



**Colorado Discharge Permit System (CDPS)
Fact Sheet for Modification 1
Permit Number COR400000
GENERAL PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY**

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I. TYPE OF PERMIT

A. Type of Modification: Master General Permit for stormwater discharges associated with construction activities and specific non-stormwater discharges associated with construction activities - Modification 1

B. Discharge To: Surface Water - Waters of the State of Colorado

II. FACILITY INFORMATION

A. SIC Code:

- Major Group 15 - Building Construction General Contractors and Operative Builders
- Major Group 16 - Heavy Construction Other Than Building Construction Contractors, and
- Major Group 17 - Construction Special Trade Contractors

B. Facility Location: Various Locations - this permit authorizes the discharge of stormwater associated with construction activities (and specific allowable non-stormwater discharges in accordance with Part I.A.1. of the permit) certified under this permit, from those locations specified throughout the State of Colorado to specified waters of the State.

III. SCOPE AND DESCRIPTION OF MODIFICATION

- This division-initiated modification includes amendments to clarify a number of areas in the permit. Specifically, the division has:
 - Added diversion of surface water as an allowable non-stormwater discharge.





- Included language that an active emergency response for firefighting activities was an allowable non-stormwater discharge. The remaining water after the active emergency response, would require appropriate removal and disposal.
- Updated permit language to describe the use of the electronic portal for application submittals.
- Revised the definition of owner to be more general as it relates to land and lease ownership.
- Revised the definition of final stabilization to include a list of stabilization methods. Stabilization using vegetative cover was updated to be more specific to local undisturbed land with a focus on perennial vegetation.
- Revised the documentation of corrective actions that are identified during inspections to include the reporting of the dates of each of the corrections.

Additionally, the modification corrects minor formatting errors and cross references.

IV. CHANGES MADE AS A RESULT OF THE MODIFICATION

The organization of the fact sheet follows the order of the permit modifications to provide clarity to the reader. The changes to specific sections of the general permit are explained below. Whenever Fact Sheet is referenced, Fact Sheet relates to the initial Fact Sheet issued on November 1, 2018 in conjunction with the issuance of the Permit COR400000.

- 1) Minor edits to formatting, grammar, cross reference permit consistency and hyperlinking to the definitions section.
- 2) **Part I.A.1.b.ii:** *Discharges to the ground of concrete washout water associated with the washing of concrete tools and concrete mixer chutes. Discharges of concrete washout water must not leave the site as surface runoff or reach receiving waters as defined by this permit, and concrete on-site waste disposal is not authorized by this permit except in accordance with Part I.B.1.a.ii.b.*

Rationale: The addition of on site concrete waste disposal clarifies that permittees are not authorized to leave concrete waste on site, and that concrete waste must be managed accordingly as a potential pollution source. Concrete that has a specification available in the SWMP to authorize its use for fill is allowed. This is additionally clarified in Part I.B.1.a.ii.b and Part I.B.3.d.

- 3) **Part I.A.1.b.iv:** *Discharges from diversions of state waters within the permitted site.*
Part I.E(7): *Diversion - Discharges of state waters that are temporarily routed through channels or structures (e.g. in-stream, uncontaminated springs, non-pumped groundwater, temporary rerouting of surface waters).*
Part I.B.1.a.i(i): *Diversion control measures must minimize soil transport and erosion within the entire diversion, minimize erosion during discharge, and minimize run-on into the diversion. The permittee must minimize the discharge of pollutants throughout the installation, implementation and removal of the diversion. Diversions must meet one or more of the following conditions:*
 - (1) *Lined or piped structures that result in no erosion in all flow conditions.*
 - (2) *Diversion channels, berms, and coffer dams must be lined or composed of a material that minimizes potential for soil loss in the entire wetted perimeter during anticipated flow conditions (e.g. vegetated swale, non-erosive soil substrate). The entire length of the diversion channel must be designed with all of the following considerations: maximum flow velocity for the type of material(s) exposed to the anticipated flows to ensure that the calculated maximum shear stress of flows in the channel is not expected to result in physical damage to the channel or liner and result in discharge of pollutants. Additionally, the conditions relied on to minimize soil loss must be maintained for the projected life of the diversion (i.e. a vegetated swale must be limited to a period of time that ensures vegetative growth, minimizes erosion and maintains stable conditions).*
 - (3) *An alternative diversion criteria, approved by the division prior to implementation. The diversion method must be designed to minimize the discharge of pollutants and to prevent the potential for*



pollution or degradation to state waters as a result of the diverted flow through the diversion structure. In addition, the alternative diversion method must minimize the discharge of pollutants throughout the installation, implementation and removal of the diversion.

Part I.C.2.a.vii(j): *A description of the alternative diversion criteria as approved by the division, if applicable (Part I.B.1.a.i(i)(3)).*

Rationale: The permit was silent on the allowance of diversions around or through a construction site if those diversions minimized contact with pollutants from the construction activities. The addition of diversions to the section of allowable nonstormwater discharges makes the permit explicit in allowing diversions. This provides further clarity to permittees. Additionally, the definition of “Diversion” was included. It is the intent of the division that non-pumped groundwater, uncontaminated springs, stormwater commingled or surface water could be covered under this permit would not require a separate CDPS permit, unless the division has identified the source water as a potential significant contributor of pollutants. Pumped groundwater would require a CDPS Dewatering Permit. An additional section was added to Part I.B.1.a.i(i) to ensure that diversion structures were designed and implemented so that they minimized or prevented pollution from mixing with the diversion waters before discharging offsite. Further guidance will be developed by division. The division also included a section under the SWMP for the permittee to identify the division approved alternative diversion criteria.

The division understands that there may be some overlap between a U.S. Army Corps of Engineers permitting structure and language for diversions and this COR400000 definition of diversions. The division does not intend for this definition to conflict with the USACE definition of a diversion. The division sees each permitting action as separate actions. To this point, the division has coordinated with USACE on the language in the COR400000 permit. USACE regulates discharges of dredged or fill material into waters of the United States and structures or work in navigable waters. The division regulates discharges from construction activity to state waters. Due to this difference there may be times that a project has both permits or one of the permits.

4) Part I.A.1.c: *Discharges resulting from emergency firefighting activities during the active emergency response are authorized by this permit.*

Part I.B.1.c.ii(c): In the event that water remains onsite and contains pollutants either from the firefighting activities or picked up from the site (i.e. in a gutter, sediment basin, etc.) after the active emergency response is complete, the permittee must ensure the remaining water containing pollutants is properly removed and disposed of in order to minimize pollutants from discharging from the site, unless infeasible.

Rationale: The addition of “during the active emergency response” clarifies that during the action of firefighting, when emergency personnel are present onsite conducting emergency response, any discharges related to that action are allowable under this permit. In the event of intentional or unintentional collection and the retention of the discharges from the actions of firefighting, the permittee is responsible for ensuring the appropriate disposal of those collected discharges if they contain or have collected pollutants from the site (e.g.: standing water in the gutter or inlet, collected discharges in a catch basin or detention pond, etc.). It is expected that firefighting water that only contains potable water and has not picked up pollutants from the site would not require collection and disposal. It is understood by the division that the permittee may not be the one conducting the clean up of the discharges resulting from firefighting, but it is the permittee's responsibility to ensure that it happens. This is also clarified in Part I.B.1.c.ii(c).

5) Part I.A.3.a.i: *Construction activity that will disturb one acre or more; or*
Part I.A.3.a.ii: *Construction activity that is part of a common plan of development or sale, or*

Rationale: Construction activity is defined in Part I.E. and has been used here to clarify that construction activities can potentially cause pollutants to enter the stormwater when stormwater comes in contact with the area that has soil disturbance. In addition, this increases permit consistency with the authorized discharges that have coverage under this permit in Part I.A.1.



- 6) **Part I.A.3.b - Updated Application Requirements:** Updated to reflect the practice of submitting applications and application actions through the electronic portal.
- 7) **Part I.A.3.d:** *The division may require an applicant or permittee to apply for an individual permit or an alternative general permit if it determines the discharge does not fall under the scope of this general permit, including if any additional terms and conditions are necessary in order to ensure that discharges authorized by this permit shall not cause, have the reasonable potential to cause, or measurably contribute to an exceedance of any applicable water quality standard, including narrative standards for water quality. In this case, the division will notify the applicant or permittee that an individual permit application is required.*

Rationale: The division wanted to clarify that the conditions of a discharge that may warrant the division determining that an applicant does not fall under the scope of this general permit include situations where additional conditions are needed in order to ensure compliance with the underlying water quality standards.

- 8) **Part I.A.3.f.i:** *Any person(s) signing inspection documents required for compliance with the permit must make the following statement and provide the date of the statement:
"I verify that, to the best of my knowledge and belief, that if any corrective action items were identified during the inspection, those corrective actions are complete, and the site is currently in compliance with the permit."*

Rationale: The intent of the signature is to certify that corrective action(s) has/have been completed on inadequate control measures, not maintenance items. Inadequate control measures are enforceable as part of the permit and require action to be taken in order to remain in compliance with the permit. The addition of the date allows the division to assess if adequate action was taken in accordance with the permit. The inspection reports section has been updated in Part I.D.5.c to reflect that all inspection reports must be signed with this statement.

- 9) **Part I.A.3.i: Permittee Initiated Permit Actions**
Permittee initiated permit actions, including but not limited to modifications, contact changes, transfers, and terminations, shall be conducted following Part II.L, division guidance and using appropriate division-provided forms.

Rationale: Reassignment is no longer an action taken on this permit. A permittee would utilize the electronic portal for transferring (or any permit action) a permit to a new owner/operator.

- 10) **Part I.B.1: Requirements for Control Measures Used to Meet Effluent Limitations**
The permittee must implement control measures to minimize the discharge of pollutants from all potential pollutant sources at the site. Control measures must be installed prior to commencement of construction activities.

Rationale: Construction activity is defined in Part I.E. and should be used here for consistency. In addition, this increases permit consistency with the authorized discharges that have coverage under this permit in Part I.A.1. It is understood that not all control measures are installed at the beginning of a project, but only those control measures necessary for initial construction activities. Control measures are meant to be installed as site conditions and phases of construction change and the sources of pollution change.

- 11) **Part I.B.1.a.i(a): Structural and nonstructural vehicle tracking controls shall be implemented to minimize vehicle tracking of sediment from disturbed areas, and may include tracking pads, minimizing site access, wash racks, graveled parking areas, maintaining vehicle traffic to paved areas, street sweeping and sediment control measures;**

Rationale: The division recognized a need for a vehicle tracking control program. This had been removed in the



renewal of the permit. Similar language from the previous permit has been reinstated to provide permittees with the direction of including structural and nonstructural vehicle tracking controls on construction sites. The division used suggestive language in this list of vehicle tracking controls which allows the permittee the flexibility to select a different control measure that is not listed as long as it meets the requirements of minimizing pollution for the selected application and has an associated specification.

- 12) Part I.B.1.a.i(b):** *Stormwater runoff from all disturbed areas and soil storage areas must utilize or flow to one or more control measures to minimize erosion or sediment in the discharge. The control measure(s) 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 (e.g. sheet or concentrated flow);*

Rationale: Eliminated language to make the section more succinct on the requirement of selection and installation of structural and nonstructural control measures to prevent a bypass. Permanent or temporary stabilization could be used as a control measure for disturbed or soil storage areas. A sequence of multiple stormwater control measures that are designed to control stormwater and minimize pollutant loading for each specific construction site, also called a treatment train approach, is encouraged. The permit relies on the division guidance FAQ provided on the website:

https://drive.google.com/file/d/1DzDLDOuRihVFXTi_ZQONOfBq5cFUkC/view.

- 13) Part I.B.1.a.i(c):** *Selection of control measures should prioritize the use of structural and nonstructural control measures that minimize the potential for erosion (i.e. covering materials). Selection should also prioritize phasing construction activities to minimize the amount of soil disturbance at any point in time throughout the duration of construction.*

Rationale: The division wanted to reiterate that preventing erosion is the preferred methodology for managing sediment in stormwater flows during construction activities.

- 14) Part I.B.1.a.ii (a):** *Bulk storage, individual containers of 55 gallon or greater, from 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.*

Rationale: Division inspections identified there was confusion on whether the 55 gallon reference was for cumulative or individual containers. The Fact Sheet specified the intent was on a container or individual basis, not cumulative. In order to provide clarity, individual containers was added.

- 15) Part I.B.1.a.iii(b):** *Final stabilization must be implemented for all construction sites covered under this permit. Final stabilization is reached when (1), (2), and (3) below are complete:*
- (1) All construction activities are complete .*
 - (2) Permanent stabilization methods are complete. Permanent stabilization methods include, but are not limited to, permanent pavement or concrete, hardscape, xeriscape, stabilized driving surfaces, vegetative cover, or equivalent permanent alternative stabilization methods. The division may approve alternative final stabilization criteria for specific operations. Vegetative cover must meet the following criteria:*
 - a. Evenly distributed perennial vegetation, and*
 - b. Coverage, at a minimum, equal to 70 percent of what would have been provided by native vegetation in a local, undisturbed area or adequate reference site.*
 - (3) The permittee must ensure all temporary control measures are removed from the construction site once final stabilization is achieved, except when the control measure specifications allow the control measure to be left in place (i.e. biodegradable control measures).*



Part I.E(7): Final Stabilization - *The condition reached when construction activities at the site have been completed, and permanent stabilization methods are complete, and temporary control measures are removed. Areas being stabilized with a vegetative cover must have evenly distributed perennial vegetation. The vegetation coverage must be, at a minimum, equal to 70 percent of what would have been provided by native vegetation in local, undisturbed area or adequate reference site.*

Rationale: The division clarified the language for final stabilization due to permittees expressing confusion during inspections around the division's expectation of final stabilization and the phrase "pre-disturbance levels". Additionally, the interchangeable use of "density" and "cover" was removed as they have different definitions related to vegetation in an area, and, instead, only the use of the word "cover" was used. EPA's language was generally inserted on final stabilization to be that final stabilization using vegetative cover needed to obtain 70% of native perennial vegetation in a local undisturbed area. EPA's guidance in their Stormwater Pollution Prevention Guide states that "EPA and many states define final stabilization as occurring when a uniform, evenly distributed perennial vegetative cover with a density of 70 percent of the native background cover has been established on all unpaved areas and areas not covered by permanent structures. Native vegetation must be established uniformly over each disturbed area on the site. Stabilizing seven of ten slopes, or leaving an area equivalent to 30 percent of the disturbed area completely unstabilized will not satisfy the uniform vegetative cover standard. The contractor must establish vegetation over the entire disturbed soil area at a minimum density of 70 percent of the native vegetative coverage. For example, if native vegetation covers 50 percent of the undisturbed ground surface (e.g., in an arid or semi-arid area), the contractor must establish 35 percent vegetative coverage uniformly over the entire disturbed soil area ($0.70 \times 0.50 = 0.35$ or 35 percent)."

It is the intent of the division to align more closely with EPA's definition and implementation of vegetative final stabilization in an effort to make vegetative final stabilization clear and measurable for permittees and inspectors. The division's compliance section will update the final stabilization guidance to reflect this change.

Final stabilization definition was updated to reflect the changes in Part I.B.1.a.iii(b). Additionally, Part I.C.2.a.vii(e) of the SWMP section was updated. The intent of the SWMP description is to help permittees tie together that the SWMP site description of what the site looked like before construction activities occur should be a description of the cover of native vegetation in a local, undisturbed area or adequate reference area. In some instances this will be what the permittee has on their site. If the site has been disturbed, the permittee will need to describe native vegetation in a local, undisturbed site or adequate reference site. This description is what the permittee refers back to when determining if they have achieved 70 percent perennial vegetative coverage on their site. It also requires that any temporary control measures are removed as part of final stabilization.

Regardless of construction type (i.e. linear, vertical, residential, commercial, etc.) if the site meets the requirements for permit coverage under Part I.A.3, the permittee is required to obtain coverage and meet the requirements outlined in the permit, including the references to final stabilization. The permit modification language regarding final stabilization is not a departure from the division guidance document on final stabilization, but instead intended to support and clarify the guidance by improving the permit language. The original permit language of pre-disturbance levels was clarified in a guidance document as "vegetation that would represent the naturally supported vegetation density in the area". Typically, this did not mean what vegetation was on the site before groundbreaking. The modified permit clarifies the guidance language and places the language into the permit language to try and provide clarity to permittees that the 70% threshold for final stabilization, as it relates to vegetative cover, is not typically what was on the site at the time of groundbreaking, but what is typical of native vegetation in a local, undisturbed area or adequate reference site. The division will be updating the final stabilization guidance document upon effectiveness of the permit modifications.



The contractual obligations of final stabilization between the utility doing the work and the owner are outside of the division's authority. It is the owner and operator's responsibility to ensure final stabilization prior to termination. The permit does allow the operator to transfer the permit to another operator or to the owner. The division would recommend that the owner and operator determine who is responsible for final stabilization prior to construction. At the time of permit termination, the permittee will be asked to provide a description of how final stabilization was achieved. Seeding without adequate time for growth is not adequate for permit termination.

- 16) Part I.B.1.c.i:** *The permittee must take all necessary steps to minimize or prevent the discharge of pollutants from the permitted area and manage any stormwater run-on onto the site until a control measure is implemented and made operational and/or an inadequate control measure is replaced or corrected and returned to effective operating condition.*

Rationale: The division wanted to provide clarity that the permittee is responsible for ensuring that pollution, including sediment, is minimized or prevented from leaving the permitted site. The division also wanted to be explicit that it is the permittee's responsibility to manage any stormwater that is running onto the site. Diversions are an allowable method of managing run-on per the new additions to COR400000, but are required to follow the effluent guidelines in Part I.B.1.a.i(i).

- 17) Part I.B.1.c.ii:** *If applicable, the permittee must remove and properly dispose of any unauthorized release or discharge within and from the permitted area (i.e. discharge of non-stormwater, untreated stormwater containing pollutants, spill, or leak not authorized by this permit.) The permittee must also clean up any contaminated surfaces, if feasible, to minimize discharges of the material in subsequent storm events including the water remaining the response that contains pollutants after active emergency firefighting response is complete.*

Rationale: The addition of "within and from the permitted area" was an effort to provide clarity that if a discharge leaves the construction site, the permittee is responsible for cleanup. The permittee is also responsible for cleanup onsite of contaminated surfaces even if sediment or pollutant transport has not yet occurred from the permitted area. The division also included untreated stormwater containing pollutants to account for those times when a control measure is inadequate or not installed and pollutants have left the site and require clean up. An example would be overwhelmed silt fence and sediment discharging offsite.

The addition of "during the active emergency response" clarifies that during the action of firefighting, when emergency personnel are present onsite conducting emergency response, any discharges related to that action are allowable under this permit. In the event of intentional or unintentional collection and the retention of the discharges that contain pollutant that remain after the actions of firefighting, the permittee is responsible for ensuring the appropriate disposal of those collected discharges (e.g., standing water in the gutter or inlet, collected discharges in a catch basin or detention pond, etc.). It is expected that firefighting water that only contains potable water and has not picked up pollutants from the site would not require collection and disposal. It is understood by the division that the permittee may not be the one conducting the clean up of the discharges resulting from firefighting, but it is the permittee's responsibility to ensure that it happens.

- 18) Part I.C.1.a:** *A SWMP shall be developed for each construction site listed under Part I.A.3.a, including but not limited to, construction activities that will disturb one acre or more and/or are part of a common plan of development or sale covered by this permit. The SWMP must be prepared in accordance with good engineering, hydrologic and pollution control practices.*

Rationale: This increases permit consistency with the authorized discharges that have coverage under this permit in Part I.A.1. When a SWMP is required is not changed by the addition of this language.

- 19) Part I.C.2.a.i:** *Qualified Stormwater Manager. The SWMP must list individual(s) by title and name who are*



designated as responsible for implementing the SWMP in its entirety and meet the definition of a Qualified Stormwater Manager. This role may be filled by more than one individual.

Rationale: In its current form, the permit requires the identification of specific individual(s) responsible for implementing the SWMP and defines them as the “Qualified Stormwater Manager(s)”. Additionally, the permit in Part I.D.1 defines the person responsible for conducting inspections with the same term of “Qualified Stormwater Manager”. However, the term in Part I.D.1 is used in a manner that references the definition used in Part I.E that is general in nature as someone with knowledge and skills in stormwater control measure use and effectiveness. Due to using the term Qualified Stormwater Manager as a specific person and generally as an individual with knowledge and skills, there has been confusion on whether the individual(s) conducting site inspections needs to match the individual(s) listed in the SWMP as responsible for implementing the SWMP in its entirety.

The individual(s) in Part I.C.2.a.i and Part I.D.1 do not have to be the same specific individual(s). The individual(s) listed in the SWMP and performing inspections all need to meet the definition of a “Qualified Stormwater Manager” in Part I.E. The revision of the language in this section and in Part I.D.1 provides clarity to this point.

- 20) Part I.C.2.a.iii: *Other CDPS Permits.*** *The SWMP must list the applicable CDPS permits associated with the permitted site and the activities occurring on the permitted site (i.e. a CDPS Dewatering Permit).*

Rationale: The current permit does not have a specific section within the permit to identify other CDPS permits that might be required concurrently with the construction stormwater permit. Example permits would include dewatering, any low risk discharge guidance policies and industrial stormwater permits for mobile batch plants or sand and gravel permits. The addition of a section provides division inspectors with a more thorough knowledge of the activities occurring on the site.

- 21) Part I.C.2.a.v(c): *Management of contaminated soils, if known to be present, or if contaminated soils are found during construction activities;***

Rationale: There was some permittee confusion on whether management of contaminated soils should be included in the SWMP in the event that contaminated soils were found during activities such as excavation, but were not anticipated prior to construction. The SWMP is a living document and must be updated as the conditions on the site change during construction. The project owner, engineer and operator may not be aware of contaminated soils before construction activities, thus the SWMP originally may not include a section on management of contaminated soils. In the event of contaminated soils being found during construction, the SWMP must be updated and control measures installed to manage the potential new source of pollution found on the site. The addition of language to this part is to clarify this point.

- 22) Part I.C.2.a.vi: *Implementation of Control Measures.*** *The SWMP must include design specifications that contain information on the implementation of all the structural and nonstructural control measures in use on the site in accordance with good engineering, hydrologic and pollution control practices; including, as applicable, drawings, dimensions, installation information, materials, implementation processes, control measure-specific inspection expectations, and maintenance requirements.*

Rationale: Added clarity that all control measures in use need to have design specifications included in the SWMP. As previously understood, not all of the listed specification items may apply to each control measures.

- 23) Part I.C.2.a.vii(d): *A summary of any existing data and sources used in the development of the construction site plans or SWMP that describe the soil types found in the permitted area and the erodibility of the identified soil types;***



Rationale: This additional language was added for clarity. There is no change to the expectation that the soil types found on the site are listed in the SWMP, along with the soil types' erodibility.

- 24) Part I.C.2.a.vii(e):** *A description of the percent cover of native vegetation on the site if the site is undisturbed, or the percent cover of native vegetation in a similar, local undisturbed area or adequate reference site if the site is disturbed. Include the source or methodology for determining the percentage. If a percent cover is not appropriate for the site location (i.e. arid) describe the technique and justification for the identified cover of native vegetation;*

Rationale: The update to the language in this section was done to align the SWMP language with the revised vegetative final stabilization language found in Part I.B.1.a.iii(b) and the definition of final stabilization. The intent of the SWMP description is to help permittees tie together that the SWMP site description of what the site looked like before construction activities occur should be a description of the cover of native vegetation in a local, undisturbed area. In some instances this will be what the permittee has on their site. If the site has been disturbed, the permittee will need to describe native vegetation in a local, undisturbed site. This description is what the permittee refers back to when determining if they have achieved 70 percent perennial vegetative coverage on their site.

- 25) Part I.C.2.a.vii(f):** *A description of any allowable non-stormwater discharges at the site, including those being discharged under a separate CDPS permit or a division low risk discharge guidance policy, and applicable control measures installed;*

Rationale: The addition of other CDPS permits to this section allows the permit to align with the addition of section Part I.C.2.a.iii requiring that other CDPS be listed. This was added due to not having a location of that information previously. The permittee would also use this section to identify any diversions that are now explicitly listed under the section of allowable nonstormwater discharges, Part I.A.1.b, and applicable control measures.

- 26) Part I.C.2.a.vii(g):** *A description of the drainage patterns from the site, including a description of the immediate source receiving the discharge and the receiving water(s), if different than the immediate source. If the stormwater discharge is to a [municipal separate storm sewer system](#), include the name of the entity owning that system, the location of the stormwater discharge, and the receiving water(s); and*

Rationale: The language was updated to provide clarity that the SWMP was to include a description of where the water runs off of the permitted area. The permittees must list the municipal separate storm sewer system their site discharges to, if applicable, and the receiving water(s) the site drains to from the municipal separate storm sewer system. If the site, does not drain to a municipal separate storm sewer system, then the permittee will list only the receiving water(s). Additionally, as an example, if the site sheet flows onto another property or into a waterway, that would be described in this section. It has been noted that at times, permittees focus on discrete points of discharge, like an outfall or inlet, and don't provide adequate attention to those areas that discharge off the site in more dispersed manner.

- 27) Part I.C.2.a.vii(i):** *A description of the alternate temporary stabilization schedule, if applicable.*

Rationale: This description was previously mention under Part I.B.a.iii, Stabilization Requirements. The addition of the language to the SWMP section was to provide consistency. This also applies to Part I.C.2.a.viii(k).

- 28) Part I.C.2.a.ix:**

Temporary Stabilization, Final stabilization and Long Term Stormwater Management.

- (a) The SWMP must document the constraints necessitating an alternative temporary stabilization schedule, as referenced in Part I.B.1.a.iii(a), provide the alternate stabilization schedule, and identify all*



locations where the alternative schedule is applicable on the site map.

(b) The SWMP must describe and locate the methods used to achieve final stabilization of all disturbed areas at the site as listed in Part I.B.1.a.iii(b).

(c) The SWMP must describe the measures used to establish final stabilization through a vegetative cover or alternative stabilization method, as referenced in Part I.B.1.a.iii(c), and describe and locate any temporary control measures in place during the process of final stabilization.

(d) The SWMP must describe and locate any planned permanent control measures to control pollutants in stormwater discharges that will occur after construction operations are completed, including but not limited to, detention/retention ponds, rain gardens, stormwater vaults, etc.

Rationale: This section was updated to match the updates to the final stabilization section in Part I.B.1.a.iii. Additionally, the addition of the alternative temporary stabilization schedule was included here to provide consistency to what is listed in Part I.B.1.a.iii(a). No changes were made to the content of temporary stabilization.

29) Part I.C.3.e: *The site or areas of the site qualifying for reduced frequency inspections under Part I.D.4.*

Rationale: The division included a section for the permittee to provide notation in the SWMP for those areas qualifying for reduced frequency in order to allow for increased awareness for the permittee inspections on what is required where. It also allows the division inspectors clarity on which portions of the site qualify for the reduced inspections during their review.

30) Part I.D.5.a.iii: *Locations of installed control measures;*

Rationale: While it was implied under the section on Inspection Scope that control measures were to be inspected as part of the areas to be inspected, the division wanted to make it explicit by adding this language.

31) Part I.D.5.c: *Inspection Reports*

The permittee must keep a record of all inspections conducted for each permitted site. Inspection reports must identify any incidents of noncompliance with the terms and conditions of this permit. All inspection reports must be signed and dated in accordance with Part I.A.3.f. Inspection reports Inspection records must be retained in accordance with Part II.O. At a minimum, the inspection report must include:

- i. The inspection date;*
- ii. Name(s) and title(s) of personnel conducting the inspection;*
- iii. Weather conditions at the time of inspection;*
- iv. Phase of construction at the time of inspection;*
- v. Estimated acreage of disturbance at the time of inspection;*
- vi. Location(s) and identification of control measures requiring routine maintenance;*
- vii. Location(s) and identification of discharges of sediment or other pollutants from the site;*
- viii. Location(s) and identification of inadequate control measures;*
- ix. Location(s) and identification of additional control measures needed that were not in place at the time of inspection;*
- x. Description of corrective action(s) for items vii, viii, ix, above, dates corrective action(s) were*



completed, including requisite changes to the SWMP, as necessary;

- xi. Description of the minimum inspection frequency (either in accordance with Part I.D.2, I.D.3. or I.D.4) utilized when conducting each inspection;
- xii. Deviations from the minimum inspection schedule as required in Part I.D.2. This would include documentation of division approval for an alternate inspection schedule outlined in Part I.D.2.c;
- xiii. After adequate corrective action(s) have been taken, or where a report does not identify any incidents requiring corrective action, the report shall contain a statement as required in Part I.A.3.f.

Rationale: The division recognized a need for the dates of the corrective actions completed to fix any inadequate control measures. This had been removed in the renewal of the permit. Language from the previous permit has been reinstated to provide permittees with the direction of including dates of corrective actions completed. If the permittee finds it infeasible, per Part I.B.1.c.i, to immediately correct the inadequate control measure, they need to describe in the inspection report why it is infeasible to initiate correction immediately and document a schedule for completion. Initiating corrective action could include scheduling a crew or ordering supplies. Any action being done to complete the corrective action should be documented in the inspection report until the corrective action is complete.

Consistency was also included requiring inspections to “locate and identify” in each of the inspection report areas.

- 32) Part I.E(17): Outstanding Waters - Waters designated as outstanding waters pursuant to Regulation 31, Section 31.8(2)(a). The highest level of water quality protection applies to certain waters that constitute an outstanding state or national resource.**

Rationale: Added the definition of “Outstanding Water” for clarity. The division used the definition provided from the CDPS Dewatering Permit for consistency.

- 33) Part I.E(16): Owner - The party that has overall control of the activities and that has funded the implementation of the construction plans and specifications. This is the party that may have ownership of, a long term lease of, or easements on the property on which the construction activity is occurring (e.g., the developer).**

Rationale: Since implementation of the renewal permit, it has been noted that the owner does not always have the ownership or a long term lease or easement on all of the property on which the construction activity is occurring. There are times the owner has a lease or easement on the area of the site where excavation, building or similar activities are occurring, but may not have a lease or easement on the staging area, borrow area or area where those types of activities are occurring. This has caused some confusion among permittees as to who the owner is of these areas where the owner that has funded the construction plans and specifications may not have the lease or easement of a staging area, for example.

Similar to the explanation provided under Part I.A.1.a.ii, the Duty to Apply provision in Part I.A.3 requires one application for related construction activities in close proximity to each other. Under the definition, “Construction Activity” includes 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. Per the Duty to Apply and the definition of “Construction Activity”, the owner is required to be owner of the entire permitted area, including those areas where the owner may not have a long term lease or easement as they are the responsible party with overall control of the activities and are funding the activities. This modification provides additional clarity that reflects this reasoning and reiterates what was already noted extensively in the Fact Sheet.



- 34) Part II.K** - This section had further clarification in a memo published June 11, 2019 and was made available on the division's website. The division wanted to include that information here to provide clarification on the authorized signatory section. These requirements meet those in 5 CCR 1002-61.4(1)(d) and follow EPA practices, the division will require that a person meet the following requirements:
- In the case of partnership, a general partner.
 - In the case of a sole proprietorship, the proprietor.
 - In the case of corporations, a responsible corporate officer. The responsible corporate officer is responsible for the overall operation of the facility from which the discharge described in the application originates. As noted in EPA's construction permit application, this can include a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function; any other person who performs similar policy or decision-making functions for the corporation; and the manager of one or more manufacturing, production, or operating facilities. Such a manager must be authorized to make management decisions which govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations, and ensuring that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements. The RO may be a project manager if he or she has this level of control at a corporation. The RO must be responsible for the overall operation of the facility from which the discharge described in the application originates. The RO must also have authority to make management decisions which govern the operation of the regulated facility.
 - In the case of a city, municipal, state, or other government entity, the RO must be a principal executive officer or ranking elected official. A principal executive officer will typically be a program director (e.g., Director of Public Works, Director of Transportation, Director of Parks and Recreation, etc.). A principal executive officer must also have responsibility for the overall operation of the permitted construction site.

If a person meets the requirements above to be the RO, they should use their corporate title (including "Project Manager") to apply in CEOS. If their professional title does not reflect their actual authority in the company (for example, "Secretary"), a description of the position's responsibility and authority over the facility should be described in a document attached to the application.

V. COMPLIANCE WITH SECTION 25-8-503.5 OF THE WATER QUALITY CONTROL ACT (COST-BENEFIT ANALYSIS)

Section 25-8-503.5(1) of the Colorado Water Quality Control Act requires the division to do the following when it proposes new or amended permit general permit requirements:

- (a) Prepare a statement of basis and purpose explaining the need for the proposed requirements;
- (b) Present evidence supporting the need for the proposed requirements, including information regarding pollutant potential and available controls, incidents of environmental damage, and permit violations;
- (c) Before implementing the proposed requirements, provide public notice of, and consider comments received from affected parties about, the proposed requirements; and
- (d) Upon request by an affected party, consider and give due weight to a cost-benefit analysis:
 - (I) Received by the division during the comment phase set forth in paragraph (c) of this subsection (I);
 - (II) Concerning one or more proposed requirements that are not already required by federal or state statute or rule;



(III) Prepared by a third party chosen from an approved list of analysts, as developed by the division in consultation with representatives of the industries that are subject to general permitting; and

(IV) Paid for by the affected party.

The division will comply with Section 25-8-503.5(1)(a) and (b) as follows. In accordance with Section 25-8-503.5(1)(a), this final fact sheet and responses to comments will together constitute the final statement of basis and purpose explaining the need for the proposed modification. In accordance with Section 25-8-503.5(1)(b), the fact sheet, response to comments, documents referenced in these documents, and the permit-related documents found in the division's public databases (including compliance and enforcement data for permit certifications covered by the general permit) constitute evidence supporting the need for the proposed requirements.

The division complied with Section 25-8-503.5(1)(c) by providing public notice of the draft permit modification and fact sheet, establishing a public comment period, and considering and responding to the comments received during the public comment period.

With regard to Section 25-8-503.5(1)(d), no cost benefit analysis meeting the criteria established by Section 25-8-503.5(d) was submitted to the division during the public comment period.

VI. OPPORTUNITIES FOR ADMINISTRATIVE ADJUDICATION

Once the final modified permit is issued, the applicant or any other person affected or aggrieved by the Division's final determination on the modification may demand an adjudicatory hearing within thirty (30) calendar days of the date of issuance on the conditions subject to modification, under 5 CCR 1002-61 (Colorado Discharge Permit System Regulations), Regulations 61.7 and 61.8(8)(g). Any request must comply with the Water Quality Control Act, 24-4-101, C.R.S., et seq. and the Water Quality Control Commission's regulations, including Regulation 61.7 and 5 CCR 1002-21 (Procedural Rules), Regulation 21.4(B). Failure to contest any term and condition of the permit modification in this request for an adjudicatory hearing constitutes consent to the condition by the permittee.

VII. PUBLIC NOTICE COMMENTS

The division posted the draft permit and draft fact sheet from August 12 - October 13, 2020. The division responded to comments in the attached Response to Comments document, and has made permit modifications accordingly.

COR400000 Mod1 Response to Comments

Comment #	Commenting on	Comment Subject	Comment	Division Response	Changes made to Permit	Name	Contact Information:	Reference Docs?
1	Colorado Stormwater Council	III. SCOPE OF MODIFICATION REQUEST	Part I.C.2.a.vii.(i) - Please correct citation of Part I.B.1.a.iii.	The division has made no changes to this comment as Part I.B.1.a.iii(a) references the SWMP document containing the rationale, schedule and location of the alternate stabilization. The SWMP Part I.C.2.a.vii(i) was updated to include a section to include this information. Inspections must still follow those schedules outlined in Part I.D.	No change.	Ashley Tucker	atucker@firestoneco.gov	
2	CDOT	A. COVERAGE UNDER THIS PERMIT	Part I.A.1.a.ii Rationale states: "as noted in the Fact Sheet, a 1/4 mile is merely a rule of thumb and would support a larger radius outside of 1/4 mile. This is similar to how EPA in the 2017 Construction General Permit ensures construction support activities for the site are included in the same permit."Suggest leaving in a definition of "close proximity". Removing the 1/4 mile criteria leaves the definition of close proximity too ambiguous and does not give permittees adequate guidance on what sites will require permits. Disagree that the EPA's 2017 permits definition of common plan is intended to ensure that construction support activities are included in the same permit. From review of the EPA's permit it does not appear that, by leaving out a definition of close proximity, their intent is to ensure related construction activities are permitted under the SAME as their permit clearly defines what an operator is and states that if the operator of a construction support activity is different than the operator of the main site that operator must ALSO get permit coverage. In this case, the operator of a site requires more clarification on what requires permitting in order to properly plan and bid for projects.	The division received several comments regarding the request to keep the 1/4 mile limitation in Part I.A.1.a.ii, in the definition of "Common Plan of Development and Sale" and in the definition of "Dedicated Asphalt, Concrete Batch Plants and Masonry Mixing Stations". The division agrees to keep the 1/4 mile limitation in the permit as it appears that the removal of the definitive 1/4 mile limit may hinder the permittee's clarity on when a permit is to be obtained.	Original permit language retained.	Tripp Minges	tripp.minges@state.co.us	
3	CDOT	A. COVERAGE UNDER THIS PERMIT	Part I.A.1.a.ii Rationale states: "The Duty to Apply provision in Part I.A.3 requires one application for related construction activities in close proximity to each other."The language in Part I.A.3 states that construction activities meeting the definition of either i.ii, or iii must apply for coverage under the permit, but does not state that this coverage must be sought under one application. Furthermore, the comparison of EPA's 2017 Construction General Permit to the changes made in this permit are not applicable in this case. Suggest rephrasing the language to allow for separate permit coverage for separate but related activities, or provide rational or statute that allows the department to require an owner to get permit coverage on an area for which they have no authority or operational control.The EPA 2017 permit requires operators of a site to apply for permit coverage and defines operators as "the party that has operational control over construction plans" or "the party that has day-to-day operational control of those activities at a project that are necessary to ensure compliance with permit conditions". Colorado's permit requires that both the owner and operator of a site apply for joint permit coverage, in many cases the owner may not have operational control over related construction activities regardless of the proximity to the primary construction area. Furthermore, EPA's 2017 permit clearly states that "If the operator of a "construction support activity" is different than the operator of the main site, that operator must ALSO obtain permit coverage". The department previously defined owner as "the party with ownership of, a long term lease, or easements on the property on which construction activity is occurring". The definition is proposed to be changed to "that may have ownership " and reviewer disagrees with that proposed changed as discussed in following comments.	See Division Response to Comment 2.	Original permit language retained.	Tripp Minges	tripp.minges@state.co.us	
4	CDOT	A. COVERAGE UNDER THIS PERMIT	Part I.A.1.a.ii Stormwater discharges associated with producing earthen materials, such as soils, sand, and gravel dedicated to providing material to a single contiguous site, or within ¼ mile of a construction site (i.e. borrow or fill areas). Rationale states "The Duty to Apply provision in Part I.A.3 requires one application for related construction activities in close proximity to each other. In the definition of "Common Plan of Development or Sale", as well as, the Fact Sheet, the key language is "related" and "close proximity to each other". If a site dedicated to providing site materials, such as soils, sand and gravel, and sites for staging areas that provide supplies to a project are related and in close proximity, those areas must be authorized to discharge under the same permit according to the Duty to Apply provision and definition of "Common Plan of Development or Sale". Due to the Owner/Operator requirement of this permit, CDOT may be in conflict with this requirement. We agree that if CDOT has entered into an agreement with a property owner and this area outside of our Right of Way (ROW) we would have jurisdictional control and would direct the Operator of the permit to include the area to the defined project Limits of Construction. However, if the Operator chooses (not directed by CDOT) to work outside of CDOT's ROW and enters into agreement with another property owner, CDOT has no jurisdictional control of these areas and the Operator would need to request a separate permit for this area with the controlling Owner of the property. CDOT recognises both of these scenarios to be within the common plan of development for a project, but is conflicted with being the Owner of a permit that CDOT does not have control over. Further, contractually CDOT can not direct the contractor to not use properties outside of our ROW.	See Division Response to Comment 2.	Original permit language retained.	Tripp Minges	tripp.minges@state.co.us	

Comment #	Commenting on	Comment Subject	Comment	Division Response	Changes made to Permit	Name	Contact Information:	Reference Docs?
5	CDOT	A. COVERAGE UNDER THIS PERMIT	<p>Part I.A.1.a.ii</p> <p>Rationale states: "Additionally, following this approach would avoid a resource burden of having to permit, inspect, and enforce on potentially double the amount of permits if permittees moved and separately permitted staging areas, borrow or fill areas, etc." If that is an issue for CDPHE why don't they have a portion on the permit application that states that this is part of a common plan of development with permit xxx. Then they will know when they visit a site what other permits are associated with a specific project. CDOT can not legally be the permit owner of areas outside of our ROW or of areas that we do not have a lease or agreement.</p> <p>Therefore, the contractor and the property owner must be the legal permittees for these areas. CDOT agrees that these areas could be considered a common plan of development but the owner of these properties will be the permittee.</p>	<p>See Division Response to Comment 2.</p> <p>The division will work with CDOT on circumstances where CDOT is unable to be the owner of support facilities that are not within CDOT's right of way, but those support facilities still need to be under permit coverage.</p>	No change.	Tripp Minges	tripp.minges@state.co.us	
6	Southeast Metro Stormwater Authority (SEMSWA)	A. COVERAGE UNDER THIS PERMIT	<p>Part I.A.1.a.ii:</p> <p>While SEMSWA takes no exception to regulating fill and borrow areas, relieving us of having to regulate under our IDDE program, we do wish to comment on the rationale that the issue is the resource burden of multiple permits. Multiple permits may be the best approach to keep projects separate for scheduling, phasing, monetizing, and financial/budget line item tracking as well as other project concerns and SEMSWA would like to continue to utilize separate permits, as needed.</p> <p>We also are not in agreement that the ¼ mile is a 'rule of thumb' that can support a larger radius outside of the ¼ mile distance. This is especially true of linear projects, but not limited to those, of a considerable distance away that may be sharing a staging area. SEMSWA would prefer that the staging area have its own permit if required by size of disturbance and if not, be associated with the closest permitted project disturbance. Construction is not a 'one-size-fits-all' scenario as this permit change and rationale implies and removing a common sense guideline of "within a ¼ mile of the construction site" from the permit and rationalizing it with how the Division feels a construction project 'should' go is not based on field practice, schedule, and financial realities. The ¼ of a mile requirement in the current permit's definition of Common Plan of Development or Sale is clear, specific and most importantly, measurable. Please keep the ¼ mile guideline.</p>	<p>See Division Response to Comment 2.</p> <p>If the business need dictates separate permits, the division is in support of multiple permits to ensure that there is adequate permit coverage for the construction activities. The permittees should clearly delineate in their SWMPs which portions of the project are under which permits for ease of inspections and audits.</p>	Original permit language retained.	Lanae Raymon	lraymond@semswa.org	
7	City and County of Denver & Denver International Airport (DEN)	A. COVERAGE UNDER THIS PERMIT	<p>Part I.A.1.a.ii</p> <p>Recommend further revision to align with EPA's approach in the CGP. The EPA approach is more encompassing of the various types of connected construction support activities that occur, such as asphalt and concrete recycling activities not associated with commercial operations. Recommend adoption of language in the EPA GCP 1.3.c. "Stormwater discharges from construction support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) provided: i. The support activity is directly related to the construction site required to have permit coverage for stormwater discharges; ii. The support activity is not a commercial operation, nor does it serve multiple unrelated construction projects; iii. The support activity does not continue to operate beyond the completion of the construction activity at the project it supports; and iv. Stormwater controls are implemented in accordance with Part 2 and, if applicable, Part 3, for discharges from the support activity areas."</p>	<p>Within the definition of "Construction Activity", the division has already captured the comment requesting a more encompassing list of construction support activities. The definition of Construction Activity includes: "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..." The division has not updated the permit further per this comment, but may consider revising the definition in future permit renewals.</p>	No change.	Bradford Cox	bradford.cox@denvergov.org	
8	Wright Water Engineers	A. COVERAGE UNDER THIS PERMIT	<p>Part I.A.1.a.iii</p> <p>Recommend keeping the language of "within 1/4 mile of a construction site" in the permit. The rationale that this is how EPA ensures construction support activities for the site are included in the same permit is flawed. In Colorado, there are several large state entities that do not sign CDPS-SCP permits as an owner outside their ROW so these borrow or fills areas would not be included in the same permit nullifying the idea that this proposed language change would avoid a resource burden of having to permit, inspect, and enforce on potentially double the amount of permits if permittees moved and separately permitted staging areas, borrow or fill areas, etc. As consultants, we have found providing the 1/4 mile language allows for consistency for determining if an activity is in "close proximity to each other". We do not support the language change.</p>	<p>See Division Response to Comment 2.</p>	Original permit language retained.	Jennifer Keyes	jkeyes@wrightwater.com	
9	CMS & Clients	A. COVERAGE UNDER THIS PERMIT	<p>Part I.A.1.b.ii</p> <p>Discharges to the ground of concrete washout water associated with the washing of concrete tools and concrete mixer chutes. Discharges of concrete washout water must not leave the site as surface runoff or reach receiving waters as defined by this permit, and concrete on-site waste disposal is not authorized by this permit except in accordance with Part I.B.1.a.ii.b.</p> <p>Rationale: The addition of on site concrete waste disposal clarifies that permittees are not authorized to leave concrete waste on site, and that concrete waste must be managed accordingly as a potential pollution source. Concrete that has a specification available in the SWMP to authorize its use for fill is allowed. This is additionally clarified in Part I.B.1.a.ii.b and Part I.B.3.d.</p> <p>Perhaps a little more clarification for scenarios where concrete was recently poured and there is small amounts of overpour that are to be removed but have not. Many times these chunks are in a depression and did not have the risk of an actual discharge prior to curing. A permittee should be able to provide a schedule to remove the materials, for example all materials should be removed prior to earth moving activities such as rough grade, or final grading on a lot or construction site. This would safeguard the materials from being buried.</p>	<p>The division has made no changes per this comment. On-site waste disposal is not permitted and it is the permittee's responsibility to ensure that concrete waste is removed and disposed of properly. If the permittee has further questions related to compliance with this permit, please reach out to the compliance unit of the division on a case by case basis.</p>	No change.	Josh Downey	jdowney@cmsenviro.com	

Comment #	Commenting on	Comment Subject	Comment	Division Response	Changes made to Permit	Name	Contact Information:	Reference Docs?
10	City of Aurora	A. COVERAGE UNDER THIS PERMIT	<p>Part I.A.1.b.ii. Part I.B.1.a.ii.b. Part I.B.3.d. "Recommend to modify the additional language and/or approach in this section, Part I.B.1.a.ii.b., and Part I.B.3.d. for the ultimate goal of clarity and ease of use for permittees to the following:</p> <p>"Discharges to the ground of concrete washout water associated with the washing of concrete tools and concrete mixer chutes provided the practice is performed utilizing appropriate BMPs as specified in I.B.1.a.ii.b that would prevent the concrete washout water from leaving the site as surface runoff and/or prevent it from impacting state waters, including both surface and groundwater. In accordance with Part I.B.3.d, this does not authorize disposal of spoils or concrete wash water randomly throughout a site."</p> <p>While the intent to address inadequate disposal of concrete waste (including spoil piles) is recognized, permittees must first turn to Part I.B.1.a.ii.b to be referenced to Part I.B.3.d. to eventually know that construction site waste must be properly managed. This may not lend itself to the Division's intent to ensure concrete waste disposal is adequate, especially when Part I.A.1.b.ii. first states that discharges to the ground are allowable non-stormwater discharges."</p>	<p>The division has made no changes per this comment. The permit is structured so that Part A reviews the allowable coverage on this permit. Part B reviews the effluent limitations (ie: control measures) that must be in place in order for us to allow the items listed in Part A. Part C and D are further clarification of the stormwater management plan and inspection requirements. This is a common clean water permit structure for the division.</p>	No change.	Jessica LaPier	<p>jlapierr@auroragov.org; sscaggia@auroragov.org; slieske@auroragov.org</p>	<p>A reference document will be emailed to Randi in addition to our comments included in the form above.</p>
11	Colorado Stormwater Council	A. COVERAGE UNDER THIS PERMIT	<p>Part I.A.1.b.ii., Part I.B.1.a.ii.b., Part I.B.3.d. - Recommend modifying the additional language and/or approach in these sections for the ultimate goal of clarity and ease of use for permittees. While the intent to address inadequate disposal of concrete waste (including spoil piles) is recognized and appreciated, permittees must first turn to Part I.B.1.a.ii.b to be referenced to Part I.B.3.d. to eventually ascertain that construction site waste must be properly managed. This may not lend itself to the Division's intent to ensure concrete waste disposal is adequate, especially when Part I.A.1.b.ii. first states that discharges to the ground are allowable non-stormwater discharges.</p>	<p>See Division Response to Comment 10.</p>	No change.	Ashley Tucker	<p>atucker@firestoneco.gov</p>	
12	City and County of Denver & Denver International Airport (DEN)	A. COVERAGE UNDER THIS PERMIT	<p>Part I.A.1.b.iv. Diversion Please remove this and all related language. Diversions are regulated under section 404 of the CWA and as such are not subject to permitting requirements in accordance with Section 402. Inclusion of the authorization is outside the authority of the CDPS permitting program and unnecessary since diversions are authorized separately. The approach also creates inconsistent expectations from WQCD and USACE, since USACE includes conditions for controlling sediment. For example, Nationwide Permit Condition 12, Soil Erosion and Sediment Controls requires the following: "Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides." WQCD has separate authority to condition 404 permits, and should use those authorities to align their expectations for erosion and sediment control with those of USACE, as appropriate. The proposed approach also creates unattainable expectations of construction permittees, since by including diversions in the scope of the construction stormwater permit they must be controlled to meet water quality standards, which is unrealistic particularly for diversion of an impaired waterbody.</p>	<p>The division is using the term "diversion" in a different manner than USACE, and does not propose that the inclusion of diversions in the COR400000 supersede that of USACE or change permittee actions required under the USACE permit. The division sees each permitting action as a separate actions. To this point, the division has coordinated with USACE on the language in the COR400000 permit. USACE regulates discharges of dredged or fill material into waters of the United States and structures or work in navigable waters. The division regulates discharges from construction activity to state waters. Due to this difference there may be times that a project has both permits or one of the permits.</p> <p>The division is including the discharges from diversions in this permit as an allowable non stormwater discharge when the diversion is installed and maintained in accordance with good engineering and hydrologic pollution control practices. To provide more clarity on the expectations for diversions, the division included additional language under Part I.B Effluent Limitations.</p>	Updated language.	Bradford Cox	<p>bradford.cox@denvergov.org</p>	
13	CDOT	A. COVERAGE UNDER THIS PERMIT	<p>Part I.A.1.c Rationale states: "The addition of "immediate response" clarifies that during the action of firefighting, any discharge related to that action are allowable under this permit. In the event of intentional or unintentional collection and the retention of the discharges from the actions of firefighting, the permittee is responsible for the appropriate disposal of those collected discharges". Please clarify what amount of time would be considered "retention". Would this mean any standing water left on site as soon as the firefighting activities cease, or is their amount of time that standing water would then be considered "retained" water? Standing water on a site following firefighting activities is a common occurrence and permittees need more clarification on what retained water means.</p>	<p>The division updated the language to try and capture clarity that the allowable non stormwater discharge is related to the active emergency response when emergency personnel are present onsite conducting emergency response by including additional criteria under Part I. B.1.a.ii(c). If the site has water remaining that contains pollutants after the active emergency response is complete, the permittee will be required to ensure the remaining water is collected and appropriately disposed of (ie: standing water in the gutter or inlet, collected discharges in a catch basin or detention pond, etc). It is expected that firefighting water that only contains potable water and has not picked up pollutants from the site would not require collection and disposal.</p> <p>It is understood by the division that the permittee may not be the one conducting the clean up of the discharges resulting from firefighting, but it is the permittee's responsibility to ensure that clean up occurs.</p>	Added further clarifying language.	Tripp Minges	<p>tripp.minges@state.co.us</p>	
14	City of Aurora	A. COVERAGE UNDER THIS PERMIT	<p>Part I.A.1.c "Recommend changing the language in this section to the following: "Discharges resulting from the immediate response and related action to emergency firefighting activities are authorized by this permit." Otherwise, we recommend to provide clarifying language to understand how "immediate" is defined in reference to this permit. In some instances, emergency responses are prolonged due to the size of the fire, therefore would only the immediate discharge be considered authorized, and where do we draw the line to what's considered "immediate"? For example, wildfires have an immediate response by emergency personnel but require a prolonged response to eventually mitigate the fire - how would the discharge from that example of emergency response be authorized?"</p>	<p>See Division Response to Comment 13 on firefighting.</p>		Jessica LaPier	<p>jlapierr@auroragov.org; sscaggia@auroragov.org; slieske@auroragov.org</p>	

Comment #	Commenting on	Comment Subject	Comment	Division Response	Changes made to Permit	Name	Contact Information:	Reference Docs?
15	CMS & Clients	A. COVERAGE UNDER THIS PERMIT	Part I.A.1.c Discharges resulting from immediate response to emergency firefighting activities are authorized by this permit. The permittee may not be responsible for cleanup in all cases. The division is making assumptions that in all cases the fire is the result of the permittee's actions or inaction. Furthermore, it is not clarified in Part I.B.1.c.ii. as the division states in the rationale because Part cited references unauthorized release or discharge and states " the permittee must remove and properly dispose of any unauthorized release or discharge (e.g., discharge of non-stormwater, spill, or leak not authorized by this permit.)"	See Division Response to Comment 13 on firefighting.		Josh Downey	jdowney@cmsenviro.com	
16	Arapahoe County	A. COVERAGE UNDER THIS PERMIT	Part I.A.1.c The term "immediate response" in the requirements for Emergency Fire Fighting Authorized Discharges is unclear. Use of the term "immediate" has an unclear timeframe related to emergency firefighting activities. Perhaps use the following: "Discharges from emergency firefighting activities during the active emergency response are authorized by this permit."	See Division Response to Comment 13 on firefighting.		Lisa Knerr	lknerr@arapahoegov.com	
17	Southeast Metro Stormwater Authority (SEMSWA)	A. COVERAGE UNDER THIS PERMIT	Part I.A.1.c: The addition of the phrase "immediate response to" is questionable as to whether it would resonate with a CGP permittee. SEMSWA suggests a different phrasing to take out the ambiguity of the word "immediate" for the understandable fluid process of emergency firefighting activities. Please revise to "Discharges from emergency firefighting activities during the active emergency response are authorized by this permit."	See Division Response to Comment 13 on firefighting.		Lanae Raymond	lraymond@semswa.org	
18	CDOT	A. COVERAGE UNDER THIS PERMIT	Part I.A.3.a.ii Construction sites activity that are part of a common plan of development or sale, or Construction activities that are part of a common plan of development or sale that will disturb one acre or more two 1/8 acre sites within 1/4 mile would require permitting as common plan of development, specify the disturbance area please.	See Division Response to Comment 2.	Original permit language retained.	Tripp Minges	tripp.minges@state.co.us	
19	CDOT	A. COVERAGE UNDER THIS PERMIT	Part I.A.3.b.iv ...except those at construction activities that are in response to a public emergency related site shall apply for coverage no later than 14 days after the commencement of construction activities. rewrite to say: ...except those at construction activities that are in response to a public emergency. Those sites shall apply for coverage no later than 14 days after the commencement of emergency construction activities.adds clarity to the sentence.	The division included syntax changes to provide more clarity.	Updated syntax.	Tripp Minges	tripp.minges@state.co.us	
20	City of Aurora	A. COVERAGE UNDER THIS PERMIT	Part I.A.3.b.iv "Recommend adding reference the Colorado Environmental Online System (CEOS) to avoid permittees from emailing the application in, unless that was your intention to allow? Suggested language: ""In order to apply for certification under this general permit, The applicant(s) must submit a complete, accurate, and signed permit application form as provided by the division by electronic delivery electronically through the Colorado Environmental Online System (CEOS), by mail or hand delivery to the division at least 10 days prior to the commencement of construction activity, except those at construction activities that are in response to a public emergency related site shall apply for coverage no later than 14 days after the commencement of construction activities. The provisions of this part in no way remove a violation of the Colorado Water Quality Control Act if a point source discharge occurs prior to the issuance of a CDPS permit.""	The division has deleted reference to by hand or mail delivery and will only allow those methods of delivery if granted through a waiver as described in Part I.A.3.b.v. The division has clarified in the permit that the permittee is to use the division's online permitting system/electronic delivery. The division does not want to reference a specific system in case the division changes the system in the future.	No change.	Jessica LaPier	jlapierr@auroragov.org; sscaggia@auroragov.org; sleske@auroragov.org	
21	Xcel Energy	A. COVERAGE UNDER THIS PERMIT	Part I.A.3.f This proposed change does not significantly change the intent of the statement being signed on the inspection documents but will require all inspection templates and software to be changed. The proposed language does not seem to justify the cost of implementing the changes.	This is also tied to the update in the stormwater management plan portion that requires initial and signatures for corrective actions, not maintenance items. It has been difficult for division compliance inspectors to determine if corrective actions were completed in a timely manner. See Fact Sheet for more further explanation.	No change.	Cade Wilson	cade.a.wilson@xceleergy.com	
22	CDOT	A. COVERAGE UNDER THIS PERMIT	Part I.A.3.f.i Rationale: The intent of the signature is to certify that corrective action(s) has/have been completed on inadequate control measures. Inadequate control measures are enforceable as part of the permit and require action to be taken in order to remain in compliance with the permit. The addition of the date allows the division to assess if adequate action was taken in accordance with the permit. The inspection reports section has been updated in Part I.D.5.c to reflect that all inspection reports must be signed with this statement. Rationale does not identify when the signature needs to occur. It seems as though this statement is needed only after all correction items are complete, not after the initial inspection. this needs clarity as to when the statement is needed.	The division included in Part I.D.5.c.x that the permittee date when corrective actions occurred. The permittee must include this statement, signature and date, found in Part I.A.3.f once all the corrective actions found in an inspection are completed or where an inspection report doesn't require any corrective actions. See the Fact Sheet for further explanation.	No change.	Tripp Minges	tripp.minges@state.co.us	
23	CMS & Clients	A. COVERAGE UNDER THIS PERMIT	Part I.A.3.f.i Any person(s) signing inspection documents required for compliance with the permit must make the following statement and provide the date of the statement: "I verify that, to the best of my knowledge and belief, that if any-all-corrective action and-maintenance items were identified during the inspection, those corrective actions are complete, and the site is currently in compliance with the permit."	The division is unsure of the comment being provided here and has no response as it is only a copy of the permit changes.	No change.	Josh Downey	jdowney@cmsenviro.com	

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24	RAW LAND DETAILING, INC.	D. SITE INSPECTIONS	Part I.A.3.f.i. I.D.5.c.xiii I believe the Compliance Statement on inspection reports should delete the word maintenance as maintenance items are not required to be completed for compliance.	The reference to "maintenance" was deleted.	No change.	Larry D. Lee	larry@rawlanddetailing.com	
25	CDOT	A. COVERAGE UNDER THIS PERMIT	Part I.A.3.i. Rationale: Reassignment is no longer an action taken on this permit. A permittee would utilize the electronic portal for transferring (or any permit action) a permit to a new owner/operator. Does the transfer also allow for partial permit transfers? When we don't have legal control of an area anymore that used to be under construction, how do we transfer that part of the permit to a new owner?	Through the electronic portal, the division allows transfers of a permits to a new owner and/or operator. For partial transfers, the permittee taking over part of the permitted area would have to apply for a permit to cover that area, and the original owner/operator would have to submit a modification to remove that area from their permit. They would have to attach a supplemental form with the organization's new permit number.	No change.	Tripp Minges	tripp.minges@state.co.us	
26	CMS & Clients	B. EFFLUENT LIMITATIONS	Part I.B.1 Requirements for Control Measures Used to Meet Effluent Limitations The Permittee must implement control measures to minimize the discharge of pollutants from all potential pollutant sources at the site. Control measures must be installed prior to the commencement of construction activities. the Permit Part 1. C. iv states: "proposed schedule for the sequence for major construction activities and the planned implementation of control measures for each phase. (e.g.: clearing, grading, utilities, vertical, etc.);" therefore Control Measures should be installed accordingly. all BMPs cannot be installed prior to commencement of construction activities. The language should be more in line with the EPA and with other states CGP language. For example: "Complete the installation of control measures by the time each phase of construction activity has begun. In the event it is infeasible to install one or more control measures prior to the start of construction activities, the operator shall ensure that those controls are installed as soon as possible. SWPPP records must document why it is infeasible."	The division disagrees that the intent of Part I.B.1 is that all control measures are installed prior to commencement of construction activities. It is understood that control measures may be phased throughout the life cycle of the construction project and dependent on which major phase the project is in. The SWMP must be reflective of whichever control measures are in use at that time since the SWMP is intended to be a living document that changes with what is occurring in the field. It is the expectation of the division that control measures are installed prior to any surface disturbing activities.	No change.	Josh Downey	jdowney@cmsenviro.com	
27	City and County of Denver & Denver International Airport (DEN)	B. EFFLUENT LIMITATIONS	Part I.B.1.a.i.i. Please remove this and all related language. Diversions are regulated under section 404 of the CWA and as such are not subject to permitting requirements in accordance with Section 402. Inclusion of the authorization is outside the authority of the CDPS permitting program and unnecessary since diversions are authorized separately. The approach also creates inconsistent expectations from WQCD and USACE, since USACE includes conditions for controlling sediment. For example, Nationwide Permit Condition 12, Soil Erosion and Sediment Controls requires the following: "Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides." WQCD has separate authority to condition 404 permits, and should use those authorities to align their expectations for erosion and sediment control with those of USACE, as appropriate. The proposed approach also creates unattainable expectations of construction permittees, since by including diversions in the scope of the construction stormwater permit they must be controlled to meet water quality standards, which is unrealistic particularly for diversion of an impaired waterbody.	The division is using the term "diversion" in a different manner than USACE, and does not propose that the inclusion of diversions in the COR400000 supersede that of USACE or change permittee actions required under the USACE permit. The division sees each permitting action as separate actions. To this point, the division has coordinated with USACE on the language in the COR400000 permit. USACE regulates discharges of dredged or fill material into waters of the United States and structures or work in navigable waters. The division regulates discharges from construction activity to state waters. Due to this difference there may be times that a project has both permits or one of the permits. The division is including the discharges from diversions in this permit as an allowable non stormwater discharge when the diversion is installed and maintained in accordance with good engineering and hydrologic pollution control practices. To provide more clarity on the expectations for diversions, the division included additional language under Part I.B Effluent Limitations.	Updated language.	Bradford Cox	bradford.cox@denvergov.org	
28	Southeast Metro Stormwater Authority (SEMSWA)	B. EFFLUENT LIMITATIONS	Part I.B.1.a.i(a) SEMSWA believes that there may be additional methods to address vehicle tracking control in the future and would like the Division to add "including, but not limited, to" in order to account for any advances in construction practices that may not be addressed adequately in the list offered.	The division agrees that other methods may be used for vehicle tracking controls and used the permit language of "may" to denote that those control measures listed could be, but are not required to be, used if there is another method the permittee selects.	No change.	Lanae Raymond	lraymond@semswa.org	
29	CDOT	B. EFFLUENT LIMITATIONS	Part I.B.1.a.i(b) Part I.B.1.a.i(b)Stormwater runoff from all disturbed areas and soil storage areas must flow to one or more control measures....Since the previous language "for which permanent or temporary stabilization is not implemented" was removed, does the division intend for permittees to ensure that runoff from stabilized areas also flow to one or more control measure, or was the language removed because stabilization in itself is considered a control measure? If stabilization is considered a control measure, should this read "stormwater runoff from all disturbed areas and soil storage areas must flow to or through one or more ". Suggest adding a definition for "disturbed area" to the definitions sections or reinstate the previous language in this section. Requiring runoff from stabilized areas to flow to one more control measures is redundant and a waste of resources.	Permanent or temporary stabilization is a control measure, so the division removed that language from the section. To provide clarity, the division included the phrase "must utilize or flow to one or more control measures". This allows the permittee to utilize stabilization as their control measure for a disturbed or soil storage area. As always, the division encourages permittees to utilize a treatment train approach with control measures.	Updated language.	Tripp Minges	tripp.minges@state.co.us	
30	Southeast Metro Stormwater Authority (SEMSWA)	B. EFFLUENT LIMITATIONS	Part I.B.1.a.i(b): Without a specific sized storm to design to in order to avoid a bypass, this requirement is not clear, specific, and measurable. It is unclear if the intent of the proposed language is to not allow stormwater to bypass the control measure for ANY storm event or if the division has a specific storm size in mind, As this is not practical, please clarify.	Due to nature of the general permit being applicable across the state, the division has chosen not to define the storm event but instead purposely have provided flexibility and rely on the permittee to understand the typical climate where their construction is occurring and the design specifications of the control measures they are selecting. Previous division guidance continues to be in place that control measures must be adequately sized in accordance with good engineering, hydrologic and pollution control practices, and a permittee can therefore use design specifications that meet that standard when determining size and appropriateness of a control measure. For example, silt fence specifications site that, among other criteria, the drainage area should not exceed a 1/4 acre per 100 linear feet of fence.	No change.	Lanae Raymond	lraymond@semswa.org	

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31	Arapahoe County	B. EFFLUENT LIMITATIONS	Part I.B.1.a.i(b). The requirement that "Stormwater runoff from all disturbed areas and soil storage areas must flow to one or more control measures." does not consider that there are adequate non-structural control measures that could be implemented. In addition, this requirements does not consider structural control measures that could be used, such as covering small soil storage areas with tarps. It is assumed that CDPHE is encouraging a treatment train approach to sediment and erosion controls on a construction site. The addition of "bypass" to the sentence "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 (e.g., sheet or concentrated flow);" is adequate to enforce on a permittee that is not using "good engineering, hydrologic, and pollution control practices". Please remove the sentence "Stormwater runoff from all disturbed areas and soil storage areas must flow to one or more control measures." and keep the addition of the word "bypass" in the second sentence.	See Comment 29 on Permanent/Temp Stabilization The division agrees to maintain the wording of "bypass" to reference a situation when a control measure is not installed or inadequate and results in a discharge of pollutants.		Lisa Knerr	lknerr@arapahoegov.com	
32	CDOT	B. EFFLUENT LIMITATIONS	Part I.B.1.a.i(i) Diversion control measures must minimize soil transport and erosion within the diversion. Diversion outfall structures must minimize erosion during discharge. Run-on from construction activity into the diversion must be minimized. paragraph is missing the (i) in front of it	Updated numbering.	Updated numbering.	Tripp Minges	tripp.minges@state.co.us	
33	Colorado Stormwater Council	B. EFFLUENT LIMITATIONS	Part I.B.1.a.iii.(b)(2) - Please provide guidance on submitting alternative stabilization methods to the Division including: how to submit for approval; and what information the Division expects the permittee to submit; and the timeframe for the Division to respond. It is recommended that submission for approval be mentioned in the Fact Sheet with a separate guidance document issued by the Division.	The portion on alternative stabilization methods wasn't a change from the previous permit, but was just reorganized. If the permittee has questions on alternative stabilization for specific operations they are able to reach out to the compliance unit of the division. Due to the site specific nature of alternative final stabilization criteria approval by the division, the division will be able to provide case by case criteria approval based on the permittee proposal and will not provide further guidance in the permit or Fact Sheet.	No change.	Ashley Tucker	atucker@firestoneco.gov	
34	City of Aurora	B. EFFLUENT LIMITATIONS	Part I.B.1.a.iii(a) "Please provide guidance on submitting alternative stabilization methods to the Division including: how to submit for approval; and what information the Division expects the permittee to submit; and the timeframe for the Division to respond. It is recommended that submission for approval be mentioned in the Fact Sheet with a separate guidance document issued by the Division Also, the wording used, "permanent stabilization methods are complete" may cause the permittee to not be able to close out their permit at the appropriate time. The wording is ambiguous as growth may not reach "completeness" but has significantly stabilized the area. Recommend replacing the term "complete" with "Permanent stabilization methods have been implemented and have stabilized the project site.""	See Response to Comment 33, Final Stabilization - Alternative stabilization methods The division maintains the usage of "complete" in reference to permanent stabilization methods is appropriate. For example, the division would expect all landscaping, paving, or other permanent stabilization to be complete prior to permit termination. A permittee is able to terminate portions of the permit that meet the requirements of final stabilization while leaving the other portions open until such time that permanent stabilization is complete. If vegetative cover is used by the permittee for permanent stabilization, they would need to meet the criteria outlined in Part I.B.1.b.iii(b)(2)a. and b.	No change.	Jessica LaPier	jlapier@auroragov.org; sscaggia@auroragov.org; sleske@auroragov.org	
35	CDOT	B. EFFLUENT LIMITATIONS	Part I.B.1.a.iii(b) Part I.E(7) Coverage, at a minimum, equal to 70 percent of what would have been provided by native vegetation in a local, undisturbed area.What criteria is used to determine "what would have been provided in a local, undisturbed area". What criteria is used to decide what "local, undisturbed" area would be representative of the construction site. Is there a certain proximity to the construction area or a certain metrics that will be used? This proposed change does result in permit terms that are 'clear, specific, and measurable'. Unless factual documented evidence can be located that documents "what would have been provided by native vegetation" at that actual site, there is no measure for how to determine what 70 percent of that condition is. Vegetation and native conditions can vary widely in Colorado, even within a short distance. Therefore, unless a local undisturbed area is available within or immediately adjacent to the construction site, this is an unmeasurable requirement.	The permit modification language regarding final stabilization is not a departure from the division guidance document on final stabilization, but instead intended to support and clarify the guidance by improving the permit language. The original permit language of pre-disturbance levels was clarified in a guidance document as "vegetation that would represent the naturally supported vegetation density in the area". Typically, this did not mean what vegetation was on the site before groundbreaking. The modified permit clarifies the guidance language and places the language into the permit to try and provide clarity to permittees that the 70% threshold for final stabilization, as it relates to vegetative cover, is not typically what was on the site at the time of groundbreaking, but what is typical of native vegetation in a local, undisturbed area or adequate reference site. The division included throughout the permit where references to final stabilization occur an addition of "adequate reference site" to account for urban areas that may not have a nearby undisturbed area to reference. The division will be updating the final stabilization guidance document upon the effective date of the permit modifications and will include guidance on how to determine an adequate reference site. It is still the expectation that the permittee describe in the SWMP either the local undisturbed area or adequate reference site as this is the criteria by which the permittee judges whether they have achieved at a minimum 70%.	Updated language.	Tripp Minges	tripp.minges@state.co.us	
36	CDOT	B. EFFLUENT LIMITATIONS	Part I.B.1.a.iii(b) Part I.B.1.a.iii(b) Part I.E(7) Coverage, at a minimum, equal to 70 percent of what would have been provided by native vegetation in a local, undisturbed area. This is very hard to determine in urban settings. In urban areas, it is very difficult to find "undisturbed" areas of native vegetation, especially along roadways where no irrigation occurs. Also developments may use sod that is not native grass.	See Response to Comment 35, Final Stabilization - Local, undisturbed area Final stabilization does not require the permittee to install native vegetation; the vegetative cover needs to be 70% of what would have been provided by native vegetation in a local, undisturbed area or adequate reference site.	No change.	Tripp Minges	tripp.minges@state.co.us	
37	CDOT	B. EFFLUENT LIMITATIONS	Part I.B.1.a.iii(b) Part I.E(7) rationale...If the site has been disturbed, the permittee will need to describe native vegetation in a local, undisturbed site...This is very hard to determine in urban settings. Predisturbance in Denver is before any of us were born!	See Response to Comment 35, Final Stabilization - Local, undisturbed area		Tripp Minges	tripp.minges@state.co.us	

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38	Wright Water Engineers	B. EFFLUENT LIMITATIONS	<p>Part I.B.1.a.iii(b) Recommend keeping the final stabilization requirements as written in the existing permit and not making the proposed changes. We prefer resources are spent on enforcement on permittees that do not meet current permit requirements. The existing final stabilization requirements states the cover must be uniform and that is based on pre-disturbance conditions. Better guidance documents may be developed to address concerns by the division versus changes to COR400000. The current language is written into many municipal ordinances and accounts for pre-disturbance conditions such as prairie dogs, cows, poor soils, and other existing factors that may influence growth that are not related to construction. Additionally, Linear projects such as utilities often occur in areas that have been developed and no longer represent local, native plant communities or coverage found in undeveloped areas. Linear projects are often located in areas with poor soils, road run off that may include salts, prairie dogs, private fields often without good native, undisturbed vegetation.</p> <p>Linear projects such as utilities often occur in areas that have been developed and no longer represent local, native plant communities or coverage found in undeveloped areas. Utility construction adheres to the stormwater requirements and reseeds disturbed areas that were vegetated prior to construction. In some locations and even after multiple seeding attempts with soil amendments, there is limited vegetation. These projects would likely struggle to meet the proposed requirements due to factors that are not within the utility's control such as surrounding land-use, vegetation, weeds, animals, and soil conditions. Most utilities projects are in easements or ROW where the utility does not own the land and cannot be held accountable to return the area to native vegetation that would be found in a local, undisturbed area.</p> <p>If the proposed wording is not altered, we recommend creating alternative requirements for linear projects regarding final stabilization to account for existing conditions prior to the utility or work within in ROW construction.</p>	<p>Regardless of construction type (i.e. linear, vertical, residential, commercial, etc.) if the site meets the requirements for permit coverage under Part I.A.3, the permittee is required to obtain coverage and meet the requirements outlined in the permit, including the references to final stabilization. The permit modification language regarding final stabilization is not a departure from the division guidance document on final stabilization, but instead intended to support and clarify the guidance by improving the permit language. The original permit language of pre-disturbance levels was clarified in a guidance document as "vegetation that would represent the naturally supported vegetation density in the area". Typically, this did not mean what vegetation was on the site before groundbreaking. The modified permit clarifies the guidance language and places the language into the permit language to try and provide clarity to permittees that the 70% threshold for final stabilization, as it relates to vegetative cover, is not typically what was on the site at the time of groundbreaking, but what is typical of native vegetation in a local, undisturbed area or adequate reference site. The division will be updating the final stabilization guidance document upon effectiveness of the permit modifications.</p> <p>If municipalities have a methodology for permittees to understand the previous language of the COR400000 and it is adequate to meet the permit modifications, then municipalities can determine if they need to update their language or not. If MS4 permittees have any questions related to this they are encouraged to contact the division.</p> <p>The contractual agreements that define the roles and obligations of final stabilization between the utility doing the work and the owner are outside of the division's authority. It is the owner's and operator doing the utility work's responsibility to ensure final stabilization prior to termination. The permit does allow the operator to transfer the permit to another operator or to the owner. The division would recommend that the owner and operator determine who is responsible for final stabilization prior to construction as part of their contractual agreement. At the time of permit termination, the permittee will be asked to provide a description of how final stabilization was achieved. Seeding without adequate time for growth is not adequate for permit termination.</p>	No change.	Jennifer Keyes	jkeyes@wrightwater.com	
39	CMS & Clients	B. EFFLUENT LIMITATIONS	<p>Part I.B.1.a.iii(b) Final Stabilization Second, I wanted to ask what the source you used for your vegetative estimates when going back to "wagon wheels". You were hovering around 50% pre-existing. I wanted to make sure we were in line with the division where appropriate.</p>	<p>See Response to Comment 35, Final Stabilization - Local, undisturbed area</p> <p>Due to the COR400000 being a statewide permit, each construction site will have a site specific threshold for meeting the 70% vegetative coverage minimum coverage. The intent of the SWMP description in Part I.C.2.a.vii(e) is to help permittees tie together that the SWMP site description of the vegetative cover goal should be a description of the cover of native vegetation in a local, undisturbed area or adequate reference area. In some instances this will be what the permittee has on their site. If the site has been disturbed, the permittee will need to describe native vegetation in a local, undisturbed site or adequate reference site. This description is what the permittee refers back to when determining if they have achieved 70 percent perennial vegetative coverage on their site. It also requires that any temporary control measures are removed as part of final stabilization.</p>	No change.	Josh Downey	jdowney@cmsenviro.com	First I wanted to let you know that you did a great job streamlining and explaining the updated permit.
40	CDOT	B. EFFLUENT LIMITATIONS	<p>Part I.B.1.a.iii(b): #1 Final Stabilization is reached when construction activities are complete 1) If non-ground disturbing activity is still being completed, the site is considered, not final stabilized? 2) Can sections/areas of the project be deemed finally stabilized or does the whole site need to have final stabilization?</p>	<p>Construction activities are defined as "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 routine maintenance or for replacement are construction activities and are not routine maintenance. Repaving activities where underlying and/or surrounding soil is exposed as part of the repaving operation are considered construction activities. Construction activity is from initial ground breaking to final stabilization regardless of ownership of the construction activities." This definition is related to land disturbance. If the site has completed all land disturbance per the definition of construction activity, completed permanent stabilization and removed all temporary control measures then the site is able to terminate the permit. For example, a project could meet the criteria for termination but still be completing interior painting. Additionally, a permittee is able to modify their permit coverage to remove the areas that have met the requirements of final stabilization while leaving the other portions open until such time that permanent stabilization is complete. If vegetative cover is used by the permittee for permanent stabilization, they would need to meet the criteria outlined in Part I.B.1.b.iii(b)(2)a. and b. If permittees have questions on ability to terminate all or modify portions of the permit, they are able to contact the division.</p>	No change.	Tripp Minges	tripp.minges@state.co.us	
41	City of Aurora	B. EFFLUENT LIMITATIONS	<p>Part I.B.1.a.iii(b)(2)(b) Recommend deferring back to the original language or modifying the language to "Coverage, at a minimum, equal to 70 percent of what would have been provided by native vegetation in a local, undisturbed area or an appropriate, undeveloped reference site". It is recommended to include a definition of what "native vegetation" is considered by the Division as a minimum.</p>	<p>See Response to Comment 35, Final Stabilization - Local, undisturbed area</p>		Jessica LaPiere	jlapiere@auroragov.org; sscaggia@auroragov.org; slieske@auroragov.org	
42	Colorado Stormwater Council	B. EFFLUENT LIMITATIONS	<p>Part I.B.1.a.iii(b)(2)(b) - Please consider modifying the language to "Coverage, at a minimum, equal to 70 percent of what would have been provided by native vegetation in a local, undisturbed area or an appropriate, undeveloped reference site".</p>	<p>See Response to Comment 35, Final Stabilization - Local, undisturbed area</p>		Ashley Tucker	atucker@firestoneco.gov	

Comment #	Commenting on	Comment Subject	Comment	Division Response	Changes made to Permit	Name	Contact Information:	Reference Docs?
43	CMS & Clients	B. EFFLUENT LIMITATIONS	<p>Part I.B.1.c.i The permittee must take all necessary steps to minimize or prevent the discharge of pollutants from the permitted area and manage any stormwater run-on onto the site until a control measure is implemented and made operational and/or an inadequate control measure is replaced or corrected and returned to effective operating condition Rationale: The division wanted to provide clarity that the permittee is responsible for ensuring that pollution, including sediment, is minimized or prevented from leaving the permitted site. The division also wanted to be explicit that it is the permittee's responsibility to manage any stormwater that is running onto the site. This could be done by diverting the run-on or with treatment by appropriate control measures. It is has always been understood that Permittee is ultimately responsible for water that is discharged onto their property; however, is there something that can be added that gives a downgradient permittee protection from an negligent upgradient Permittee? For example, if I am designing control measures I may take into account an upgradient drainage area, but with the assumption that the water being discharged onto my property is properly treated and clean. What if the upgradient Permittee's control measures are inadequate. Another real-world example would be if an up gradient permittee who is hydro injecting their soil and fails to notify the downgradient Permittee and as a result overwhelms my controls, would I as the downgradient permittee be liable? Also, a diversions would in most cases be the easiest way to manage this run-on, however with a diversion we are now concentrating a sheet flow at the diversions discharge. It is assumed these diversions need to be engineer designed?</p>	<p>The division recognizes that there may be individual scenarios where a permittee is unaware of other property owner actions until their permitted site is impacted. The division would expect the permittee to correct the scenario with the other property owner, initiate installation or repair of control measures immediately per this Part I.B.1.c.i and document the deficiency in the SWMP in Part 1.D. Depending on the situation, the permittee may be required to follow Part II.N and the requirements related to an upset. The division encourages the permittee to reach out to the compliance unit in individual situations for guidance on what to do in case of an upset. Additionally, if the property owner causing run-on onto the permittee's site holds a COR400000 permit, the permittee is able to place a formal complaint with the division. Diversions are an allowable method of managing run-on per the new additions to COR400000, but are required to follow the effluent guidelines in Part I.B.1.a.i(i).</p>	No change.	Josh Downey	jdowney@cmsepi.com	
44	City and County of Denver & Denver International Airport (DEN)	B. EFFLUENT LIMITATIONS	<p>Part I.B.1.c.i. The Division should not adopt the proposed changes to Part I.B.1.c of the Proposed Modification; These are Item Nos. 17 and 18 in the Fact Sheet for Modification 1. The Department has not adequately described the reason for the revisions proposed to Part I.B.1.c and how the revisions meet the Department's goals. This proposed changes are within the section of the Permit addressing Requirements for Control Measures Used to Meet Effluent Levels, and specifically the section of the Permit addressing Corrective Actions where there is an "inadequate control measure." Under Part I.B.1.c, "[t]he Permittee must assess the adequacy of control measures at the site, and the need for changes to those control measures, to ensure continued effective performance. When an inadequate control measure, as defined in Part I.E., is identified (i.e., new or replacement control measures become necessary), the following corrective action requirements apply." The Division's proposed changes to Part I.B.1.c. are entirely unrelated to the correction of an "inadequate control measure" and thus should not be included within the Proposed Modifications. Instead, the proposed language will now make construction permittees responsible and liable to "manage any stormwater run-on onto the site", "remove and properly dispose of any authorized release or discharge from the permitted area", "clean up any contaminated surfaces" that exist at the site, and clean up any surface that becomes contaminated from firefighting activities" These requirements are inappropriate for application within the stormwater permit. The proposed changes to this permit section create new responsibility and liability for conditions over which a Permittee has no control and inappropriately mandates cleanup requirements for any environmental pollutant through a stormwater permit, thus bypassing the authority of numerous environmental statutes including, for instance, the State's solid waste authority. The requirements are also unattainable since any level of run-on cannot reasonably be anticipated and controlled, a construction permittee does not have knowledge of the products used and released on site by others, including fire-fighting agents, fires cannot be reasonably anticipated and planned for, and standards for cleanup are not included in the permit. As but one example, if there is a structural or vehicular fire outside of the permitted area, but the firefighting water flows into the permitted area, the Division's proposed language unreasonably makes the Permittee responsible for that new condition. This is an unreasonable extension of responsibility and liability to Permittees under a stormwater permit. A construction stormwater permit is not the correct regulatory vehicle to address issues associated with possible releases related to emergency firefighting responses. EPA makes no similar extensions in their Construction General Permit.</p>	<p>The division disagrees that the permittee is not responsible to minimize discharge of pollutants when a control measure is deemed inadequate. Without this permit, the construction site would be unable to discharge without being in violation of the Clean Water Act. It is within the authority of the permit to require that a permittee minimizes pollutants leaving a site through control measures. One of the ways the permittee would do this is to also manage any stormwater running onto the site to ensure it doesn't cause a bypass or discharge that hasn't been minimized of pollutants. Diversions are an allowable method of managing run-on per the new additions to COR400000, but are required to follow the effluent guidelines in Part I.B.1.a.i(i). The site is most vulnerable to not minimizing pollutants in a discharge when an inadequate control measure is present and it is the permittee's responsibility to get that corrected immediately. If immediately is not feasible they must follow Part I.B.1.c.i. The second portion of this section is related to the clean up of any unauthorized release or discharge from the permitted area. The permittee is required to clean up any unauthorized release or discharge, including the contaminated surfaces. This permit modification has not changed in the expectation of the division of the permittee regarding corrective actions. Regardless of whether the unauthorized release or discharge was caused by the permittee, the permittee has operational control of the permitted site and is responsible for the maintenance and operations of the site. They are responsible to fix any inadequate control measures and minimize pollutants from discharging from the site. This responsibility is also for any discharge from active firefighting response that remains on the site after the response is complete. This not to say the permittee cannot pursue cleanup actions with the party responsible. The state general permit for stormwater discharges associated with construction activity is able to include provisions that the state deems necessary to protect state waters, and may be different than EPA's construction stormwater permit. See See Division Response to Comment 13 on firefighting.</p>	Updated language.	Bradford Cox	bradford.cox@denvergov.org	
45	CDOT	B. EFFLUENT LIMITATIONS	<p>Part I.B.1.c.ii 18) Part I.B.1.c.ii "including collected discharge from firefighting activities after immediate, emergency response is completed" 1) What constitutes completion of emergency response, the way this currently reads the permittee could be responsible for removing any standing water that remains immediately after water (other other firefighting chemical) is no longer being applied to the site. 2) This may not belong on the CDPS-SCP as this may not be an acceptable pollutant source for a CDPS-SCP as this is a potential HAZMAT issue. Owner/Operator does probably does not have the training required, knowledge or the understanding of what are in these pollutants generated by emergency firefighting activities; therefore, it would be noted as HAZMAT. Permittee may not be qualified to address these pollutants especially when directed to after immediate completion. The Incident Commander is in control of scene under these activities; not permittee and should be part of the emergency response.</p>	<p>See Division Response to Comment 13 on firefighting.</p>	Updated language.	Tripp Minges	tripp.minges@state.co.us	
46	CDOT	B. EFFLUENT LIMITATIONS	<p>Part I.B.1.c.ii If applicable, the permittee must remove and properly dispose of any unauthorized release or discharge from the permitted area (e.g., discharge of non-stormwater, untreated stormwater, spill, or leak not authorized by this permit.) If stormwater is not polluted; then it does not need to be treated for pollutant removal. Only polluted stormwater needs to have treatment. CDOT recommends rephrase to state ...untreated pollutants within stormwater, spill... As long as the stormwater is not polluted, stormwater is allowed to be discharged per this permit.</p>	<p>The division has updated the language to say "untreated stormwater containing pollutants" as clarification.</p>	Updated language.	Tripp Minges	tripp.minges@state.co.us	

Comment #	Commenting on	Comment Subject	Comment	Division Response	Changes made to Permit	Name	Contact Information:	Reference Docs?
47	CMS & Clients	B. EFFLUENT LIMITATIONS	Part I.B.1.c.ii If applicable, the permittee must remove and properly dispose of any unauthorized release or discharge from the permitted area (i.e. discharge of non-stormwater, untreated stormwater, spill, or leak not authorized by this permit.) The permittee must also clean up any contaminated surfaces, including intentional or unintentional collection of discharge from firefighting activities after immediate, emergency response is complete, to minimize discharges of the material in subsequent storm events. The permittee may not be responsible for cleanup in all cases. The division is making assumptions that in all cases the fire is the result of the permittee's actions or inaction. Furthermore, it is not clarified in Part I.B.1.c.ii. as the division states in the rationale because Part cited references unauthorized release or discharge and states " the permittee must remove and properly dispose of any unauthorized release or discharge (e.g., discharge of non-stormwater, spill, or leak not authorized by this permit.) The permittee must also clean up any contaminated surfaces to minimize discharges of the material in subsequent storm events." Part1.A.1.c addresses authorized non-stormwater discharges. If the division is seeking clarification of cleanup responsibility, we suggest the following language "In the event the fire is within the permittee's permitted area and real property owned by the permittee is consumed by the fire and there is intentional or unintentional collection and retention of the discharges from the actions of firefighting, the permittee will responsible for the appropriate disposal of those collected discharges."	See Division Response to Comment 13 on firefighting.		Josh Downey	jdowney@cm senviro.com	
48	City of Aurora	B. EFFLUENT LIMITATIONS	Part I.B.1.c.ii. Recommend removing the term 'untreated stormwater'. If the Division's intent is to address untreated stormwater that contain pollutants, it is recommended to modify the term 'untreated stormwater' to 'stormwater containing pollutants that do not flow to one or more control measures'. This provides clarity, eliminates a possible contradiction within the permit, and remains consistent with the language proposed in Part I.B.1.a.i.(b).	See Response to Comment 46, untreated stormwater.		Jessica LaPier	jlapierr@aur oragov.org; sscaggia@aur oragov.org; stlieske@auro ragov.org	
49	Colorado Stormwater Council	B. EFFLUENT LIMITATIONS	Part I.B.1.c.ii. - Please consider including "unless infeasible" in reference to cleaning up "collected discharge from firefighting activities after immediate emergency response is complete". This language would allow for demolition of affected structures and any other life-safety measures that must be completed prior to cleaning of collected discharges.	The division has included "if feasible" to this section.	Updated language.	Ashley Tucker	atucker@fire stoneco.gov	
50	Colorado Stormwater Council	B. EFFLUENT LIMITATIONS	Part I.B.1.c.ii. - The Division should remove or define the term 'untreated stormwater'. Stormwater discharges associated with construction activity are allowable stormwater discharges covered under this permit. If the Division's intent is to address untreated stormwater that contains pollutants, it is recommended to modify the term 'untreated stormwater' to 'stormwater containing pollutants that do not flow to one or more control measures'. This provides clarity, eliminates a possible contradiction within the permit, and remains consistent with the language proposed in Part I.B.1.a.i.(b).	See Response to Comment 46, untreated stormwater.		Ashley Tucker	atucker@fire stoneco.gov	
51	City and County of Denver & Denver International Airport (DEN)	B. EFFLUENT LIMITATIONS	Part I.B.1.c.ii. The Division should not adopt the proposed changes to Part I.B.1.c of the Proposed Modification; These are Item Nos. 17 and 18 in the Fact Sheet for Modification 1. The Department has not adequately described the reason for the revisions proposed to Part I.B.1.c and how the revisions meet the Department's goals. This proposed changes are within the section of the Permit addressing Requirements for Control Measures Used to Meet Effluent Levels, and specifically the section of the Permit addressing Corrective Actions where there is an "inadequate control measure." Under Part I.B.1.c, "[t]he Permittee must assess the adequacy of control measures at the site, and the need for changes to those control measures, to ensure continued effective performance. When an inadequate control measure, as defined in Part I.E., is identified (i.e., new or replacement control measures become necessary), the following corrective action requirements apply." The Division's proposed changes to Part I.B.1.c. are entirely unrelated to the correction of an "inadequate control measure" and thus should not be included within the Proposed Modifications. Instead, the proposed language will now make construction permittees responsible and liable to "manage any stormwater run-on onto the site", "remove and properly dispose of any authorized release or discharge from the permitted area", "clean up any contaminated surfaces" that exist at the site, and clean up any surface that becomes contaminated from firefighting activities" These requirements are inappropriate for application within the stormwater permit. The proposed changes to this permit section create new responsibility and liability for conditions over which a Permittee has no control and inappropriately mandates cleanup requirements for any environmental pollutant through a stormwater permit, thus bypassing the authority of numerous environmental statutes including, for instance, the State's solid waste authority. The requirements are also unattainable since any level of run-on cannot reasonably be anticipated and controlled, a construction permittee does not have knowledge of the products used and released on site by others, including fire-fighting agents, fires cannot be reasonably anticipated and planned for, and standards for cleanup are not included in the permit. As but one example, if there is a structural or vehicular fire outside of the permitted area, but the firefighting water flows into the permitted area, the Division's proposed language unreasonably makes the Permittee responsible for that new condition. This is an unreasonable extension of responsibility and liability to Permittees under a stormwater permit. A construction stormwater permit is not the correct regulatory vehicle to address issues associated with possible releases related to emergency firefighting responses. EPA makes no similar extensions in their Construction General Permit.	See Division Response to Comment 13 on firefighting.		Bradford Cox	bradford. cox@denverg ov.org	
52	City of Aurora	B. EFFLUENT LIMITATIONS	Part I.B.1.iii(b)(1) "Recommend alternative language similar to the original language: "(1) All ground surface disturbing activities at the project site are complete.; and,". Final phase construction activities, such as interior work within a building or structure, do not always cause earth disturbance, and therefore should not affect final stabilization status achievement. "	See Response to Comment 40, Final Stabilization - Definition of construction activity		Jessica LaPier	jlapierr@aur oragov.org; sscaggia@aur oragov.org; stlieske@auro ragov.org	

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53	City of Aurora	B. EFFLUENT LIMITATIONS	<p>Part I.B.2.a "Recommend removing the term "any" and replacing with the word "a".</p> <p>The term "any" is over encompassing. If a site of permit coverage can demonstrate that their point source discharge will not directly flow to a water body for which a TMDL has been approved, the WLA should not be implemented into the permittee's certification.</p> <p>In addition, it would be helpful to understand how the Division expects the following phrase to be determined: "reasonably expected to flow to any water body".</p>	The division has not proposed changes to this section except to eliminate the possessive of the previous language, "permittee's discharge". This comment is out of the scope of the proposed modification. Any previous guidance to this section is still applicable and unchanged.	Outside of scope	Jessica LaPier	jlapierr@auroragov.org; sscaggia@auroragov.org; slieske@auroragov.org	
54	Xcel Energy	B. EFFLUENT LIMITATIONS	<p>Part I.B.a.iii Recommend the division does not change the current permit requirements regarding final stabilization and instead focuses on enforcement on permittees that do not meet current permit requirements. The existing final stabilization requirements states the cover must be uniform and accounts on pre-disturbance conditions that may include prairie dogs, cattle, poor soil conditions, road runoff with heavy salts, and other site conditions that are not due to construction. Better guidance is recommended versus changes to COR400000.</p> <p>Linear projects such as utilities often occur in areas that have been developed and no longer represent local, native plant communities or coverage found in undeveloped areas. Utility construction adheres to the stormwater requirements and reseeds disturbed areas that were vegetated prior to construction. In some locations and even after multiple seeding attempts with soil amendments, there is limited vegetation. These projects would likely struggle to meet the proposed requirements due to factors that are not within the utility's control such as surrounding land-use, vegetation, weeds, animals, and soil conditions. Most utilities projects are in easements or ROW where the utility does not own the land and cannot be held accountable to return the area to native vegetation that would be found in a local, undisturbed area.</p> <p>If the proposed wording is not altered, we recommend creating alternative requirements for linear projects regarding final stabilization.</p>	See Response to Comment 40, Final Stabilization - Definition of construction activity		Cade Wilson	cade.a.wilson@xcelenergy.com	
55	CDOT	C. STORMWATER MANAGEMENT PLAN (SWMP) REQUIREMENTS	<p>Part I.C.1.a A SWMP shall be developed for each construction site listed under Part I.A.3.a, including but not limited to, construction sites that will disturb one acre or more and/or are part of a common plan of development or sale covered by this permit. "on" should be "one" misspelling</p>	The division corrected the misspelling in the Fact Sheet.	Corrected.	Tripp Minges	tripp.minges@state.co.us	
56	Colorado Stormwater Council	C. STORMWATER MANAGEMENT PLAN (SWMP) REQUIREMENTS	<p>Part I.C.1.a. - Recommend changing the use of the word 'site' to 'activity/activities' for consistency with the modifications proposed throughout.</p>	The division updated the language to say "activity" instead of "site".	Updated language.	Ashley Tucker	atucker@firestoneco.gov	
57	CDOT	C. STORMWATER MANAGEMENT PLAN (SWMP) REQUIREMENTS	<p>Part I.C.2.a.iii rationale: Example permits would include dewatering and any low risk discharge guidance policies. Does this also include industrial stormwater permits for mobile batch plants or sand and gravel permits that could be common plan elements?</p>	The division agrees that other CDPS permits could include industrial stormwater permits or sand and gravel permits.	Updated language in the Fact Sheet to include those examples.	Tripp Minges	tripp.minges@state.co.us	
58	Colorado Stormwater Council	C. STORMWATER MANAGEMENT PLAN (SWMP) REQUIREMENTS	<p>Part I.C.2.a.v.(c) - Please remove "if there is the potential to be present" and modify to "if contaminated soil is known to be present".</p>	The division updated the language to known to be present or if found during construction.	Updated language.	Ashley Tucker	atucker@firestoneco.gov	
59	CDOT	C. STORMWATER MANAGEMENT PLAN (SWMP) REQUIREMENTS	<p>Part I.C.2.a.vi Implementation of Control Measures. The SWMP must include design specifications that contain information on the implementation of all the structural and nonstructural control measures in accordance with good engineering, hydrologic and pollution control practices; including, as applicable, drawings, dimensions, installation information, materials, implementation processes, control measure-specific inspection expectations, and maintenance requirements. Administrative control measures have been omitted; but were encompassed in the previous version. I am aware that admin cm's do not have design specifications, but rationale could be used to explain Admin cm's use. Is this something we want to bring up, or leave as modified? Want to make sure we are compliant if we don't have the Administrative Control Measure listed because it's not on site.</p>	The division is unsure of where administrative control measures are mentioned in the COR400000 permit prior to the proposed modification #1 or in the previous COR030000 permit. The division understands that all control measures when in use on the site, whether structural or nonstructural, should be named in the SWMP and include the criteria with which to judge whether the control measure is selected, designed, installed and maintained in accordance with good engineering, hydrologic and pollution control practices. Design detail may not be available for nonstructural control measures and the SWMP narrative must be sufficient to explain what the control measure is, what pollutant it is controlling, when it will be used and how it will be used.	No change.	Tripp Minges	tripp.minges@state.co.us	
60	City of Aurora	C. STORMWATER MANAGEMENT PLAN (SWMP) REQUIREMENTS	<p>Part I.C.2.a.vi Recommend removing the term "all" or by adding clarifying language that design specifications for all the control measures that will be implemented during the construction activities must be included in the SWMP. As it reads now, it appears the permit is requiring ALL control measures, whether intended to be used or not, must be included.</p>	The division updated the language to specify that the control measure criteria should be included if the control measure is in use on the site and doesn't intend that the design criteria be included for all control measures available for use on the site.	Updated language.	Jessica LaPier	jlapierr@auroragov.org; sscaggia@auroragov.org; slieske@auroragov.org	

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61	Colorado Stormwater Council	C. STORMWATER MANAGEMENT PLAN (SWMP) REQUIREMENTS	Part I.C.2.a.vi. - Please consider expanding the design specification to only include structural control measures as the implementation of non-structural control measures can be subjective decisions.	The division understands that there may not be design criteria available for nonstructural control measures, and would look for implementation process for that control measure. Design detail may not be available for nonstructural control measures and the SWMP narrative must be sufficient to explain what the control measure is, what pollutant it is controlling, when it will be used and how it will be used. An example would be street sweeping. The division would expect the permittee to include a street sweeping schedule or criteria the permittee uses to determine if street sweeping is necessary.	No change.	Ashley Tucker	atucker@firestoneco.gov	
62	Colorado Stormwater Council	C. STORMWATER MANAGEMENT PLAN (SWMP) REQUIREMENTS	Part I.C.2.a.vi. - Recommend adding clarifying language that design specifications for all the control measures that will be implemented during the construction activities must be included in the SWMP. As it reads now, it appears the permit is requiring ALL control measures, whether intended to be used or not, must be included.	See Response to Comment 60, "control measure criteria".	Updated language.	Ashley Tucker	atucker@firestoneco.gov	
63	City and County of Denver & Denver International Airport (DEN)	C. STORMWATER MANAGEMENT PLAN (SWMP) REQUIREMENTS	Part I.C.2.a.vi. Recommend adding clarifying language that design specifications for all the control measures that will be implemented during the construction activities must be included in the SWMP. As it reads now, it appears the permit is requiring ALL control measures, whether intended to be used or not, must be included.	See Response to Comment 60, "control measure criteria".	Updated language.	Bradford Cox	bradford.cox@denvergov.org	
64	CDOT	C. STORMWATER MANAGEMENT PLAN (SWMP) REQUIREMENTS	Part I.C.2.a.vii(d) (d) A summary of any existing data and sources used in the development of the construction site plans or SWMP that describe the soil types found in the permitted area and the erodibility of the identified soil types existing potential for soil erosion; 1) CDOT would like to know if the Division is requiring any certain standardized soil testing and to what level; NRCS, rolling of clay ribbons in field, use of soil texture charts, mapping by soil conservation district; what level of accuracy are they looking (project-wide, areas, what distinction between classes?). 2) Do permittees need to document fill areas with differing soils (need to update SWMP)? 3) Horizontal measures such as bedrock 10 feet down with clay 1-10 feet and 3 inches of topsoil need to be noted? What are the Divisions expectations on this requirement as this has been noted in past CDPHE Inspections. 4) Please describe what sources the Division is referring. Noted on past CDPHE Inspections	The division is unaware of the referenced inspections, and provides a response below by comment question. 1) The division does not require a standardized soil test. As long as the soil summary provided in the SWMP discusses the soil types found on the project, includes a discussion on the erodibility and potential for soil erosion, and references the source of this information, the division would consider this adequate. This information could come from many different sources based on the project type and location (NRCS, geotechnical reports, soil conservation mapping, etc.) 2) Yes, permittees must document fill areas with differing soils and would be discussed in the geotechnical report (if applicable) or noted in the narrative discussion of the SWMP. 3) The division is unaware of the referenced inspection and the intent of the question. If the question is referring to cut slopes on a project, the division would refer the permittee to the guidance provided under 1) of this response to this comment. 4) The division is unaware of the referenced inspection. The division refers the commenter back to the guidance provided under 1) of this response to this comment.	No change.	Tripp Minges	tripp.minges@state.co.us	
65	CDOT	C. STORMWATER MANAGEMENT PLAN (SWMP) REQUIREMENTS	Part I.C.2.a.vii(e) 25) Part I.C.2.a.vii(e) A description of the percent cover of native vegetation on the site if the site is undisturbed, or the percent cover of native vegetation in a similar, local undisturbed area if the site is disturbed... "What criteria is used to determine "what would have been provided in a local, undisturbed area". What criteria is used to decide what "local, undisturbed" area would be representative of the construction site. Is there a certain proximity to the construction area or a certain metrics that will be used? 2) What if the site is inundated with invasive species prior to disturbance, one would not count these plants in the tally resulting in a lower % vegetation when reaching final stabilization as the formula only accounts for "native" vegetation. This proposed change does result in permit terms that are 'clear, specific, and measurable'. Unless factual documented evidence can be located that documents "what would have been provided by native vegetation" at that actual site, there is no measure for how to determine what 70 percent of that condition is. Vegetation and native conditions can vary widely in Colorado, even within a short distance. Therefore, unless a local undisturbed area is available within or immediately adjacent to the construction site, this is an unmeasurable requirement.	See Response to Comment 35. Final Stabilization - Local, undisturbed area		Tripp Minges	tripp.minges@state.co.us	
66	CDOT	C. STORMWATER MANAGEMENT PLAN (SWMP) REQUIREMENTS	Part I.C.2.a.vii(e) Rationale: In some instances this will be what the permittee has on their site. Can you give examples of what "some instances" may include? As a permittee, CDOT is unclear as to the directive of permit.	If the site is undisturbed and containing representative local native vegetation then it would be what is on the site and not what is local or at an adequate reference site. An example could include an open space park.	No change.	Tripp Minges	tripp.minges@state.co.us	
67	Arapahoe County	C. STORMWATER MANAGEMENT PLAN (SWMP) REQUIREMENTS	Part I.C.2.a.vii(e) Thank you for the clarification on how to determine pre-existing vegetation coverage. Please add that this is not required for projects where final stabilization is not typical landscaping, such as hardscape or dirt (e.g., dirt bike park). Part I.B.1.a.iii(b)(2) states that "Permanent stabilization methods include, but are not limited to, permanent pavement or concrete, hardscape, xeriscape, stabilized driving surfaces, vegetative cover, or equivalent permanent alternative stabilization methods."	The division did not include additional listing for dirt bike parks due to the permit language not being limiting. As long as the bike trail is hardpacked or stabilized to minimize sediment transport that portion of the site could be considered stabilized, similar to stabilized driving surfaces that are included in the Part I.B.1.a.iii(b)(2). The remaining areas of the dirt bike park would be required to meet Part I.B.1.a.iii as well. The initial site SWMP description in Part I.C.2.a.vii(e) would be no different for a dirt bike park than any other project as it assists the permittee with being able to determine when they have achieved the 70% final stabilization requirement.	No change.	Lisa Knerr	lknerr@arapahoegov.com	

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68	City of Aurora	C. STORMWATER MANAGEMENT PLAN (SWMP) REQUIREMENTS	Part I.C.2.a.vii(g) "Describing the drainage patterns seems to be more difficult than providing a map with flow arrows. Recommend replacing the language with: "If flow arrows are not included on the site map, a description of the drainage patterns from the permitted site, including the immediate source receiving the discharge and the receiving water(s) of the discharge, if different than the immediate source.""	The division disagrees with removing requirements to describe the drainage patterns from the site as the intent of this section is for the permittee to describe where the water from the site runs to. Additionally, the description can be brief, but must include the immediate source receiving the discharge, the receiving water and the MS4 (if applicable). See the Fact Sheet for more description.	No change.	Jessica LaPier	jlapierr@auroragov.org; sscaggia@auroragov.org; sleske@auro ragov.org	
69	Colorado Stormwater Council	III. SCOPE OF MODIFICATION REQUEST	Part I.C.3.e. - Please include rationale in the fact sheet.	The division updated the Fact Sheet to include rationale.	Fact Sheet updated.	Ashley Tucker	atucker@firestoneco.gov	
70	CDOT	D. SITE INSPECTIONS	Part I.D.5.c "Inspection reports Inspection records must be retained in accordance with Part II.O."permit states "Inspection records must be retained in accordance with Part II.O." Suggest homogenizing verbiage to one or the other phrasing or define each term if differing. It appears that CDPHE is referring to inspections as reports and records. Please make consistent verbiage if referring to the same document. If referring to differing documents; please define. Additionally, it seems that records are what is noted on reports? Part.I.D.5.c	The division has not proposed any substantive changes except for the placement of existing language in the section. Inspection reports are what a permittee creates after an inspection, and the record retention requirement of those reports is what Part II.O describes.	No change.	Tripp Minges	tripp.minges@state.co.us	
71	City of Aurora	D. SITE INSPECTIONS	Part I.D.5.c.iii Recommend removing the soil description requirement as soil conditions are rarely consistent throughout a site, especially when a site is large and can have varying conditions from one corner to another.	The division has removed the addition of soil conditions to the inspection report in response to comment.	Original permit language retained.	Jessica LaPier	jlapierr@auroragov.org; sscaggia@auroragov.org; sleske@auro ragov.org	
72	Colorado Stormwater Council	D. SITE INSPECTIONS	Part I.D.5.c.iii. - Please remove the soil description requirement as soil conditions are rarely consistent throughout a site. Furthermore, the fact sheet rationale states that it may be important to understand if a site is susceptible to hypothetical inadequate control measures and would be conjecturing on the permittee's part.	See Response to Comment 71, comment on soil conditions.	Original permit language retained.	Ashley Tucker	atucker@firestoneco.gov	
73	City and County of Denver & Denver International Airport (DEN)	D. SITE INSPECTIONS	Part I.D.5.c.iii. Please remove the soil description requirement as soil conditions are rarely consistent throughout a site. Furthermore, the fact sheet rationale states that it may be important to understand if a site is susceptible to hypothetical inadequate control measures and would be conjecturing on the permittee's part.	See Response to Comment 71, comment on soil conditions.	Original permit language retained.	Bradford Cox	bradford.cox@denvergov.org	
74	CDOT	D. SITE INSPECTIONS	Part I.D.5.c.vii Location(s) and identification of discharges of sediment or other pollutants from the site;add to the end of the statement so it states, "Location(s) and identification of discharges of sediment or other pollutants from the site that have occurred since the last inspection;" Also change this in the fact sheet .Add clarity. Only new discharges should be identified, not existing or old discharges.	The division disagrees with this comment. If a discharge is still remaining at the time of the next inspection, the permittee will need to identify it and will need to explain why it has not been removed and properly disposed of per the requirement of Part I.B.1.c.ii. If a discharge remains and the permittee has not completed actions to describe why it is infeasible and provided a schedule per Part I.B.1.c.i, the permittee is out of compliance with the permit.	No change.	Tripp Minges	tripp.minges@state.co.us	
75	CDOT	D. SITE INSPECTIONS	Part I.D.5.c.x Description of corrective action(s) for items vii, viii, ix, above, dates corrective action(s) were completed, and measures taken to prevent future violations, including requisite changes to the SWMP, as necessary; Where would one document in the SWMP, other than inspection report, discharges from site & inadequate control measures and what is intent behind this? Duplicative effort noted in SWMP as it is already noted on the Inspection report/record. CDOT suggest that the Division remove, "including requisite changes to the SWMP, as necessary"	The division requires per Part I.D.5.c.x that the permittee list the permittee's corrective actions on the inspection report near where the permittee identified the issues from Parts I.D.5.c.vii, viii, and ix. See the Fact Sheet for additional information if the permittee finds it infeasible to immediately correct the deficiency. The language included by the division allows the permittee to make a judgement on if the SWMP needs to be updated after corrective actions are completed by saying "requisite changes to the SWMP, as necessary [emphasis added]". An example, would be if the permittee moved a vehicle tracking pad in response to an inspection report; the permittee would need to update the SWMP with the new location of the vehicle tracking pad.	No change.	Tripp Minges	tripp.minges@state.co.us	

Comment #	Commenting on	Comment Subject	Comment	Division Response	Changes made to Permit	Name	Contact Information:	Reference Docs?
76	CMS & Clients	D. SITE INSPECTIONS	<p>Part I.D.5.c.x Inspection Reports Rationale: The division recognized a need for the dates of the corrective actions completed to fix any inadequate control measures. This had been removed in the renewal of the permit. Language from the previous permit has been reinstated to provide permittees with the direction of including dates of corrective actions completed. If the permittee finds it infeasible, per Part I.B.1.c.i, to immediately correct the inadequate control measure, they need to describe in the inspection report why it is infeasible to initiate correction immediately and document a schedule for completion. Initiating corrective action could include scheduling a crew or ordering supplies. Any action being done to complete the corrective action should be documented in the inspection report until the corrective action is complete.</p> <p>Consistency was also included requiring inspections to "locate and identify" in each of the inspection report areas. Lastly, this section includes an update to include the soil conditions when the inspection is occurring. This will allow permittees to set the scene for what the site conditions are at the time of inspection. An example is that it could be sunny during inspection, but a rain storm just passed through and left the ground muddy and susceptible to tracking off site.</p> <p>While the rationale for the term "immediately" is understood, there has been some confusion in its</p>	The division has not recommended changes to Part I.B.1.c.i where the division requires immediate action to mitigate the inadequate control measure. The permit does provide the permittee with the ability in Part I.B.1.c.i(a)&(b) to describe in the SWMP why it is infeasible to correct the deficiency immediately and provide a schedule for correction. Included in guidance provided by the division is a response on how to what immediate means: "Action toward completing the corrective action must be taken as soon as the inspection is complete. The requirement for an "immediate" corrective action is a recognition that the control measures should have been proactively maintained in operating condition, and once they become in need of corrective action the permit has already been violated and a return to compliance is needed." The state has the authority to require more strict requirements than the EPA in order to protect state waters.	No change.	Josh Downey	jdowney@cmsenviro.com	
77	Xcel Energy	D. SITE INSPECTIONS	<p>Part I.D.5.c.x Please remove or modify 'measures taken to prevent future violations'. The corrective action taken should address the potential for future violations so it should not be needed to provide measures taken for future violations for every corrective action. Reported discharges do have extensive plans to address future violations but most corrective action items are expected to occur at most construction sites and do not warrant an extensive written plan describing prevention of future of violations.</p>	The division has removed "measures taken to prevent future violations" as the permittee can include additional language under "description of corrective action" to address what actions they have taken if they have concerns of future violations. An example would be if a permittee moved a vehicle entrance area to a recently paved section of the site in responses to a vehicle tracking pad that was not reducing vehicle tracking due to it being located in an area that was muddy.	Updated language.	Cade Wilson	cade.a.wilson@xcelenergy.com	
78	Wright Water Engineers	D. SITE INSPECTIONS	<p>Part I.D.5.c.x Please remove or modify 'measures taken to prevent future violations'. The corrective action taken should address the potential for future violations. We recommend the language be changed to 'Corrective action items should include measures taken to prevent future violations'.</p>	See Response to Comment 77, comment on measures taken to prevent future violations .	Updated language.	Jennifer Keyes	jkeyes@wrightwater.com	
79	City of Aurora	D. SITE INSPECTIONS	<p>Part I.D.5.c.x. Recommend removing the language: "measures taken to prevent future violations". Otherwise clarifying language is needed to ensure that permittee's are not being asked to include measures taken to prevent future violations for incidental inadequate control measures.</p>	See Response to Comment 77, comment on measures taken to prevent future violations .	Updated language.	Jessica LaPier	jlapier@auroragov.org; sscaggia@auroragov.org; sleske@auroragov.org	
80	Colorado Stormwater Council	D. SITE INSPECTIONS	<p>Part I.D.5.c.x. - Please remove or modify 'measures taken to prevent future violations'. If it is the Division's intent to prevent negligent, repetitive, and/or recalcitrant violations from occurring in the future, it is appreciated. However, clarifying language is needed to ensure that permittee's are not being asked to include measures taken to prevent future violations for incidental inadequate control measures.</p>	See Response to Comment 77, comment on measures taken to prevent future violations .	Updated language.	Ashley Tucker	atucker@firestoneco.gov	
81	City and County of Denver & Denver International Airport (DEN)	D. SITE INSPECTIONS	<p>Part I.D.5.c.x. Please remove or modify 'measures taken to prevent future violations'. If it is the Division's intent to prevent negligent, repetitive, and/or recalcitrant violations from occurring in the future, it is appreciated. However, clarifying language is needed to ensure that permittee's are not being asked to include measures taken to prevent future violations for incidental inadequate control measures.</p>	See Response to Comment 77, comment on measures taken to prevent future violations .	Updated language.	Bradford Cox	bradford.cox@denvergov.org	
82	CDOT	E. DEFINITIONS	<p>Part I.E Common Plan of Development (2) 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. Is there a specific amount of time that needs to pass before a project is not part of a common plan? CDOT would like clarification on the time component. In the world of NEPA with EAs and EISs, the EA or EIS is broken down into multiple projects or phases that take place over time (could be as short as 1 year, or over 20 years). Even though each project came from the same EA or EIS, each project is separate and distinct from the other projects because they each have their own detailed plans.</p>	WQCD cannot comment upon CDOT's potential interpretation of NEPA regulations including the scope of the activity.	No change.	Tripp Minges	tripp.minges@state.co.us	

Comment #	Commenting on	Comment Subject	Comment	Division Response	Changes made to Permit	Name	Contact Information:	Reference Docs?
83	Arapahoe County	E. DEFINITIONS	Part I.E Common Plan of Development (2) (Definitions) The ¼ of a mile requirement in the current permit's definition of Common Plan of Development or Sale is clear, specific and most importantly, measurable. It can be confusing when determining a common plan of development or sale and having a ¼ of a mile as a part of the definition of a Common Plan of Development or Sale has been extremely helpful to permittees. Please note that the US Environmental Protection Agency still uses ¼ mile (https://www.epa.gov/npdes/construction-general-permit-cgp-frequent-questions) as part of their guidance and it is not just a "rule of thumb". CDPHE should continue to provide a distance in the definition of a Common Plan of Development or Sale to enable permittees to clearly determine if a site is part of a larger common plan of development or sale.	See Response to Comment 2, comment on 1/4 mile.	Original permit language retained.	Lisa Knerr	lknerr@arapahoe.gov	
84	Southeast Metro Stormwater Authority (SEMSWA)	E. DEFINITIONS	Part I.E Common Plan of Development (2) Again, SEMSWA is not in agreement that the ¼ mile is a 'rule of thumb' that can support a larger radius outside of the ¼ mile distance. This is especially true of linear projects, but not limited to those, of a considerable distance away that may be sharing a staging area. SEMSWA would prefer that the staging area have its own permit if required by size of disturbance and if not, be associated with the closest permitted project disturbance. Construction is not a 'one-size-fits-all' scenario as this permit change and rationale implies and removing a common sense guideline of "within a ¼ mile of the construction site" from the permit and rationalizing it with how the Division feels a construction project 'should' go is not based on field practice, schedule, and financial realities. The ¼ of a mile requirement in the current permit's definition of Common Plan of Development or Sale is clear, specific and most importantly, measurable. Please keep the ¼ mile guideline.	See Response to Comment 2, comment on 1/4 mile.	Original permit language retained.	Lanae Raymond	lraymond@semswa.org	
85	Colorado Stormwater Council	III. SCOPE OF MODIFICATION REQUEST	Part I.E Common Plan of Development (2) Common Plan of Development or Sale - The rationale provided in the Fact Sheet states that the expansion to a larger radius reduces the 'resource burden' to the Division. This rationale fails to consider the implications of implementation and compliance of the permittee and MS4s, or that the Division receives permit fees that should offset the resource expenditure required for oversight of permits. Further, the Fact sheet references EPA's CGP 2017; however, EPA maintains clarity requested by CSC in this comment by using a discrete 1/4 mile distance by stating: "Where discrete construction projects within a larger common plan of development or sale are located at least 1/4 mile apart and the area between the projects is not being disturbed, each individual project can be treated as a separate plan of development or sale provided any interconnecting road, pipeline or utility project that is part of the same common plan is not concurrently being disturbed. For example, if a utility company was constructing new trunk lines off an existing transmission line to serve separate residential subdivisions located more than 1/4 mile apart, the two trunk line projects could be considered to be separate projects."	See Response to Comment 2, comment on 1/4 mile.	Original permit language retained.	Ashley Tucker	atucker@firestoneco.gov	
86	CDOT	E. DEFINITIONS	Part I.E Common Plan of Development (2) Construction activities are considered to be "related" if they share the same development plan, builder or contractor, equipment, storage areas, etc. "Common plan of development or sale" includes construction activities that are associated with the construction of field wide oil and gas permits for facilities that are related. what about activities that occur in the same area but are not part of the original plan etc.? If the division is worried about more permits, a suggestion would be to add a line to the permit application that asks if this permit is part of a common plan and for which permit it is associated with. Then inspections can occur on both of those sites if they are occurring at the same time. Many activities occur as a result of an oncoming project and are not part of the same plan. They are incidental to an oncoming project. They have different plans, contractors and different funding sources (e.g., moving utility lines, demolishing buildings). Are these part of a common plan? CDOT is not the owner of utility projects that have their own plans and regulations to follow and the building demolitions occur with different funds, different contractors, and different plans and specifications. Please clarify.	See Response to Comment 2, comment on 1/4 mile.	Original permit language retained.	Tripp Minges	tripp.minges@state.co.us	
87	CDOT	E. DEFINITIONS	Part I.E Common Plan of Development (2) The division has determined that "contiguous" means construction activities located in close proximity to each other, typically, but not limited to, within ¼ mile).What about statewide projects that are all part of the same plan and funding. Would you consider those a common plan? We oftentimes have projects that are statewide (e.g., ramp meter lights, underground cable installations). Those are way over 1/4 mile apart. Also ADA ramp installations in urban settings...If we count ramps over a 1/4 mile away, that would cause us to apply for more permits, which the Division in past history stated that they would prefer not to do. We often have projects that are statewide (e.g., ramp meter lights, underground cable installations). Each location is under one acre of disturbance and are way over 1/4 mile apart. Also ADA ramp installations in urban settings...If we count ramps over a 1/4 mile away and other statewide project that are part of the same plan, that would cause us to apply for more permits, which CDPHE wanted to avoid. The 1/4 mile rule helps establish a clear and measurable directive of when to apply for permits.	See Response to Comment 2, comment on 1/4 mile.	Original permit language retained.	Tripp Minges	tripp.minges@state.co.us	
88	City and County of Denver & Denver International Airport (DEN)	E. DEFINITIONS	Part I.E Common Plan of Development (2). Recommend adopting federal language 2017 GCP definition: "A common plan of development or sale means a contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot."	See Response to Comment 2, comment on 1/4 mile.	Original permit language retained.	Bradford Cox	bradford.cox@denvergov.org	

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89	City of Aurora	E. DEFINITIONS	Part I.E Common Plan of Development Recommend deferring back to the original ¼ mile threshold, otherwise additional clarifying language is requested. What would be considered "close proximity" if the 1/4 mile threshold is not upheld?	See Response to Comment 2, comment on 1/4 mile.	Original permit language retained.	Jessica LaPier	jlapierr@auroragov.org; sscaggia@auroragov.org; slieske@auroragov.org	
90	Xcel Energy	E. DEFINITIONS	Part I.E Common Plan of Development Recommend not changing the existing definition of common plan of development. The 1/4 mile language in the current permit provided some clarity to defining related projects in "close proximity to each other" that trigger a common plan of development. In the fact sheet, the proposed rationale includes changing the terminology in order to reduce the amount of permits, but this logic is flawed since many common plan projects are permitted separately regardless of proximity if they have different owners and operators. The current and proposed definition includes a reference to activities being related if they share the development plan, builder, contractor, equipment, storage area, etc.; however, utilities do not share any of these items but yet they are considered common plan if they are being constructed to serve a development. There should be clearer guidance on common plan of development. All utilities are connected within a larger system but not all construction is considered common plan of development.	See Response to Comment 2, comment on 1/4 mile.	Original permit language retained.	Cade Wilson	cade.a.wilson@xcelenergy.com	
91	Wright Water Engineers	E. DEFINITIONS	Part I.E Common Plan of Development We recommend keeping the current permit language regarding common plan of development and not adopting the proposed changes. The 1/4 mile language in the current permit provided some clarity to defining related projects in "close proximity to each other" that trigger a common plan of development. The proposed rationale in the fact sheet includes reducing the amount of permits and inspections that would result in the proposed language change. This logic is flawed since many common plan projects are permitted separately regardless of location if they have different owners and operators. The current and proposed definition includes a reference to activities being related if they share the development plan, builder, contractor, equipment, storage area, etc.; however, utilities do not share any of these items but yet they are considered common plan if they are being constructed to serve a development. There should be clearer guidance on common plan of development. All utilities are connected within a larger system but not all construction is considered common plan of development. There should also be better guidance about single family lot development within a subdivision and how common plan must be re-evaluated at different points in time. For example, if there are several lots under construction at one time within the subdivision then common plan may apply but if there is the only lot under construction and it is less than an acre, then common plan may not apply. There are also entities that believe if they don't have operational control, then the nearby construction is not considered common plan even though it directly caused the other construction to occur. Better guidance is needed to determine how projects are "related". The 1/4 rule provided good information on determining if construction was in "close proximity to each other" and should not be removed or made more ambiguous.	See Response to Comment 2, comment on 1/4 mile.	Original permit language retained.	Jennifer Keyes	jkeyes@wrightwater.com	
92	Colorado Stormwater Council	E. DEFINITIONS	Part I.E Common Plan of Development - Please maintain the existing definition of Common Plan of Development as defined in the Phase II MS4 Permits. Permittees must have certainty to enable consistent implementation and compliance with the permit. The current proposed addition of "typically, but not limited to" creates ambiguity and inconsistency in compliance and implementation. However, we recognize the need for clarity as a common plan can be difficult to determine and plays a significant role in potential permanent stormwater quality control measures. We recommend the development of better guidance documents addressing each of the following factors: contiguous, related, and timing. Furthermore, please consider specifically addressing time as it relates to custom homes/utilities in areas within platted subdivisions or commercial developments that have reached final stabilization.	See Response to Comment 2, comment on 1/4 mile.	Original permit language retained.	Ashley Tucker	atucker@firestoneco.gov	
93	City of Aurora	E. DEFINITIONS	Part I.E Construction Activity "Recommend including vertical construction within the definition since any type of construction has the potential to lead to land disturbance. Construction Activity - Ground surface disturbing and associated activities (land disturbance), which include, but are not limited to, vertical construction, clearing, grading, excavation, demolition, installation of new or improved haul roads and access roads, staging areas, stockpiling of fill materials, and borrow areas."	The division has not proposed any changes to the definition of "Construction Activity", and so the division is unable to consider changes to the definition at this time due to it being out of scope of this permit modification. The division will consider updated during the renewal of the permit.	Outside of scope	Jessica LaPier	jlapierr@auroragov.org; sscaggia@auroragov.org; slieske@auroragov.org	
94	City and County of Denver & Denver International Airport (DEN)	E. DEFINITIONS	Part I.E Construction Activity (1) Construction Activity Recommend adoption of EPA GCP definition: "Construction Support Activities - a construction-related activity that specifically supports the construction activity and involves earth disturbance or pollutant-generating activities of its own, and can include activities associated with concrete or asphalt batch plants, equipment staging yards, materials storage areas, excavated material disposal areas, and borrow areas."	The division has not proposed any changes to the definition of "Construction Activity", and so the division is unable to consider changes to the definition at this time due to it being out of scope of this permit modification. The division will consider updated during the renewal of the permit.	Outside of scope	Bradford Cox	bradford.cox@denvergov.org	

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95	City and County of Denver & Denver International Airport (DEN)	E. DEFINITIONS	<p>Part I.E Diversion (7). Please remove this and all related language. Diversions are regulated under section 404 of the CWA and as such are not subject to permitting requirements in accordance with Section 402. Inclusion of the authorization is outside the authority of the CDPS permitting program and unnecessary since diversions are authorized separately. The approach also creates inconsistent expectations from WQCD and USACE, since USACE includes conditions for controlling sediment. For example, Nationwide Permit Condition 12, Soil Erosion and Sediment Controls requires the following: "Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides." WQCD has separate authority to condition 404 permits, and should use those authorities to align their expectations for erosion and sediment control with those of USACE, as appropriate. The proposed approach also creates unattainable expectations of construction permittees, since by including diversions in the scope of the construction stormwater permit they must be controlled to meet water quality standards, which is unrealistic particularly for diversion of an impaired waterbody.</p>	<p>The division is using the term "diversion" in a different manner than USACE, and does not propose that the inclusion of diversions in the COR400000 supersedes that of USACE or change permittee actions required under the USACE permit. The division sees each permitting action as separate actions. To this point, the division has coordinated with USACE on the language in the COR400000 permit. USACE regulates discharges of dredged or fill material into waters of the United States and structures or work in navigable waters. The division regulates discharges from construction activity to state waters. Due to this difference there may be times that a project has both permits or one of the permits.</p> <p>The division is including the discharges from diversions in this permit as an allowable non stormwater discharge when the diversion is installed and maintained in accordance with good engineering and hydrologic pollution control practices. To provide more clarity on the expectations for diversions, the division included additional language under Part I.B Effluent Limitations.</p>	Updated language.	Bradford Cox	bradford.cox@denvergov.org	
96	City of Aurora	E. DEFINITIONS	<p>Part I.E Final Stabilization "Recommend deferring back to the original language of: "Final Stabilization - The condition reached when all ground surface disturbing construction activities at the site have been completed..." Final phase construction activities do not always cause earth disturbance, and therefore should not affect final stabilization status achievement.</p> <p>Recommend replacing the term "complete" with: "and permanent stabilization methods have been implemented and have stabilized the project site." The wording used, "permanent stabilization methods are complete" may cause the permittee to not be able to close out their permit at the appropriate time. The wording is ambiguous as growth may not reach "completeness" but has significantly stabilized the area.</p> <p>Recommend changing the language to the following: "Coverage, at a minimum, equal to 70 percent of what would have been provided by native vegetation in a local, undisturbed area or an appropriate, undeveloped reference site".</p> <p>The wording, "70 percent of what would have been provided by native vegetation in a local, undisturbed area." Will be hard, if not impossible, to achieve. Some projects prefer to install bioretention gardens or non-vegetated conservation gardens which is a benefit to the environment, but not native vegetation that would have been provided previously."</p>	<p>Construction activities are defined as "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 routine maintenance or for replacement are construction activities and are not routine maintenance. Repaving activities where underlying and/or surrounding soil is exposed as part of the repaving operation are considered construction activities. Construction activity is from initial ground breaking to final stabilization regardless of ownership of the construction activities." This definition is related to land disturbance. If the site has completed all land disturbance per the definition of construction activity, completed permanent stabilization and removed all temporary control measures then the site is able to terminate the permit. For example, a project could meet the criteria for termination but still be completing interior painting. Additionally, a permittee is able to terminate portions of the permit that meet the requirements of final stabilization while leaving the other portions open until such time that permanent stabilization is complete. If vegetative cover is used by the permittee for permanent stabilization, they would need to meet the criteria outlined in Part I.B.1.b.iii(b)(2)a. and b. If permittees have questions on ability to terminate all or portions of the permit, they are able to contact the division.</p> <p>The 70% threshold has not changed from the previous permit language. Regardless of construction type (i.e. linear, vertical, residential, commercial, etc.) if the site meets the requirements for permit coverage under Part I.A.3, the permittee is required to obtain coverage and meet the requirements outlined in the permit, including references to final stabilization. The permit modification language regarding final stabilization is not a departure from the division guidance document on final stabilization, but instead intended to support and clarify the guidance by improving the permit language. The original permit language of pre-disturbance levels was clarified in a guidance document as "vegetation that would represent the naturally supported vegetation density in the area". Typically, this did not mean what vegetation was on the site before groundbreaking. The modified permit clarifies the guidance language and places the language into the permit language to try and provide clarity to permittees that the 70% threshold for final stabilization, as it relates to vegetative cover, is not typically what was on the site at the time of groundbreaking, but what is typical of native vegetation in a local, undisturbed area or adequate reference site. The division included throughout the permit where references to final stabilization occur an addition of "adequate reference site" to account for urban areas that may not have a nearby undisturbed area to reference. The division will be updating the final stabilization guidance document upon effective date of the permit modifications and will include guidance on how to determine an adequate reference site. It is still the expectation that the permittee describe in the SWMP either the local undisturbed area or adequate reference site as this is the criteria by which the permittee judges whether they have achieved at a minimum 70%.</p> <p>If the permittee has questions related to vegetative cover or alternative stabilization methods, they should refer to Part I.B.1.a.iii(c) and ensure that the final designed and installed features provide adequate protection to minimize erosion. If the permittee has site specific questions or alternative stabilization method they are encouraged to contact the division.</p>	Updated language.	Jessica LaPier	jlapier@auroragov.org; sscaggia@auroragov.org; sleske@auroragov.org	

Comment #	Commenting on	Comment Subject	Comment	Division Response	Changes made to Permit	Name	Contact Information:	Reference Docs?
97	CDOT	E. DEFINITIONS	<p>Part I.E Final Stabilization</p> <p>(8) Final Stabilization - The condition reached when construction activities at the site have been completed, permanent stabilization methods are complete, and temporary control measures are removed. Areas being stabilized with a vegetative cover must have evenly distributed perennial vegetation. The vegetation coverage must be, at a minimum, equal to 70 percent of what would have been provided by native vegetation in a local, undisturbed area.</p> <p>Suggest more clarification on what metrics will be used to determine "a local, undisturbed area" 2) Can certain phases or areas of a project be noted as final stabilized and a) removed from the permit, b) no longer need to audit these areas or c) still need to meet all criteria of the permit until 100% of the project is determined to be final stabilized? Risk is that permittees may choose to leave areas without vegetation longer. 3) Do native nurse crops count in this tally, if so, why?associated with 1) This proposed change does result in permit terms that are 'clear, specific, and measurable'. Unless factual documented evidence can be located that documents "what would have been provided by native vegetation" at that actual site, there is no measure for how to determine what 70 percent of that condition is. Vegetation and native conditions can vary widely in Colorado, even within a short distance. Therefore, unless a local undisturbed area is available within or immediately adjacent to the construction site, this is an unmeasurable requirement.</p>	<p>The permit modification language regarding final stabilization is not a departure from the division guidance document on final stabilization, but instead intended to support and clarify the guidance by improving the permit language. The original permit language of pre-disturbance levels was clarified in a guidance document as "vegetation that would represent the naturally supported vegetation density in the area". Typically, this did not mean what vegetation was on the site before groundbreaking. The modified permit clarifies the guidance language and places the language into the permit language to try and provide clarity to permittees that the 70% threshold for final stabilization, as it relates to vegetative cover, is not typically what was on the site at the time of groundbreaking, but what is typical of native vegetation in a local, undisturbed area or adequate reference site. The division included throughout the permit where references to final stabilization occur an addition of "adequate reference site" to account for urban areas that may not have a nearby undisturbed area to reference. The division will be updating the final stabilization guidance document upon effective date of the permit modifications and will include guidance on how to determine an adequate reference site. It is still the expectation that the permittee describe in the SWMP either the local undisturbed area or adequate reference site as this is the criteria by which the permittee judges whether they have achieved at a minimum 70%.</p> <p>Construction activities are defined as "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 routine maintenance or for replacement are construction activities and are not routine maintenance. Repaving activities where underlying and/or surrounding soil is exposed as part of the repaving operation are considered construction activities. Construction activity is from initial ground breaking to final stabilization regardless of ownership of the construction activities." This definition is related to land disturbance. If the site has completed all land disturbance per the definition of construction activity, completed permanent stabilization and removed all temporary control measures then the site is able to terminate the permit. For example, a project could meet the criteria for termination but still be completing interior painting. Additionally, a permittee is able to terminate portions of the permit that meet the requirements of final stabilization while leaving the other portions open until such time that permanent stabilization is complete. If vegetative cover is used by the permittee for permanent stabilization, they would need to meet the criteria outlined in Part I.B.1.b.iii(b)(2)a. and b. If permittees have questions on ability to terminate all or portions of the permit, they are able to contact the division.</p>	Updated language.	Tripp Minges	tripp.minges@state.co.us	
98	CDOT	E. DEFINITIONS	<p>Part I.E Owner</p> <p>(16)Per the Duty to Apply and the definition of "Construction Activity", the owner is required to be owner of the entire permitted area, including those areas where the owner may not have a long term lease or easement as they are the responsible party with overall control of the activities and are funding the activities. Due to the Owner/Operator requirement of this permit, CDOT may be in conflict with this requirement. We agree that if CDOT has entered into an agreement with a property owner and this area outside of our Right of Way (ROW) we would have jurisdictional control and would direct the Operator of the permit to add this area to the defined project Limits of Construction. However, if the Operator chooses to work outside of CDOT's ROW and enters into agreement with another owner, CDOT has no jurisdictional control of these areas and the Operator would need to request a separate permit for this area with the controlling Owner of the property. CDOT recognises both of these scenarios to be within the common plan of development, but is conflicted with being the Owner of a permit that CDOT does not have control over. Further, contractually CDOT can not direct the contractor to not use properties outside of our ROW.</p>	<p>The division understands the unique position that CDOT may find itself as the owner of construction projects as defined by this permit.</p> <p>For those projects where CDOT accepts that a contractor will have an offsite staging area or other offsite area that has construction activities related to the project, the division requests that two construction stormwater permits be acquired for the project. 1st - project area/ROW) CDOT be owner of the project area and the contractor be the operator. 2nd - offsite area) the contractor is both the owner and the operator. The 2nd offsite construction stormwater permit will be required regardless of distance from the ROW due to CDOT's allowance of construction activities outside of their ROW. This will ensure that there is no intentional or unintentional gap in permit coverage.</p>	No change.	Tripp Minges	tripp.minges@state.co.us	
99	City of Aurora	E. DEFINITIONS	<p>Part I.E Storm Event</p> <p>"Recommend removing or maintaining consistency with the EPA definition of a storm event as defined in 40 CFR 122.21(g)(7)(ii) as:</p> <p>"a rainfall event with greater than 0.1 inch of rainfall and at least 72 hours from the previously measurable—greater than 0.1 inch rainfall—storm event.""</p>	<p>The division has removed the definition of "Storm Event" and will rely on previous guidance provided by the division. The permit still contains under Part D.2.b. which states that "if post-storm event inspections are conducted within 24 hours after the end of any precipitation or snowmelt event that causes surface erosion".</p> <p>The division will consider the addition of a definition for Storm Event at the renewal.</p>	Removed language.	Jessica LaPier	jlapier@auroragov.org; sscaggia@auroragov.org; slieske@auroragov.org	
100	CMS & Clients	E. DEFINITIONS	<p>Part I.E Storm Event</p> <p>Any precipitation or snowmelt event within a 24 hour period that causes surface erosion. This will cause confusion to define a storm event based on whether there is surface erosion or not-define a storm event in accordance with its duration and then require a post storm event inspection based on if it resulted in surface erosion at the end of the event. it would be better clarified if the definition were to follow the EPA at 40 CFR 122.21(g)(7)(ii) as a rainfall event with greater than 0.1 inch of rainfall and at least 72 hours from the previously measurable—greater than 0.1 inch rainfall—storm event.</p>	<p>The division has removed the definition of "Storm Event" and will rely on previous guidance provided by the division. The permit still contains under Part I.D.2.b. which states that "post-storm event inspections are conducted within 24 hours after the end of any precipitation or snowmelt event that causes surface erosion".</p> <p>The division will consider the addition of a definition for Storm Event at the renewal.</p>	Removed language.	Josh Downey	jdowney@cmsenviro.com	

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101	CDOT	E. DEFINITIONS	<p>Part I.E Storm Event: Any precipitation or snowmelt event within a 24 hour period that causes surface erosion.</p> <p>1) This does not take continuous multiple day storm events into consideration, is an inspection required 24 hours after a storm event has started even if the storm is continuing? Suggest: "Storm Event: Any precipitation or snowmelt event that causes surface erosion; multiple storm events on the same day counts as one event, if inspected after the last event, a storm that occurs over multiple days counts as one storm event.</p> <p>2) Snow events should not be defined under this definition as melting is the key component of these storms that could and do last for days; otherwise we are inspecting snow as the control measures are not visible.</p>	<p>The division has removed the definition of "Storm Event" and will rely on previous guidance provided by the division. The permit still contains under Part D.2.b. which states that "if post-storm event inspections are conducted within 24 hours after the end of any precipitation or snowmelt event that causes surface erosion".</p> <p>The division will consider the addition of a definition for Storm Event at the renewal.</p>	Removed language.	Tripp Minges	tripp.minges@state.co.us	
102	Arapahoe County	Fact Sheet III. (2):	<p>The fact sheet states that "If a site dedicated to providing site materials, such as soils, sand and gravel, and sites for staging areas that provide supplies to a project are related and in close proximity, those areas must be authorized to discharge under the same permit [emphasis added] according to the Duty to Apply provision and definition of "Common Plan of Development or Sale". This could be confusing to those home builders working in the same development and sharing one staging area or a long roadway project with multiple permittees that share one staging area. Confusion as to which permittee should include the staging area might arise. The fact sheet would be clearer if it addressed shared staging areas, borrow pits, etc. and stated that any shared ancillary areas (staging areas, borrow pits, etc.) must be covered by one of the permittee's permit certification during active construction.</p>	<p>The division has returned to the original permit language and has removed this portion from the fact sheet.</p>	No change.	Lisa Knerr	lknerr@arapahoegov.com	