

STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION

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To: Region Transportation Directors, Director of Staff Branches, Professional Engineer III's, Resident Engineers, Environmental Programs Branch Manager, Region Planning and Environmental Managers, and Maintenance Superintendents.

From: Timothy J. Harris, Chief Engineer



Subject: Policy Memo 27, Construction Activity Stormwater Discharge Permit

The Colorado Department of Transportation (CDOT) is authorized under the Colorado Discharge Permit System (CDPS) – General permit for Stormwater Discharges Associated with Construction Activities, from the Colorado Department of Public Health and Environment (CDPHE), to discharge stormwater off of construction activities in accordance with the conditions of the permit.

Permit Application Signatures

The CDPS General Permit Application, states in the instructions for "Signature of Applicant" that "in the case of a municipal, state or other public facility" that either a "principal executive officer, ranking elected official or other duly authorized employee" sign the application. The application instructions further state "This certification includes an acknowledgement that the applicant understands that the permit coverage, and therefore the applicant's liability, will be for the entirety of the construction project described and applied for until such time as the applicant is amended or certification is transferred, inactivated, or expired."

The application also includes a Stormwater Management Plan Certification that must be signed. The Region Planning and Environmental Manager (RPEM) will review all SWMP plans prior to advertisement and ensure that they are site specific and complete. The RPEM's signature on the clearance to advertise will signify that they have reviewed and concur with the completeness of the SWMP. The Environmental Program Branch will ensure that sufficient and up to date guidance is available for the preparers of the SWMP.

For CDOT, the duly authorized employee to sign the Permit Application and SWMP Certification shall be the Resident Engineer in charge of the construction project or the Maintenance Superintendent in charge of the maintenance project. For construction

projects, once awarded, the CDOT permittee may transfer the permit to the Contractor or they may keep the permit in their name. In either case, efforts shall be made to close the permit at Final Acceptance or else the permit will be transferred to the CDOT Maintenance Superintendent upon their acceptance.

If the permit is to be transferred to the Contractor, a permit transfer form must be signed by the RE and the appropriate Contractor representative (as stated in the permit criteria), and it shall be submitted to the CDPHE Water Quality Control Division prior to construction beginning.

According to the Attorney General's Office, CDOT employees will have individual immunity from liability for acts or omissions in the scope of their employment unless the acts or omission are "willful and wanton." This means that penalties assessed by CDPHE will be against CDOT, unless, for example, the employee gives a direct instruction to violate the Water Quality Control Act.

Final Acceptance and Project Walkthrough

As the Construction project nears completion the *Project Engineer* shall schedule a review of the erosion control features and documentation. The Permittee, Project Engineer, RPEM, Regional Hydraulics Engineer, Maintenance Superintendent (or designated representative), Contractor Superintendent, and the Contractor's Erosion Control Supervisor shall attend this review. The timing of this review will be when, at the judgment of the Project Engineer, the project is sufficiently completed as that no further construction operations will effect permit requirements but sufficient Contractor equipment and work force remains to do "punch list" type work on erosion control features. After the issues identified in the review have been resolved and are acceptable to CDOT maintenance forces, the project "Final Acceptance" letter can be written by the Project Engineer and if the permit cannot be closed, the Maintenance Superintendent shall accept the transfer of the CDPS Permit from the Contractor. At that time, a permit transfer form must be signed by the Contractor permittee in charge of the construction project and the Maintenance Superintendent taking responsibility for post-construction permit requirements. This form shall be submitted to the CDPHE Water Quality Control Division. If the project is not acceptable to CDOT Maintenance forces, the permit shall remain in the Contractor's name until all remaining permit issues are fixed and at such time that Maintenance will accept the permit responsibilities.

Roles and Responsibilities

The *Resident Engineer* will sign the permit application prior to environmental clearance and may then transfer the permit over to the Contractor upon award and before construction begins.

The *RPEM or their designee* will ensure that a project specific stormwater management plan has been prepared and placed into the project plans.

The *Project Engineer* assigned to the administration of the Construction project will ensure that the terms of the permit have been complied with during construction and will

schedule the Final Walkthrough.

The *Maintenance Superintendent* will accept and sign the permit transfer after the project Final Acceptance to maintain permit compliance during post-construction. The transfer form will be signed only if the project is in an acceptable state.