



**COLORADO**  
Department of Transportation  
Division of Transportation Development

## Environmental Bulletin



CONSTRUCTION

**Title: New Stormwater Construction Permit (SCP) COR400000 (revised COR030000) Owner-Operator Requirements**

**Bulletin #: 19 - 001**

**Date: 3/6/2019, Revised 3/12/2019**

**Decision Effective Date: 4/1/2019**

**Issued by: Jean Cordova, Water Quality Section Manager**

**TO: All project design and field personnel**

**SUBJECT: Clarifying the agency SCP Owner and Operator**

All projects, throughout the State, that disturb one or more acres of land or are part of a “common plan of development” that disturbs one or more acres of land, need to have a stormwater construction permit (SCP). The Colorado Department of Public Health and Environment (CDPHE) - Water Quality Control Division (the Division) has renewed the SCP so that owners and operators of those permitted projects are identified as co-permittees on the SCP, effective April 1<sup>st</sup>, 2019. For clarity on how the permit renewal will impact new projects, read below.

CDOT Transportation projects:

- 1) For all CDOT transportation projects where we design and fund the project, CDOT will be the owner on the permit and the Contractor will be the operator on the permit.

Property Management projects:

- 1) Projects that are funded, designed, and directed by CDOT property management will also need a SCP. Property Management will be the owner on the permit and their contractor will be the operator.

Utility projects (per the DOT State Highway Utility Accommodation Code, 2 CCR 601-18 and the CDOT Utility Manual):

- 1) During the contract period, but prior to construction of a CDOT transportation project - utility projects are considered as a “common plan of development” to that transportation construction project and will need to obtain a SCP. Because the utility company has a common use agreement or a utility permit with CDOT and has control of the plans for the work they do, the utility will be the owner and operator of the SCP, *not* CDOT. Once the transportation project begins and obtains their own permit, the utility company can terminate the portion of their permit that is within the transportation project limits of construction (LOC).
- 2) During the contract period, and during construction of a CDOT transportation project - CDOT is the owner of the SCP and their contractor is the operator of the SCP, for all portions within the LOC, as identified in the stormwater management plan. Any areas outside of the LOC,





# COLORADO

## Department of Transportation

### Division of Transportation Development

that the utility works, will be the responsibility of the Utility and they will need a SCP for those areas.

- 3) Outside of a contract period OR an independent utility project that applies for and obtains a CDOT Utility, Access or Special Use Permit will need a SCP. The utility will be considered the owner and operator of the SCP because they have a permit to be on CDOT ROW and have overall control of their activities and CDOT has not funded any of the work. CDOT is not the owner of any of these projects.

#### Local Agency projects:

- 1) The Local Agency is the permit owner because they designed, advertised, and acquired the funding for the project. The chosen contractor is the operator. CDOT is only the manager of the federal funds.
- 2) If the project is on or partly on CDOT ROW, the local agency will need to apply for a CDOT Special Use or Access permit and the local agency would be considered the SCP owner, not CDOT.
- 3) Utility work necessitated by a Local Agency project but completed outside of the construction contract period for the LA project on CDOT ROW will require a CDOT Utility, Access or Special Use Permit as well as a SCP naming the utility as the owner and operator.

Please contact your Region Water Pollution Control Specialist or Jean Cordova (HQ - Water Quality Section Manager) at 303-512-4053 or [jean.cordova@state.co.us](mailto:jean.cordova@state.co.us) for more information on any of the above requirements.

Details about other changes related to the new SCP will be coming soon. Per the SCP Fact sheet, the Division intends to update its construction stormwater permitting guidance with detailed guidance and examples of what does and does not constitute an owner and operator. The new permit can be found at <https://www.colorado.gov/pacific/cdphe/cor400000-stormwater-discharge>.

#### **COR400000 SCP DEFINITIONS AND DISCUSSIONS**

**Owner** - The party that has overall control of the activities and that has funded the implementation of the construction plans and specifications. This is the party with ownership of, a long-term lease of, or easements on the property on which the construction activity is occurring (e.g., the developer). SCP Fact Sheet: In some industries the owner and operator are the same person or organization, however, this is often not the case for construction sites. The division recognizes that in some cases, the owner of the activity will *not* be the owner of the land.

**Operator** - The party that has operational control over day-to-day activities at a project site, which are necessary to ensure compliance with the permit. This party is authorized to direct individuals at a site to carry out activities required by the permit (e.g. the general contractor).

**Common Plan of Development or Sale** - A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules, but remain related. The Division has determined that “contiguous” means construction activities located in close proximity to each other (within ¼ mile). Construction activities are considered to be “related” if they share the same development plan, builder or contractor, equipment, storage areas, etc. “Common plan of development or sale” includes construction activities that are associated with the construction of field wide oil and gas permits for facilities that are related.

