

**WWE**  
**MEMORANDUM**

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**To:** WWE Clients and Colleagues  
**Via Email**

**From:** Wright Water Engineers, Inc.  
Jennifer Keyes and Maggie Lewis

**Date:** November 13, 2018

**Re:** 2018 CDPS General Permit for Stormwater Discharges Associated with Construction Activities

On November 1, 2018, Colorado Department of Public Health and Environment (CDPHE) Water Quality Control Division (the division) issued the new Colorado Discharge Permit System (CDPS) General Permit for Stormwater Discharges Associated with Construction Activities (COR-400000). The notice, fact sheet, and all final documents can be found at <https://www.colorado.gov/pacific/cdphe/cor400000-stormwater-discharge>. The new General Permit for Stormwater Discharges Associated with Construction Activities (2018 Stormwater Construction Permit) will be effective on April 1, 2019. Existing permits still active after April 1, 2019 will be automatically transferred to the new permit and will not need to reapply. However, all of the new permit's requirements must be incorporated into stormwater management plans (SWMPs), site management and field compliance practices.

Wright Water Engineers, Inc. (WWE) has prepared this memorandum summarizing the highlights of some of the changes in the 2018 Stormwater Construction Permit.

- The permit number will change from COR030000 to COR400000 to accommodate the number of certifications that need to be issued in future years.
- The owner and operator are considered co-permittees subject to compliance with all terms and conditions of the permit, including implementation of the SWMP:
  - “Owner” is defined as “*the party that has overall control of the activities and that has funded the implementation of the construction plans and specifications. This is the party with ownership of, a long-term lease of, or easements on the property on which the construction activity is occurring (e.g., the developer).*”
  - “Operator” is defined as “*the party that has operational control over day-to-day activities at a project site which are necessary to ensure compliance with the permit. This party is authorized to direct individuals at a site to carry out activities required by the permit (e.g. the general contractor).*”
- The division has developed the Colorado Environmental Online Services (CEOS) web-based platform that allows permittees to perform activities such as applying and paying for required

permits, uploading documents and modifying information on file. The division is then able to process requests from permittees and issue appropriate permit certifications using the same portal. CEOS also allows for electronic signatures by the owner and operator.

- The definition of a “common plan of development” is clarified as a *“contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules, but remain related. The division determined that “contiguous” means construction activities located in close proximity to each other (within a ¼ mile). Construction activities are considered to be “related” if they share the same development plan, builder or contractor, equipment, storage areas, etc.”*
- Dewatering of groundwater or stormwater with a groundwater component that meets the Low Risk Guidance Document must be discussed in the SWMP if this practice is used, but it is covered under the Low Risk Guidance Document and not the 2018 Stormwater Construction Permit.
- Stormwater discharges from batch plants can be permitted under the 2018 Stormwater Construction Permit, but alternatively they also can be permitted under other division stormwater permits (e.g., sand and gravel permits). If a facility is covered by another appropriate stormwater discharge permit, the facility does not need to be covered by the 2018 Stormwater Construction Permit.
- Owners and operators of construction activities that occur in response to a public emergency must apply for coverage no later than 14 days after the commencement of the construction activities.
- The SWMP no longer is required to be completed prior to applying for permit coverage, but it must be completed prior to commencement of any construction activity.
- There has been a change in terminology from “best management practices” (BMPs) to “control measures” to better describe the range of pollutant reduction practices a permittee may implement.
- Effluent limitations were added to the permit following the guidelines issued by EPA and placed in the Code of Federal Regulation 40 part 450. The following are control measures that must be used to meet effluent limitations:
  - Vehicle tracking controls (VTCs) must be implemented to minimize tracking of sediment from disturbed areas. Alternatively, a VTC may not be required if the areas where tracking occurs are treated by a control measure that can include temporary or permanent stabilization or other treatment control measure with filtering, settling or straining capabilities.
  - Stormwater runoff from all disturbed areas and soil storage areas for which permanent or temporary stabilization is not implemented, must flow to at least one control

measure to minimize sediment in the discharge. This may be accomplished through filtering, settling, or straining. The control measure must be selected, designed, installed and adequately sized in accordance with good engineering, hydrologic and pollution control practices. The control measure(s) must contain or filter flows in order to prevent the bypass of flows without treatment and must be appropriate for stormwater runoff from disturbed areas and for the expected flow rate, duration, and flow conditions (i.e., sheet or concentrated flow).

- Outlets that withdraw water from or near the surface shall be installed when discharging from basins and impoundments, unless infeasible.
- Maintain pre-existing vegetation or equivalent control measures for areas within 50 horizontal feet of receiving waters as defined by this permit, unless infeasible. This practice must also be described in the SWMP and illustrated in the site map. The permit describes a “Receiving Water” as:

*“Any classified or unclassified surface water segment (including tributaries) in the State of Colorado into which stormwater associated with construction activities discharges. This definition includes all water courses, even if they are usually dry, such as borrow ditches, arroyos, and other unnamed waterways.”*

This is differentiated in the use of the term “State Water” which includes any and all surface and subsurface water with limited exceptions for public water and wastewater systems.

- Soil compaction must be minimized for areas where infiltration control measures are planned or where final stabilization will be achieved through vegetative cover.
- Unless infeasible, topsoil shall be preserved for those areas of a site that will utilize vegetative final stabilization.
- Minimize the amount of soil exposed during construction activity, including the disturbance of steep slopes.
- Bulk storage, 55 gallons or greater, for petroleum products and other liquid chemicals must have secondary containment, or equivalent protection, in order to contain spills and to prevent spilled material from entering state waters.
- Control measures designed for concrete washout waste must be implemented, and discharges that may reach groundwater must flow through soil that has buffering capacity prior to reaching groundwater, as necessary to meet the effluent limits in this permit. The concrete washout shall be not be located in an area where shallow groundwater may be present and would result in buffering capacity not being

adequate, such as near natural drainages, springs, or wetlands. This permit authorizes discharges to the ground of concrete washout waste and not onsite waste disposal.

- Temporary stabilization must be implemented for earth disturbing activities on any portion of the site where ground disturbing construction activity has permanently ceased, or temporarily ceased for more than 14 calendar days. Temporary stabilization methods may include, but are not limited to, tarps, soil tackifier, and hydroseed. The permittee may exceed the 14-day schedule when either the function of the specific area of the site requires it to remain disturbed, or, physical characteristics of the terrain and climate prevent stabilization. The SWMP must document the constraints necessitating the alternative schedule, provide the alternate stabilization schedule, and identify all locations where the alternative schedule is applicable on the site map.
- Final stabilization requirements are consistent with prior Stormwater Construction Permit. However, a method used for determining pre-disturbance vegetative cover must also be included in the SWMP along with the actual cover and type of vegetation.
- Additional measures may be required, including sampling, if discharging to a receiving water with a TMDL.
- As with the previous permit, potential pollutant sources must be identified in the SWMP. There are 12 potential sources listed in the permit that must, at a minimum, be included in this evaluation.
- All stream crossings and associated control measures within the limits of construction must be described in the SWMP and illustrated in the site maps.
- There is a new requirement to develop an agreement to use control measures outside of the limits of construction. *Note: WWE recommends all controls be within the construction limits of the project.*
- Site maps must include flow arrows.
- The “SWMP Administrator” has been replaced by the term “Qualified Stormwater Manager,” who is defined slightly differently. This role may be filled by more than one individual. The inspector must be a Qualified Stormwater Manager. Inspections must include a compliance statement similar to the existing one, but different than the one the owner and operator sign for the application, and any subsequent documents that are sent to the division must include these compliance statements.
- Inspection frequency may be either every 7 calendar days or every 14 calendar days and after storm events (within 24 hours of the event that causes surface erosion unless certain conditions are met). The first site inspection must be within 7 calendar days of the start of construction activities on site. There are increased inspection requirements for discharges to outstanding waters, which are primarily located outside of the Front Range.

- Electronic copies are allowed to be retained as record copies in lieu of a hardcopy SWMP at the construction site.
- New language in Part I.D.2.c. allows permittees to petition the division when the required routine inspection frequencies are impractical.
- There are minor changes in inspection reports under Part I.D.5. The most significant change is a clarification that was added so that inspectors can specify when a control measure is still operating but requires maintenance versus a control measure that has failed, is inadequate or is missing.
- Several definitions have been added or changed.
- A new requirement was added to Part II.L.7 for at least annual reporting of all instances of noncompliance that are not already subject to the 14 day or 24-hour reporting requirements. The division has stated that they will provide additional guidance on this by February 2019 to better understand how permittees are expected to meet this requirement.
- Changes were made to the following sections that did not significantly change how most WWE clients are conducting their programs:
  - Permittee initiated permit actions,
  - Right of entry of state inspectors,
  - SWMP availability,
  - Revising the SWMP,
  - Part II language (except Part II.L.7 discussed a potential significant change).

If you would like WWE to assist with questions on these requirements or in preparing SWMPs to meet these requirements, please feel free to contact stormwater staff at WWE at (303) 480-1700 including but not limited to:

- Jennifer Keyes, [jkeyes@wrightwater.com](mailto:jkeyes@wrightwater.com)
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