

**WWE**  
**MEMORANDUM**

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**To:** Permittees and Other Interested Parties

**From:** Wright Water Engineers, Inc.  
Lily Montesano, Water Resources Specialist

**Date:** February 26, 2024

**Re:** April 1, 2024 Changes to Construction Stormwater Permit COR400000

The Colorado Department of Public Health and Environment (CDPHE) regulates municipal and industrial stormwater discharges under the Colorado Discharge Permit System (CDPS), including construction projects that (1) disturb an acre or more or (2) disturb less than an acre but are part of a larger common plan of development or sale that will ultimately disturb an acre or more. Most such projects obtain coverage under general permit COR400000, which has been issued under the CDPS.

The existing general permit COR400000 (Previous Permit) is set to expire on March 31, 2024, and the CDPHE Water Quality Control Division (division) issued a revised version of COR400000 on January 31, 2024 (New Permit). The New Permit will go into effect on April 1, 2024. The intent of this memorandum is to summarize the changes to the terms of COR400000 included in the New Permit. Note that because this document is intended to provide a summary overview only, it should not be relied upon for compliance purposes. Refer to the text of COR400000 and other guidance documents issued by the division for the purposes of evaluating project compliance.

### **New and Newly Specified Permit Items**

- Masonry washout water and water used to wash vehicles, equipment, and building exteriors have been added as allowable non-stormwater discharges *to the ground* when appropriately controlled and identified in the Stormwater Management Plan (SWMP).
  - Discharges are not authorized to leave the site.
  - The division also points permittees to “Low Risk Discharge Guidance: Discharges from Surface Cosmetic Power Washing Operations to Land” as an alternative permitting pathway for vehicle, equipment, and building exterior cosmetic washing. See I.A.1.b.ii.
- The New Permit provides a more explicit list of prohibited non-stormwater discharges. Permittees may rely on Part I.A.1 for an affirmative list of allowable discharges, as the prohibited list is not intended to be exhaustive. See I.A.2.

- Residential construction sites that wish to remove lots from permit coverage prior to achieving the standard stabilization requirements must now install temporary stabilization, and/or additional sediment or erosion control measures in areas where the permittee is not responsible for final stabilization prior to removing those lots from coverage. See I.A.3.i.
- The division may decline to reissue a permit certification at the end of the New Permit's effective period (March 31, 2029) if the certification has outstanding fees. See I.A.3.j.i.
- Decompaction prior to final stabilization is an allowable alternative to minimizing compaction during construction for areas to be permanently stabilized with vegetation. See I.B.1.a.i.(f).
- Temporary clean water diversions must be designed for anticipated flow conditions. The Previous Permit required these diversions to be designed for all flow conditions. See I.B.1.a.i.(i).
- Dust suppression techniques must be used to minimize dust. See I.B.1.a.i.(j).
- Stormwater discharge peak flow rates and total volume must be managed to minimize channel and streambank erosion and scour near the discharge point(s). See I.B.1.a.i.(k).
- Spills and leaks must be minimized and require immediate containment and mitigation upon detection. See I.B.1.a.ii(b).
- Exposure of stored fertilizers, pesticides, and herbicides must be minimized. See I.B.1.a.ii(e).
- Water used to wash tools or containers used for paints, form oil, curing compounds, or similar must be directed into a leak-proof container or a leak-proof and lined pit. Contact with groundwater and overflows of the containment must be prevented. Waste must ultimately be appropriately disposed of. See I.B.1.a.ii(f).
- Final stabilization methods may include converting some or all of the construction site back to prior cropland use. Note that the permittee is not obligated to plant the crop prior to terminating permit coverage. See I.B.1.a.iii.(c)(6).
- Permittees may not hose down an area to clean spills or leaks unless the wash water is adequately captured and appropriately disposed of. See I.B.1.c.ii.
- Permittees must mitigate any accumulation of sediment outside of the site boundaries. See I.B.1.c.ii.
- The division has described restrictions on discharges to Outstanding Waters (waters of particularly high quality) that are eligible for coverage under the New Permit, consistent with

Regulation 31.8(1)(a). The restrictions in Regulation 31 applied during the Previous Permit term, but were not explicitly described in the Previous Permit.

- Discharges to Outstanding Waters must be short-term and must also either have a long-term ecological or water quality benefit, or clear public interest.
- The division further clarifies its authority to require individual or alternative general permit coverage for sites discharging to Outstanding Waters.
- A map of Outstanding Waters can be found here:  
[https://cdphe.maps.arcgis.com/apps/Viewer/index.html?appid=03b24116b8fd43cf\\_a83999365ce56ab3](https://cdphe.maps.arcgis.com/apps/Viewer/index.html?appid=03b24116b8fd43cf_a83999365ce56ab3). See I.B.2.b-c.
- All CDPS permits and low-risk discharge guidance documents, as well as Army Corps of Engineers Section 404 permits that are applied to the project, must be listed in the SWMP. A copy of the New Permit, applicable certification, and any low-risk discharge guidance documents must also be included in the SWMP. The Previous Permit only explicitly required some of this documentation to be included in the SWMP. See I.C.2.b.
- The SWMP must describe the general flow direction and where or how discharges leave the site. See I.C.2.c.vii.
- The SWMP must describe any effluent limitations that the permittee determines to be infeasible and the reason(s) why the limitations are infeasible, if applicable. See I.C.2.c.xi.
- If reclaimed water is used for dust suppression, the reclaimed water must be addressed as a potential pollutant in the SWMP. See I.C.2.e.ii.
- Springs, streams, wetlands, diversions, and other state waters *within or bordering the site* must be shown on the site maps. See Part I.C.2.d.x.
- Areas that are only awaiting the application of sod in the appropriate season are now permitted to move to a reduced inspection frequency. The Previous Permit allowed for reduced frequency inspections at sites only awaiting seeding but did not include sodding. Note that temporary stabilization must be installed and maintained in these areas until final stabilization is implemented. See Part 1.D.4.b.ii.
- Areas where stormwater is being pumped are now included in the scope for site inspections. See Part I.D.5.a.vi.
- An online form is now used for providing required reports of certain noncompliance circumstances to the division within 24 hours of discovery. The division previously maintained a hotline for these reports. The form can be accessed here:  
<https://oitco.hylandcloud.com/unityform/UnityForm.aspx?key=UFKey>. See II.L.7.a.

### **Clarifications to Existing Division Interpretations**

- Permittees initiating permit transfers or terminations due to another entity commencing or continuing operational control of some or all of an area must engage in due diligence practices prior to transferring or terminating their certification. See Part I.A.3.h.
- Where a 50-foot-wide horizontal buffer between construction activities and receiving waters can be maintained, control measures must be installed upgradient of the buffer, as well. In other words, the 50-foot-wide buffer cannot be the sole control measure managing potentially polluted stormwater runoff prior to discharge. See I.B.1.a.i.(e).
- Where local jurisdictions supply seed mixes or impose other restrictions on species, these requirements must be followed in addition to the constraints listed in the New Permit. See I.B.1.a.iii(b)(2)c.
- The New Permit explicitly lists run-on stormwater as a potential pollutant that should be evaluated/managed by the SWMP. See I.B.2.c.vii.
- Digital storage of the SWMP and inspection reports is permissible as long as the records are kept in a format that is as accessible to the inspector as a paper copy stored at the site would be, and the format can be read as a paper record could. See I.C.1.c.
- The New Permit clarifies that the division expects all construction sites to address disturbed and stored soils, vehicle tracking of sediment, and on-site waste management practices as potential pollutants. These were identified as possible pollution sources in the Previous Permit. See I.C.2.e.i.
- All potential pollutants must be shown on the site map, even if they are not explicitly listed as elements of the site map in the New Permit. See Part 1.C.2.d.vii.
- Methods for denoting changes to the SWMP can include notes on site maps, a log of revisions, redlines, or similar. See I.C.3.e.
- The New Permit clarifies that the Winter Conditions Inspection Exclusion is intended to be used on sites where snow melt does not occur in the winter months. Typically, the division finds that these sites are at high elevations and do not have runoff during winter months; the division directs that this exclusion is generally not appropriate for sites on the Front Range or Western Slope. See I.D.4.c.

### **Definitions and Clerical Revisions**

- The New Permit now spells out “stormwater management plan” throughout, rather than using the acronym “SWMP.”

- The permit section describing inspection report signature requirements was moved to the section of the permit addressing inspection reports, for readability. See I.D.5.c.xiii.
- The definition of “construction site” was added. Construction Site is used interchangeably with site and facility in the New Permit. See I.E.(4).
- The definition of “control measure requiring routine maintenance” was clarified to emphasize that “maintenance” means the control measure is still functioning, and the maintenance is *preventative*. See I.E.(6).
- The definition of “disturbed area” was added. Disturbed Area means any ground disturbance prior to final stabilization. See I.E.(8).
- The definition of “native vegetation” was added. Native Vegetation is defined as, “Plant species that are naturally occurring for the particular area (or region) and have adapted to and are well suited for the soil, temperature, nutrients, and precipitation of the particular area (region). See I.E.(18).

### Further Reading

A copy of the New Permit and associated fact sheet describing these changes and justifications in greater detail can be downloaded at the following link: <https://cdphe.colorado.gov/General-Construction-Permit-COR400000>.

The division also references several low-risk discharge guidance documents in the updated permit language. Low-risk discharge guidance documents can be reviewed here: <https://cdphe.colorado.gov/clean-water-policies>.

Wright Water Engineers welcomes the opportunity to help our clients navigate how the updated language in the New Permit may impact existing or future projects. Please do not hesitate to contact me at 303-480-1700 or [lmontesano@wrightwater.com](mailto:lmontesano@wrightwater.com) with any questions.

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