

CDPS GENERAL PERMIT
STORMWATER DISCHARGES ASSOCIATED WITH
CONSTRUCTION ACTIVITY
AUTHORIZATION TO DISCHARGE UNDER THE
COLORADO DISCHARGE PERMIT SYSTEM

In compliance with the provisions of the Colorado Water Quality Control Act, (25-8-101 et seq., CRS, 1973 as amended) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.; the "Act"), this permit authorizes the discharge of stormwater associated with construction activities certified under this permit, from those locations specified throughout the State of Colorado to specified waters of the State. Such discharges shall be in accordance with the conditions of this permit.

This permit specifically authorizes the facility listed on page 1 of this permit to discharge stormwater associated with construction activity, as of this date, in accordance with permit requirements and conditions set forth in Parts I and II hereof. All discharges authorized herein shall be consistent with the terms and conditions of this permit.

This permit and the authorization to discharge shall expire at midnight, **June 30, 2007**.

Issued and Signed this day of

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

J. David Holm, Director
Water Quality Control Division

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PART I

A. COVERAGE UNDER THIS PERMIT

1. **Authority to Discharge**

Under this permit, construction activities, including clearing, grading, and excavation, are granted authorization to discharge stormwater associated with construction activities into waters of the state of Colorado.

- a. **Applicable Sections:** This permit is made up of several parts, not all of which apply to all permittees. The permittee will be responsible for determining and then complying with the applicable sections, depending upon whether or not a Qualifying Local Program covers the site. For sites not covered by a Qualifying Local Program, all Parts of the permit except Part I.A.3 apply.

2. **Industries Covered Under this Permit**

a) **Definitions:**

- 1) **Stormwater:** Stormwater is precipitation-induced surface runoff.
- 2) **Construction activity:** Construction activity includes clearing, grading and excavation activities. Construction does not include routine maintenance performed by public agencies, or their agents to maintain original line and grade, hydraulic capacity, or original purpose of the facility.
- 3) **Small construction activity:** Stormwater discharge associated with small construction activity means the discharge of stormwater from construction activities that result in land disturbance of equal to or greater than **one** acre and less than **five** acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale, if the larger common plan will ultimately disturb equal to or greater than one and less than five acres.
- 4) **Qualifying Local Program:** This permit includes conditions that incorporate qualifying local erosion and sediment control program (Qualifying Local Program) requirements by reference. A Qualifying Local Program is a municipal stormwater program for stormwater discharges associated with small construction activity that has been formally approved by the Division.
- 5) **Other Definitions:** Definitions of additional terms can be found in Part I.D. of this permit.

- b) **Types of Activities Covered by this Permit:** This permit may authorize all new and existing discharges of stormwater associated with construction activity. This includes stormwater discharges from areas that are dedicated to producing earthen materials, such as soils, sand and gravel, for use at a single construction site. This permit also includes stormwater discharges from dedicated asphalt batch plants and dedicated concrete batch plants. This permit does not authorize the discharge of mine water or process water from such areas.

3. **Permit Coverage Without Application – for small construction activities under a Qualifying Local Program only**

If a construction site is within the jurisdiction of a Qualifying Local Program, the operator of the construction activity is authorized to discharge stormwater associated with small construction activity under this general permit without the submittal of an application to the Division.

- a) **Applicable Sections:** For sites covered by a Qualifying Local Program, only Parts 1.A.1, 1.A.2, 1.A.3, I.C.1, I.C.2, I.C.3, I.D and Part II of this permit, with the exception of Parts II.A.1, II.B.3, II.B.8, and II.B10, apply.
- b) **Local Agency Authority:** This permit does not pre-empt or supersede the authority of local agencies to prohibit, restrict, or control discharges of stormwater to storm drain systems or other water courses within their jurisdiction.

A. COVERAGE UNDER THIS PERMIT (cont.)

- c) **Permit Coverage Termination:** When a site has been finally stabilized, coverage under this permit is automatically terminated.
- d) **Compliance with Qualifying Local Program:** A construction site operator that has authorization to discharge under this permit under Part I.A.3 shall comply with the requirements of the Qualifying Local Program with jurisdiction over the site.
- e) **Full Permit Applicability:** The Division may require any owner or operator within the jurisdiction of a Qualifying Local Program covered under this permit to apply for and obtain coverage under the full requirements of this permit. The owner or operator must be notified in writing that an application for full coverage is required. When a permit certification under this permit is issued to an owner or operator that would otherwise be covered under Part I.A.3 of this permit, the full requirements of this permit replace the requirements as per Part I.A.3 of this permit, upon the effective date of the permit certification. A site brought under the full requirements of this permit must still comply with local stormwater management requirements, policies or guidelines as required by Part I.C.1.h of this Permit.

4. **Application, Due Dates**

- a) **Application Due Dates:** At least **ten days** prior to the commencement of construction activities, the operator of the construction activity shall submit an application form as provided by the Division, with a certification that the Stormwater Management Plan (SWMP) is complete.

One original completed discharge permit application shall be submitted, by mail or hand delivery, to:

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

- b) **Summary of Application:** The application requires, at a minimum, the following:
 - 1) The operator's name, address, telephone number, tax payer identification number (or employer identification number), and the status as Federal, State, private, public or other entity;
 - 2) Name, county and location of the construction site, including the latitude and longitude to the nearest 15 seconds of the approximate center of the construction activity;
 - 3) A brief description of the nature of the construction activity;
 - 4) The anticipated starting date of the project and the anticipated schedule of completion
 - 5) Estimates of the total area of the site, the area of the site that is expected to be disturbed, and the total area of the larger common plan of development or sale to undergo disturbance;
 - 6) The name of the receiving water(s), or the municipal separate storm sewer system and the ultimate (i.e., named) receiving water(s);
 - 7) Certification that the SWMP for the construction site is complete (see Part I.B. below); and
 - 8) The signature of the applicant signed in accordance with Part I.E.1 of this permit.

5. **Permit Certification Procedures**

If the general permit is applicable to the applicant's operation, then a certification will be developed and the applicant will be authorized to discharge stormwater under this general permit.

A. COVERAGE UNDER THIS PERMIT (cont.)

- a) **Request for Additional Information:** The Division shall have up to **ten days** after receipt of the above information to request additional data and/or deny the authorization for any particular discharge. Upon receipt of additional information, the Division shall have an additional **ten days** to issue or deny authorization for the particular discharge. (Notification of denial shall be by letter, in cases where coverage under an alternate general permit or an individual permit is required, instead of coverage under this permit.)
- b) **Automatic Coverage:** If the applicant does not receive a request for additional information or a notification of denial from the Division dated within ten days of receipt of the application by the Division, authorization to discharge in accordance with the conditions of this permit shall be deemed granted.
- c) **Individual Permit Required:** If, after evaluation of the application (or additional information, such as the SWMP), it is found that this general permit is not applicable to the operation, then the application will be processed as one for an individual permit. The applicant will be notified of the Division's decision to deny certification under this general permit. For an individual permit, additional information may be requested, and 180 days will be required to process the application and issue the permit.
- d) **Temporary Coverage:** Notwithstanding Parts I.A.5.a-c, above, the Division reserves the right to **temporarily** cover stormwater discharge from construction activity under general permits, even though individual permit coverage may be more appropriate.

Certification of these activities under a general permit does not in any way infringe on the Division's right to revoke that coverage and issue an individual permit or amend an existing individual permit.

- e) **General vs. Individual Permit Coverage:** Any owner or operator authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual CDPS permit. The owner or operator shall submit an individual application, with reasons supporting the request, to the Division at least 180 days prior to any discharge.
- f) **Local Agency Authority:** This permit does not pre-empt or supersede the authority of local agencies to prohibit, restrict, or control discharges of stormwater to storm drain systems or other water courses within their jurisdiction.

6. **Inactivation Notice**

When a site has been finally stabilized in accordance with the SWMP, the operator of the facility must submit an **Inactivation Notice** that is signed in accordance with Part I.E.1. of this permit. The Inactivation Notice form is available from the Division and includes:

- a) Permit certification number;
- b) The permittee's name, address, telephone number;
- c) Name, location, and county for the construction site for which the application is being submitted.
- d) Certification that the site has been finally stabilized, and a description of the final stabilization method(s).

An inactivation form may not be required for small construction activities if application was made for coverage with a completion date less than 12 months from the start of construction activity. In such cases, permit certification may be authorized for a predetermined period from 3 to 12 months. The permit certification will include the automatic expiration date for permit coverage. If permit coverage beyond that date is needed (i.e., the site has not been finally stabilized), the permittee must submit an extension request form to the Division at least 10 days prior to the expiration date.

7. **Transfer of Permit**

When responsibility for stormwater discharges at a construction site changes from one individual to another, the permittee shall submit a completed Notice of Transfer and Acceptance of Terms of a Construction General Stormwater Discharge Permit Certification that is signed in accordance with Part I.E.1. of this permit. The Notice of Transfer form is available from the Division and includes:

A. COVERAGE UNDER THIS PERMIT (cont.)

- a) Permit certification number.
- b) Name, location, and county for the construction site for which the application is being submitted.
- c) The current permittee's name, address, telephone number and the status as Federal, State, private, public or other entity.
- d) The new permittee's name, address and telephone number and the status as Federal, State, private, public or other entity.
- e) Certification that the new permittee has reviewed the permit and SWMP and accepts responsibility, coverage and liability for the permit.
- f) Effective date of transfer.

If the new responsible party will not complete the transfer form, the permit may be inactivated if the permittee has no legal responsibility, through ownership or contract, for the construction activities at the site. In this case, the new operator would be required to obtain permit coverage separately.

8. **Permit Expiration Date**

Authorization to discharge under this general permit shall expire on June 30, 2007. The Division must evaluate and reissue this general permit at least once every five years and must recertify the applicant's authority to discharge under the general permit at such time. Any permittee desiring continued coverage under the general permit must reapply by March 31, 2007. The Division will determine if the applicant may continue to operate under the terms of the general permit. An individual permit will be required for any facility not reauthorized to discharge under the reissued general permit.

9. **Individual Permit Criteria**

Aside from the activity type, the Division may use other criteria in evaluating whether an individual permit is required instead of this general permit. This information may come from the application, SWMP, or additional information as requested by the Division, and includes, but is not limited to, the following:

- a) the quality of the receiving waters (i.e., the presence of downstream drinking water intakes or a high quality fishery, or for preservation of high quality water);
- b) the size of the construction site;
- c) evidence of noncompliance under a previous permit for the operation;
- d) the use of chemicals within the stormwater system.

In addition, an individual permit may be required when the Division has shown or has reason to suspect that the stormwater discharge may contribute to a violation of a water quality standard.

B. CONTENTS OF THE STORMWATER MANAGEMENT PLAN

The SWMP shall be prepared in accordance with good engineering, hydrologic and pollution control practices. (The SWMP need not be prepared by a registered engineer.) The main objective of the plan shall be to identify Best Management Practices (BMPs) which when implemented will meet the terms and conditions of this permit (see Part I.C., below).

The plan shall identify potential sources of pollution (including sediment) which may reasonably be expected to affect the quality of stormwater discharges associated with construction activity from the facility. In addition, the plan shall describe and ensure the implementation of BMPs which will be used to reduce the pollutants in stormwater discharges associated with construction activity. **Construction operations must implement the provisions of the SWMP required under this part as a condition of this permit.**

The SWMP shall include the following items, at a minimum:

B. CONTENTS OF THE STORMWATER MANAGEMENT PLAN (cont.)

1. **Site Description**

Each plan shall provide a description of the following:

- a) A description of the construction activity.
- b) The proposed sequence for major activities.
- c) Estimates of the total area of the site, and the area of the site that is expected to undergo clearing, excavation or grading.
- d) An estimate of the runoff coefficient of the site before and after construction activities are completed and any existing data describing the soil, soil erosion potential or the quality of any discharge from the site.
- e) A description of the existing vegetation at the site and an estimate of the percent vegetative ground cover.
- f) The location and description of any other potential pollution sources, such as vehicle fueling, storage of fertilizers or chemicals, etc.
- g) The location and description of any anticipated non-stormwater components of the discharge, such as springs and landscape irrigation return flow.
- h) The name of the receiving water(s) and the size, type and location of any outfall or, if the discharge is to a municipal separate storm sewer, the name of that system, the location of the storm sewer discharge, and the ultimate receiving water(s).

2. **Site Map**

Each plan shall provide a generalized site map or maps which indicate:

- construction site boundaries
- all areas of soil disturbance
- areas of cut and fill
- areas used for storage of building materials, soils or wastes
- location of any dedicated asphalt or concrete batch plants
- location of major erosion control facilities or structures
- springs, streams, wetlands and other surface waters
- boundaries of 100-year flood plains, if determined.

3. **BMPs for Stormwater Pollution Prevention**

The plan shall include a narrative description of appropriate controls and measures that will be implemented before and during construction activities at the facility.

The plan shall clearly describe the relationship between the phases of construction and the implementation and maintenance of controls and measures. For example, which controls will be implemented during each of the following stages of construction: clearing and grubbing necessary for perimeter controls, initiation of perimeter controls, remaining clearing and grubbing, road grading, storm drain installation, final grading, stabilization, and removal of control measures.

The description of controls shall address the following minimum components:

- a) **Erosion and Sediment Controls.**
 - 1) Structural Practices. A description of structural site management practices which will minimize erosion and sediment transport. Practices may include, but are not limited to: straw bales, silt fences, earth dikes, drainage swales, sediment traps, subsurface drains, pipe slope drains, inlet protection, outlet protection, gabions, and temporary or permanent sediment basins.
 - 2) Non-Structural Practices. A description of interim and permanent stabilization practices, including site-specific scheduling of the implementation of the practices. Site plans should ensure that existing vegetation is preserved where possible and that disturbed areas are stabilized. Non-structural practices may include, but are not limited to: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, and preservation of mature vegetation.

B. CONTENTS OF THE STORMWATER MANAGEMENT PLAN (cont.)

b) Materials Handling and Spill Prevention.

The SWMP shall identify any procedures or significant materials (see definitions at Part I.D.) handled at the site that could contribute pollutants to runoff. These could include sources such as: exposed storage of building materials, fertilizers or chemicals; waste piles; and equipment maintenance or fueling procedures. Areas or procedures where potential spills can occur shall have spill prevention and response procedures identified.

Measures to control stormwater pollution from dedicated concrete batch plants or dedicated asphalt batch plants covered by this certification, must be identified in the SWMP.

4. Final Stabilization and Longterm Stormwater Management

The plan shall include a description of the measures used to achieve final stabilization and measures to control pollutants in stormwater discharges that will occur **after** construction operations have been completed.

Final stabilization is reached when all soil disturbing activities at the site have been completed, and uniform vegetative cover has been established with a density of at least 70 percent of pre-disturbance levels, or equivalent permanent, physical erosion reduction methods have been employed.

For purposes of this permit, establishment of a vegetative cover capable of providing erosion control equivalent to pre-existing conditions at the site can be considered final stabilization. The permittee will be responsible for providing to the Division the documentation to make this comparison. The Division may, after consultation with the permittee and upon good cause, amend the final stabilization criteria for specific operations.

5. Other Controls

The plan shall include a description of other measures to control pollutants in stormwater discharges, including plans for waste disposal and limiting off-site soil tracking.

6. Inspection and Maintenance

The plan shall include a description of procedures to inspect and maintain in good and effective operating condition the vegetation, erosion and sediment control measures and other protective measures identified in the SWMP.

C. TERMS AND CONDITIONS

1. General Limitations

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

- a) Stormwater discharges from construction activities shall not cause or threaten to cause pollution, contamination or degradation of State waters.
- b) Concrete wash water shall not be discharged to state waters or to storm sewer systems.
- c) Bulk storage structures for petroleum products and other chemicals shall have adequate protection so as to contain all spills and prevent any spilled material from entering State waters.
- d) No chemicals are to be added to the discharge unless permission for the use of a specific chemical is granted by the Division. In granting the use of such chemicals, special conditions and monitoring may be addressed by separate letter.
- e) The Division reserves the right to require sampling and testing, on a case-by-case basis, in the event that there is reason to suspect that compliance with the SWMP is a problem, or to measure the effectiveness of the BMPs in removing pollutants in the effluent. Such monitoring may include Whole Effluent Toxicity testing.

C. TERMS AND CONDITIONS (cont.)

- f) All wastes composed of building materials must be removed from the site for disposal in licensed disposal facilities. No building material wastes or unused building materials shall be buried, dumped, or discharged at the site.
- g) Off-site vehicle tracking of sediments shall be minimized.
- h) All dischargers must comply with the lawful requirements of municipalities, counties, drainage districts and other local agencies regarding any discharges of stormwater to storm drain systems or other water courses under their jurisdiction, including applicable requirements in municipal stormwater management programs developed to comply with CDPS permits. Dischargers must comply with local stormwater management requirements, policies or guidelines including erosion and sediment control.

2. **Prohibition of Non-Stormwater Discharges**

- a) Except as provided in paragraph b, below, **all discharges covered by this permit shall be composed entirely of stormwater**. Discharges of material other than stormwater must be addressed in a separate CDPS permit issued for that discharge.
- b) Discharges from the following sources that are combined with stormwater discharges associated with construction activity may be authorized by this permit, provided that the non-stormwater component of the discharge is identified in the SWMP (see Part I.B.1.g of this permit):
 - fire fighting activities
 - landscape irrigation return flow
 - springs

3. **Releases in Excess of Reportable Quantities**

This permit does not relieve the permittee of the reporting requirements of 40 CFR 110, 40 CFR 117 or 40 CFR 302. Any discharge of hazardous material must be handled in accordance with the Division's Notification Requirements (see Part II.A.3 of the permit).

4. **Stormwater Management Plans**

Prior to commencement of construction, the stormwater management plan (SWMP) shall be implemented for the construction site covered by this permit.

- a) **Signatory Requirements:** The plan shall be signed in accordance with Part I.E.1., with one retained on site.
- b) **SWMP Review/Changes:** The permittee shall amend the plan whenever there is a significant change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the State, or if the SWMP proves to be ineffective in achieving the general objectives of controlling pollutants in stormwater discharges associated with construction activity.

5. **Inspections**

- a) **Active Sites** - For sites where construction has not been completed, the permittee shall make a thorough inspection of their stormwater management system at least every 14 days and after any precipitation or snowmelt event that causes surface erosion.
 - 1) The construction site perimeter, disturbed areas and areas used for material storage that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Erosion and sediment control measures identified in the SWMP shall be observed to ensure that they are operating correctly.

C. TERMS AND CONDITIONS (cont.)

- 2) Based on the results of the inspection, the description of potential pollutant sources, and the pollution prevention and control measures that are identified in the SWMP shall be revised and modified as appropriate as soon as practicable after such inspection. Modifications to control measures shall be implemented in a timely manner, but in no case more than 7 calendar days after the inspection.
- 3) The operator shall keep a record of inspections. Any incidence of non-compliance, such as uncontrolled releases of mud or muddy water or measurable quantities of sediment found off the site, shall be recorded with a brief explanation as to the measures taken to prevent future violations, as well as any measure taken to clean up the sediment that has left the site. After adequate measures have been taken to correct any problems, or where a report does not identify any incidents of non-compliance, the report shall contain a signed certification indicating the site is in compliance. This record shall be made available to the Division upon request.

- b) **Completed Sites** - For sites where all construction activities are completed but final stabilization has not been achieved due to a vegetative cover that has been planted but has not become established, the permittee shall make a thorough inspection of their stormwater management system at least once every month. When site conditions make this schedule impractical, permittees may petition the Division to grant an alternate inspection schedule. These inspections must be conducted in accordance with paragraphs 1), 2), and 3) of Part I.C.5.a. above.
- c) **Winter Conditions** - Inspections, as described above in a) and b), will not be required at sites where snow cover exists over the entire site for an extended period, and melting conditions do not exist. This exemption is applicable *only* during the period where melting conditions do not exist. Regular inspections, as described above, are required at all other times.

6. **Reporting**

No regular reporting requirements are included in this permit; however, the Division reserves the right to request that a copy of the inspection reports be submitted.

7. **SWMP Submittal Upon Request**

Upon request, the permittee shall submit a copy of the SWMP to the Division, EPA or any local agency in charge of approving sediment and erosion plans, grading plans or stormwater management plans.

All SWMPs required under this permit are considered reports that shall be available to the public under Section 308(b) of the CWA. The owner or operator of a facility with stormwater discharges covered by this permit shall make plans available to members of the public upon request, unless the SWMP has been submitted to the Division. However, the permittee may claim any portion of a SWMP as confidential in accordance with 40 CFR Part 2.

D. ADDITIONAL DEFINITIONS

For the purposes of this permit:

1. **BAT and BCT:** (Best Available Technology and Best Conventional Technology) Technology based federal water quality requirements covered under 40 CFR subchapter N.
2. **Best management practices (BMPs):** schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, waste disposal, or drainage from material storage.
3. **Dedicated asphalt plants and concrete plants:** portable asphalt plants and concrete plants that are located on or adjacent to a construction site and that provide materials only to that specific construction site.

D. ADDITIONAL DEFINITIONS (cont.)

4. **Final stabilization:** when all soil disturbing activities at the site have been completed, and uniform vegetative cover has been established with a density of at least 70 percent of pre-disturbance levels, or equivalent permanent, physical erosion reduction methods have been employed. For purposes of this permit, establishment of a vegetative cover capable of providing erosion control equivalent to pre-existing conditions at the site will be considered final stabilization.
5. **Municipal storm sewer system:** a conveyance or system of conveyances (including: roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains), owned or operated by a State, city, town, county, district, or other public body (created by state law), having jurisdiction over disposal of sewage, industrial waste, stormwater, or other wastes; designed or used for collecting or conveying stormwater.
6. **Operator:** the individual who has day-to-day supervision and control of activities occurring at the construction site. This can be the owner, the developer, the general contractor or the agent of one of these parties, in some circumstances. It is anticipated that at different phases of a construction project, different types of parties may satisfy the definition of 'operator' and that the permit may be transferred as the roles change.
7. **Outfall:** a point source at the point where stormwater leaves the construction site and discharges to a receiving water or a stormwater collection system.
8. **Part of a larger common plan of development or sale:** a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.
9. **Point source:** any discernible, confined and discrete conveyance from which pollutants are or may be discharged. Point source discharges of stormwater result from structures which increase the imperviousness of the ground which acts to collect runoff, with runoff being conveyed along the resulting drainage or grading pattern.
10. **Process water:** any water which during manufacturing or processing, comes into contact with or results from the production of any raw material, intermediate product, finished product, by product or waste product. This definition includes mine drainage.
11. **Receiving Water:** any water of the State of Colorado into which stormwater related to construction activities discharges.
12. **Runoff coefficient:** the fraction of total rainfall that will appear as runoff.
13. **Significant Materials** include but are not limited to: raw materials; fuels; materials such as metallic products; hazardous substances designated under section 101(14) of CERCLA; any chemical the facility is required to report pursuant to section 313 of title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharge.
14. **Stormwater:** precipitation-induced surface runoff.
15. **Waters of the state of Colorado:** any and all surface waters that are contained in or flow in or through the state of Colorado. This definition includes all water courses, even if they are usually dry.

E. GENERAL REQUIREMENTS

1. **Signatory Requirements**

- a) All reports required for submittal shall be signed and certified for accuracy by the permittee in accordance with the following criteria:
 - 1) In the case of corporations, by a principal executive officer of at least the level of vice-president or his or her duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge described in the form originates;
 - 2) In the case of a partnership, by a general partner;

E. GENERAL REQUIREMENTS (cont.)

- 3) In the case of a sole proprietorship, by the proprietor;
 - 4) In the case of a municipal, state, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.
- b) **Changes to authorization.** If an authorization under paragraph a) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph a) of this section must be submitted to the Division, prior to or together with any reports, information, or applications to be signed by an authorized representative.
 - c) **Certification.** Any person signing a document under paragraph a) of this section shall make the following certification:

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

2. **Retention of Records**

- a) The permittee shall retain copies of the SWMP and all reports required by this permit and records of all data used to complete the application to be covered by this permit, for a period of at least three years from the date that the site is finally stabilized.
- b) The permittee shall retain a copy of the SWMP required by this permit at the construction site from the date of project initiation to the date of final stabilization, unless another location, specified by the permittee, is approved by the Division.

PART II

A. MANAGEMENT REQUIREMENTS

1. **Change in Discharge**

The permittee shall inform the Division (Permits Unit) in writing of any intent to significantly change activities from those indicated in the permit application (this does not include changes to the SWMP). Upon request, the permittee shall furnish the Division with such plans and specifications which the Division deems reasonably necessary to evaluate the effect on the discharge and receiving stream. The SWMP shall be updated within 30 days of the changes.

The permittee shall submit this notice to the Division within two weeks after making a determination to perform the type of activity referred to in the preceding paragraph.

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

2. **Special Notifications - Definitions**

- a) **Spill:** An unintentional release of solid or liquid material which may cause pollution of state waters.
- b) **Upset:** An exceptional incident in which there is unintentional and temporary noncompliance with permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

A. MANAGEMENT REQUIREMENTS (cont.)

3. **Noncompliance Notification**

- a) If, for any reason, the permittee does not comply with or will be unable to comply with any permit limitations, standards or permit requirements specified in this permit, the permittee shall, at a minimum, provide the Water Quality Control Division and EPA with the following information:
- 1) A description of the discharge and cause of noncompliance;
 - 2) The period of noncompliance, including exact dates and times and/or the anticipated time when the discharge will return to compliance; and
 - 3) Steps being taken to reduce, eliminate, and prevent recurrence of the noncomplying discharge.
- b) The permittee shall report the following instances of noncompliance orally within twenty-four (24) hours from the time the permittee becomes aware of the noncompliance, and shall mail to the Division a written report within five (5) days after becoming aware of the noncompliance (unless otherwise specified by the Division):
- 1) Any instance of noncompliance which may endanger health or the environment;
 - 2) Any spill or discharge of oil or other substance which may cause pollution of the waters of the state.
- c) The permittee shall report all other instances of non-compliance to the Division within 30 days. The reports shall contain the information listed in sub-paragraph (a) of this section.

4. **Submission of Incorrect or Incomplete Information**

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

5. **Bypass**

The bypass of treatment facilities is generally prohibited.

6. **Upsets**

a) **Effect of an Upset**

An upset constitutes an affirmative defense to an action brought for noncompliance with permit limitations and requirements if the requirements of paragraph b of this section are met. (No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.)

b) **Conditions Necessary for a Demonstration of Upset**

A permittee who wishes to establish the affirmative defense of upset shall demonstrate through properly signed contemporaneous operating logs, or other relevant evidence that:

- 1) An upset occurred and that the permittee can identify the specific cause(s) of the upset;
- 2) The permitted facility was at the time being properly operated;
- 3) The permittee submitted notice of the upset as required in Part II.A.3. of this permit (24-hour notice); and

A. MANAGEMENT REQUIREMENTS (cont.)

4) The permittee complied with any remedial measures required under Section 122.7(d) of the federal regulations.

c) **Burden of Proof**

In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

7. **Removed Substances**

Solids, sludges, or other pollutants removed in the course of treatment or control of wastewaters shall be properly disposed of in a manner such as to prevent any pollutant from such materials from entering waters of the State.

8. **Minimization of Adverse Impact**

The permittee shall take all reasonable steps to minimize any adverse impact to waters of the State resulting from noncompliance with any effluent limitations specified in this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

9. **Reduction, Loss, or Failure of Treatment Facility**

The permittee has the duty to halt or reduce any activity if necessary to maintain compliance with the permit requirements. Upon reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control production, or all discharges, or both until the facility is restored or an alternative method of treatment is provided.

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

10. **Proper Operation and Maintenance**

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

B. RESPONSIBILITIES

1. **Inspections and Right to Entry**

The permittee shall allow the Director of the State Water Quality Control Division, the EPA Regional Administrator, and/or their authorized representative, upon the presentation of credentials:

- a) To enter upon the permittee's premises where a regulated facility or activity is located or in which any records are required to be kept under the terms and conditions of this permit;
- b) At reasonable times to have access to and copy any records required to be kept under the terms and conditions of this permit and to inspect any monitoring equipment or monitoring method required in the permit; and
- c) To enter upon the permittee's premises to investigate, within reason, any actual, suspected, or potential source of water pollution, or any violation of the Colorado Water Quality Control Act. The investigation may include, but is not limited to, the following: sampling of any discharge and/or process waters, the taking of photographs, interviewing permittee staff on alleged violations, and access to any and all facilities or areas within the permittee's premises that may have any effect on the discharge, permit, or alleged violation.

B. RESPONSIBILITIES (cont.)

2. **Duty to Provide Information**

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

3. **Transfer of Ownership or Control**

Certification under this permit may be transferred to a new permittee if:

- a) The current permittee notifies the Division in writing when the transfer is desired; and
- b) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage and liability between them; and
- c) The current permittee has met all fee requirements of the State Discharge Permit System Regulations, Section 61.15.

4. **Modification, Suspension, or Revocation of Permit By Division**

All permit modification, inactivation or revocation and reissuance actions shall be subject to the requirements of the State Discharge Permit System Regulations, Sections 61.5(2), 61.5(3), 61.7 and 61.15, 5 C.C.R. 1002-61, except for minor modifications.

- a) This permit, and certification under this permit, may be modified, suspended, or revoked in whole or in part during its term for reasons determined by the Division including, but not limited to, the following:
 - 1) Violation of any terms or conditions of the permit;
 - 2) Obtaining a permit by misrepresentation or failing to disclose any fact which is material to the granting or denial of a permit or to the establishment of terms or conditions of the permit;
 - 3) Materially false or inaccurate statements or information in the application for the permit;
 - 4) Promulgation of toxic effluent standards or prohibitions (including any schedule of compliance specified in such effluent standard or prohibition) which are established under Section 307 of the Clean Water Act, where such a toxic pollutant is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit.
- b) This permit, or certification under this permit, may be modified in whole or in part due to a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge, such as:
 - 1) Promulgation of Water Quality Standards applicable to waters affected by the permitted discharge; or
 - 2) Effluent limitations or other requirements applicable pursuant to the State Act or federal requirements; or
 - 3) Control regulations promulgated; or
 - 4) Data submitted pursuant to Part I.B or Part I.C.1 indicates a potential for violation of adopted Water Quality Standards or stream classifications.

B. RESPONSIBILITIES (cont.)

- c) This permit, or certification under this permit, may be modified in whole or in part to include new effluent limitations and other appropriate conditions where data submitted pursuant to Part I indicates that such effluent limitations and conditions are necessary to ensure compliance with applicable water quality standards and protection of classified uses.
- d) At the request of the permittee, the Division may modify or inactivate certification under this permit if the following conditions are met:
 - 1) In the case of inactivation, the permittee notifies the Division of its intent to inactivate the certification, and certifies that the site has been finally stabilized;
 - 2) In the case of inactivation, the permittee has ceased any and all discharges to state waters and demonstrates to the Division there is no probability of further uncontrolled discharge(s) which may affect waters of the State.
 - 3) The Division finds that the permittee has shown reasonable grounds consistent with the Federal and State statutes and regulations for such modification, amendment or inactivation;
 - 4) Fee requirements of Section 61.15 of State Discharge Permit System Regulations have been met; and
 - 5) Requirements of public notice have been met.

For small construction sites covered by a Qualifying Local Program, coverage under this permit is automatically terminated when a site has been finally stabilized.

5. **Permit Violations**

Failure to comply with any terms and/or conditions of this permit shall be a violation of this permit.

Dischargers of stormwater associated with industrial activity, as defined in the EPA Stormwater Regulation (40 CFR 122.26(b)(14), which do not obtain coverage under this or other Colorado general permits, or under an individual CDPS permit regulating industrial stormwater, will be in violation of the federal Clean Water Act and the Colorado Water Quality Control Act, 25-8-101. Failure to comply with CDPS permit requirements will also constitute a violation. Civil penalties for such violations may be up to \$10,000 per day, and criminal pollution of state waters is punishable by fines of up to \$25,000 per day.

6. **Legal Responsibilities**

The issuance of this permit does not convey any property or water rights in either real or personal property, or stream flows, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

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

7. **Severability**

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

B. RESPONSIBILITIES (cont.)

8. **Renewal Application**

If the permittee desires to continue to discharge, a permit renewal application shall be submitted at least ninety (90) days before this permit expires. If the permittee anticipates that there will be no discharge after the expiration date of this permit, the Division should be promptly notified so that it can inactivate the certification in accordance with Part II.B.4.d.

9. **Confidentiality**

Except for data determined to be confidential under Section 308 of the Federal Clean Water Act and Regulations for the State Discharge Permit System 61.5(4), all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Division. The permittee must state what is confidential at the time of submittal.

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

10. **Fees**

The permittee is required to submit payment of an annual fee as set forth in the Water Quality Control Act. Failure to submit the required fee when due and payable is a violation of the permit and will result in enforcement action pursuant to Section 25-8-601 et. seq., C.R.S. 1973 as amended.

11. **Requiring an Individual CDPS Permit**

The Director may require any owner or operator covered under this permit to apply for and obtain an individual CDPS permit if:

- a) The discharger is not in compliance with the conditions of this general permit;
- b) Conditions or standards have changed so that the discharge no longer qualifies for a general permit; or
- c) Data become available which indicate water quality standards may be violated.

The owner or operator must be notified in writing that an application for an individual CDPS permit is required. When an individual CDPS permit is issued to an owner or operator otherwise covered under this General Permit, the applicability of the general permit to that owner or operator is automatically inactivated upon the effective date of the individual CDPS permit.