



**Colorado Discharge Permit System (CDPS)  
 Fact Sheet for Modification 1  
 CDPS General Permit Number COR070000  
 NON-STANDARD MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)**

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 August 12, 2021

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**I. TYPE OF PERMIT**

- A. Type of Modification:** Modification 1  
Minor Modification, Division - Initiated
- B. Discharge To:** Surface Water - Waters of the State of Colorado

**II. FACILITY INFORMATION**

- A. SIC Code:** 9511-Air, Water, and Solid Waste Management. Several SIC codes apply to specific municipal activities (sewerage systems 4952, water supply 4941, automotive repair shops 7539, transportation services 4789). Note that there is not a clear SIC code for a Municipal Separate Storm Sewer System (MS4), therefore the 9511 code is applied.
- B. Facility Location:** Various Locations - See Part I.A.3 of the Permit

**III. DISCUSSION OF CHANGES MADE AS A RESULT OF THE MODIFICATION**

- Corrections to dates in compliance schedule in Part I.H.
- Deletion of past dated Compliance Schedule Item for prohibiting Class B foams containing PFAS for firefighting training.
- In Part I.I.2, modified the Annual Report coverage periods for first and second years.
- Addition of Part I.I.2.f.iv to correct omitted reporting requirements.
- Addition of omitted language in Part III.B.1.b.i(B).
- Provided clarification to Part III.B.2 on the Barr Lake Milton Reservoir Table 10 that the Datashed will inform the permit certification.
- Correction of typographical and formatting errors.





*Discussion and Background*

**Part I.A.2.B.4, Part I.E.3.a.i(B)8 and I.E.4.a.i(B)9**

A Non-Standard MS4 location that was previously unpermitted and serves less than 1,000 people may obtain a written agreement deferring to the authority of a city, county, or quasi-governmental MS4 entity. Under such an agreement, the Non-Standard MS4 excludes that particular location from its permitted jurisdictional boundary. The MS4 participation agreements are utilized in Parts I.E.3.a.i(B)8 and I.E.4.a.i(B)9 for a Non-Standard MS4 permittee to defer any of their locations to local city and county construction and post-construction requirements. Some Non-Standard MS4's have multiple locations within several different cities and counties. Similarly, transportation MS4s typically have construction and post construction activity that occurs over multiple municipal jurisdictions.

Obtaining written agreements with multiple entities is an important step because it clarifies the responsibilities of Non-Standard and Standard permittees and ensures that Non-Standard MS4s located on state lands are addressed by an MS4 program. However, if the multiple sites are not located on state lands they are subject to local regulations, including building permits, grading and erosion control, and other environmental regulations. In these cases, it is clear that Non-Standard MS4 locations are subject to standard MS4 programs. As follows, it may be unnecessary for these Non-Standard MS4 operators to obtain written agreements because compliance with local stormwater regulations is inherent in the permitting process.

The RTD Transportation Authority proposed to the division that rather than gathering separate MS4 participation agreements from multiple jurisdictions, it would be more efficient to offer the permitting process as a means of demonstrating that the Non-Standard complies with local MS4 construction and post construction requirements. The division agrees and proposes new language allowing a description of an effective legal means or process as an alternative to a written agreement as referenced in the Limitations on Coverage or an MS4 participation agreement referenced in the construction and post construction program exclusions. Such a description will clarify responsibilities between Standard and Non-Standard MS4s to the same extent as a MS4 participation agreement.

The description option is not available for Non-Standard MS4 locations on state lands because cities and counties may lack authority over state lands, thus local stormwater regulations may not apply. For MS4 locations on state lands the operator may still obtain written agreements with cities, counties, or quasi-governmental organizations to defer in accordance with Part I.B.2.B4, Part I.E.3.a.i(B) and I.E.4.ai(B).

**Part I.H - Compliance Schedule**

The division is correcting parts of the compliance schedule in Table 3 and 4 where the indicated number of months following the effective date conflicted with the "completed by" due date. Where the permit had such conflicts, the division selected the later of the two dates. In some cases the Annual Report deliverable dates were adjusted to reflect the deadlines. The corrected dates are shown in the Draft Redline Modification, attached to the fact sheet.

The Compliance schedule in Table 3 and 4 contained Milestones and Deadlines for prohibiting the use of Class B Fire Fighting Foams containing PFAS. Anticipating an earlier permit issuance, the division set this deadline in the second draft permit to correspond to the similar statewide ban. The modification removes the August 2, 2021 compliance deadline because the statewide ban occurred prior to the permit effective date.

**Part I.I.2 - Annual Report**

The division issued the final *General Permit for Non-Standard Municipal Separate Storm Sewer System (MS4) Discharges* on April 30, 2021. Following issuance the division hosted a stakeholder question and answer meeting on May 14, 2021. During the meeting a permittee indicated that the requirement to submit two annual reports during the first year creates extra work for permittees, perhaps unnecessarily considering the second annual report only covers two months. Upon reconsidering the lack of information that would be provided through a second Annual Report in the first year the Division is proposing a draft modification to change the reporting periods for renewal permittees and thus limit Annual Reports submittals to once per year. The draft





modification language requires the first year annual report to cover previous permit conditions from January 1 through October 31, 2021 (eight months) and is due March 10, 2022. The second year Annual Report will report on current permit conditions effective as of November 1, 2021 and will cover the 14-month period of November 1, 2021 through December 31, 2022. The second year Annual Report will be due on March 10, 2023.

Regulation 61.8(11)(a)(vii)(C) specifies the Annual Reporting requirements for Small MS4s as follows:

*The permittee must submit annual reports to the Division for the permittee's first permit term. For subsequent permit terms, the permittee must submit reports in years two and four unless the Division requires more frequent reports.*

As stated, Annual Reports in years two and four is a minimum requirement. The division practice has been to require annual reports once per year to reflect permit conditions. Annual Reports provide information on several aspects of program implementation including the status of compliance with permit conditions. The April 30, 2021 issuance of the COR07000 permit would require permittees to report two sets of permit requirements in year 1 one: those of the previous permit which reflects an 8 month period and those of the current permit, which reflects a period of only two months. With the exception of typographical errors that are also corrected in this modification, compliance schedule dates in Part I.H fall after December 31, 2021, thus there would be little information for permittees to report for the two month period in 2021. As such, the division is shortening the reporting period to 10 months for the Annual Report due March 10, 2022 and is lengthening the reporting period to 14 months for the Annual Report due March 10, 2023. For this permit, adjustment of the reporting periods will not impact the Division's ability to determine compliance.

The division's fees for MS4 permits is based on population served by the permittee. Renewal permittees reported this information in their 2012 re-applications. Since then, many of the renewal permittees are evaluating their permit option to omit new, smaller MS4 locations that were previously not included in the permit area as allowed in Part I of the permit. The division anticipated that permittees would have been unable to finalize the agreements before the division's next billing date. As such, the division did not request updated information on population served. In order to provide a mechanism to obtain this information for the 2022 billing cycle, the division is adding a requirement to provide this information in the first year annual report. The report form will include guidance on determining the permitted area population. This allows permittees time to simplify their permit requirements by collaborating with city, county, and quasi-governmental MS4s and thereby reduce the fees.

**Addition of Part I.I.2.f.iv(D)**

Annual Report information is one way the division assesses compliance with permit conditions. Under the post-construction program requirements in Part I.E.4.a.i, a permittee may be excluded from Part I.E.4.requirements, except for recordkeeping, if they have an MS4 participation agreement. Under the recordkeeping requirements in Part I.E.4.b, permittees remains responsible for maintaining records of construction program implementation, including activities conducted by a standard MS4 under the agreement. Part I.I.2.f.iv contains annual report requirements for the Post Construction program, but it does not mention whether or not *reporting* of records is required for areas where the permittee utilizes the exclusion in Part I.E.4.a.i. To correct this, the division is adding an annual report requirement that clarifies reporting requirements for permittees using the exclusion under Part I.E.4.a. The clarifying requirement specifies that in cases where there is an exclusion under Part I.E.4.a.i, the reporting requirements in Part I.E.4.b.2.f.iv(A) through (C) must be reported if this information is produced from the city, county or quasi-governmental organization's program. This language is parallel to annual report requirements under the construction program and is necessary for the division to assess compliance with post construction program requirements.

**Part III.B.1.b.i(B)**

Parts III.B.1.a.i(B), b.i(B), c.i(B) and d.i(B) require that facilities subject to E. coli TMDLs clean storm sewer pipes once per permit term. Based on comments received following the second draft permit the division added an option for permittees to reduce the required pipe cleaning if they perform strategic sampling to determine segments with E. coli concentrations above the water quality standard. In lieu of cleaning the entire pipe system, Parts III.B.1.a.i(B), c.i(B), and d.i(B) of the permit allow the permittee to conduct sampling to isolate portions of the system for which E. coli is above the water quality standard of 126 cfu/100 mL and then limit





pipe cleaning to these sections only. In Part III.B.1.b.i(B) (Big Dry Creek TMDL) the division inadvertently omitted part of the sentence allowing this. The proposed modification adds the omitted text so that it is consistent with other three TMDL subsections containing permit requirements for pipe cleaning (Boulder Creek segment 2, South Platte River segment 14, and Wildhorse Creek TMDL).

**Part III.B.1.d.ii**

The modification corrects a format error by changing the level of Part III.B.1.d.i(D) to III.B.1.d.ii.

**Part III.B.2**

The proposed modification to Table 10 of Part III.B.2 adds a footnote clarifying that the TMDL applies only to the portions of the listed segments that are within the Datashed defined in the Barr Milton Watershed TMDL. Barr Lake and Milton Reservoir are *off-channel* water bodies, meaning that they are fed via man-made canals, ditches, and pipelines in addition to natural channels. As such, some waterbodies, such as the South Platte mainstem feed into Barr and Milton only via man-made canals and ditches. The TMDL assigns wasteload allocations within a “Datashed”, which consists of a lower portion of the Barr Milton watershed. Table 10 denotes permittees that are located within the Datashed and lists the receiving water segment that is also within the Datashed. Some stream segments consist of multiple tributaries to a mainstem. However, not all of the water from the watershed or stream segments listed in Table 10 pass through Barr Lake and Milton Reservoir. Following permit issuance, one permittee pointed out they may have outfalls to a segment in Table 10 at a location that does not feed either to Barr Lake or Milton Reservoir.

The division’s intent was to require dry weather monitoring of discharges that fed into the lake/reservoir and to specify monitoring requirements as applicable in permit certifications. Part III.EC.2.f states “Where the permittee’s certification requires phosphorus monitoring, the permittee must conduct dry weather outfall (i.e., direct discharge to state water) monitoring...”. The footnote added to Table 10 helps to clarify that some of the permittee’s discharges to the stream segment might not be subject to dry-weather monitoring requirements and will not necessarily be included in the permit certification.

**Part III.C.2.f**

The proposed modification corrects a typographical error in Part III.C.2.f that inadvertently refers to “E. coli” rather than phosphorus.

**Miscellaneous minor typographical errors**

Throughout the proposed modified permit the division has corrected minor typographical errors as shown in redline. In addition, the division has corrected minor typos in the original fact sheet, such as removing Adams 5 star schools from Table 10. The corrections do not change the meaning of the requirements.

*Conclusions*

All the proposed modifications previously described are cosmetic, clarifying, or administrative and will not result in a water quality impact. Because the modifications are to correct typographical and technical mistakes and would not result in a lowering of water quality they are consistent with requirements in Sections 61.8.8(b)(i) and 61.10.

**IV. OPPORTUNITIES FOR PUBLIC COMMENT AND ADMINISTRATIVE ADJUDICATION**

**1. Opportunity to Submit Public Comment on the Draft Permit Modification**

Interested persons may submit written comments to the Division on items within the scope of this draft permit modification and fact sheet during the term of the public comment period. Note that if you do not identify an issue in comments on the draft permit modification, you may not be allowed to raise that issue in an administrative adjudication.

**2. Opportunity to Request an Extension to the Public Comment Period**

Interested persons may also request an extension of the comment period. This should be a stand-alone request via email or letter to the permit writer during the duration of the public comment period. The request should include specific reasons why the extension is needed.





**3. Opportunity to Request a Responsive Public Comment Period**

Interested persons may also request a responsive period of public comment in which any person may file a written response to the material filed by any other person during the comment period. This should be a standalone request via email or letter to the permit writer during the duration of the public comment period or within 10 days of the close of the public comment period. If the division grants a responsive comment period, there will also be a 10-day rebuttal period immediately following the close of the deadline for responsive comments. Filing of rebuttal comments is optional.

**4. Opportunity 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 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 in this request for an adjudicatory hearing constitutes consent to the condition by the permittee.

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

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, like this proposed permit modification:

- (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 draft fact sheet constitutes the draft statement of basis and purpose explaining the need for the proposed modification; the final fact sheet and responses to comments 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, and 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.

**VI. PUBLIC NOTICE COMMENTS**

Pending public comment period.





CDPS GENERAL PERMIT COR070000  
STORMWATER DISCHARGES ASSOCIATED WITH  
**NON-STANDARD MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s)**  
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 all discharges from municipal separate storm sewer systems 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 entity listed in the certification to discharge as of the effective dates stated on the certification, in accordance with pollutant restrictions, prohibitions, and reduction requirements and monitoring requirements and other conditions set forth in Parts I, II and III hereof. All discharges authorized herein shall be consistent with the terms and conditions of this permit.

The applicant may demand an adjudicatory hearing within 30 days of the date of issuance of the final permit determination, per the Colorado Discharge Permit System Regulations, 61.7(1). Should the applicant choose to contest any of the pollutant restrictions, prohibitions, and reduction requirements monitoring requirements or other conditions contained herein, the applicant must comply with Section 24-4-104 CRS and the Colorado Discharge Permit System Regulations. Failure to contest any such pollutant restriction, prohibition, and reduction requirement, monitoring requirement, or other condition, constitutes consent to the permit condition and related permit certification condition(s) by the Applicant.

This permit and the authorization to discharge shall expire at midnight on October 31, 2026.

Issued and Signed this 30<sup>th</sup> day of April, 2021, Effective November 1, 2021.

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Meg Parish  
Section Manager  
Water Quality Control Division

**PERMIT ACTION SUMMARY:**

Modification 1 issued xx/xx/xxxx

Originally Issued and Signed April 30, 2021.

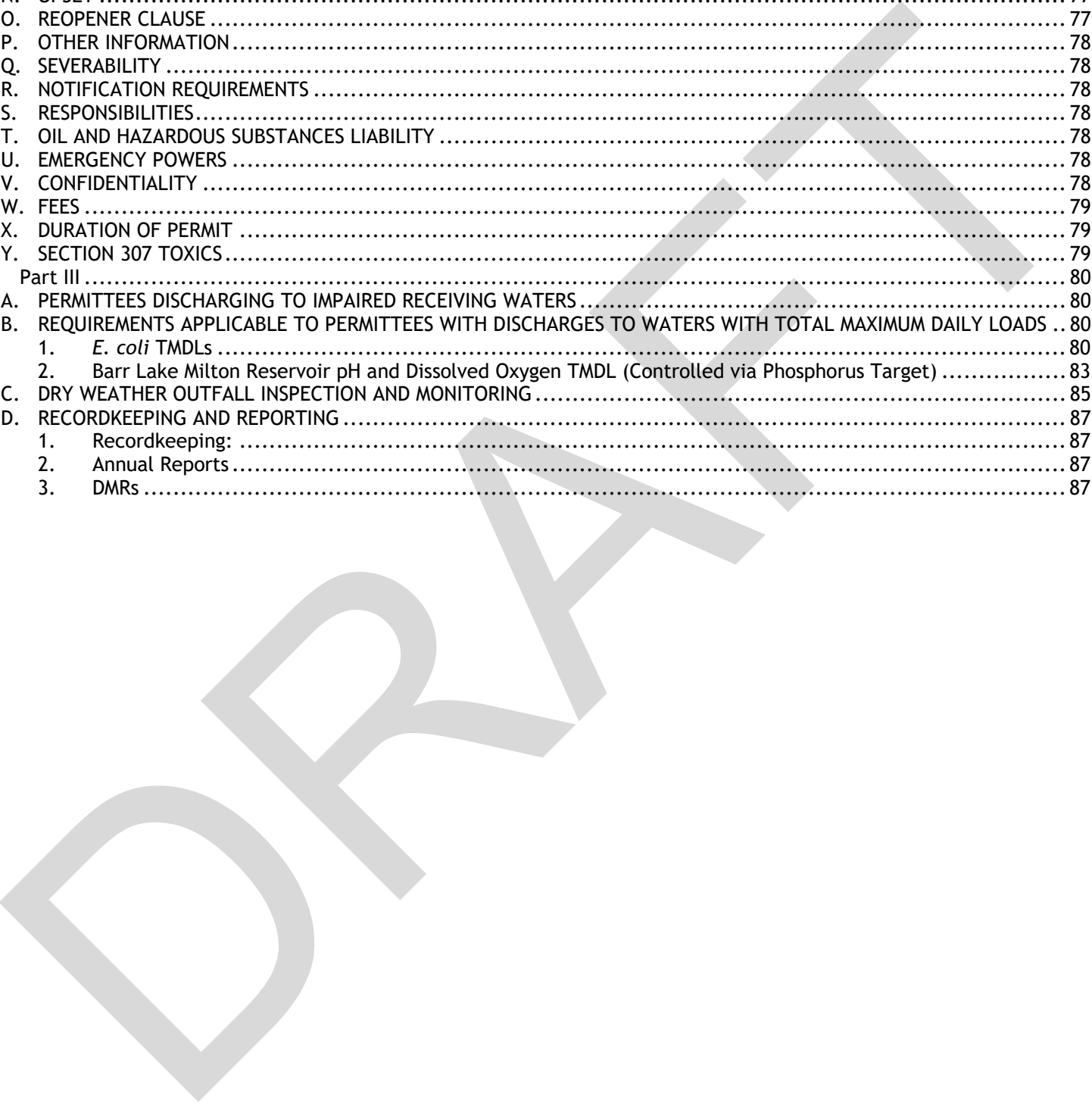
NON-STANDARD MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s)

COR070000

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## Part I

### A. COVERAGE UNDER THIS PERMIT

#### 1. Discharges Authorized Under this Permit

This permit authorizes [discharges](#) from the permittee's regulated [small municipal separate storm sewer system\(s\)](#) (MS4s) located within the jurisdictional boundary and as identified in the permit certification.

This permit covers discharges from small MS4s that are regulated under the Colorado Discharge Permit Regulation 61.3(2)(f)(iii) and (v). This permit is for coverage of entities that own or operate an [MS4](#) (i.e., non-standard MS4s) and are not cities or counties.

#### 2. Limitations on Coverage

- a. This permit in no way removes or modifies the responsibility for an [owner](#) or [operator](#) with control of the facility or activity from which the discharge originates to obtain separate CDPS or NPDES permit coverage or report when required in accordance with the Colorado Water Quality Control Act, Regulation 5 CCR 1002-61.
- b. Discharges that meet any of the following conditions, at the time of the effective date of the permit authorization, are not eligible for coverage under this permit:
  - i. The following are excluded from being part of the MS4: discharges from conveyances for which the flow is irrigation return flow, agricultural stormwater runoff, or a combination thereof; or water that is used for supplying irrigation water to irrigated land. [Irrigation return flow](#) is tailwater, tile drainage, or surfaced groundwater flow from irrigated land. Irrigation return flow (which includes surface and subsurface water that leaves a crop field following irrigation of that field) and agricultural stormwater runoff do not require NPDES permits, as they are exempted from the Clean Water Act.
  - ii. A permittee has the option to exclude from coverage under this permit portions of the MS4 where the flow is a combination of stormwater and irrigation return flow, and the majority of the flow is irrigation return flow or agricultural stormwater runoff. To exclude these portions of the MS4 from coverage under this permit: 1) the permittee must identify these areas in the permittee's application or a subsequent application supplement; and 2) these portions of the MS4 must be listed in the permit certification issued by the Water Quality Control Division (division).
  - iii. The discharge is to a receiving water designated as [outstanding waters](#), in accordance with Section 31.8(a) of Regulation 31. Outstanding waters is a type of designation.
  - iv. A permittee may exclude a previously unpermitted portion of their MS4 if that MS4 portion serves a maximum daily user population of less than 1,000 and the non-standard MS4 provides the division with assurance that the non-standard MS4 will abide by city, county, or quasi-governmental organization acting on behalf of a city or county, MS4 program requirements. To exclude these portions of the MS4 from coverage under this permit: 1), the permittee must identify in the permittee's application or a subsequent application supplement the portions of the MS4 which will be subject to the city, county, or quasi-governmental MS4 program and 2) the permittee must provide a written agreement in the permittee's application or a subsequent application supplement. The agreement must be signed by both the non-standard MS4 and the city, county, or quasi-governmental MS4 permittee and must acknowledge that the non-standard MS4 owner/operator agrees to abide by the city, county, or quasi-governmental MS4 program, including acceptance of enforcement authority.

[In lieu of a written, signed agreement the permittee may provide documentation to the division that the city, county, or quasi-governmental MS4 entity has sufficient authority to implement and enforce their local illicit discharge, construction and post-construction programs, and regulatory mechanism within the MS4 jurisdictional boundary and actively does so. Documentation may consist of a process description such as issuance of a local grading and erosion control permit. Documentation must include a description of how the Non-standard MS4 is legally held to the city, county, or quasi-governmental MS4 permittee's local construction stormwater program requirements.](#)

#### 3. Jurisdictional Boundary

This permit covers all areas designated by the division within the boundaries of the permittee identified area in the certification that are served by, or contribute to, municipal separate storm sewers owned or operated by the permittee that discharge to state waters. The certification issued to each permittee will specify the jurisdictional boundary. However, within the jurisdictional boundary only activities within the implementation authority of the permittee are subject to the permit.

- a. In accordance with [Part I.H](#), compliance with permit requirements shall begin immediately for areas that meet the jurisdictional boundary description through expansion of the permittee's boundaries or infrastructure. Areas removed from a permittee's jurisdictional boundary, such as through annexation or incorporation by a separate [municipality](#), are removed from permit coverage at the time of the transfer of the area.

#### 4. Application for New and Renewal Applicants

The applicant shall apply for certification under this general permit by submitting an application with the content required by the division at least 180 days before the anticipated date of required permit coverage.

The application in its entirety shall be submitted to:

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

Following review of the application, the division will determine if information is sufficient to issue a certification. Alternatively, the division may request additional information or deny the authorization to discharge under this general permit. If the division determines that an applicant does not fall under the scope of the general permit, then the information received may be processed for an individual permit. The applicant also may apply for coverage under an alternative general permit. The applicant shall be notified of the division's determination. The certification may be revoked if during the renewal process, the division determines that the applicant no longer qualifies for the general permit. The applicant also may be allowed to discharge under the general permit with additional terms and conditions in the amended certification until an individual permit or alternative general permit is issued. The permittee is authorized to discharge upon the division's issuance of a certification under this permit.

A permittee desiring continued coverage under this general permit must reapply at least 180 days in advance of this permit expiration. If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued and remain in force and effect. Any discharges authorized under this permit will automatically remain covered by this permit if a permittee was authorized to discharge under this permit prior to the expiration date until the earliest of the following:

- a. Authorization for coverage under a reissued permit or a replacement of this permit following the timely and appropriate submittal of a complete application requesting authorization to discharge under the new permit and compliance with the requirements of the application.
- b. The issuance and effect of a permit or permit certification termination issued by the division.
- c. The issuance or denial of an individual permit for the facility's discharges.
- d. A formal permit decision by the division not to reissue this general permit, at which time the division will identify a reasonable time period for covered dischargers to seek coverage under an alternative general permit or an individual permit. Coverage under this permit will cease when coverage under another permit is granted/authorized.
- e. The division has informed the permittee that they are no longer covered under this permit.

#### 5. Local Agency Authority

Nothing in this permit shall be construed to limit a local government's authority to impose land-use or zoning requirements or other limitations on the activities subject to this permit. This permit does not authorize any injury to person or property or any invasion of personal rights, nor does it authorize the infringement of federal, state, or local laws or regulations. To the [maximum extent allowable under state or local law](#), the permittee must implement [regulatory mechanisms](#) to meet the requirements in this permit.

#### 6. Permit Compliance

The permittee shall comply with all the terms and conditions of this permit. Violation of the terms and conditions specified in this permit may be subject to civil and criminal liability pursuant to the Colorado Water Quality Control Act, sections 25-8-601 through 612, C.R.S. Correcting a permit violation does not remove the original violation.

#### 7. Cherry Creek Watershed Requirements

This permit includes terms and conditions for regulated MS4s in the Cherry Creek watershed. Within this

permit, “Cherry Creek watershed” refers only to specific areas in the upper portion of the watershed as defined in Regulation 72.2.4. As per the Cherry Creek Reservoir Control Regulation (5 CCR 1002-72), additional requirements are included in the Public Education Program, Construction Program and Post-construction Program (also known as the New Development and Redevelopment Program). Requirements in the Cherry Creek Reservoir Control Regulation are in addition to (not a replacement of) requirements in Colorado Discharge permit System (Regulation 61).

## B. CONTROL MEASURES

The following requirements apply to all [control measures](#) used to achieve the [effluent limitations](#) in this permit.

### 1. Good Engineering, Hydrologic and Pollution Control Practices:

Control measures must be selected, designed, installed, implemented, and maintained in accordance with [good engineering, hydrologic, and pollution control practices](#) and the manufacturer’s specifications, when applicable.

### 2. Maintenance:

Control measures must be maintained in effective operating condition.

### 3. Inadequate Control Measures:

A control measure shall be considered an [inadequate control measure](#) if it is not designed or implemented in accordance with the requirements of the permit, including the specific requirements in each program area in [Part I.E](#) or requirements for specific permittees in [Part III](#). A control measure shall also be considered an inadequate control measure if it is not implemented and maintained to operate in accordance with the design.

### 4. Control Measure Requiring Routine Maintenance:

A control measure shall be considered a [control measure requiring routine maintenance](#) if it is still operating in accordance with its design and the requirements of this permit, but requires maintenance to prevent potential failure during a future runoff event.

### 5. Minimize:

The term [minimize](#), for purposes of implementing control measures of this permit, means reduce and/or eliminate to the extent achievable using control measures that are technologically available and economically practicable and achievable in light of best industry practices.

## C. PROGRAM DESCRIPTION DOCUMENT

### 1. Development and Maintenance

The permittee must develop and maintain records in the form of a program description document (PDD). PDD information must be maintained to reflect current implementation. The PDD does not need to be submitted or approved by the division, unless specifically requested by the division. The PDD must include the following:

- a. Current Control Measure Implementation and Procedures: The specific PDD content required by [Parts I.D.](#), [I.E.](#) and [III](#) that describes how the requirements of [Parts I.D.](#), [I.E.](#) and [III](#) are met. Requirements subject to a compliance schedule do not need to be addressed in the PDD until the due date in the compliance schedule in [Part I.H.](#)
- b. Current Documents and Electronic Records: A list of citations for documents and electronic records used to comply with permit requirements. It is not required that the PDD repeat the information included in the cited documents. The PDD must include the names of the most recent version of the documents, date of the document, and location(s) where the supporting documentation is maintained.
- c. Current Organizational Chart: An organizational chart indicating responsibility over applicable departments by the legal contact.

### 2. Availability:

The PDDs must be available to the division within a reasonable time, upon division request.

### 3. Modification:

Information in the PDD may be revised by the permittee at any time. The permittee must modify the PDD as changes occur to ensure that the information is up to date.

## D. PUBLIC INVOLVEMENT/PARTICIPATION

### 1. Public Involvement and Participation Process

The permittee must implement and document a Public Involvement and Participation process that complies with public notice requirements for actions conducted, when applicable, to comply with this permit. The following requirements apply:

- a. The permittee must follow its own public notice requirements to provide opportunities for public involvement that reach a majority of the public and staff within the permittee's jurisdictional boundary through the notification process.
- b. The permittee shall provide a mechanism and process that allows for review of the PDD by the public without charge, which may be met by providing electronic copies via electronic mail or posting it on a public website for download. In addition, the permittee's website must provide a statement that the PDD is publicly available for review and comment. PDDs available to the public must reflect all updates made prior to the previous 30 days.
- c. The permittee must have the ability to accept and respond (in accordance with permit requirements) to information submitted by the public, including but not limited to information on [illicit discharges](#) or failure to implement or meet control measure requirements associated with [applicable construction activities](#), [applicable development sites](#), or permittee operations.

## 2. Recordkeeping:

The permittee must maintain the following records for activities to meet the requirements of [Part I.D.](#) and [Part I.K.2.](#):

- a. Copies of the documents used to provide public notice and any public comment received as part of the public notice process.
- b. Documentation of the mechanism used to allow the public to provide input.
- c. Records of information submitted by the public in accordance with [Part I.D.1.c](#) and any actions the permittee took to address the information.

## E. EFFLUENT LIMITATIONS AND RECORDKEEPING

Pollutant restrictions, prohibitions, reduction requirements and recordkeeping required by the permit are listed below. All control measures must be implemented before the discharge from the MS4.

The permittee must implement its current stormwater management program until a new or revised program is implemented in accordance with the requirements and compliance schedule in this permit.

Included in this section are requirements for the permittee to develop and maintain records (Recordkeeping Requirements) associated with the terms and conditions of this section.

### 1. Public Education and Outreach

The permittee must implement a public education program to promote behavior change by the public to reduce in discharges from the MS4. Education and outreach activities, individually or as a whole, must address the impacts of stormwater discharges on water bodies, the steps the target audience can take to reduce pollutants in stormwater runoff, and water quality impacts associated with illicit discharges and improper disposal of waste.

- a. The following requirements apply:
  - i. Illicit Discharges: The permittee must provide information to businesses (which may include population, vendors, concessionaires, tenants, and contractors), if present, and the general public of impacts associated with illegal discharges and improper disposal of waste. The permittee can meet the requirements of this section through contribution to a collaborative program to evaluate, identify, target, and provide education and outreach that meet the requirements of this section. The permittee may incorporate the education and outreach to meet this requirement into the education and outreach strategies provided in accordance with [Part I.E.1.a.ii](#). The information must be provided as follows:
    - (A) The permittee must determine the targeted businesses (which may include the vendors, concessionaires, tenants, or contractors), that are likely to cause an illicit discharge or improperly dispose of waste. At a minimum, the permittee must identify at least one type of targeted business, if present.
    - (B) The permittee must develop and implement at least one education and outreach activity to one or more targeted user populations, businesses, vendors, concessionaires, tenants or contractors identified in [Part I.E.1.a.i.\(A\)](#). Educational materials and activities, individually or as a whole, must describe water quality impacts associated with illicit discharges and the improper disposal of

waste, the behaviors of concern, and actions that the vendor, concessionaire, tenant, contractor or general public can take to reduce the likelihood of illicit discharges and the improper disposal of waste.

- ii. Education and Outreach Activities Table: Each calendar year, the permittee must implement at least four education and outreach activities (bulleted items) and at least two must be from the Active and Interactive Outreach column. The activities can be the same from year to year or be different each year. The permittee can meet the requirements of this section through contribution to a collaborative program to evaluate, identify, target, and provide education and outreach that meet the requirements of this section.

<b>TABLE 1 Education and Outreach Activities Table</b>	
Passive Outreach	Active and Interactive Outreach (pick any two bullets each year)
<ul style="list-style-type: none"> <li>• Provide a bus shelter/bench advertisement on at least one bench.</li> <li>• Provide a billboard/dasher board advertisement on at least one billboard/dasher board.</li> <li>• Provide a vehicle/bus advertisement on at least 3 busses.</li> <li>• Provide radio/television/movie theatre advertisement.</li> <li>• Publish newspaper advertisement in at least two issues.</li> <li>• Distribute educational materials by brochure, door hanger or email to at least 50 percent of the user population.</li> <li>• Distribute educational materials by fact sheet to at least 50 percent of the user population.</li> <li>• Distribute educational material by utility bill insert to at least 50 percent of the user population.</li> <li>• Publish article (hard copy or electronic).</li> <li>• Provide storm drain marking by permittee staff that maintains 25% of permittee maintained inlets.</li> <li>• Provide stormwater related signage.</li> <li>• Provide a website.</li> <li>• Social media advertisement for a minimum of 1 month.</li> </ul>	<ul style="list-style-type: none"> <li>• Provide ongoing advertisement/promotion of a stormwater hotline number or other method to report an illicit discharge</li> <li>• Provide ongoing advertisement/promotion on how to get more information about the stormwater program</li> <li>• Provide an ongoing social media program</li> <li>• Provide a website that is interactive or contains stormwater information that includes actions that can be taken to reduce stormwater <a href="#">pollution</a>.</li> <li>• Provide two newsletters (hard copy or electronic).</li> <li>• Promote an existing local stormwater/environmental events or program that helps protect water quality.</li> <li>• Distribute promotional items or giveaways.</li> <li>• Participate in or sponsor a water festival which involves populations that exist within the permit boundary.</li> <li>• Participate in or sponsor a waterway clean-up and trash removal event.</li> <li>• Participate in or sponsor a service project.</li> <li>• Participate in or sponsor a stormwater or environmental presentation.</li> <li>• Participate in or sponsor a stormwater or environmental event.</li> <li>• Participate in or sponsor community project based programs that investigate watershed health and meet applicable school Science, Technology, Engineering and Math (STEM) standards.</li> <li>• Participate in or sponsor a household hazardous waste event.</li> <li>• Participate in or sponsor an Adopt-a-Street program.</li> <li>• Participate in or sponsor an Adopt-a-Waterway program.</li> <li>• Participate in or sponsor an Adopt-a-Storm Drain program.</li> <li>• Provide ongoing access to motor vehicle fluids recycling program.</li> <li>• Participate in a stormwater booth at a community event.</li> </ul>

**TABLE 1  
Education and Outreach Activities Table**

	<ul style="list-style-type: none"> <li>• Conduct a stormwater survey.</li> <li>• Sponsor a storm drain marking program performed by the public/community.</li> <li>• Provide pet waste stations.</li> <li>• Participate in, plan, or present stormwater materials to schools.</li> <li>• Provide stormwater demonstration projects that show control measures or other pollutant reduction methods.</li> <li>• Include information and links for stormwater regulations when soliciting construction contractors.</li> <li>• Participate in or sponsor a poster contest.</li> <li>• Ongoing social media campaign.</li> </ul>
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- iii. Nutrients: As part of their public education program, the permittee must specifically address the reduction of water quality impacts associated with nitrogen and phosphorus in discharges from the MS4. This program component must address both pollutants: nitrogen and phosphorus. Permittees can meet the requirements of this section through contribution to a collaborative program to evaluate, identify, target, and provide education and outreach that addresses sources state-wide or within the specific region or watershed that includes the receiving waters impacted by the MS4 permittee's discharge.
- (A) For both nitrogen and phosphorus, the permittee must determine the targeted sources (e.g., residential, industrial, agricultural, or commercial) that are contributing to, or have the potential to contribute these constituents to the waters receiving the discharge authorized under the MS4 permit. Targeted sources may include but are not limited to the use of deicers containing phosphorus, application of fertilizers, and pet waste.
- (B) The permittee must prioritize which targeted sources are likely to obtain a reduction in nutrient discharges through education and outreach. The permittee must distribute educational materials or equivalent outreach to the prioritized targeted sources. Educational materials or equivalent outreach, individually or as a whole, must describe stormwater quality impacts associated with nitrogen and phosphorus in stormwater runoff and illicit discharges, the behaviors of concern, and actions that the target source can take to reduce nutrients. Examples of education efforts includes: encouraging responsible fertilizer application, encouraging xeriscaping, proper disposal of leaves and lawn waste, and evaluating alternatives to deicers containing phosphorus.
- (C) The permittee may incorporate the education and outreach to meet this requirement into the education and outreach activities provided in accordance with [Part I.E.1.a.ii](#).
- iv. Cherry Creek Watershed Requirements
- The following requirements in [Part I.E.1.a.iv](#) **apply only to permittees within the Cherry Creek Watershed** and apply in addition to the above requirements in [Part I.E.1.a.i](#) through iii:
- (A) As part of their public education program, the permittee must specifically focus on residential, industrial, agricultural, and/or commercial sources that have the potential to contribute significant nutrient concentrations to state waters at a rate that could result in or threaten to result in exceedance of the chlorophyll a standard in Cherry Creek Reservoir. Permittees can meet the requirements of this section through contribution to a collaborative program to evaluate, identify, target, and provide outreach that addresses sources state-wide or within the specific region or watershed that includes the receiving waters impacted by the MS4 permittee's discharge.
- 1) The permittee must determine the targeted sources (e.g., residential, industrial, agricultural, or commercial) that are contributing to, or have the potential to contribute, nutrient concentrations to state waters at a rate that could result in or threaten to result in exceedance of the chlorophyll a standard in the Cherry Creek Reservoir. Examples of sources that may need to be addressed by the permittee's program include chemical deicing, residential fertilizer,

retailers with outdoor storage of fertilizers, concentrated agricultural activities such as turf farms and landscape plant facilities, and animal feeding operations.

- 2) The permittee must distribute educational materials to the targeted sources.
  - 3) Public education activities to meet this requirement in [Part I.E.1.a.iv](#) may be used to satisfy other public education requirements in [Part I.E.1.a.i](#) through iii, provided all requirements in [Part I.E.1.a.i, ii, iii, and iv](#) are met.
- b. Recordkeeping: The permittee must maintain the following records for activities to meet the requirements of [Part I.E.1](#) and [Part I.K.2](#):
- i. Illicit Discharges: A written list of the targeted user population group (e.g., park users; specified type of vendors, concessionaires, tenants, and contractors) and the distribution mechanism for each activity and the following:
    - (A) Dates the activities were implemented, including, as applicable, dates of events and the materials that were made available.
    - (B) Documentation of the activities that were provided and/or made available and the dates of distribution. Signs, markers, or equivalent intended to be maintained for the permit term must be described with location information.
  - ii. Education and Outreach Activities: A written list of the targeted pollutant sources and/or pollutants, the target audience, and distribution mechanism for each activity and the following:
    - (A) Dates the activities were implemented, including, as applicable, dates of events and the materials that were made available.
    - (B) Documentation of the activities that were provided and/or made available and the dates of distribution. Signs, markers, or equivalent intended to be maintained for the permit term must be described with location information.
  - iii. Nutrients: A written list of the targeted sources that are contributing to, or have the potential to contribute nutrients to stormwater and the education and outreach activity for nitrogen and phosphorus sources.
  - iv. Cherry Creek Drainage Basin Public Education: A written list of the targeted sources (residential, industrial, agricultural, or commercial) that have the potential to contribute substantial nutrient concentrations to state waters at a rate that could result in or threaten to result in exceedance of the chlorophyll a standard in Cherry Creek.
    - (A) The permittee must document and maintain records of dates that materials to address targeted sources in [Part I.E.1.a.iv\(A\)](#) were made available.
    - (B) If participating in a collaborative program, the permittee must maintain documentation of participation in activities that address the targeted sources in [Part I.E.1.a.iv\(A\)](#), including dates that materials to address targeted sources in [Part I.E.1.a.iv\(A\)](#) were made available.

## 2. Illicit Discharge Detection and Elimination

The permittee must implement a program to effectively prohibit illicit discharges.

- a. The following requirements apply:
  - i. Storm Sewer System Map: The permittee shall maintain a current map of the location of all MS4 outfalls within the jurisdictional boundary, interconnections with other MS4s, and the names and location of all state waters that receive discharges from those outfalls.
  - ii. Regulatory Mechanism: To the extent allowable under state or local law, the permittee must implement a regulatory mechanism to meet the requirements in [Part I.E.2.a](#). “To the extent allowable under state or local law” is a standard of implementation of permit requirements and refers to the extent that the permittee is not constrained by state or local laws. Local laws, standard operating procedures, contracts, and other documents that can be legally changed by the permittee to allow implementation of permit requirements do not constitute a barrier to implementation of a permit requirement. The permittee’s regulatory mechanism must:
    - (A) Prohibit illicit discharges into the MS4 unless excluded from being effectively prohibited in accordance with [Part I.E.2.a.v](#);

- (B) Have a procedure to request access to property(ies), as necessary to implement the illicit discharges procedures; and
- (C) Provide the permittee the legal ability to cease or require to be ceased and remove, or require and ensure the removal of, and impose penalties for all illicit discharges for the period from when the illicit discharge is identified until removed.
- iii. Regulatory Mechanism Exemptions: The permittee must implement procedures to ensure that any exclusions, exemptions, waivers, or variances included in the regulatory mechanism are applied in a manner that complies with the terms and conditions of this permit.
- iv. Tracing an Illicit Discharge: The permittee must implement procedures as soon as possible, but within 72 hours, to respond to reports/identification of illicit discharges. Except as related to dry weather monitoring for total maximum daily loads (TMDLs) required under Part III, the permittee is not expected to actively seek out unreported illicit discharges, but is required to identify and respond to illicit discharges observed during all work activities. All reported /known illicit discharges must be investigated; however investigation is only required to take place during normal work hours. The permittee must document and implement procedures, including the tools needed, to trace the source of an illicit discharge when identified within the MS4. This may include contacting the division to identify unpermitted discharges of groundwater that do not meet water quality standards.
- v. Discharges that Could be Excluded from Being Effectively Prohibited: The following discharges do not need to be effectively prohibited and the permittee is not required to address the discharges as illicit discharges in accordance with the requirements of this permit. The permittee must list all discharges excluded from being effectively prohibited in their regulatory mechanism as an allowable non stormwater discharge. Any discharges listed below that are not listed in the permittee's regulatory mechanism must be effectively prohibited.
  - (A) Landscape irrigation
  - (B) Lawn watering
  - (C) Diverted stream flows
  - (D) Irrigation return flow
  - (E) Rising ground waters
  - (F) Uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers.
  - (G) Uncontaminated pumped groundwater

Note: This permit is not prescriptive in how the permittee makes the determination that groundwater is uncontaminated. Note that all dischargers of groundwater (contaminated and uncontaminated) to surface waters of the state must obtain authorization to discharge under a CDPS or NPDES permit (see Part V below) or under a division policy, like Water Quality Policy [WQP] 27 - Low Risk Discharges). Examples of regulated discharges of uncontaminated pumped groundwater include but are not limited to discharges from construction dewatering activities, subterranean dewatering activities, and well development activities.

Residential Structures: The permittee may assume that subterranean or foundation dewatering discharges from residential structures including single family homes, duplexes and triplexes (e.g. discharges from sump pumps, foundation drains, crawl spaces and footing drains) are not comprised of groundwater, but rather, are comprised of stormwater-only, except where the following conditions apply:

- 1) The residential structures are single family homes, duplexes and triplexes and the subterranean structure is an underground parking garage, elevator shaft, and/or similar significant subterranean feature expected to increase the reasonable potential for subterranean structure dewatering activities to draw shallow groundwater into the discharge, and/or
  - 2) The division has identified the source water (e.g. groundwater) as a potential significant contributor of pollutants and has provided written notification of this determination to the discharger.
- (H) Springs
  - (I) Flows from riparian habitats and wetlands



- (J) Water line flushing in accordance with the division's *Low Risk Policy Discharge Guidance: Potable Water*.
- (K) Discharges from potable water sources in accordance with the division's *Low Risk Discharge Guidance: Potable Water*.
  - 1) The potable water shall not be used in any additional process. Processes include, but are not limited to, any type of washing, heat exchange, manufacturing, and hydrostatic testing of pipelines not associated with treated water distribution systems.
- (L) Foundation drains, water from crawl space pumps, and footing drains. Note: The permittee must verify that any new discharges from foundation drains, water from crawl space pumps, and footing drains into the MS4 (except those associated with residential structures including single family homes, duplexes and triplexes as described in Part G above) are located above the water table in order to be considered stormwater. Foundation drains, water from crawl space pumps, and footing drains comprised of water from above the water table must not have evidence of a visible sheen, odor, color, turbidity or floatables. If the permittee confirms that the discharge does not meet these requirements, it must prohibit the discharge under this section and direct the discharger to the division to determine applicability of permit requirements. Where the discharge from a foundation drain is comprised of groundwater, the discharge must be authorized as described in Part G above.
- (M) Air conditioning condensation
- (N) Individual residential car washing
- (O) Dechlorinated swimming pool discharges in accordance with the division's *Low Risk Discharge Guidance: Discharges from Pools, Fountains and Other Similar Type Facilities that are Fed Solely by Potable Water*.
- (P) Water incidental to street sweeping (including associated sidewalks and medians) and that is not associated with construction.
- (Q) Dye testing in accordance with the manufacturers recommendations
- (R) Stormwater runoff with incidental pollutants
- (S) Discharges resulting from emergency firefighting activities.
- (T) Drainage from watercraft, vehicles, and trailers used for recreation, wildlife management operations, or maintenance operations when removed from a water body. Drainage must not contain other non-stormwaters and must not contain a sheen or discoloration.
- (U) Discharges authorized by a CDPS or NPDES permit
- (V) Agricultural stormwater runoff
- (W) Discharges that are in accordance with the division's *Low Risk Policy* guidance documents or other division policies and guidance documents where the division has stated that it will not pursue permit coverage or enforcement for specified point source discharges.
- (X) Other discharges that the permittee will not consider as an illicit discharge when approved by the division:

Upon approval by the division, the permittee is not required to address the discharges as illicit discharges in accordance with the requirements of this permit. Discharges that are prohibited by a city or county that also has authority over the discharge may not be allowed through this provision. The permittee must complete the following actions for discharges to be authorized by the division:

- 1) The permittee must submit a list of the discharges and the basis that the discharges meet one of the following criteria:
  - (a) The discharges, with proper management, are not expected to contain pollutants in concentrations that are toxic or in concentrations that would cause or contribute to a violation of a water quality standard; or
  - (b) The discharges are not eligible for coverage under a CDPS or NPDES general permit and prohibiting the discharges would result in changes to existing practices for the owner or operator of the discharges that are determined by the permittee to be impracticable.

- 2) For all such discharges identified prior to the effective date of this permit and that will continue to be allowed, the information required by [Part I.E.2.a.v\(Z\)1](#) must be submitted to the division for approval in accordance with the compliance schedule in I.H.
  - 3) The discharge is not approved until the permittee receives an approval letter from the division.
  - 4) The division may deny approval of the discharge in writing. The division's denial will be based on a determination that the provided information does not demonstrate that the criterion of [Part I.E.2.a.v\(Z\)](#) has been met.
  - 5) The permittee must public notice the discharges authorized by the division in accordance with its public notification procedures.
  - 6) The permittee must notify the division within 30 days and revise its regulatory mechanism and procedures within 180 days if the permittee becomes aware of new information that the discharges authorized using the criterion in [Part I.E.2.a.v\(Z\)](#) no longer meets the criteria of that Part.
- vi. Removing an Illicit Discharge: When an illicit discharge is identified, the permittee must remove or require the removal of the source of the illicit discharge. The permittee must also cease or require the cessation of the illicit discharge. After the illicit discharge has been ceased, the permittee must also minimize surface contamination by removing or requiring the removal of surface residue or other type of pollutant source, if feasible. The removal requirement can be met by notifying the division and the operator responsible for the discharge through a written report when CDPS or NPDES general permit coverage is available for a discharge and the discharge is not subject to prohibitions against issuance of a permit in regulation 61.8(1). The permittee must also have written procedures for requiring cleanup from the operator and procedures for cleanup conducted by the permittee, when necessary, to remove materials associated with the illicit discharge.
- vii. Coordination with Surrounding MS4 Permittees: If illicit discharges that are within the permittee's implementation authority are observed to be released to another operator's municipal storm sewer system, then the permittee must notify the other operator within 72 hours of discovery. If another operator notifies the permittee of an illegal release to the permittee's MS4 then the permittee must meet the requirements of [Part I.E.2.a](#).
- viii. Enforcement Response:
- (A) To the extent allowable under state or local law, the permittee must implement appropriate written enforcement procedures and actions to eliminate the source of an illicit discharge when identified/reported, stop responsible parties from willfully or negligently repeating or continuing illicit discharges, and discourage future illicit discharges from occurring. The written procedures must address mechanisms for enforcement for all illicit discharges from the moment an illicit discharge is identified/reported until it is eliminated. The permittee must escalate enforcement as necessary based on the severity of violation and/or the recalcitrance of the responsible party to ensure that findings of a similar nature are enforced upon consistently. Written enforcement procedures must include informal, formal, and judicial enforcement responses.
  - (B) If the permittee lacks the authority under state or local law to eliminate the source of an illicit discharge when identified/reported, stop responsible parties from willfully or negligently repeating or continuing illicit discharges, and discourage future illicit discharges from occurring; the permittee must notify the other agency that has regulatory authority (e.g., state federal, other MS4 permittee or other local agency) within 72 hours of discovery.
- ix. Priority Areas: The permittee must locate priority areas with a higher likelihood of having illicit discharges, including areas with higher likelihood of illicit connections.
- x. Training: The permittee must train applicable staff to recognize and appropriately respond to illicit discharges observed during typical duties. The permittee must identify those who will be likely to make such observations and provide training to those individuals. The training must address how suspected illicit discharges will be reported/identified, general information for recognizing and responding to illicit discharges observed during typical duties, information on the sources and types of operations or behaviors that can result in an illicit discharge, and information on the location of priority areas.
- b. Recordkeeping: The permittee must maintain the following records for activities to meet the requirements of [Part I.E.2](#) and [Part I.K.2](#):
- i. Storm Sewer System Map: The current map.

- ii. Regulatory Mechanism: The applicable policies, contracts, codes, resolutions, ordinances, specifications, operating procedures, and other documents used to meet the permit requirements.
- iii. Regulatory Mechanism Exemptions: The applicable policies, contracts, codes, resolutions, ordinances, specifications, operating procedures, and other documents used to meet the permit requirements.
- iv. Tracing an Illicit Discharge:
  - (A) The applicable program documents and procedures used to respond to reports/identification of illicit discharges.
  - (B) The permittee must maintain centralized recordkeeping systems of illicit discharge responses conducted by the permittee. Records maintained by other departments can be in different centralized recordkeeping systems. The centralized record keeping system must contain the information in [Part 1.E.2.b.vi\(A\)](#) or provide a reference to where the information is maintained and how information is shared between separate functional groups within the permittee's organization.
- v. Discharges that could be excluded from being effectively prohibited:
  - (A) Copies of all required submittals to the division.
  - (B) Copies of the documents used to provide any required public notice and any public comment received as part of the public notice process.
- vi. Removing an Illicit Discharge:
  - (A) The information used by the permittee to identify repeat occurrences from the same responsible party concerning the same type of illicit discharge. The permittee must document and maintain records of each illicit discharge identified by the permittee that includes the following information, or identifies that the information is unknown or not applicable:
    - 1) The date that the illicit discharge was reported to and/or identified by the permittee.
    - 2) The date the permittee responded to the reported/identified illicit discharge or notified a surrounding MS4 permittee.
    - 3) The location of the illicit discharge.
    - 4) Responsible party for the illicit discharge (if identified).
    - 5) A description of the source and nature of the illicit discharge.
    - 6) A description of how the source of the illicit discharge was eliminated/resolved.
    - 7) Documentation of enforcement actions (if applicable).
- vii. Enforcement Response: The applicable policies, codes, resolutions, ordinances, and program documents used to meet the permit requirements.
- viii. Priority Areas: Location on the map ([Part I.E.2.a.i](#)) and/or list of any priority areas.
- ix. Training: A list of brief staff title descriptions and organizational names that must be trained and the frequency of training. Program documents that describe how and when new employees will be trained. Name and department of each individual trained, date of training, the type of training, and a list of topics covered.

### 3. Construction Sites

The permittee must implement a program to require [structural control measures](#) and/or [nonstructural control measures](#) that effectively minimize erosion, sediment transport, and the release of other pollutants related to [applicable construction activity](#) and construction activity within the Cherry Creek watershed.

- All permittees: Parts I.E.3.a.i through x and I.E.3.b apply to all applicable construction activity of one or more acres, or disturbing less than one acre if that construction activity is part of a larger [common plan of development or sale](#) that would disturb, or has disturbed one or more acres.
- Permittees in the Cherry Creek watershed: Parts I.E.3.a.xi applies in addition to requirements in Parts I.E.3.a.i through x and I.E.3.b for applicable construction activities of one or more acres, or disturbing less than one acre if that construction activity is part of a common plan of development or sale that would disturb, or has disturbed one or more acres.
- Where construction activity disturbs less than one acre and is not part of a common plan of development the requirements of [Part I.E.3.a.xi](#) apply; however, the permittee may be eligible for

exclusion under [Part I.E.3.a.i\(A\)](#) and [\(B\)](#).

a. The following requirements apply:

i. Exclusions:

(A) Applicable construction activities within the jurisdictional boundary for which the permittee does not own or operate or have implementation authority over, are excluded from the requirements of [Part I.E.3.a](#).

(B) Permittees with a documented MS4 participation agreement(s) are excluded from the requirements of this section for all applicable construction activities covered by agreement(s). A documented MS4 participation agreement is an agreement between a non-standard MS4 permittee and a city, county, or quasi-governmental organization acting on behalf of a city or county, MS4 permittee that allows the city, county, or quasi-governmental MS4 permittee full authority to implement its construction program within the identified geographical areas of the non-standard MS4 jurisdiction. Specifically, the permittees must do the following:

- 1) Submit to the division a documented MS4 participation agreement that meets all of the requirements in (a) through (d) below.
  - (a) The agreement is signed and dated by the legally responsible officials of both MS4 permit holders.
  - (b) The agreement allows for the city or county MS4 permittee to fully enforce its program consistent with the requirements of the city or county MS4 permittee's permit for all applicable construction activities in the non-standard MS4 permittee's jurisdictional boundary for which the non-standard MS4 permittee owns, operates, or has implementation authority over.
  - (c) The agreement includes acknowledgement by the non-standard MS4 permittee that the city or county MS4 permittee's program requirements may be more stringent than the non-standard MS4 permit requirements and, if so, the non-standard MS4 permittee is still subject to the city or county MS4 permittee's program requirements. This agreement must be documented in the non-standard MS4 permittee's annual report.
  - (d) The agreement identifies the geographical area covered by the agreement either with a map or by referencing the jurisdictional boundaries of the parties.
- 2) The permittee must document the city or county MS4 permittee program(s) they will adhere to for the jurisdictional boundary.
- 3) The permittee must require compliance with all requirements of the city, county, or quasi-governmental MS4 permittee's program(s) through contracts or other enforceable mechanisms.
- 4) The permittee must submit construction plans and documentation for review by the city or county MS4 permittee's program(s), as required by those city or county MS4 permittee's programs.
- 5) The permittee must allow for site inspections by the city or county MS4 permittee's program(s), as required by the city or county MS4 permittee's program.
- 6) Under this exclusion the permittee would be in violation of this permit if they fail to comply with the city or county MS4 permittee's program.
- 7) The permittee must comply with documentation requirements in [Part I.E.3.b](#).

In lieu of an MS4 participation agreement the permittee may provide documentation to the division that the city, county, or quasi-governmental MS4 entity has sufficient authority to implement and enforce their local construction program and regulatory mechanism within the MS4 jurisdictional boundary and actively does so. Documentation must consist of a description of an effective legal means or process such as issuance of a local grading and erosion control permit. Documentation must include description of how the Non-standard MS4 is legally held to the city, county, or quasi-governmental MS4 permittee's construction program requirements.

(C) The permittee may exclude construction activities with R-Factor Waiver from the requirements of [Part I.E.3](#) if the division waives requirements for stormwater discharges associated with a small construction activity in accordance with Regulation 61.3(2)(f)(ii)(B) (the "R-Factor" waiver).

- ii. Regulatory Mechanism: To the extent allowable under state or local law, the permittee must implement a regulatory mechanism to meet the requirements in [Part I.E.3](#), including the following:
  - (A) The ability to implement sanctions against entities responsible for applicable construction activities.
  - (B) Require control measures to be implemented for all applicable construction activities from initial disturbance until final stabilization.
- iii. Regulatory Mechanism Exemptions: Procedures must be implemented to ensure that any exclusions, exemptions, waivers or variances included in the regulatory mechanism are applied in a manner that complies with the terms and conditions of this permit.
- iv. Control Measure Requirements: The permittee's Construction Sites Program must require the selection, installation, implementation, and maintenance of structural and nonstructural control measures that meet the requirements of [Part I.B](#). The permittee must require that control measures are appropriate for the specific construction activity, the applicable pollutant sources, and phase of construction and minimize pollutants in stormwater runoff from construction sites to the municipal storm sewer system. Control measures must meet the minimum requirements below.
  - (A) Appropriate control measures must be implemented prior to the start of construction activity, during each phase of construction, and through completion of final stabilization. Appropriate structural control measures must be maintained in operational condition.
  - (B) Control measures must be maintained in accordance with good engineering, hydrologic and pollution control practices. The necessary repairs or modifications to a control measure requiring routine maintenance must be conducted to maintain an effective operating condition.
  - (C) Control measures must be selected, designed, installed, implemented, and maintained to minimize all known or expected potential pollutants, including but not limited to sediment, construction site waste, trash, discarded building materials, concrete truck washout, chemicals, sanitary waste, and contaminated soils in discharges to the MS4. Pollutant sources must be addressed, at a minimum, as specified below:
    - 1) Control Measures for Erosion and Sediment Control
      - (a) Control measure selection should prioritize the use of structural and nonstructural control measures that minimize the potential for erosion.
      - (b) Stormwater runoff from all disturbed areas and soil storage areas must utilize or flow to at least one or more control measures to minimize erosion or sediment in the discharge. The control measure must be selected, designed, installed and adequately sized for the intended application in accordance with good engineering, hydrologic and pollution control practices. The control measure(s) must contain or filter flows in order to prevent the bypass of flows without treatment and must be appropriate for stormwater runoff from disturbed areas and for the expected flow rate, duration, and flow conditions (i.e., sheet or concentrated flow).
      - (c) Structural and/or nonstructural vehicle tracking controls shall be implemented to minimize vehicle tracking of sediment from disturbed areas.
      - (d) Outlets that withdraw water from or near the surface shall be installed when discharging from basins and impoundments, unless infeasible - not technologically possible, or not economically practicable and achievable in light of best industry practices.
      - (e) Maintain pre-existing vegetation or equivalent control measures for areas within 50 horizontal feet of receiving waters, unless infeasible.
      - (f) Soil compaction must be minimized for areas where infiltration control measures will occur or where final stabilization will be achieved through vegetative cover.
      - (g) Unless infeasible, topsoil shall be preserved for those areas of a site that will utilize vegetative final stabilization.
      - (h) Minimize the amount of soil exposed during construction activity, including the disturbance of steep slopes.
    - 2) Practices for Other Common Pollutants

- (a) Bulk storage, individual containers of 55 gallons or greater, for petroleum products and other liquid chemicals must have secondary containment, or equivalent protection, in order to contain [spills](#) and to prevent spilled material from entering the MS4 or state waters.
  - (b) Control measures designed for concrete washout must be implemented. The permittee must ensure the washing activities do not contribute pollutants to stormwater runoff, or receiving waters.
- 3) Stabilization Requirements

The following requirements must be implemented for each site.

- (a) Temporary stabilization must be implemented for earth disturbing activities on any portion of the site where ground disturbing construction activity has permanently ceased, or temporarily ceased for more than 14 calendar days. Temporary stabilization methods may include, but are not limited to, tarps, soil tackifier, and hydroseed. The permittee may exceed the 14-day schedule when either the function of the specific area of the site requires it to remain disturbed, or, physical characteristics of the terrain and climate prevent stabilization. The [site plan](#) must document the constraints necessitating the alternative schedule, provide the alternate stabilization schedule, and identify all locations where the alternative schedule is applicable on the site map.
- (b) Final stabilization must be implemented for all construction sites. The permittee must conclude final stabilization is reached when (i), (ii), and (iii) below are complete:
  - (i) All ground surface disturbing activities at the construction site are complete.
  - (ii) Permanent stabilization methods are complete (e.g. permanent pavement, concrete vegetative cover, etc.). 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.
  - (iii) 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).
- (c) Stabilization measures may include, but are not limited to, seed mix selection and application methods, soil preparation and amendments, and soil stabilization methods.

v. Site Plans:

The permittee must require operators to develop and maintain site plans that locate and identify all structural and [non-structural control measures](#) for the applicable construction activities. The site plan must contain installation, implementation, and maintenance specifications or a reference to the document with installation, implementation, and maintenance specifications for all structural control measures. A narrative description of non-structural control measures must be included in the site plan.

The permittee must require that a site plan be maintained to reflect current conditions. This means, among other actions, the permittee must take all documentation and enforcement steps necessary at each site in order to ensure that the site plan is maintained to reflect all current conditions.

- (A) Initial Site Plan Review: The permittee must review and approve site plans for all applicable construction activities prior to the start of construction activities. If a site plan does not meet the requirements in this section ([Part I.E.3.a.v](#)), the permittee will not approve the site plan and will notify the owner/operator that [land disturbing activities](#) may not be commenced at the site. For public emergency related sites, the permittee may review the site plan up to 14 days following the start of construction activity. The permittee will only approve a site plan if the permittee has confirmed that the site plan:
  - 1) Has been prepared in accordance with good engineering, hydrologic and pollution control practices.
  - 2) Includes appropriate control measures for all potential sources of pollution at all stages of construction, including final stabilization.
  - 3) Meets the requirements in [Part I.E.3.a.iv](#).

- 4) Identifies all potential sources of pollution which may reasonably be expected to affect the quality of stormwater discharges associated with construction activity from the site, including those identified in [Part I.E.3.a.iv\(B\)](#).
- 5) Includes a site description which includes, at a minimum, the following:
  - (a) [Qualified Stormwater Manager](#). The site plan must list individual(s) by title and name who are designated as the site's qualified stormwater manager(s) responsible for implementing the site plan in its entirety. This role may be filled by more than one individual.
  - (b) Spill Prevention and Response Plan. The site plan must have a spill prevention and response plan. The plan may incorporate by reference any part of a Spill Prevention Control and Countermeasure (SPCC) plan under section 311 of the Clean Water Act (CWA) or a Spill Prevention Plan required by a separate CDPS permit. The relevant sections of any referenced plans must be available as part of the site plan.
  - (c) Materials Handling. The site plan must describe and locate all control measures implemented at the site to minimize impacts from handling significant materials that could contribute pollutants to runoff. These handling procedures can include control measures for pollutants and activities such as exposed storage of building materials, paints and solvents, landscape materials, fertilizers or chemicals, sanitary waste material, trash and equipment maintenance or fueling procedures.
  - (d) Potential Sources of Pollution. The site plan must list all potential sources of pollution which may reasonably be expected to affect the quality of stormwater discharges associated with construction activity from the site. This shall include, but is not limited to, the following pollutant sources:
    - (i) Disturbed and stored soils;
    - (ii) Vehicle tracking of sediments;
    - (iii) Management of contaminated soils;
    - (iv) Loading and unloading operations;
    - (v) Outdoor storage activities (erodible building materials, fertilizers, chemicals, etc.);
    - (vi) Vehicle and equipment maintenance and fueling;
    - (vii) Significant dust or particulate generating processes (e.g., saw cutting material, including dust);
    - (viii) Routine maintenance activities involving fertilizers, pesticides, herbicides, detergents, fuels, solvents, oils, etc.;
    - (ix) On-site waste management practices (waste piles, liquid wastes, dumpsters);
    - (x) Concrete truck/equipment washing, including washing of the concrete truck chute and associated fixtures and equipment;
    - (xi) Asphalt, concrete batch plants and masonry mixing stations;
    - (xii) Non-industrial waste sources such as worker trash and portable toilets.
  - (e) Implementation of Control Measures. The site plan must include design specifications that contain information on the implementation of the control measure 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.
  - (f) The site plan must include a documented use agreement between the construction site owner/operator and the owner or operator of any control measures located outside of the permitted construction site area, that are utilized by the owner/operator for compliance with this permit, but not under the direct control of the owner/operator. The site plan must include all information required of and relevant to any such control measures located outside the permitted area, including location, installation specifications, design specifications and maintenance requirements.
  - (g) Site Description. The site plan must include a site description which includes, at a minimum, the following:

- (i) The nature of the construction activity at the site;
  - (ii) The 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.);
  - (iii) Estimates of the total acreage of the site, and the acreage expected to be disturbed by clearing, excavation, grading, or any other construction activities;
  - (iv) A summary of any existing data used in the development of the construction site plans or site plan that describe the soil or existing potential for soil erosion;
  - (v) A description of the percent of existing vegetative ground cover relative to the entire site and the method for determining the percentage;
  - (vi) A description of any allowable non-stormwater discharges at the site, including those being discharged under a division low risk discharge guidance policy;
  - (vii) A description of areas receiving discharge from the site. Including a description of the immediate source receiving the discharge. If the stormwater discharge is to a municipal separate storm sewer system, the name of the entity owning that system, the location of the storm sewer discharge, and the ultimate receiving water(s); and
  - (viii) A description of all stream crossings located within the construction site boundary.
- (h) Site Map. The site plan must include a site map which includes, at a minimum, the following:
- (i) Construction site boundaries;
  - (ii) Flow arrows that depict stormwater flow directions on-site and runoff direction;
  - (iii) All areas of ground disturbance including areas of borrow and fill;
  - (iv) Areas used for storage of soil;
  - (v) Locations of all waste accumulation areas, including areas for liquid, concrete, masonry, and asphalt;
  - (vi) Locations of dedicated asphalt, concrete batch plants and masonry mixing stations;
  - (vii) Locations of all structural control measures;
  - (viii) Locations of all non-structural control measures; Nonstructural control measures (e.g. street sweeping) without specific location may be notated.
  - (ix) Locations of springs, streams, wetlands and other state waters, including areas that require pre-existing vegetation be maintained within 50 feet of a receiving water, where determined feasible in accordance with [Part I.E.3.a.iv](#); and
  - (x) Locations of all stream crossings located within the construction site boundary.
- (i) Final Stabilization and Long Term Stormwater Management. The site plan must describe the practices used to achieve final stabilization of all disturbed areas at the site and any planned practices 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.
- (B) Site Plan Revisions. The site plan must reflect current site conditions. The permittee will implement procedures and deadlines for the following site plan modifications:
- 1) Major Modifications. Changes to the original site plan that remove or add additional area to the project, modify the final hydrology or drainage of the final design, replace approved site plans, or otherwise expand or contract the scope of the original project shall require the submission of plans to the permittee for review and approval.
  - 2) Minor Modifications. Modifications to the original site plan that do NOT increase the scope or change hydrology of the project but modify/improve specific control measures in use at site, indicate progression in phasing of the project, or specify relocation of previously approved control measures within the project shall be made in the field by the construction site owner/operator and thoroughly documented in the site plan narrative and/or site map drawings, where applicable. The permittee must evaluate minor modifications made by the



construction site owner/operator during site inspections and determine if the modification is adequate. No formal written approval is required for minor modifications, except minor modifications identified during site inspections must be documented in some way (like initialing the map or through an electronic log, or inspection reports).

- 3) The permittee will only approve a major and minor modification if the modification meets the applicable requirements of [Part I.E.3.a.v\(A\)](#).
- vi. Site Inspections: Permittees shall inspect applicable construction sites at a minimum inspection frequency listed below. Documentation of inspections outlined below must be maintained in accordance with recordkeeping requirements in [I.E.3.b](#). The following requirements apply:
- (A) Site Inspection Frequency Exclusion: For any of the following, the permittee is only required to conduct inspections if there are observations or reports of discharges of sediment from disturbed areas:
- 1) Individual Homes in a Residential Subdivision-Finished Home: Inspections are not required for a residential lot that has been conveyed to a homeowner (“a finished home”) when all of the following criteria have been met:
    - (a) The lot has been sold to the homeowner(s) for private residential use.
    - (b) The lot has less than one acre of disturbed area.
    - (c) All construction activity associated with grading the lot and building the home is completed.
    - (d) A certificate of occupancy (or equivalent) has been issued to the homeowner.
    - (e) The permittee has documented that the lot is subject to this exclusion.
    - (f) The residential development site must have a permittee-approved site plan and still be inspected by the permittee under the inspection frequencies described in [Part I.E.3.a.vi](#).
  - 2) Individual Homes in a Residential Subdivision-Unfinished Home: Inspections are not required for a residential lot with an unfinished home when all of the following criteria have been met:
    - (a) The lot has less than one acre of disturbed area.
    - (b) The permittee has documented that the lot is subject to this exclusion.
    - (c) The residential development site must have a permittee-approved site plan and still be inspected by the permittee under the inspection frequencies described in [Part I.E.3.a.vi](#).
  - 3) Winter Conditions: Inspections are not required at sites where construction activities are temporarily halted, snow cover exists over the entire site for an extended period, and melting conditions posing a risk of surface erosion do not exist. This exclusion is applicable only during the period where melting conditions do not exist. Other required minimum inspection frequencies remain applicable but do not include the days during which this exclusion applies. The following information must be documented for this exclusion: dates when snow cover occurred, date when construction activities ceased, and date melting conditions began.
- (B) Initial Inspection: An initial inspection must be conducted before construction activity can begin to ensure that all control measures on the approved site plan for the applicable phase(s) have been installed.
- 1) Frequency: Conduct before construction activity begins.
  - 2) Scope: The inspection must assess the following:
    - (a) Current Site Plan: Evaluate whether the approved site plan accurately reflects site conditions, includes all existing control measures and potential pollution sources. Evaluate the adequacy of any changes, including new onsite control measures, and determine if the inspector will: 1) approve or deny the changes as minor modifications, and document these decisions on the site plan; or 2) require the owner or operator of the site to re-submit the site plan for review by the permittee because it includes major changes.
    - (b) Control measures: Identify failure to implement control measures, inadequate control measures, and control measures requiring routine maintenance.
    - (c) Pollutant sources: Evaluate all pollutant sources, including trash, to determine if an illegal discharge has occurred.

- (C) Routine Inspection: A routine inspection must be conducted at least once before final stabilization. Routine inspections do not apply to sites eligible for other inspection frequencies in accordance with this section ([Part I.E.3.a.vi](#)).
- 1) Frequency: Conduct at least every 45 days.
  - 2) Scope: The inspection must assess the following:
    - (a) Current Site Plan: Evaluate control measure changes and new pollutant sources, including any new areas of disturbance, since the last inspection and determine whether Major or Minor Modifications have occurred. Modifications must be approved or denied in accordance with the procedures and deadlines for SWMP Revisions ([Part I.E.3.a.iv\(B\)](#)).
    - (b) Control measures: Identify failure to implement control measures, inadequate control measures, and control measures requiring routine maintenance.
    - (c) Pollutant sources: Evaluate all pollutant sources, including trash, to determine if an illegal discharge has occurred.
    - (d) Discharge points: Evaluate discharge points to the MS4, or beyond the limits of the construction site as necessary to determine if an illicit discharge has occurred. The permittee must require the removal of the pollutants, when feasible, from the MS4 when the permittee identifies a failure to implement a control measure or an inadequate control measure resulting in pollutants discharging to the MS4 or beyond the limits of the construction site.
- (D) Reduced Site Inspection: Reduced site inspections must occur at the frequency and include the scope indicated below for each type of site:
- 1) Inactive Site Inspection: Sites where surface ground disturbance activities are completed and are pending growth for final stabilization or for sites where no construction activity has occurred since the last inspection.
    - (a) Frequency: Conduct at least every 90 days.
    - (b) Scope: The inspection must assess the following:
      - (i) Control measures: Identify failure to implement control measures, inadequate control measures, and control measures requiring routine maintenance.
      - (ii) Discharge points: Evaluate discharge points to the MS4, or beyond the limits of the construction site as necessary to determine if an illicit discharge has occurred. The permittee must require the removal of the pollutants, when feasible, from the MS4 when the permittee identifies a failure to implement a control measure or an inadequate control measure results in pollutants discharging to the MS4 or beyond the limits of the construction site.
  - 2) Stormwater Management System Administrator's Program Inspection: These inspections are for construction activities operated by a qualified participant in a division designated Stormwater Management System Administrator's Program in accordance with Article 8 of title 25, Colorado Revised Statutes that has been identified by the Stormwater Management System Administrator to be fully implementing the program and qualified for reduced oversight incentives of the program.
    - (a) Frequency: Conduct at least every 90 days.
    - (b) Scope: The inspection must assess the following:
      - (i) Control measures: Identify failure to implement control measures, inadequate control measures, and control measures requiring routine maintenance.
      - (ii) Pollutant sources: Evaluate all pollutant sources, including trash, to determine if an illicit discharge has occurred.
      - (iii) Discharge points: Evaluate discharge points to the MS4, or beyond the limits of the construction site as necessary to determine if an illicit discharge has occurred. The permittee must require the removal of the pollutants, when feasible, from the MS4 when the permittee identifies a failure to implement a control measure or an inadequate control measure resulting in pollutants discharging to the MS4 or beyond the limits of the construction site.

- 3) Staff Vacancy: These inspections are allowed to accommodate a staff vacancy or temporary leave due to vacation or illness.
  - (a) Frequency: Conduct at least every 90 days.
  - (b) Scope: The inspection must assess the following:
    - (i) Control measures: Identify failure to implement control measures, inadequate control measures, and control measures requiring routine maintenance.
    - (ii) Pollutant sources: Evaluate all pollutant sources, including trash, to determine if an illicit discharge has occurred.
    - (iii) Discharge points: Evaluate discharge points to the MS4, or beyond the limits of the construction site as necessary to determine if an illicit discharge has occurred. The permittee must require the removal of the pollutants, when feasible, from the MS4 when the permittee identifies a failure to implement a control measure or an inadequate control measure resulting in pollutants discharging to the MS4 or beyond the limits of the construction site.
- 4) Indicator Inspection: Indicator inspections, such as a drive-by or screening, are conducted to assess sites for indicators of noncompliance and do not fully assess the adequacy of control measures and overall site management. A routine inspection must be conducted at least once at the site with an applicable construction activity before an indicator inspection can be used. In addition, if the indicator inspection indicates a need for a compliance inspection, then another routine inspection must be conducted before the indicator inspection frequency and scope can be used again.

Indicator inspections are a reduced scope inspection that can be used to extend the frequency required of routine inspections up to 90 days when all indicators evaluated determine control measures meet Good Engineering, Hydrologic and Pollution Control Practices as defined in I.B.1 and there is no evidence of illicit discharges, or the discharge of pollutants to the MS4 or a water of the state resulting from a failure to implement control measures or inadequate control measures:

- (a) Frequency: Conduct at least every 14 days. A Routine Inspection must be conducted every 90 days.
  - (b) Scope: Perimeter of the site must be evaluated for indicators of inadequate control measures. The inspection must assess the following:
    - (i) Control measures: Identify failure to implement control measures and inadequate control measures.
    - (ii) Discharge points: Evaluate discharge points to the MS4, or beyond the limits of the applicable construction activities as necessary to determine if an illicit discharge has occurred. The permittee must require the removal of the pollutants, when feasible, from the MS4 when the permittee identifies a failure to implement a control measure or an inadequate control measure resulting in pollutants discharging to the MS4 or beyond the limits of the construction site.
- (E) Compliance Inspection: A compliance inspection must occur after the permittee documents an illicit discharge or identifies that there is a failure to implement a control measure or there is an inadequate control measure, unless corrections were made and observed by the inspector during the same inspection in which findings occurred.
- 1) Frequency: Conduct within at least 14 days from the time the permittee documents an illicit discharge or identifies that there is a failure to implement a control measure or an inadequate control measure, unless corrections were made and observed by the inspector during the initial inspection in which findings occurred.
  - 2) Scope: A compliance inspection, or alternative inspection listed below, must identify if corrections have been completed on sites where the permittee has documented an illicit discharge or failure to implement a control measure or an inadequate control measure during the previous inspection. One of the following, that incorporates this required scope, may be performed or required in lieu of a compliance inspection within 14 days of the permittee site inspection identifying that there is a failure to implement a control measure or an inadequate control measure:

- (a) Routine inspection in accordance with [Part I.E.3.a.vi\(C\)](#);
  - (b) Indicator Inspection in accordance with [Part I.E.3.a.vi\(D\)4](#)); or
  - (c) Operator Compliance Inspection: Require the operator to inspect and report that the control measure has been implemented or corrected as necessary to meet the requirements of [Part I.E.3.a](#). The operator's report must include photographs of the new/adequate control measure(s).
- 3) If the permittee is required to conduct a compliance inspection every time after three consecutive routine inspections (as described in Part I.E.3.a.vi(E)), the permittee must conduct a routine inspection in accordance with Part I.E.3.a.v(C) as part of the third compliance inspection and is unable to conduct an alternative inspection listed in (b) or (c) above. Routine inspections will then be conducted every 14 days until the site inspections no longer document an illicit discharge, or identify a failure to implement a control measure resulting in an increase discharge of pollutants or an inadequate control measure resulting in an increase discharge of pollutants. In the event a stop work order is issued, the 14 day schedule is not applicable, and the permittee will do a routine inspection as part of re-inspection for the contractor to resume work.
- vii. Enforcement Response: Implement appropriate enforcement procedures and actions to meet the requirements of [Part I.E.3](#).
- (A) The permittee must have processes and sanctions to minimize the occurrence of, and obtain compliance from, chronic and recalcitrant violators of control measure requirements.
  - (B) The permittee must require enforcement escalation as necessary based on the severity of violation and/or the recalcitrance of the violator to ensure that findings of a similar nature are enforced upon consistently. The permittee must use the following types of enforcement mechanisms or their equivalent:
    - 1) Verbal warning
    - 2) Written notification of non-compliance. The permittee must define this notification in the PDD.
    - 3) Written notice of violation imposing fines or withholding payment. The permittee must define this notice in the PDD.
    - 4) Written corrective order with schedule to obtain compliance. The permittee must define this corrective order in their PDD.
    - 5) Written stop work order.
    - 6) Administrative, civil, or criminal legal action.
  - (C) The permittee must escalate enforcement procedures at a construction site if non-compliance has continued at the site for more than two inspections. If the permittee does not escalate enforcement at that time, permittee will document a report justifying why the permittee did not choose to take enforcement actions under the enforcement escalation policy. Exceptions to reporting may be made under the following conditions:
    - 1) The permittee has determined and documented that the operator of a construction site has taken all necessary steps to minimize or prevent the discharge of pollutants until an inadequate control measure is replaced or corrected and returned to effective operating conditions. Alternatively, the permittee has approved a schedule (provided by the operator of the construction site) for installing or repairing the control measure and returning it to an effective operating condition as soon as possible, but no later than seven business days from when the inadequate control measure was first documented.
    - 2) The inadequate control measure must not have resulted in conditions subject to the permittee's 24-hour reporting requirement in [Part II.L.7](#) of the permit. All noncompliance requiring 24-hour reporting must still be reported to the division in accordance with [Part II.L.7](#).
  - (D) The enforcement procedure(s) must detail the types of escalating enforcement responses the permittee will take in response to common violations and time periods within which responses will take place, including as a minimum:
    - 1) Construction commencing without SWMP review in accordance with [Part I.E.3.a.v](#) and an initial inspection.

- 2) SWMPs consistently not maintained and modified in accordance with the permittee's requirements.
  - 3) Control measures not maintained in operational condition at time of permittee inspection, including sites that have temporarily shut down construction activities.
  - 4) Uncorrected finding(s) from previous inspections.
  - 5) Failure to implement a control measure for a pollutant source or inadequate control measure resulting in a discharge of pollutants from the applicable construction site to the MS4 or state waters.
  - 6) Failure to take corrective actions required by the permittee.
- viii. State or EPA Inspection Notifications: Within 30 days of notification, the permittee will review any provided state and EPA inspection reports for construction sites also overseen by the permittee where the state or EPA has required a written response to findings of noncompliance with the CDPS general permit authorizing stormwater discharges associated with construction activities (CDPS stormwater construction permit, currently General Permit COR400000). The permittee will read and review the state or EPA inspection report against at least the two most recent inspections conducted by the permittee. The permittee will determine whether the evidence of noncompliance with the CDPS stormwater construction permit identified by the state or EPA is also grounds for noncompliance with the permittee's construction program. The permittee will maintain a documented summary of this review. The summary must describe whether the permittee's oversight failed to identify noncompliance, and must describe corrective actions that will prevent future oversight failures.
- ix. Training: The permittee shall provide information to staff and operators of applicable construction activities as necessary to ensure that the necessary staff and each operator is aware of the permittee's construction requirements including controlling pollutants such as trash.
- (A) The permittee shall require that all operators of applicable construction activities have at least one individual responsible for implementing control measures that is knowledgeable in the principles and practices of erosion and sediment control and pollution prevention, and with the skills to assess conditions at construction sites that could impact stormwater quality and to assess the effectiveness of stormwater controls implemented to meet the requirements of this permit.
  - (B) The permittee shall require all existing and newly hired permittee staff or parties acting on behalf of the permittee who are involved in applicable construction activities design, oversight and/or maintenance related to stormwater drainage and quality to attend a stormwater training course, or demonstrate other equivalent training, education, or experience, that includes, but is not limited to the following:
    - 1) Control measure design and overall stormwater management into a project's construction design and planning phase.
    - 2) Implementation of control measures during different phases of construction and the maintenance of a system/series of pollution controls throughout the life of a project and as a project evolves through those different phases.
    - 3) For applicable construction activity working in and adjacent to state waters, specific guidance on appropriate, functional, and effective control measures to implement when working in and adjacent to state waters and how those control measures can and should be incorporated into the design of a project.
    - 4) For applicable construction activity that involves permanent flood control structures, the proper use of, and necessary modifications to, permanent flood control structures that are used as temporary construction control measures.
    - 5) Detailed instruction on final stabilization and the implementation and maintenance of control measures at projects once construction operations have ceased, including a discussion of who will be responsible for maintaining those control measures and how final stabilization will generally be monitored and achieved.
- x. For Applicable Construction Activities that Overlap Multiple Jurisdictional Boundaries, when a written agreement is in place with a co-regulating MS4 permittee:
- (A) Control measure requirements may be imposed on the operator in accordance with the requirements of a co-regulating MS4 permittee pursuant to the written agreement.

(B) Site plan review/acceptance and site inspection actions may be conducted by a co-regulating MS4 permittee to meet the requirement of the permit.

xi. Cherry Creek Watershed Requirements

For permittees within the Cherry Creek watershed the requirements in this [Part I.E.3.a.xi](#) apply in addition to the requirements in [Part I.E.3.a.i](#) through x for land disturbing activities greater than one acre or less than one acre but part of a larger common plan of development. .

Where construction activity disturbs **less** than one acre and is not part of a common plan of development the requirements of [Part I.E.3.a.xi](#) apply; however, the permittee may be eligible for exclusion under [Part I.E.3.a.i\(A\)](#) and [\(B\)](#).

The following definitions apply to the requirements in [Part I.E.3.a.xi](#) only.

"[Best management practice \(BMP\)](#)" means the best schedules of activities, prohibitions or practices, operation and maintenance procedures, and other management practices to prevent or reduce the introduction of pollutants into state waters. BMPs include, but are not limited to, structural and nonstructural controls, treatment requirements, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs can be applied before, during, and after pollution-producing activities.

"Disturbed areas" means any site, area or lands in the Cherry Creek watershed where a [land disturbance](#) has commenced but has not been permanently stabilized and/or revegetated.

"Individual home construction" means any land disturbance or development for a single home, not including land disturbances for roads, road gutters or road improvements, that disturbs less than one acre of land and where the owner of the single home holds a permit for construction of only one dwelling within the subdivision, if any, containing the single home.

"Land disturbance" means a man-made change in the natural cover or topography of the land, including grading, cutting and filling, building, paving, excavating and any other activities that may result in or contribute to soil erosion or sedimentation in waters or discharge of pollutants, as identified in Regulation 72.7.2(b), except individual home construction, as defined in this section.

(A) Regulated Activities. The permittee must develop, implement, and enforce a program to reduce pollutants in any stormwater runoff to the MS4 from construction activities that disturb land, including, but not limited to, the following:

- 1) Clearing, grading, or excavation of land;
- 2) Construction, including expansion or alteration, of a residential, commercial, or industrial site or development; and
- 3) Construction of public improvements and facilities such as roads, transportation corridors, airports, and schools.

(B) Individual Homes. For individual home construction, including any land disturbance or development for a single home that disturbs less than once acre of land, where the owner of the single home holds a permit for construction of only one dwelling within the subdivision, if any, the permittee must meet the requirements of [Part I.E.3.a.xi\(E\)1\)\(d\)](#), but does not have to meet other requirements under [Part I.E.3.a.xi](#). This exception does not apply to activities of land disturbance for roads, road gutters or road improvements associated with the home construction.

(C) Exclusions (from requirements in [Part I.E.3.a.xi](#) only).

- 1) Automatic Exclusions from Cherry Creek watershed requirements. The permittee may exclude the following activities from the requirements in [Part I.E.3.a.xi](#).

Note: For applicable construction activity of one or more acres, or disturbing less than one acre if that construction activity is part of a larger common plan of development or sale that would disturb, or has disturbed one or more acres, the activity must still meet the requirements in [Part I.E.3.a.i](#) through x.

- (a) Agricultural Activities; (i.e., agricultural and silvicultural activities generating nonpoint source discharges, including runoff from orchards, cultivated crops, pastures, range lands, and forest lands, but not confined animal feeding operations. This exclusion does not extend to the construction of facilities or other activities generating stormwater runoff associated with industrial (i.e., construction) activity);

- (b) Emergency and routine repair and maintenance operations for all underground utilities;
  - (c) Land disturbances at residential or commercial subdivisions that already have adequate Construction Control Measures and Post-construction Control Measures installed and operating for the entire subdivision, approved in compliance with Regulation 72, and where the original owner who obtained approval retains legal authority; and
  - (d) Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of a facility (maintenance operations performed by the permittee may still be covered under the Municipal Operations minimum control measure).
  - (e) Emergency operations related to flood, fire, or other force majeure.
- 2) Authorized Exclusions from Cherry Creek Watershed Requirements. The permittee may exclude the following activities from the requirements in section [Part I.E.3.a.xi](#) (Cherry Creek Watershed Requirements), if authorized through a developed procedure for determination that water quality is adequately protected without imposing the requirements. This procedure may either be on a site-specific basis, upon submission by the owner of a written request for exemption to the permittee, or, if the determination can be simplified to allow for determination by the owner, through certification by the owner to the permittee that the waiver criteria have been met.

Note: For applicable construction activity of one or more acres, or disturbing less than one acre if that construction activity is part of a larger common plan of development or sale that would disturb, or has disturbed one or more acres, the activity still must meet the requirements in [Part I.E.3.a.i](#) through x.

- (a) Construction of a sidewalk or driveway; and
  - (b) Underground utility construction including the installation and maintenance of all utilities under hard surfaced roads, streets, or sidewalks, provided such land disturbance activity is confined to the area which is hard surfaced and provided that stormwater runoff and erosion from soil and materials stockpiles are confined and will not enter the drainage system.
- 3) Additional Exclusions. The permittee may allow for additional automatic and/or authorized exclusions from [Part I.E.3.a.xi](#), with written approval of the division, when it can be reasonably shown that excluding the activity will not pose an increased threat to water quality, or that the cost of administering the program for a specific activity with low risk of stormwater pollution outweighs the benefits to water quality. The division reserves the right to not allow any additional exclusions.

Note: For applicable construction activity of one or more acres, or disturbing less than one acre if that construction activity is part of a larger common plan of development or sale that would disturb, or has disturbed one or more acres, the activity still must meet the requirements in [Part I.E.3.a.i](#) through x.

(D) Submittal requirements.

- 1) The construction site owner (owner) must submit an Erosion and Sediment Control Plan to the permittee describing permittee-approved construction control measures for land disturbances regulated by this program. The permittee must adequately review and approve the erosion and sediment control plan prior to the commencement of land disturbances.

(E) Required Construction Control Measures.

- 1) The following requirements for construction control measures to be implemented prior to the commencement of land disturbances must be included in the permittee's program.
  - (a) Phase Construction. The owner shall schedule construction activities to minimize the total amount of soil exposed, including stockpiles, at any given time in order to reduce the period of accelerated soil erosion. Areas of land disturbance equal to 40 acres or greater must not be exposed for more than 30 consecutive days without temporary or permanent stabilization.

The permittee may allow authorized exemptions to the 40-acre limit for removal and storage of cut material where geotechnical limitations restrict the use of temporary or

permanent stabilization of the stored material (e.g. swelling soils, rock).

The permittee may allow authorized exemptions to the 40-acre limit when the owner can demonstrate that the 40-acre limit is physically and/or financially impracticable. In order to authorize such exemptions, the permittee must establish criteria and procedures for considering whether the 40 acre limit is impracticable. For sites granted this exemption, a phasing and earthwork quantities plan shall be submitted to and, following adequate review, approved by the permittee prior to the commencement of land disturbance activities. Submittal requirements include:

- (i) Phasing Plan showing cut and fill volumes and locations for each Phase and project totals.
  - (ii) Earthwork Quantity Plan showing cut and fill volumes and locations for each phase and project totals,
  - (iii) Erosion Control Plan showing specific erosion and sediment controls for each phase.
- (b) Reduce stormwater runoff flow to non-erosive velocities when practicable using control measures, which include, but are not limited to:
- (i) Swales,
  - (ii) Roadside swales,
  - (iii) Slope diversion dikes,
  - (iv) Terracing/contouring,
  - (v) Slope drains, and/or
  - (vi) Check dams.
- (c) Protect state waters located on construction sites from erosion and sediment damages resulting from land disturbance, using control measures such as, but not limited to:
- (i) Waterway crossing protection,
  - (ii) Outlet protection,
  - (iii) Temporary diversions, and/or
  - (iv) Bank stabilization.
- (d) Control sediment before it leaves a construction site
- (i) All stormwater runoff from disturbed areas must be managed by at least one sediment entrapment control measure before the stormwater exits the site, such as, but not limited to: silt fence, filter strips, sediment basins, straw bale barriers, and/or inlet protection.
  - (ii) Vehicle Tracking. Owners must prevent deposition of sediment off-site by controlling vehicle tracking onto paved surfaces, using control measures such as, but not limited to: grates, and/or vehicle tracking control pads.
- 2) The following construction control measures must be required within 14 days after the commencement of land disturbances. Schedules for requiring stabilization and revegetation may be modified by the permittee to allow for physical considerations, including, but not limited to constraints on establishing vegetation due to weather, such as temporary excessive soil moisture conditions, adverse to stabilization or revegetation goals.
- (a) Stabilize soils. All disturbed areas that remain exposed and where construction activities are not taking place for longer than 14 days shall be stabilized to protect the soils from erosion, using control measures such as, but not limited to:
- (i) Mulching;
  - (ii) Erosion control mats, blankets, and nets;
  - (iii) Seeding,
  - (iv) Soil binders,
  - (v) Cover crops, and/or



- (vi) Soil roughening.
- (b) Re-vegetate disturbed areas. Within 14 days after construction activity has temporarily or permanently ceased, owners must plant temporary and, where applicable, permanent vegetative cover on disturbed areas.
  - (i) Temporary Revegetation. Owners must provide temporary revegetation on all disturbed areas that will be exposed prior to completion of land disturbance activities. When seeding is not practicable (e.g., growing season constraints) the permittee may allow for temporary stabilization until planting is practicable.
  - (ii) Permanent Revegetation. Owners must provide permanent revegetation and/or stabilized landscaping on all disturbed areas that will be exposed for more than 2 years or for an indeterminate amount of time.
- (c) Variances. Schedules for requiring stabilization may be modified by the permittee to allow for special considerations such as stabilizing access areas and areas in close proximity to continuing construction. Additionally, the permittee may allow for alternative approaches to stabilization if they can be shown to have erosion control capabilities similar to temporary or permanent revegetation.
- (d) Inspection/Operation and Maintenance.
  - (i) The owner must be held responsible for inspection of construction control measures at the following times and intervals at a minimum:
    - a) After installation of any construction control measure; after any runoff event; and at least every 14 days.
    - b) For sites where 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 may allow for the owner to reduce inspection frequency to once per month.
    - c) Operation and Maintenance. The owner must be held responsible for operation and maintenance of control measures, and must make any necessary repairs to control measures immediately after a defect or other needed repair is discovered.
- b. Recordkeeping: Except for MS4 portions where the permittee has an exemption(s) under [Part I.E.3.a.i\(B\)](#), the permittee must document the implementation of these permit requirements and at a minimum, maintain the following records for activities to meet the requirements of this section.

For MS4 portions that are exempted under [Part I.E.3.a.i\(B\)](#) the permittee must document in accordance with the requirements of this section ([Part I.E.3.b](#)), only where the requirements and activities of the city, county, or quasi-governmental MS4 permittee's program produces such information. The permittee must independently document and record this information or must obtain this information from the standard MS4 and submit it to the division.

- i. Maintain records for exclusions covered under [Part I.E.3.a.i\(B\)](#) and [\(C\)](#).
  - (A) For exclusions under [Part I.E.3.a.i\(B\)](#) the permittee must describe general locations where another entity implements the construction program and must maintain documented MS4 agreements to comply with [Part I.E.3.a.i\(B\)](#).
- ii. Regulatory Mechanism: The applicable policies, contracts, codes, resolutions, ordinances, and program documents used to meet the permit requirements.
- iii. Regulatory Mechanism Exemptions: The specifications, contracts, standards, operating procedures, and other documents that allow for exemptions and the documented procedures that confirm the exemptions, waivers, and variances comply with the permit.
- iv. Control Measure Requirements: The applicable contracts, standard operating procedures, codes, resolutions, ordinances, and program documents used to meet the permit requirements.
- v. Selected Control Measures Manuals: The selected control measures manual(s) used to meet the permit requirements.
- vi. Site Plans: Copy of the initially approved site plan or, when there have been major modifications approved by the permittee, the site plan with those major modifications.

vii. Site Inspection:

- (A) Site Inspection Frequency Exclusion: The specifications, standards, operating procedures, and other documents used to meet the permit requirements.
- (B) Initial Site Inspection: Maintain inspection records with the following minimum information for all inspections conducted to meet the minimum inspection frequency:
  - 1) Inspection date
  - 2) Name of inspector
  - 3) Site identification
  - 4) Inspection results including the location of any illicit discharges, failure to implement control measures, and inadequate control measures. The inspection results must also list (not locate) any control measures requiring routine maintenance.
  - 5) Type of inspection
- (C) Routine Site Inspection: Maintain inspection records with the following minimum information for all inspections conducted to meet the minimum inspection frequency:
  - 1) Inspection date
  - 2) Name of inspector
  - 3) Site identification
  - 4) Inspection results including the location of any illicit discharges, failure to implement control measures, and inadequate control measures. The inspection results must also list (not locate) any control measures requiring routine maintenance.
  - 5) If the inspection is conducted in lieu of a compliance inspection, identification of any inadequate control measures that have not been resolved from the previous inspection.
  - 6) Type of inspection
- (D) Reduced Site Inspection: Maintain inspection records with the following minimum information for all inspections conducted to meet the minimum inspection frequency:
  - 1) Inspection date
  - 2) Name of inspector
  - 3) Site identification
  - 4) Inspection results including the location of any illicit discharges, failure to implement control measures, and inadequate control measures. The inspection results must also list (not locate) any control measures requiring routine maintenance.
  - 5) If the inspection is conducted in lieu of a compliance inspection, identification of any inadequate control measures that have not been resolved from the previous inspection.
  - 6) Type of inspection
    - (a) Inactive Site
    - (b) Stormwater Management System Administrator
    - (c) Staff Vacancy
    - (d) Indicator Inspection
- (E) Compliance Inspection: Maintain inspection records with the following minimum information for all inspections conducted to meet the minimum inspection frequency:
  - 1) Inspection date
  - 2) Name of inspector
  - 3) Site identification
  - 4) Inspection results including any inadequate control measures that have not been resolved from the previous inspection.

- 5) Type of inspection.
- (F) Recalcitrant Compliance Inspection: Maintain inspection records with the following minimum information for all inspections conducted to meet the minimum inspection frequency:
  - 1) Inspection date
  - 2) Name of inspector
  - 3) Site identification
  - 4) Inspection results including any inadequate control measures that have not been resolved from the previous inspection.
  - 5) Type of Inspection
- viii. Enforcement Response:
  - (A) The applicable specifications, contracts, codes, resolutions, ordinances and other documents used to meet the permit requirements. The document(s) must detail the types of escalating enforcement responses the permittee will take in response to common violations and time periods within which responses will take place, including at a minimum:
    - 1) Construction commencing without site plan review in accordance with I.E.3.a.v.
    - 2) SWMPs not maintained and modified in accordance with the permittee's requirements.
    - 3) Control measures not maintained in operational condition at time of permittee inspection, including sites that have temporarily shut down construction activities.
    - 4) Uncorrected finding(s) from previous inspections.
    - 5) Failure to implement a control measure for a pollutant source or inadequate control measure resulting in a discharge of pollutants from the applicable construction site or to the MS4 and whether the permittee considers it significant.
    - 6) Failure to take corrective actions required by the permittee's enforcement response plan.
  - (B) The permittee must maintain records of enforcement activities in [Part I.E.3.a.vii\(B\)1](#) through 6) for each calendar year.
- ix. State or EPA Inspection Notifications: The applicable specifications, contracts, standards; operating procedures, and other documents used to meet the permit requirements. Maintain records of the analysis of the comparison between permittee inspections and state or EPA inspections.
- x. Training: Name and title of each staff trained, date of training, the type of training, and a list of topics covered.
- xi. For Applicable Construction Activities that Overlap Multiple Jurisdictional Boundaries: Copies of any written agreements between co-regulating MS4 permittees when required by [Part I.E.3.a.x](#).
- xii. Cherry Creek Reservoir Drainage Basin Requirements:
  - (A) Maintain records of the applicable contracts, codes, resolutions, ordinances and program documents used to meet the permit requirements.
  - (B) Exclusions and Variances: For sites over 1 acre, maintain records for activities covered under [Part I.E.3.a.xi\(C\)2 and 3](#)). Records must include the site name, owner name, location, completion date, planned disturbed acreage for the site, and reason for exclusion.

#### 4. Post-Construction Stormwater Management in New Development and Redevelopment

The permittee must implement a program to ensure that controls are in place that would prevent or minimize water quality impacts to applicable development sites, including new development and redevelopment sites.

- All permittees: [Parts I.E.4.a.i](#) through xi and [I.E.4.b](#) apply to all [applicable development sites](#).
- Permittees in the Cherry Creek watershed: For applicable development sites that are [Tier 3 new development](#) or [redevelopment](#) sites, [Part I.E.4.a.xii](#) applies in addition to [Part I.E.4.a.i](#).
- Permittees in the Cherry Creek watershed: For applicable development sites that are Tier 2 new development or redevelopment sites, Part I.E.4.a.xii applies; however, the permittee may be eligible for exclusion under [Part I.E.4.a.i\(A\)](#) and [\(B\)](#).
- [Part I.E.4](#) does not apply to [Tier 1](#) land disturbances.

- a. The following requirements apply:
- i. Exclusions: Permittees may exclude the following from the requirements of an applicable development site.
    - (A) Applicable development sites for which the permittee does not own or operate or have implementation authority over are excluded from the requirements of [Part I.E.4.a.ii](#) through [xii](#) and [Part I.E.4.b](#).
    - (B) Permittees with a documented MS4 participation agreement(s) are excluded from the requirements of [Part I.E.4.a.ii](#) through [xii](#) for all applicable Post-Construction Stormwater Management in New Development and Re-Development activities covered by agreement(s). A documented MS4 participation agreement is an agreement between a non-standard MS4 permittee and a city, county, or quasi-governmental organization acting on behalf of a city or county MS4 permittee. The agreement allows the city, county, or quasi-governmental MS4 permittee full authority to implement its Post Construction Stormwater Management in New Development and Redevelopment program within the identified geographical areas of the non-standard MS4 permittee. Under this exclusion, the permittees must also meet the following.
      - 1) A documented MS4 participation agreement must meet all of the requirements in (a) through (d) below.
        - (a) The agreement is signed and dated by the legally responsible officials of both MS4 permit holders.
        - (b) The agreement allows for the city or county MS4 permittee to fully enforce its program requirements on the non-standard permit holders MS4 system and areas that drain to the non-standard MS4 for which the non-standard permit holder has ownership or authority.
        - (c) The agreement includes acknowledgement by the non-standard MS4 permittee that the city or county MS4 permittee's program requirements may be more stringent than the non-standard MS4 permit requirements and, if so, the non-standard MS4 permittee is still subject to the city or county MS4 permittee's program requirements. This agreement must be documented in the non-standard MS4 permittee's annual report.
        - (d) The agreement identifies the geographical area covered by the agreement either with a map or by referencing the jurisdictional boundaries of the parties.
      - 2) The permittee must document the city or county MS4 permittee program(s) they will adhere to for the jurisdictional boundary.
      - 3) The permittee must require that permanent water quality controls are developed and implemented in compliance with all requirements of the city or county MS4 permittee's program(s).
      - 4) The permittee must ensure the long-term operation and maintenance of permanent water quality controls, in accordance with the city or county MS4 permittee's program(s).
      - 5) The permittee must submit construction and long-term operation and maintenance plans and documentation for review by the city or county MS4 permittee's program(s), as required by those city or county MS4 permittee's programs.
      - 6) The permittee must allow for site inspections, both during construction and following construction, by the city or county MS4 permittee's program(s), as required by the city or county MS4 permittee's program.
      - 7) Under this exclusion the permittee would be in violation of this permit if they fail to comply with the city or county MS4 permittee's program.
      - 8) The permittee must comply with documentation requirements in [Part I.E.4.b](#).

In lieu of an MS4 participation agreement the permittee may provide documentation to the division that the city, county, or quasi-governmental MS4 entity has sufficient authority to implement and enforce their local post construction program and regulatory mechanism within the MS4 jurisdictional boundary and actively does so. Documentation must briefly describe how the Non-standard MS4 is legally held to the city, county, or quasi-governmental MS4 permittee's post construction program requirements.

- (C) [Pavement Management Sites](#): Sites, or portions of sites, for the rehabilitation, maintenance, and reconstruction of [roadway](#) pavement, which includes roadway resurfacing, mill and overlay, white topping, black topping, curb and gutter replacement, concrete panel replacement, and pothole repair. The purpose of the site must be to provide additional years of service life and optimize service and safety. The site also must be limited to the repair and replacement of pavement in a manner that does not result in an increased [impervious area](#) and the infrastructure must not substantially change. The types of sites covered under this exclusion include day-to-day maintenance activities, rehabilitation, and reconstruction of pavement. “Roadways” include roads and bridges that are improved, designed or ordinarily used for vehicular travel and [contiguous](#) areas improved, designed or ordinarily used for pedestrian or bicycle traffic, drainage for the roadway, and/or parking along the roadway. Areas primarily used for parking or access to parking are not roadways.
  - (D) Excluded Roadway Redevelopment: Redevelopment sites for existing roadways, when one of the following criteria is met:
    - 1) The site adds less than 1 acre of paved area per mile of roadway to an existing roadway, or
    - 2) The site does not add more than 8.25 feet of paved width at any location to the existing roadway.
  - (E) Excluded Existing Roadway Areas: For redevelopment sites for existing roadways, only the area of the existing roadway is excluded from the requirements of an applicable development site when the site does not increase the width by two times or more, on average, of the original roadway area. The entire site is not excluded from being considered an applicable development site for this exclusion. The area of the site that is part of the added new roadway area is still an applicable development site.
  - (F) Aboveground and Underground Utilities: Activities for installation or maintenance of underground utilities or infrastructure that does not permanently alter the terrain, ground cover, or drainage patterns from those present prior to the construction activity. This exclusion includes, but is not limited to, activities to install, replace, or maintain utilities under roadways or other paved areas that return the surface to the same condition.
  - (G) Non-Residential and Non-Commercial Infiltration Conditions: This exclusion does not apply to residential or commercial sites for buildings. This exclusion applies to applicable development sites for which post-development surface conditions do not result in concentrated stormwater flow during the 80<sup>th</sup> percentile stormwater runoff event. In addition, post-development surface conditions must not be projected to result in a surface water discharge from the 80<sup>th</sup> percentile stormwater runoff events. Specifically, the 80<sup>th</sup> percentile event must be infiltrated and not discharged as concentrated flow. For this exclusion to apply, a study specific to the site, watershed and/or MS4 must be conducted. The study must show rainfall and soil conditions present within the permitted area; must include allowable slopes, surface conditions, and ratios of impervious area to pervious area; and the permittee must accept such study as applicable within its MS4 boundaries.
  - (H) Land Disturbance to Undeveloped Land that will Remain Undeveloped: Permittees may exclude areas with land disturbance to undeveloped land (land with no human-made structures such as buildings or pavement) that will remain undeveloped after the site.
  - (I) Stream Stabilization Sites: Permittees may exclude stream stabilization sites.
  - (J) Trails: Permittees may exclude bike and pedestrian [trails](#). Bike lanes for roadways are not included in this exclusion, unless attached to a roadway that qualifies under another exclusion in this section.
  - (K) Stormwater Facilities: Permittees may exclude the installation or maintenance of stormwater facilities associated with flood control and water quality, including but not limited to, flood control ponds and post-construction control measures.
- ii. Regulatory Mechanism: The permittee must implement a regulatory mechanism to meet the requirements in [Part I.E.4.a.i](#) through xi, including, but not limited to:
- (A) Require control measures to be implemented in accordance with [Part I.B](#) for applicable development sites.
  - (B) Require the long-term operation and maintenance of control measures.

- (C) Ensure that mechanisms are in place for control measures used to meet the requirements of this permit by an applicable development site in the jurisdictional boundary that are located outside of the implementation authority of the permittee.
- (D) Implement sanctions against entities responsible for installation and for the long-term operation and maintenance of the control measures.
- iii. Regulatory Mechanism Exemptions: The permit must implement procedures to ensure that any exclusions, exemptions, waivers, and variances included in the regulatory mechanism are applied in a manner that complies with the terms and conditions of this permit.
- iv. Control Measure Requirements: The permittee's requirements and oversight for applicable development sites must be implemented to address the selection, installation, implementation, and maintenance of control measures in accordance with requirements in [Part I.B](#). The "[base design standards](#)" are listed below and are the minimum design standards for new development and redevelopment sites. All control measure must also be sized and designed for the drainage area of the control measure installed; as necessary to meet the post-construction requirements of the applicable development site.

Any excluded area of the applicable development site must be documented. The control measures for applicable development sites shall meet one of the following design standards listed below.

- (A) WQCV Standard: The control measure(s) is designed to provide treatment and/or infiltration of the [WQCV](#) and 100% of the applicable development site is captured
  - 1) If the permittee determines and documents that it is not practicable to capture runoff from portions of the site that will not drain towards control measures, then the permittee can exclude up to 20 percent, not to exceed 1 acre, of the applicable development site area. At a minimum, the permittee must document the following if excluding any parts of the applicable development site from treatment:
    - (a) Why capturing 100% of the applicable development site is not practicable.
    - (b) Why an additional control measure(s) to treat 100% of the applicable development site is not practicable (e.g., driveway access that drains directly to street).
  - 2) The minimum drain time shall be 12 hours. This does not apply to stormwater runoff that is treated with filtration (e.g., bioretention) or is infiltrated (e.g., permeable pavement, etc.).
- (B) Pollutant Removal Standard: The control measure(s) is designed to treat at a minimum the 80th percentile stormwater runoff event for 100% of the applicable development site. The control measure(s) shall be designed to treat stormwater runoff in a manner expected to reduce the event mean concentration of total suspended solids (TSS) to a median value of 30 mg/L or less<sup>1</sup>.
  - 1) If the permittee determines and documents that it is not practicable to capture runoff from portions of the site that will not drain towards control measures, then the permittee can exclude up to 20 percent, not to exceed 1 acre, of the applicable development site area. At a minimum, the permittee must document the following if excluding any parts of the applicable development site from treatment:
    - (a) Why capturing additional runoff from the applicable development site is not practicable.
    - (b) Why an additional control measure(s) to treat additional runoff from the applicable development site is not practicable (e.g., driveway access that drains directly to street).
- (C) Runoff Reduction Standard: The control measure(s) is designed to infiltrate into the ground where site geology permits, evaporate, or evapotranspire a quantity of water equal to 60% of what the calculated WQCV would be if all impervious area for the applicable development site discharged without infiltration. This base design standard can be met through practices such as [green infrastructure](#). "Infiltrate" is the act of stormwater runoff infiltrating into the ground without release to the MS4. An underdrain can be used for runoff in excess of the 60% standard, provided that the 60% of the calculated WQCV has infiltrated. A separation distance of 2 feet is required between the bottom of the infiltration control measure and the elevation of the top of bedrock or the expected seasonally high ground water table, including alluvial groundwater, unless a site

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<sup>1</sup> The permittee may determine this based on design specifications and proper installation, operation and maintenance of the control measure. The permittee is not required to confirm performance through effluent monitoring.

specific design has determined that a reduced depth would allow for necessary infiltration rates, structure stability associated with expanding bedrock, and prevent contamination of groundwater associated with pollutants present at the site.

- (D) Applicable Development Site Draining to a Regional WQCV Control Measure: The regional WQCV control measure must be designed to accept the drainage from the applicable development site. Stormwater from the site must not discharge to a water of the state before being discharged to the regional WQCV control measure. The regional WQCV control measure must meet the requirements of the WQCV in [Part I.E.4.a.iv\(A\)](#) and must be designed and maintained for 100% WQCV for its entire drainage area.
- (E) Applicable Development Site Draining to a Regional WQCV Facility: The regional WQCV facility is designed to accept drainage from the applicable development site. Stormwater from the site may discharge to a water of the state before being discharged to the regional WQCV facility. Before discharging to a water of the state, at least 20% of the impervious area of the applicable development site must drain through a receiving pervious area control measure comprising a footprint of at least 10% of the impervious area draining to it. The control measure must be designed in accordance with a design manual identified by the permittee. In addition, the stream channel between the discharge point of the applicable development site and the regional WQCV facility must be stabilized.

The regional WQCV facility must meet the following requirements:

- 1) The regional WQCV facility must be implemented, functional, and maintained following good engineering, hydrologic and pollution control practices.
  - 2) The regional WQCV facility must be designed and maintained for 100% WQCV for its entire drainage area.
  - 3) The regional WQCV facility must have capacity to accommodate the drainage from the applicable development site.
  - 4) The regional WQCV facility be designed and built to comply with all assumptions for the development activities planned by the permittee within its drainage area, including the imperviousness of its drainage area and the applicable development site.
  - 5) The minimum drain time shall be 12 hours. This does not apply to stormwater runoff that is treated with filtration or is infiltrated.
  - 6) The permittee shall meet the requirements in [Parts I.E.4.a.v](#) and [vii](#) and [Part I.E.4.b](#) for the regional WQCV facility consistent with requirements and actions for control measures.
  - 7) The regional WQCV facility must be subject to the permittee's authority consistent with requirements and actions for a control measure in accordance with all other requirements in [Part I.E.4.a.iv](#).
  - 8) Regional Facilities must be designed and implemented with flood control or water quality as the primary use. Recreational ponds and reservoirs may not be considered Regional Facilities. Water bodies listed by name in surface water quality classifications and standards regulations (5 CCR 1002-32 through 5 CCR 1002-38) may not be considered regional facilities.
- (F) Constrained Redevelopment Sites Standard:
- 1) Applicability: The constrained redevelopment sites standard applies to redevelopment sites meeting the following criteria:
    - (a) The applicable redevelopment site is for a site that has greater than 75% impervious area, and
    - (b) The permittee has determined and documented that it is not practicable to meet any of the design standards in [Parts I.E.4.a.iv\(A\)](#), [\(B\)](#), or [\(C\)](#). The permittee's determination shall include an evaluation of the applicable redevelopment sites ability to install a control measure without reducing surface area covered with the structures.
  - 2) Constrained Redevelopment Sites Design Standard: The control measure(s) is designed to meet **one** of the following:
    - (a) Provide treatment of the WQCV for the area captured. The captured area shall be 50% or more of the impervious area of the applicable redevelopment site. The WQCV for the control measure(s) must be sized for the drainage area, even if it extends beyond the

applicable development site. The minimum drain time shall be 12 hours. This drain time does not apply to stormwater runoff that is treated through filtration or infiltration.

- (b) The control measure(s) is designed to provide for treatment of the 80th percentile runoff storm event. The control measure(s) shall be designed to treat stormwater runoff in a manner expected to reduce the event mean concentration of total suspended solids (TSS) to a median value of 30 mg/L or less.

A minimum of 50% of the applicable development area including 50% or more of the impervious area of the applicable development area shall drain to the control measure(s). This standard does not require that 100% of the applicable redevelopment site area be directed to control measure(s) as long as the overall removal goal is met or exceeded (e.g., providing increased removal for a smaller area), or

- (c) Infiltrate, evaporate, or evapotranspire, through practices such as green infrastructure, a quantity of water equal to 30% of what the calculated WQCV would be if all impervious area for the applicable redevelopment site discharged without infiltration.

(G) Previous Permit Term Standard-Renewal Permittees:

- 1) Applicability: The previous permit term standard is only applicable to applicable development activities where one of the following criteria are met:
  - (a) The control measure(s) is constructed for the applicable development site prior to the due date in [Part I.H](#) to implement a post-construction sites program.
  - (b) The control measure(s) for the applicable development site is designed and in review prior to the due date in [Part I.H](#) to implement a post-construction sites program.
  - (c) The control measure(s) for the applicable development site is designed and approved prior to the due date in [Part I.H](#) to implement a post-construction sites program.
- 2) The previous permit design standard is the design approved by the permittee consistent with the CDPS Stormwater Management Plan Description submitted to the division in accordance with the requirements of the previous permit.
- 3) Any modifications to the control measure(s) shall be consistent with the CDPS Stormwater Management Plan Description submitted to the division in accordance with the requirements of the previous permit, or consistent with one of the control measure requirements in [Part I.E.4.a.iv\(A\)](#) through (H).

(H) Standard for New Permittees:

- 1) Applicability: [New permittees](#) may exempt from the control measure requirements of [Part I.E.4.a.iv](#) applicable development sites that meet one or more of the criteria below:
  - (a) The drainage infrastructure(s) is constructed for the applicable development site prior to the deadline in [Part I.H](#) to implement a post-construction sites program.
  - (b) The drainage infrastructure(s) for the applicable development site is designed and in review prior the deadline in [Part I.H](#) to implement a post-construction sites program.
  - (c) The drainage infrastructure(s) for the applicable development site is designed and approved prior to the deadline in [Part I.H](#) to implement a post-construction sites program.

v. Post-Construction Site Plans

- (A) Before a structural control measure can be approved by the permittee, the permittee must evaluate the applicable development site for the following:

- 1) First, the permittee must review the site for control measures that reduce runoff. The permittee's review must include consideration of ways to minimize imperviousness and directly connected impervious areas.
- 2) Second, the permittee must review the site for procedural control measures that could reduce stormwater pollution, including covering storage and handling areas, spill containment and control, disposal of household waste, illicit discharge controls, good housekeeping, preventative maintenance, vehicle maintenance, fueling, and storage, use of pesticides, herbicides, and fertilizers, landscape maintenance, snow and ice management, street sweeping and cleaning, and storm sewer system cleaning.



- (B) Site Plan Requirements: The permittee shall review and approve all site plans for the following:
- 1) Analysis from evaluation of runoff reduction and procedural control measures from [Part I.E.4.a.v\(A\)](#).
  - 2) Design details for all control measures implemented to meet the requirements of Part I.B and Part I.E.4.
  - 3) A narrative reference for all [non-structural control measures](#) for the site, if applicable.
  - 4) Documentation of operation and maintenance procedures to ensure the long term observation, maintenance, and operation of the control measures. The documentation shall include frequencies for routine inspections and maintenance activities.
  - 5) Documentation regarding easements or other legal means for access of the control measure sites for operation, maintenance, and inspection of control measures.
- (C) Site Plan Review: The permittee shall implement a plan review process for the control measures. The plan review shall include the following minimum requirements designed to prevent inadequate control measures from being implemented:
- 1) Confirmation that control measures were designed to meet the requirements of [Part I.E.4](#).
  - 2) Confirmation that site plans meet the requirements of [Part I.E.4.a.v\(B\)](#).
  - 3) Post Construction Site Plan Revisions:
    - (a) Major Modifications. Changes to the original site plan that remove or add additional area to the project, modify the final hydrology or drainage of the final design, replace an approved site plan, or otherwise expands or contracts the scope of the original project shall require the submission of plans to the permittee for review and approval.
    - (b) Minor Modifications. Modifications to the original site plan that do NOT increase the scope or change hydrology of the project but modifies/improves specific control measures used or specifies the relocation of previously approved control measures within the project shall be made in the field by the construction site owner/operator and thoroughly documented in the site plan narrative and/or drawings. If the permittee determines there are significant site plan revisions or updates that reflect changes to critical control measures that may result in an illicit discharge to the MS4 or state waters, the permittee must approve or require approval of those control measure revisions. The permittee must review these revisions during inspections, determine if the permittee approves, and show in some way (like initialing the map or through an electronic log) that the permittee approves of the minor modifications.
    - (c) The permittee will only approve a major and minor modification if the modification meets the applicable requirements of [Part I.E.4.a.v\(A\)](#) and [\(B\)](#).
- vi. Final Construction Inspection and Acceptance: The permittee must implement inspection and acceptance procedures to ensure that control measures are installed and implemented in accordance with the site plan and include the following:
- (A) Confirmation that the completed control measure operates in accordance with the approved site plan.
  - (B) All applicable development sites must have operational permanent water quality control measures at the completion of the site. In the case where permanent water quality control measures are part of future phasing, the permittee must have a mechanism to ensure that all control measures will be implemented, regardless of completion of future phases or site ownership. In such cases, temporary water quality control measures must be implemented as feasible and maintained until removed or modified. All temporary water quality control measures must meet one of the design standards in [Part I.E.4.a.iv](#).

For the purpose of this section, completion of a site or phase shall be determined by the issuance of a certificate of occupancy, use of the completed site area according to the site plan, payment marking the completion of a site control measure, the nature of the selected control measure or equivalent determination of completion as appropriate to the nature of the site.

- vii. Long-Term Operation and Maintenance and Post Acceptance Oversight: The permittee must implement written procedures which include the following minimum requirements to ensure adequate long-term

operation and maintenance of control measures installed under previous and current permits that are owned by the permittee to ensure that they are functioning as designed.

- (A) Procedures to track the location, operator (if different than the permittee), operator contact information, type, and maintenance of each control measure.
- (B) Procedures to enforce the requirements for the operator (if different than the permittee) to implement and maintain control measures when necessary.
- (C) Where the permittee owns the control measure but a different entity (excluding the permittee's contractors) performs control measure operation and maintenance, the permittee shall perform oversight inspections. For oversight inspections, the permittee must inspect all control measures installed under previous permits and this permit at a frequency that it determines to ensure that the control measure is functioning as designed and is in compliance with the site plan, however, the permittee shall inspect the control measure at least once every 5 years. If the site plans for control measures installed under previous permits are unavailable the permittee must determine during the inspection whether the control measure meets the requirements of Part I.B. Oversight inspections shall include the inspection of field conditions and control measures to confirm conformity with the site plan, identify any inadequate control measures, and identify control measures requiring routine maintenance, such as trash removal.

If the permittee owns the control measure and performs operation and maintenance procedures themselves or through a contractor, then the permittee is not required to conduct the once per 5 year oversight inspections.

In addition to the permittee oversight inspections once every 5 years, the permittee must ensure that the operator of the control measure installed under this permit must also perform operation and maintenance inspections at a frequency that the permittee determines will ensure that the control measure is functioning as designed or at a minimum of twice per year. All functional elements of control measures shall be inspected during operation and maintenance inspections.

- viii. Enforcement Response: Implement appropriate written enforcement procedures and actions to meet the requirements of [Part I.E.4](#). Where the permittee owns the control measure but a different entity (excluding the permittee's contractors) performs control measure operation and maintenance, the permittee must have processes and sanctions to minimize the occurrence of, and obtain compliance from chronic and recalcitrant violators of control measure requirements.
  - (A) The permittee must follow the written enforcement procedures. Written enforcement procedures must include informal, formal, and judicial enforcement responses. The permittee must require enforcement escalation as necessary based on the severity of violation and/or the recalcitrance of the violator to ensure that findings of a similar nature are enforced upon consistently.
  - (B) The permittee must escalate enforcement procedures if non-compliance has continued at the applicable development project for more than two inspections. If the permittee does not escalate enforcement at that time, they must document the reason why they did not take enforcement actions.
- ix. Tracking: Implement and document procedures and mechanisms to track the location of, and adequacy of, operation of control measures implemented in accordance with the program.
- x. Training: Train applicable staff to inspect the control measures in accordance with the permittee's procedures in [Part I.E.4.a.vi](#) and [vii](#). The permittee must identify those who will be likely to inspect the control measures and provide training to those individuals. The training must also include information on trash and its effects on water quality.
- xi. For Applicable Development Sites that Overlap Multiple MS4 Permittee Jurisdictional Boundaries (co-regulating MS4 permittee): when a written agreement is in place with a co-regulating MS4 permittee, for the portions of the applicable development site located within the permittee's jurisdiction:
  - (A) Control measure requirements may be imposed on the operator in accordance with the requirements of a co-regulating MS4 permittee pursuant to the written agreement. This requirement does not apply to applicable development sites in the jurisdictional boundary of the Colorado Department of Transportation.
  - (B) Site plan review/acceptance and site inspection actions may be conducted by a co-regulating MS4 permittee to meet the requirement of the permit.
- xii. Cherry Creek Watershed Requirements

The following requirements **apply only to permittees within the Cherry Creek watershed** and are in addition to the above requirements in [Part I.E.4.a.i](#) through xi:

For the requirements under [Part I.E.4.a.xii](#), water quality capture volume (WQCV)" means the runoff retention capacity of a control measure that is designed to capture and treat, at a minimum, the 80th percentile runoff event from an entire site, i.e., 80 percent of the most frequent occurring storms are fully captured and treated and larger events are partially treated.

- (A) Regulated Activities. The permittee must develop, implement, and enforce a program that ensures that a combination of structural and/or nonstructural controls are in place that would prevent or minimize water quality impacts to the MS4 from new development and redevelopment projects.
- (B) Provisions for specific control measures or equivalent protection included in Regulation 72.7, that for the purpose of reducing nutrient concentrations to Cherry Creek Reservoir go beyond the requirements in the Colorado Discharge Permit Regulations, Regulation 61, for post-construction control measures, do not need to be required prior to discharge to a state water as long as control measures are in place to control stormwater runoff from new development and/or redevelopment in compliance with Regulation #61 (5 CCR 1002-61) and a regional facility(ies) is(are) in place to control phosphorus concentrations to Cherry Creek Reservoir, that result in pollutant removal in compliance with Regulations 72.7.2(c)(6), 72.7.2(c)(7), and/or 72.7.2(c)(8). Note that this provision only applies to control measures to address Regulation 72 requirements for the reduction of phosphorous. It does not relieve the permittee from control measure requirements in Regulation 61 as they are necessary to address other pollutants.
- (C) Individual Homes. Individual home construction, including development for a single home that disturbs less than one acre of land during construction and where the owner of the single home holds a permit for construction of only one dwelling within the subdivision, if any, containing the single home is not required to meet the requirements in [Part I.E.4.a.xii](#). Individual homes, however, are required to meet the requirements of [Parts I.E.4.a.i](#) through [xi](#) if the development is part of a common plan of development that disturbs an acre or more of land. This exemption does not apply to construction of roads, road gutters or road improvements associated with the individual home construction.
- (D) Exclusions.
  - 1) Automatic Exclusions. The permittee may exclude the following activities from the requirements in [Part I.E.4.a.xii](#):
    - (a) Agricultural Activities; (i.e., agricultural and silvicultural activities generating nonpoint source discharges, including runoff from orchards, cultivated crops, pastures, range lands, and forest lands, but not CAFOs. This exclusion does not extend to the construction of facilities or other activities generating stormwater runoff associated with industrial construction activity);
    - (b) Emergency and routine repair and maintenance operations for all underground utilities;
    - (c) Land Disturbances at residential or commercial subdivisions that already have adequate post construction control measures installed and operating for the entire subdivision, approved in compliance with this regulation, and with adequate capacity to treat any additional discharges;
    - (d) Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of a facility (maintenance operations performed by the permittee may still be covered under the municipal operations minimum control measure);
    - (e) Emergency operations related to flood, fire, or other force majeure that maintain the original line and grade, hydraulic capacity, or original purpose of the facility;
    - (f) Land disturbance to undeveloped land that will remain undeveloped following disturbance and will be reclaimed in accordance with [Part I.E.3.a.xi\(E\)2\(b\)](#);
    - (g) [Excluded Roadway Projects](#);
    - (h) [Large lot single family development](#) using runoff reduction practices, where the permittee implements a set of requirements and/or standards for such practices with the intent of meeting WQCV requirements for typical sites and expected conditions, which may be used either in place of or in combination with the site-specific calculations and analysis

otherwise required by [Part I.E.4.a.xii\(F\)2\)\(k\)](#) for runoff reduction practices control measures; and

- (i) Underground utility construction, provided that stormwater runoff and erosion from soil and material stockpiles are confined and will not enter the drainage system.
  - 2) Authorized Exclusions. The permittee may exclude the following activities from the requirements in [Part I.E.4.a.xii](#) on a site-specific basis, upon submission by the owner of a written request for exemption to the permittee and following adequate review and determination by the permittee that a permit is not needed to insure adequate protection of water quality:
    - (a) Construction of a sidewalk or driveway;
    - (b) [Rural road construction and maintenance](#), provided that the permittee requires post-construction BMPs specific to this activity;
    - (c) Trails construction provided that permittee requires post-construction control measures specific to this activity.
    - (d) Stormwater Facilities - The acreage of the excluded impervious area.
  - 3) Additional Exclusions. The permittee may allow for additional automatic and/or authorized exclusions, with written approval from the division, when it can be reasonably shown that excluding the activity will not pose an increased threat to water quality, or that the cost of administering the program for a specific activity with low risk of stormwater pollution outweighs the benefits to water quality. The division reserves the right to not allow any additional exclusions.
- (E) Submittal requirements.
- 1) Post-Construction Control Measure Plan. A post-construction control measure plan must be submitted to and, following adequate review, approved by the permittee prior to the commencement of land disturbances.
  - 2) Inspection and Maintenance. The post-construction control measure plan must also contain, at a minimum, the following information to address long term operation and maintenance of post-construction control measures:
    - (a) Procedures for maintenance and inspection protocols to ensure continued effectiveness of control measures, and commitments from the responsible agency/owner to maintain post-construction control measures.
    - (b) Procedures for dedication by easements or other legal means for access at the post-construction control measure sites for operation, maintenance, and inspection of post-construction control measures.
- (F) Post-Construction Control Measures.
- 1) For all development and redevelopment, the permittee must require the installation, operation, and maintenance of post-construction control measures as follows:
    - (a) For all [Tier 3](#) development and redevelopment, the permittee must require installation of post-construction control measures that provide a WQCV designed to capture and treat, at a minimum, the 80th percentile runoff event. All control measures must be designed in accordance with good engineering practices and the permittee may require additional design restrictions.
    - (b) For all [Tier 2](#) development and redevelopment, the permittee must require the installation, operation, and maintenance of post-construction control measures and/or hydrologic conditions at the site that meet one or more of the following criteria:
      - (i) The WQCV storm event is assumed not to leave the site, as demonstrated by suitable hydrologic analysis;
      - (ii) Runoff is discharged as sheet flow across a grass buffer area, designed in accordance with Urban Drainage Flood Control District Volume 3 requirements.
      - (iii) Runoff is discharged from the site through a grass swale in combination with implementation of Minimize Directly Connected Impervious Areas (MDCIA) practices.

- (iv) Runoff is discharged from the site through a constructed wetland channel.
  - (v) Runoff is discharged across undisturbed and vegetated land a minimum distance of 50 feet or 3 times the distance criteria for grass buffers, whichever is greater, with a slope not exceeding 4 percent over that distance;
  - (vi) Allowed discharge of a storm event adequately protects water quality, as demonstrated by a hydrologic analysis accepted by permittee; or
  - (vii) Alternative control measures and/or site condition requirements may be used if they are shown to have comparable or better nutrient removal characteristics for the given use, in comparison to the above listed control measures/site condition requirements, when properly designed and implemented. These control measures/site condition requirements must be determined to be acceptable by the permittee on a case-by-case basis, or, if appropriate, may be added to the menu of acceptable control measures.
- 2) Approved Control Measures. One or more of the following control measures shall be required to meet the WQCV. All control measures must be designed in accordance with good engineering practices; the permittee may provide additional design restrictions. Alternative control measures may be used if they are shown to have comparable or better nutrient removal characteristics for the given use, in comparison to the below-listed control measures, when properly designed and implemented. These control measures must be determined to be acceptable by the permittee on a case-by-case basis, or, if appropriate, may be added to the menu of acceptable control measures.
- (a) Constructed wetland channel, in conjunction with extended detention basin, retention pond, constructed wetlands basin, porous pavement detention, porous landscape detention, or sand filter extended detention watershed.
  - (b) Grass swale in combination with porous pavement detention or porous landscape detention.
  - (c) Constructed wetland channel preceded by modular block porous pavement.
  - (d) Minimize Directly Connected Impervious Surface (MDCIA). This combination control measure of MDCIA in conjunction with extended detention watershed retention pond, constructed wetlands basin, porous pavement detention, porous landscape detention, or sand filter extended detention basin. At a minimum, for MDCIA, all impervious areas at the development must flow over grass buffer strips before reaching a stormwater conveyance system.
  - (e) Extended-detention basins (dry ponds).
  - (f) Retention ponds (wet ponds).
  - (g) Constructed wetlands basin.
  - (h) Porous pavement detention.
  - (i) Porous landscape detention.
  - (j) Sand filter extended detention basin.
  - (k) Runoff Reduction Practices. A combination of planning techniques to reduce runoff peaks, volumes, and pollutant loads from urbanizing areas that includes low impact development (LID) strategies and MDCIA to reduce unnecessary impervious areas and route runoff from impervious surfaces over permeable areas to slow runoff and promote onsite storage and infiltration. The effectiveness of this control measure to reduce peak flows, volumes, and pollutant loads shall be demonstrated by site-specific calculations and analysis approved by the MS4 permittee.
- 3) WQCV Alternatives. The permittee may allow alternative control measures that do not use the WQCV approach or are in combination with the WQCV, if they are shown to have comparable or better nutrient concentration reduction characteristics for the given use when properly designed, implemented, and maintained. These control measures must be determined to be acceptable by the permittee on a case-by-case basis, or, if appropriate, may be added to the menu of acceptable control measures. Specifically, the permittee may allow for the owner to use stream bank stabilization at the development site, and conservation of open space through

clustering of development or setbacks from drainage ways, to reduce the need for the WQCV for the whole site.

- 4) Operation and Maintenance. The permittee must develop a program that requires owners to be responsible for operation and maintenance of control measures and requires that they provide sufficient legal access, by dedicating easements for the sites of the permanent control measures and access thereto for the owner/agency responsible for operation and maintenance, the permittee, and for inspections, operation, and maintenance.
- (G) Additional Control Measure Requirements. In addition to other requirements in this regulation for post-construction control measures, the permittee must develop, implement, and enforce a program that ensures that permanent controls are in place at completed projects at the following: those facilities requiring coverage under both [Part I.E.4.a.xii\(A\)](#) and facilities engaging in “industrial activity” per Regulation 61.3(2)(e)(iii); and from other designated commercial and industrial facilities as discussed below. The program must address any stormwater pollutant sources at these facilities that may require unique management strategies. The permittee shall:
- 1) Develop a program to designate commercial facilities on a case-by-case basis or by addition of a general commercial sector, based on a determination that they have a significant potential to contribute nutrient concentrations to state waters at a rate higher than typical for other commercial or industrial land uses (e.g., stores with outdoor fertilizer storage, facilities with deicing operations).
  - 2) The permittee must require owners to satisfy additional special post-construction control measure requirements designed to prevent or reduce the amount of pollutants generated and/or released from the area of land disturbance, which include but are not limited to:
    - (a) Covering or enclosing activity in buildings or roofs;
    - (b) Providing secondary containment area to collect leaks and spills of fuels, lubricants, and other chemicals;
    - (c) Segregating or diverting stormwater runoff away from or around pollutant generating activity; and
    - (d) Routing site drainage to recycling or otherwise preventing direct discharge of vehicle or equipment wash-water.
- (H) Stream Preservation Areas. The following requirements provide special standards and procedures for land disturbances in stream preservation areas, which include Cherry Creek Reservoir, all of Cherry Creek State Park, drainage and discharges to the park within 100 feet of the park boundary; lands overlying the Cherry Creek 100-year floodplain; and all lands within the 100-year floodplain of Cherry Creek tributaries, as defined by the Urban Drainage and Flood Control District.
- 1) Additional Control Measure Requirements. For Tier 2 and Tier 3 new development and redevelopment in stream preservation areas, the permittees must, in addition to meeting all the post-construction control measure requirements in [Part I.E.4.a.xii\(F\)](#) and/or (G) require owners to implement control measures that promote filtration, or infiltration where appropriate, to treat the WQCV for all runoff from the developed areas within the stream preservation area. Examples of such control measures include, but are not limited to:
    - (a) Constructed wetland basins;
    - (b) Sand filter basins;
    - (c) Porous landscape detention; and
    - (d) Porous pavement detention.
  - 2) Authorized Exclusions. The permittee may exclude the following activities from the requirements in section [Part I.E.4.a.xii\(H\)1](#)) where the disturbance is the result of implementation of an approved control measure, in accordance with requirements in [Part I.E.4.a.xii](#), unless the post-construction control measure is required for new development.

Construction of roadway, highway, and underground utility crossings, provided construction control measures are implemented as required in section [Part I.E.3.a.xi](#) and post-construction control measures are implemented as required in [Part I.E.4.a.xii](#).

Rural road construction and maintenance, except for a land disturbance associated with a rural

road within a stream preservation area, and provided that the permittee requires post-construction control measures specific to this activity.

Those automatic and authorized exclusions defined in section [Part I.E.4.a.xii\(D\)](#).

- b. Recordkeeping: Except for MS4 portions where the permittee has an exemption under [Part I.E.4.a.i\(B\)](#) the permittee must document the implementation of these permit requirements and at a minimum, maintain the following records for activities to meet the requirements of this section ([Part I.E.4.b](#)).

For MS4 portions exempted under [Part I.E.4.a.i\(B\)](#) the permittee must document and report in accordance with the requirements of [Part I.E.4.b](#) only where the requirements and activities of the city or county MS4 permittee's program produces such information. The permittee must either independently document this information or the MS4 participation agreement must ensure that copies of all the permittee's compliance and enforcement records are transferred to the permittee for reporting to the division.

- i. For exclusions under [Part I.E.4.a.i\(B\)](#) the permittee must describe general locations where another entity implements the post-construction program and must maintain documented MS4 agreements to comply with [Part I.E.4.a.i\(B\)](#).
- ii. Excluded Sites: Maintain records for activities covered under [Part I.E.4.a.i\(B\)](#) through (E) and (G) through (J). Records must include the site name, owner name, location, completion date, site acreage, reason for exclusion, and any information required below.
  - (A) Pavement Management Sites - The acreage of the excluded impervious area for rehabilitation and reconstruction of pavement that are not maintenance sites.
  - (B) Excluded Roadway Redevelopment - The acreage of the excluded paved area.
  - (C) Excluded Existing Roadway Areas for Roadway Redevelopment - The acreage of the excluded impervious area.
  - (D) Non-Residential and Non-Commercial Infiltration Conditions - The acreage of the excluded impervious area.
  - (E) Sites with Land Disturbance to Undeveloped Land that will Remain Undeveloped Redevelopment - The acreage of the excluded impervious area.
  - (F) Stream Stabilization Sites Redevelopment - The acreage of the excluded impervious area, if applicable.
  - (G) Trails - The acreage of the excluded impervious area.
- iii. Regulatory Mechanism: The applicable contracts, codes, resolutions, ordinances, and program documents used to meet the permit requirements.
- iv. Regulatory Mechanism Exemptions: The applicable contracts, codes, resolutions, ordinances, and program documents used to meet the permit requirements.
- v. Control Measure Requirements: The applicable contracts, codes, resolutions, ordinances and program documents used to meet the permit requirements, including the procedures to determine which design standard applies to each applicable development site and the design specifications for each design standard (if applicable). Any excluded area of the applicable development site, regardless of the type of design standard, must be documented. When approving a Constrained Redevelopment Design Standard, the permittee must document why it was not practicable for the applicable development site, or any portion of the applicable development site, to use another design standard.
- vi. Site Plans: Copies of final site plans for all applicable development sites. The final site plans must contain the information in [Part I.E.4.b.vi\(A\)](#) through (E) below.
  - (A) For all sites for which the stormwater runoff going to a regional WQCV control measure or facility is applied: the name and location of the regional WQCV control measure/facility and documentation that the regional WQCV control measure/facility has the capacity for the applicable development site. Procedures to track the drainage area and post-construction projects contributing to the regional control measure.
  - (B) For all sites for which the constrained redevelopment sites standard is applied: The site plan and the permittee's written determination that it is not practicable to meet any of the other design standards in [Parts I.E.4.a.iv\(A\)](#), (B), and (C). The permittee's written determination shall include

- an evaluation of the applicable redevelopment sites ability to install a control measure without reducing surface area covered with the structures.
- (C) For all sites for which the previous permit term standard is applied: Date of the start of the permittee's review process, the permittee's approval of the site plan (if applicable), the control measure implementation, and any modifications to the site plan.
  - (D) The applicable documentation for the operation and maintenance procedures that ensure the long-term observation, maintenance, and operation of control measures, including routine inspection frequencies and maintenance activities.
  - (E) The applicable documentation regarding easements or other legal means for access to the control measure for operation, maintenance, and inspection of control measures.
- vii. Construction Inspection and Acceptance: Maintain records of inspections conducted during construction and the permittee's acceptance of the control measure(s), including the process and tools used for documenting inspection, the process for inspection follow-up, including determining, implementing, and documenting the nature of the follow up action. Long Term Operation and Maintenance and Post Acceptance Oversight: Maintain inspection records with the following minimum information for all inspections conducted to meet the minimum inspection frequency in [Part I.E.4.](#)
- (A) Inspection date
  - (B) Name of inspector and whether the inspector is the permittee (including the permittee's contractor) or is another entity.
  - (C) Control measure identification, including the type of control measure
  - (D) Confirmation that the control measure operates in accordance with the approved plan
  - (E) Inspection findings including, when present: inadequate control measures and control measures requiring routine maintenance
  - (F) Confirmation that the control measure is operating as designed or a list of follow up actions
  - (G) Date the follow up actions were completed
  - (H) Type of inspection (oversight or operation and maintenance)
  - (I) Indication of whether the permittee performs operation and maintenance inspections or whether another entity (other than the permittee's contractor) performs operation and maintenance inspections
- viii. Permittees only have to keep the inspection records for the bi-annual and once per five year inspections. Permittees do not have to keep records for inspections conducted more frequently than required by this permit.
- ix. Enforcement Response: The document(s) must detail the types of escalating enforcement responses the permittee will take in response to common violations and time periods within which responses will take place. Must include any reports developed in accordance with enforcement escalation requirements in [Part I.E.4.a.viii.](#)
- x. Tracking for Control Measures Installed in Accordance with this Permit and Previous Permits: Maintain records of the required control measure and regional WQCV control measure information, including the type of control measure, the location of the control measure, the date it was installed, if it met a previous design standard (if applicable), if it meets the permittee's current design standard, the amount of acreage within the permittee's jurisdictional boundary that drains to the control measure, the dates of inspections, the dates of maintenance, and the dates of scheduled maintenance. If the operator is different than the permittee and is not the permittee's contractor, then the permittee must require the operator to maintain dates of control measure inspections, maintenance performed, and scheduled maintenance. The permittee must instruct the operator to make this information available to the permittee upon request. For control measures installed prior to this permit for which the permittee is the operator, the permittee must maintain known tracking information in this Part (I.E.4.b.x) for all control measures. Records must be maintained for the life of the control measure following the effective date of this permit.
- xi. Training: Name and title of each individual trained, date of training, the type of training, and a list of topics covered.



- xii. For Applicable Construction Activities that Overlap Multiple Jurisdictional Boundaries: Copies of any written agreements between co-regulating MS4 permittees when required by [Part I.E.4.a.xi](#).

## 5. Pollution Prevention/Good Housekeeping for Permittee Operations

The permittee must implement a program for Pollution Prevention/Good Housekeeping for facilities and operations that they own, operate, or perform within their jurisdictional boundary. The program must prevent or reduce water quality impacts from pollutants being discharged to the MS4 from permittee operations and facilities. "Applicable permittee operations and facilities" are permittee operations and facilities that *are not* authorized by a separate CDPS or NPDES discharge permit.

a. The following requirements apply to applicable permittee operations and facilities:

- i. Control Measure Requirements: The permittee must address the selection, installation, implementation, and maintenance of control measures in accordance with [Part I.B](#). At a minimum, control measures must be adequately designed to prevent or reduce all potential pollutants associated with applicable permittee facilities and operations to prevent or minimize the discharge of pollutants, including trash, to state waters.
- ii. Permittee-owned facility runoff control measures.

(A) The permittee shall maintain a list of all applicable permittee-owned facilities. Applicable facilities include the following:

- 1) Vehicle maintenance and washing facilities, motor pools with vehicle maintenance and washing, and loading and unloading areas.
- 2) Asphalt and concrete batch plants that are not subject to a separate CDPS or NPDES permit.
- 3) Solid-waste transfer stations where waste and recyclables are briefly held before further transport.
- 4) Outdoor storage yards with exposed stockpiles of materials, including stockpiles of road deicing salt, salt and sand, sand, and rotomill material, dirt, snow dumps, sweeper tailings and/or spoils, gravel.
- 5) Equipment storage yards.

(B) The permittee shall implement control measures to prevent or reduce potential discharges of pollutants to the MS4 from the applicable permittee-owned facilities. New written procedures shall be developed and implemented for any new applicable permittee-owned facilities prior to associated pollutant sources being present.

(C) The permittee shall implement the following categories of control measures as necessary to prevent or reduce the pollutant sources present:

- 1) Preventive maintenance
- 2) Good housekeeping
- 3) Spill prevention and response procedures
- 4) Structural control measures
- 5) Evaluation of non-stormwater discharges
- 6) Personnel training

(D) The permittee shall implement written facility inspection procedures, which must at a minimum include the following:

- 1) An annual visual inspection of each applicable permittee facility and operation.
- 2) A verification that the written facility procedures, documentation, and site map are current.
- 3) Visual observation of locations and areas where stormwater from permittee facilities are discharged off-site; or discharged to state waters, or to a storm sewer system that drains to state waters. The observations, at a minimum, must include the following:
  - (a) Observations for the presence of floating materials, visible oil sheen, discoloration, turbidity, odor, etc. in the stormwater discharge(s),
  - (b) Observations of the condition of and around stormwater outfalls, including flow dissipation measures to prevent scouring, and

- (c) Observations for the presence of illicit discharges or other non-permitted discharges.
  - (d) Observation of facility conditions, including pollutant sources and control measures, to identify inadequate control measure and control measures requiring maintenance.
- (E) All inadequate control measures identified under [Part I.E.5.a.ii\(D\)](#) shall be modified or replaced as soon as possible, but not later than 6 months from the visual inspection. If the permittee is unable to modify or replace the inadequate control measure within 6 months, then the permittee must complete the following:
- 1) Develop a plan to modify or replace the inadequate control measure.
  - 2) Develop a frequent maintenance plan.
  - 3) Install a temporary feature on the inadequate control measure to minimize the risk of pollutants in runoff from municipal operations.
- iii. Permittee Operations and Maintenance Procedures: The permittee shall implement control measures that prevent or reduce discharges for applicable permittee operations that are not covered under [Part I.E.5.a.ii\(A\)](#). New written procedures shall be developed and implemented for any new applicable permittee operations prior to associated pollutant sources being present.
- (A) At a minimum, implementation of the procedures must prevent or reduce stormwater pollution from the following operations conducted by the permittee:
- 1) Operation and maintenance of streets, roads, highways
  - 2) Operation and maintenance of permittee parking lots
  - 3) Operations at maintenance and storage yards
  - 4) Operations at maintenance shops with outdoor storage areas
  - 5) Operation and maintenance of snow dumps/snow disposal areas
  - 6) Operation and maintenance of sites used for temporary storage of sweeper tailings or other waste piles
  - 7) Park and open space maintenance
  - 8) Building maintenance
  - 9) New construction of permittee facilities
  - 10) Application of pesticides, herbicides, and fertilizers
  - 11) Large outdoor festivals and events
  - 12) Construction activities not subject to the requirements of [Part I.E.3](#).
  - 13) Maintenance, replacement, and construction of utilities and the storm system, including operations, such as storage, dewatering, or disposal, associated with removal of sediment, debris, trash, and other pollutant sources from the MS4, including removal of materials, such as trash, from control measures implemented in accordance with [Part I.E.4](#), unless covered by a separate CDPS or NPDES permit.
  - 14) Firefighting training and emergency operations.
- iv. Nutrient Source Reductions: The permittee shall implement a pollution prevention program that has the ultimate goal of preventing or reducing nitrogen and phosphorus in stormwater runoff associated with the applicable permittee operations and facilities.
- (A) The permittee shall evaluate, identify, and document the permittee operations and facilities that are and/or have the potential to contribute nitrogen or phosphorus to the waters receiving the discharge authorized under this permit. The permittee is authorized to meet the requirements of this section through contribution to a collaborative program to evaluate, identify, and target sources state-wide or within the specific region or watershed that includes the receiving waters impacted by the permittee's discharge(s). At a minimum,
- 1) If the permittee has any operations that use fertilizers, then the permittee shall include the storage and application of fertilizer, including subsequent stormwater or irrigation runoff from areas where fertilizer has been applied, as an identified permittee operations nutrient source.

- 2) If the permittee has any operations that use deicers containing phosphorus, then the permittee shall include the storage and application of deicers as an identified permittee operations nutrient source.
- (B) Where a permittee operation has been identified under (A) as a potential source of nitrogen or phosphorus, the permittee shall implement control measures that prevent or reduce the nutrient identified (nitrogen and/or phosphorus) from entering stormwater runoff. The control measures shall be implemented and documented in accordance with [Part I.E.5.a.ii](#), if associated with an applicable permittee facility, or in accordance with [Part I.E.5.a.iii](#), if associated with an applicable permittee operation.
- v. Outdoor Bulk Storage: Outdoor bulk storage structures, of more than 55 gallons, for petroleum products and any other liquid chemicals located at applicable permittee facilities must have control measures implemented that provide secondary containment or equivalent protection that contains all spills and prevents any spilled material from entering state waters. For the scenario of a single containment system serving multiple tanks, the containment system must have sufficient capacity to contain 10% of the volume of containers, or the volume of the largest container plus 10%, whichever is greater. Bulk storage on mobile refuelers that are subject to the authority and control of the U.S. Department of Transportation, as defined in the Memorandum of Understanding between the Secretary of Transportation and the Administrator of EPA, dated November 24, 1971 are not subject to the requirements of [Part I.E.5.a.v](#). Prior to the compliance date in [Part I.H](#), the permittee must implement practices, such as spill prevention and response, to prevent or reduce pollutants in runoff associated with bulk storage structures.
- vi. Use of Fire Fighting Foam in Training Activities and Emergencies: The permittee must prohibit the use of Class B firefighting foam that contains intentionally added perfluoroalkyl and polyfluoroalkyl substances for training or testing purposes. For emergency use, the permittee shall evaluate whether a Class B fluorine-free foam can provide the required performance for the specific hazard. Fluorinated Class B foams should only be used in situations of significant flammable liquid hazard with risk for public safety or significant property loss, where the performance of other foams has not been demonstrated to date. However, the provisions of this Part (I.E.5.a.vi) shall not apply to firefighting training, testing or emergency operations when the use of Class B firefighting foam containing perfluoroalkyl and polyfluoroalkyl substances is authorized by federal law.
- vii. Training
  - (A) The permittee must train applicable permittee staff to implement the Pollution Prevention/Good Housekeeping for permittee-owned facilities and operations.
  - (B) The permittee must identify those who will be likely to inspect the control measures and provide training to those individuals that will conduct inspections in accordance with [Part I.E.5.a.ii](#) and [Part I.E.5.a.iii](#).
  - (C) The program must inform permittee staff responsible for operations with the potential to result in an illicit discharge about the permittee's prohibitions against, and potential impacts associated with, illicit discharges from permittee operations. The training must also include information on trash and its effects on water quality.
- b. Recordkeeping: The permittee must maintain the following records for activities to meet the requirements of this [Part I.E.5](#) and [Part I.K.2](#):
  - i. Permittee-owned Facility Runoff Control Measures: For each applicable permittee facility and operation:
    - (A) Facility identification
    - (B) Description of all pollutant sources
    - (C) Control measures implemented, including installation and implementation specifications and information
    - (D) Staff (position title) responsible for implementation of control measures and associated documentation
    - (E) Description of control measures implemented for bulk storage structures.
    - (F) Maintain inspection records with the following minimum information for all inspections conducted to meet the minimum inspection frequency in [Part I.E.5.a.ii\(D\)](#):

- 1) Inspection date
  - 2) Name of inspector
  - 3) Applicable facility identification
  - 4) Inspection findings including: observations of locations and areas where stormwater is discharged from the site; inadequate control measures; control measures requiring routine maintenance; and if there was any evidence of polluted discharges from the facility.
- ii. Permittee Operations and Maintenance Procedures: Control measures implemented, including installation and implementation information.
  - iii. Nutrient Source Reductions: Control measures implemented to prevent or reduce nitrogen and phosphorus from permittee operations, including product substitution, installation and implementation information.
  - iv. Documentation of whether Class B fire fighting foams containing perfluoroalkyl substances are used, the locations of that use, and, if used, an evaluation of whether alternatives are available. However, documentation associated with the provisions of this Part (I. E.5.a.vi) shall not apply to firefighting training, testing or emergency operations when the use of Class B firefighting foam containing perfluoroalkyl and polyfluoroalkyl substances is authorized by federal law.
  - v. Training: Name and department of each individual trained, date of training, the type of training, and a list of topics covered.

## F. OTHER TERMS AND CONDITIONS

### 1. General Limitations

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

- a. No chemicals are to be added by the permittee for the purpose of meeting a pollutant restriction, prohibition, or reduction requirement in this permit that have the potential to be present in the permitted discharge, including, but not limited to, chemical additions at any point in the treatment process, unless the permittee provides advance notice to the division of the planned changes in accordance with [Part II.L](#) and the division confirms that the new or altered discharge is appropriate for coverage under this general permit.
- b. All discharges must comply with the lawful requirements of federal agencies, municipalities, counties, drainage districts, and other local agencies regarding any discharges to storm drain systems, conveyances, or other water courses under their implementation authority.

### 2. Releases in Excess of Reportable Quantities

This permit does not relieve the permittee of the reporting requirements of 40 C.F.R. 110, 40 C.F.R. 117 or 40 C.F.R. 302. Any discharge of hazardous material shall be handled in accordance with the division's Notification Requirements in [Part II](#).

### 3. Records Availability

All records required under this permit are considered reports that shall be available to the public under Section 308(b) of the CWA. The operator of a facility with discharges covered by this permit shall make their PDD available to members of the public upon request. However, the permittee may claim any portion of a PDD as confidential in accordance with 40 C.F.R. Part 2.

### 4. Discharges to Waters with Total Maximum Daily Loads (TMDLs)

A "TMDL" is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet [water quality standards](#), and an allocation of that amount to the pollutant's sources. A water quality standard is a narrative and/or numeric restriction established by the Commission applied to state surface waters to protect one or more beneficial uses of such waters. Whenever only numeric or only narrative standards are intended, the wording shall specifically designate which is intended. See 5 CCR 1002- 31.5(37). A TMDL includes wasteload allocations (WLAs) for [point source](#) discharges; load allocations (LAs) for nonpoint sources and/or natural background, and must include a margin of safety (MOS) and account for seasonal variations. See section 303(d) of the Clean Water Act and 40 C.F.R. 130.2 and 130.7.

[Part III](#) includes requirements stemming from existing TMDLs. For TMDLs approved after permit issuance or for newly identified permittees, the division will do any of the following if a TMDL is approved for any waterbody into which the permittee discharges, and discharges subject to effluent limits under this permit certification have been assigned a pollutant-specific WLA under the TMDL.

- a. If the division determines that pollutant restrictions, prohibitions, and reduction requirements in the current permit are adequate to ensure compliance with the WLA, the division will notify the permittee of the WLA, and amend the permittee's certification if necessary to address additional reporting or documentation requirements to demonstrate compliance with the WLA, or
- b. If the division determines that the conditions of this permit are not adequate to bring about compliance with the WLA, the division may modify this permit in accordance with [Part II.O](#) or require the permittee to apply for and obtain an individual or alternate general CDPS or NPDES permit.

## 5. Implementation by Other Parties

Implementation of one or more of the actions required to comply with a term or condition of this permit, including pollutant restrictions, prohibitions, and reduction requirements, may be shared with another entity or the other entity may fully take over implementation of the action(s). The permittee remains liable for ensuring that all requirements of this permit are complied with, regardless of who implements the action(s). The permittee may rely on another entity for implementation only if:

- a. The other entity agrees to implement the action(s) on the permittee's behalf. Written acceptance of this obligation is required and must be maintained as part of the PDD.
- b. If the other entity conducts oversight of a third party to meet a pollutant restriction, prohibition, or reduction requirement, the entity must be capable of remaining impartial and must be a separate entity than the owner/operator of the activity for which the oversight is targeted.
- c. The other entity must be capable of completing the necessary actions to comply with the relevant pollutant restriction, prohibition, or reduction requirement(s), including but not limited to effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate written quality assurance procedures.
- d. If the permittee uses another party, including a storm water management system administrator, to conduct site inspections on their behalf, then the permittee must develop written procedures to demonstrate and report that the inspections meet the requirements this permit.
- e. If another MS4 permittee implements portions or all of the permittee's program, then the permittee must submit information in accordance with [Part I.I.1](#) and [2.b](#). The permittee shall provide the identification of the entity by the date listed in Table 3 or 4. The permittee will identify subsequent changes in entities implementing the program in Annual Reports, as provided in [Part I.I.2.b](#) and [must attach any new or modified MS4 participation agreements that are required under Part I.E.3.a.i\(B\) and/or I.E.4.a.i\(B\)](#).

## 6. General Monitoring and Sampling Requirements

Monitoring requirements are included in this section, as well as in [Part I.F.4](#) and [Part III](#) of the permit for requirements applicable to specific permittees.

The permittee shall comply with the following requirements for all monitoring required by this permit, except for field analysis which may be conducted as part of [Part I.E.2](#). Where field analysis does not involve analytical methods approved under 40 C.F.R. Part 136, the applicant shall document a description of the method used, including the name of the manufacturer of the test method along with the range and accuracy of the test.

- a. All samples shall be taken at the monitoring points specified in this permit. Monitoring points shall not be changed without notification to and prior approval by the division.
- b. The permittee may use an equivalent and acceptable alternative to an EPA-approved method without EPA review where the requirements of 40 C.F.R. Section 136.6 are met and documented. The permittee may use an Alternative Test Procedure (ATP). An ATP is defined as a way in which an analyte is identified and quantified that is reviewed and approved by EPA in accordance with 40 C.F.R. Part 136.4 for nationwide use, or a modification to a 40 C.F.R. 136 approved method that is reviewed and approved by EPA in accordance with 40 C.F.R. Section 136.5 for limited use.
- c. The permittee must select a test procedure that is "[sufficiently sensitive](#)" for all monitoring conducted in accordance with this permit.
- d. The [PQLs](#) for specific parameters are listed in the table below. If the permit contains an interim effluent limitation (a limit is report until such time as a numeric effluent limit becomes effective) for a parameter, the final numeric effluent limit shall be considered the applicable water quality criterion for the purpose of determining whether a test method is sufficiently sensitive.

- e. When the analytical method which complies with the above requirements has a minimum level (ML) greater than the permit limit, and the permittee's analytical result is less than the ML, (where X = the ML) "< X" shall be reported on the DMR.
- f. In the calculation of average concentrations (i.e. 7- day, 30-day average, 2-year rolling average) any individual analytical result that is less than the ML shall be considered to be zero for the calculation purposes. When reporting:
- g. If all individual analytical results are less than the ML, the permittee shall report either "BDL" or "<X" (where X = the ML), following the guidance above.
- h. If one or more individual results is greater than the ML, an average shall be calculated and reported. Note that it does not matter if the final calculated average is greater or less than the ML, it must be reported as a value.

Parameter	Reporting Units	PQL	Parameter	Reporting Units	PQL
Aluminum	µg/L <sup>1</sup>	15	Ammonia Nitrogen	mg/L <sup>2</sup> N	0.2
Antimony	µg/L	2	Nitrate+Nitrite Nitrogen	mg/L N	0.1
Arsenic	µg/L	1	Nitrate Nitrogen	mg/L N	0.1
Barium	µg/L	1	Nitrite Nitrogen	mg/L N	0.05
Beryllium	µg/L	2	Total Kjeldahl Nitrogen	mg/L N	0.5
Boron	µg/L	20	Total Nitrogen	mg/L N	0.5
Cadmium	µg/L	0.5	Total Inorganic Nitrogen	mg/L N	0.2
Calcium	µg/L	120	Phosphorus	mg/L P	0.05 <sup>3</sup>
Chromium	µg/L	20	BOD/CBOD	mg/L	2
Chromium, Trivalent	µg/L	---	Chloride	mg/L	2
Chromium, Hexavalent	µg/L	20 <sup>3, 4</sup>	Total Residual Chlorine, DPD	mg/L	0.5
Copper	µg/L	2	Total Residual Chlorine, Amperometric	mg/L	0.05
Iron	µg/L	20 <sup>3</sup>	Cyanide	µg/L	10 <sup>3</sup>
Lead	µg/L	0.5	Fluoride	mg/L	0.5
Magnesium	µg/L	35	Phenols	µg/L	30
Manganese	µg/L	2	Sulfate	mg/L	2
Mercury	µg/L	0.2 <sup>3</sup>	Sulfide	mg/L H <sub>2</sub> S	0.1
Mercury, Low Level	µg/L	0.002	Total Dissolved Solids (TDS)	mg/L	10
Molybdenum	µg/L	0.5	Total Suspended Solids (TSS)	mg/L	5
Nickel	µg/L	1	Radium-226	pCi/L	1

Table 2 Practical Quantitation Limits - Metals, Inorganics, Nutrients, Radiological Parameters, and Nonylphenol					
Parameter	Reporting Units	PQL	Parameter	Reporting Units	PQL
Selenium	µg/ L	1 <sup>3</sup>	Radium-228	pCi/L	1
Silver	µg/ L	0.5	Uranium	µg/ L	1
Sodium	µg/ L	150	Nonylphenol, ASTM D7065	µg/ L	10
Thallium	µg/ L	0.5			
Zinc	µg/ L	10			

<sup>1</sup> µg/L = micrograms per liter

<sup>2</sup> mg/L = milligrams per liter

<sup>3</sup> PQL established based on parameter specific evaluation

<sup>4</sup> For hexavalent chromium, samples must be unacidified so [dissolved](#) concentrations will be measured rather than [potentially dissolved](#) concentrations.

- i. The permittee shall maintain all monitoring information, including the chain of custody forms, all original strip chart recordings for continuous monitoring instrumentation, all calibration and maintenance records, copies of all reports required by this permit and records of all data used to complete the application for this permit in accordance with [Part I.K.2](#). This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or when requested by the division or EPA.

#### G. PROGRAM REVIEW AND MODIFICATION

##### 1. Annual Program Review

The permittee shall conduct an annual review of the current program areas as necessary for the preparation of the annual report required under [Part I.I.2](#). This annual review shall include the following:

- a. A review of the compliance status with requirements in [Part I.E](#) and [III](#), and compliance schedules in [Part I.H](#).
- b. An assessment of the effectiveness of control measures.
- c. An assessment of any permit modifications that may be needed if compliance with a current term or condition may not be practicable.

#### H. COMPLIANCE SCHEDULE

Compliance with the terms and conditions of this permit, including [Parts I.D, E, F.5](#), and [Part III](#) shall be required by the effective date of the permit, except as provided below.

##### 1. Renewal Permittees

Permittees are required to implement their current program in accordance with the previous permit until a new program is implemented in accordance with this permit, including this compliance schedule. All requirements of the cited section, and all subsections, must be met by the compliance schedule deadline in Table 3.

TABLE 3 Compliance Schedule - Renewal Permittees				
ICIS Code	Permit Condition	Milestone	Deliverable	Deadline
PR010	<a href="#">Part I.C.1,</a>	Complete PDD (contents must reflect terms and conditions that are in effect, i.e., following the associated compliance schedule deadline)	Notification in annual report Due <del>November</del> <del>11</del> <u>March 10,</u> <del>2022</del> <u>2026</u>	Completed November 1, 2025 ( <del>18</del> <u>48</u> months from effective date)
PR010	<a href="#">Part I.D.1.c</a>	For Non-construction program areas only: Receipt and consideration of information by the public: Ensure there are procedures to accept and respond to information submitted by the public; revise implementation and documentation if necessary. (No compliance schedule is provided for receipt and consideration of information by the public regarding the construction program).	Notification in annual report Due March 10, 2023	Completed November 1, 2022 (12 months from effective date)
PR010	<a href="#">Part I.D.1.a</a> and b and <a href="#">Part I.D.2</a>	Begin following public notice requirements, have mechanism for public review of PDD, ensure all documentation and recordkeeping requirements are met.	Notification in the annual report Due March 10, 2026	Completed November 1, 2025 (48 months from effective date)
PR010	<a href="#">Part I.E.2.a.ii</a> <a href="#">Part I.E.2.a.iii</a> <a href="#">Part I.E.2.a.v</a> (if applicable) <a href="#">Part I.E.3.a.ii</a> <a href="#">Part I.E.3.a.iii</a> <a href="#">Part I.E.4.a.ii</a> <a href="#">Part I.E.4.a.iii</a> Part I.E.4.a.viii	Complete all applicable changes to the regulatory mechanism(s): Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due March 10, <del>2024</del> <u>2026</u>	Completed November 1, 2025 (48 months from effective date)
PR010	<a href="#">Part I.E.1.a.i</a>	Illicit Discharges: Begin providing information targeting the user population, vendors, concessionaires, tenants, and contractors, Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due March 10, 2024	Begin implementation November 1, 2023 (24 months from effective date)



TABLE 3 Compliance Schedule - Renewal Permittees				
ICIS Code	Permit Condition	Milestone	Deliverable	Deadline
PR010	<a href="#">Part I.E.1.a.ii</a>	Education and Outreach Activities: Begin providing annual public education and outreach from Table 1	Notification in annual report Due March 10, 2024	Begin implementation May 1, 2023 (18 months from effective date)
PR010	<a href="#">Part I.E.1.a.iii(A)</a>	Nutrients: Determine targeted sources of nutrients	Notification and list of targeted sources in annual report Due March 10, 2024	May 1, 2023 (18 months from effective date)
PR010	<a href="#">Part I.E.1.a.iii(B)</a>	Nutrients: Begin providing education and outreach to the targeted sources	Notification in annual report Due March 10, 2024	Begin implementation May 1, 2023 (18 months from effective date)
PR010	<a href="#">Part I.E.1.a.iv(A)1</a> , permittees in Cherry Creek watershed only	Nutrients: Determine targeted sources of nutrients in Cherry Creek watershed	Notification and list of targeted sources in annual report Due March 10, 2024	Completed May 1, 2023 (18 months from effective date)
PR010	<a href="#">Part I.E.1.a.iv(A)2</a> dischargers in Cherry Creek watershed only	Nutrients: Begin providing education and outreach to the targeted sources in Cherry Creek watershed	Notification in annual report Due March 10, 2024	Begin implementation May 1, 2023 (18 months from effective date)
PR010	<a href="#">Part I.E.2.a.i</a>	Complete maps for new MS4 locations added to permit	Notification in annual report Due March 10, 2024	Completed May 1, 2023 (18 months from effective date)
PR010	<a href="#">Part I.E.2.a.ii</a>	Tracing an Illicit Discharge: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due March 10, 2025	Completed November 1, 2024 (36 months from effective date)
PR010	<a href="#">Part I.E.2.a.v</a>	List of Other Discharges: Submit to division for approval.	Notification in annual report Due March 10, <del>2022</del> 2023	Completed <del>November</del> <u>May 1, 2024-2022</u> (6 months from effective date)
PR010	<a href="#">Part I.E.2.a.vi</a> , vii, and viii	Removing an Illicit Discharge, Coordination, and Enforcement Response: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due March 10, 2025	Completed November 1, 2024 ( <del>12-36</del> months from effective date)

**TABLE 3**  
**Compliance Schedule - Renewal Permittees**

ICIS Code	Permit Condition	Milestone	Deliverable	Deadline
PR010	<a href="#">Part I.E.2.a.ix</a>	Priority Areas: Identify any new priority areas	Notification in annual report Due March 10, <del>2024</del> 2024	Completed November 1, 2023 ( <del>12-24</del> months from effective date)
PR010	<a href="#">Part I.E.2.a.x</a>	Training: Establish training procedures and schedule; revise implementation and documentation if necessary	Notification in annual report Due March 10, 2025	Completed November 1, 2024 ( <del>12-36</del> months from effective date)
PR010	<a href="#">Part I.E.2.b.ii through x</a>	Illicit Discharge Detection and Elimination, except for map; Ensure documentation is recorded.	Notification in annual report Due March 10, 2025	Completed November 1, 2024 (36 months from effective date)
PR010	<a href="#">Part I.E.3.a.iv</a>	Control Measure Requirements: Ensure control measure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due March 10, 2026	Completed November 1, 2025 (48 months from effective date)
PR010	<a href="#">Part I.E.3.a.v</a>	Site Plans: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due March 10, 2026	Completed November 1, 2025 (48 months from effective date)
PR010	<a href="#">Part I.E.3.a.vi</a>	Site Inspection: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due March 10, 2026	Completed November 1, 2025 (48 months from effective date)
PR010	<a href="#">Part I.E.3.a.vii</a>	Enforcement Response: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due March 10, 2026	Completed November 1, 2025 (48 months from effective date)
PR010	<a href="#">Part I.E.3.a.viii</a>	State or EPA inspection notifications: Begin notification of discrepancies between state or EPA inspections and permittee inspections. Ensure documentation is recorded.	Notification in annual report Due March 10, 2024	Begin implementation November 1, 2023 (24 months from effective date)
PR010	<a href="#">Part I.E.3.a.ix</a>	Training: Ensure staff and applicable construction site operators are trained to have awareness of permit requirements; ensure documentation is recorded.	Notification in annual report Due March 10, 2025	Completed November 1, 2024 (36 months from effective date)

**TABLE 3**  
**Compliance Schedule - Renewal Permittees**

ICIS Code	Permit Condition	Milestone	Deliverable	Deadline
PR010	<a href="#">Part I.E.3.a.xi</a>	Cherry Creek watershed Requirements: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due March 10, 2026	Completed November 1, 2025 (48 months from effective date)
PR010	<a href="#">Part I.E.3.b.vii</a>	Site Inspection: Ensure requirements are met; revise implementation and documentation if necessary, ensure documentation is recorded.	Notification in annual report Due March 10, 2026	Completed November 1, 2025 (48 months from effective date)
PR010	<a href="#">Part I.E.3.b.viii</a>	Enforcement Response: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due March 10, 2024	Completed November 1, 2023 (24 months from effective date)
PR010	<a href="#">Part I.E.4.a.i(B)</a> through (K), and <a href="#">(G)</a> through (K)	Excluded Sites: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due March 10, 2027	Completed November 1, 2026 ( <del>24</del> 60 months from effective date)
PR010	<a href="#">Part I.E.4.a.iv</a>	Control Measure Requirements: Ensure new permanent control measures meet one of the design standards	Notification in annual report Due March 10, 2027	Completed November 1, 2026 (60 months from effective date)
PR010	<a href="#">Part I.E.4.a.v</a>	Post-Construction Site Plans: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due March 10, 2027	Completed November 1, 2026 (60 months from effective date)
PR010	<a href="#">Parts I.E.4.a.vi</a> and <a href="#">vii</a>	Construction Inspection and Acceptance and Long-Term Operation and Post Acceptance Oversight: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due March 10, 2027	Completed November 1, 2026 (60 months from effective date)
PR010	<a href="#">Parts I.E.4.a.ix</a>	Tracking: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due March 10, 2026	Completed November 1, 2025 (48 months from effective date)

**TABLE 3**  
**Compliance Schedule - Renewal Permittees**

ICIS Code	Permit Condition	Milestone	Deliverable	Deadline
PR010	<a href="#">Part I.E.4.a.x</a>	Training: Ensure staff are trained to inspect control measures; ensure documentation is recorded.	Notification in annual report Due March 10, 2025	Completed November 1, 2024 (36 months from effective date)
PR010	<a href="#">Part I.E.4.a.xii</a>	Cherry Creek watershed Requirements: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due March 10, 2027	Completed November 1, 2026 (60 months from effective date)
PR010	<a href="#">Part I.E.5.a.ii (A) through (C)</a>	Permittee-Owned Facility Runoff Control Measures: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in Annual report Due March 10, 2025	Completed November 1, 2024 (36 months from effective date)
PR010	<a href="#">Part I.E.5.a.ii(D)</a>	Permittee-Owned Facility Runoff Control Measures: Ensure inspection requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due March 10, 2025	Completed November 1, 2024 (36 months from effective date)
PR010	<a href="#">Part I.E.5.a.iii</a>	Permittee Operation and Maintenance Procedures: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due March 10, 2025	Completed November 1, 2024 (36 months from effective date)
PR010	<a href="#">Part I.E.5.a.iv</a>	Nutrient Source Reductions: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due March 10, 2026	Completed November 1, 2025 (48 months from effective date)
PR010	<a href="#">Part I.E.5.a.v</a>	Outdoor Bulk Storage	Notification in annual report Due March 10, 2027	Completed November 1, 2026 (60 months from effective date)
PR010	<a href="#">Part I.E.5.a.vi</a>	<del>Fire Fighting Training: Prohibit the use in training of Class B fire fighting foams that contain perfluoralkyl substances.</del>	<del>Notification in annual report Due March 10, 2022</del>	<del>Completed August 2, 2021</del>

TABLE 3 Compliance Schedule - Renewal Permittees				
ICIS Code	Permit Condition	Milestone	Deliverable	Deadline
PR010	<a href="#">Part I.E.5.a.vi</a>	Emergency Fire Fighting: Evaluate alternatives to Class B firefighting foams that contain perfluoroalkyl substances.	Notification in annual report Due March 10, 2026	Completed November 1, 2025 (48 months from effective date)
PR010	<a href="#">Part I.E.5.a.vii</a>	Training: Ensure staff are trained to implement the pollution prevention/good housekeeping program; ensure documentation is recorded.	Notification in annual report Due March 10, 2025	Completed November 1, 2024 (36 months from effective date)
PR010	<a href="#">Part I.E.5.b.i through iii</a>	Permittee-Owned Facility Runoff Control Measures: Ensure documentation is recorded.	Notification in annual report Due March 10, 2026	Completed November 1, 2025 (48 months from effective date)
PR010	<a href="#">Part I.E.5.b.iv</a>	Class B firefighting: Ensure documentation is recorded	Notification in annual report Due March 10, 2025	Completed May 1, 2024 (30 months from effective date)
PR010	<a href="#">Part I.E.5.b.v</a>	Training: Ensure documentation is recorded	Notification in annual report Due March 10, 2026	Completed November 1, 2025 ( <del>36</del> 48 months from effective date)
PR010	<a href="#">Part I.I.1</a> and <a href="#">2.b</a>	Notify the division if another entity implements some or all of the requirements in this permit	Notification in annual report Due March 10, 2023 and all subsequent annual reports	Completed November 1, 2022 (12 months from effective date) and update as needed in each annual report
PR010	<a href="#">Part III.B.1.a.i(A)</a> <a href="#">Part III.B.1.b.i(A)</a> <a href="#">Part III.B.1.c.i(A)</a> <a href="#">Part III.B.1.d.i(A)</a>	<i>E. coli</i> TMDLs: Ensure Public Education and Outreach control measure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due March 10, 2023	Completed November 1, 2022 (12 months from effective date)
PR010	<a href="#">Part III.B.1.a.i(B)</a> <a href="#">Part III.B.1.b.i(B)</a> <a href="#">Part III.B.1.c.i(B)</a> <a href="#">Part III.B.1.d.i(B)</a>	<i>E. coli</i> TMDLs: Ensure storm sewer cleaning program plan and implementation requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due March 10, 2026	Begin Implementation November 1, 2025 (48 months from effective date)

TABLE 3 Compliance Schedule - Renewal Permittees				
ICIS Code	Permit Condition	Milestone	Deliverable	Deadline
PR010	<a href="#">Part III.B.1.a.i(C)</a> <a href="#">Part III.B.1.b.i(C)</a> <a href="#">Part III.B.1.c.i(C)</a> <a href="#">Part III.B.1.d.i(C)</a>	<i>E. coli</i> TMDLs: Determine potential sources of <i>E. coli</i> ; revise implementation and documentation if necessary.	Notification in annual report Due March 10, 2026	Begin Implementation November 1, 2025 (48 months from effective date)
PR010	<a href="#">Part III.B.2.a</a>	Barr Lake-Milton Reservoir pH and Dissolved Oxygen TMDL - Public Education and Outreach: Begin providing information targeting phosphorus sources.	Notification in annual report Due March 10, 2023	Completed November 1, 2022 (12 months from effective date)
PR010	<a href="#">Part III.B.1.a.ii</a>	Monitoring for University of Colorado at Boulder only, Boulder Creek TMDL: Begin monitoring dry weather discharges; ensure documentation and reporting requirements are met.	Notification in annual report Due March 10, 2023 and all subsequent annual reports	Completed November 1, 2022 (12 months from effective date)
PR010	<a href="#">Part III.B.1.a.ii</a>	Monitoring for Boulder Valley School District only, Boulder Creek TMDL: Begin monitoring dry weather discharges; ensure documentation and reporting requirements are met.	Notification in annual report Due March 10, 2027 and all subsequent annual reports	Completed November 1, 2026 (60 months from effective date)
PR010	<a href="#">Part III.B.1.b.ii</a> <a href="#">Part III.B.1.c.ii</a> <a href="#">Part III.B.1.d.ii</a> <a href="#">Part III.B.2.b</a> <a href="#">Part III.C.2</a>	Monitoring, other TMDLS: Begin monitoring dry weather discharges; ensure documentation and reporting requirements are met.	Notification in annual report Due March 10, 2027 and all subsequent annual reports	Begin Implementation November 1, 2026 (60 months from effective date)

All documents required by this compliance schedule (except permit modification applications) must be submitted to the Division accompanied by a fully completed “Permit Narrative Conditions Form” available at <https://www.colorado.gov/pacific/cdphe/wq-permit-forms>.

Regulation 61.8(3)(n)(i) states that a report shall be submitted to the Division no later than 14 calendar days following each date identified in the schedule of compliance. The 14 days have already been incorporated into the above dates and therefore all reports are due on or before the date listed in the table.

## 2. New Permittees

“New permittees” are permittees not covered a under a previous MS4 general permit. The division will include in the permit certification a schedule of milestones and deadlines as described below in Table 4. For permittees that obtain coverage more than 30 days after the effective date of this permit, the division may include in the permit certification an alternative compliance schedule with milestones and deadlines that extend beyond those in Table 4. These schedules may extend beyond the permit expiration date.

All requirements of the cited section, and all subsections unless specifically excluded, must be met by the deadlines in Table 4, as adjusted.

The permit terms for [Part I.E.3](#), [Part I.E.4](#), [Part I.E.5](#) and Part III are subject to deadlines in Table 4, or in the certification if different than Table 4, and require the implementation of structural control measures that require planning and installation. In addition, [Parts I.E.3](#) and [I.E.4](#) require the permittee to implement regulatory mechanisms to ensure implementation by operators. The permittee must, therefore, complete some necessary actions in advance of the required deadlines to ensure that the required structural control mechanisms for applicable construction activities, applicable permittee facilities, and applicable permittee operations are in place by the corresponding deadlines in the schedule. For applicable development sites, the permittee must ensure that the control measures are in place for all sites completed after the Table 4 deadline, as adjusted.

ICIS Code	Permit Condition	Action	Deliverable	Deadline
PR010	<a href="#">Part I.C.1</a>	Notify the division if another MS4 permittee implement some or all of the requirements in this permit	Notification in annual report Due March 10, 2023 and any subsequent annual reports	Completed November 1, 2022 (12 months from effective date) and update as needed in each annual report
PR010	<a href="#">Part I.C.1</a>	Complete PDD (contents must reflect terms and conditions that are in effect, i.e., following the associated compliance schedule deadline)	Notification in annual report Due March 10, 2026	Completed November 1, 2025 (48 months from effective date)
PR010	<a href="#">Part I.D.1</a>	Public Involvement/Participation: Ensure requirements are met.	Notification in annual report Due March 10, 2026	Completed November 1, 2025 (48 months from effective date)
PR010	<a href="#">Part I.E.1</a>	Public Education and Outreach: Ensure requirements are met.	Notification in annual report Due March 10, 2026	Begin implementation November 1, 2025 (48 months from effective date)
PR010	<a href="#">Part I.E.2</a>	Illicit Discharge Detection and Elimination: Ensure requirements are met.	Notification in annual report Due March 10, 2026	Begin implementation November 1, 2025 (48 months from effective date)

TABLE 4

Schedule of Interim Milestones and Compliance Deadlines For New Permittees

PR010	<a href="#">Part I.E.3</a>	Construction Sites: Ensure requirements are met.	Notification in annual report Due March 10, 2026	Begin implementation November 1, 2025 (48 months from effective date)
PR010	<a href="#">Part I.E.4</a>	Post Construction: Ensure requirements are met.	Notification in annual report Due March 10, <del>2026</del> 2027	Begin implementation November 1, <del>2025-2026</del> (60 months from effective date)
PR010	<a href="#">Part I.E.5</a>	Pollution Prevention/Good Housekeeping: Ensure requirements are met, except for the requirement of <a href="#">Part I.E.5.a.v</a> (Bulk Storage).	Notification in annual report Due March 10, 2026	Begin implementation November 1, 2025 (48 months from effective date)
PR010	<a href="#">Part I.E.5.a.v</a>	Outdoor Bulk Storage	Notification in annual report Due March 10, 2027	Completed November 1, 2026 (60 months from effective date)
PR010	<a href="#">Part I.E.5.a.vi</a>	<del>Fire Fighting Training: Prohibit the use in training of Class B firefighting foams that contain perfluoroalkyl substances.</del>	<del>Notification in annual report Due March 10, 2022</del>	<del>Completed August 2, 2021</del>
PR010	<a href="#">Part I.E.5.a.vi</a>	Emergency Fire Fighting: Evaluate alternatives to Class B fire fighting foams that contain perfluoroalkyl substances.	Notification in annual report Due March 10, 2026	Completed November 1, 2025 (48 months from effective date)
PR010	<a href="#">Part I.I.1</a> and <a href="#">2.b</a>	Notify the division if another entity implements some or all of the requirements in this permit	Notification in annual report Due March 10, 2024 and all subsequent annual reports	Completed November 1, 2023 ( <del>12-24</del> months from effective date) and update as needed in each annual report
PR010	<a href="#">Part III.B.1.a.i(A)</a> <a href="#">Part III.B.1.b.i(A)</a> <a href="#">Part III.B.1.c.i(A)</a> <a href="#">Part III.B.1.d.i(A)</a>	<i>E. coli</i> TMDLs: Ensure Public Education and Outreach control measure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due March 10, 2024	Completed November 1, 2023 (24 months from effective date)



PR010	<a href="#">Part III.B.1.a.i(B)</a> <a href="#">Part III.B.1.b.i(B)</a> <a href="#">Part III.B.1.c.i(B)</a> <a href="#">Part III.B.1.d.i(B)</a>	<i>E. coli</i> TMDLs: Ensure storm sewer cleaning program plan and implementation requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due March 10, 2027	Begin Implementation November 1, 2026 (60 months from effective date)
PR010	<a href="#">Part III.B.1.a.i(C)</a> <a href="#">Part III.B.1.b.i(C)</a> <a href="#">Part III.B.1.c.i(C)</a> <a href="#">Part III.B.1.d.i(C)</a>	<i>E. coli</i> TMDLs: Determine potential sources of <i>E. coli</i> ; revise implementation and documentation if necessary.	Notification in annual report Due March 10, 2027	Begin Implementation November 1, 2026 (60 months from effective date)
PR010	<a href="#">Part III.B.2.a</a>	Barr Lake-Milton Reservoir pH and Dissolved Oxygen TMDL - Public Education and Outreach: Begin providing information targeting phosphorus sources.	Notification in annual report Due March 10, 2023	Completed November 1, 2022 (12 months from effective date)
PR010	<a href="#">Part III.B.1.a.ii</a> <a href="#">Part III.B.1.b.ii</a> <a href="#">Part III.B.1.c.ii</a> <a href="#">Part III.B.1.d.ii</a> <a href="#">Part III.B.2.b</a> <a href="#">Part III.C.2</a>	Monitoring: Begin monitoring dry weather discharges; ensure documentation and reporting requirements are met.	Notification in annual report Due March 10, 2026 and all subsequent annual reports	Begin Implementation November 1, 2025 (48 months from effective date)

All documents required by this compliance schedule (except permit modification applications) must be submitted to the Division accompanied by a fully completed "Permit Narrative Conditions Form" available at <https://www.colorado.gov/pacific/cdphe/wq-permit-forms>.

Regulation 61.8(3)(n)(i) states that a report shall be submitted to the Division no later than 14 calendar days following each date identified in the schedule of compliance. The 14 days have already been incorporated into the above dates and therefore all reports are due on or before the date listed in the table.

## I. REPORTING REQUIREMENTS

### 1. Reliance on Other Entity for Implementation

If the permittee is relying on another entity to implement a portion or all of the stormwater management program, the permittee shall provide the identification of the entity by the date listed in Table 3 or 4, as applicable. The permittee will identify subsequent changes in entities implementing the program in Annual Reports, as provided in Part I.I.2.b.

### 2. Annual Report

The permittee shall prepare an annual system-wide report to be submitted by **March 10** of each year, ~~covering January 1 through December 31 of the previous year.~~ For [renewal permittees](#), the first report shall include the annual report items from the previous permit for **January 1, 2021 to November 1, 2021** ~~and shall report the updated user population served by the MS4 (minus locations excluded under Part I.A.3).~~ ~~In addition, for renewal permittees, the first report shall include information below on all activities conducted from November 1, 2021, to December 31, 2021~~ The second year annual report shall cover the period of November 1, 2021 through December 31, 2022 and shall be due on March 10, 2023. Annual reports for subsequent years shall cover the period of January 1 through December 31 and shall be due on March 10 of the

following year. For new permittees, the first report may include less than 12 months of information, unless otherwise indicated in the certification. For new permittees, annual reports for subsequent years shall cover the period of January 1 through December 31 and shall be due on March 10 of the following year. For all permittees, the report must include the following information:

- a. The required certification statement in [Part I.K.1.c](#) and signed by the individual meeting the criteria in [Part I.K.1.a](#).
- b. Identify that the permittee is relying on another entity to satisfy any of the permit obligations (if applicable) if not included in previous reports or permit application.
- c. An update on areas added to or removed from the jurisdictional boundary as a result of annexation or other legal means.
- d. A list of compliance schedule items completed, including the date of completion and any associated information required in [Part I.H](#).
- e. The results of the permit modification assessment in Part I.G.1.c and if any parts of this permit need to be modified or a condition of the permit may not be practicable.
- f. Provide the following information for the program elements listed below:
  - i. Public Education and Outreach ([Part I.E.1](#))
    - (A) A list of the education and outreach activities completed in accordance with Part [I.E.1.a.i](#).
    - (B) A list of the education and outreach activities completed in accordance with [Part I.E.1.a.ii](#) referencing the activities in Table 1.
    - (C) A list of the education and outreach activities completed in accordance with Part I.E.1.a.iii and the targeted sources.
    - (D) If the Discharge is within the Cherry Creek Drainage Basin, A list of the education and outreach activities completed in accordance with [Part I.E.1.a.iv](#) and [b.iv](#) and the targeted sources.
  - ii. Illicit Discharge Detection and Elimination ([Part I.E.2](#)):
    - (A) Provide the total number of unresolved reports/identification of illicit discharges.
  - iii. Construction Sites ([Part I.E.3](#)):
    - (A) Provide the total number of applicable construction sites during the year.
    - (B) Provide the number of sites that used the Winter Conditions Exclusion and the dates that the Winter Conditions Exclusion was used.
    - (C) Provide the total number of inspections performed for the types of inspections listed below:
      - 1) Routine Inspections: Inspections of applicable construction activities that meet the inspection scope requirements in [Part I.E.3.a.vi\(C\)](#) and for which documentation is recorded in accordance with in [Part I.E.3.b.vii\(C\)](#).
      - 2) Reduced Site Inspection: Inspections of applicable construction activities that meet the inspection scope requirements in [Part I.E.3.a.vi\(D\)\(1\)](#), (2), (3) and (4) for which documentation is recorded in accordance with in [Part I.E.3.b.vii\(D\)](#).
      - 3) Compliance Inspections: Inspections (or operator reporting or other action(s) to assess whether the control measure has been implemented or corrected) of applicable construction activities that meet the inspection scope requirements in [Part I.E.3.a.vi\(E\)](#) and for which documentation is recorded in accordance with in [Part I.E.3.b.vii\(E\)](#).
    - (D) Permittee's using the exclusion under [Part I.E.3.a.i\(B\)](#) must report the information in [Part I.I.2.f.iii\(A\) through \(C\)](#) where the city, county, or quasi-governmental MS4 permittee's program requirements produces such information. The permittee must ensure this information is transferred from the city or county MS4 permittee's program MS4 operator to the permittee for reporting to the division.
    - (E) Provide the total number of sites excluded from Cherry Creek Reservoir Drainage Basin requirements in accordance with [Parts I.E.3.a.xi\(C\)](#).
  - iv. Post-Construction Stormwater Management in New Development and Redevelopment Program ([Part I.E.4](#)):

- (A) Provide the total number of applicable development sites for which control measures were implemented during the reporting period.
- (B) Excluded Sites: Provide a list of the following sites excluded from being applicable development sites and include the recordkeeping information required by [Part I.E.4.b.ii](#):
  - 1) Sites excluded in accordance with [Part I.E.4.a.i\(C\)](#), except maintenance sites.
  - 2) Sites excluded in accordance with [Parts I.E.4.a.i\(D\)](#) and [\(E\)](#).
- (C) Long-Term Operation and Maintenance and Post Acceptance Oversight: Provide the total number of applicable development sites and control measures inspected to ensure compliance with the requirements in [Part I.E.4.a.vii](#).
- ~~(C)~~(D) Permittee's using the exclusion under Part I.E.4.a.i(B) must report the information in Part I.I.2.f.iv(A) through (C) where the city, county, or quasi-governmental MS4 permittee's program requirements produces such information. The permittee must ensure this information is transferred from the city, county, or quasi-governmental MS4 operator to the permittee for reporting to the division.
- v. Pollution Prevention/Good Housekeeping Program ([Part I.E.5](#)):
- g. Where the permittee's permit certification requires *E. coli* monitoring, the permittee must report the following in annual reports:
  - i. For the first annual report only:
    - (A) A description of all control measures planned by the permittee to reduce the discharge of *E. coli* to the water body reach addressed by the associated TMDL, including target dates for completion.
    - (B) A description of all control measures implemented by the permittee to reduce the discharge of *E. coli* to the water body reach addressed by the associated TMDL. The first annual report shall include information on control measures implemented prior to the effective date of the permit.
    - (C) A description of *E. coli* monitoring activities conducted, or planned, to meet the requirements of Part III.C, if applicable.
    - (D) The results of all available *E. coli* monitoring of stormwater discharges (both wet and dry weather) conducted at MS4 outfalls owned by the permittee within 2 years prior to the effective date of the permit.
    - (E) The permittee's area served that drains to the water body reach addressed by the TMDL.
  - ii. In subsequent annual reports, where monitoring is required under [Part III.C](#), and in accordance with the compliance schedules in [Part I.H](#), the permittee must include the following results in annual reports:
    - (A) *E. coli* results (cfu/100 mL) and daily flow (cubic feet) for each sampling event at each outfall within the calendar year.
    - (B) The seasonal [geometric mean](#) *E. coli* concentration (cfu/100 mL) for each outfall sampled for the period of May 1 through October 31 of the calendar year.
- h. Where the permittee's permit certification requires phosphorus monitoring, the permittee must report the following in annual reports:
  - i. For the first annual report only:
    - (A) A description of all control measures planned by the permittee to reduce the discharge of total phosphorus to the Barr Lake or Milton Reservoir watershed including specific target dates for implementation.
    - (B) A description of all control measures implemented by the permittee to reduce the discharge of total phosphorus to the Barr Lake or Milton Reservoir watershed. The first annual report shall include information on control measures implemented within two years prior to the effective date of the permit.
    - (C) A description of monitoring activities conducted during the calendar year, or planned, to meet the requirements of [Part III.C](#). The first annual report shall include the results of all available wet or dry weather total phosphorus monitoring of the permittees' own outfalls to the Barr Lake or Milton Reservoir watershed conducted within 2 years prior to the effective date of the permit.

- ii. In subsequent annual reports, where monitoring is required under [Part III.C](#), and in accordance with the compliance schedules in [Part I.H](#), the permittee must include all total phosphorus results (mg/L) for each outfall, for all sample dates within the calendar year.

### 3. DMRs - University of Colorado at Boulder

Where monitoring for *E. coli* is required under [Part III.B.1.a](#) the University of Colorado at Boulder must report monitoring results in monthly DMRs. Reporting of the data gathered weekly in compliance with [Part III.B](#) or [Part III.C.2](#) shall be reported in DMRs on a monthly basis. Reporting of all data gathered shall comply with the requirements of [Part I.F.6](#).

Monitoring results shall be summarized for each calendar month via the division's NetDMR service unless a waiver is granted in compliance with 40 CFR 127. If a waiver is granted, monitoring results shall be reported on division approved discharge monitoring report (DMR) forms (EPA form 3320-1).

#### *Reporting No Discharge:*

If no discharge occurs during the reporting period, a DMR must still be submitted. However, "No Discharge" shall be reported on the paper DMR and if reporting electronically please use the No Data Code (NODI) "C" for No Discharge in NetDMR.

#### *Reporting Not Required:*

When the permittee has met the required monitoring frequencies established in [Part III.C](#) (10 per year for *E. coli*), the permittee shall report "not required" for remaining weeks in DMRs.

#### *Submitting DMRs*

When submitting monitoring results via NetDMR, the Copy of Record shall reflect that the DMR was signed and submitted no later than the 28th day of the month following the reporting period. If submitting DMRs by mail, which is only allowed if a waiver has been granted, one copy of the DMR form shall be mailed to the division at the address provided below, so that the DMR is received no later than the 28th day of the month following the reporting period.

If mailing, the original signed copy of each DMR shall be submitted to the division at the following address:

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

The Discharge Monitoring Report paper and electronic forms shall be filled out accurately and completely in accordance with the requirements of this permit and the instructions on the forms; and signed by an authorized person as identified in [Part I.K.1](#).

## J. DEFINITIONS

The definitions below are intended strictly for clarification purposes, and may not contain the full legal definition as per regulation. For the purposes of this permit:

1. **Applicable Construction Activity:** Construction activities with land disturbance (surface disturbing and associated activities) of one or more acres, or disturbing less than one acre if that construction activity is part of a larger common plan of development or sale that would disturb, or has disturbed one or more acres, unless excluded in [Part I.E.3.a.i\(C\)](#). Applicable construction activities include the land disturbing activity and all activities and materials associated with the construction site and located at, or contiguous to, the land disturbing activities.
2. **Applicable Development Site:** sites that result in land disturbance of greater than or equal to one acre, including sites less than one acre that are part of a larger common plan of development or sale, unless excluded below. Applicable development sites include all new development and redevelopment sites for which permanent water quality control measures were required in accordance with an MS4 permit.
3. **Base Design Standard:** The minimum design standard for new and redevelopment before applying exclusions or alternative standards.
4. **Best Management Practices:** Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "state surface waters". BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. For the purpose of this permit, the term BMP is used interchangeably with the term control measure, and can include other methods such as the installation, operation, and maintenance of structural controls and treatment devices.
5. **Cherry Creek watershed:** consists of all lands that drain into the following: (a) the mainstem of Cherry Creek, from the source of East and West Cherry Creek to the inlet of Cherry Creek Reservoir (Segment 1), including alluvial groundwater; (b) Cherry Creek Reservoir (Segment 2), including alluvial groundwater; (c) all tributaries to Cherry Creek, including wetlands and alluvial groundwater, from the sources of East and West Cherry Creeks (parts of Segment 4); and all lakes and reservoirs in the Cherry Creek Reservoir watershed (Segment 5, in part) as described in the Classifications and Numeric Standards - South Platte River Watershed, Regulation #38 (5 CCR 1002-38). The Cherry Creek watershed is delineated in Figure 1 attached to this regulation. **Classified State Water:** A classified state water is a state water with a classification in the Classification and Numeric Standards Regulation for each of the seven river basins in Colorado. Classifications for each segment within the river basin can be found in the numeric and standards table for each basin regulation.
6. **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. The division has determined that "contiguous" means construction activities located in close proximity to each other (within ¼ mile).
7. **Construction activity:** Refers to 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 regular maintenance or for replacement are construction activities and are not routine maintenance. Construction activity does not include roadway maintenance. Repaving activities where underlying and/or surrounding soil is cleared, graded, or excavated as part of the repaving operation are considered construction activities unless they are an excluded site under [Part I.E.3.a.i](#). Construction activity is from initial ground breaking to final stabilization regardless of ownership of the construction activities.
8. **Composite:** A composite sample is a minimum of 4 grab samples collected at equally spaced 2 hour intervals and proportioned according to flow.
9. **Construction Dewatering:** Discharge of groundwater, surface water, and stormwater that has mixed with the groundwater and/or surface water (i.e. commingled stormwater runoff) that has come into contact with applicable construction activities.
10. **Contiguous:** Within 0.25 miles.
11. **Control Measure:** Any best management practice or other method used to prevent or reduce the discharge of pollutants to state waters. Control measures include, but are not limited to best management practices. Control measures can include other methods such as the installation, operation, and maintenance of structure controls and treatment devices.

12. Control Measure Requiring Routine Maintenance: Any control measure that is still operating in accordance with its design and the requirements of this permit, but requires maintenance to prevent associated potential for failure during a runoff event. See also Inadequate control measure.
13. Discharge: The discharge of pollutants as defined in section 25-8-103(3) C.R.S. For the purposes of this permit, discharges do not include land application or discharges to the ground.
14. Discharge of a Pollutant: The introduction or addition of a pollutant into state waters. See 25-8-103(3) C.R.S.
15. Dissolved (D) metals fraction: is defined in the Basic Standards and Methodologies for Surface Water 1002-31, as that portion of a water and suspended sediment sample which passed through a 0.40 or 0.45 UM (micron) membrane filter. Determinations of "dissolved" constituents are made using the filtrate. This may include some very small (colloidal) suspended particles which passed through the membrane filter as well as the amount of substance present in true chemical solution
16. Division: The Water Quality Control Division of the Colorado Department of Public Health and Environment.
17. Dry Weather Discharge: A discharge not resulting from surface runoff from stormwater.
18. Effluent Limitation: Any restriction or prohibition established under the Colorado Water Quality Control Act, state regulations, or federal law on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into state waters, including, but not limited to, standards of performance for new sources, toxic effluent standards and schedules of compliance.
19. Excluded Roadway Project: for the purpose of this section of the regulation only, means activities associated with the maintenance, repair, preservation, and associated minor modifications to roadways, and associated appurtenant features, that do not permanently expand the original footprint of the roadway and do not increase the impervious area.
20. Exclusion: A removal of the applicability of the terms or conditions in this permit from applying to the given conditions.
21. Exemption: An exemption, waiver, or variance implemented by the permittee for permittee control measures used to meet the effluent limits in this permit.
22. Final Stabilization: The condition reached when all ground surface disturbing activities at the site have been completed, and for all areas of ground surface disturbing activities a uniform vegetative cover has been established with an individual plant density of at least 70 percent of pre-disturbance levels, or equivalent permanent, physical erosion reduction methods have been employed.
23. Geometric mean: The geometric mean may be calculated using two different methods. For the methods shown, a, b, c, d, etc. are individual sample results, and n is the total number of samples.

Method 1:

$$\text{Geometric Mean} = (a \times b \times c \times d)^{1/n}$$

Method 2:

$$\text{Geometric Mean} = \text{antilog} \left( \frac{[\log(a) + \log(b) + \log(c) + \log(d) + \dots]}{n} \right)$$

Graphical methods, even though they may also employ the use of logarithms, may introduce significant error and may not be used.

In calculating the geometric mean, for those individual sample results that are reported by the analytical laboratory to be "less than" a numeric value, a value of 1 should be used in the calculations. If all individual analytical results for the month are reported to be less than numeric values, then report "less than" the largest of those numeric values on the monthly DMR. Otherwise, report the calculated value.

For any individual analytical result of "too numerous to count" (TNTC), that analysis shall be considered to be invalid and another sample shall be promptly collected for analysis. If another sample cannot be collected within the same sampling period for which the invalid sample was collected (during the same month if monthly sampling is required, during the same week if weekly sampling is required, etc.), then the following procedures apply:

A minimum of two samples shall be collected for coliform analysis within the next sampling period.

If the sampling frequency is monthly or less frequent: For the period with the invalid sample results, leave the spaces on the corresponding DMR for reporting coliform results empty and attach to the DMR a letter noting

that a result of TNTC was obtained for that period, and explain why another sample for that period had not been collected.

If the sampling frequency is more frequent than monthly: Eliminate the result of TNTC from any further calculations, and use all the other results obtained within that month for reporting purposes. Attach a letter noting that a result of TNTC was obtained, and list all individual analytical results and corresponding sampling dates for that month.

24. Good Engineering, Hydrologic and Pollution Control Practices: Methods, procedures, and practices that:
  - a. Are based on basic scientific fact(s).
  - b. Reflect best industry practices and standards.
  - c. Are appropriate for the conditions and pollutant sources.
  - d. Provide appropriate solutions to meet the associated permit requirements, including practice based and numeric effluent limits.
25. Grab sample: is a single "dip and take" sample so as to be representative of the parameter being monitored.
26. Green infrastructure: Generally refers to control measures that use or mimic natural processes to infiltrate, evapotranspire, or reuse stormwater on the site where it is generated. Green infrastructure can be used in place of or in addition to low impact development principles.
27. Illicit Discharge: Any discharges to an MS4 that is not composed entirely of stormwater except discharges specifically authorized by a CDPS or NPDES permit and discharges resulting from emergency fire fighting activities. Permittees should note that there are many types of illicit discharges that in accordance with the permit need to be effectively prohibited. Only the discharges listed in [Part I.E.2.a.v.](#) can be excluded from being effectively prohibited.
28. Impervious Area: Developed areas with covering or pavement that prevents the land's natural ability to absorb and infiltrate typical precipitation and irrigation events. Impervious areas include, but are not limited to; roof tops, walkways, patios, driveways, parking lots, impervious storage areas, impervious concrete and asphalt, and any other continuous watertight pavement or covering.
29. Inadequate Control Measure: Any control measure that is not designed, implemented, or operating in accordance with the requirements of the permit, including the specific requirements in each program area in [Part I.E](#) or requirements for specific permittees in [Part III](#), and implemented and maintained to operate in accordance with the design. See also Control measure Requiring Routine Maintenance.
30. Infeasible: Not technologically possible, or not economically practicable and achievable in light of best industry practices.
31. Irrigation Return Flow: Tailwater, tile drainage, or surfaced groundwater flow from irrigated land.
32. Land Disturbing Activity: Any activity that results in a change in the existing land surface (both vegetative and non-vegetative). Land disturbing activities 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. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity.
33. Large lot single family development: for the purpose of this section of the regulation only, means a land disturbance greater than one acre on a single-family residential lot with an area greater than or equal to two and one-half acres in size and having a total site imperviousness, including, but not limited to roadways, building footprints, and driveways, less than ten percent gross density.
34. Minimize: For purposes of implementing control measures of this permit, means reduce and/or eliminate to the extent achievable using control measures that are technologically available and economically practicable and achievable in light of best industry practices.
35. [Minimum level \(ML\)](#): means the lowest concentration of an analyte that can be accurately and precisely quantified using a given method, as determined by the laboratory (the ML may sometimes be referred to as the laboratory PQL, minimum reporting limit, or reporting limit).
36. MS4: A municipal separate storm sewer system. See municipal separate storm sewer system.
37. Municipality/Municipal: A city, town, county, district, association, or other public body created by or under state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or a designated and approved management agency under section 208 of CWA(1987). See 5 CCR 1002-61.2(63).

38. **Municipal Separate Storm Sewer System (MS4):** A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):
  - a. Owned or operated by a state, city, town, county, district, association, or other public body (created by or pursuant to state law) having authority over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the CWA that discharges to state waters;
  - b. Designed or used for collecting or conveying stormwater. For the purposes of this permit, stormwater conveyances also includes conveyances that are owned or operated by the permittee through agreement, contract, direct ownership, easement, or right-of-way and are for the purpose of managing flood plains, stream banks, and channels for conveyance of stormwater flows in order for the discharges to be authorized by this permit.
  - c. Which is not a combined sewer; and
  - d. Which is not part of a Publicly Owned Treatment Works (POTW). See 5 CCR 1002-61.2(62).
39. **Municipal Separate Storm Sewer System Outfall (Outfall):** A point source, as defined herein, at the point where a municipal separate storm sewer discharges to state waters and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other state waters and are used to convey state waters.
40. **New Development:** Land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and land subdivision for a site that does not meet the definition of redevelopment.
41. **New Permittee:** Permittee not covered under a previous MS4 general permit.
42. **Non-Structural Control Measures:** Includes control measures that are not structural control measures, and include, but are not limited to, control measures that prevent or reduce pollutants being introduced to water or that prevent or reduce the generation of runoff or illicit discharges.
43. **Owner:** The owner or authorized representative of the facility or construction project.
44. **Operator:** The person or entity who is responsible for the overall operation of the facility or activity from which the associated discharge originates.
45. **Outstanding Waters:** A type of designation. Outstanding waters are designated by the Water Quality Control Commission.
46. **Pavement Management Sites:** Sites, or portions of sites, for the rehabilitation, maintenance, and reconstruction of pavement, which includes roadway resurfacing, mill and overlay, white topping, black topping, curb and gutter replacement, concrete panel replacement, and pothole repair. The purpose of the site must intend to provide additional years of service life and optimize service and safety. The site also must be limited to the repair and replacement of pavement in a manner that does not result in an increased impervious area and the infrastructure must not substantially change. The types of sites covered under this exclusion include day-to-day maintenance activities, rehabilitation, and reconstruction of pavement.
47. **Point Source:** Any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. Point source does not include irrigation return flow. See 5 CCR 102-61.2(75).
48. **Pollutant:** Dredged spoil, dirt, slurry, solid waste, incinerator residue, sewage, sewage sludge, garbage, trash, chemical waste, biological nutrient, biological material, radioactive material, heat, wrecked or discarded equipment, rock, sand, or any industrial, municipal or agricultural waste. See 5 CCR 1002-61.2(76).
49. **Pollution:** Man-made or man-induced, or natural alteration of the physical, chemical, biological, and radiological integrity of water. See 5 CCR 1002-61.2(77)
50. **Potentially dissolved (PD) metals fraction:** is defined in the Basic Standards and Methodologies for Surface Water 1002-31, as that portion of a constituent measured from the filtrate of a water and suspended sediment sample that was first treated with nitric acid to a pH of 2 or less and let stand for 8 to 96 hours prior to sample filtration using a 0.40 or 0.45-UM (micron) membrane filter. Note the "potentially dissolved" method cannot be used where nitric acid will interfere with the analytical procedure used for the constituent measured.



51. **Practical Quantitation Limit (PQL):** means the minimum concentration of an analyte (substance) that can be measured with a high degree of confidence that the analyte is present at or above that concentration. The use of PQL in this document may refer to those PQLs shown in Part [I.F.6](#) of this permit or the PQLs of an individual laboratory.
52. **Qualified Stormwater Manager-** An individual knowledgeable in the principles and practices of erosion and sediment control and pollution prevention, and with the skills to assess conditions at construction sites that could impact stormwater quality and to assess the effectiveness of stormwater controls implemented to meet the requirements of this permit.
53. **Quarterly measurement frequency:** means samples may be collected at any time during the calendar quarter if a continual discharge occurs. If the discharge is intermittent, then samples shall be collected during the period that discharge occurs.
54. **Redevelopment:** Includes a site that is already substantially developed and has 35% or more of existing hard surface coverage, the creation or addition of hard surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation or expansion of a building or other structure; replacement of hard surface that is not part of a routine maintenance activity; and land disturbing activities.
55. **Regulatory Mechanism:** The mechanism that allows the permittee to implement and enforce the requirements of this permit. For the purposes of this permit and considering the wide variety of permittees, a regulatory mechanism may include ordinances, codes, contracts, standard operating procedures, policies, and similar rules and regulations.
56. **Renewal Permittee:** Permittee that was covered under a previous MS4 general permit.
57. **Roadway:** Roads and bridges that are improved, designed or ordinarily used for vehicular travel and contiguous areas improved, designed or ordinarily used for pedestrian or bicycle traffic, drainage for the roadway, and/or parking along the roadway. Areas primarily used for parking or access to parking are not included.
58. **Roadway Maintenance:** Roadway maintenance projects include projects that do not change the existing template of the roadway which includes the roadway and shoulders to the point of slope selection and maintenance to existing drainage features. Maintenance projects do not change the existing template of the roadway; disturb more than 1 acre of subbase or subgrade at any one time; and include activities such as widening, paving previously unpaved shoulders, include other project work beyond the shoulders, slope flattening, roadway realignment and other roadway and/or drainage improvements. Maintenance projects do not disturb one acre or more beyond the "Z slope" or shoulders which do not lead to any increase of impervious surface.  
  
Roadway maintenance projects include treatments or overlays with a net surface gain of 6 inches or less and base/subbase is not exposed. Maintenance projects include shouldering projects that increase the roadway elevation by 2 inches or less with an overall treated depth not exceeding the 6 inch limit identified for reconstruction and disturb less than 1 acre of subbase or subgrade at any one time. Maintenance projects include rubbilization and overlay projects with a net surface gain of 6 inches or less and disturb less than 1 acre of subbase or subgrade at any one time.
59. **Site Plan:** Also known as construction stormwater site plans, sediment and erosion control plans, stormwater pollution prevention plans, drainage reports, drainage plans, stormwater management plans, drainage and erosion control plans, etc.
60. **Small Municipal Separate Storm Sewer System:** Any municipal separate storm sewer that is not defined as a "large" or "medium" municipal separate storm sewer system pursuant to Regulation 61. This term includes publicly-owned systems similar to separate storm sewer systems in municipalities (i.e., non-standard MS4s), including, but not limited to, systems at military bases and large education, hospital or prison complexes, if they are designed for a maximum daily user population (residents and individuals who come there to work or use the MS4's facilities) of at least 1,000. Where the owner of a small MS4 has multiple locations within an urbanized area, all locations are considered to be within the jurisdictional boundary if their combined design user population is at least 1,000.
61. **Spill:** An unintentional release of solid or liquid material which may pollute state waters.
62. **State Waters:** Any and all surface waters which are contained in or flow in or through this state, but does not include waters in sewage systems, waters in treatment works of disposal systems, waters in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed. This definition can include water courses that are usually dry. For the purposes of this permit, state waters do not include subsurface waters. State waters are also known as [waters of the state](#).

63. Stormwater: Stormwater runoff, snow melt runoff, and surface runoff and drainage. See 5 CCR 1002-61.2(103).
64. Structural Control Measures: Includes control measures that are comprised of facilities and structures that remove pollutants from water or retain, reuse, or provide for infiltration or evaporation of water.
65. Sufficiently sensitive test procedures:
- An analytical method is “sufficiently sensitive” when the method detects and accurately and precisely quantifies the amount of the analyte. In other words there is a valid positive result; or
  - An analytical method is “sufficiently sensitive” when the method accurately and precisely quantifies the result to the ambient water quality criteria (AWQC), as demonstrated by the ML is less than or equal to the AWQC. In other words, the level of precision is adequate to inform decision making; or
  - An analytical method is “sufficiently sensitive” when the method achieves the required level of accuracy and precision, as demonstrated by the ML is less than or equal to the PQL. In other words, the most sensitive method is being used and properly followed. Note that if the ML and the division established minimum PQL are above the AWQC, then the analytical method with the lowest available ML should be used for the analysis.
66. To the Maximum Extent Allowable under state or Local Law: A standard of implementation of permit requirements and means that to the extent that the permittee is not constrained by state or local laws. Local laws that can be legally changed by the permittee to allow implementation of permit requirements do not constitute a barrier to implementation of a permit requirement.
67. Total Maximum Daily Loads (TMDLs): The sum of the individual wasteload allocations (WLA) for point sources and load allocations (LA) for nonpoint sources and natural background. For the purposes of this permit, a TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. A TMDL includes WLAs, LAs, and must include a margin of safety (MOS), and account for seasonal variations. (See section 303(d) of the Clean Water Act and 40 C.F.R. 130.2 and 130.7).
68. Trails: for the purpose of section 72.1. of Regulation 72, means permanent access areas constructed primarily for the purpose of recreation but also provide access for operations and maintenance. This includes trails that consist, for at least some portion of the trail, of sidewalks adjacent to roadways.
69. Water Quality Capture Volume (WQCV): The volume equivalent to the runoff from an 80th percentile storm, meaning that 80 percent of the most frequently occurring storms are fully captured and treated and larger events are partially treated.
70. Water Quality Standards: Any standard promulgated pursuant to section 25-8-204 C.R.S. For purposes of this permit, water quality standards are a narrative and/or numeric restriction established by the Water Quality Commission applied to state surface waters to protect one or more beneficial uses of such waters. Whenever only numeric or only narrative standards are intended, the wording shall specifically designate which is intended. See 5 CCR 1002- 31.5(37).
71. Waters of the State of Colorado: Any and all surface waters and subsurface waters which are contained in or flow in or through this state, but does not include waters in sewage systems, waters in treatment works of disposal systems, waters in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed. This definition can include water courses that are usually dry. Note: this permit is only applicable to applicable discharges to surface waters of the state.

#### **Definitions pertaining to Cherry Creek watershed Requirements in Regulation 72**

72. BMPs: means the best schedules of activities, prohibitions or practices, operation and maintenance procedures, and other management practices to prevent or reduce the introduction of pollutants into state waters. BMPs include, but are not limited to, structural and nonstructural controls, treatment requirements, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs can be applied before, during, and after pollution-producing activities.
73. Land Disturbance: means a man-made change in the natural cover or topography of the land, including grading, cutting and filling, building, paving, excavating and any other activities that may result in or contribute to soil erosion or sedimentation in waters or discharge of pollutants, as identified in section [Part I.E.3.a.xi](#), except individual home construction.
74. Rural road construction and maintenance: for the purpose of [Part I.E.4.a.xii](#) of the permit, this means land disturbances greater than one acre for rural residential roads and rural collector roads that serve or are adjacent to large lot single family developments. Rural Roads are typically characterized by having parallel ditches for conveyance of storm runoff, rather than curb and gutter. Although urban roadways sometimes use

roadside ditches for runoff conveyance, they are not classified as rural roads. In the context of this regulation, the word road does not include temporary haul roads used for construction purposes. Construction activities occurring within a Census Designated Urbanized Area are excluded from this definition.

75. Tier 1 development and redevelopment: for the purpose of this section of the regulation only, means any land disturbance less than one acre that is developed independently of a larger common plan of development or sale, and which results in less than 500 square feet of imperviousness for new development or 500 square feet of increased imperviousness for redevelopment.
76. "Tier 2 development and redevelopment" for the purpose of this section of the regulation only, means any land disturbance less than one acre that is developed independently of a larger common plan of development or sale, and which results in more than 500 square feet but less than 5,000 square feet of imperviousness for new development, or more than 500 square feet and less than 5,000 square feet of increased imperviousness for redevelopment, including disturbances of existing impervious areas.
77. Tier 3 development and redevelopment: for the purpose of this section of the regulation only, means any land disturbance greater than one acre, or which results in more than 5,000 square feet of imperviousness for new development or 5,000 square feet of increased imperviousness for redevelopment, including disturbances of existing impervious areas.

## **K. 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:
  - i. 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.
  - ii. In the case of a partnership, by a general partner.
  - iii. In the case of a sole proprietorship, by the proprietor.
  - iv. In the case of a municipal, state, or other public facility, by either a principal executive officer, ranking elected official. For purposes of this section, a principal executive officer has responsibility for the overall operation of the facility from which the discharge originates.
  - v. A duly authorized representative of a person described in subsection (i) through (iv), only if all of the following are met:
    - (A) The authorization is made in writing by a person described in subsection (i) through (iv).
    - (B) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).
    - (C) The written authorization is submitted to the division.
- 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, before 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

The permittee shall retain copies of the required recordkeeping and program description documentation 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 3 years from the date that the specific item is no longer being actively utilized for stormwater management. The period may be extended by request of the division at any time.

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## Part II

Part II contains standard conditions required by federal regulation to be included in all NPDES permits (see 40 C.F.R. 122.41). Part I and Part III contains permit specific requirements. To the extent that Part I or III conflicts with the standard terms and conditions of Part II, the requirements of Part I or III shall control.

### A. DUTY TO COMPLY

1. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Colorado Water Quality Control Act and is grounds for: 1) enforcement action; 2) permit termination, revocation and reissuance, or modification; or 3) denial of a permit renewal application.
2. Federal Enforcement:
  - a. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal (see 40 C.F.R. 122.2) established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.
  - b. The Clean Water Act provides that any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$25,000 per day for each violation. The Clean Water Act provides that any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both. Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.
  - c. Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed \$10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$25,000. Penalties for Class II violations are not to exceed \$10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$125,000.

### B. DUTY TO REAPPLY

If the permittee plans to continue an activity regulated by this permit after the expiration date of this permit, the permittee must submit a permit application at least 180 days before this permit expires as required by Regulations 61.4 and 61.10.

### C. NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE

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

### D. DUTY TO MITIGATE

The permittee must take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in

violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

**E. PROPER OPERATION AND MAINTENANCE**

The permittee must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of this permit. See 40 C.F.R. §122.41(e).

**F. PERMIT ACTIONS**

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. Any request for modification, revocation, reissuance, or termination under this permit must comply with all terms and conditions of Regulation 61.8(8). See also 40 C.F.R. § 122.41(f).

**G. PROPERTY RIGHTS**

In accordance with 40 C.F.R. §122.41(g) and Regulation 61.8(9):

1. The issuance of a permit does not convey any property or water rights in either real or personal property, or stream flows or any exclusive privilege.
2. The issuance of a permit does not authorize any injury to person or property or any invasion of personal rights, nor does it authorize the infringement of federal, state, or local laws or regulations.
3. Except for any toxic effluent standard or prohibition imposed under Section 307 of the Clean Water Act or any standard for sewage sludge use or disposal under Section 405(d) of the Federal act, compliance with a permit during its term constitutes compliance, for purposes of enforcement, with Sections 301, 302, 306, 318, 403, and 405(a) and (b) of the Clean Water Act. However, a permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in Section 61.8(8) of the Colorado Discharge Permit System Regulations. See 61.8(9)(c).

**H. 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 terminating 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 in accordance with 40 C.F.R. §122.41(h) and/or Regulation 61.8(3)(q).

**I. INSPECTION AND ENTRY**

The permittee shall allow the division and the authorized representative, including U.S. EPA, and/or their authorized representatives (including an authorized contractor acting as their representative), upon the presentation of credentials as required by law, to conduct inspections in accordance with 40 C.F.R. §122.41(i), Regulation 61.8(3), and Regulation 61.8(4):

1. To enter upon the permittee's premises where a regulated facility or activity is located or conducted in which any records are required to be kept under the terms and conditions of this permit;
2. 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 facilities, equipment (including monitoring and control equipment), practices, operations or monitoring method regulated or required in the permit;
3. To enter upon the permittee's premises in a reasonable manner and at a reasonable time to inspect or investigate, any actual, suspected, or potential source of water pollution, or to ascertain compliance or noncompliance with the Colorado Water Quality Control Act or any other applicable state or federal statute or regulation or any order promulgated by the division, and;
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

**J. MONITORING AND RECORDS**

1. Samples and measurements taken for the purpose of monitoring must be representative of the volume and nature of the monitored activity. See 40 C.F.R. § 122.41(j)(1).

2. Monitoring must be conducted according to test procedures approved under 40 C.F.R. part 136 for the analyses of pollutants unless another method is required under 40 C.F.R. subchapters N or O. In the case of pollutants for which there are no approved methods under 40 C.F.R. part 136 or otherwise required under 40 C.F.R. subchapters N or O, monitoring must be conducted according to a test procedure specified in this permit for such pollutants. See 40 C.F.R. § 122.41(j)(4); 122.44(i)(1)(iv)(A).
3. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least 5 years (or longer as required by 40 C.F.R. part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or when requested by the division or Regional Administrator.
4. Records of monitoring information must include:
  - a. The date, exact place, and time of sampling or measurements;
  - b. The individual(s) who performed the sampling or measurements;
  - c. The date(s) analyses were performed
  - d. The individual(s) who performed the analyses;
  - e. The analytical techniques or methods used; and
  - f. The results of such analyses.
5. The permittee shall install, calibrate, use and maintain monitoring methods and equipment, including biological and indicated pollutant monitoring methods. See Regulation 61.8(4)(b)(iii). All sampling shall be performed by the permittee according to sufficiently sensitive test procedures required by 40 C.F.R. 122.44(i)(1)(iv) or methods approved by the division, in the absence of a method specified in or approved pursuant to 40 C.F.R. part 136.
6. The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

#### K. SIGNATORY REQUIREMENTS

1. Authorization to Sign: All documents required to be submitted to the division by the permit must be signed in accordance with 40 C.F.R. §122.22, Regulation 61.4, and the following criteria:
  - a. For a corporation: By a responsible corporate officer. For the purpose of this subsection, a responsible corporate officer means: (i) a president, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is 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, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
  - b. For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or
  - c. For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this subsection, a principal executive officer of a federal agency includes (i) the chief or principal executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency. (e.g., Regional Administrator of EPA). For purposes of this section, a principal executive officer has responsibility for the overall operation of the facility from which the discharge originates.
  - d. By a duly authorized representative in accordance with 40 C.F.R. 122.22(b), only if:
    - i. the authorization is made in writing by a person described in [Part II.K.1.a, b, or c](#) above;

- ii. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and,
  - iii. The written authorization is submitted to the division.
2. Any person(s) signing documents required for submittal to the division must 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.”
3. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both. See 40 C.F.R. §122.41(k)(2).

#### L. REPORTING REQUIREMENTS

1. **Planned Changes:** The permittee shall give advance notice to the division, in writing, of any planned physical alterations or additions to the permitted facility in accordance with 40 C.F.R. §122.41(l) and Regulation 61.8(5)(a) and [Part II.M](#) of this permit. Notice is required only when:
  - a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 C.F.R. §122.29(b); or
  - b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 C.F.R. §122.41(a)(1).
  - c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan. See 40 C.F.R. §122.41(l)(1)(iii).
2. **Anticipated Non-Compliance:** The permittee shall give advance notice to the division, in writing, of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements. The timing of notification requirements differs based on the type of non-compliance as described below.
3. **Transfer of Ownership or Control:** The permittee shall notify the division, in writing, thirty calendar days in advance of a proposed transfer of the permit. This permit is not transferable to any person except after notice to the division. The division may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act. See Regulation 61.8(6); 40 C.F.R. §§ 122.41(l)(iii) and 122.61.
4. **Monitoring Reports:** Monitoring results must be reported at the intervals specified in this permit.
  - a. If the permittee monitors any pollutant at the approved monitoring locations listed in [Part III](#) more frequently than that required by this permit using test procedures approved under 40 C.F.R. part 136, or another method required for an industry-specific waste stream under 40 C.F.R. subchapters N or O, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the division. See 40 C.F.R. 122.41(l)(4).
  - b. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the division in the permit.
5. **Submission of Discharge Monitoring Reports (DMRs):** DMRs shall be submitted electronically through NetDMR system unless the permittee requests and is granted a waiver of the electronic reporting requirement by the division pursuant to Regulation 61.8(4)(d).



6. Compliance Schedules: Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule in the permit, shall be submitted on the date listed in the compliance schedule section. The 14 calendar day provision in Regulation 61.8(4)(n)(i) has been incorporated into the due date.
7. Twenty-four hour reporting:
  - a. In addition to the reports required elsewhere in this permit, the permittee shall report the following circumstances orally within 24 hours from the time the permittee becomes aware of the circumstances, and shall mail to the division a written report containing the information requested within 5 working days after becoming aware of the following circumstances:
    - i. Circumstances leading to any noncompliance which may endanger health or the environment regardless of the cause of the incident;
    - ii. Circumstances leading to any unanticipated bypass which exceeds any effluent limitations in the permit;
    - iii. Circumstances leading to any upset which causes an exceedance of any effluent limitation in the permit; or
  - b. The report shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
  - c. For noncompliance events related to combined sewer overflows, sanitary sewer overflows, or bypass events, these reports must include the data described above (with the exception of time of discovery) as well as the type of event (combined sewer overflows, sanitary sewer overflows, or bypass events), type of sewer overflow structure (e.g., manhole, combine sewer overflow outfall), discharge volumes untreated by the treatment works treating domestic sewage, types of human health and environmental impacts of the sewer overflow event, and whether the noncompliance was related to wet weather. See 40 C.F.R. 122.41(l)(6)(i).
    - i. As of December 21, 2020 all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient, as defined in 40 C.F.R. 127.2(b), in compliance with 40 C.F.R. part 3 (including, in all cases, subpart D to part 3), § 122.22, and 40 C.F.R. part 127. See 40 C.F.R. 122.41(l)(6)(i).
8. Other non-compliance: A permittee must report all instances of noncompliance at the time monitoring reports are due. These reports may be submitted annually in accordance with Regulation 61.8(4)(p) and/or 61.8(5)(f), but may be submitted at a more frequent interval.

#### **M. BYPASS**

1. Definitions:
  - a. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility in accordance with 40 C.F.R. §122.41(m)(1)(i) and/or Regulation 61.2(12).
  - b. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production. See 40 C.F.R. §122.41(m)(1)(ii).
2. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of 40 C.F.R. 122.41(m)(3) and (m)(4). See 40 C.F.R. §122.41(m)(2).
3. Notice of bypass:
  - a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, the permittee shall submit prior notice, if possible, at least ten (10) days before the date of the bypass. See 40 C.F.R. §122.41(m)(3)(i) and/or Regulation 61.9(5)(c).
  - b. Unanticipated bypass. You must submit notice of an unanticipated bypass as required in [Part II.L.7](#). See also 40 C.F.R. §122.41(m)(3)(ii).

4. Prohibition of Bypass: Bypasses are prohibited and the division may take enforcement action against the permittee for bypass, unless:
  - a. the bypass is unavoidable to prevent loss of life, personal injury, or severe property damage;
  - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - c. Proper notices were submitted to the division.
    - i. The division may approve an anticipated bypass, after considering its adverse effects, if the division determines that it will meet the three conditions listed.

#### N. UPSET

1. Definition: “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology based 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.  
See 40 C.F.R. §122.41(n) and Regulation 61.2(114),
2. Effect of an upset: An upset constitutes an affirmative defense to an action brought for noncompliance with permit effluent limitations if the requirements of section 3 are met. A determination made during administrative review of claims that noncompliance was caused by upset is final administrative action subject to judicial review in accordance with Regulation 61.8(3)(j).  
*\*\*special note:\*\* this provision is consistent with the definition of “Upset” as codified in Regulation 61.2(114). However, the Colorado regulatory definition of upset is less stringent than the federal code of regulations, which restricts the use of an upset defense to noncompliance with technology-based permit effluent limitations only. Colorado’s regulatory definition of bypass is less stringent than the requirements of the federal Clean Water Act.*
3. Conditions necessary for demonstration of an 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:
  - a. an upset occurred and the permittee can identify the cause(s) of the upset;
  - b. the permitted facility was at the time being properly maintained; and
  - c. the permittee submitted notice of the upset as required in [Part II.L.7](#) (24-hour notice); and
  - d. The permittee complied with any remedial measure necessary to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. See also 40 C.F.R. 122.41(n)(3)(i)-(iv).  
*\*\*special note:\*\* this provision is consistent with the definition of “Conditions necessary for demonstration of upset” as codified in Regulation 61.8(3)(j)(ii). However, the Colorado regulatory definition of upset is less stringent than the federal code of regulations, which restricts the use of an upset defense to demonstrate that a facility was properly operated and maintained. Colorado’s regulatory definition of “Conditions necessary for demonstration of upset” is less stringent than the requirements of the federal Clean Water Act.*
4. In addition to the demonstration required above, a permittee who wishes to establish the affirmative defense of upset for a violation of effluent limitations based upon water quality standards shall also demonstrate through monitoring, modeling or other methods that the relevant standards were achieved in the receiving water.
5. Burden of Proof: In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

#### O. REOPENER CLAUSE

Procedures for modification or revocation. Permit modification or revocation of this permit or coverage under this permit will be conducted according to Regulation 61.8(8). This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations (and compliance schedule, if necessary), or other appropriate requirements if one of the following events occurs, including but not limited to:

1. Water Quality Standards: The water quality standards of the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
2. Wasteload Allocation: A wasteload allocation is developed and approved by the state of Colorado and/or EPA for incorporation in this permit.
3. Discharger-specific variance: A variance is adopted by the Water Quality Control Commission.

**P. OTHER INFORMATION**

When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the division or U.S. EPA, the Discharger shall promptly submit such facts or information. See 40 C.F.R. § 122.41(l)(8).

**Q. SEVERABILITY**

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

**R. NOTIFICATION REQUIREMENTS**

1. Notification to Parties: All notification requirements shall be directed as follows:
  - a. Oral Notifications, during normal business hours shall be to:

CDPHE-Emergency Reporting Line: 1-877-518-5608; or

Water Quality Protection Section - Compliance Program  
Water Quality Control Division  
Telephone: (303) 692-3500

After hours notifications should be made to the CDPHE-Emergency Reporting Line: 1-877-518-5608.

- b. Written notification shall be to:

Water Quality Protection Section - Compliance Program  
Water Quality Control Division  
Colorado Department of Public Health and Environment  
WQCD-WQP-B2  
4300 Cherry Creek Drive South  
Denver, CO 80246-1530

**S. RESPONSIBILITIES**

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 effluent limitations of the permit. 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.

**T. OIL AND HAZARDOUS SUBSTANCES LIABILITY**

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.

**U. EMERGENCY POWERS**

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 established pursuant to any applicable state law or regulation under authority granted by Section 510 of the Clean Water Act. Nothing in this permit shall be construed to prevent or limit application of any emergency power of the division.

**V. CONFIDENTIALITY**

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, Colorado Open Records Act (CORA) request, or

otherwise, shall not be publicly disclosed by any member, officer, or employee of the Water Quality Control 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.

**W. FEES**

The permittee is required to submit payment of an annual fee as set forth in the 2016 amendments to the Water Quality Control Act. Section 25-8-502 (1.1) (b), and the Regulation 61.15 as amended. 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.

**X. DURATION OF PERMIT**

The duration of a permit shall be for a fixed term and shall not exceed five 5 years. If the permittee desires to continue to discharge, a permit renewal application shall be submitted at least one hundred eighty (180) calendar days before this permit expires. Filing of a timely and complete application shall cause the expired permit to continue in force to the effective date of the new permit. The permit's duration may be extended only through administrative extensions and not through interim modifications. If the permittee anticipates there will be no discharge after the expiration date of this permit, the division should be promptly notified so that it can terminate the permit in accordance with Regulation 61.

**Y. SECTION 307 TOXICS**

If a toxic effluent standard or prohibition, including any applicable schedule of compliance specified, is established by regulation pursuant to Section 307 of the Clean Water Act for a toxic pollutant which is present in the permittee's discharge and such standard or prohibition is more stringent than any limitation upon such pollutant in the discharge permit, the division shall institute proceedings to modify or revoke and reissue the permit to conform to the toxic effluent standard or prohibition.

Part III

A. PERMITTEES DISCHARGING TO IMPAIRED RECEIVING WATERS

1. All permittees must use the most recent publicly available version of Regulation 93 or 305(b): Integrated Water Quality Monitoring and Assessment Report to identify and document their MS4 outfalls (i.e., direct discharges) to state waters that are listed as impaired. This documentation must reflect what is provided in the permit application and does not need to be re-assessed following issuance of the certification unless directed by the division.

B. REQUIREMENTS APPLICABLE TO PERMITTEES WITH DISCHARGES TO WATERS WITH TOTAL MAXIMUM DAILY LOADS

The requirements of [Part III.B](#) apply only as specified to permittees listed in Tables, 5, 6, 7, 8, and 10 and permittees specifically notified by the division under [Part I.F.4.a](#) or as indicated in their certification.

1. *E. coli* TMDLs

- a. Boulder Creek TMDL. Permittees subject to the Boulder Creek TMDL are identified in Table 5. These permittees must demonstrate compliance with TMDL wasteload allocations (WLAs) by meeting the following requirements in this subsection ([Part III.B.1.a.i](#) through iii).

Table 5 Permittees Subject to Boulder Creek Segment 2 TMDL Requirements <sup>1</sup>						
Permittee	Permit Number	Wasteload Allocations (cfu/day) by Flow Conditions				
		High Flows	Moist Conditions	Mid-Range Flows	Dry Conditions	Low Flow (cfu/Day)
University of Colorado	COR070028	6.85E+10	1.33E+10	4.34E+09	1.28E+09	4.02E+08
Boulder Valley School District	COR070029	5.53E+09	1.07E+09	3.50E+08	1.03E+08	3.24E+07

1. The TMDL requirements in this section apply to a portion of this segment from 13<sup>th</sup> Street to the confluence with South Boulder Creek.

i. Targeted Control Measure Requirements

(A) Public Education and Outreach. At least one of the four required activities/items in [Part I.E.1.a.ii](#) must include educational materials on the following:

- 1) The water quality impairment for *E. coli*. and actions that individuals can take to reduce pathogen loading.
- 2) Sources of *E. coli*, including, but not limited to animal wastes and human fecal wastes.
- 3) Waste collection and disposal rules or ordinances regarding pet waste, litter, and dumping, and any penalties for non-compliance.
- 4) Reporting of clogged catch basins.

(B) Storm Sewer Cleaning Program Plan: The permittee shall update (as needed) and implement a plan to inspect and clean the storm sewer system parts draining to Boulder Creek segment 2. The plan must specify a minimum inspection frequency for all storm sewer catch basins, inlets, and control measures of at least once per year or as required in [Part I.E.5.a.ii\(D\)](#), whichever is more frequent. The plan must also include criteria for when debris, trash and sediment are to be removed. The plan must specify that at least 20% of the permittee's MS4 system pipes draining to Boulder Creek segment 2 be cleaned each year, rotating so that all pipes are cleaned within a five-year period; however, the permittee will not be required to clean pipes in portions of the system for which they can document that sampling and analysis demonstrates that the portion does not exhibit a dry weather discharge with *E. coli* concentrations above 126 cfu/100 mL. If the permittee documents this demonstration then they are only required to clean 20% of all pipes with *E. coli* concentrations above 126 cfu/100 mL per year.

- (C) The permittee must determine potential sources of *E. coli* that are not addressed in [Part III.B.1.a.i\(A\)](#) and [\(B\)](#) and identify and implement specific control measures targeting these sources of *E. coli*. Each year, the permittee must continue to perform (A) and (B) of this subpart until the seasonal geometric mean at the outfall is below 126 cfu/100 mL.
- ii. Monitoring. For outfalls (i.e., direct discharges to state waters) that discharge to Boulder Creek segment 2, the permittee shall monitor for *E. coli* in accordance with [Part III.C](#).
- iii. Reporting. The permittee shall comply with reporting requirements in [Part I.I.2](#) and [3](#) as applicable.
- b. Big Dry Creek TMDL. Permittees subject to the Big Dry Creek TMDL are identified in Table 6. These permittees must demonstrate compliance with the TMDL WLA by meeting the following requirements in this subsection ([Part III.B.1.b.i](#) through iii).

Permittee	Permit Number	Wasteload Allocations (giga cfu/day) by Flow Conditions				
		High Flows	Moist Conditions	Mid-Range Flows	Dry Conditions	WLAs for Low Flow (Giga-cfu/Day)
Front Range Community College	COR070049	201.59	55.61	13.90	6.95	4.17 <sup>2</sup>

i. Targeted Control Measure Requirements

(A) Public Education and Outreach. At least one of the four required activities/items in [Part I.E.1.a.ii](#) must include educational materials on the following:

- 1) The water quality impairment for *E. coli*. and actions that individuals can take to reduce pathogen loading;
- 2) Sources of *E. coli* including, but not limited to animal wastes and human fecal wastes;
- 3) Waste collection and disposal rules or ordinances regarding pet waste, litter, and dumping, and any penalties for non-compliance.
- 4) Reporting of clogged catch basins.

(B) Storm Sewer Cleaning Program Plan: The permittee shall update (as needed) and implement a plan to inspect and clean the storm sewer system parts draining to the upper reach of segment 1 of Big Dry Creek. The plan must specify a minimum inspection frequency for all storm sewer catch basins, inlets, and control measures of at least once per year or as required in [Part I.E.5.a.ii\(D\)](#), whichever is more frequent. The plan must also include criteria for when debris, trash and sediment are to be removed. The plan must specify that at least 20% of the permittee’s MS4 system pipes draining to the Big Dry Creek be cleaned each year, rotating so that all pipes are cleaned within a five-year period-; however, the permittee will not be required to clean pipes in portions of the system for which they can document that sampling and analysis demonstrates that the portion does not exhibit a dry weather discharge with *E. coli* concentrations above 126 cfu/100 mL. If the permittee documents this demonstration then they are only required to clean 20% of all pipes with *E. coli* concentrations above 126 cfu/100 mL per year.

(C) The permittee must determine potential sources of *E. coli* that are not addressed in [Part III.B.1.b.i\(A\)](#) and [\(B\)](#) and identify and implement specific control measures for targeting these sources of *E. coli*. Each year, the permittee must continue to perform (A) and (B) of this subpart until the seasonal geometric mean at the outfall is below 205 cfu/100 mL.

- ii. Monitoring. For outfalls (i.e., direct discharges to state waters) that discharge to the upper reach of segment 1 of Big Dry Creek, the permittee shall monitor for *E. coli* in accordance with [Part III.C](#).
- iii. Reporting. The permittee shall comply with reporting requirements in [Part I.I.2](#).

<sup>2</sup> This is an aggregate WLA that is assigned to all MS4 dischargers to the upper reach of segment 1 of the Big Dry Creek. The upper reach of segment 1 extends from the outlet of Standley Lake and Great Western Reservoir to 120<sup>th</sup> Avenue.

- c. South Platte River Segment 14 *E. coli* TMDL. Permittees subject to the South Platte River Segment 14 *E. coli* TMDL are identified in Table 7. These permittees must demonstrate compliance with the TMDL WLA by meeting the following requirements in this subsection ([Part III.B.1.c.i](#) through iii).

Permittee	Permit Number	WLA (cfu/100 mL)
Arapahoe Community College	COR070048	126
Auraria Higher Education Center	COR070080	126
Colorado Rockies Baseball Club	COR070090	126
Denver Health and Hospital Authority	COR070081	126
Denver Public Schools	COR070086	126
Littleton Public Schools	COR070067	126
Metropolitan Football Stadium District	COR070098	126
Regional Transportation District	COR070023	126

- i. Targeted Control Measure Requirements
- (A) Public Education and Outreach. At least one of the four required activities/items in [Part I.E.1.a.ii](#) must include educational materials on the following:
- 1) The water quality impairment for *E. coli*. and actions that individuals can take to reduce pathogen loading;
  - 2) Sources of *E. coli*; including, but not limited to animal wastes and human fecal wastes;
  - 3) Waste collection and disposal rules or ordinances regarding pet waste, litter, and dumping, and any penalties for non-compliance.
  - 4) Reporting of clogged catch basins.
- (B) Storm Sewer Cleaning Program Plan: The permittee shall update (as needed) and implement a plan to inspect and clean the storm sewer system parts draining to segment 14 of the South Platte River. The plan must specify a minimum inspection frequency for all stormwater catch basins, inlets, and control measures of at least once per year or as required in [Part I.E.5.a.ii\(D\)](#), whichever is more frequent. The plan must also include criteria for when debris, trash and sediment are to be removed. The plan must specify that at least 20% of the permittee's MS4 system pipes draining to the South Platte River Segment 14 be cleaned each year, rotating so that all pipes are cleaned within a five-year period; however, the permittee will not be required to clean pipes in portions of the system for which they can document that sampling and analyses demonstrates that the portion does not have a dry weather discharge with *E. coli* concentrations above 126 cfu/100 mL. If the permittee documents this demonstration then they are only required to clean 20% of all pipes with *E. coli* concentrations above 126 cfu/100 mL per year.
- (C) The permittee must determine potential sources of *E. coli* that are not addressed in [Part III.B.1.c.i\(A\)](#) and [\(B\)](#) and identify specific control measures for targeting these sources of *E. coli*. Each year, the permittee must continue to perform (A) and (B) of this subpart until the seasonal geometric mean at the outfall is below 126 cfu/100 mL.
- ii. Monitoring. For outfalls (i.e., direct discharges to state waters) that discharge to segment 14 of the South Platte River, the permittee shall monitor for *E. coli* in accordance with [Part III.C](#).
- iii. Reporting. The permittee shall comply with reporting requirements in [Part I.I.2](#).
- d. Wildhorse Creek *E. coli* TMDL. Permittees subject to the Wildhorse Creek *E. coli* TMDL within segments COARMA04a, and COARMA04g and portions of COARMA04d that are tributary to the impaired segment of COARMA04a are identified in Table 8. These permittees must demonstrate compliance with the TMDL WLA by meeting the following requirements in this subsection ([Part III.B.1.d.i](#) through iii).

Permittee	Permit Number	WLA (Giga-cfu/Day)
Pueblo County School District 60	COR070227	0.22 <sup>3</sup>

i. Targeted Control Measure Requirements

(A) Public Education and Outreach. At least one of the four required activities/items in [Part I.E.1.a.ii](#) must include educational materials on the following:

- 1) The water quality impairment for *E. coli*. and actions that individuals can take to reduce pathogen loading;
- 2) Sources of *E. coli*; including, but not limited to animal wastes and human fecal wastes;
- 3) Waste collection and disposal rules or ordinances regarding pet waste, litter, and dumping, and any penalties for non-compliance.
- 4) Reporting of clogged catch basins.

(B) Storm Sewer Cleaning Program Plan: The permittee shall update (as needed) and implement a plan to inspect and clean the storm sewer system parts draining to the Wildhorse Creek watershed. The plan must specify a minimum inspection frequency for all stormwater catch basins, inlets, and control measures of at least once per year or as required in [Part I.E.5.a.ii\(D\)](#), whichever is more frequent. The plan must also include criteria for when debris, trash and sediment are to be removed. The plan must specify that at least 20% of the permittee’s MS4 system pipes draining to Wildhorse Creek be cleaned each year, rotating so that all pipes are cleaned within a five-year period. The permittee will not be required to clean pipes in portions of the system for which they can document that sampling and analyses demonstrates that the portion does not have a dry weather discharge with *E. coli* concentrations above 126 cfu/100 mL. If the permittee documents this demonstration then they are only required to clean 20% of all pipes with *E. coli* concentrations above 126 cfu/100 mL per year.

(C) The permittee must determine potential sources of *E. coli* that are not addressed in [Part III.B.1.d.i\(A\)](#) and [\(B\)](#) and identify and implement methods for controlling the sources.

ii. Monitoring. For outfalls (i.e., direct discharges to state waters) that discharge to COARMA04a or COARMA04g, the permittee shall monitor for *E. coli* in accordance with [Part III.C](#).

iii. Reporting. The permittee shall comply with reporting requirements in [Part I.I.2](#).

**2. Barr Lake Milton Reservoir pH and Dissolved Oxygen TMDL (Controlled via Phosphorus Target)**

The Total Maximum Daily Load Assessment for Barr Lake and Milton Reservoir, COSPMS04, pH (Barr Lake/Milton Reservoir TMDL) assigned MS4 permittees a 20 percent reduction in phosphorus loads. The TMDL did not identify non-standard MS4 permittees that discharge the COR070000 permit. The TMDL included a single WLA for all MS4 permittees within the datted for three averaging periods, as shown in Table 9<sup>4</sup>. To support TMDL development and implementation, this permit requires permittees within the Barr Lake Milton Reservoir datted, listed in Table 10, to comply with the requirements in [Part III.B.2.a](#) through c.

Source Wasteload	Target Load (kg/yr)	Daily Mean Target Load (kg/day)	Total Max. Daily Load (kg/day)
Barr Lake	1,751	7.3	19.3
Milton Reservoir	362	2.2	4.8

<sup>3</sup> This is an aggregate WLA that is assigned to all MS4 dischargers to Wildhorse creek watershed.

<sup>4</sup> Phased TMDL for Barr Lake and Milton Reservoir to Achieve pH Compliance Final, May 2013, Table 8.1, p. 8-3.



**Table 10**  
**Permittees subject to requirements to support the Barr Lake-Milton Reservoir TMDL**

Permittee	Permit Number	Receiving Waterbody
Adams County School District 14	COR070043	COSPUS16a
Adams County School District 50	COR070074	COSPCL18b
Arapahoe Community College	COR070048	COSPUS14
Auraria Higher Education Center	COR070080	COSPCH03
Aurora Public Schools	COR070059	COSPUS16a
Colorado Department of Corrections	COR070097	COSPUS16a
Colorado Community College System	COR070046	COSPS16c
Colorado Rockies Baseball Club Ltd	COR070090	COSPUS14
Community College of Aurora	COR070047	COSPUS16c
Denver Health and Hospital Authority	COR070081	COSPCH03
Denver Public Schools	COR070086	COSPUS16c
E470 Public Highway Authority	COR070205	COSPUS16c
Fairlake Metro District	COR070072	COSPCH04
Falcon School District	COR070065	COSPUS16c
Foothills Park and Recreation District	COR070092	COSPUS16c
Highlands Ranch Metro District 1	COR070053	COSPUS16c
Hyland Hills Park and Recreation District	COR070221	COSPUS16c
Littleton Public Schools	COR070067	COSPUS16c
Mapleton Public Schools	COR070036	COSPCH03
Metropolitan Football Stadium District	COR070098	COSPUS16c
Red Rocks Community College	COR070045	COSPUS16c
RTD	COR070023	COSPUS14
Southwest Plaza Metro District	COR070091	COSPUS16c
University of Colorado Denver Anschutz Medical Campus	COR070075	COSPCH03

<sup>1</sup> [This table presents a list of permittees that have been initially identified as being located within the Barr Milton Datashed. The TMDL applies only to the portions of WBIDs that are within the Datashed as defined in the Barr Milton Watershed TMDL. Final determination of location and applicability will be included in certifications.](#)

a. Public Education and Outreach

- i. The permittee must determine the targeted sources (e.g., residential, industrial, agricultural, or commercial) that are contributing to, or have the potential to contribute phosphorus concentrations to state waters at a rate that could result in or threaten to result in an exceedance of the total phosphorus in-lake target of 100 µg/L. Examples of sources that may need to be addressed by the permittee's program include chemical deicing, retailers with outdoor storage of fertilizers, concentrated agricultural activities such as turf farms and landscape plant facilities, and animal feeding operations.
- ii. The permittee must distribute educational materials to the targeted sources. Educational materials must seek to control a common household source of phosphorus by in the area. This could include materials on the responsible application of fertilizers, materials to encourage the use of phosphorus

free fertilizers, materials on responsible pet waste disposal, or materials on the responsible disposal of yard clippings/leaves.

- iii. Public education activities implemented to meet the requirements in [Part I.E.1.a.iii](#) and [iv](#) may be used to satisfy requirements in this Part ([Part III.B.2.a.i](#) and [ii](#)).
  - iv. Permittees can meet the requirements of this section through contribution to a collaborative program to evaluate, identify, target, and provide outreach that addresses sources state-wide or within the specific region or watershed that includes the receiving waters impacted by the MS4 permittee’s discharge.
- b. Monitoring. For outfalls (i.e., direct discharges to state waters), the permittee shall monitor for total phosphorus in accordance with [Part III.C](#).
  - c. Reporting. The permittee shall comply with reporting requirements in [Part I.I.2](#).

**C. DRY WEATHER OUTFALL INSPECTION AND MONITORING**

Permittees must conduct monitoring in accordance with this section (Part III.C). Part III.C applies only to [Municipal Separate Storm Sewer System Outfalls](#) as defined in [Part I.J](#). As such, within this permit the term “outfall” includes MS4 discharges that are directly to a state water, but does not include conveyances connecting two municipal separate storm sewers. Monitoring in Part III.C applies to outfalls for:

- permittees identified in Tables 5, 6, 7, 8, and 10,
- other permittees where monitoring is specified in the permit certification.

All monitoring must be conducted in accordance with [Part I.F.6](#).

**1. Exclusions**

- a. Removal of Outfalls from dry weather inspection and monitoring requirements: The permittee may remove the outfall from monitoring requirements in [Part III.C.2](#) if they meet one or more of the following conditions:
  - i. The permittee has identified and eliminated all sources of the [dry weather discharge](#) such that the dry weather flow is less than 5 gpm.
  - ii. The dry weather flow has ceased or decreased to below 5 gpm for at least three months, based on a minimum inspection frequency of once per 14 days, or the required sample frequency, whichever is more frequent and there are no indicators present of an illicit discharge.
  - iii. For permittees subject to *E. coli* TMDLs for Boulder Creek, Big Dry Creek, and South Platte River, or Wildhorse Creek the seasonal geometric mean remains below the threshold concentrations in Table 11 for two consecutive seasons.

Table 11 Thresholds for Removing an Outfall of Concern	
TMDL	Threshold (cfu/100 mL)
Boulder Creek	126
Big Dry Creek	205
South Platte River	126
Wildhorse Creek	126

For any dry weather discharge that remains after 2 years, the permittees meeting this exclusion must continue to monitor *E. coli* at a frequency of once per year during the period of May 1-October 31.

- iv. For permittees that discharge within the Barr Lake Milton Reservoir Datashed the permittee may discontinue sampling after eight [quarterly](#) samples are analyzed and reported.
- b. Permittees must notify the division when an exclusion condition in [Part III.C.1](#) is met.

**2. Dry Weather Outfall Inspection and Monitoring**

Permittees subject to this section must prepare and maintain a written Dry Weather Outfall Inspection and Monitoring Plan. The plan shall describe the schedule, inspection locations, inspection methods, sampling

methods, and steps necessary to meet the requirements below in [Part III.C.2.a](#) through g. Monitoring results shall be reported as required in [Part III.D](#) and Parts [I.I.2](#) and [3](#).

- a. ~~Beginning in Year 1, d~~ Outfall Inspections. During the period of May 1 through October 31, the permittee must inspect each outfall within their MS4 that discharges directly to the segment addressed by a TMDL. All MS4 Outfalls shall be inspected for dry weather discharges at a minimum frequency of once per 5-year period. If the permittee identifies more than six outfalls, then the permittee may limit inspection to 20 percent of the outfalls each year until all outfalls have been inspected at least once during the permit term. Outfalls prioritized in accordance with [Part I.E.2.a.ix](#) shall be addressed first within the schedule. Submerged outfalls shall be included and observed at appropriate locations within the MS4. It is not necessary to make in-pipe observations for submerged outfalls. Dry weather flows that are less than 5 gpm (0.0072 MGD) do not need to be identified. The inspection shall determine the presence or absence of dry weather discharges.
- b. All MS4 Outfalls shall be inspected for dry weather discharges at a minimum frequency of once per 5-year period.
- c. For all monitoring conducted in [Part III.C.2.e](#) the samples shall be [grab samples](#). For monitoring conducted in [Part III.C.2.f](#) the permittee may collect grab or [composite](#) samples as allowable and appropriate in accordance with 40 CFR part 136.
- d. Upon discovering a dry weather discharge that is greater than or equal to 5 gpm the permittee must begin investigating the source within 72 hours.
- e. *E. coli* Monitoring

Where the permittee's certification requires *E. coli* monitoring the permittee must conduct dry weather outfall (i.e., direct discharge to state water that is addressed by the associated TMDL) monitoring as described in i through iv below. To comply with Part III.C.2.e, the permittee may use data collected by another entity as long as it meets requirements of this permit.

The permittee may be excluded from *E. coli* monitoring requirements in this part (III.C.1.e) if they are participating in a Regional Monitoring Program and have notified the division. The Regional Monitoring Program must meet the following criteria:

- The program monitors MS4 discharges for pollutants causing the impairment addressed by the TMDL
  - The program has established a monitoring plan that is consistent with the TMDL
  - Monitoring data collected under the program must be quantitatively comparable to TMDL WLAs
  - Monitoring data must include analytical monitoring of discharges representative of the permittee's discharges or the specific type of permittee.
- i. Within one year of discovering a dry weather discharge, the permittee must begin *E. coli* monitoring at the outfall containing the dry weather discharge. The permittee must collect and analyze for *E. coli* in a minimum of ten discharge samples, spaced one week apart, at each outfall during the period of May 1 through October 31.
  - ii. The permittee shall either measure or estimate the outfall flow at the time the *E. coli* sample is collected. If flow is estimated the permittee must briefly document the method of estimation.
  - iii. Following the first sampling event, if flow is absent during a week, the permittee shall document so and shall re-attempt weekly sampling and flow data collection unless the permittee has met conditions for exclusion in [Part III.C.1](#) and notified the division.
- f. Phosphorus Monitoring

Where the permittee's certification requires phosphorus monitoring, the permittee must conduct dry weather outfall (i.e., direct discharge to state water) monitoring as described in i through iii below.

The permittee may be excluded from ~~*E. coli*~~phosphorus monitoring requirements in this part (III.C.1.e) if they are participating in a Regional Monitoring Program and have notified the division. The Regional Monitoring Program must meet the following criteria:

- The program monitors MS4 discharges for pollutants causing the impairment addressed by the TMDL.
- The program has established a monitoring plan that is consistent with the TMDL.
- Monitoring data collected under the program must be quantitatively comparable to TMDL WLAs.

- Monitoring data must include analytical monitoring of discharges representative of the permittee's discharges or the specific type of permittee.
- i. Within one year of discovering a dry weather discharge, the permittee must begin quarterly phosphorus monitoring at the outfall containing the dry weather discharge. Quarterly monitoring consists of collecting and analyzing at least one sample per quarter.
- ii. The permittee shall either measure or estimate the outfall flow at the time the Total Phosphorus sample is collected. If flow is estimated the permittee must briefly document the method of estimation.
- iii. Following the first sampling event, if flow is absent during a quarterly sampling event, the permittee shall document so and shall re-attempt to sample and measure the corresponding flow every 14 days until a sample is obtained for the quarter.

#### **D. RECORDKEEPING AND REPORTING**

##### **1. Recordkeeping:**

The permittee must maintain the following records for activities to meet the requirements of [Part III](#):

- a. The source of dry weather flows identified under [Part III.C.2.d](#), including information on whether it is an allowable non-stormwater discharge and if so the type of allowable non-stormwater discharge; or whether it is an illicit discharge.
- b. The potential sources of *E. coli* identified when required under [Part III.B.1.a.i\(C\)](#), [b.i\(C\)](#), [c.i.\(C\)](#), and [d.i.\(C\)](#)

##### **2. Annual Reports**

The permittee must report monitoring data collected according to Part III.C in the Annual Report as required under [Part I.I.2](#).

##### **3. DMRs**

Where monitoring is required under [Part III.B](#) and [C](#), University of Colorado at Boulder must report monitoring results in monthly DMRs in accordance with Part I.I.3.