



Colorado Department  
of Public Health  
and Environment

**AUTHORIZATION TO DISCHARGE UNDER  
THE COLORADO DISCHARGE PERMIT SYSTEM  
PERMIT NUMBER COS000005**

In compliance with the provisions of the Colorado Water Quality Control Act, (25-8-101 et seq., CRS, 1973 as amended) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.; the "Act"), the

**Colorado Department of Transportation**

is authorized to discharge from its municipal separate storm sewer system located within the Permit Area, 39° 44' 21", -104° 59' 5".

to state waters in accordance with the effluent limitations, monitoring requirements, and other conditions set forth in Parts I and II hereof. All discharges authorized herein shall be consistent with the terms and conditions of this permit.

The applicant may demand an adjudicatory hearing within thirty (30) days of the date of issuance of the final permit determination, per the Colorado Discharge Permit System Regulations, 61.7(1). Should the applicant choose to contest any of the effluent limitations, monitoring requirements or other conditions contained herein, the applicant shall comply with Section 24-4-104 CRS and the Colorado Discharge Permit System Regulations. Failure to contest any such effluent limitation, monitoring requirement, or other condition, constitutes consent to the condition by the Applicant.

This permit and the authorization to discharge shall expire at midnight, July 27, 2020.

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Ellen Howard Kutzer, Permits Section Manager  
Water Quality Control Division

**PERMIT ACTION SUMMARY:**

Modification 3 - Issued July 31, 2017, Effective September 1, 2017

Modification 2 - Issued April 10, 2017, Effective May 10, 2017

Modification 1 - Minor Modification Issued October 16, 2015 Effective October 16, 2015

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## PART I

### A. COVERAGE UNDER THIS PERMIT

#### 1. Discharges Authorized Under this Permit

- a. This permit authorizes discharges from the permittee's municipal separate storm sewer system (MS4) located within the permit area.

For the purposes of this permit:

- i. "Discharge" means the discharge of pollutants as defined in section 25-8-103(3) C.R.S. For the purposes of this permit, discharges do not include land application or discharges to the ground.
- ii. "Pollutants" are 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 5 CCR 1002-61.2(76).
- iii. "Discharge of a pollutant" means the introduction or addition of a pollutant into state waters. See 25-8-103(3) C.R.S.
- iv. A "municipal separate storm sewer system" is a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is:
  - (A) Owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;
  - (B) Designed or used for collecting or conveying stormwater;
  - (C) Which is not a combined sewer; and
  - (D) Which is not part of a publicly owned treatment works (POTW). See 5 CCR 1002-61.2(62).
- v. "Municipal" refers to a state, city, town, borough, county, parish, district, association, or other public body created by or pursuant to state law having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States.
- vi. "Stormwater" is stormwater runoff, snow melt runoff, and surface runoff and drainage.

#### 2. Limitations on Coverage

- a. This permit in no way removes or modifies the responsibility for an operator with control of the facility or activity from which the discharge originates to obtain separate CDPS or NPDES permit coverage or report spills when required in accordance with the Colorado Water Quality Control Act, Regulation 5 CCR 1002-61. An "operator" is the person or entity who is responsible for the overall operation of the facility or activity from which the associated discharge originates.

### 3. Permit Area

This permit covers all areas of the Colorado state highway system and the associated right-of-ways, as well as any properties that are permittee-owned and operated, within another MS4 permittee's permit area. "Another permittee's permit area" is further defined below:

- a. Cities: For all cities, including combined cities and counties, required to obtain coverage under COR080000 and COR090000, the geographic area of permit coverage will include the entirety of the municipal incorporated boundary. The cities include the following:
  - i. Arvada City of, Aurora City of, Berthoud Town of, Boulder City of, Brighton City of, Broomfield City & County of, Canon City City of, Castle Pines North City of, Castle Rock Town of, Centennial City of, Cherry Hills Village City of, Colorado Springs City of, Columbine Valley Town of, Commerce City, Denver City and County of, Durango City Of, Edgewater City of, Englewood City of, Erie Town of, Evans City of, Federal Heights City of, Firestone Town of, Fruita City of, Fort Collins City of, Fountain City of, Glendale City of, Golden City of, Greeley City of, Grand Junction City of, Greenwood Village City of, Lafayette City of, Lakewood City of, LaSalle Town of, Littleton City of, Lone Tree City of, Longmont City of, Louisville City of, Loveland City of, Manitou Springs City of, Montrose City of, Monument Town of, Northglenn City of, Palisade City of, Palmer Lake Town of, Parker Town of, Pueblo City of, Sheridan City of, Steamboat Springs City of, Superior Town of, Thornton City of, Westminster City of, Windsor Town of, and Wheat Ridge City of. The cities of Aurora, Colorado Springs, Denver, and Lakewood, herein referred to as the Phase I permit coverage areas; and
- b. Counties: The below listed areas of Adams County, Arapahoe County, Boulder County, Broomfield County, Denver County, Douglas County, El Paso County, Jefferson County, Larimer County, Mesa County, Pueblo County (including Pueblo West Metro District), and Weld County; and
  - i. US Census Bureau designated urbanized areas in accordance with the 2010 census; and
  - ii. Areas within the Cherry Creek Reservoir drainage basin.
- c. In accordance with Part I.H, compliance with permit requirements shall begin immediately for areas that meet the permit area description through expansion of the municipal boundaries or infrastructure of the cities and counties listed in Part I.A.3.a. Areas removed from the cities and counties listed in Part I.A.3.a., such as through annexation or incorporation by a separate municipality, are removed from permit coverage at the time of the transfer of the jurisdiction.

### 4. Cherry Creek Reservoir Drainage Basin

This permit includes conditions and limitations for those portions of the permit area that drain into the Cherry Creek Reservoir drainage basin. As per the Cherry Creek Reservoir Control Regulation (5 CCR 1002-72), as amended, additional requirements are included in the Education Program, Construction Sites Program, and Permanent Water Quality Program. In addition, the stormwater permit requirements section of Regulation 72 (Section 72.7), as amended, is hereby incorporated by reference.

### 5. Local Agency Authority

The permittee shall establish communication, coordination, cooperation, and collaboration activities with applicable local government entities to comply with this permit.

Nothing in this permit shall be construed to limit a local government's authority to impose land-use or zoning requirements or other limitations on the activities subject to this permit. This permit does not authorize any injury to person or property or any invasion of personal rights, nor does it authorize the infringement of federal, state, or local laws or regulations.

## 6. Permit Compliance

The permittee shall comply with all the terms and conditions of this permit. Violation of the terms and conditions specified in this permit may be subject to civil and criminal liability pursuant to the Colorado Water Quality Control Act, sections 25-8-601 through 612, C.R.S. Correcting a permit violation does not remove the original violation.

## B. CONTROL MEASURES

“Control measures” are any best management practice (BMP) or other method used to prevent or reduce the discharge of pollutants to state waters. Control measures include, but are not limited to best management practices. “State waters” of Colorado are any and all surface and subsurface waters which are contained in or flow in or through this state, but not including waters in sewage systems, waters in treatment works of disposal systems, waters in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed. This definition can include water courses that are usually dry. For the purposes of this permit, state waters do not include subsurface waters. The following requirements apply to all control measures used to achieve the effluent limits in this permit.

### 1. Good Engineering, Hydrologic and Pollution Control Practices:

Control measures shall be selected, designed, installed, implemented, and maintained in accordance with good engineering, hydrologic, and pollution control practices, and the manufacturer’s specifications, when applicable. “Pollution” is man-made or man-induced, or natural alteration of the physical, chemical, biological, and radiological integrity of water.

### 2. Maintenance:

Control measures shall be maintained in effective operating condition.

### 3. Inadequate Control Measures:

A control measure shall be considered an “inadequate control measure” if it is not designed, implemented, or operating in accordance with the requirements of the permit, including the specific requirements in each program area in Part I.E or other requirements and implemented and maintained to operate in accordance with the design.

### 4. Control Measure Requiring Routine Maintenance:

A control measure shall be considered a “control measure requiring routine maintenance” if it is still operating in accordance with its design and the requirements of this permit, but requires maintenance to prevent associated potential for failure during a runoff event.

### 5. Minimize:

The term “minimize”, for purposes of implementing control measures of this permit, means reduce and/or eliminate to the extent achievable using control measures that are technologically available and economically practicable and achievable in light of best industry practices.

## C. DOCUMENTATION

### 1. PROGRAM DESCRIPTION DOCUMENT (PDD)

The permittee must develop and maintain a program description document (PDD). A “PDD” describes how the permittee will meet the requirements of this permit and includes a list of citations for documents and electronic records used to comply with the permit requirements; and an organization chart. PDD information must be maintained to reflect current implementation. The PDD does not need to be submitted or approved by the Division, unless specifically requested by the Division. The PDD must include the following:

- a. **Current Control Measure Implementation and Procedures:** The specific PDD content required by Parts I.D. and I.E. that describes how the requirements of Parts I.D. and I.E. are met. Requirements subject to a compliance schedule do not need to be addressed in the PDD until the due date in the compliance schedule in Part I.H.
- b. **Current Documents and Electronic Records:** A list of citations for documents and electronic records used to comply with permit requirements. It is not required that the PDD repeat the information included in the cited documents. The PDD must include the names of the most recent version of the documents, source/author of the document, date of the document, and location(s) where the supporting documentation is maintained.
- c. **Current Organizational Chart:** An organizational chart indicating responsibility over applicable departments by the legal contact.

**2. Availability:**

The PDD must be available to the public at reasonable times during regular business hours and maintained in a format that can be submitted to the Division within 10 business days of a request.

**3. Modification:**

Information in the PDD may be revised by the permittee at any time. The permittee must modify the PDD as changes occur to ensure the information is up to date.

**D. PUBLIC INVOLVEMENT/PARTICIPATION**

**1. Public Involvement and Participation Process**

The permittee must implement and document a Public Involvement and Participation process that complies with the permittee's public notice requirements for actions conducted, when applicable, to comply with this permit. The following requirements apply:

- a. The permittee must follow its own public notice requirements to provide opportunities for public involvement that reach a majority of citizens within the permittee's permit area through the notification process.
- b. The permittee must provide a mechanism and processes to allow the public in the permittee's permit area to review and provide input on the control measures. At a minimum, the permittee must provide a statement on the permittee's web site that the PDD is publicly available for review and comment.
- c. The permittee must have the ability to accept and respond (in accordance with permit requirements) to information submitted by the public, including information on illicit discharges or failure to implement or meet control measure requirements associated with covered construction activities, applicable development projects, or permittee operations.

**2. Recordkeeping:**

The permittee must maintain the following records for activities to meet the requirements of Part I.D. and Part I.K.2.:

- a. Copies of the documents used to provide public notice and any public comment received as part of the public notice process.
- b. Information on the mechanism used to allow the public to provide input and any comments received.
- c. Records of information submitted by the public in accordance with Part I.D.1.c and any actions the permittee took to address the information.

3. **PDD:**

The permittee must provide the following information:

- a. A list of citation(s) and location(s) of the written procedures used for the permittee's public notice process.
- b. The web site containing the statement that the PDD is available for public review.

**E. EFFLUENT LIMITATIONS AND RECORDKEEPING**

Pollutant restrictions, prohibitions, and reductions required by the permit are listed below. All controls must be implemented before the discharge from the MS4, unless otherwise noted or excluded. An "exclusion" is a removal of the applicability of a term or condition in this permit based on the given conditions.

Included in this section are requirements for the permittee to develop and maintain records (Recordkeeping and PDD requirements) associated with the terms and conditions of this section.

**1. Construction Sites Program**

The permittee must implement a program to reduce or prevent the discharge of pollutants to the MS4 from covered construction activities.

"Covered construction activities" include construction activities that result in a land disturbance of greater than or equal to one acre or that is less than one acre, but is part of a larger common plan of development or sale that would disturb, or has disturbed since March 2, 2001, one acre or more, unless excluded below or the disturbed areas have been finally stabilized. Covered construction activities include the land disturbing activity and all activities and materials associated with the construction project and located at or contiguous to the land disturbing activities.

"Construction activity" refers to ground surface disturbing and associated activities, which include, but are not limited to, clearing, grading, excavation, demolition, installation of new or improved haul roads and access roads, staging areas, stockpiling of fill materials, and borrow areas. Construction does not include routine maintenance to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. Activities to conduct repairs that are not part of regular maintenance or that are for replacement are considered construction activities and are not considered routine maintenance. Repaving activities where underlying and/or surrounding soil is cleared, graded, or excavated as part of the repaving operation are construction activities. Construction activity occurs from initial ground breaking to final stabilization regardless of ownership of the construction activities.

Roadway "maintenance" projects includes projects that do not change the existing template of the roadway which includes the roadway and shoulders to the point of slope selection and maintenance to existing drainage features. Maintenance projects do not change the existing template of the roadway; do not disturb more than 1 acre of subbase or subgrade at any one time; and do not include activities such as widening, paving previously unpaved shoulders, other project work beyond the shoulders, slope flattening, roadway realignment and other roadway and/or drainage improvements. Maintenance projects do not disturb one acre or more beyond the "Z slope" or shoulders which do not lead to any increase of impervious surface.

Roadway maintenance projects include treatments or overlays with a net surface gain of 6 inches or less and base/subbase is not exposed. Maintenance projects include shouldering projects that increase the roadway elevation by 2 inches or less with an overall treated depth not exceeding the 6 inch limit identified for reconstruction and disturb less than 1 acre of subbase or subgrade at any one time. Maintenance projects include rubbilization and overlay projects with a net surface gain of 6

inches or less and disturb less than 1 acre of subbase or subgrade at any one time.

“Land disturbing activity” is any activity that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to clearing, grading, excavation, demolition, installation of new or improved haul roads and access roads, staging areas, stockpiling of fill materials, and borrow areas. Compaction that is associated with stabilization of structures and road construction must also be considered a land disturbing activity.

A “common plan of development or sale” is a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules, but remain related. Consistent with EPA guidance, “contiguous” is interpreted to mean 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.

“Final stabilization” is the condition reached when all ground surface disturbing activities at the site have been completed, and for all areas of ground surface disturbing activities a uniform vegetative cover has been established with an individual plant density of at least 70 percent of pre-disturbance levels, or equivalent permanent, physical erosion reduction methods have been employed.

- a. Limitations: The permittee shall implement a program to reduce or prevent the discharge of pollutants to the MS4 from covered construction activities. If the Division waives requirements for stormwater discharges associated with a small construction activity in accordance with Regulation 61.3(2)(f)(ii)(B) (the “R-Factor” waiver), the permittee may exclude the waived activity from being a covered construction activity. The following requirements apply:
  - i. Regulatory Mechanism: A “regulatory mechanism” is the mechanism that allows the permittee to implement and enforce the requirements of this permit. To the maximum extent allowable under state or local law, the permittee must implement a regulatory mechanism to meet the requirements in Part I.E.1.a. “To the maximum extent allowable under state or local law” is a standard of implementation of permit requirements and refers to the extent that the permittee is not constrained by state or local laws. To the extent allowable under state or local law, implement a regulatory mechanism to meet the requirements in Part I.E.1.a., including the following:
    - (A) The ability to implement sanctions against entities responsible for covered construction activities including, but not limited to, contract provisions including liquidated damages, internal processes, and internal management procedures.
    - (B) Require control measures to be implemented for all covered construction activities from initial disturbance until final stabilization.
  - ii. Regulatory Mechanism Exemptions: An “exemption” is an exemption, waiver, or variance implemented by the permittee for permittee control measures used to meet the effluent limits in this permit. Procedures shall be implemented to ensure that any exemptions, waivers, or variances included in the regulatory mechanism are applied in a manner that complies with the terms and conditions of this permit.
  - iii. Control Measure Requirements: The permittee’s Construction Sites Program must address selection, installation, implementation, and maintenance of control measures that meet the requirements of Part I.B. Control measures must be appropriate for the specific construction activity, the applicable pollutant sources, and phase of construction. There are a wide variety of structural and non-structural control measures that can be used at covered construction sites. Control measures must meet the minimum requirements below:

- (A) Appropriate control measures must be implemented prior to the start of construction activity, control potential pollutants during each phase of construction, and must be continued through final stabilization. Appropriate structural control measures must be maintained in operational condition. "Structural control measures" include control measures that are comprised of facilities and structures that remove pollutants from water or retain, reuse, or provide for infiltration, transpiration, evapotranspiration, or evaporation of water.

Each structural control measure must be adequately sized for the drainage area so as not to allow for flows to bypass without treatment in accordance with the design, unless during an upset incident. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation. In addition, each structural control measure must be appropriate to the type of flow it receives.

- (B) Control measures must be selected, designed, installed, implemented, and maintained to provide control for all potential pollutant sources associated with the covered construction site to prevent pollution or degradation of state waters. Potential pollutant sources include, but are not limited to the following:
- 1) Sediment
  - 2) Construction site waste, such as trash, discarded building materials, concrete truck washout, chemicals, and sanitary waste
  - 3) Contaminated soils
- (C) Control measures must be selected, designed, installed, implemented, and maintained to provide control of all potential pollutants in discharges to the MS4 from all covered construction activity and must meet the following:
- 1) Land disturbance and storage of soils. Structural control measures implemented to control sediment in discharges of stormwater runoff from disturbed areas and soil storage areas must minimize suspended sediment in the discharge to the MS4.
  - 2) Vehicle tracking. Control measures must be implemented to minimize sediment being transported from disturbed areas to paved areas from vehicle tracking, unless runoff from the paved area is retained on site or directed to a control measure meeting Part I.E.1.a.iii(C)(1).
  - 3) Loading and unloading operations.
  - 4) Outdoor storage of construction site materials, building materials, fertilizers, and chemicals.
  - 5) Bulk storage of materials. Bulk storage for petroleum products and any other chemicals shall have secondary containment or equivalent protection to contain all spills and prevent any spilled materials from entering the MS4.
  - 6) Vehicle and equipment maintenance and fueling.
  - 7) Significant dust or particulate generating processes.
  - 8) Routine maintenance activities involving fertilizers, pesticides, detergents, fuels, solvents, and oils.
  - 9) Concrete truck/equipment washing, including the concrete truck chute and associated fixtures and equipment. Control measures used for concrete washout, including from

concrete trucks and masonry operations, must ensure that these activities do not result in the contribution of pollutants associated with the washing activity to stormwater runoff to the MS4. Concrete washout water shall not be discharged to the MS4.

- 10) Dedicated asphalt and concrete batch plants unless the batch plant has a CDPS or NPDES permit.
- 11) Other areas or operations where spills can occur.
- 12) Other non-stormwater discharges including construction dewatering and wash water that may contribute pollutants to the MS4.

(D) Control measures must be included in the approved or modified SWMP.

iv. Stormwater Management Plans (SWMPs):

- (A) SWMP Requirement: The permittee must require operators to develop and maintain SWMPs that locate and identify all structural and non-structural control measures for the covered construction activities. The SWMP must contain installation, implementation, and maintenance specifications or a reference to the document with installation, implementation, and maintenance specifications for all structural control measures. A narrative description of non-structural control measures must be included in the SWMP.

The permittee must require that a SWMP be maintained to reflect current conditions. The permittee must develop and implement procedures to address modifications to SWMPs including how minor and major modifications are defined and reviewed. Changes to the plan shall be made when changes occur in the site conditions; except when changes to the plan cannot be reasonably achieved at the time of field condition changes, such as when obtaining specifications from the manufacturer or engineering design for a retention structure. In such cases, the permittee may allow revisions as soon as practicable, but in no case more than 72 hours after the change(s) in control measure installation and/or implementation occur at the site. In such cases, a notation must also be included with the SWMP when the site change(s) that includes the date, type and location of the change(s) in the field.

- (B) Initial SWMP Review: The permittee must implement SWMP review for all covered construction activities prior to the start of construction activities. Initial SWMP review shall include the following:

- 1) Confirmation that the SWMP includes appropriate control measures for all stages of construction, including final stabilization.
- 2) Confirmation that the control measures meet the requirements in Part I.E.1.a.iii.
- 3) Confirmation that the SWMP meets the requirements in Part I.E.1.a.iv(A).

v. Permittee Site Inspection: Documentation of inspections outlined below must be maintained in accordance with recordkeeping requirements in I.E.1.b. The following requirements apply:

- (A) Winter Conditions: Inspections are not required at sites where construction activities are temporarily halted, snow cover exists over the entire site for an extended period, and melting conditions posing a risk of surface erosion do not exist. This exclusion is applicable only during the period where melting conditions do not exist. The following information must be documented for this exclusion: dates when snow cover occurred, date when construction activities ceased, and date melting conditions began.
- (B) Routine Inspection: A routine inspection must be conducted at least once before final stabilization. The permittee must conduct a routine inspection at least every 45 days for

- covered construction sites, unless another type of inspection frequency in Part I.E.1.a.v applies. A routine inspection must follow and include all aspects of the permittee's inspection procedure and at a minimum assess the following:
- 1) Control measures: Identify failure to implement control measures, inadequate control measures, and control measures requiring routine maintenance.
  - 2) Pollutant sources: Identify and evaluate all pollutant sources, including trash, to determine if an offsite discharge of pollutants has occurred.
    - (a) Specific pollutant sources: Identify and evaluate construction dewatering discharges and concrete washout areas for inadequate control measures and offsite discharges of pollutants. "Construction dewatering" is the discharge of groundwater, surface water, and stormwater that has mixed with the groundwater and/or surface water (i.e. commingled stormwater runoff) that has come into contact with covered construction activities.
  - 3) Discharge points: Identify discharge points to state waters, or beyond the limits of the construction site as necessary to determine if an offsite discharge of pollutants has occurred. The permittee must require the removal of the pollutants, when feasible, from the MS4 when the permittee identifies a failure to implement a control measure or an inadequate control measure resulting in pollutants discharging to the MS4 or beyond the limits of the construction site.
- (C) Reduced Frequency/Scope Inspection: The permittee may perform routine inspections per Part I.E.1.a(V)(B) at a reduced frequency as determined by the type of site indicated below. Reduced frequency inspections must assess the items in Part I.E.1.a.v(B)(1)-(3) (control measures, pollutant sources, and discharge points). The permittee must require the removal of the pollutants, when feasible, from the MS4 when the permittee identifies a failure to implement a control measure or an inadequate control measure resulting in pollutants discharging to the MS4 or beyond the limits of the covered construction site.
- 1) Inactive sites: The permittee must conduct an inspection at least every 90 days for sites that surface ground disturbance activities are completed and are pending growth for final stabilization or for sites where no construction activity has occurred since the last inspection.
  - 2) Stormwater Management System Administrator's Program: The permittee must conduct an inspection at least every 90 days for construction activities operated by a participant in a Division designated Stormwater Management System Administrator's Program in accordance with Article 8 of title 25, Colorado Revised Statutes that has been identified by the administrator to be fully implementing the program and qualified for reduced oversight incentives of the program.
    - (b)
- (D) Compliance Follow-Up Inspection: A compliance follow-up inspection must occur within 14 days of the permittee identifying that there is a failure to implement a control measure or an inadequate control measure, unless corrections were made and observed by the inspector during the initial inspection. The permittee must require the removal of the pollutants, when feasible, from the MS4 when the permittee identifies a failure to implement a control measure or an inadequate control measure resulting in pollutants discharging to the MS4 or beyond the limits of the construction site.
- 1) A compliance follow-up inspection must verify corrections were made for previously identified failure to implement control measures or inadequate control measures.

- 2) One of the following may be performed or required in lieu of a compliance follow-up inspection within 14 days of the permittee site inspection identifying that there is a failure to implement a control measure or an inadequate control measure:
  - (a) Routine inspection
  - (b) Reduced frequency inspection
  - (c) Require the operator to inspect and report that the control measure has been implemented or corrected as necessary to meet the requirements of Part I.E.1.  
The owner report must include photographs of the new/adequate control measure.
- vi. Enforcement Response: Implement appropriate enforcement procedures and actions to meet the requirements of Part I.E.1.
  - (A) The permittee must have processes and sanctions to minimize the occurrence of, and obtain compliance from, chronic and recalcitrant violators of control measure requirements.
  - (B) The permittee must escalate enforcement as necessary based on the severity of violation and/or the recalcitrance of the violator to ensure that findings of a similar nature are enforced upon consistently.
- vii. Training: The permittee must provide information to operators of covered construction activities as necessary to ensure that each operator is aware of the permittee's requirements, including controlling pollutants such as trash.
  - (A) The permittee shall provide information to operators of covered construction activities as necessary to ensure that each operator is aware of the permittee's requirements.
  - (B) The training must also include information on trash associated with covered construction activities and its effects on water quality.
  - (C) The permittee shall require training for operators of covered construction activities that, at a minimum, includes principles, implementation, and updating of control measures and a SWMP; and installation and maintenance of control measures with a certified field component.
  - (D) The permittee shall require all existing and newly hired permittee personnel who are involved in project design, oversight and/or maintenance related to stormwater drainage and quality to attend a stormwater training course, or series of courses, as appropriate, that can include, but is not limited to the following:
    - 1) Control measure design and overall stormwater management into a project's construction design and planning phase.
    - 2) Implementation of control measures during different phases of construction and the maintenance of a system/series of pollution controls throughout the life of a project and as a project evolves through those different phases.
    - 3) Specific guidance on appropriate, functional, and effective control measures to implement when working in and adjacent to state waters and how those control measures can and should be incorporated into the design of a project.
    - 4) The proper use of, and necessary modifications to, permanent flood control structures that are used as temporary construction control measures.
    - 5) Detailed instruction on final stabilization and the implementation and maintenance of control measures at projects once construction operations have ceased, including a

discussion of who will be responsible for maintaining those control measures and how final stabilization will generally be monitored and achieved.

- 6) Information on control measure technology advancements.
- viii. Cherry Creek Reservoir Drainage Basin Discharges: All requirements in Part I.B. must be met for those parts of the MS4 that drain into the Cherry Creek Reservoir drainage basin. In addition, the permittee must also meet the requirements in Cherry Creek Reservoir Control Regulation (5 CCR 1002-72). The permittee shall meet the following in addition to the requirements in Part I.E.1 for those parts of the MS4 that drain into the Cherry Creek Reservoir drainage basin:
    - (A) Covered construction activities shall include construction activities that disturb land, unless it is excluded in accordance with 72.7.2(b)(3).
    - (B) Control measures shall meet the requirements for required construction control measures per section 72.7.2(b)(5) of the regulation.
    - (C) Additional Covered Construction Activities: For covered construction activities in accordance with Part I.E.1.a.viii(A), that would not otherwise meet the definition of covered construction activities:
      - 1) The permittee does not have to meet the requirements for site-inspection in accordance with Part I.E.1.a.v. For such activities, the permittee shall document and implement a compliance assessment program to assure adequate design, implementation, and maintenance of control measures for covered construction activities to reduce pollutant discharges and protect water quality, which includes construction site compliance assessment, including site inspections as necessary.
  - ix. For Covered Construction Activities that Overlap Permit Areas of more than One MS4 Permittee (co-regulating MS4 permittee), when a written agreement is in place with a co-regulating MS4 permittee:
    - (A) Control measure, SWMP, and inspection requirements may be imposed on the operator in accordance with the requirements of a co-regulating MS4 permittee pursuant to the written agreement.
- b. Recordkeeping: The permittee must maintain the following records for activities to meet the requirements of Part I.E.1 and Part I.K.2:
    - i. Regulatory Mechanism: The specifications, contracts, standards, operating procedures, and other documents used to meet the permit requirements.
    - ii. Regulatory Mechanism Exemptions: The specifications, contracts, standards, operating procedures, and other documents that allow for exemptions and the documented procedures that confirm the exemptions, waivers, and variances comply with the permit.
    - iii. Control measure Requirements: The specifications, contracts, standards, operating procedures, and other documents used to meet the permit requirements.
    - iv. SWMPs: Copy of the final SWMP reviewed to meet the initial SWMP review requirement, and confirmation of the permittee's review and acceptance.
    - v. Permittee Site Inspection:
      - (A) Routine and Reduced Frequency/Scope Inspections: Maintain inspection records with the following minimum information for all inspections conducted to meet the minimum inspection frequency:
        - 1) Inspection date

- 2) Name of inspector
  - 3) Project identification and location, including the responsible construction operator
  - 4) Inspection results including, the location of conditions resulting in offsite discharge, failure to implement control measures, inadequate control measures, and control measures requiring routine maintenance and how the issues were resolved if resolved during the inspection.
  - 5) How any previously unresolved permittee inspection findings for failure to implement control measures or for an inadequate control measures were resolved.
  - 6) Type of inspection
- (B) Inspections conducted by operators to meet the requirement on Part I.E.1.a.v(D)(2)(c) must include the following:
- 1) Inspection date
  - 2) Name of the operator inspector
  - 3) Project identification and location
  - 4) Inspection results including, the location of conditions resulting in offsite discharge, failure to implement control measures, inadequate control measures, and control measures requiring routine maintenance\
  - 5) How any previously unresolved permittee inspection findings for failure to implement a control measure or inadequate control measure and were resolved, including photos.
- vi. Enforcement Response: The applicable specifications, contracts, standards; operating procedures, and other documents used to meet the permit requirements. Maintain records of the enforcement response.
- vii. Training: Name and title of each individual trained, date of training, the type of training, and a list of topics covered.
- viii. Cherry Creek Reservoir Drainage Basin Discharges: The applicable specifications, contracts, standards; operating procedures, and other documents used to meet the permit requirements.
- ix. For Covered Construction Activities that Overlap Permit Areas of more than One MS4 Permittee: Copies of any written agreements between co-regulating MS4 permittees when required by Part I.E.1.a.ix.
- c. PDD: The permittee must provide a list of the following information:
- i. Regulatory Mechanism: A list of the citation(s) and location(s) of the required elements of the regulatory mechanism, including a list of the associated program documents used to meet the regulatory mechanism requirements.
  - ii. Regulatory Mechanism Exemptions: A list of the citation(s) and location(s) of regulatory mechanism elements that allow for exemptions and the documented procedures that confirm that any exemptions, waivers, and variances comply with the permit.
  - iii. Control Measure Requirements: A list of citation(s) and location(s) of applicable documents that demonstrate that the permittee requires operators to meet the requirements in Part I.E.1.a.iii. A list of the citation(s) and location(s) of supporting documents, including any documents that provide control measure design considerations, criteria, or standards.

- iv. SWMPs:
  - (A) A list of citation(s) and location(s) of applicable documents that demonstrate that the permittee requires operators to develop, maintain, and modify SWMPs, including the citation(s) and location(s) of supporting documents.
  - (B) A list of citation(s) and location(s) of applicable documents that demonstrate that the permittee conducts initial SWMP reviews, including the citation(s) and location(s) of supporting documents.
- v. Permittee Site Inspection: A list of citation(s) and location(s) of applicable documents that demonstrate that the permittee has written procedures for conducting site inspections, including the citation(s) and location(s) of supporting documents that describe the following:
  - (A) The process for determining, implementing, and documenting the inspection frequencies.
  - (B) The process for inspection follow-up, including determining, implementing, and documenting the nature of the follow-up action.
- vi. Enforcement Response: A list of citation(s) and location(s) of applicable documents that demonstrate that the permittee has written procedures for enforcement response. The document(s) must detail the types of escalating enforcement responses the permittee will take in response to common violations and time periods within which responses will take place, including as a minimum:
  - (A) Construction commencing without SWMP review in accordance with I.E.3.a.v.
  - (B) SWMPs not maintained and modified in accordance with the permittee's requirements.
  - (C) Control measures not maintained in operational condition at time of permittee inspection, including sites that have temporarily shut down construction activities.
  - (D) Uncorrected finding(s) from previous inspections.
  - (E) Failure to implement a control measure for a pollutant source or inadequate control measure resulting in a discharge of pollutants from the covered construction site or to the MS4.
- vii. Training: A list of citation(s) and location(s) of the training program and supporting documents.
- viii. Cherry Creek Reservoir Drainage Basin Discharges: A list of citation(s) and location(s) of applicable documents that demonstrate that the permittee meets the additional requirements outlined in Cherry Creek Reservoir Control Regulation.
- ix. For Covered Construction Activities that Overlap Permit Areas of more than One MS4 Permittee: A list of citation(s) and location(s) of applicable documents that demonstrate that the permittee meets all permit requirements in Part I.E.1.

## 2. Permanent Water Quality Management

The permittee must implement a program to reduce the discharge of pollutants to the MS4.

"Applicable development projects" only apply to priority development projects and Cherry Creek Reservoir development projects.

"Priority Development Projects" are development projects that meet all of the following:

- Result in land disturbance of greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, unless excluded below and,

- Either discharge to a stream segment that is on 303(d) list for a roadway pollutant of concern or discharges to the Cherry Creek Reservoir drainage basin and is exempted under section 72.7.2(c)(4) of Regulation 72, and
- Has a 20 percent or more increase of impervious surface.

Only the portion of the project that discharges to the stream segment listed for a roadway pollutant of concern is required to meet the priority development project design standard. The following types of projects are not considered Priority Development Projects even if the impervious area increases by 20 percent or more: above and underground utilities, guardrail/cable rails, sidewalk/trail/bike lane slab repair/installation, curb and gutter repair, resurfacing projects falling under the maintenance definition, maintaining existing shoulders, culvert drainage repairs, fence installation/repair, and concrete slab repair. These projects are covered by the Permanent Water Quality Mitigation Pool requirements.

“Roadway pollutants of concern” include total suspended solids, cadmium (total and potentially dissolved), chromium (total and potentially dissolved), copper (total and potentially dissolved), iron (total and potentially dissolved), lead (total and potentially dissolved), magnesium (total and potentially dissolved), manganese (total and potentially dissolved), nickel (total and potentially dissolved), zinc, total inorganic nitrogen, total phosphorus, chloride, sodium, oil and grease.

“Cherry Creek Reservoir Development Projects” are development projects that result in land disturbance that discharge to the Cherry Creek Reservoir subject to the requirements for Post-construction stormwater management controls in CCR 1002-72, part 72.7.2(c). Only the portion of the project discharging to the Cherry Creek Reservoir drainage basin shall meet the priority development project design standard.

“Applicable Portion” refers to the portion of the Priority Development or Cherry Creek reservoir Development Project discharging to either the stream segment listed for a roadway pollutant of concern or the Cherry Creek Reservoir, respectively.

a. The following requirements apply:

- i. Regulatory Mechanism: To the extent allowable under state or local law, implement a regulatory mechanism to meet the requirements in Part I.E.2.a., including, but not limited to:
  - (A) Require control measures to be implemented in accordance with Part I.E.2.
  - (B) Require the long-term operation and maintenance of control measures.
  - (C) Ensure that mechanisms are in place for control measures used to meet the requirements of this permit, including those that are located outside of the jurisdictional control of the permittee.
  - (D) Implement sanctions against entities responsible for installation and for the long-term operation and maintenance of the control measures.
- ii. Regulatory Mechanism Exemptions: Procedures must be implemented to ensure that any exclusions, exemptions, waivers, and variances included in the regulatory mechanism are applied in a manner that complies with the terms and conditions of this permit.
- iii. Priority Development Projects and Cherry Creek Reservoir Development Projects: The following applies to priority development projects and cherry creek reservoir development projects:
  - (A) Control Measure Design Standards for Priority Development Projects: The permittee’s requirements and oversight for priority development projects must be implemented to address the selection, installation, implementation, and maintenance of control measures

in accordance with requirements in Part I.B. Only the portion of the project that discharges to the stream segment listed for a roadway pollutant of concern is required to meet one of these control measure design standards. The control measures for priority development projects shall meet one of the following design standards listed below:

- 1) WQCV Standard: The control measure(s) is designed to provide treatment and/or infiltration from impervious surfaces with a surface area equal to or greater than 90% of the new impervious surface area located within the portion of the project discharging runoff to the 303(d)-listed segment for a roadway pollutant of concern. In addition the design drain time of the WQCV shall be a minimum of 12 hours. Evaluation of the minimum drain time shall be based on the pollutant removal mechanism and functionality of the control measure implemented. Consideration of drain time shall include maintaining vegetation necessary for operation of the control measure.
- 2) Runoff Reduction Standard: The control measure(s) is designed to infiltrate into the ground where site geology permits, evaporate, or evapotranspire a quantity of water equal or greater than 60% of what the calculated WQCV would be if all new impervious area from the applicable portion of the priority development project discharged without infiltration. This base design standard can be met through practices such as green infrastructure. "Green infrastructure" generally refers to control measures that use or mimic natural processes to infiltrate, evapotranspire, or reuse stormwater on the site where it is generated. Green infrastructure can be used in place of or in addition to low impact development principles.
- 3) Pollutant Removal Standard: The control measure(s) is designed to treat at a minimum the 80<sup>th</sup> percentile storm event. The control measure(s) shall be designed to treat to an expected median effluent concentration for total suspended solids (TSS) of 30 mg/L from impervious surfaces with a surface area equal to or greater than 90% of the new impervious surface area located within the portion of the project discharging runoff to the 303(d)-listed segment for a roadway pollutant of concern.
- 4) Priority Development Project Draining to a Regional WQCV Control Measure: The regional WQCV control measure must be designed to accept the drainage from the applicable portion of the priority development project. Stormwater from the project must be treated by a regional WQCV control measure prior to entering a water of the state. The regional WQCV control measure must meet the requirements of the WQCV in Part I.E.2.a.iv(B)(1).
- 5) Previous Permit Term standard:
  - (a) Applicability: The previous permit term or interim program standard can be applied to impervious surfaces with a surface area equal to or greater than 90% of the new impervious surface area located within the portion of the project discharging runoff to the 303(d)-listed segment for a roadway pollutant of concern where one of the following criteria are met:
    - (1) The control measure(s) was implemented (fully constructed and operable) for the applicable portion of the priority development project prior to the effective date of the permit.
    - (2) The control measure(s) for the applicable portion of the priority development project was substantially designed and has started the permittee's review process prior to the effective date for this permit.



- 7) The pool shall not be used for the replacement or modification of previously constructed control measures, unless the replaced or modified control measure will treat additional area within the permit area.
- (B) Control Measure Design Standards for the Pool: The permittee's requirements and oversight for control measures funded by the Pool must be implemented to address the selection, installation, implementation, and maintenance of control measures in accordance with requirements in Part I.B. The control measures shall meet one of the following design standards listed below:
- 1) WQCV Standard: The control measure(s) is designed to provide treatment and/or infiltration of the WQCV for all of the area draining to the control measure. In addition the design drain time of the WQCV shall be a minimum of 12 hours. Evaluation of the minimum drain time shall be based on the pollutant removal mechanism and functionality of the control measure implemented. Consideration of drain time shall include maintaining vegetation necessary for operation of the control measure.
  - 2) Runoff Reduction Standard: The control measure(s) is designed to evaporate, transpire, evapotranspire, or infiltrate into the ground where site geology permits a quantity of water equal or greater than 60% of what the calculated WQCV would be if all new impervious area for the control measure for the drainage area discharged without infiltration. This base design standard can be met through practices such as green infrastructure. "Green infrastructure" generally refers to control measures that use or mimic natural processes to evaporate, transpire, evapotranspire, infiltrate or reuse stormwater on the site where it is generated. Green infrastructure can be used in place of or in addition to low impact development principles.
  - 3) Pollutant Removal Standard: The control measure(s) is designed to treat at a minimum the 80<sup>th</sup> percentile storm event. The control measure(s) shall be designed to treat to an expected median effluent concentration for total suspended solids (TSS) of 30 mg/L from the drainage area.
- v. Other Requirements: The following requirements apply to all permanent water quality control measures:
- (A) Site Plans for all Control Measures Implemented to meet the Water Quality Mitigation Pool Requirements, for Priority Development Projects, and for Cherry Creek Reservoir Development Projects
- 1) Site Plan Requirements: Site plans for control measures must include all of the following:
    - (a) Design details for all control measures implemented to meet the requirements of this permit.
    - (b) Documentation of operation and maintenance procedures to ensure the long term observation, maintenance, and operation of the control measures. The documentation shall include frequencies for routine inspections and maintenance activities.
    - (c) Documentation regarding easements or other legal means for access of the control measure sites for operation, maintenance, and inspection of control measures.
    - (d) Plans shall include a map of the area contributing flows to the control measure, including an identification of the impervious area and total area of the drainage that is located in and outside of the permit area.

- 2) Control Measure Review: The permittee shall implement a site plan review process for the control measures. The site plan review shall include the following minimum requirements designed to prevent inadequate control measures from being implemented or modified:
    - (a) Confirmation that control measures were designed to meet the requirements of Part I.E.2.
    - (b) Confirmation that site plans meet the requirements in Part I.E.2.a.v(A).
  - 3) The permittee must meet the requirements of Part I.E.2.a.v(A) and (B) before approving any modifications to the site plan
- (B) Construction Inspection and Acceptance for all Control Measures Implemented to meet the Water Quality Mitigation Pool Requirements, for Priority Development Projects, and for Cherry Creek Reservoir Development Projects: The permittee must implement inspection and acceptance procedures to ensure and include a confirmation that control measures are installed and implemented in accordance with the site plan.
- (C) Long-Term Operation and Maintenance and Post Acceptance Oversight for Control Measures Installed in Accordance with this Permit and Previous Permits: The permittee must implement written procedures which include the following minimum requirements to ensure adequate long-term operation and maintenance of control measures to ensure that they are functioning as designed:
- 1) Procedures to enforce the requirements for the owner/operator and other parties to implement and maintain control measures when necessary, including through implementation of statutory authority (e.g., state statute 43-2-135).
  - 2) Oversight shall include inspections of field conditions and control measures that include the following:
    - (a) Confirm conformity with the site plan and operation and maintenance manuals.
    - (b) Identify any inadequate control measures.
    - (c) Identify control measures requiring routine maintenance, such as trash removal.
    - (d) Evaluate if the control measure is functioning as designed and recommend a redesign (if necessary).
  - 3) All functional elements of control measures shall be inspected at a frequency determined by the permittee. Inspections of each control measure shall occur at least once during the permit term.
    - (a) All inadequate control measures shall be modified or replaced as necessary to meet the control measure requirements in this permit as soon as possible. If the permittee is unable to modify or replace the inadequate control measure within 6 months, then the permittee must complete the following:
      - (1) Develop a plan to modify or replace the inadequate control measure.
      - (2) Develop a frequent maintenance plan so that the control measure does not fail.
      - (3) Install a temporary feature on the inadequate control measure to ensure that it does not fail.

- 4) All control measures requiring routine maintenance shall be maintained as necessary to meet the control measure requirements in this permit as soon as possible, but not later than 6 months from the inspection finding.
- (D) Tracking for Control Measures Installed in Accordance with this Permit and Previous Permits: Implement and document procedures and mechanisms to track the location of and adequacy of operation of control measures implemented in accordance with the program.
  - (E) For Applicable Permanent Water Quality Management Activities that Overlap Permit Areas of more than one MS4 Permittee (co-regulating MS4 permittee): When a written agreement is in place with a co-regulating MS4 permittee the following is required:
    - 1) Site plan review/acceptance and inspection and maintenance activities may be conducted by the co-regulating MS4 permittee to meet the requirement of the permit.
    - 2) Exemptions that are not specifically authorized in this permit, including those from other co-regulating MS4 permittees, cannot be used for control measures for applicable development projects.
    - 3) The permittee must use the design standards required in this permit for control measures for applicable development projects.
- b. Recordkeeping: The permittee shall maintain the following records for activities to meet the requirements of Part I.E.2 and Part I.K.2:
- i. Regulatory Mechanism: The specifications, contracts, standards, operating procedures, and other documents used to meet the permit requirements.
  - ii. Regulatory Mechanism Exemptions: The specifications, contracts, standards, operating procedures, and other documents that allow for exemptions and the documented procedures that confirm the exemptions, waivers, and variances comply with the permit.
  - iii. Priority Development Projects and Cherry Creek Reservoir Development Projects: The specifications, contracts, standards, operating procedures, and other documents used to meet these permit requirements. The records showing why the project is considered a priority development project or a Cherry Creek Reservoir Development project. Documentation for priority development projects must include the increased impervious area for the project, impervious area from the project addressed by the control measure, and the control measure design standard used. The procedures to determine which design standard applies to each control measure implemented to meet the requirements of I.E.2 and the design specifications for each design standard (if applicable).
  - iv. Water Quality Mitigation Pool:
    - (A) The current balance of the pool.
    - (B) Amount added to the pool, including the date.
    - (C) Amount withdrawn from the pool for each control measure and the following information for the control measure:
      - 1) Date money was withdrawn
      - 3) Control measure identification information
      - 4) Identification of features of the control measure paid for with the pool
      - 5) Identification of features of the control measure paid for from other sources
      - 6) If the control measure modified or replaced an existing control measure

v. Other Requirements

- (A) Site Plans for all Control Measures Implemented to meet the Water Quality Mitigation Pool Requirements, for Priority Development Projects, and for Cherry Creek Reservoir Development Projects: Copies of final site plans for all applicable control measures.
  - 1) For all control measures for which the stormwater runoff flow to a regional WQCV control measure is applied: The name and location of the regional WQCV control measure.
  - 2) For all control measures for which the previous permit term or interim program standard is applied: Dates for the following:
    - (a) Start of the permittee's review process
    - (b) Permittee's approval of the site plan
    - (c) Control measure construction implementation
    - (d) Any modifications to the site plan
  - 3) For all control measures for which the pool is applied: The name and location of the control measure.
  - 4) The applicable documentation for the operation and maintenance procedures that ensure the long-term observation, maintenance, and operation of control measures, including routine inspection frequencies and maintenance activities.
  - 5) The applicable documentation regarding change of ownership or maintenance procedures.
  - 6) The applicable control measure manual or plan.
  - 7) The applicable documentation regarding easements or other legal means for access to the control measure for operation, maintenance, and inspection of control measures.
- (B) Construction Inspection and Acceptance for all Control Measures Implemented to meet the Water Quality Mitigation Pool Requirements, for Priority Development Projects, and for Cherry Creek Reservoir Development Projects: Maintain records of inspections conducted during construction and the permittee's acceptance of the control measure(s).
- (C) Long Term Operation and Maintenance and Post Acceptance Oversight for Control Measures Installed in Accordance with this Permit and Previous Permits: Maintain inspection records with the following minimum information for all inspections conducted to meet the minimum inspection frequency:
  - 1) Inspection date
  - 2) Name of inspector
  - 3) Control measure identification, including the type of control measure and control measure owner and operator
  - 4) Confirmation that the control measure matches the final approved plan
  - 5) Inspection findings including, when present: inadequate control measures and control measures requiring routine maintenance
  - 6) Confirmation that the control measure is operating as designed or a list of follow up actions
- (D) Tracking for Control Measures Installed in Accordance with this Permit and Previous Permits: Maintain records of the required control measure and regional WQCV control

- measure information, including: the type of control measure; the location of the control measure; the date control measures were installed in accordance with this permit, or the year control measures were installed in accordance with a previous permit; if it met a previous design standard (if applicable); if it meets the permittee's current design standard; the amount of acreage of the permittee's permit area draining to the control measure; the dates of inspections; the dates of maintenance; and the dates of scheduled maintenance.
- (E) For Applicable Permanent Water Quality Management Activities that Overlap Permit Areas of more than one MS4 Permittee (co-regulating MS4 permittee): Copies of any written agreements between co-regulating MS4 permittees when required by Part I.E.2.a.v(E).
- c. PDD: The permittee must provide a list of the following information:
- i. Regulatory Mechanism: A list of the citation(s) and location(s) of the required elements of the regulatory mechanism, including a list of the associated program documents used to meet the regulatory mechanism requirements.
  - ii. Regulatory Mechanism Exemptions: A list of the citation(s) and location(s) of regulatory mechanism elements that allow for exemptions and the documented procedures that confirm that any exemptions, waivers, and variances comply with the permit.
  - iii. Priority Development Project Control Measure and Cherry Creek Reservoir Development Projects: A list of citation(s) and location(s) of applicable documents that demonstrate that the permittee meets the requirements in Part I.E.2.a.iii, including any documents that provide control measure design considerations, criteria, or standards.
  - iv. Permanent Water Quality Mitigation Pool: A list of citation(s) and location(s) of supporting documents, including any documents that provide procedures and requirements for implementation of the pool and associated processes.
  - v. Other Requirements
- (A) Site Plan Requirements for all Control Measures Implemented to meet the Water Quality Mitigation Pool Requirements, for Priority Development Projects, and for Cherry Creek Reservoir Development Projects:
- 1) A list of citation(s) and location(s) of applicable documents that demonstrate that the permittee requires operators to develop, maintain, and modify site plans, including the citation(s) and location(s) of supporting documents.
  - 2) A list of citation(s) and location(s) of applicable documents that demonstrate that the permittee conducts initial site plan reviews, including the citation(s) and location(s) of supporting documents.
  - 3) A list of citation(s) and location(s) of applicable documents that demonstrate that the permittee has operation and maintenance procedures that ensure the long-term observation, maintenance, and operation of control measures, including routine inspection frequencies and maintenance activities.
  - 4) A list of citation(s) and location(s) of applicable documents that demonstrate that the permittee has change of ownership procedures.
  - 5) A list of citation(s) and location(s) of applicable documents that demonstrate that the permittee has procedures to ensure that structural control measures have easements or other legal means for access to the control measure for operation, maintenance, and inspection of control measures.

- (B) Construction Inspection and Acceptance for all Control Measures Implemented to meet the Water Quality Mitigation Pool Requirements, for Priority Development Projects, and for Cherry Creek Reservoir Development Projects: A list of citation(s) and location(s) of applicable documents that demonstrate that the permittee has written procedures for inspections, including the citation(s) and location(s) of supporting documents that describe the following:
  - 1) The process and tools used for documenting inspections.
  - 2) The process for inspection follow-up, including determining, implementing, and documenting the nature of the follow-up action.
  - 3) The process for determining, implementing, and documenting Post Acceptance Site Inspection frequencies if different than once a permit term.
- (C) Long Term Operation and Maintenance and Post Acceptance Oversight Site Inspection for Control Measures Installed in Accordance with this Permit and Previous Permits: A list of citation(s) and location(s) of applicable documents that demonstrate that the permittee has procedures for long term operation and maintenance and post acceptance oversight site inspections.
- (D) Tracking for Control Measures Installed in Accordance with this Permit and Previous Permits: A list of citation(s) and location(s) of applicable documents that demonstrate that the permittee has written procedures for maintaining the required tracking information.
- (E) For Applicable Permanent Water Quality Management Activities that Overlap Permit Areas of more than one MS4 Permittee (co-regulating MS4 permittee): A list of citation(s) and location(s) of applicable documents that demonstrate that the permittee meets all permit requirements in Part I.E.2.a.v(E) for applicable development project for which the permittee is the owner or operator.

### 3. Illicit Discharges Program

The permittee must implement a program to effectively prohibit illicit discharges.

a. The following requirements apply:

- i. Storm Sewer System Map: The permittee shall maintain a current map of the location of all MS4 outfalls within the permit area, and the names and location of all state waters that receive discharges from those outfalls. A "municipal separate storm sewer system outfall" (outfall) is a point source, as defined herein, at the point where a municipal separate storm sewer discharges to state waters. A "municipal separate storm sewer system outfall" does not include the point where a municipal separate storm sewer discharges into an open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other state waters and are used to convey state waters. A "point source" is any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. Point source does not include irrigation return flow.
- ii. Regulatory Mechanism: To the extent allowable under state or local law, implement a regulatory mechanism to meet the requirements in Part I.E.3.a., including the following:
  - (A) Prohibit illicit discharges into the MS4 unless excluded from being effectively prohibited in accordance with Part I.E.3.a.v.;

- (B) Allow access to property, as necessary for the permittee to implement the illicit discharges procedures; and
- (C) Provide the permittee the legal ability to meet the permit requirements to remove, or require and ensure the removal of, and impose penalties for all illicit discharges for the period from when the illicit discharge is identified until removed.
- iii. Regulatory Mechanism Exemptions: Procedures shall be implemented to ensure that any exemptions, waivers, or variances included in the regulatory mechanism are applied in a manner that complies with the terms and conditions of this permit.
- iv. Tracing an Illicit Discharge: The permittee must implement procedures to respond to reports/identification of illicit discharges. The permittee is not expected to actively seek out unreported illicit discharges, but is required to identify and respond to illicit discharges observed during day-to-day normal work activities. The permittee must implement procedures, including the tools needed, to trace the source of an illicit discharge when identified within the MS4. At a minimum, the permittee must have the following:
  - (A) Written procedures and tools for identifying/screening the point of entry or outfall of an illicit discharge.
  - (B) Written procedures and tools for tracing the illicit discharge within the MS4.
- v. Discharges that can be Excluded from being Effectively Prohibited: The following discharges do not need to be effectively prohibited and the permittee is not required to address the discharges as illicit discharges in accordance with the requirements of this permit. The permittee must list all discharges excluded from being effectively prohibited in their regulatory mechanism as an allowable non stormwater discharge. Any discharges listed below that are not listed in the permittee's regulatory mechanism must be effectively prohibited.
  - (A) Landscape irrigation
  - (B) Lawn watering
  - (C) Diverted stream flows
  - (D) Irrigation return flow
  - (E) Rising groundwaters
  - (F) Uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20))
    - 1) 40 CFR 35.2005(20): *Infiltration*. Water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.
  - (G) Uncontaminated pumped groundwater
    - 1) For the purposes of this permit, "uncontaminated" groundwater is groundwater that is not expected to contain pollutants in concentrations that are toxic or that would cause or contribute to a violation of a water quality standard.
    - 2) Discharges containing groundwater that comes into contact with construction activity is not considered "uncontaminated" due to the potential for sediment content.
  - (H) Springs
  - (I) Flows from riparian habitats and wetlands
  - (J) Water line flushing in accordance with the division's Low Risk Policy Discharge Guidance:

- (K) Discharges from potable water sources in accordance with the Division's Low Risk Discharge Guidance.
- (L) Foundation drains
- (M) Air conditioning condensation
- (N) Water from crawl space pumps
- (O) Footing drains
- (P) Individual residential car washing
- (Q) Dechlorinated swimming pool discharges in accordance with the division's Low Risk Discharge Guidance.
- (R) Water incidental to street sweeping (including associated sidewalks and medians) and that is not associated with construction
- (S) Dye testing in accordance with the manufacturers recommendations
- (T) Stormwater runoff
- (U) Discharges resulting from emergency fire fighting activities
- (V) Discharges authorized by a CDPS or NPDES permit
- (W) Any animal or agricultural waste from farms and ranches that do not require a CDPS or NPDES permit
- (X) Discharges that are in accordance with the Division's Low Risk Policy guidance documents.
- (Y) Other discharges that the permittee will not consider as an illicit discharge and approved by the Division: The permittee may propose discharges in accordance with the requirements below to seek Division approval to allow the permittee to not effectively prohibit the discharges. Upon approval by the Division, the permittee is not required to address the discharges as illicit discharges in accordance with the requirements of this permit. The permittee can still effectively prohibit these discharges if the permittee determines that the discharge is a significant source of pollution. The permittee must complete the following actions for discharges to be authorized by the Division:
  - 1) The permittee must submit a list of the discharges and the basis that the discharges meet one of the following criteria:
    - (a) The discharges, with proper management, are not expected to contain pollutants in concentrations that are toxic or in concentrations that would cause or contribute to a violation of a water quality standard; or
    - (b) The discharges are not eligible for coverage under a CDPS or NPDES general permit and prohibiting the discharges would result in changes to existing practices for the owner or operator of the discharges that are determined by the permittee to be impracticable.
  - 2) For all such discharges identified prior to the effective date of this permit and that will continue to be allowed, the information required by Subsection (1) must be submitted to the Division for approval in accordance with the compliance schedule in I.H.
  - 3) The Division may deny approval of the discharge in writing. The Division's denial will be based on a determination that the provided information does not demonstrate that the criteria of Part I.E.3.a.v(Y)(1) have been met.

- 4) The permittee must public notice the discharges authorized by the Division in accordance with its public notification procedures.
  - 5) The permittee must notify the Division within 30 days and revise its regulatory mechanism and procedures within 180 days if the permittee becomes aware of new information that the discharges authorized using the criteria in Part I.E.3.a.v(Y) no longer meets the criteria of that Part.
- vi. Removing an Illicit Discharge: The permittee must remove, or require and ensure the removal of, the source and associated material of an illicit discharge when identified. The removal requirement can be met by notifying the Division through a written report when CDPS or NPDES general permit coverage is available for a discharge and the discharge is not subject to prohibitions against issuance of a permit in regulation 61.8(1). The permittee must also have written procedures for requiring cleanup from the operator and procedures for cleanup conducted by the permittee, when necessary, to remove materials associated with the illicit discharge.
  - vii. Enforcement Response: The permittee must implement appropriate written enforcement procedures and actions to eliminate the source of an illicit discharge when identified/reported, stop responsible parties from willfully or negligently repeating or continuing illicit discharges, and discourage future illicit discharges from occurring. The written procedures must address mechanisms for enforcement for all illicit discharges from the moment an illicit discharge is identified/reported until it is eliminated. The permittee must escalate enforcement as necessary based on the severity of violation and/or the recalcitrance of the responsible party to ensure that findings of a similar nature are enforced upon consistently. Written enforcement procedures must include informal, formal, and judicial enforcement responses.
  - viii. Priority Areas: The permittee must locate priority areas with a higher likelihood of having illicit discharges, including areas with higher likelihood of illicit connections. At a minimum, the priority areas must include areas with a history of past illicit discharges.
  - ix. Training: The permittee must train applicable personnel to recognize and appropriately respond to illicit discharges observed during typical duties. The permittee must identify those who will be likely to make such observations and provide training to those individuals. The training must address how suspected illicit discharges will be reported/identified, general information for recognizing and responding to illicit discharges observed during typical duties, information on the sources and types of operations or behaviors that can result in an illicit discharge, and information on the location of priority areas.
  - x. Industrial Activities: The permittee must notify the Division when discharges from CDPS and NPDES permitted and unpermitted industrial activities are identified by the permittee as having a negative water quality impact on the discharge from the MS4. Information in the notification should include information such as the location of the discharge, water quality concerns, and contact information. The report must be provided to the Division within 90 days after permittee identified the location of the discharge.
- b. Recordkeeping: The permittee must maintain the following records for activities to meet the requirements of Part I.E.3 and Part I.K.2:
    - i. Storm Sewer System Map: The current map.
    - ii. Regulatory Mechanism: The applicable specifications, contracts, standards, operating procedures, and other documents used to meet the permit requirements.
    - iii. Regulatory Mechanism Exemptions: The applicable specifications, contracts, standards, operating procedures, and other documents used to meet the permit requirements.

- iv. Tracing an Illicit Discharge:
    - (A) The applicable program documents and procedures used to respond to reports/identification of illicit discharges.
    - (B) The permittee must maintain centralized recordkeeping systems of illicit discharge responses conducted by the permittee. Records maintained by other departments can be in different centralized recordkeeping systems. The centralized record keeping system must contain the information in Part 1.E.3.b.vi(A) below or provide a reference to where the information is maintained.
  - v. Discharges that could be Excluded from being Effectively Prohibited:
    - (A) Copies of all required submittals to the Division.
    - (B) Copies of the documents used to provide any required public notice and any public comment received as part of the public notice process.
  - vi. Removing an Illicit Discharge:
    - (A) The information used by the permittee to identify repeat occurrences from the same responsible party concerning the same type of illicit discharge. The permittee must document and maintain records of each illicit discharge identified by the permittee that includes the following information, or identifies that the information is unknown or not applicable:
      - 1) The date that the illicit discharge was reported to and/or identified by the permittee.
      - 2) The date the permittee responded to the reported/identified illicit discharge.
      - 3) The location of the illicit discharge.
      - 4) Potential responsible party for the illicit discharge (if identified).
      - 5) A description of the source and nature of the illicit discharge.
      - 6) A list of how the source of the illicit discharge was eliminated/resolved.
      - 7) Documentation of enforcement actions (if applicable).
  - vii. Priority Areas: The map and/or list of priority areas.
  - viii. Training: Name and title of each individual trained, date of training, the type of training, and a list of topics covered.
  - ix. Industrial Facilities: Copies of illicit discharge reports and the date that the Division was notified that the discharges originated from a permitted or unpermitted industrial activities for which CDPS or NPDES permit coverage is available and has a negative water quality impact on the discharge from the MS4.
- c. PDD: The permittee's PDD must include the following information:
- i. Storm Sewer System Map: A list of citation(s) and location(s) of the storm sewer system map and procedures for updating the map for new or removed outfalls or expanded permit areas.
  - ii. Regulatory Mechanism: A list of the citation(s) and location(s) of the required elements of the regulatory mechanism, including a list of the associated program documents used to meet the regulatory mechanism requirements.
  - iii. Regulatory Mechanism Exemptions: A list of the citation(s) and location(s) of regulatory mechanism elements that allow for exemptions and the documented procedures that confirm that any exemptions, waivers, and variances comply with the permit.

- iv. Discharges that have been excluded from being effectively prohibited: Identification of any illicit discharges listed in Part I.E.3.a.v. that the permittee will consider an illicit discharge.
- v. Tracing an Illicit Discharge:
  - (A) A list of citation(s) and location(s) of the specific tools available that will allow tracing of an illicit discharge, including as applicable storm sewer maps, dye tracers, cameras, aerial maps, etc.
  - (B) A list of citation(s) and location(s) of the written procedures for tracing an illicit discharge, including the citation(s) and location(s) of supporting documents.
  - (C) Documenting an illicit discharge:
    - 1) A list of citation(s) and location(s) of the record keeping system(s) used to maintain the required information.
    - 2) A list of citation(s) and location(s) of the written procedures used for documenting information on illicit discharge reports, including if applicable, identification of how information is consolidated between separate functional groups within the permittee's organization.
- vi. Discharges that could be Excluded from being Effectively Prohibited: A list of citation(s) and location(s) of the written procedures for excluding discharges from being effectively prohibited and the discharges that have been excluded from being effectively prohibited.
- vii. Removing an Illicit Discharge: A list of citation(s) and location(s) of the written procedures for removing an illicit discharge, including the citation(s) and location(s) of supporting documents.
- viii. Enforcement Response: A list of citation(s) and location(s) of the specific enforcement mechanisms available and written procedures for enforcement response, including the citation(s) and location(s) of supporting documents. The document(s) must detail the types of escalating enforcement responses the permittee will take in response to common violations and time periods within which responses will take place.
- ix. Priority Areas: A list of citation(s) and location(s) of the priority areas.
- x. Training: A list of citation(s) and location(s) of the training program and supporting documents.
- xi. Industrial Facilities: A list of citation(s) and location(s) of the written procedures for reporting discharges from industrial activities to the Division, including the citation(s) and location(s) of supporting documents.

#### 4. Industrial Facilities Program

The permittee shall implement a program to promote the proper management of stormwater quality from industrial sites.

a. The following requirements apply:

- i. Education and Outreach: The program shall provide education and outreach to owners or operators of industrial facilities. The permittee shall provide education and outreach to owners or operators of industrial facilities that the permittee determines are contributing or have the potential to contribute a substantial pollutant loading to the storm sewer system. The education and outreach activities shall promote the proper management of potential pollutants in stormwater discharges from industrial facilities.

- ii. Industrial Facilities: The permittee shall provide written notification, within 15 days of the identification or discovery of the industrial facility, to the Division that includes the following:
  - (A) Facility identification of industrial facilities that are identified by the permittee as contributing or have the potential to contribute a substantial pollutant loading to the storm sewer system.
  - (B) Information on the discharge, including the water quality concerns.
- iii. Personnel Training: The permittee shall provide training to applicable permittee personnel to inform them of the permit requirements under this program area.
- b. Recordkeeping: The permittee shall maintain the following records for activities to meet the requirements of Part I.E.4 and Part I.K.2:
  - i. Education and Outreach: A written list of the education and outreach activities, including the most current *Environmental Clearance Fact Sheet*, and distribution mechanism(s).
  - ii. Industrial Facilities:
    - (A) The applicable specifications, contracts, standards, operating procedures, and other documents used to meet the permit requirements.
    - (B) Copies of all required submittals to the Division.
    - (C) A list of industrial facilities that are covered by Part I.E.4.a.ii.
  - iii. Training: Name and title of each individual trained, date of training, the type of training, and a list of topics covered.
- c. PDD: The permittee shall provide the following information regarding program development and implementation to meet the requirements of Part I.E.4:
  - i. Education and Outreach: A list of education and outreach activities used to educate the industrial facilities.
  - ii. Industrial Facilities: A list of citation(s) and location(s) of written procedures used for the identification of industrial facilities that contribute or have the potential to contribute a substantial pollutant loading to the storm sewer system.
  - iii. Training: A list of citation(s) and location(s) of the training program and supporting documents.

## 5. Public Education and Outreach Program

The permittee must implement a public education program to promote behavior change by the public to reduce pollutants in discharges from the MS4. Education and outreach activities must address the impacts of stormwater discharges on water bodies, the steps the target audience can take to reduce pollutants in stormwater runoff, and water quality impacts associated with illegal discharges and improper disposal of waste.

- a. The following requirements apply:
  - i. Website: The Permittee's website must provide the following minimum information:
    - (A) A copy of this permit or a link to division's webpage including directions for finding the permit.
    - (B) A statement explaining that the permittee must meet the permit requirements.
    - (C) A basic message explaining and a diagram illustrating that stormwater discharges to surface water bodies, without treatment by a wastewater treatment plant.

- (D) Contact information and directions for comments, questions, and complaints associated with permittee actions to meet the requirement of this permit.
  - (E) Identification Common indicators of an illicit discharge and procedures on how to report an illicit discharge.
  - (F) A summary of the permittee's requirements for control measures for covered construction projects.
  - (G) A summary of how to provide information to the permittee regarding failures to implement or inadequate control measures.
- ii. Education and Outreach Activities Table: The permittee must implement at least two education and outreach activities (bulleted items) from each column each year. The activities can be the same from year to year or be different each year.

**TABLE 1**  
**Education and Outreach Activities Table**

Passive Outreach (pick any two bullets each year)	Active and Interactive Outreach (pick any two bullets each year)
<ul style="list-style-type: none"> <li>• Bus shelter/bench advertisement</li> <li>• Billboard/dasher board advertisement</li> <li>• Vehicle/bus advertisement</li> <li>• Electronic highway message board advertisement</li> <li>• Radio/television/movie theatre advertisement</li> <li>• Newspaper advertisement</li> <li>• Distribute educational materials by brochure</li> <li>• Distribute educational materials by fact sheet</li> <li>• Distribute educational material by utility bill insert</li> <li>• Publish article (hard copy or electronic)</li> <li>• Storm drain marking by permittee personnel that maintains 25% of permittee maintained inlets.</li> <li>• Stormwater related signage</li> <li>• Web site</li> </ul>	<ul style="list-style-type: none"> <li>• Ongoing advertisement/promotion of a stormwater hotline number or other method to report an illicit discharge</li> <li>• Ongoing advertisement/promotion on how to get more information about the stormwater program</li> <li>• Ongoing social media program</li> <li>• Web site that is interactive or contains stormwater information that includes actions that can be taken to reduce stormwater pollution</li> <li>• Newsletter (hard copy or electronic)</li> <li>• Promotion of existing local stormwater/environmental events or program that help protect water quality</li> <li>• Distribute promotional items or giveaways</li> <li>• Participate in or sponsor a water festival which involves populations that exist within the permit boundary</li> <li>• Participate in or sponsor a waterway clean-up and trash removal event</li> <li>• Participate in or sponsor a service project</li> <li>• Participate in or sponsor a stormwater or environmental presentation</li> <li>• Participate in or sponsor a stormwater or environmental event</li> <li>• Participate in or sponsor a household hazardous waste event</li> <li>• Participate in or sponsor an Adopt-a-Street/Highway program</li> <li>• Participate in or sponsor an Adopt-a-Waterway program</li> <li>• Participate in or sponsor an Adopt-a-Storm Drain program</li> <li>• Provide ongoing access to motor vehicle fluids recycling program</li> <li>• Stormwater booth at a community event</li> <li>• Conduct a stormwater survey</li> <li>• Storm drain marking program performed by the public/community</li> <li>• Pet waste stations</li> <li>• Participate in, plan or present stormwater materials to schools</li> <li>• Stormwater demonstration projects that show control measures or other pollutant reduction methods</li> </ul>

iii. Nutrients: As part of their public education program, the permittee must specifically address the reduction of water quality impacts associated with nitrogen and phosphorus in discharges

from the MS4. The permittee can meet the requirements of this section through contribution to a collaborative program to evaluate, identify, target, and provide outreach that addresses sources state-wide or within the specific region or watershed that includes the receiving waters impacted by the MS4 permittee's discharge.

- i. The permittee must determine the targeted sources (e.g., residential, industrial, agricultural, or commercial) that are contributing to, or have the potential to contribute, nutrients to the waters receiving the discharge authorized under the MS4 permit.
  - ii. The permittee must prioritize which targeted sources are likely to obtain a reduction in nutrient discharges through education. The permittee must distribute educational materials or equivalent outreach to the prioritized targeted sources. Educational materials or equivalent outreach, individually or as a whole, must describe stormwater quality impacts associated with nitrogen and phosphorus in stormwater runoff and illicit discharges, the behaviors of concern, and actions that the target source can take to reduce nutrients. The permittee may incorporate the education and outreach to meet this requirement into the education and outreach strategies provided in accordance with Part I.E.1.a.ii.
- b. Recordkeeping: The permittee must maintain the following records for activities to meet the requirements of Part I.E.5 and Part I.K.2:
- i. Website: Maintain the website.
  - ii. Education and Outreach Activities: A written list of the targeted pollutant sources and/or pollutants, the target audience, and distribution mechanism for each activity and the following:
    - (A) Dates the activities were implemented, including, as applicable, dates of events and the materials that were made available.
    - (B) Documentation of the activities that were provided and/or made available and the dates of distribution. Signs, markers, or equivalent intended to be maintained for the permit term must be described with location information.
  - iii. Nutrients: A written list of the targeted sources that are contributing to, or have the potential to contribute nutrients to stormwater and the education and outreach activity for the targeted sources
- c. PDD: The permittee must provide a list of the following information:
- i. Website: The website address.
  - ii. Education and Outreach Activities: A list of the activities from Table 1 selected for implementation for each calendar year.
  - iii. Nutrients: A list of citation(s) and location(s) of the written procedures used to determine factors considered and the targeted sources, the prioritized targeted sources, the outreach activities conducted, and the outreach distribution mechanisms.

## 6. Pollution Prevention and Good Housekeeping Program

The permittee must implement a program for Pollution Prevention/Good Housekeeping for facilities and operations that they own, operate, or perform within the permit area. The program must prevent or reduce water quality impacts from pollutants being discharged to the MS4 from the permittee's facilities and operations. "Applicable permittee operations and facilities" are permittee operations and facilities with stormwater discharges that *are not* authorized by a separate CDPS or NPDES discharge permit.

- a. The following requirements apply:
  - i. Control Measure Requirements: The permittee must address the selection, installation, implementation, and maintenance of control measures in accordance with Part I.B. At a minimum, control measures must be adequately designed to prevent or reduce all potential pollutant associated with applicable permittee facilities and operations to prevent or minimize the discharge of pollutants, including trash, to state waters.
  - ii. Permittee Facility Runoff Control Measures:
    - (A) The permittee shall implement control measures to prevent or reduce potential discharges of pollutants to the MS4 from the applicable permittee facilities listed below. New procedures shall be developed and implemented for any new applicable permittee facilities.
      - 1) Vehicle maintenance and washing facilities and motor pools with vehicle maintenance and washing
      - 2) Asphalt and concrete batch plants that are not subject to a separate CDPS or NPDES permit coverage.
      - 3) Solid-waste transfer stations where waste and recyclables are briefly held before further transport
      - 4) Outdoor storage yards with exposed stockpiles of materials, including stockpiles of road deicing salt, salt and sand, sand, and rotomill material, dirt, snow dumps, sweeper tailings and/or spoils, gravel
      - 5) Equipment storage yards, including signs, traffic lighting, guard rails.
    - (B) The permittee shall implement the following categories of control measures as necessary to prevent or reduce the pollutant sources present:
      - 1) Preventive maintenance
      - 2) Good housekeeping
      - 3) Spill prevention and response procedures
      - 4) Structural control measures
      - 5) Evaluation of non-stormwater discharges
      - 6) Personnel training
    - (C) The permittee shall implement written facility inspection procedures, which must at a minimum include the following:
      - 1) An annual visual inspection of each applicable permittee facility.
      - 2) A verification that the written facility procedures and documentation are current.
      - 3) Observation of locations and areas where stormwater from facilities are discharged off-site; or discharged to state waters, or to a storm sewer system that drains to state waters.
      - 4) Observation of facility conditions, including pollutant sources and control measures, to identify inadequate control measure and control measure requiring maintenance.
  - iii. Permittee Operations and Maintenance Procedures: The permittee shall implement control measures that prevent or reduce discharges for applicable operations that are not covered

under Part I.E.6.a.ii(A). New written procedures shall be developed and implemented for any new applicable permittee operations.

- (A) At a minimum, implementation of the procedures must prevent or reduce stormwater pollution from the following operations conducted by the permittee:
- 1) Operation and maintenance of the state highway system
  - 2) Operation and maintenance of permittee parking lots
  - 3) Operations at maintenance and storage yards
  - 4) Operations at maintenance shops with outdoor storage areas
  - 5) Operation and maintenance of snow dumps/snow disposal areas
  - 6) Operation and maintenance of sites used for temporary storage of sweeper tailings or other waste piles
  - 7) Operation and maintenance of grounds area and turf areas at rest areas
  - 8) Building maintenance
  - 9) MS4 maintenance, including trash removal
  - 10) New construction of permittee facilities
  - 11) Application of pesticides, herbicides, and fertilizers
  - 12) Large outdoor festivals and events
  - 13) Construction activities not subject to the requirements of Part I.E.1
  - 14) Maintenance, replacement, and construction of utilities and the storm system, including operations, such as storage, dewatering, or disposal, associated with removal of sediment, debris, and other pollutant sources from the MS4, including removal of materials, such as trash, from control measures implemented in accordance with Part I.E.2, unless covered by a separate CDPS or NPDES permit.
- iv. Bulk Storage: Bulk storage structures for petroleum products and any other liquid chemicals located at applicable permittee facilities must have control measures implemented that provide secondary containment or equivalent protection that contains all spills and prevents any spilled material from entering state waters. For the scenario of a single containment system serving multiple tanks, the containment system must have sufficient capacity to contain 10% of the volume of containers, or the volume of the largest container plus 10%, whichever is greater. Bulk storage on mobile refuelers that are subject to the authority and control of the U.S. Department of Transportation, as defined in the Memorandum of Understanding between the Secretary of Transportation and the Administrator of EPA, dated November 24, 1971 are not subject to the requirements of this requirement. Before the implementation of such controls, the permittee shall implement practices, such as spill prevention and response, to prevent or reduce pollutants in runoff associated with bulk storage structures.
- v. Training: Train applicable permittee personnel to implement the Pollution Prevention/Good Housekeeping Program, including training for personnel that will conduct inspections in accordance with Part I.E.6.a.ii(C). The permittee must identify those who will be likely to inspect the control measures and provide training to those individuals. The program must inform personnel responsible for operations with the potential to result in an illicit discharge about the permittee's prohibitions against, and potential impacts associated with, illicit

discharges from permittee operations. The training must also include information on trash and its effects on water quality.

- vi. Nutrient Source Reductions: The permittee shall implement an operations program that has the ultimate goal of preventing or reducing nitrogen and phosphorus in stormwater runoff associated with the applicable operations and facilities.
  - i. The permittee shall evaluate, identify, and document the operations and facilities that are and/or have the potential to contribute nitrogen and phosphorus to the waters receiving the discharge authorized under this permit (identified operations nutrient sources). The permittee is authorized to meet the requirements of this section through contribution to a collaborative program to evaluate, identify, and target sources state-wide or within the specific region or watershed that includes the receiving waters impacted by the permittee's discharge(s). At a minimum, if the permittee has any operations that use fertilizers, then the permittee shall include the storage and application of fertilizer, including subsequent stormwater or irrigation runoff from areas where fertilizer has been applied, as an identified nutrient source if these operations were not covered under Part I.E.6.a.ii and iii.
  - ii. The permittee shall implement control measures that prevent or reduce the nitrogen and phosphorus in stormwater runoff associated with identified operations with nutrient sources. The control measures shall be implemented and documented in accordance with Part I.E.6.a.ii, if associated with an applicable facility, or in accordance with Part I.E.6.a.iii., if associated with an applicable operation.
- b. Recordkeeping: The permittee must maintain the following records for activities to meet the requirements of Part I.E.6 and Part I.K.2:
  - i. Permittee Facility Runoff Control Measures: A facility runoff control plan must be developed for each applicable permittee facility and include the following information:
    - (A) Facility identification
    - (B) Description of all pollutant sources
    - (C) Control measures implemented, including installation and implementation specifications and information
    - (D) Personnel (position title) responsible for implementation of control measures and associated documentation
    - (E) Maintain inspection records with the following minimum information for all inspections conducted to meet the minimum inspection frequency:
      - 1) Inspection date
      - 2) Name of inspector
      - 3) Applicable facility identification
      - 4) Inspection findings including, when present: inadequate control measures, control measures requiring routine maintenance, and if there was any evidence of polluted discharges from the facility
      - 5) Confirmation and documentation that the control measures are adequate or a list of follow up actions
  - ii. Permittee Operations and Maintenance Procedures: Control measures implemented, including installation and implementation information.

- iii. Bulk Storage: Description of control measures implemented for bulk storage structures.
  - iv. Training: Name and title of each individual trained, date of training, the type of training, and a list of topics covered.
  - v. Nutrient Source Reductions: Control measures implemented to prevent or reduce nitrogen and phosphorus from facilities and operations, including installation and implementation information.
- c. PDD: The permittee must provide a list of the following information:
- i. Permittee Facility Runoff Control Measures: A list of citations(s) and locations(s) of the following:
    - (A) List of applicable permittee facilities.
    - (B) List of facilities the permittee owns or operates that are subject to separate CDPS or NPDES permit coverage under the state's general stormwater permits for discharges of stormwater associated with industrial activity.
    - (C) Citation(s) and location(s) of supporting documents of the facility runoff control measures, including documents that provide control measure installation and implementation specifications and information.
    - (D) Citation(s) and location(s) of supporting documents for inspections, including a list of the written procedures for conducting inspections.
  - ii. Permittee Operations and Maintenance Procedures: A list of citations(s) and locations(s) of the following:
    - (A) List the permittee operations to which this program applies.
    - (B) Citation(s) and location(s) of supporting documents, including documents that provide control measure installation and implementation specifications and implementation.
  - iii. Bulk Storage: A list of citations(s) and locations(s) of procedures to ensure that this requirement is met.
  - iv. Training: A list of citation(s) and location(s) of the training program and supporting documents.
  - v. Nutrient Source Reductions: A list of citations(s) and locations(s) of the method used to evaluate operations and facilities to identify sources of nitrogen and phosphorus discharges from the MS4 that can be controlled through the implementation of control measures.

## F. OTHER TERMS AND CONDITIONS

### 1. General Limitations

The following limitations shall apply to all discharges covered by this permit:

- a. No chemicals are to be added by the permittee for the purpose of meeting a pollutant restriction, prohibition, or reduction requirement in this permit that have the potential to be present in the permitted discharge, including, but not limited to, chemical additions at any point in the treatment process, unless the permittee provides advance notice to the Division of the planned changes in accordance with Part II.A.2 and the Division confirms that the new or altered discharge is appropriate for coverage under this permit.
- b. All discharges must comply with the lawful requirements of federal agencies, municipalities, counties, drainage districts, and other local agencies regarding any discharges to storm drain systems, conveyances, or other water courses under their jurisdiction.

## 2. Releases in Excess of Reportable Quantities

This permit does not relieve the permittee of the reporting requirements of 40 C.F.R. 110, 40 C.F.R. 117 or 40 C.F.R. 302. Any discharge of hazardous material shall be handled in accordance with the Division's Notification Requirements in Part II.

## 3. Records Availability

All records required under this permit are considered reports that shall be available to the public under Section 308(b) of the CWA. The operator of a facility with discharges covered by this permit shall make their PDD available to members of the public upon request. However, the permittee may claim any portion of a PDD as confidential in accordance with 40 C.F.R. 403.14.

## 4. Discharges to Waters with Total Maximum Daily Loads (TMDLs)

A "TMDL" is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. A water quality standard is a narrative and/or numeric restriction established by the Commission applied to state surface waters to protect one or more beneficial uses of such waters. Whenever only numeric or only narrative standards are intended, the wording shall specifically designate which is intended. See 5 CCR 1002- 31.5(37). A TMDL includes wasteload allocations (WLAs) for point source discharges; load allocations (LAs) for nonpoint sources and/or natural background, and must include a margin of safety (MOS) and account for seasonal variations. See section 303(d) of the Clean Water Act and 40 C.F.R. 130.2 and 130.7. The Division will do either of the following if a TMDL has been approved for any waterbody into which the permittee discharges, and discharges subject to effluent limits under this permit certification have been assigned a pollutant-specific WLA under the TMDL:

- a. If the Division determines that pollutant restrictions, prohibitions, and reduction requirements in the current permit are adequate to ensure compliance with the WLA, the Division will notify the permittee of the WLA and amend the permittee's certification if necessary to address additional reporting or documentation requirements to demonstrate compliance with the WLA, or
- b. If the Division determines that the conditions of this permit are not adequate to bring about compliance with the WLA, the Division may modify this permit in accordance with Part II.B.5.

## 5. Implementation by Other Parties

Implementation of one or more of the actions required to comply with a term or condition of this permit, including effluent limitations, may be shared with another entity or the other entity may fully take over implementation of the action(s). The permittee remains liable for ensuring that all requirements of this permit are complied with, regardless of who implements the action(s). The permittee may rely on another entity for implementation only if:

- a. The other entity agrees to implement the action(s) on the permittee's behalf. Written acceptance of this obligation is required and must be maintained as part of the PDD.
- b. If the other entity conducts oversight of a third party to meet a pollutant restriction, prohibition, or reduction requirement, the entity must be capable of remaining impartial and must be a separate entity than the owner/operator of the activity for which the oversight is targeted.
- c. The other entity must be capable of completing the necessary actions to comply with the relevant pollutant restriction, prohibition, or reduction requirement(s), including but not limited to effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate written quality assurance procedures.
- d. If the permittee uses another party, including a storm water management system administrator, to conduct site inspections on their behalf, then the permittee must develop written procedures

to demonstrate and report that the storm water management system administrator program meets the requirements of Part I.E.1.a.v. and Part I.E.1.b.v.

#### 6. Wet Weather Monitoring

The permittee shall implement a wet weather monitoring program to assess wet weather impacts from highways and facilities and the performance of control measures used to control discharges. The following requirements apply:

##### a. Monitoring Program

- i. The permittee shall perform wet weather outfall monitoring that meets the following minimum requirements:
  - (A) Monitor six outfalls/sample points each calendar year.
    - 1) In years 1 and 2, the permittee shall sample one outfall.
  - (B) Three samples shall be collected from each monitored outfall/sample point per year.
    - 1) In years 1 and 2, the permittee shall collect one sample from one outfall.
  - (C) Each sample for roadways with and without a control measure shall be analyzed, at a minimum, for all roadway pollutants of concern, conductivity, and hardness. Each sample from facilities shall be analyzed for chloride, sodium, magnesium, total suspended solids, oil and grease, and any other parameters that the permittee determines have a reasonable potential to be present and cause impacts to beneficial uses of receiving waters. This determination shall be based on a review of pollutant sources at the facility.
  - (D) All samples shall be taken during a measurable storm event. A measurable storm event is a rain event that results in an actual discharge from the facility, and that follows the preceding measurable storm event by at least 72 hours (3 days) or a snowmelt event where a measurable discharge occurs from the facility resulting from melting snow.
  - (E) Sampling locations shall be chosen that will have at least three measurable storm events occur during the year, including at least one rainfall and one snowmelt event. The measurable storm events must be at least 72 hours (3 days) apart.
  - (F) All sample locations shall be in the permit area. At a minimum, of outfalls sampled shall be from each of the following:
    - 1) Complex highway maintenance facilities that has at least two of the activity descriptions in Part I.E.6.a.ii(A) and be representative of pollutant sources and expected loading from the facility.
    - 2) Outfalls/sample points from highway road surfaces without control measures in accordance with Part I.E.2.
    - 3) Outfalls/sample points from highway road surfaces with control measures in accordance with Part I.E.2.
  - (G) The permittee shall monitor all effluent parameters at the frequencies and sample types specified above. Such monitoring will begin immediately and last for the life of the permit unless otherwise noted. The results of such monitoring shall be reported on the Discharge Monitoring Report (DMR) form (See below.)

Self-monitoring sampling by the permittee for compliance with the effluent monitoring requirements specified in this permit, shall be performed at the location(s) noted in Part I.F.6.a. above.

The permittee must electronically report DMRs by using the EPA's Net-DMR service unless a waiver is granted in compliance with 40 CFR 127. The data must be received no later than the 28th day of the following month (for example, the DMR for the calendar year must be received by the Division by January 28th). The Discharge Monitoring Report electronic forms shall be filled out accurately and completely in accordance with requirements of this permit and the instructions on the forms. They shall be signed by an authorized person as identified in Part I.K.1.

Permitted Feature 001 (roadway with control measure), limit set A (rainfall)

ICIS Code	Parameter	Discharge Limitations Maximum Concentrations—Daily Maximum	Sample Type	Reporting Frequency
50047	Flow, maximum during 24 hr period, gpd	Report	Recorder <sup>1</sup>	1/year
00530	Total suspended solids (mg/l)	Report	Composite	1/year
00094	Conductivity(dS/m)	Report	Composite	1/year
00900	Hardness, total (as CaCO <sub>3</sub> ) (mg/l)	Report	Composite	1/year
01113	Cadmium, total recoverable (µg/l)	Report	Composite	1/year
01313	Cadmium, potentially dissolved (µg/l)	Report	Composite	1/year
01118	Chromium, total recoverable (µg/l)	Report	Composite	1/year
01030	Chromium, potentially dissolved (µg/l)	Report	Composite	1/year
01119	Copper, total recoverable (µg/l)	Report	Composite	1/year
01306	Copper, potentially dissolved (µg/l)	Report	Composite	1/year
00980	Iron, total recoverable (µg/l)	Report	Composite	1/year
01317	Iron, potentially dissolved (µg/l)	Report	Composite	1/year
01051	Lead, total recoverable (µg/l)	Report	Composite	1/year
01318	Lead, potentially dissolved (µg/l)	Report	Composite	1/year
00921	Magnesium, total recoverable (µg/l)	Report	Composite	1/year
00925	Magnesium, potentially dissolved (µg/l)	Report	Composite	1/year
11123	Manganese, total recoverable (µg/l)	Report	Composite	1/year
01319	Manganese, potentially dissolved (µg/l)	Report	Composite	1/year
01067	Nickel, total recoverable (µg/l)	Report	Composite	1/year
01322	Nickel, potentially dissolved (µg/l)	Report	Composite	1/year
00981	Selenium, total recoverable (µg/l)	Report	Composite	1/year
01323	Selenium, potentially dissolved (µg/l)	Report	Composite	1/year
01094	Zinc, total recoverable (µg/l)	Report	Composite	1/year
01303	Zinc, potentially dissolved (µg/l)	Report	Composite	1/year
00640	Total Inorganic Nitrogen (mg/l)	Report	Composite	1/year
00665	Phosphorus (mg/l)	Report	Composite	1/year
00940	Chloride (mg/l)	Report	Composite	1/year
00923	Sodium (mg/l)	Report	Composite	1/year

03582	Oil and Grease(mg/l)	Report	Grab	1/year
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Permitted Feature 001 (roadway with control measure), limit set B (snowmelt)

ICIS Code	Parameter	Discharge Limitations Maximum Concentrations—Daily Maximum	Sample Type	Reporting Frequency
50047	Flow, maximum during 24 hr period, gpd	Report	Recorder <sup>1</sup>	1/year
00530	Total suspended solids (mg/l)	Report	Composite	1/year
00094	Conductivity(dS/m)	Report	Composite	1/year
00900	Hardness, total (as CaCO <sub>3</sub> ) (mg/l)	Report	Composite	1/year
01113	Cadmium, total recoverable (µg/l)	Report	Composite	1/year
01313	Cadmium, potentially dissolved (µg/l)	Report	Composite	1/year
01118	Chromium, total recoverable (µg/l)	Report	Composite	1/year
01030	Chromium, potentially dissolved (µg/l)	Report	Composite	1/year
01119	Copper, total recoverable (µg/l)	Report	Composite	1/year
01306	Copper, potentially dissolved (µg/l)	Report	Composite	1/year
00980	Iron, total recoverable (µg/l)	Report	Composite	1/year
01317	Iron, potentially dissolved (µg/l)	Report	Composite	1/year
01051	Lead, total recoverable (µg/l)	Report	Composite	1/year
01318	Lead, potentially dissolved (µg/l)	Report	Composite	1/year
00921	Magnesium, total recoverable (µg/l)	Report	Composite	1/year
00925	Magnesium, potentially dissolved (µg/l)	Report	Composite	1/year
11123	Manganese, total recoverable (µg/l)	Report	Composite	1/year
01319	Manganese, potentially dissolved (µg/l)	Report	Composite	1/year
01067	Nickel, total recoverable (µg/l)	Report	Composite	1/year
01322	Nickel, potentially dissolved (µg/l)	Report	Composite	1/year
00981	Selenium, total recoverable (µg/l)	Report	Composite	1/year
01323	Selenium, potentially dissolved (µg/l)	Report	Composite	1/year
01094	Zinc, total recoverable (µg/l)	Report	Composite	1/year
01303	Zinc, potentially dissolved (µg/l)	Report	Composite	1/year
00640	Total Inorganic Nitrogen (mg/l)	Report	Composite	1/year
00665	Phosphorus (mg/l)	Report	Composite	1/year

00940	Chloride (mg/l)	Report	Composite	1/year
00923	Sodium (mg/l)	Report	Composite	1/year
03582	Oil and Grease(mg/l)	Report	Grab	1/year

Permitted Feature 002 (roadway without a control measure), limit set A (rainfall)

ICIS Code	Parameter	Discharge Limitations Maximum Concentrations—Daily Maximum	Sample Type	Reporting Frequency
50047	Flow, maximum during 24 hr period, gpd	Report	Recorder <sup>1</sup>	1/year
00530	Total suspended solids (mg/l)	Report	Composite	1/year
00094	Conductivity(dS/m)	Report	Composite	1/year
00900	Hardness, total (as CaCO <sub>3</sub> ) (mg/l)	Report	Composite	1/year
01113	Cadmium, total recoverable (µg/l)	Report	Composite	1/year
01313	Cadmium, potentially dissolved (µg/l)	Report	Composite	1/year
01118	Chromium, total recoverable (µg/l)	Report	Composite	1/year
01030	Chromium, potentially dissolved (µg/l)	Report	Composite	1/year
01119	Copper, total recoverable (µg/l)	Report	Composite	1/year
01306	Copper, potentially dissolved (µg/l)	Report	Composite	1/year
00980	Iron, total recoverable (µg/l)	Report	Composite	1/year
01317	Iron, potentially dissolved (µg/l)	Report	Composite	1/year
01051	Lead, total recoverable (µg/l)	Report	Composite	1/year
01318	Lead, potentially dissolved (µg/l)	Report	Composite	1/year
00921	Magnesium, total recoverable (µg/l)	Report	Composite	1/year
00925	Magnesium, potentially dissolved (µg/l)	Report	Composite	1/year
11123	Manganese, total recoverable (µg/l)	Report	Composite	1/year
01319	Manganese, potentially dissolved (µg/l)	Report	Composite	1/year
01067	Nickel, total recoverable (µg/l)	Report	Composite	1/year
01322	Nickel, potentially dissolved (µg/l)	Report	Composite	1/year
00981	Selenium, total recoverable (µg/l)	Report	Composite	1/year
01323	Selenium, potentially dissolved (µg/l)	Report	Composite	1/year
01094	Zinc, total recoverable (µg/l)	Report	Composite	1/year
01303	Zinc, potentially dissolved (µg/l)	Report	Composite	1/year
00640	Total Inorganic Nitrogen (mg/l)	Report	Composite	1/year
00665	Phosphorus (mg/l)	Report	Composite	1/year

00940	Chloride (mg/l)	Report	Composite	1/year
00923	Sodium (mg/l)	Report	Composite	1/year
03582	Oil and Grease(mg/l)	Report	Grab	1/year

Permitted Feature 002 (roadway without control measure), limit set B (snowmelt)

ICIS Code	Parameter	Discharge Limitations Maximum Concentrations—Daily Maximum	Sample Type	Reporting Frequency
50047	Flow, maximum during 24 hr period, gpd	Report	Recorder <sup>1</sup>	1/year
00530	Total suspended solids (mg/l)	Report	Composite	1/year
00094	Conductivity(dS/m)	Report	Composite	1/year
00900	Hardness, total (as CaCO <sub>3</sub> ) (mg/l)	Report	Composite	1/year
01113	Cadmium, total recoverable (µg/l)	Report	Composite	1/year
01313	Cadmium, potentially dissolved (µg/l)	Report	Composite	1/year
01118	Chromium, total recoverable (µg/l)	Report	Composite	1/year
01030	Chromium, potentially dissolved (µg/l)	Report	Composite	1/year
01119	Copper, total recoverable (µg/l)	Report	Composite	1/year
01306	Copper, potentially dissolved (µg/l)	Report	Composite	1/year
00980	Iron, total recoverable (µg/l)	Report	Composite	1/year
01317	Iron, potentially dissolved (µg/l)	Report	Composite	1/year
01051	Lead, total recoverable (µg/l)	Report	Composite	1/year
01318	Lead, potentially dissolved (µg/l)	Report	Composite	1/year
00921	Magnesium, total recoverable (µg/l)	Report	Composite	1/year
00925	Magnesium, potentially dissolved (µg/l)	Report	Composite	1/year
11123	Manganese, total recoverable (µg/l)	Report	Composite	1/year
01319	Manganese, potentially dissolved (µg/l)	Report	Composite	1/year
01067	Nickel, total recoverable (µg/l)	Report	Composite	1/year
01322	Nickel, potentially dissolved (µg/l)	Report	Composite	1/year
00981	Selenium, total recoverable (µg/l)	Report	Composite	1/year
01323	Selenium, potentially dissolved (µg/l)	Report	Composite	1/year
01094	Zinc, total recoverable (µg/l)	Report	Composite	1/year
01303	Zinc, potentially dissolved (µg/l)	Report	Composite	1/year
00640	Total Inorganic Nitrogen (mg/l)	Report	Composite	1/year
00665	Phosphorus (mg/l)	Report	Composite	1/year

00940	Chloride (mg/l)	Report	Composite	1/year
00923	Sodium (mg/l)	Report	Composite	1/year
03582	Oil and Grease(mg/l)	Report	Grab	1/year

Permitted Feature 003 (facility), limit set A (rainfall)

ICIS Code	Parameter	Discharge Limitations Maximum Concentrations— Daily Maximum	Sample Type	Reporting Frequency
50047	Flow, maximum during 24 hr period, gpd	Report	Recorder <sup>1</sup>	1/year
00530	Total suspended solids (mg/l)	Report	Composite	1/year
00921	Magnesium, total recoverable (µg/l)	Report	Composite	1/year
00925	Magnesium, potentially dissolved (µg/l)	Report	Composite	1/year
00940	Chloride (mg/l)	Report	Composite	1/year
00923	Sodium (mg/l)	Report	Composite	1/year
03582	Oil and Grease(mg/l)	Report	Grab	1/year

Permitted Feature 003 (facility), limit set B (snowmelt)

ICIS Code	Parameter	Discharge Limitations Maximum Concentrations— Daily Maximum	Sample Type	Reporting Frequency
50047	Flow, maximum during 24 hr period, gpd	Report	Recorder <sup>1</sup>	1/year
00530	Total suspended solids (mg/l)	Report	Composite	1/year
00921	Magnesium, total recoverable (µg/l)	Report	Composite	1/year
00925	Magnesium, potentially dissolved (µg/l)	Report	Composite	1/year
00940	Chloride (mg/l)	Report	Composite	1/year
00923	Sodium (mg/l)	Report	Composite	1/year
03582	Oil and Grease(mg/l)	Report	Grab	1/year

- ii. The permittee shall install, calibrate, use and maintain monitoring methods and equipment. All sampling shall be performed in accordance with specified methods in 40 C.F.R. Part 136; methods approved by EPA pursuant to 40 C.F.R. Part 136; or methods approved by the Division, in the absence of a method specified in or approved pursuant to 40 C.F.R. Part 136. When requested in writing, the Division may approve an alternative analytical procedure or any significant modification to an approved procedure.

The practical quantitation limit (PQL) is the minimum concentration of a pollutant of concern that can be measured with a high degree of confidence that the pollutant of concern is present at or above that concentration. The analytical method and PQL chosen for monitoring required by this permit shall:

- (A) Measure at or below the lowest surface/groundwater quality standard listed below where that standard is greater than or equal to the PQL.
- (B) Measure at or below the PQL listed below where the lowest surface/groundwater quality standard is less than the PQL.
- (C) If neither an applicable receiving water standard nor a PQL listed in the table below exists for a parameter sampled at a specific outfall, the permittee is not subject to permit requirements associated with the PQL for the method selected.

Parameter	Reporting Units	Lowest Surface/Groundwater Quality Std	PQL
Cadmium	µg/ L	0.15 <sup>5</sup>	0.5
Chromium	µg/ L	50 <sup>9</sup>	20
Copper	µg/ L	2.7 <sup>5</sup>	2
Iron	µg/ L	300 <sup>5</sup>	10
Lead	µg/ L	0.5 <sup>6</sup>	1
Magnesium	µg/ L		35
Manganese	µg/ L	50 <sup>4</sup>	2
Nickel	µg/ L	16 <sup>6</sup>	50
Selenium	µg/ L	4.6 <sup>4</sup>	1 <sup>10</sup>
Sodium	µg/ L		150
Zinc	µg/ L	6.1 <sup>5</sup>	10
Total inorganic nitrogen	mg/L	7 <sup>9</sup>	
Phosphorus	mg/L P	0.025 <sup>6</sup> /0.083 <sup>6</sup> / 0.7 <sup>11</sup>	0.05 <sup>10</sup>
Chloride	mg/L	250 <sup>3, 8</sup>	2
Total Suspended Solids (TSS)	mg/L	25 <sup>7</sup>	5

<sup>1</sup> ug/L = micrograms per liter

<sup>2</sup> mg/L = milligrams per liter

<sup>3</sup> WQCD Regulation 31, Table II

<sup>4</sup> WQCD Regulation 31, Table III

<sup>5</sup> WQCD Regulation 31, Table IV

<sup>6</sup> WQCD Regulation 31, Interim Values

<sup>7</sup> NPDES Discharge Permit - lowest limit

<sup>8</sup> Secondary Drinking Water Standard

<sup>9</sup> WQCD Regulation 31, Table III, Footnote 5

<sup>10</sup> PQL established based on parameter specific evaluation

<sup>11</sup>WQCD Regulation 85, Lowest Limitation

- b. Recordkeeping: The permittee must maintain the following records for activities to meet the requirements of this section and Part I.K.2.
  - i. The applicable specifications, contracts, standards, operating procedures, and other documents used to meet the permit requirements.
  - ii. The documentation, including chain of custody forms, for each sampling event.

- c. PDD: The permittee must provide a list of the following information:
  - i. Provide a Wet Weather Monitoring Plan that includes the following:
    - (A) A summary of the process and procedures used to conduct monitoring and analysis in accordance with Part I.F.6.a.
    - (B) The following information for each outfall:
      - 1) Location of outfall.
      - 2) A description of the drainage area, including land uses, control measures, activities, and materials that could impact the pollutants present in discharges.
      - 3) Parameters to be analyzed.
      - 4) A summary of the considerations used when determining which facilities will be monitored:
        - (a) The parameters determined to have a reasonable potential to cause impacts to beneficial uses of the receiving water based on review of pollutant sources at the facility.
        - (b) That the outfall(s) monitored are representative of pollutant sources.
      - 5) The duration, frequency, timing, and method for sampling.

## 7. General Monitoring and Sampling Requirements

The permittee shall comply with the following requirements for all monitoring required by this permit, except for field analysis which may be conducted as part of Part I.E.3. Where field analysis does not involve analytical methods approved under 40 C.F.R. Part 136, the applicant shall document a description of the method used, including the name of the manufacturer of the test method along with the range and accuracy of the test.

- a. Analytical and Sampling Methods for Monitoring  
The permittee shall install, calibrate, use and maintain monitoring methods and equipment, including biological and indicated pollutant monitoring methods. All sampling shall be performed by the permittee according to specified methods in 40 C.F.R. Part 136; methods approved by EPA pursuant to 40 C.F.R. Part 136; or methods approved by the Division, in the absence of a method specified in or approved pursuant to 40 C.F.R. Part 136.
- b. The permittee shall establish and maintain records for all monitoring required by Part I.F.6. Those records shall include the following:
  - i. The date, type, exact location, and time of sampling or measurements
  - ii. The individual(s) who performed the sampling or measurements
  - iii. The date(s) the analyses were performed
  - iv. The individual(s) or entity who performed the analyses
  - v. The analytical techniques or methods used
  - vi. The results of such analyses
- c. The permittee shall maintain all monitoring information, including the chain of custody forms, all original strip chart recordings for continuous monitoring instrumentation, all calibration and maintenance records, copies of all reports required by this permit and records of all data used to

complete the application for this permit in accordance with Part I.K.2. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or when requested by the Division or EPA.

d.

**G. PROGRAM REVIEW AND MODIFICATION**

**1. Annual Program Review**

The permittee shall conduct an annual review of the current program areas as necessary for the preparation of the annual report required under Part I.I. This annual review shall include the following:

- a. A review of the compliance status with requirements in Part I.E, and compliance schedules in Part I.H.
- b. An assessment of the effectiveness of controls measures.
- c. An assessment of any permit modifications that may be needed if compliance with a current term or condition may not be practicable.

**H. COMPLIANCE SCHEDULE**

Permittees are required to implement their current program in accordance with the previous permit until a new program is implemented in accordance with this permit, including this compliance schedule. Compliance with the terms and conditions of this permit, including Parts I.D and E, shall be required by the effective date of the permit, except as provided below.

<b>TABLE 2</b>				
<b>Compliance Schedule</b>				
<b>ICIS Code</b>	<b>Permit Condition</b>	<b>Action</b>	<b>Deliverable</b>	<b>Deadline</b>
PR010	Part I.C.1, and PDD content requirements in Parts I.D and E., except Part I.E.2.	Complete PDD (contents must reflect terms and conditions that are in effect, i.e., following the associated compliance schedule deadline)	Notification in annual report Due April 1, 2018	Completed March 1, 2017
PR010	PDD content in Part 1.E.2.	Complete PDD (contents must reflect terms and conditions that are in effect)	Notification in annual report Due April 1, 2018	Completed September 1, 2017
PR010	Part I.E.1.a.i Part I.E.1.a.ii Part I.E.3.a.ii Part I.E.3.a.iii	Complete all applicable changes to the regulatory mechanism(s): Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2018	Completed March 1, 2017

PR010	Part I.E.2.a.i Part I.E.2.a.ii	Complete all applicable changes to the regulatory mechanism(s): Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2018	Completed September 1, 2017
PR010	Part I.E.1.a.iii	Control Measure Requirements: Ensure adequacy standard requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2018	Completed March 1, 2017
PR010	Part I.E.1.a.iv	SWMPs: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2018	Completed March 1, 2017
PR010	Part I.E.1.a.v	Permittee Site Inspection: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2018	Completed March 1, 2017
PR010	Part I.E.1.b.v.	Permittee Site Inspection: Ensure documentation is recorded.	Notification in annual report Due April 1, 2018	Completed March 1, 2017
PR010	Part I.E.2.a.iii.	Priority Development Projects and Cherry Creek Reservoir Development Projects: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2018	Completed March 1, 2017
PR010	Part I.E.2.a.iv (except Part I.E.2.a.iv(A)(2)- see below)	Permanent Water Quality Mitigation Pool: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2017	Completed September 1, 2016
PR010	Part I.E.2.a.iv(A)(2)	Permanent Water Quality Mitigation Pool: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2020	Started September 1, 2016

PR010	Part I.E.2.a.v(A)	Site Plans: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2018	Completed September 1, 2017
PR010	Parts I.E.2.a.v(B)	Construction Inspection and Acceptance: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2018	Completed September 1, 2017
PR010	Parts I.E.2.a.v(C)	Post Acceptance Oversight: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2018	Completed September 1, 2017
PR010	Part I.E.2.a.v(D)	Tracking: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2017	Completed September 1, 2016
PR010	Part I.E.2.b.iii.	Priority Development Project and Cherry Creek Reservoir Development Projects: Ensure documentation is recorded.	Notification in annual report Due April 1, 2018	Completed March 1, 2017
PR010	Part I.E.2.b.iv.	Permanent Water Quality Mitigation Pool: Ensure documentation is recorded.	Notification in annual report Due April 1, 2017	Completed September 1, 2016
PR010	Part I.E.2.b.v(A)	Site Plans: Ensure documentation is recorded.	Notification in annual report Due April 1, 2018	Completed September 1, 2017
PR010	Part I.E.2.b.v(C)	Long Term Operation and Maintenance and Post Acceptance Oversight: Ensure documentation is recorded.	Notification in annual report Due April 1, 2018	Completed September 1, 2017
R010	Part I.E.3.a.i.	Storm Sewer Map: Map outfalls in new MS4s areas	Notification in annual report Due April 1, 2018	Completed September 1, 2017
PR010	Part I.E.3.a.iv.	Tracing an Illicit Discharge: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2017	Completed September 1, 2016

PR010	Part I.E.3.a.vi.	Removing an illicit Discharge, Enforcement Response: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2017	Completed September 1, 2016
PR010	Part I.E.3.a.viii.	Priority Areas: Identify any new priority areas.	Notification in annual report Due April 1, 2018	Completed September 1, 2017
PR010	Part I.E.3.a.x.	Industrial Facilities: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2018	Completed September 1, 2017
PR010	Part I.E.3.b.vi.	Removing and Illicit Discharge: Ensure documentation is recorded.	Notification in annual report Due April 1, 2017	Completed September 1, 2016
PR010	Part I.E.4.a.	Industrial Facilities Program: Ensure requirements are met.	Notification in annual report Due April 1, 2017	Completed September 1, 2016
PR010	Part I.E.5.a.i.	Web Site: Ensure requirements are met.	Notification in annual report Due April 1, 2017	Completed September 1, 2016
PR010	Part I.E.5.a.ii.	Education and Outreach Activities: Begin providing annual public education and outreach from Table 1.	Notification in annual report Due April 1, 2017	Completed September 1, 2016
PR010	Part I.E.6.a.ii	Permittee Facility Runoff Control Measures: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2017	Completed September 1, 2016
PR010	Part I.E.6.a.ii(C)	Permittee Facility Runoff Control Measures: Ensure inspection requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2018	Completed September 1, 2017
PR010	Part I.E.6.a.iii	Permittee Operations and Maintenance Procedures: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2018	Completed September 1, 2017

PR010	Part I.E.6.a.iv	Bulk Storage: Ensure requirements for bulk storage are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2018	Completed September 1, 2017
PR010	Part I.E.6.b.ii	Permittee Facility Runoff Control Measures: Ensure documentation is recorded.	Notification in annual report Due April 1, 2018	Completed September 1, 2017
PR010	Part I.F.6.	Wet Weather Monitoring: Begin monitoring at six outfalls/sample points each calendar year.  Three samples shall be collected from each monitored outfall/sample point per year.	Electronic DMR	Completed March 1, 2017
PR010	Part I.F.6.	Wet Weather Monitoring: Begin monitoring one outfall one time before December 31, 2015.	Notification in Annual report Due April 1, 2016	Begin implementation September 1, 2015
PR010	Part I.F.6.	Wet Weather Monitoring: Continue monitoring one outfall one time during 2016.	Electronic DMR	Completed December 31, 2016

## I. REPORTING REQUIREMENTS

### 1. Annual Report

The permittee shall prepare an annual system-wide report to be submitted by **April 1** of each year, covering January 1 through December 31 of the previous year. The first report may include less than 12 months of information, unless otherwise indicated in the certification. The report must include the following information:

- a. The required certification statement in Part I.K.1.c. and signed by the individual meeting the criteria in Part I.K.1.a.
- b. Identify that the permittee is relying on another entity to satisfy any of the permit obligations (if applicable) if not included in previous reports or permit application.
- c. An update on areas added to or removed from the permit area.
- d. A list of compliance schedule items completed, including the date of completion and any associated information required in Part I.H.
- e. The results of the assessment of the effectiveness of the control measures.
- f. The results of the permit modification assessment and if any parts of this permit need to be modified or a condition of the permit may not be practicable.
- g. A list of the number and nature of sites/facilities addressed, enforcement actions, and inspections performed for the various program areas that includes information listed below.

- i. Construction Sites (Part I.E.1):
  - (A) Provide the total number of covered construction sites during the year.
  - (B) Provide the total number of inspections performed. The number of inspections must be divided into one of the following categories, as most appropriate:
    - 1) Winter Conditions: Inspections of covered construction activities that meet the inspection scope requirements in Part I.E.1.a.v(A) and for which documentation is recorded in accordance with in Part I.E.1.b.v.
    - 2) Routine Inspections: Inspections of covered construction activities that meet the inspection scope requirements in Part I.E.1.a.v(B) and for which documentation is recorded in accordance with in Part I.E.1.b.v.
    - 3) Reduced Frequency/Scope Inspection: Inspections of covered construction activities that meet the inspection scope requirements in Part I.E.1.a.v(C) and for which documentation is recorded in accordance with in Part I.E.1.b.v.
    - 4) Compliance Inspections: Inspections or operator reporting or other action(s) to assess the control measure has been implemented or corrected) of covered construction activities that meet the inspection scope requirements in Part I.E.1.a.v(D) and for which documentation is recorded in accordance with in Part I.E.1.b.v.
- ii. Permanent Water Quality Management Program (Part I.E.2):
  - (A) Priority Development Project Control measure Requirements:
    - 1) The reason(s) for the project being considered a Priority Development Project
    - 2) The amount of the entire project
    - 3) The amount of increased impervious area for the project
    - 4) The design standards in Part I.E.2.a.iii(A) that were used to design the control measures
    - 5) The amount of area flowing to each control measure from the permit area
    - 6) The amount of area flowing to each control measure from outside the permit area
  - (B) Cherry Creek Reservoir Development Project Control measure Requirement:
    - 1) The amount of the entire project
    - 2) The amount of the project flowing to the Cherry creek Reservoir
    - 3) The design standards in Part I.E.2.a.iii(A) that were used to design the control measures
    - 4) The amount of area flowing to each control measure from the permit area within the Cherry Creek Reservoir
    - 5) The amount of area flowing to each control measure from outside the permit area within the Cherry Creek Reservoir
  - (C) Control measure. An approximation of the acres of impervious area in the permittee's permit area at the end of the year and a description of the accuracy of the approximation.
  - (D) Acres of impervious area from the permittee's permit area that drain to/are treated by control measures implemented during the reporting period.

- (E) Acres of impervious area from the permittee's permit area that drain to/are treated by control measures implemented since the effective date of the permit.
  - (F) Permanent Water Quality Mitigation Pool
    - 1) The amount in the pool at the end of the reporting year.
    - 2) The amount contributed to the pool during the reporting year.
    - 3) The total amount of the pool spent over the past year and since the effective date of the permit.
    - 4) The amount spent on design of control measures during the reporting year.
    - 5) The amount spent on construction of control measures during the reporting year.
    - 6) The amount spent that during the reporting year that did not fall under Part I.I.1.g.ii.(F)(4) and (5).
  - (G) Long-Term Operation and Maintenance and Post Acceptance Oversight: Provide the total number of applicable development sites and control measures inspected to ensure compliance with the requirement in Part I.E.2.a.v(C).
- iii. Illicit Discharge Detection and Elimination (Part I.E.3):
- (A) Provide the total number of unresolved reports/identification of illicit discharges and the reason why they are unresolved.
- iv. Public Education and Outreach (Part I.E.5)
- (A) A list of the education and outreach activities completed in accordance with Part I.E.5.a.ii.

## J. DEFINITIONS

The definitions below are intended strictly for clarification purposes, and may not contain the full legal definition as per regulation. For the purposes of this permit:

1. **Applicable Portion:** Refers to the portion of the Priority Development or Cherry Creek reservoir Development Project discharging to either the stream segment listed for a roadway pollutant of concern or the Cherry Creek Reservoir, respectively.
2. **Base Design Standard:** The minimum design standard for new and redevelopment before applying exclusions or alternative standards.
3. **Best Management Practices (BMPs):** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "state waters". BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. See control measure.
4. **Cherry Creek Reservoir Development Project:** Development projects that result in land disturbance that discharge to the Cherry Creek Reservoir subject to the requirements for Post-construction stormwater management controls in CCR 1002-72, part 72.7.2(c). Only the portion of the project discharging to the Cherry Creek Reservoir drainage basin shall meet the priority development project design standard.
5. **Classified State Water:** A classified state water is a state water with a classification in the Classification and Numeric Standards Regulation for each of the seven river basins in Colorado. Classifications for each segment within the river basin can be found in the numeric and standards table for each basin regulation.

6. Common Plan of Development or Sale: A facility where multiple separate and distinct but related construction activities may be taking place at different times on different schedules, are located are in a contiguous area, and are subject to a consistent plan for long-term development. Consistent with EPA guidance, "contiguous" is interpreted to mean 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.
7. Construction Activity: Construction activity refers to ground surface disturbing and associated activities (land disturbance), which include, but are not limited to, clearing, grading, excavation, demolition, installation of new or improved haul roads and access roads, staging areas, stockpiling of fill materials, and borrow areas. Construction does not include routine maintenance to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. Activities to conduct repairs that are not part of regular maintenance or for replacement are construction activities and are not routine maintenance. Repaving activities where underlying and/or surrounding soil is cleared, graded, or excavated as part of the repaving operation are typically construction activities. Construction activity is from initial ground breaking to final stabilization regardless of ownership of the construction activities. See the definition of maintenance for more information.
8. Construction Dewatering: Discharge of groundwater, surface water, and stormwater that has mixed with the groundwater and/or surface water (i.e. commingled stormwater runoff) that has come into contact with covered construction activities.
9. Contiguous: Means within 0.25 miles.
10. Control Measure: Any best management practice (BMP) or other method used to prevent or reduce the discharge of pollutants to state waters. Control measures include, but are not limited to best management practices. Control measures can include other methods such as the installation, operation, and maintenance of structure controls and treatment devices.
11. Control measure Requiring Routine Maintenance: Any control measure that is still operating in accordance with its design and the requirements of this permit, but requires maintenance to prevent associated potential for failure during a runoff event. See also Inadequate control measure.
12. Covered Construction Activity: Construction activities with land disturbance (surface disturbing and associated activities) of one or more acres, or disturbing less than one acre if that construction activity is part of a larger common plan of development or sale that would disturb, or has disturbed one or more acres. Covered construction activities include the land disturbing activity and all activities and materials associated with the construction project and located at, or contiguous to, the land disturbing activities.
13. Discharge: Discharge means the discharge of pollutants as defined in section 25-8-103(3) C.R.S. For the purposes of this permit, discharges do not include land application or discharges to the ground.
14. Discharge of a Pollutant: Means the introduction or addition of a pollutant into state waters. See 25-8-103(3) C.R.S.
15. Division: The Water Quality Control Division of the Colorado Department of Public Health and Environment.
16. Dry Weather Discharge: Is a discharge not resulting from surface runoff from stormwater.
17. Effluent Limitation: Means any restriction or prohibition established under the Colorado Water Quality Control Act, state regulations, or federal law on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into

state waters, including, but not limited to, standards of performance for new sources, toxic effluent standards and schedules of compliance.

18. Exclusion: Is a removal of the applicability of the terms or conditions in this permit from applying to the given conditions.
19. Exemption: An exemption, waiver, or variance implemented by the permittee for permittee control measures used to meet the effluent limits in this permit.
20. Final stabilization: The condition reached when all ground surface disturbing activities at the site have been completed, and for all areas of ground surface disturbing activities a uniform vegetative cover has been established with an individual plant density of at least 70 percent of pre-disturbance levels, or equivalent permanent, physical erosion reduction methods have been employed.
21. Good Engineering, Hydrologic and Pollution Control Practices: are methods, procedures, and practices that:
  - a. Are based on basic scientific fact(s).
  - b. Reflect best industry practices and standards.
  - c. Are appropriate for the conditions and pollutant sources.
  - d. Provide appropriate solutions to meet the associated permit requirements, including practice based and numeric effluent limits.
22. Green infrastructure: Generally refers to control measures that use or mimic natural processes to infiltrate, evapotranspire, or reuse stormwater on the site where it is generated. Green infrastructure can be used in place of or in addition to low impact development principles.
23. Illicit Discharge: means any discharges to an MS4 that is not composed entirely of stormwater except discharges that are excluded from being an "illicit discharge" in accordance with Part I.E.
24. Impervious Area: Developed areas with covering or pavement that prevents the land's natural ability to absorb and infiltrate typical precipitation and irrigation events. Impervious areas include, but are not limited to; roof tops, walkways, patios, driveways, parking lots, storage areas, impervious concrete and asphalt, and any other continuous watertight pavement or covering.
25. Inadequate Control Measure: Any control measure that is not designed, implemented, or operating in accordance with the requirements of the permit, including the specific requirements in each program area in Part I.E and implemented and maintained to operate in accordance with the design. See also Control measure Requiring Routine Maintenance.
26. Irrigation Return Flow: Tailwater, tile drainage, or surfaced groundwater flow from irrigated land.
27. Land Disturbing Activity: Any activity that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to clearing, grading, excavation, demolition, installation of new or improved haul roads and access roads, staging areas, stockpiling of fill materials, and borrow areas. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity.
28. Large MS4 means all municipal separate storm sewers that are either:
  - a. located in the City and County of Denver; or
  - b. located in a municipality other than that described in (a) and meets the criteria of either (b)(i) or (b)(ii) below:

- i. in an incorporated place, other than that described in (a), and other than the City of Colorado Springs, with a population of 250,000 or more as determined by the 1990 Decennial Census by the Bureau of Census; or
    - ii. in the unincorporated portions of a county that has areas designated as urbanized areas by the 1990 Decennial Census by the Bureau of Census and where the population of the urbanized areas exceeds 250,000 after the population in the incorporated places within the urbanized areas is excluded, except municipal separate storm sewer systems that are located in the incorporated places within such counties; or
  - c. owned or operated by a municipality other than those described in paragraphs (a) or (b) and that are designated by the Division as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under paragraphs (a) or (b). In making this determination the Division may consider the following factors:
    - i. physical interconnections between the municipal separate storm sewers;
    - ii. the location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in subparagraph (a);
    - iii. the quantity and nature of pollutants discharged to state waters;
    - iv. the nature of the receiving waters; and
    - v. other relevant factors; or
  - d. The Division may, upon petition, designate as a large municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a stormwater management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in paragraphs (a), (b), or (c).
29. Maintenance: Roadway maintenance projects include projects that do not change the existing template of the roadway which includes the roadway and shoulders to the point of slope selection and maintenance to existing drainage features. Maintenance projects do not change the existing template of the roadway; disturb more than 1 acre of subbase or subgrade at any one time; and include activities such as widening, paving previously unpaved shoulders, include other project work beyond the shoulders, slope flattening, roadway realignment and other roadway and/or drainage improvements. Maintenance projects do not disturb one acre or more beyond the "Z slope" or shoulders which do not lead to any increase of impervious surface.

Roadway maintenance projects include treatments or overlays with a net surface gain of 6 inches or less and base/subbase is not exposed. Maintenance projects include shouldering projects that increase the roadway elevation by 2 inches or less with an overall treated depth not exceeding the 6 inch limit identified for reconstruction and disturb less than 1 acre of subbase or subgrade at any one time. Maintenance projects include rubbilization and overlay projects with a net surface gain of 6 inches or less and disturb less than 1 acre of subbase or subgrade at any one time.
30. Medium MS4 means all municipal separate storm sewers that are either:
  - a. located in the City of Aurora, City of Lakewood, or the City of Colorado Springs; or
  - b. located in a municipality other than that described in (a) and meets the criteria of either (b)(i) or (b)(ii) below:

- i. in an incorporated place, other than that described in (a), with a population of 100,000 or more but less than 250,000, as determined by the 1990 Decennial Census by the Bureau of Census; or
- ii. in the unincorporated portions of a county that has areas designated as urbanized areas by the 1990 Decennial Census by the Bureau of Census and where the population of the urbanized areas exceeds 100,000 but less than 250,000, after the population in the incorporated places within the urbanized areas is excluded, except municipal separate storm sewer systems that are located in the incorporated places within such counties; or
- c. owned or operated by a municipality other than those described in paragraphs (a) or (b) and that are designated by the Division as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under paragraphs (a) or (b). In making this determination the Division may consider the following factors:
  - i. physical interconnections between the municipal separate storm sewers;
  - ii. the location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in subparagraph (a);
  - iii. the quantity and nature of pollutants discharged to state waters;
  - iv. the nature of the receiving waters; or
  - v. other relevant factors; or
- d. the Division may, upon petition, designate as a medium municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a stormwater management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in paragraphs (a), (b), or (c).

31. Measurable Storm Event:

- a. Rain event. A storm event that results in an actual discharge from the facility, and that follows the preceding measurable storm event by at least 72 hours (3 days).
- b. Snowmelt event. An event where a measurable discharge occurs from the facility resulting from melting snow.

32. Minimize: The term minimize, for purposes of implementing control measures of this permit means reduce and/or eliminate to the extent achievable using control measures that are technologically available and economically practicable and achievable in light of best industry practices.

33. MS4: A municipal separate storm sewer system. See municipal separate storm sewer system.

34. Municipality/Municipal: A city, town, county, district, association, or other public body created by or under state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or a designated and approved management agency under section 208 of CWA (1987). A municipality, for purposes of this permit also includes a state; special districts under state law such as a sewer district, flood control district or drainage district, or similar entity; or an Indian tribe or an authorized Indian tribal organization.

35. Municipal Separate Storm Sewer System (MS4): A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- a. Owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of

sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;

- b. Designed or used for collecting or conveying stormwater;
  - c. Which is not a combined sewer; and
  - d. Which is not part of a Publicly Owned Treatment Works (POTW). See 5 CCR 1002-61.2(62).
36. Municipal Separate Storm Sewer System Outfall (Outfall): A point source, as defined herein, at the point where a municipal separate storm sewer discharges to state waters and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other state waters and are used to convey state waters.
  37. New Development: New Development means land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and on an area that has not been previously developed.
  38. Non-Structural Control Measures: Includes control measures that are not structural control measures, and include, but are not limited to, control measures that prevent or reduce pollutants being introduced to water or that prevent or reduce the generation of runoff or illicit discharges.
  39. Operator: The person or entity who is responsible for the overall operation of the facility or activity from which the associated discharge originates.
  40. Outstanding Waters: Outstanding waters is a type of designation. Outstanding waters are designated by the Water Quality Control Commission.
  41. Part of a Larger 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.
  42. Point Source: Means any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. Point source does not include irrigation return flow.
  43. 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. See 5 CCR 1002-61.2(76).
  44. Pollution: Man-made or man-induced, or natural alteration of the physical, chemical, biological, and radiological integrity of water.
  45. Priority Development Project: Development projects that meet all of the following:
    - Result in land disturbance of greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, unless excluded below and,
    - Either discharge to a stream segment that is on 303(d) list for a roadway pollutant of concern or discharges to the Cherry Creek Reservoir drainage basin and is exempted under section 72.7.2(c)(4) of Regulation 72, and
    - Has a 20 percent or more increase of impervious surface.

Only the portion of the project that discharges to the stream segment listed for a roadway pollutant of concern is required to meet the priority development project design standard. The following types of projects are not considered Priority Development Projects even if the impervious area increases by 20 percent or more: above and underground utilities, guardrail/cable rails, sidewalk/trail/bike lane slab repair/installation, curb and gutter repair, resurfacing projects falling under the maintenance definition, maintaining existing shoulders, culvert drainage repairs, fence installation/repair, and concrete slab repair. These projects are covered by the Permanent Water Quality Mitigation Pool requirements.

46. Program Description Document: A "PDD" describes how the permittee will meet the requirements of this permit and includes a list of citations for documents and electronic record used to comply with the permit requirements; and an organization chart. See Part I.C.
47. Redevelopment: Includes a site that is already substantially developed and has 35% or more of existing hard surface coverage, the creation or addition of hard surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation or expansion of a building or other structure; replacement of hard surface that is not part of a routine maintenance activity; and land disturbing activities.
48. Related: Construction activities are considered to be "related" if they share the same development plan, builder or contractor, equipment, storage areas, etc.
49. Regulatory Mechanism: The mechanism that allows the permittee to implement and enforce the requirements of this permit.
50. Roadway: Roads and bridges that are improved, designed or ordinarily used for vehicular travel and contiguous areas improved, designed or ordinarily used for pedestrian or bicycle traffic, drainage for the roadway, and/or parking along the roadway. Areas primarily used for parking or access to parking are not included.
51. Roadway Pollutants of Concern include:
  - a. Total suspended solids
  - b. Cadmium (Total and Potentially Dissolved)
  - c. Chromium (Total and Potentially Dissolved)
  - d. Copper (Total and Potentially Dissolved)
  - e. Iron (Total and Potentially Dissolved)
  - f. Lead (Total and Potentially Dissolved)
  - g. Magnesium (Total and Potentially Dissolved)
  - h. Manganese (Total and Potentially Dissolved)
  - i. Nickel (Total and Potentially Dissolved)
  - j. Zinc
  - k. Total Inorganic Nitrogen
  - l. Total Phosphorus
  - m. Chloride
  - n. Sodium
  - o. Oil and Grease

52. Routine Maintenance: Any project that does not change the existing template of the roadway which includes the roadway and shoulders to the point of slope selection and maintenance to existing drainage features in addition to normal maintenance activities. Routine maintenance does not apply if existing subbase or subgrade is exposed, widening, paving previously unpaved shoulders, slope flattening, roadway realignment, and other roadway and/or drainage improvements. Routine maintenance includes treatments or overlays that increase the roadway elevation by two (2) inches or less with an overall treated depth not exceeding the six (6) inch limit identified for reconstruction and base/subbase is not exposed. Routine maintenance includes whitetopping or flexible pavement that increase the roadway elevation by six (6) inches or less with an overall treated depth not exceeding the six (6) inch limit identified for reconstruction and base/subbase is not exposed. Routine maintenance includes "rubblization and overlay" projects with an overall treated depth not exceeding the six (6) inch limit identified for reconstruction and base/subbase is not exposed. Routine maintenance includes shouldering surface treatment projects with a new gain of two (2) inches or less in pavement depth as long as the overall treated depth does not exceed the six (6) inch limit identified for reconstruction and base/subbase is not exposed.
53. Small Municipal Separate Storm Sewer System: means any municipal separate storm sewer that is not defined as a "large" or "medium" municipal separate storm sewer system pursuant to Regulation 61. This term includes publicly-owned systems similar to separate storm sewer systems in municipalities (i.e., non-standard MS4s), including, but not limited to, systems at military bases and large education, hospital or prison complexes, if they are designed for a maximum daily user population (residents and individuals who come there to work or use the MS4's facilities) of at least 1,000.
54. State Waters: Any and all surface waters which are contained in or flow in or through this state, but does not include waters in sewage systems, waters in treatment works of disposal systems, waters in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed. This definition can include water courses that are usually dry. For the purposes of this permit, state waters do not include subsurface waters. State waters are also known as waters of the state.
55. Stormwater: Stormwater runoff, snow melt runoff, and surface runoff and drainage. See 5 CCR 1002-61.2(103).
56. Structural Control Measures: Includes control measures that are comprised of facilities and structures that remove pollutants from water or retain, reuse, or provide for infiltration or evaporation of water.
57. To the Maximum Extent Allowable under state or Local Law: Is a standard of implementation of permit requirements and means that to the extent that the permittee is not constrained by state or local laws.
58. Total Maximum Daily Loads (TMDLs): The sum of the individual wasteload allocations (WLA) for point sources and load allocations (LA) for nonpoint sources and natural background. For the purposes of this permit, a TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. A TMDL includes WLAs, LAs, and must include a margin of safety (MOS), and account for seasonal variations. (See section 303(d) of the Clean Water Act and 40 C.F.R. 130.2 and 130.7).
59. Water Quality Capture Volume (WQCV): The volume equivalent to the runoff from an 80th percentile storm, meaning that 80 percent of the most frequently occurring storms are fully captured and treated and larger events are partially treated.
60. Water Quality Standards: Means any standard promulgated pursuant to section 25-8-204 C.R.S. For purposes of this permit, water quality standards are a narrative and/or numeric restriction

established by the Water Quality Commission applied to state surface waters to protect one or more beneficial uses of such waters. Whenever only numeric or only narrative standards are intended, the wording shall specifically designate which is intended. See 5 CCR 1002- 31.5(37).

## K. GENERAL REQUIREMENTS

### 1. Signatory Requirements

- a. All reports required for submittal shall be signed and certified for accuracy by the permittee in accordance with the following criteria:
  - i. In the case of corporations, by a principal executive officer of at least the level of vice-president or his or her duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge described in the form originates.
  - ii. In the case of a partnership, by a general partner.
  - iii. In the case of a sole proprietorship, by the proprietor.
  - iv. In the case of a municipal, state, or other public facility, by either a principal executive officer, or ranking elected official. For purposes of this section, a principal executive officer has responsibility for the overall operation of the facility from which the discharge originates.
  - v. A duly authorized representative of a person described in subsection (i) through (iv), only if all of the following are met:
    - (A) The authorization is made in writing by a person described in subsection (i) through (iv).
    - (B) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).
    - (C) The written authorization is submitted to the Division.
- b. Changes to authorization: If an authorization under paragraph a. of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph a) of this section must be submitted to the Division, before or together with any reports, information, or applications to be signed by an authorized representative.
- c. Certification: Any person signing a document under paragraph a. of this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. "

### 2. Retention of Records

The permittee shall retain copies of the required recordkeeping and program description documentation and all reports required by this permit and records of all data used to complete the application to be covered by this permit, for a period of at least three years from the date that the

specific item is no longer being actively utilized for stormwater management. The period may be extended by request of the Division at any time.

## Part II

### A. NOTIFICATION REQUIREMENTS

#### 1. Notification to Parties

All notification requirements under this section shall be directed as follows:

- a. Oral Notifications, during normal business hours shall be to:

Water Quality Control Division  
Telephone: (303) 692-3500

- b. Written notification shall be to:

Water Quality Control Division  
Colorado Department of Public Health and Environment  
WQCD-P-B2  
4300 Cherry Creek Drive South  
Denver, CO 80246-1530

#### 2. Change in Discharge or Wastewater Treatment

The permittee shall notify the Division, in writing, of any planned physical alterations or additions to the permitted facility that could significantly change the nature or increase the quantity of pollutants discharged. Conditions resulting in new or changed discharges of stormwater and other discharges that are not illicit discharges shall not be considered to meet this condition.

#### 3. Special Notifications - Definitions

- a. Bypass: The intentional diversion of waste streams from any portion of a treatment facility.
- b. Severe Property Damage: Substantial physical damage to property at the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. It does not mean economic loss caused by delays in production.
- c. Upset: An exceptional incident in which there is unintentional and temporary noncompliance with permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

#### 4. Noncompliance Notification

- a. If, for any reason, the permittee does not comply with or will be unable to comply with any permit limitations, standards or permit requirements specified in this permit, the permittee shall, at a minimum, provide the Water Quality Control Division with the following information:
- i. A description and cause of noncompliance;
  - ii. The period of noncompliance, including exact dates and times and/or the anticipated time when the permittee will return to compliance; and
  - iii. Steps being taken to reduce, eliminate, and prevent recurrence of the non-complying activity.
- b. The permittee shall report the following instances of noncompliance orally within twenty-four (24) hours from the time the permittee becomes aware of the noncompliance, and shall mail to

the Division a written report within five (5) working days after becoming aware of the noncompliance (unless otherwise specified by the Division):

- i. Circumstances leading to any noncompliance which may endanger health or the environment regardless of the cause of the incident;
  - ii. Circumstances leading to any unanticipated bypass which exceeds any effluent limitations in the permit;
  - iii. Circumstances leading to any upset which causes an exceedance of any effluent limitation in the permit;
- c. Unless otherwise indicated in this permit, the permittee shall report instances of non-compliance which are not required to be reported within 24-hours at the time Discharge Monitoring Reports are submitted. The reports shall contain the information listed in sub-paragraph (a) of this section.

#### 5. Other Notification Requirements

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule in the permit shall be submitted no later than fourteen (14) days following each scheduled date, unless otherwise provided by the Division.

The permittee shall notify the Division, in writing, thirty (30) days in advance of a proposed transfer of permit as provided in Part II.B.3.

The permittee's notification of all anticipated noncompliance does not stay any permit condition.

All existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Division as soon as they know or have reason to believe:

- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - i. One hundred micrograms per liter (100 µg/l);
  - ii. Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and 2-methyl-4,6-dinitrophenol; and one milligram per liter (1.0 mg/l) for antimony;
  - iii. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Section 61.4(2)(g).
  - iv. The level established by the Division in accordance with 40 C.F.R. § 122.44(f).
- b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - i. Five hundred micrograms per liter (500 µg/l);
  - ii. One milligram per liter (1 mg/l) for antimony; and
  - iii. Ten (10) times the maximum concentration value reported for that pollutant in the permit application
  - iv. The level established by the Division in accordance with 40 C.F.R. § 122.44(f).

#### 6. Bypass Notification

If the permittee knows in advance of the need for a bypass, a notice shall be submitted, at least ten days before the date of the bypass, to the Division. The bypass shall be subject to Division approval

and limitations imposed by the Division. Violations of requirements imposed by the Division will constitute a violation of this permit.

#### **7. Upsets**

- a. **Effect of an Upset:** An upset constitutes an affirmative defense to an action brought for noncompliance with permit effluent limitations if the requirements of paragraph (b) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- b. **Conditions Necessary for a Demonstration of Upset:** A permittee who wishes to establish the affirmative defense of upset shall demonstrate through properly signed contemporaneous operating logs, or other relevant evidence that:
  - i. An upset occurred and that the permittee can identify the specific cause(s) of the upset;
  - ii. The facility was being properly maintained at the time;
  - iii. The permittee submitted notice of the upset, if required by and in accordance with Part II.A.4 of this permit; and
  - iv. The permittee complied with any remedial measures required under 40 C.F.R. Section 122.41(d) of the federal regulations or Section 61.8(3)(h) of the Colorado Discharge Permit System Regulations.
- c. **Burden of Proof:** In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

#### **8. Discharge Point**

Any discharge to the state waters from a point source other than specifically authorized by this permit is prohibited.

#### **9. Proper Operation and Maintenance**

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee as necessary to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance and adequate laboratory and process controls, including appropriate written quality assurance procedures (40 C.F.R. 122.41(e)). This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when necessary to achieve compliance with the conditions of the permit.

#### **10. Minimization of Adverse Impact**

The permittee shall take all reasonable steps to minimize or prevent any discharge of sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. As necessary, accelerated or additional monitoring to determine the nature and impact of the non-complying discharge is required.

#### **11. Removed Substances**

Solids, sludges, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in accordance with applicable state and federal regulations and in a manner that will prevent the removed pollutant(s) from entering state waters.

For all domestic wastewater treatment works, at industrial facilities, the permittee shall dispose of sludge in accordance with all state and federal regulations.

## 12. Submission of Incorrect or Incomplete Information

Where the permittee failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or report to the Division, the permittee shall promptly submit the relevant information which was not submitted or any additional information needed to correct any erroneous information previously submitted.

## 13. Bypass

- a. Bypasses are prohibited and the Division may take enforcement action against the permittee for bypass, unless:
  - i. The bypass is unavoidable to prevent loss of life, personal injury, or severe property damage;
  - ii. There were no feasible alternatives to bypass such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - iii. Proper notices were submitted in compliance with Part II.A.4.
- b. "Severe property damage" as used in this Subsection means substantial physical damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- c. The permittee may allow a bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance or to assure optimal operation. These bypasses are not subject to the provisions of paragraph (a) above.
- d. The Division may approve an anticipated bypass, after considering adverse effects, if the Division determines that the bypass will meet the conditions specified in paragraph (a) above.

## 14. Reduction, Loss, or Failure of Treatment Facility

The permittee has the duty to halt or reduce any activity if necessary to maintain compliance with the effluent limitations of the permit. Upon reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control production, control sources of wastewater, or all discharges, until the facility is restored or an alternative method of treatment is provided. This provision also applies to power failures, unless an alternative power source sufficient to operate the wastewater control facilities is provided.

It shall not be a defense for a permittee in an enforcement action that it would be necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

## B. PERMITTEE RESPONSIBILITIES

### 1. Inspections and Right to Entry

The permittee shall allow the Division and/or the authorized representative, upon the presentation of credentials:

- a. To enter upon the permittee's premises where a regulated facility or activity is located or in which any records are required to be kept under the terms and conditions of this permit;
- b. At reasonable times to have access to and copy any records required to be kept under the terms and conditions of this permit and to inspect any monitoring equipment or monitoring method required in the permit; and

- c. To enter upon the permittee's premises in a reasonable manner and at a reasonable time to inspect and/or investigate, any actual, suspected, or potential source of water pollution, or to ascertain compliance or non-compliance with the Colorado Water Quality Control Act or any other applicable state or federal statute or regulation or any order promulgated by the Division. The investigation may include, but is not limited to, the following: sampling of any discharge and/or process waters, the taking of photographs, interviewing of any person having knowledge related to the discharge permit or alleged violation, access to any and all facilities or areas within the permittee's premises that may have any effect on the discharge, permit, or alleged violation. Such entry is also authorized for the purpose of inspecting and copying records required to be kept concerning any effluent source.
- d. The permittee shall provide access to the Division to sample the discharge at a point after the final treatment process but before the discharge mixes with state waters upon presentation of proper credentials.

In the making of such inspections, investigations, and determinations, the Division, insofar as practicable, may designate as its authorized representatives any qualified personnel of the Department of Agriculture. The Division may also request assistance from any other state or local agency or institution.

## **2. Duty to Provide Information**

The permittee shall furnish to the Division, within a reasonable time, any information which the Division may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Division, upon request, copies of records required to be kept by this permit.

## **3. Transfer of Ownership or Control**

- a. Except as provided in paragraph b. of this section, a permit may be transferred by a permittee only if the permit has been modified or revoked and reissued as provided in Section 61.8(8) of the Colorado Discharge Permit System Regulations, to identify the new permittee and to incorporate such other requirements as may be necessary under the federal act.
- b. A permit may be automatically transferred to a new permittee if:
  - i. The current permittee notifies the Division in writing 30 days in advance of the proposed transfer date; and
  - ii. The notice includes a written agreement between the existing and new permittee(s) containing a specific date for transfer of permit responsibility, coverage and liability between them; and
  - iii. The Division does not notify the existing permittee and the proposed new permittee of its intent to modify, or revoke and reissue the permit.
  - iv. Fee requirements of the Colorado Discharge Permit System Regulations, Section 61.15, have been met.

## **4. Availability of Reports**

Except for data determined to be confidential under Section 308 of the federal Clean Water Act and the Colorado Discharge Permit System Regulations 5 CCR 1002-61, Section 61.5(4), all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Division and the Environmental Protection Agency.

The name and address of the permit applicant(s) and permittee(s), permit applications, permits and effluent data shall not be considered confidential. Knowingly making false statements on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the federal

Clean Water Act, and Section 25-8-610 C.R.S.

**5. Modification, Suspension, Revocation, or Termination of Permits by the Division**

The filing of a request by the permittee for a permit modification, revocation and reissuance, termination or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

- a. A permit may be modified, suspended, or terminated in whole or in part during its term for reasons determined by the Division including, but not limited to, the following:
  - i. Violation of any terms or conditions of the permit;
  - ii. Obtaining a permit by misrepresentation or failing to disclose any fact which is material to the granting or denial of a permit or to the establishment of terms or conditions of the permit; or
  - iii. Materially false or inaccurate statements or information in the permit application or the permit.
  - iv. A determination that the permitted activity endangers human health or the classified or existing uses of state waters and can only be regulated to acceptable levels by permit modifications or termination.
- b. A permit may be modified in whole or in part for the following causes, provided that such modification complies with the provisions of Section 61.10 of the Colorado Discharge Permit System Regulations:
  - i. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.
  - ii. The Division has received new information which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of different permit conditions at the time of issuance. For permits issued to new sources or new dischargers, this cause includes information derived from effluent testing required under Section 61.4(7)(e) of the Colorado Discharge Permit System Regulations. This provision allows a modification of the permit to include conditions that are less stringent than the existing permit only to the extent allowed under Section 61.10 of the Colorado Discharge Permit System Regulations.
  - iii. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only as follows:
    - (A) The permit condition requested to be modified was based on a promulgated effluent limitation guideline, EPA approved water quality standard, or an effluent limitation set forth in 5 CCR 1002-62, § 62 et seq.; and
    - (B) EPA has revised, withdrawn, or modified that portion of the regulation or effluent limitation guideline on which the permit condition was based, or has approved a Commission action with respect to the water quality standard or effluent limitation on which the permit condition was based; and
    - (C) The permittee requests modification after the notice of final action by which the EPA effluent limitation guideline, water quality standard, or effluent limitation is revised, withdrawn, or modified; or

- (D) For judicial decisions, a court of competent jurisdiction has remanded and stayed EPA promulgated regulations or effluent limitation guidelines, if the remand and stay concern that portion of the regulations or guidelines on which the permit condition was based and a request is filed by the permittee in accordance with this Regulation, within ninety (90) days of judicial remand.
- iv. The Division determines that good cause exists to modify a permit condition because of events over which the permittee has no control and for which there is no reasonable available remedy.
- v. The permittee has received a variance.
- vi. When required to incorporate applicable toxic effluent limitation or standards adopted pursuant to §307(a) of the federal act.
- vii. When required by the reopener conditions in the permit.
- viii. As necessary under 40 C.F.R. 403.8(e), to include a compliance schedule for the development of a pretreatment program.
- ix. When the level of discharge of any pollutant which is not limited in the permit exceeds the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under Section 61.8(2) of the Colorado Discharge Permit System Regulations.
- x. To establish a pollutant notification level required in Section 61.8(5) of the Colorado Discharge Permit System Regulations.
- xi. To correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions, to the extent allowed in Section 61.10 of the Colorado State Discharge Permit System Regulations.
- xii. When required by a permit condition to incorporate a land application plan for beneficial reuse of sewage sludge, to revise an existing land application plan, or to add a land application plan.
- xiii. For any other cause provided in Section 61.10 of the Colorado Discharge Permit System Regulations.
- c. At the request of a permittee, the Division may modify or terminate a permit and issue a new permit if the following conditions are met:
  - i. The Regional Administrator has been notified of the proposed modification or termination and does not object in writing within thirty (30) days of receipt of notification,
  - ii. The Division finds that the permittee has shown reasonable grounds consistent with the federal and state statutes and regulations for such modifications or termination;
  - iii. Requirements of Section 61.15 of the Colorado Discharge Permit System Regulations have been met, and
  - iv. Requirements of public notice have been met.
- d. Permit modification (except for minor modifications), termination or revocation and reissuance actions shall be subject to the requirements of Sections 61.5(2), 61.5(3), 61.6, 61.7 and 61.15 of the Colorado Discharge Permit System Regulations. The Division shall act on a permit modification request, other than minor modification requests, within 180 days of receipt thereof. Except for minor modifications, the terms of the existing permit govern and are enforceable until the newly issued permit is formally modified or revoked and reissued following public notice.

- e. Upon consent by the permittee, the Division may make minor permit modifications without following the requirements of Sections 61.5(2), 61.5(3), 61.7, and 61.15 of the Colorado Discharge Permit System Regulations. Minor modifications to permits are limited to:
  - i. Correcting typographical errors; or
  - ii. Increasing the frequency of monitoring or reporting by the permittee; or
  - iii. Changing an interim date in a schedule of compliance, provided the new date of compliance is not more than 120 days after the date specific in the existing permit and does not interfere with attainment of the final compliance date requirement; or
  - iv. Allowing for a transfer in ownership or operational control of a facility where the Division determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage and liability between the current and new permittees has been submitted to the Division; or
  - v. Changing the construction schedule for a discharger which is a new source, but no such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge; or
  - vi. Deleting a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits.
- f. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term.
- g. The filing of a request by the permittee for a permit modification, revocation and reissuance or termination does not stay any permit condition.
- h. All permit modifications and reissuances are subject to the antibacksliding provisions set forth in 61.10(e) through (g).

#### **6. Oil and Hazardous Substance Liability**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject to under Section 311 (Oil and Hazardous Substance Liability) of the Clean Water Act.

#### **7. State Laws**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority granted by Section 510 of the Clean Water Act. Nothing in this permit shall be construed to prevent or limit application of any emergency power of the division.

#### **8. Permit Violations**

Failure to comply with any terms and/or conditions of this permit shall be a violation of this permit. The discharge of any pollutant identified in this permit more frequently than or at a level in excess of that authorized shall constitute a violation of the permit.

#### **9. Property Rights**

The issuance of this permit does not convey any property or water rights in either real or personal property, or stream flows, or any exclusive privileges, nor does it authorize any injury to private

property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

#### 10. Severability

The provisions of this permit are severable. If any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances and the application of the remainder of this permit shall not be affected.

#### 11. Renewal Application

If the permittee desires to continue to discharge, a permit renewal application shall be submitted at least one hundred eighty (180) days before this permit expires. If the permittee anticipates there will be no discharge after the expiration date of this permit, the Division should be promptly notified so that it can terminate the permit in accordance with Part II.B.5.

#### 12. Confidentiality

Any information relating to any secret process, method of manufacture or production, or sales or marketing data which has been declared confidential by the permittee, and which may be acquired, ascertained, or discovered, whether in any sampling investigation, emergency investigation, or otherwise, shall not be publicly disclosed by any member, officer, or employee of the Commission or the Division, but shall be kept confidential. Any person seeking to invoke the protection of this Subsection (12) shall bear the burden of proving its applicability. This section shall never be interpreted as preventing full disclosure of effluent data.

#### 13. Fees

The permittee is required to submit payment of an annual fee as set forth in the 2005 amendments to the Water Quality Control Act. Section 25-8-502 (l) (b), and the Colorado Discharge Permit System Regulations 5 CCR 1002-61, Section 61.15 as amended. Failure to submit the required fee when due and payable is a violation of the permit and will result in enforcement action pursuant to Section 25-8-601 et. seq., C.R.S. 1973 as amended.

#### 14. Duration of Permit

The duration of a permit shall be for a fixed term and shall not exceed five (5) years. Filing of a timely and complete application shall cause the expired permit to continue in force to the effective date of the new permit. The permit's duration may be extended only through administrative extensions and not through interim modifications.

#### 15. Section 307 Toxics

If a toxic effluent standard or prohibition, including any applicable schedule of compliance specified, is established by regulation pursuant to Section 307 of the federal act for a toxic pollutant which is present in the permittee's discharge and such standard or prohibition is more stringent than any limitation upon such pollutant in the discharge permit, the Division shall institute proceedings to modify or revoke and reissue the permit to conform to the toxic effluent standard or prohibition.

#### 16. Effect of Permit Issuance

- a. The issuance of a permit does not convey any property rights or any exclusive privilege.
- b. The issuance of a permit does not authorize any injury to person or property or any invasion of personal rights, nor does it authorize the infringement of federal, state, or local laws or regulations.
- c. Except for any toxic effluent standard or prohibition imposed under Section 307 of the federal act or any standard for sewage sludge use or disposal under Section 405(d) of the federal act, compliance with a permit during its term constitutes compliance, for purposes of enforcement,

with Sections 301, 302, 306, 318, 403, and 405(a) and (b) of the federal act. However, a permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in Section 61.8(8) of the Colorado Discharge Permit System Regulations.

- d. Compliance with a permit condition which implements a particular standard for sewage sludge use or disposal shall be an affirmative defense in any enforcement action brought for a violation of that standard for sewage sludge use or disposal.