirement, the project will be suspended and the permitting agency notified, if required. The project will remain suspended until the Engineer receives written approval by the permitting agency.
13. The Contractor is legally required to obtain all permits associated with specific activities within, or off the Right of Way, such as borrow pits, concrete or asphalt plant sites, waste disposal sites, or other facilities. It is the Contractor’s responsibility to obtain these permits. The Contractor shall consult with the Engineer, and contact the Colorado Department of Public Health and Environment (CDPHE) or other appropriate federal, state, or local agency to determine the need for any permit.
14. The Contractor shall conduct the work in a manner that prevents pollution of any adjacent State waters. Erosion control work shall be performed in accordance with Section 208, this subsection, and all other applicable parts of the Contract.
15. Prior to the Environmental Pre-construction Conference the SWMP Administrator, identified in subsection 208.03(c), shall identify and describe all potential pollutant sources, including materials and activities, and evaluate them for the potential to contribute pollutants to stormwater discharges associated with construction activities. The list of potential pollutants shall be continuously updated during construction. At a minimum, each of the following shall be evaluated for the potential for contributing pollutants to stormwater discharges and identified in the SWMP, if found to have such potential:
16. All exposed and stored soils
17. Vehicle tracking of sediments
18. Management of contaminated soils
19. Vehicle and equipment maintenance and fueling
20. Outdoor storage activities (building materials, fertilizers, chemicals, etc.)
21. Significant dust or particle generating processes
22. Routine maintenance involving fertilizers, pesticides, detergents, fuels, solvents, oils, etc.
23. On site waste management practices (waste piles, dumpsters, etc.)
24. Dedicated asphalt and concrete batch plants
25. Concrete truck and equipment washing, including the concrete truck chute and associated fixtures and equipment
26. Concrete placement and finishing tool cleaning
27. Non-industrial waste sources that may be significant, such as worker trash and portable toilets
28. Loading and unloading operations
29. Other areas or procedures where spills could occur

The SWMP Administrator shall record the location of potential pollutants on the site map. Descriptions of the potential pollutants shall be added to the SWMP notebook.

At or prior to the Environmental Pre-construction Conference the Contractor shall submit a Spill Response Plan for any petroleum products, chemicals, solvents, or other hazardous materials in use, or in storage, at the work site. See subsection 208.06(c) for Spill Response Plan requirements. Work shall not be started until the plan has been submitted to and approved by the Engineer.

On site above ground bulk storage containers with a cumulative storage shell capacity greater than 1,320 U.S. gallons, or storage containers having a "reasonable expectation of an oil discharge" to State waters, are subject to the Spill Prevention, Control and Countermeasure Plan (SPCC) Rule.  Oil of any type and in any form is covered, including, but not limited to: petroleum; fuel oil; sludge; oil refuse; oil mixed with wastes other than dredged spoil.  EPA Region 8 is responsible for administering and enforcing the SPCC plan requirements in Colorado.  Prior to start of work, the Contractor shall submit a SPCC Form which has been approved by the EPA for the project.

1. The Contractor shall obtain a Construction Dewatering (CDW) permit from CDPHE anytime uncontaminated groundwater, including groundwater that is commingled with stormwater or surface water, is encountered during construction activities and the groundwater or commingled water needs to be discharged to State waters. If contaminated groundwater is encountered, a Remediation permit may be needed from CDPHE in accordance with Section 250.
2. Water from dewatering operations shall not be directly discharged into any State waters, unless allowed by a permit. Water from dewatering shall not be discharged into a ditch unless:
3. Written permission is obtained from the owner of the ditch.
4. It is covered in the approved CDW or Remediation permit that allows the discharge.
5. A copy of this approval is submitted to the Engineer. A copy of the Permit shall be submitted to the Engineer prior to dewatering operations commencing.

If the site is covered by a Colorado Discharge Permit System Stormwater Construction Permit (CDPS-SCP) and the following conditions are met, a separate CDW permit will not be required for discharge to the ground:

1. The source is identified in the Stormwater Management Plan (SWMP) as updated by the SWMP Administrator.
2. The SWMP describes and locates the practices implemented at the site to control stormwater pollution from the dewatering of groundwater or stormwater.
3. The SWMP describes and locates the practices to be used that will ensure that no groundwater from construction dewatering is discharged from the LOC as surface runoff or to surface waters or storm sewers.
4. Groundwater and groundwater combined with stormwater do not contain pollutants in concentrations exceeding the State groundwater standards in Regulations 5 CCR 1002-41 and 42.

If surface water are diverted around a construction area and no pollutants are introduced during the diversion, a CDW Permit is not required. If the diverted water enters the construction area and contacts pollutant sources (e.g. disturbed soil, concrete washout, etc.), the Contractor shall obtain a CDW permit for the discharge of this water to State waters or to the ground.

Construction Dewatering may be discharged to the ground on projects that are not covered by a CDPS-SCP if the conditions of the CDPHE’s low risk guidance document for Discharges of Uncontaminated Groundwater to Land are met. The conditions of this guidance are:

1. The source of the discharge is solely uncontaminated groundwater or uncontaminated groundwater combined with stormwater and does not contain pollutants in concentrations that exceed water quality standards for groundwater referenced above.
2. Discharges from vaults or similar structures shall not be contaminated. Potential sources of contamination include process materials used, stored, or conveyed in the structures, or introduced surface water runoff from outside environments that may contain oil, grease, and corrosives.
3. The groundwater discharge does not leave the project boundary limits where construction is occurring.
4. Land application is conducted at a rate and location that does not allow for any runoff into State waters or other drainage conveyance systems, including but not limited to streets, curb and gutter, inlets, borrow ditches, open channels, etc.
5. Land application is conducted at a rate that does not allow for any ponding of the groundwater on the surface, unless the ponding is a result of implementing BMPs that are designed to reduce velocity flow. If the BMPs used result in ponding, the land application shall be done in an area with a constructed containment, such as an excavation or berm area with no outfall. The constructed containment shall prevent the discharge of the ponding water offsite as runoff.
6. A visible sheen is not evident in the discharge.
7. BMPs are implemented to prevent any sediment deposited during land application from being transported by stormwater runoff to surface waters or other conveyances.
8. All BMPs used shall be selected, installed, implemented, and maintained according to good Engineering, hydrologic and pollution control practices. The selected BMPs shall provide control for all potential pollutant sources associated with the discharge of uncontaminated groundwater to land. The discharge shall be routed in such a way that it will not cause erosion to land surface. Energy dissipation devices designed to protect downstream areas from erosion by reducing the velocity of flow (such as hose attachments, sediment and erosion controls) shall be used when necessary to prevent erosion.

Discharged water shall be drained slowly so that it soaks into the ground without running outside the project boundary or causing flooding issues. The discharge shall be routed in such a way that it will not contact petroleum products or waste.

1. At least 15 days prior to commencing dredging or fill operations in a watercourse, the Contractor shall provide written notification to owners or operators of domestic or public water supply intakes or diversion facilities, if these facilities are within 20 miles downstream from the dredging or fill operations. Notification shall also be given to Owners or operators of other intakes or diversions that are located within five miles downstream from the site of the project. Identities of downstream owners and operators can be obtained from Colorado Division of Water Resources, Office of the State Engineer.
2. Temporary fill into wetlands or streams will not be allowed, except as specified in the Contract and permits. If such work is allowed, upon completion of the work all temporary fills shall be removed in their entirety and disposed of in an upland location outside of flood plains unless otherwise specified in the Contract.
3. Construction operations in waters of the United States as defined in 33 CFR Part 328.3, including wetlands, shall be restricted to areas and activities authorized by the U.S. Army Corps of Engineers as shown in the Contract. Fording waters will be allowed only as authorized by the

U.S. Army Corps of Engineers 404 Permit.

1. Wetland areas outside of the permitted limits of disturbance shall not be used for storage, parking, waste disposal, access, borrow material, or any other construction support activity.
2. Pollutant byproducts of highway construction, such as concrete, asphalt, solids, sludges, pollutants removed in the course of treatment of wastewater, excavation or excess fill material, and material from sediment traps shall be handled, stockpiled, and disposed of in a manner that prevents entry into State waters, including wetlands. Removal of concrete waste and washout water from mixer trucks, concrete finishing tools, concrete saw and all concrete material removed in the course of construction operations or cleaning shall be performed in a manner that prevents waste material from entering State waters. A minimum of ten days prior to the start of the construction activity, the Contractor shall submit in writing a Method Statement for Containing Pollutant Byproducts to the Engineer for approval.
3. The use of chemicals such as soil stabilizers, dust palliatives, herbicides, growth inhibitors, fertilizers, deicing salts, etc., shall be in accordance with the manufacturer’s recommended application rates, frequency, and instructions.
4. All materials stored on‑site shall be stored in a neat, orderly manner, in their original containers, with the original manufacturer’s label. Materials shall not be stored in a location where they may be carried into State waters at any time.
5. Spill prevention and containment measures conforming to subsection 208.06 shall be used at storage, and equipment fueling and servicing areas to prevent the pollution of any State waters, including wetlands. All spills shall be cleaned up immediately after discovery, or contained until appropriate cleanup methods can be employed. Manufacturer’s recommended methods for spill cleanup shall be followed, along with proper disposal methods. When required by the Colorado Water Quality Control Act, Regulation 5 CCR 1002-61, spills shall be reported to the Engineer and CDPHE in writing.
6. The Contractor shall prevent construction activities from causing grass or brush fires.
7. The construction activities shall not impair Indian tribal rights, including, but not limited to, water rights, and treaty fishing and hunting rights.
8. Prior to start of work, the Contractor shall certify in writing to the Engineer that construction equipment has been cleaned prior to initial site arrival. Vehicles and equipment shall be free of soil and debris capable of transporting noxious weed seeds or invasive species onto the site. Additional equipment required for construction shall also be certified prior to being brought onto the project site.
9. Vehicles which have been certified by the Contractor as having been cleaned prior to arrival on site may be cleaned on site at an approved area where wash water can be properly contained. Vehicles leaving and reentering the project site shall be recertified.
10. At the end of each day the Contractor shall collect all trash and dispose of it in appropriate containers.
11. Construction waste that is considered a pollutant or contaminant shall be collected and disposed of in appropriate containers. This material may be stockpiled on the project when it is contained or protected by an appropriate BMP.
12. *Measurement and Payment.*
13. All the work listed in (b) above, including but not limited to dewatering, erosion control for dewatering, and disposal of water resulting from dewatering operations, including all costs for CDPHE concurrences and permits, will not be measured and paid for separately, but shall be included in the work.
14. The Contractor shall be liable for any penalty (including monetary fines) applied to the Department caused by the Contractor’s noncompliance with any water quality permit or certification. Monetary fines shall be deducted from any money due to the Contractor. If the monetary fine is in excess of all the money due to the Contractor, then the Contractor shall pay to the Department the amount of such excess.
15. The Contractor will not receive additional compensation, or time extensions, for any disruption of work or loss of time caused by any actions brought against the Contractor for failure to comply with good Engineering, hydrologic and pollution control practices.
16. If a spill occurs as a direct result of the Contractor’s actions or negligence, the clean‑up of such spill shall be performed by the Contractor at the Contractor’s expense.
17. Areas exposed to erosion by fire resulting from the Contractor’s operations shall be stabilized in accordance with Section 208 by the Contractor and at the Contractor’s expense.
18. *Contractor Obtained Stormwater Construction Permit.* The Contractor shall obtain aColorado Discharge Permit System Stormwater Construction Permit (CDPS-SCP) for any project work that disturbs at least 1 acre of land. The Contractor shall apply for and obtain the permit upon award of the Contract. The Contractor shall provide a copy of permit certification or the submitted CDPS-SCP application to the Engineer prior to or at Pre-construction Conference. No work shall begin until the CDPS-SCP permit has been approved from CDPHE, unless otherwise directed. A copy of the Permit and application to obtain a permit shall be placed in the project SWMP notebook.

If a Utility Company has pulled a permit for the area prior to the Contractor being on site, then the Contractor shall coordinate with the Utility Company to transfer those areas over to the Contractor prior to work commencing. The Contractor shall not commence construction until Application for Transfer of Ownership for All Permits, Certifications and Authorizations has been approved by CDPHE and submitted to the Engineer.

To initiate Partial Acceptance of the stormwater construction work (including seeding and planting required for erosion control), the Contractor shall request in writing a Stormwater Completion Walkthrough. The Engineer will set up the walkthrough and will include: the Engineer or designated representative, Superintendent or designated representative, Stormwater Management Plan (SWMP) Administrator, Region Water Pollution Control Manager (RWPCM) and Landscape Architect representing the region. Unsatisfactory and incomplete erosion control work will be identified in this walkthrough, and will be summarized by the Engineer in a punch list. The Water Quality Permit Transfer to Maintenance Punch List may be used as a template in creating the Engineer’s punch list.

The Engineer will coordinate with CDOT Maintenance on regular inspections of the corrective work. The completed action items associated with the corrective work shall be shown as completed on the Punch List. Upon completion of all items shown, the Contractor shall submit the completed Punch List to the Engineer for review. Upon written approval of the Punch List, the Contractor shall submit the “Application for Transfer of Ownership for All Permits, Certifications and Authorizations” to the CDPHE requesting transfer of ownership of the CDPS-SCP to CDOT Maintenance. When requested by CDOT Maintenance and approved by the Engineer, the Permit may be transferred by the Contractor to the Resident Engineer instead of CDOT Maintenance.

Until the transfer of the permit has been approved by the CDPHE the Contractor shall continue to adhere to all permit requirements. Requirements shall include erosion control inspections, BMP installation, BMP maintenance, BMP repair, including seeded areas, and temporary BMP removal. All documentation shall be submitted to the Engineer and placed in the SWMP notebook.

All costs associated with the Contractor applying for, holding, and transferring the CDPS-SCP permit between parties will not be measured and paid for separately, but shall be included in the work in accordance with subsection 107.02.