

WWE
MEMORANDUM

To: WWE Clients and Colleagues
Via Email

From: Wright Water Engineers, Inc.
Jennifer Keyes

Date: February 5, 2018

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

On October 24, 2016, the Water Quality Control Division (the Division) issued for public comment a draft of the new Colorado Discharge Permit System (CDPS) General Permit for Stormwater Discharges Associated with Construction Activities. On January 31, 2018, the Division reopened the public comment period for portions of the permit that were significantly changed from the original October 2016 draft. The notice and all draft documents can be found at <https://www.colorado.gov/pacific/cdphe/cdphe/wq-public-notice-actions>.

Wright Water Engineers, Inc. (WWE) prepared a memo summarizing changes in the October 2016 draft on November 4, 2016. Many of these changes are still part of the current draft released January 31, 2018. We thought it would be valuable to provide the summary of those changes (re-iterating our November 4, 2016 memo) that are no longer open for public comment and highlight the new changes that are open for public comment. Public comments on the portions open for comments must be received no later than March 2, 2018.

Changes No Longer Open for Public Comment

- The permit number will change from COR030000 to COR400000 to accommodate the number of certifications that need to be issued in future years.
- Draft permit provides clarification on the definition of common plan of development, referencing activities located within a ¼ mile that may have multiple separate and distinct construction activities that may be taking place at different times and schedules but remain related. This includes borrow and fill areas that are within ¼ mile of a construction site.
- Dewatering of non-stormwater (i.e., groundwater) is no longer an allowable non-stormwater discharge under the Stormwater Discharge for Construction Activity permit (SCP); however, discharges can be performed if they meet the low-risk guidance requirements (primarily requiring onsite infiltration). All non-stormwater discharges, including low-risk discharges, must be identified in the Stormwater Management Plan (SWMP).

- Draft permit also clarifies that the SCP will cover batch plants for stormwater discharges but they can also be covered under other Division stormwater permits (e.g., sand and gravel permits). If these facilities are covered by another appropriate stormwater discharge permit, then they do not need to be covered by the SCP.
- The application for coverage under the SCP requires signatures from both the owner and the operator of the construction site. The owner and operator are considered co-permittees subject to the same benefits, duties and obligations under the permit. *NOTE: WWE recommends reading through these definitions prior to applying for coverage under the SCP to be sure you understand them. In some cases, the owner and operator may be the same.*
- 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 activities.
- Vehicle tracking control (VTC) must be implemented to minimize tracking on disturbed areas for which permanent or temporary stabilization is not implemented, must flow to at least one control measure.
- 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 that contains or filters the flow. This control measure must be adequately selected, designed and sized for the drainage area to contain flows in order to prevent the bypass of flows without treatment.
- Outlets that withdraw water from or near the surface will be used when discharging from basins and impoundments unless infeasible.
- Pre-existing vegetation or equivalent control measures for areas within 50 feet of a receiving water must be maintained, unless infeasible. This practice must also be described in the SWMP and illustrated in the Site Map.
- Concrete washouts must be utilized if discharging onsite and must be designed to avoid contributing pollutants to stormwater runoff or receiving waters. Discharges that reach groundwater must flow through soil that has adequate buffering capacity prior to reaching groundwater. The permit does not authorize the onsite permanent disposal of the concrete washout waste. *Note: This portion of the draft permit is still open for public comment since there were some revisions since the original October 2016 draft.*
- Topsoil must be preserved, unless infeasible, for those sites using vegetation to achieve final stabilization.
- Soil exposed during construction activities, including the distance of steep slopes, must be minimized.

- Bulk storage of petroleum and chemicals (55 gallons or greater) must have secondary containment or equivalent.
- Temporary stabilization must be implemented for earth disturbing activities on any portion of the site where ground disturbing construction activities permanently ceased, or temporarily ceased for more than 14 calendar days. There are some exceptions due to a function of the construction project, or physical terrain or climate prevent stabilization, but if these exceptions are utilized, there is additional documentation required in the SWMP.
- Additional measures may be required, including sampling, if discharging to a receiving water with a TMDL.
- 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 individuals. The inspector must be a Qualified Stormwater Manager or part of the team used to define the 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.
- A section called “Significant Materials that Could Contribute to Runoff” has been added as a required element of the SWMP. This section seems very similar to the Potential Pollutants section but it will be important that future SWMPs contain this specific element unless these materials are removed prior to final issuance of the permit.
- 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.
- All stream crossings within the limits of construction must be described in the SWMP and illustrated in the Site Maps.
- New language about having permission to install controls outside of the limits of construction was added to the permit. *Note: WWE recommends all controls be within the construction limits of the project.*
- Inspection frequency can now either be 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).
- There are minor changes in inspection reports. 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.

Changes Open for Public Comment

- Several definitions have been changed and are open for public comments. These include the following terms:
 - Bypass
 - Presentation of credentials
 - Receiving water
 - Severe property damage
 - State waters
 - Upset
- Concrete washout water discharges were changed twice in the October 2016 draft and the January 31, 2018 draft. Concrete washouts must be utilized if discharging onsite and must be designed to avoid contributing pollutants to stormwater runoff or receiving waters. Discharges that reach groundwater must flow through soil that has adequate buffering capacity prior to reaching groundwater. The permit does not authorize the onsite permanent disposal of the concrete washout waste. 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
- The new requirement for co-permittees was apparently supported by many of the public commenters during the October 2016 public comment period. There are changes to the electronic signatures section of the permit so the application can be signed by both the owner and operator electronically.
- Part II of the permit was changed after Environmental Protection Agency's (EPA's) audit of the Division and now appears to contain standardized language.
- 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 24-hour reporting requirements. The Division is accepting comments specifically on the practicality of compliance with this requirement and any expected resultant benefits in water quality, public health or overall permit compliance. This would mean that any non-compliance corrective action item would have to be submitted to the Division at least annually.

WWE anticipates preparing formal responses, which are due to the Division no later than March 2, 2018, when the public comment period will be closed. If you would like WWE to assist in preparing comments on behalf of your organization, please feel free to contact Jennifer Keyes at jkeyes@wrightwater.com or (303) 480-1700.