

DIVISION RESPONSE TO PUBLIC COMMENTS – STORMWATER CONSTRUCTION GENERAL PERMIT – PART I

3/23/07

***To simplify review, references to sections of the permit and rationale in the comments summarized in this document correspond to the draft being distributed as part of this public notice. Note that this is true even when the comments may be referring to the previous draft.**

#	CATEGORY	CHANGES TO PERMIT AND/OR RATIONALE
1	Application Changes	
	i. Comment(s): Comment was received requesting that the permit application be changed to require information on where the SWMP will be kept. <ul style="list-style-type: none"> • Most construction sites undergo significant changes while construction is occurring. It is expected that the SWMP location may change over time, and thus it would be impractical to require this information in the application. 	n/a
2	Time Frames	
	i. Comment(s): It was noted that some of the time frames listed in the permit specify a number of days, but do not indicate whether these are calendar or business days. <ul style="list-style-type: none"> • The permit has been clarified to indicate that all time frames refer to calendar days. 	Permit: Various locations
3	Conflicting Agency Requirements	
	i. Comment(s): Concern was expressed that requirements from other government agencies may conflict with the requirements of the Stormwater Construction Permit. <ul style="list-style-type: none"> • The Division is aware of no requirements from other State, local, or federal agencies that would result in a conflict with the Stormwater Construction Permit. In general, the Stormwater Construction Permit does not prescribe specific actions, but does require the development of BMPs to control pollutant sources. For the areas of the permit that do prescribe more specific actions that could be inconsistent with those of other agencies (e.g., inspection schedules), the permit already allows for the permittee to request variances from the base permit requirements, given adequate justification. Therefore, no modifications to the permit are necessary at this time. If conflicting requirements are discovered in the future, they will be addressed on a case-by-case basis. 	n/a
4	Stormwater Management Plan Requirements	
	4.a Timeline for Changes to the SWMP	
	i. Comment(s): Part I.D.5.c of the draft permit required SWMP changes (needed because of a significant change in design, construction, operation, or maintenance, or ineffective BMPs) to be made immediately, or under a schedule for implementation. Comments were received stating this would be impossible, and recommending a timeline be provided for making modifications, or that changes be made as soon as feasible or practicable. The comments requested that periods varying from 24 hours to 7 days be provided to make changes. <ul style="list-style-type: none"> • The Division agrees that the term “immediately” is not defined and may be difficult to comply with, depending on interpretation. The requirements have been changed to allow for SWMP modifications addressing BMP installation and/or implementation to be made within 72 hours of making changes on the site. The 72-hour requirement <u>only</u> applies to those cases where BMP changes were not adequately anticipated and expedited implementation of BMPs in the field is necessary to cease permit violations associated with inadequate BMPs. In these cases, SWMP revisions would typically occur <u>following</u> changes at the site, and so updating the plan within 72 hours in response to field changes is a reasonable expectation. Where more intensive BMP design would be required, it would be expected, and is permitted in the draft permit language, that interim BMPs are installed and included in the SWMP while the necessary design was completed to update the BMPs both in the field and in the SWMP. To facilitate tracking and completion of changes, and to allow adequate Division oversight of compliance with this requirement, a notation must be included in the SWMP prior to changes in the field that includes the time and date of any field changes, identification of the BMPs removed or added, and the location of those BMPs. 	Permit: I.D.5(c) Rationale: II.K.1, VIII.F

4.b SWMP Signatory Requirement		
<p>i. Comment(s): Comment was received indicating that the copy of the SWMP retained at a facility should be signed as required in Part I.F.1 of the draft permit to ensure it is the most current and valid copy of this document.</p> <ul style="list-style-type: none"> Each stormwater discharge permit applicant certifies the accuracy and completeness of their SWMP as part of the application process leading to issuance of a permit certification. The Division does not agree that requiring a signature on the SWMP retained at a facility will further ensure it is the most up-to-date copy of this document. Given the rapid pace of change at some sites, this requirement would be impractical. Therefore, no change was made to the permit. 	n/a	
4.c Significant Changes to SWMP		
<p>i. Comment(s): Comment was received requesting that the meaning of “significant” be defined in Part I.D.5(c) of the permit, in reference to when the SWMP needs to be updated.</p> <ul style="list-style-type: none"> Part I.D.5(c) was changed to require SWMP updates for a change in design, construction, operation, or maintenance of the site, which would require the implementation of new or revised BMPs. The term “significant” is therefore no longer necessary in the permit, and has been deleted. 	Permit: I.D.5(c) Rationale: II.K.1	
4.d SWMP Administrator		
<p>i. Comment(s): Part I.C.3.a of the draft permit requires that the SWMP identify a specific individual(s) who is responsible for developing, implementing, maintaining, and revising the SWMP. Comment was received indicating that identifying a position or title for the SWMP administrator would be more practical than designating a specific individual, given that different individuals, including contractors, may perform the SWMP administrator responsibilities over the lifetime of the permit.</p> <ul style="list-style-type: none"> The Division agrees that identifying a position or title for the SWMP administrator may be more practical than designating a specific individual. Part I.C.3.a of the permit has been modified to allow this option. 	Permit Part I.C.3.a Rationale: II.I.3.a	
4.e BMP Design Specifications		
<p>i. Part I.D.4(c): Comments were received requesting clarification on the section in the draft permit requiring BMP design specification.</p> <ul style="list-style-type: none"> The draft permit has been revised to indicate that installation and implementation details, not design details, must be included in the SWMP. Installation details for most typical BMPs are available in various criteria manuals, such as those referenced in Appendix A, Part D.1 of the Stormwater Construction Permit Application. Additional guidance on providing adequate information on BMPs in the SWMP can be found in Appendix A, Part C.4 of the Stormwater Construction Permit Application. 	Permit: I.C.3(c)(8) Rationale: II.H.3.g	
4.f Master SWMP		
<p>i. Comment(s): Comments were received on the idea of a “master SWMP.” All comments were in favor of the idea, but included different interpretations of what a master SMWP would be.</p> <ul style="list-style-type: none"> A master SWMP may be appropriate for construction projects that involve multiple smaller construction sites that are within a common plan of development, or for multiple well pads under construction within an oil and gas well field. By developing a single plan, the operator can eliminate the need to develop repetitive information in separate plans. The master SMWP could include all information that was common to the smaller sites, such as some specifications for BMP installation and references. However, the SWMP is intended to be used by the staff responsible for installation and maintenance of the BMPs, and to reflect current, site-specific conditions. Therefore, the information specific to the smaller sites must be available to provide adequate guidance to those doing the BMP installation and maintenance. This includes site-specific mapping of topography, drainages, BMP locations and types, and construction schedule. The use of a master SWMP is allowed under the draft permit, and so no changes to the permit are proposed, although a discussion is included in the rationale. <p>Further information on this topic is available in the Stormwater Fact Sheet on Construction Permitting for Oil and Gas Facilities, Section 7.C, available at www.cdphe.state.co.us/wq/PermitsUnit.</p>	Rationale: VIII.B	

4.g SWMP Location	
<p>i. Comment(s): Comment was received requesting that the permit allow flexibility in the SWMP location, to take into consideration sites that do not have structures (such as a construction trailer) where the SMWP may be maintained.</p> <ul style="list-style-type: none"> The Division has revised its requirement that the SWMP be maintained on site during active construction and site inspections, to instead allow the SWMP to be maintained at a central location, such as a field office, in close proximity to the oil/gas field or other project, upon request by the permittee and approval by the Division. 	Permit: I.D.5(b)
4.h SWMP Amendment Deadline	
<p>i. Comment(s): The draft permit included changes to some of the SWMP requirements. Clarification was requested on whether or not existing permittees are required to amend their SWMP to incorporate the changes.</p> <ul style="list-style-type: none"> Most of the SWMP changes involve either clarifications, reformatting, or taking recommendations from the SWMP guide and making them permit requirements (e.g., vehicle tracking controls, BMP installation specifications). If an existing permittee followed the recommendations in the SWMP guide, then their SWMP will presumably meet the new requirements. However, for any permittees who did not follow the applicable SWMP guide recommendations, their SMWP must be amended to include the new required items: <p style="margin-left: 40px;">-SWMP Administrator -Identification of potential pollutant sources -Best Management Practices descriptions and installation specifications, including dedicated concrete or asphalt batch plants; vehicle tracking control; and waste management and disposal (including concrete washout activities).</p> <p>The plan is not to be submitted to the Division unless requested, but must be available on site as outlined in Part I.D.5.b of the permit. The rationale has been changed to reflect this clarification.</p>	Rationale: II.I
4.i Identifying Potential Pollutant Sources	
<p>i. Comment(s): It was requested that the additional SWMP requirements for identifying potential pollutant sources be removed, as it is additional paperwork.</p> <ul style="list-style-type: none"> This provision was added to the permit to provide more clarity to permittees on what is needed to be in compliance with the permit. Accurate documentation is a key part in most permittees' efforts to comply with the permit. It is the Division's experience that, in general, construction sites with better documentation (e.g., complete inspection reports, SWMP) were found to also have better compliance in the field. No changes were made to the permit. 	n/a
4.j Vehicle Tracking Controls	
<p>i. Comment(s): Comment was received regarding the permit requirement that practices be implemented for vehicle tracking control. It was stated that as long as the tracked soil remains within the confines of the permitted site, there should be no reason for the permittee to control soil tracking anywhere but at the edge of the disturbed acreage (e.g., where the access road enters a public highway).</p> <ul style="list-style-type: none"> The permit has been revised to better clarify that controls are required to control <u>sediment</u> from vehicle tracking. On-site vehicle tracking can still result in a potential pollution source as sediment is deposited. In this case, sediment control BMPs that can be implemented on site may be used to meet this requirement if they are adequate to control pollution from vehicle tracking. However, for areas where tracking is occurring on impervious surfaces such as roadways, it is important to note that sediment control in the form of inlet protection will typically not be adequate as the only BMP to control sediment from vehicle tracking. Therefore, additional controls to minimize vehicle tracking and routinely clean sediment from surfaces will be necessary. 	Permit: I.C.3(c)(6) Rationale: II.I.3.c.ii

4.k General SWMP Changes		
i.	<p>Comment(s): Comment was received requesting the addition of “liquid wastes” to Parts I.C.3.b (Identification of Potential Pollutant Sources) and I.C.3.c.7 (Non-structural practices for erosion and sediment control) of the draft permit.</p> <ul style="list-style-type: none"> The Division agrees with these additions, and the permit has been modified to reflect these changes. 	Permit: Parts I.C.3.b, I.C.3.c.7, I.D.1.f
ii.	<p>Comment(s): Comment was received requesting the addition of project phasing and scheduling to Part I.C.3.c.2 of the draft permit (Non-structural practices for erosion and sediment control).</p> <ul style="list-style-type: none"> Part I.C. 3.c.2 currently addresses site-specific scheduling of non-structural BMP implementation; Part I.C. 3.c.3 of the permit was modified to clarify the need for phased BMP implementation for both structural and non-structural practices. 	Permit: Part I.C.3.c.3
iii.	<p>Comment(s): Comment was received requesting the addition of “promptly” to the statement “materials must be removed from the site for disposal” in Part I.D.1.f of the draft permit (General Limitations).</p> <ul style="list-style-type: none"> Practices for waste management and disposal must be documented in the SWMP in accordance with Part I.C.3.c.7 of the draft permit (Waste management and disposal). The site-specific scheduling of waste removal should be included in this section, and precludes the need to reiterate this information in the General Limitations section. No change was made to the permit. 	n/a
iv.	<p>Comment(s): Comment was received requesting the addition of “new administrative or procedural BMPs” to the potential SWMP revisions in Part I.D.5.c of the draft permit (SWMP Revisions Following Site Inspections).</p> <ul style="list-style-type: none"> This list of SWMP revisions is not intended to be an exhaustive listing of all possible SWMP revisions, just examples. No change was made to the permit. 	n/a
v.	<p>Comment(s): Comment was received requesting that the location of stormwater outfall(s) and an outline of the areas draining to each outfall be added to the Site Map requirements in Part I.C.2 of the draft permit.</p> <ul style="list-style-type: none"> Due to the changing nature of construction sites, it is expected that the location of these sites would change significantly over the course of the project, and would thus be impractical to require on the Site Map. No change was made to the permit 	n/a
vi.	<p>Comment(s): Comment was received requesting the addition of language to Part I.B of the draft permit (Stormwater Management Plan –General Requirements) that clearly states that the SWMP must be kept up to date and accurately reflect current site conditions at all times.</p> <ul style="list-style-type: none"> The Division agrees with this addition, and Part I.B.2.c of the permit has been modified to reflect this change. 	Permit: Part I.B.2.c Rationale: II.H
vii.	<p>Comment(s): Comment was received questioning the inclusion of “significant dust or particulate generating processes” in Part I.C.3.b of the draft permit (Identification of Potential Pollutant Sources).</p> <ul style="list-style-type: none"> Significant dust or particulate generating processes are considered potential pollutant sources that can contribute pollutants to stormwater runoff through contact with stormwater during storm or snow melt events. No change was made to the permit. 	n/a
viii.	<p>Comment(s): Comment was received requesting the addition of “wattles/sediment control logs” to Part I.C.3.c.1 of the draft permit (Structural practices for erosion and sediment control).</p> <ul style="list-style-type: none"> The Division agrees with this addition, and Part I.C.3.c.1 of the permit has been modified to reflect this change. 	Permit: Part I.C.3.c.1
ix.	<p>Comment(s): Comment was received requesting that the conditions that may result in a Division request to review a facility’s SWMP should be specified in the permit (Part I.B.3 of the draft permit).</p> <ul style="list-style-type: none"> Each stormwater discharge permit applicant has certified the accuracy and completeness of their SWMP as part of the application process leading to issuance of a permit certification. The SWMP must be maintained at the facility and be available for inspector review. Typically, a Division request to review a facility’s SWMP is prompted by information indicating potential noncompliance at the facility; however, the Division reserves the right to review the SWMP for reasons other than potential noncompliance, and to require additional measures to prevent and control pollution as needed. No change was made to the permit. 	n/a

	<p>x. Comment(s): Comment was received suggesting that the conditions whereby permanent ponds can be used as temporary BMPs during construction be specifically identified in the permit.</p> <ul style="list-style-type: none"> The Division has determined that the specific conditions of BMPs used at a facility are best addressed in Division guidance. Guidance addressing the appropriate use of permanent ponds as temporary BMPs during construction will be developed outside of the permit. No change was made to the permit. 	n/a
	<p>xi. Comment(s): Comment was received suggesting that the Site Map requirements in Part I.C.2 of the draft permit be expanded to require the location of specific BMPs such as concrete washout areas, preserved vegetation, site entrance(s), vehicle parking areas, direction of stormwater flow, petroleum storage areas, and erosion and sediment BMPs.</p> <ul style="list-style-type: none"> The Site Map requirements in the draft permit currently address nearly all of the suggested additions with existing language. Exceptions include site entrance(s), vehicle parking areas, and direction of stormwater flow. The Division determined that these items can be addressed in Division guidance, which will be developed outside of the permit. No change was made to the permit. 	n/a
	<p>xii. Comment(s): Comment was received suggesting that operators be required to provide details showing specific drainage patterns (e.g. unnamed drainage ditches, existing or constructed swales, MS4 systems, etc.) to State waters to foster better compliance with stormwater regulations and provide critical information for enforcing the permit.</p> <ul style="list-style-type: none"> The Site Description and Site Map requirements in the draft permit currently address these items in Part I.C.1.h and Part I.C.2.g, respectively. Identifying the exact offsite drainage pathway surface waters would be extremely difficult in many cases with questionable benefit, so has not been included. 	n/a
5	Concrete Washout Activities	
	<p>i. Comment(s): Comments were received requesting that concrete washout requirements in the permit and rationale address such items as proximity to State water/storm sewer systems, disposal practices, and discharges to pervious ground. One comment specifically requested that the permit reference EPA guidance for concrete washout.</p> <ul style="list-style-type: none"> Many of the recommended changes constitute guidance that is beyond the scope of the permit requirements. The Division has revised the permit and rationale to more clearly indicate that the permit does not authorize the discharge of concrete wash water to State surface waters, storm sewers systems, or on-site waste disposal. Guidance for meeting these requirements is included in the rationale. 	Permit: I.D.1(c) Rationale: II.H.3.f
6	Final Stabilization and Inactivation	
	6.a Inactivation Documentation	
	<p>i. Comment(s): A comment was received recommending permit language be added allowing the Division to request photographs to confirm final stabilization.</p> <ul style="list-style-type: none"> Part II.B.2 of the permit already requires submittal of information that the Division may request to determine whether cause exists to inactivate coverage. 	n/a
	6.b Removal of BMPs	
	<p>i. Comment(s): A comment was received recommending that BMP removal be required prior to inactivation</p> <ul style="list-style-type: none"> Depending on land use, BMP type, and other factors, not all BMPs will be removed prior to final stabilization. The Division will consider revised guidance in place of permit requirements to address this issue. 	n/a
	6.c Stabilization as Soon as “Practicable”	
	<p>i. Comment(s): Comment was received requesting the addition of NPDES permit language for initiating temporary or permanent stabilization to Part I.C.4 of the draft permit (Final Stabilization and Long-term Stormwater Management).</p> <ul style="list-style-type: none"> The Division determined that this requirement would increase the burden on the permittee without contributing to increased permit compliance, and would be difficult for the Division to document and enforce. No change was made to the permit. 	n/a

	<p>ii. Comment(s): A comment was received requesting additional clarification of the requirement that “stabilization practices must start as soon as practicable in areas of the site where construction activities have temporarily or permanently ceased.”</p> <ul style="list-style-type: none"> Because of the extremely varied nature of construction activities covered under this permit, further clarification that addressed all possible scenarios is not possible. This provision is essentially guidance and therefore has been removed from the permit. Stabilization scheduling is addressed in the Division’s SWMP guidance. 	Permit: I.C.4
6.d Inclusion of Non-Vegetative Stabilization Examples		
	<p>i. Comment(s): A comment was received that Part I.C.4(c) of the permit should include non-vegetative practices such as riprap, road paving, etc, as examples of stabilization practices.</p> <ul style="list-style-type: none"> This section of the permit was intended to address practices that should be included in the SWMP to achieve a vegetative cover for stabilization, and to control pollutants while the vegetation is being established. This has been clarified in the permit. 	Permit: I.C.4(c)
6.e OGCC Interim Reclamation		
	<p>i. Comment(s): Comments were received requesting that for oil and gas construction activities, the definition of Final Stabilization be defined based on the Colorado Oil and Gas Conservation Commission’s (COGCC’s) definition of Interim Stabilization.</p> <ul style="list-style-type: none"> The COGCC Rule 1003 Interim Reclamation includes requirements addressing site restoration and revegetation. Although , among other provisions, the rule requires soils to be replaced, recontoured, and adequately tilled to re-establish a proper seedbed, the rule does not require that vegetation be established prior to a site meeting COGCC’s interim reclamation requirements. This proposed modification would allow the Stormwater Construction Permit to be inactivated following the seeding of areas, but while the land still remains unstabilized and requires stormwater management controls. Therefore, maintaining the final stabilization requirements as currently proposed in the permit is appropriate. 	n/a
7	Inspections	
7.a Winter Conditions Inspections Exclusion		
	<p>i. Comment(s): Comments were received on several aspects of the Winter Conditions Inspections Exclusion, concerning when melting conditions may exist, whether the exclusion applies to completed (but not finally stabilized) sites, requesting clarification of the definition of a “precipitation or snowmelt event”, and suggesting that this exclusion be tied to lack of ground disturbing activity.</p> <ul style="list-style-type: none"> The exclusion from performing inspections applies only when “snow cover exists over the entire site for an extended period, and melting conditions do not exist.” It was noted that minor amounts of melting may occur even during freezing periods, due to solar radiation. This language has been changed to state that the exclusion from performing inspections applies when “snow cover exists over the entire site for an extended period, and melting conditions posing a risk of surface erosion do not exist.” 	Permit: I.D.6(a)(3) Rationale: II.M
	<p>ii. Comment(s): It was requested that the Winter Conditions Inspections Exclusion be extended to completed sites, which are normally under a 30-day inspection schedule.</p> <ul style="list-style-type: none"> The exclusion based on winter conditions applies to all sites; this has been clarified in the permit. 	Permit: I.D.6.a(3)
	<p>iii. Comment(s): Comments were received asking for clarification of the definition of a “precipitation or snowmelt event” that necessitates a post-storm inspection.</p> <ul style="list-style-type: none"> The permit states that a post-storm inspection is required if the precipitation or snowmelt event causes surface erosion. The Division believes that this standard is adequate for defining inspection criteria. Any further refinement of the definition, such as including a storm event magnitude, would entail more complex permit requirements, such as rain gages and other precipitation measures. The Division believes that the additional effort required would not lead to a commensurate increase in the protection of water quality. No change was made to the permit. 	n/a

	<p>iv. Comment(s): Comment was received asking for the Division to limit inspection for snowmelt events only to the start of such events.</p> <ul style="list-style-type: none"> If snow melt is occurring and is significant enough to result in surface erosion, there is an increased potential for BMP failure and impacts to State waters, and so inspections must be conducted in accordance with the permit requirements. Inspections would need to occur every 24 hours for sites where construction is occurring, in accordance with Part I.D.6(a) of the permit, or within 72 hours if no construction activity is occurring, in accordance with Part I.D.6(a)(1) of the permit. No change was made to the permit. 	n/z
	<p>v. Comment(s): A comment was received suggesting that the Division require permittees to record and maintain the following documentation to demonstrate appropriate use of this exclusion: dates when snow covered occurred, date when construction ceased, and date melting conditions began.</p> <ul style="list-style-type: none"> The Division agrees with this suggestion, and the permit has been modified accordingly. 	Permit: I.D.6.a(3) Rationale: II.M
7.b Post-Storm Inspection Schedule		
	<p>i. Comment(s): Part I.D.6 of the draft permit requires that post-storm event inspections be conducted within 24 hours of the event, and within 48 hours following storm events at sites where no construction activities will occur during the 24 hours following the storm event. Comment was received indicating that these inspection schedules are too restrictive and impractical to implement due to weekend storm events, multiple/diffuse sites, access issues, long linear projects, seasonal time suspensions, and unmanned facilities. Alternative post-storm inspection schedules were proposed that allow for prioritization of inspection sites, representative inspections, or inspection of high risk areas after storm events. Timeframes proposed for conducting post-storm inspections ranged from “as soon as practicable” to 72 hours - 7 days after the storm event. Other comments received by the Division did not support any relaxation of the 24 hour post-storm requirement, even for temporarily idle sites.</p> <ul style="list-style-type: none"> The post-storm event inspection schedule required in the draft permit will be changed to require that inspections be conducted within 24 hours of the event, and within 72 hours (instead of 48 hours) following storm events at sites where no construction activities will occur during the 48 hours following the storm event. This time frame provides an acceptable balance between providing flexibility, while not allowing for a prolonged increased potential for uncontrolled sediment discharges where a BMP may have failed or would likely fail during the next storm. <p>The Division recognizes that this extended post-storm event inspection schedule may still pose challenges for some sites, specifically those sites where conditions, such as access road conditions, could result in limited ability to access some sites. A permit provision for these circumstances could be difficult to administer and enforce. The draft permit clarifies that the Division may grant an alternative inspection schedule when site conditions make the baseline schedule impractical. The Division would evaluate any such petitions for an alternate schedule relative to the risk of water quality impacts resulting from implementation of the alternative schedule. Because the provision to petition for an alternative inspection schedule is clarified in the draft permit, the Division maintains it is more appropriate to address such post-storm event inspections on a case-by-case basis, than to revise the permit for the site-specific conditions.</p>	Permit: I.D.6(a)(1)
7.c Inspection Scope		
	<p>i. Comments(s): Part I.D.6.b of the draft permit specifies the Inspection Scope for inspections conducted in accordance with this part. Comment was received indicating that these requirements would be difficult to achieve on long linear projects, and that representative inspections for such projects, following the requirements of EPA’s NPDES General Permit for Storm Water Discharges from Construction Activities, should be allowed.</p> <ul style="list-style-type: none"> The Division maintains that implementing this approach may result in a significant increased potential for uncontrolled discharges of sediment to State waters, due to failed BMPs that are not within the proposed inspection area. In particular, areas with high erosion potential, such as where a linear project crosses a waterway or an area of concentrated flow, have a higher risk of BMP failure and sediment discharge to State waters because the BMPs in these areas may not be inspected under the proposed option. While this approach may work for short linear projects, it is not appropriate for linear projects that 	n/a

	cover long distances where significant lengths of the project would go unevaluated. Inspections should be dependent on the topography of the entire linear project. Also, in linear projects, most segments are under active construction for a very short period of time, during which the site is under routine observation while activities are still occurring. Following active construction and while awaiting final stabilization, inspection requirements are already reduced to once every 30 days. Therefore, no change was made to the permit.	
ii.	<p>Comment(s): Comment was received requesting that the Inspection Scope be modified to include storm drain inlets, waste storage areas, roads and ponds.</p> <ul style="list-style-type: none"> The Division determined that with the exception of waste storage areas, the additional suggested items are already covered in the existing Inspection Scope language. Therefore, the permit was changed to incorporate waste storage areas in the Inspection Scope. 	Permit Part I.D.6.b Rationale: II.M.1
iii.	<p>Comment(s): Comment was received requesting that the Inspection Scope be modified to include ancillary facilities such as dedicated asphalt batch plants and dedicated borrow/fill areas.</p> <ul style="list-style-type: none"> The Division determined that these requested additions are sufficiently addressed in Part I D.6(b)(1) of the draft permit. No change was made to the draft permit 	n/a
iv.	<p>Comment(s): Comment was received requesting that the draft permit be modified to require that the permittee document when and what BMPs are installed and repaired/replaced.</p> <ul style="list-style-type: none"> The Division determined that these requested additions are sufficiently addressed in Part I D.6(b)(2) of the draft permit. No change was made to the draft permit 	n/a
7.d Inspection Schedules for Partially Completed Sites		
i.	<p>Comment(s): A comment was received that the reduced inspection schedule for completed sites (i.e., where all construction activities are completed but final stabilization has not been achieved due to a vegetative cover that has been planted but has not become established) should be allowed for portions of sites that have met the criteria and not just entire sites.</p> <ul style="list-style-type: none"> Because the reduced minimum inspection schedules are based on an expected reduced risk of BMP failures and pollutant discharges from completed construction activities, it is acceptable to allow for this alternative schedule for portions of sites. The permit has been revised to clearly allow for the reduced schedule for completed portions of sites, as long as the SWMP is revised to indicate the portions for which reduced inspections will be conducted. 	Permit: Part I.D.6(a)(2) Rationale: VIII.E
7.e Routine Inspections for Completed Sites		
i.	<p>Comment(s): Comment was received requesting that Part I.D.6(a)(2) of the draft permit (Inspection at Completed Sites) be modified to allow inspections at completed sites once every two months, instead of once every month.</p> <ul style="list-style-type: none"> The Division maintains that a monthly inspection at completed sites is the minimum inspection frequency needed to maintain operational BMPs so that water quality is protected while waiting for vegetation to become established. No change was made to the permit. 	n/a
7.f Inspector Qualifications		
i.	<p>Comment(s): Comment was received requesting that the draft permit be modified to require that personnel conducting site inspections be trained and qualified as required by EPA's NPDES General Permit for Storm Water Discharges From Construction Activities.</p> <ul style="list-style-type: none"> Part II A.10 of the draft permit (Proper Operation and Maintenance) includes the provision that "the permittee must at all times properly operate and maintain all facilities and systems of treatment and control", which includes "adequate operator staffing and training". As this provision addresses training, no changes to the permit were made relative to this comment. 	n/a

	7.g Alternative Inspection Schedules	
	<p>i. Comment(s): Comment was received requesting further clarification in the permit on procedures and timelines for requesting alternative inspection schedules, as allowed for in Part I.D.6(a) of the permit.</p> <ul style="list-style-type: none"> The allowance for alternative inspection schedules is intended to address unforeseen conditions that could result in the required schedules being impracticable. Because it is impossible to anticipate the conditions that could result in this occurring, it is necessary for the Division to address any such request on a case-by-case basis. Therefore, specifics have not been added to the draft permit. However, such a request, including justification as to why the baseline schedule would be impracticable, should be submitted to the Division in writing. The Division would typically respond within ten days. 	n/a
	7.h Inspection Report/Records	
	<p>i. Comment(s): Comment was received requesting that the date and amount of the last rainfall/snowmelt event be added to the inspection report requirements.</p> <ul style="list-style-type: none"> The Division determined that these additional requirements would not contribute to increased permit compliance. No change was made to the draft permit. 	n/a
	7.i Definition of Active Construction	
	<p>i. Comment(s): It was requested that the term “active construction,” defining the period when 14-day and post-storm event inspections are required, be defined to exclude drilling and well completion operations at oil and gas construction sites.</p> <ul style="list-style-type: none"> Alternative inspection schedules are allowed in the permit for temporarily idle sites (Part I.D.6(a)(1)) and for completed sites/areas (Part I.D.6(a)(2)). For temporarily idle sites, one of the intentions of the allowance to not perform inspections when no construction activities are occurring is to limit the applicability to when no personnel will be present at the site. If activities involving the well are occurring at an oil and gas construction site, then it would indicate that the site was accessible and that staff can conduct inspections. <p>For completed sites/areas, the intention is to allow for reduced inspection frequencies due to a reduced risk for water quality impacts. The requirements have been revised to allow for the reduced inspection schedule when construction activities occur that do not result in surface disturbances. This change is not expected to increase the potential for failure of erosion or sediment control BMPs, which typically have the greatest potential for failure resulting from insufficient inspections and maintenance. Therefore, if drilling and well completion operations do not disturb the ground surface, the site would still meet the qualifications for reduced inspections.</p>	Permit: Part I.D.6 (a)(2) Rationale: II.M
8	BMPs	
	8.a BMP Maintenance and New/Replacement BMPs	
	<p>i. Comment(s): Several comments were received concerning the requirement to perform immediate maintenance on BMPs.</p> <ul style="list-style-type: none"> The draft permit has been significantly revised to better address BMP maintenance, as well as new, replacement, and/or failed BMPs. BMP maintenance requirements (now in Part I.D.7 of the permit) have been separated out from requirements for BMPs that are new, replacement, or failed (now in Part I.D.8 of the permit). The discussion in these two sections also addresses the difference between proactively maintaining or installing new or replacement BMPs to maintain permit compliance, and responding to BMPs that are already ineffective or failed, therefore requiring more immediate action. 	Permit: I.D.6(c), I.D.7, I.D.8 Rationale: II.M

	<p>8.b Temporary Removal of BMPs</p> <p>i. Comment(s): A comment was received requesting that the permit allow for temporary removal of BMPs as necessary for construction activities at the site.</p> <ul style="list-style-type: none"> Stormwater management controls can often be designed and implemented to prevent the need for removal. For example, access to stockpiles can be from the up-gradient side, or diversion berms used to allow for such access without removal of the BMPs. Where site activities require modification or removal of specific BMPs included in the SWMP, the SWMP must address this issue and provide for alternative practices or structural controls to minimize the discharge of pollutants. For example, if silt fence is removed to allow for grading in an area, the SWMP must address the temporary removal and how stormwater will be managed during that period. Therefore, BMPs will continue to be implemented in accordance with the SWMP, as the SWMP has been comprehensively designed to document and account for this occurrence in assessing overall adequacy of stormwater controls at the site. No change was made to the permit. 	n/a
	<p>8.c Post-construction stormwater management</p>	
	<p>i. Comment(s): Comment was received requesting that the draft permit emphasize compliance with local requirements, specifically post-construction stormwater management as required by the CDPS Stormwater General Permit for Municipal Separate Storm Sewer Systems (MS4s).</p> <ul style="list-style-type: none"> The Division determined that this request is adequately addressed in Part I D.1(g) of the draft permit, and that it is the responsibility of the individual MS4s permittee to ensure that the terms and conditions of their MS4 General Permit are met. No change was made to the draft permit. 	n/a
	<p>8.d Maintenance of BMPs for use as post-construction stormwater controls</p>	
	<p>i. Comment(s): Comment was received requesting that the draft permit include a provision requiring maintenance of construction BMPs in preparation of their use as post-construction BMPs.</p> <ul style="list-style-type: none"> The Division added a section to the draft permit (Part I.D.7– BMP Maintenance) that addresses BMP maintenance requirements, including preparation of BMPs for use as post-construction stormwater controls (see 8.a above). 	Permit: Part I.D.7 Rationale: II.N
9	<p>Pollutant Sources</p>	
	<p>9.a Pollutant Sources from Outside the Permitted Area</p>	
	<p>i. Comment(s): A comment was received requesting the permit be modified to state that permittees are not responsible when flows originating from outside their permitted area impact the ability for BMPs to control pollutant sources from within their permitted area.</p> <ul style="list-style-type: none"> A permittee is responsible for implementing adequate BMPs to control sources associated with construction activities for their permitted area. If off-site drainage is passing through the area where construction will occur are BMPs are located, this must be taken into account when selecting, designing, and implementing BMPs. Although construction activity/BMP implementation may occur in an area where off-site flows may increase the difficulty in adequately controlling pollutant sources on-site, this is not an acceptable reason for increasing the potential for water quality impacts from the permittee’s construction activities. Multiple BMP options exist for these scenarios, including diversions, placing BMPs prior to where on-site and off-site flows combine, and sizing BMPs to address all flows. 	n/a

	<p>9.b Pollutant Sources from Activities not Conducted by the Permittee</p> <p>i. Comment(s): A comment was received requesting that the permit address non-compliance resulting from actions of other entities, such as utility companies, homeowners, or other construction site operators.</p> <ul style="list-style-type: none"> It would not be feasible for the Division to oversee a permit covering a site with multiple entities/individuals present, if the permit only addressed activities conducted by a specific entity. In such a scenario, it would often not be possible for the Division to assign responsibility for specific violations to separate entities. Many variables at a site can result in BMPs failing to control pollutant sources as intended, and these conditions must be taken into account when selecting, designing, and implementing BMPs, including adequate inspection and maintenance schedules. In addition, ensuring that the entity with direct operational control of an area holds the permit, and relying on contracts to address other entities' responsibilities, can facilitate improved coordination and compliance at a site. The Division's Stormwater Fact Sheet for Construction does include additional guidance on addressing issues associated with sites with multiple entities present. 	n/a
	<p>9.c Removal of Pollutant Sources</p>	
	<p>i. Comment(s): A comment was received requesting deletion of the requirement in Part II.A.9 of the permit, addressing removal of pollutant sources to maintain compliance with the permit. The comment stated that removal of pollutant sources, which could include disturbed ground, is unreasonable.</p> <ul style="list-style-type: none"> Part II.A.9 of the permit only requires actions "to the extent necessary to maintain compliance," and also addresses halting activities at a site as necessary to maintain compliance. This section of the permit is included to clearly state that it is the permittee's responsibility to comply with the permit requirements, even if compliance will result in an interference of construction activities at the site. In severe cases, primarily if adequate site planning was not done, this could include temporary delays of construction activities so as to stabilize disturbed areas until adequate controls can be implemented to protect State waters. Therefore, no change was made to the permit. 	n/a
	<p>9.d Prohibition of chemical treatments</p>	
	<p>i. Comment(s): Comment was received requesting that the draft permit prohibit the use of flocculants or other chemical treatments applied directly to outfalls or settling ponds.</p> <ul style="list-style-type: none"> Part I.D.1(d) of the draft permit adequately addresses this item. No change was made to the draft permit. 	n/a
10	<p>Prevention of Pollution or Degradation, and Water Quality Standards</p> <p>i. Comment(s): Comments were received questioning the requirement in the draft permit for discharges not to "cause or threaten to cause pollution or degradation of State waters."</p> <ul style="list-style-type: none"> The Division has changed the requirement for discharges to State waters to be consistent with the requirements of Colorado Discharge Permit System Regulations, 61.8(2)(b)(i)(A). Part I.D.1.a of the permit now requires discharges of stormwater covered by the permit not to "cause, have the reasonable potential to cause, or measurably contribute to an excursion above any water quality standard, including narrative standards for water quality." The requirement to prevent pollution or degradation of State waters has been changed to a design standard for BMPs. Pollution is defined in CDPS permit regulations (5CCR 1002-61) as man-made or man-induced, or natural alteration of the physical, chemical, biological, and radiological integrity of water. Utilizing industry-accepted standards for BMP selection that are appropriate for the conditions and pollutant sources present will typically be adequate to meet this criteria, since construction BMPs are intended to prevent the discharge of all but minimal amounts of sediment or other pollutants that would not result in actual pollution of State waters, as defined above. However, site-specific design, including ongoing assessment of BMPs and pollutant sources, is necessary to ensure that BMPs operate as intended. <p>ii. Comment(s): A comment was received requesting that the permit state that the adequate development and implementation of a SWMP is considered as stringent as necessary to meet applicable water quality standards.</p> <ul style="list-style-type: none"> This concept is addressed in Part III.B of the rationale. 	Permit: I.D.1(a), I.D.2 Rationale: III.B
11	<p>Definitions</p>	

	<p>i. Comment(s): Comment was received requesting that the words “under one plan” be deleted from the definition of “Part of a larger common plan of development or sale” in the draft permit.</p> <ul style="list-style-type: none"> The Division agrees with this change as the words “under one plan” can be misinterpreted to mean a SWMP; the permit has been modified accordingly. 	Permit: Part I.E.7
	<p>ii. Comment(s): Comment was received requesting that the definition of “Waters of the state of Colorado” in the draft permit be modified to include the phrase “This definition includes all water courses, even if they are usually dry.”</p> <ul style="list-style-type: none"> The definition has caused some confusion, as it is strictly for the purposes of the permit, and does not match the definition in Regulation 61. Therefore, the definition in the permit has been deleted, and the regulatory definition will apply. 	Permit: Part I.E.13 (removed) Rationale: II.P
	<p>iii. Comment(s): Comment was received requesting that the term “significant” be defined as used in Part I.C.3.b of the draft permit.</p> <ul style="list-style-type: none"> The Division concluded that because examples of non-industrial waste sources are provided in the permit, the term “significant” provides no additional utility, and it has been deleted. 	Permit: Part I .C.3.b
	<p>iv. Comment(s): Comment was received requesting that the terms applicant, permittee, owner and operator be defined, and used consistently in the draft permit and rationale, and that clarification be provided on who may apply for and maintain permit coverage in the case of multiple operators at a facility, and utility line installation.</p> <ul style="list-style-type: none"> The Division defines applicant and permittee as follows: An applicant for a stormwater discharge permit must be a legal entity that is either the owner and/or operator of the construction site. This legal entity must have day-to-day supervision and control over activities occurring at the site, and implementation of the Stormwater Management Plan. The specific details regarding who may apply for and maintain permit coverage are discussed in the instructions included with the stormwater discharge permit application. Once an application has been approved and a permit certification issued, the applicant becomes the permittee. Operator is defined in the draft permit (Part I.E.5) as follows: <p>“the entity that has day-to-day supervision and control of activities occurring at the construction site. This can be the owner, the developer, the general contractor or the agent of one of these parties, in some circumstances. It is anticipated that at different phases of a construction project, different types of parties may satisfy the definition of 'operator' and that the permit may be transferred as the roles change”</p> <p>As indicated in this definition, the operator can be a variety of entities, including the owner, as long as the entity maintains day-to-day supervision and control of activities occurring at the construction site. A discussion of the specific details regarding who may apply for and maintain permit coverage is provided in Division guidance associated with the permit application.</p> <p>As indicated in the instructions provided with the stormwater discharge permit application, “a separate permit certification is not needed for subcontractors, such as utility service line installers, whose activities result in earth disturbance, but where the permittee or their contractor is identified as having operational control to address the impacts their activities may have on stormwater quality.”</p> <p>The Division addressed the case of multiple operators at a facility in item 9.b. above.</p> <p>The Division has reviewed the permit and rationale for consistent use of these terms, and made changes as appropriate. The Division will address needed changes to the permit application and guidance once the permit has been finalized.</p> 	Permit: Various locations
12	Noncompliance Notification	
	<p>i. Comment(s): Comments were received on several aspects of the Noncompliance Notification section, Part II.A.3, regarding the definition of noncompliance, burden of proof, and intentional releases.</p>	Permit: II.A.3(a)

	<ul style="list-style-type: none"> The permittee is required to report noncompliance that may “endanger health or the environment.” Concern was expressed that this phrase might be used to apply to minor problems, such as failure to conduct an inspection. However, this requirement is from Regulation 61, Colorado Discharge Permit System Regulations, Section 61.8(5)(d)(i). The term “endanger” automatically removes minor problems from the reporting requirement. The draft permit includes a provision requiring the permittee to report noncompliance that may “cause or contribute to an excursion of a water quality standard.” Concern was expressed that the term “or contribute to” is overly broad. The Division agrees, and has removed this term from the permit. A comment was received asking that this section include a clause stating that in an enforcement proceeding, the Division has the burden of proof. While this is true, it is not related to the reporting requirement, and so has not been added. A comment was received asking that “intentional discharge” be added to this section. However, both intentional and unintentional discharges are already covered by the current language, and so no changes were made to the permit. 	
13	TMDLs	
	<p>i. Comment(s): Questions were received concerning stormwater-related Total Maximum Daily Loads (TMDLs), concerning applicability if the discharge is to an MS4 instead of directly to a stream, sampling point access, and the potential for requirements on numeric limits and monitoring for sediment.</p> <ul style="list-style-type: none"> If a construction site discharges, directly or indirectly, into state waters that are classified as impaired for sediment, the Division has several permitting options. Additional requirements, such as specific BMPs or effluent monitoring, can be imposed as authorized under Part I.D.11.b of the permit. Alternately, a separate general permit can be written, including any special requirements. The latter option is expected to be used only when a large area or watershed is impacted by the TMDL. <p>Discharges to MS4s are considered to be discharges to state waters. If sampling at the stream outfall is impractical, samples may be taken at the point where the discharge leaves the control of the permittee.</p> <p>The preferred approach to TMDLs for stormwater discharges is to initially rely on additional BMPs, possibly including specific measures prescribed by the Division. While numeric limits are possible, that option would typically be explored only if additional BMP use did not bring about the desired result. No changes were made to the permit.</p>	n/a
14	Allowable Non-Stormwater Discharges	
	<p>i. Comment(s): A comment was received requesting that additional allowable non-stormwater discharges be added to the permit, consistent with those listed in the EPA construction and multi-sector permits.</p> <ul style="list-style-type: none"> After further review, the Division has determined that sufficient information is not available at this time to justify permitting these additional sources under stormwater general permits that rely on BMPs instead of numeric effluent limits for protection of water quality. However, the Division is considering the inclusion of groundwater dewatering in this permit, along with associated numeric effluent limits for this sources, as discussed in Section 20, below. 	n/a
15	Reassignment/Removal of Permit Coverage	
	15.a Reassignment of Portions of a Site	
	<p>i. Comment(s): A comment was received requesting clarification on the process for reassignment of portions of a permitted site.</p> <ul style="list-style-type: none"> Part I.A.8 of the permit currently allows for portions of a site to be transferred. The permit only provides a brief listing of the requirements. Additional guidance on the process for reassigning a portion of a site is available in the Division’s Reassignment Form, and the Stormwater Fact Sheet for Construction. 	n/a
	15.b Reassignment of Permit Coverage When New Owner/Operator Refuses Coverage	
	<p>i. Comment(s): A comment was received requesting that the permit address reassignment of permit coverage when a new owner/operator refuses to accept permit coverage.</p>	Permit: Part I.A.8

	<ul style="list-style-type: none"> The language allowing for inactivation of a permit in this scenario, which was included in the previous draft permit for transfer of permit coverage, has now been added to Part I.A.8 of the permit to also cover reassignment of permit coverage. 	
	15.c Sale to Homeowners	
	<p>i. Comment(s): Comments were received requesting clarification of permit responsibilities when lots are sold to homeowners.</p> <ul style="list-style-type: none"> The Division does not require that permit coverage be transferred or reassigned to homeowners when lots are sold for home occupancy. Procedures and conditions for removing lots from a permittee's coverage have been added to Part I.A.9 of the permit. 	Permit: I.A.9
16	Permit Coverage	
	16.a Designation of Sites	
	<p>i. Comment(s): Comment was received requesting that the Division allow for designation of sites for permit coverage based on the potential to cause or contribute significant pollutants to waters of the State.</p> <ul style="list-style-type: none"> Designation of sites for permit coverage is authorized under Colorado Discharge Permit System Regulations, 61.3(2)(e)(vii) and 61.3(2)(f)(iv). No change was made to the permit. 	n/a
	16.b Authority to Discharge	
	<p>i. Comment(s): It was requested that alternate oil and gas provisions be included in this and other sections, based on the unique characteristics of the industry. It was also stated that the Water Quality Control Commission had directed the Division to develop a "separate oil and gas general permit or at least a section within the general permit that is specific to oil and gas activities."</p> <ul style="list-style-type: none"> The Division disagrees with this interpretation of the Commission's wording and intent. The Division believes that the oil and gas construction industry has far more elements in common with other types of construction, than differences. In general, this permit has already been developed to address a very wide range of construction activities. The permit does not contain provisions that are applicable only to oil and gas construction. 	n/a
	16.c Agricultural Lands Permitting Exemption	
	<p>i. Comment(s): It was requested that oil and gas construction sites located on agricultural lands be exempt from the requirement for permit coverage.</p> <ul style="list-style-type: none"> Available information did not support a reduced level of requirements and/or Division oversight for construction activities within agricultural lands. However, the Division plans to expand the use of the existing R-factor waiver to small construction sites within agricultural lands. The R-factor waiver has already been determined to be adequately protective of State waters, and the planned expansion of applicability is consistent with this previous determination. No change was made to the permit. 	n/a
	16.d SPCC Plans	
	<p>i. Comment(s): It was requested that oil and gas construction sites that do not require an SPCC plan also be exempted from the requirement for stormwater permit coverage. The request is based on the potential exemption from SPCC plans for sites without a "reasonable potential to discharge" oil to navigable waters.</p> <ul style="list-style-type: none"> The Division does not believe that such a waiver would adequately protect all State waters from the potential of pollutant transport and discharge impacts, from all stormwater pollutant sources. If a site truly has no reasonable potential to discharge any stormwater pollutants, then the Division's existing process for addressing a "no discharge" site or facility should be adequate. This allows for a facility that has no potential for a discharge to not require CDPS discharge permit coverage (i.e., it is not necessary to obtain a discharge permit if there is not a discharge). An operator must be capable of supporting their determination that there is no potential for discharge. For example, an operator could demonstrate that adequately sized berms and/or ponds with no outfall would capture the runoff from all foreseeable storm events. No change was made to the permit. 	n/a
	16.e Reasonable and Prudent Practices for Stabilization (RAPPS)	
	<p>i. Comment(s): Comment was received requesting that Part I.C.3 (Stormwater Management Controls) of the draft permit be modified to include the statement that for oil and gas operations, stormwater management controls may be identified through application of the RAPPS manual.</p> <ul style="list-style-type: none"> RAPPS is an approach to stormwater management, developed by the oil and gas industry, that provides a common set of 	n/a

	<p>erosion and sediment control practices specific to their industry. The RAPPs document provides a decision tree tool that makes regional assumptions on conditions such as geography, topography, rainfall, and geology, to determine the appropriate selection and practical application of BMPs used to control erosion and sedimentation from oil and gas site construction activities.</p> <p>RAPPS is one approach among many for providing guidance on BMP selection and implementation. It does contain good information. However, the RAPPS decision tree can lead to a conclusion that no BMPs are needed at a construction sites, without taking adequate account of site conditions. The Division does not support this approach.</p> <p>Compliance with the permit is performance-based. It is the permittee’s responsibility to adequately minimize pollutants in the discharge to assure compliance with the terms and conditions of the permit. If the BMPs selected are not appropriate for the conditions and pollutant sources present, then further action is required by the permittee until compliance is achieved.</p> <p>The Division did evaluate the RAPPS approach for its applicability in Colorado. The evaluation indicated that further development of the document, including more specific evaluation of regional conditions, is needed. No change were made to the permit</p>	
17	EPA Compliance Assistance Materials	
	<p>i. Comment(s): Comment was received requesting that the Division take advantage of compliance assistance materials available through EPA’s website.</p> <ul style="list-style-type: none"> The Division determined that this request can be addressed in Division guidance, which will be developed outside of the permit. No change was made to the permit. 	n/a
18	Clarifications	
	18.a Routine Maintenance	
	<p>i. Comment(s): The definition of construction activity specifically excludes “routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility.” A question was received on this definition, and whether it would exempt major municipal construction projects, such as a wastewater treatment plant expansion.</p> <ul style="list-style-type: none"> The exclusion is intended for projects such as road resurfacing, and where there will be less than one acre of additional ground disturbed. Improvements or upgrades to existing facilities or roads, where at least one acre was disturbed, would not qualify as “routine maintenance.” A plant upgrade would not be maintaining the original purpose, as it would be a change to plant capacity or improve the plant in some way. 	n/a
	18.b Discharge to MS4	
	<p>i. Comment(s): Clarification was requested on what constitutes a discharge to a municipal separate storm sewer system (MS4).</p> <ul style="list-style-type: none"> Once the gutters/storm drains/ponds are connected to the MS4, then any stormwater discharges to the gutters/storm drains/ponds are considered discharges to the MS4. For guidance on requirements to protect water quality and where BMPs may be located in compliance with the permit, refer to the “Locating BMPs” guidance in Part C.4 of Appendix A of the Stormwater Construction Permit Application. 	n/a
	18.c General vs. Individual Permit Coverage	
	<p>i. Comment(s): Clarification was requested on general vs. individual permits, the time frame for individual permit issuance, and reference to an alternative general permit.</p> <ul style="list-style-type: none"> The permit language on the possibility of coverage under an individual permit is included to reaffirm the Division’s authority to require individual permit coverage for any sites that do not meet the criteria for coverage under the general permit. The permittee also has the option of applying for an individual permit. Coverage under an individual permit must be applied for at least 180 days prior to beginning operations, as specified in Regulation 61, Colorado Discharge Permit System Regulations, Section 61.4(1)(c). 	n/a

	<p>In reality, individual permits under the Stormwater Program are extremely rare, and only for exceptional circumstances. It is unlikely that a construction project would be so unique as to need an individual permit.</p> <p>An alternative general permit is somewhat more possible. Currently, the Division does not have any alternative general permits in effect for construction stormwater discharges. The most likely reason for issuance of an alternative general permit is if there are regulated stormwater discharges occurring to a state water that is on the Division's 303(d) list. This means that the stream segment is impaired for one or more of its beneficial uses, and the impairment is caused by a stormwater-related pollutant. The most likely pollutant in this case would be sediment.</p> <p>If a state water is on the 303(d) list, then a Total Maximum Daily Load (TMDL) must be developed. Permit requirements based on a TMDL would be developed during the permit drafting phase. See Section 13, above, for further information on how a TMDL would tie in with a stormwater permit.</p>	
	<p>18.d Site Map</p>	
	<p>i. Comment(s): It was asked if existing and proposed contours shown on the site map will meet the requirement to show areas of cut and fill.</p> <ul style="list-style-type: none"> • Using contours is acceptable, provided it is clear through labeling which areas are cut and fill, vs. natural contours. 	n/a
	<p>18.e Construction Activity Definition</p>	
	<p>i. Comment(s): It was asked if the definition of construction activity applied to vertical building.</p> <ul style="list-style-type: none"> • The focus of the construction activity definition is on ground surface disturbing activities. Permit coverage is required from the time the ground is disturbed, until it is finally stabilized. If the vertical construction involves any ground disturbance of one or more acres, then permit coverage is needed. 	n/a
	<p>18.f Dedicated Batch Plants/Sand and Gravel Operations</p>	
	<p>i. Comment(s): A question was asked regarding permit coverage for stormwater discharges associated with dedicated asphalt plants and concrete plants located at construction sites, as well as sand and gravel pits.</p> <ul style="list-style-type: none"> • This provision is included for the convenience of the permittee, so that dedicated batch plants located at a construction site, that do not have stormwater permit coverage separately, may be covered. The construction permittee may choose to require that any batch plants on site have separate permit coverage. The only requirement is that the batch plants have some form of stormwater permit coverage. Similarly, stormwater discharges from sand and gravel operations otherwise covered by a stormwater discharge permit do not require coverage under the construction stormwater discharge permit. 	n/a
	<p>18.g Use of Plan Sheets</p>	
	<p>i. Comment(s): The permit requires a description of the nature of the construction activity, and the proposed sequence for major activities, to be included in the SWMP. It was asked if plan sheets are acceptable to fulfill these requirements.</p> <ul style="list-style-type: none"> • Typically, using plan sheets in this way would not meet the permit requirements, as it is difficult to provide an exact and useful cross-reference in this way. See Appendix A of the permit application, Preparing a Stormwater Management Plan, Section C.3. 	n/a
	<p>18.h Loading/Unloading of Materials</p>	
	<p>i. Comment(s): It was asked if loading and unloading operations identified in the SMWP include only hazardous materials or all construction materials.</p> <ul style="list-style-type: none"> • Loading and unloading operations refer to all materials that have the potential to add pollutants to stormwater, whether hazardous or not. 	n/a
	<p>18.i Stormwater Dewatering</p>	
	<p>i. Comment(s): It was asked if dewatering of stormwater only is covered under the permit.</p> <ul style="list-style-type: none"> • Stormwater dewatering is allowed under the permit, however, it is appropriate only in those cases where there is no mixing of stormwater with any groundwater that has infiltrated into the excavation. Any such mixing of stormwater and groundwater renders the resulting excavation water a process water, and requires a construction dewatering permit prior to discharge. 	n/a

	Discharge of stormwater alone from site excavations requires the implementation of BMPs that will minimize the potential for pollution from the discharge. Selection, implementation and maintenance of such BMPs must follow good engineering practices.	
	18.j Receiving Waters and Outfalls	
	i. Comment(s): Comments were received requesting that the terms “Outfall” and “Receiving Water” be defined. <ul style="list-style-type: none"> These terms are defined in Parts I.E.6 and I.E.10 of the permit, respectively. 	n/a
	ii. Comment(s): A comment was received requesting that the term “receiving water” not be used in the permit. <ul style="list-style-type: none"> The term “receiving water” is useful in defining requirements in the permit. The Division does not see a benefit in removing the term. 	n/a
19	Division Initiated Changes (These changes have been made to the permit and/or rationale based on additional Division review and consideration.)	
	19.a Short-Term Certifications	
	The previous permit allowed small construction activities, with an estimated completion date 12 months or less from the start of construction activity, to be authorized for a predetermined period from 3 to 12 months, and then automatically expire (an inactivation request did not need to be submitted). The issuance of these certifications has led to significant confusion and incidents of noncompliance resulting from permittees unintentionally letting their certifications expire prior to final stabilization, as well as issues regarding billing. Therefore, the provisions for short-term certifications have been deleted.	Rationale: II.S In addition, all related language was removed from Permit: I.A.6 and Rationale: VIII.H, VIII.I.1
	19.b Bypass	
	The Division has revised the Bypass conditions in Part II.A.5 of the permit to be consistent with the requirements of Regulation 61.8(3)(i). The revised language addresses under what rare occurrences BMPs may be bypassed at a site.	Rationale: II.T Permit: II.A.5
	19.c Inactivation Based on Removal of Permitted Areas	
	A discussion was added to Part VIII.I.1 of the rationale to address the situation where inactivation of a permit certification is allowed when all areas have been removed from coverage under a permit certification, by either reassignment to other entities, sale to homeowners, or amendment of the permittee’s certification.	Rationale: VIII.I.1
	19.d Violations	
	Information on violations of the federal Clean Water Act and the Colorado Water Quality Control Act, 25-8-101 for discharging without a permit, as well as penalty amounts, were guidance, and therefore have been removed from Part II.B.5 of the permit. This information is still addressed in Part III.C of rationale.	Permit: II.B.5
	19.e Monitoring	
	Although the permit does not require monitoring, standard permit language on monitoring procedures has been added to Part I.F.3 of the permit, to cover situations, such as discharges to segments under a TMDL, where monitoring may be imposed on a case-by-case basis.	Permit: I.F.3
20	Construction Dewatering – Possible Change	

<p>In 2006, during the public comment period for the Construction Dewatering Permit (COG-070000), the Division received comment requesting that the permit be combined with the Construction Stormwater Permit (COR-030000). The Division has further considered this request, and would like to receive additional comment regarding the authorization of construction dewatering discharges under the Construction Stormwater Permit. Possible terms and conditions associated with construction dewatering operations are not currently included in the draft Construction Stormwater Permit, but are described herein for the purpose of soliciting input. The Division is using the opportunity provided by the public notice of the Construction Stormwater general permit to receive public feedback on this approach. Comments from permittees who hold both types of permits are encouraged.</p> <p>One option would be to include construction dewatering in the construction stormwater permit as an allowable non-stormwater discharge. The numeric effluent limits included in the construction dewatering permit would probably still apply in accordance with Regulation 62.3(1) and because construction dewatering discharges have been shown to have elevated levels of TSS and pH. The sampling and reporting requirements might be modified to make sampling results more useful as a tool for improving construction dewatering management practices. Because dewatering is typically a very short-term activity, sampling results could be maintained on site rather than require routine submittal of discharge monitoring reports (DMRs). A short-term notification requirement (e.g., 24-hours) when there are exceedances of the numeric limits could be used to allow the Division to respond quickly via compliance assistance or inspection to improve management practices.</p> <p>If this course is followed, it may be implemented during the next permit renewal (6/30/12), or with this renewal.</p>	n/a
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