

STATE OF COLORADO

Bill Ritter, Jr., Governor
James B. Martin, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S. Laboratory Services Division
Denver, Colorado 80246-1530 8100 Lowry Blvd.
Phone (303) 692-2000 Denver, Colorado 80230-6928
TDD Line (303) 691-7700 (303) 692-3090
Located in Glendale, Colorado
<http://www.cdphe.state.co.us>



Colorado Department
of Public Health
and Environment

January 31, 2011

Re: MS4 Permits
 Construction Site Erosion Control Oversight – State Land

MS4s are required to utilize an ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under State or local law. If the MS4 does not have the authority under State or local law to require a facility operating on State land (e.g. some public schools and universities) to comply with the conditions of its regulation for a construction project, then the MS4 is not liable under the permit to do so. For areas where the MS4 does maintain this authority, such as projects not located on State land, the MS4 would still be responsible for complying with the permit requirements and its CDPS Stormwater Management Program, in their entirety.

The MS4 may still be responsible under the Federal Clean Water Act and the State Water Quality Control Act if pollutants are discharged from outside the MS4's jurisdiction but still through its infrastructure and into a State water. In most cases, any State enforcement actions would be directed at the owner/operator responsible for the discharge. However, the MS4 should be aware it does maintain some liability. Specifically, if a MS4 is aware of such a discharge of pollutants to state water that is through its infrastructure, it should, at a minimum, inform the Division of the discharge.