DIVISION RESPONSE TO PUBLIC COMMENTS, PART 2 –
STORMWATER CONSTRUCTION GENERAL PERMIT COR-030000 5/31/07

#	CATEGORY	CHANGES TO PERMIT AND/OR RATIONALE
1	**Division-Initiated Changes**	
	1.a Permit Rewording/Clarifications	
	Several comments were received requesting minor editorial changes that did not change permit content, but were recommended to improve clarity. Several of these resulted in minor wording changes in the permit and rationale. Several editorial changes were also made by the Division. When the changes were minor and did not affect the content, they are not addressed in this document.	n/a
	1.b Timeframe for Incorporating Permit Changes into Stormwater Management Plan (SWMP)	
	The effective date for the revised permit is July 1, 2007. The revised permit contains some provisions that may require existing permittees to make changes to their SWMP. If an existing permittee followed the recommendations in the SWMP guide, then their SWMP will presumably meet the new requirements. However, for any existing permittees (i.e., those with permit coverage before June 30, 2007) who did not follow the applicable SWMP guide recommendations, their SMWP must be amended to include the new required items. Permittees have 90 days from the effective date of the new permit (i.e., until October 1, 2007) to make any necessary changes. This deadline was added to the permit and rationale.	Permit Part I.B.5 Rationale Section II.I
2	**Routine Maintenance**	
	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. • 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 is disturbed, would not qualify as "routine maintenance."	Rationale Section IV.A
3	**Permit Coverage**	
	3.a Permit Coverage for Homeowners	
	i Comment(s): Part I.A.9 of the permit does not require homeowners to have permit coverage for sites under one acre of disturbed area if specific conditions are met. A comment was received requesting that permit coverage also not be required for sites sold to homeowners that have one acre or more of disturbed area. • The Colorado Discharge Permit System Regulations (5CCR 1002-61) require CDPS permit coverage for construction activities disturbing one acre or more, including disturbances that are part of a larger common plan of development or sale that disturb one acre or greater. For the purposes of this permit, sites with under one acre of disturbed area **that are sold to a homeowner for occupancy**, and that meet the criteria in Part I.A.9 of the permit, are no longer considered part of a larger common plan of development in conjunction with ongoing construction within the same project, and so no longer require permit coverage. This interpretation of the regulation **only** applies to lots sold to homeowners. However, if the property is one acre or more of disturbed area, it does require permit coverage, as per the regulation. Some minor changes for clarification were made to Part I.A.9 of the permit.	Permit Part I.A.9
	3.b Individual Permit Coverage	
	i Comment(s): A comment was received requesting that, in cases where an individual permit is required, the applicant be allowed to continue work on the site, under separate provisions imposed by the Division. • The circumstances that would necessitate an individual permit are expected to be sufficiently extreme that a full evaluation of the project, as occurs during the 180 day individual permit drafting process, would be warranted. However, to take into account other situations, language was added allowing the Division, at its discretion, to temporarily cover a site under a general permit while an individual permit is being drafted. Part I.A.5(c) of the permit was modified.	Permit Part I.A.5(c)

4	**SWMPs**	
	4.a SWMP Preparation	
	i Comment(s): Several comments were received related to preparing various elements of the SWMP prior to submittal of the application. A commenter suggested that certain SWMP requirements may not be known by the drafter prior to construction, were more appropriately addressed by other entities, or could change once construction began. Another commenter questioned the Division's legal authority to require identification of a SMWP administrator. • The SWMP is intended to be revised on a regular basis. It is expected that conditions will change frequently at a construction site as construction progresses. Therefore, if an element of the SWMP turns out to be inappropriate once construction starts, it would be changed at that time. The SWMP must be updated to accurately reflect the conditions at the site. • It is the Division's experience that many failures to adequately manage stormwater quality at a construction site result from inadequate coordination of stormwater management with the overall site management. The development of a comprehensive SWMP that adequately addresses the potential pollutant sources at a construction site must include an understanding of, and coordination with, the many activities occurring at a construction site. This means that the SWMP drafter may need to communicate with others involved with the site planning in order to develop a SWMP that appropriately addresses items such as site phasing, site drainage, materials management, etc. The Division has not removed any requirements in the permit that would require such coordination. • The requirement to identify a SWMP administrator allows for a position or title to be identified, instead of a specific person. Therefore, the expected position or title that will act as the administrator can be included in the SWMP at first, and then changed prior to activities commencing at the site if the actual position or title is different. The Division has the authority to require permit conditions to protect water quality. Assigning and identifying an administrator is considered to be part of the adequate development and implementation of a SWMP. No changes were made to the permit.	n/a
	4.b Best Management Practice (BMP) Specifications	
	i Comment(s): A comment was received asking that the specifications for BMPs include the requirement to conduct inspections. • Inspection requirements, including frequency, are addressed in Part I.D.6 of the permit. Inspection frequency is not typically included in BMP specifications. Part I.C.5 of the permit requires inspection and maintenance procedures to be included in the SWMP. No changes were made to the permit.	n/a
	4.c SWMP Location	
	i Comment(s): Several comments were received asking that permittees be allowed to maintain the SWMP in an off-site location, without having to request approval from the Division. • The permit requires that a copy of the SMWP be retained on site, unless another location is approved by the Division. The reason for maintaining the SMWP on site is to ensure that the plan is readily accessible to those who are working on the site (such as BMP installation and maintenance staff), as well as to state and local inspectors. This is the default requirement, and is expected to be feasible at the vast majority of sites. The allowance for an alternate location is intended for specific circumstances, to take into account projects that do not have a suitable on-site location (such as a construction trailer or manager's vehicle) where the SMWP may be maintained. This situation is less conducive to full implementation of the SMWP, and so is not intended to be available to most operators. Approval from the Division for an alternate location is also required so that state inspectors can locate the SWMP if needed. No changes were made to the permit.	n/a

	4.d SWMP Changes	
	i Comment(s): A comment was received requesting that where BMPs are no longer necessary and are removed, this circumstance be added to the list of situations that require changes to the SWMP. • Part I.D.5(c) of the permit has been modified. ii Comment(s): Comments were received requesting further clarification on the requirements for revising the SWMP in Part I.D.5 of the permit. • Section II.K.1 of the rationale has been revised to include a discussion of the revision scheduling requirements. Part I.D.5(c) of the permit has been modified and Part I.D.5(d) added to clarify the 72 hour timeline for making some revisions.	Permit Parts I.D.5(c), I.D.5(d) Rationale Section II.K.1
	4.e Soil Erosion Data	
	i Comment(s): A comment was received requesting clarification on the requirement in Part I.C.1(d) to include soil erosion data in the SMWP. • Part I.C.1(d) of the permit has been modified to increase clarity. Only the soil erosion data used in developing construction plans or the SWMP must be included.	Permit Part I.C.1(d)
	4.f Science	
	i Comment(s): A comment was received requesting that "science" be added as one of the criteria for SWMP preparation and BMP selection, installation, implementation and maintenance. • The current permit criteria referencing good engineering, hydrologic and pollution control practices are adequately descriptive and enforceable, and so additional criteria are not necessary. No changes were made to the permit.	n/a
	4.g Evaluation of Potential Pollutant Sources	
	i Comment(s): Several comments were received requesting clarification of Part I.C.3(b) of the permit, and the intent of the requirement to evaluate material and activities at a construction site for the potential for contributing pollutants to runoff. • Part I.C.3(b) of the permit has been changed to clarify that only those sources or activities determined to have the potential to contribute pollutants to stormwater discharges must be included in the SWMP. The assessment of the potential for pollution is required for the appropriate selection of BMPs for implementation at a facility. The SWMP does not need to include documentation of the assessment beyond recording the potential pollutant sources identified, and the information required in Part I.C.3(c) describing the BMPs selected to address those sources. The intent of the evaluation requirement is to ensure an adequate process during SWMP development to address all potential pollutant sources at a site.	Permit Part I.C.3(b)
	4.h Mortar Mixing Stations	
	i Comment(s): A question was received on whether a mortar mixing station is considered a dedicated concrete batch plant covered under Part I.C.3(c)(5) of the permit, and if not, how it is addressed in the SWMP requirements. • Part I.C.3(c)(5) of the permit specifically addresses concrete batch plants, because these facilities require separate coverage under a CDPS stormwater permit if they are not dedicated to a construction site covered under the Stormwater Construction Permit. Mortar mixing stations are not considered concrete batch plants, but must still be addressed in the SWMP since they are a potential pollutant source. BMPs must be implemented in accordance with Part I.C.3(c) of the permit. Not all potential pollutant sources required to be addressed in the SWMP are fully described in the categories listed in paragraphs (1) through (8) of Part I.C.3(c) of the permit. No changes were made to the permit.	n/a

	4.i Site map – BMP locations	
	i Comment(s): Comment was received requesting that approximate locations of BMPs be allowed on the Site Map. • The Site Map is initially intended to provide directions on where to install BMPs, so accuracy is important. In addition, the Site Map is intended to reflect current conditions in the field, including the location of BMPs utilized on a facility. While it is understood that the specific location of BMPs may change at a facility as site conditions change, it is expected that the Site Map will be modified to adequately indicate such location changes so that the location of each BMP utilized in the field can be verified. No changes were made to the permit.	n/a
	4.j Employee Training	
	i Comment(s): Comment was received requesting that a training requirement for employees be added to the Stormwater Management Control section of the permit. • Part II A.10 of the 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 were made to the permit.	n/a
	4.k Prioritize Treatment of Runoff/ Emphasis on Stormwater Discharges Leaving the Construction Site	
	i Comment(s): A comment was received requesting that language in Part I.C.3 of the permit be changed to clarify that treatment of runoff is a priority. • Part I.C.3 of the permit requires that stormwater management controls implemented at a site are described in the SWMP, and that they are selected and implemented based on the potential pollutant sources identified at the site. "Treatment of runoff" implies that no up-gradient controls are implemented at a site. This typically does not constitute adequate stormwater management. It is expected that erosion and sediment control BMPs be implemented at a facility to both reduce erosion and control sediment in stormwater. (Prevention of erosion is typically cheaper and more effective than sediment removal.) BMP redundancy should be utilized where appropriate to eliminate undue reliance on any single BMP, and to allow for adequate removal of pollutants to comply with the permit. No changes were made to the permit. ii Comment(s): A comment was received requesting that language in Parts I.C.3(c) and I.D.6(b)(1) of the permit be changed such that emphasis is placed on stormwater discharges leaving the construction site, as opposed to discharges within internal areas of the site. • Inadequate erosion and sediment control within a facility may ultimately result in off-site discharges or discharges to State waters. For example, sediment tracking onto impervious surfaces, such as on-site roads with storm drain inlets, may discharge to an off-site receiving water via the storm sewer system. State waters located within a facility are particularly susceptible to discharges of sediment from sites with inadequate interior stormwater management systems. Therefore, while the construction site boundary is one important area to evaluate relative to BMP necessity and location, interior controls must also be used and evaluated. No changes were made to the permit. iii Comment(s): Comments were received regarding the use of permanent detention ponds as temporary construction BMPs. • Permanent detention ponds that are connected to a storm sewer system are allowed to be used as a temporary construction BMP if: a) the pond is clearly designated as a construction BMP in the SWMP; b) detention pond inspection and maintenance are described as required in Part I.B.2, Part I.C.3, and Parts I.D.6, 7, and 8 of the permit; and c) the pond is designed and implemented for use as a BMP during construction in accordance with good engineering, hydrologic and pollution control practices. No changes were made to the permit.	n/a

	4.l Clarification of Structural/Nonstructural Erosion and Sediment Control Practices	
	i Comment(s): A comment was received requesting that language in Part I.C.3(c) of the permit be changed such that structural and non-structural practices are understood to indicate sediment and erosion control BMPs, respectively. • Erosion control BMPs are those practices used to prevent the erosion of soil; sediment control BMPs are those practices used to remove sediment from runoff. Erosion and sediment control BMPs can be either structural or nonstructural in nature. No changes were made to the permit.	n/a
	4.m Clarification of Permittee Responsibilities for Stormwater Discharges After Permit Inactivation	
	i Comment(s): A comment was received requesting that language in Part I.C.4 of the permit be changed to clarify that the permit holder will not be held responsible for potential pollutant discharges that occur after the permit is inactivated. • The intent of the permit language in this section is that the SWMP describe any <u>planned</u> practices to control pollutants in stormwater discharges occurring after construction activities are complete. The permit has been changed to reflect this clarification.	Permit Part I.C.4(a)
5	**Final Stabilization**	
	5.a Pre-Disturbance Vegetation	
	i Comment(s): Part I.C.4(c) of the permit requires that a uniform vegetative cover be established with a density of at least 70 percent of pre-disturbance levels. Part I.E.3 states that establishment of a vegetative cover capable of providing erosion control equivalent to pre-existing conditions at the site will be considered final stabilization. A comment was received requesting clarification on the final stabilization requirements for construction activities occurring in areas of previous ground disturbances. In such cases, how are "pre-disturbance" and "pre-existing" defined? • The reference to "pre-disturbance" and "pre-existing" vegetation is intended to refer to pre-disturbance vegetation that would represent the naturally supported vegetation density in the area. If information directly related to the pre-disturbance or pre-existing natural vegetation for a site is not known, this information can be based on available information of natural vegetation densities in the area, or on conditions at a similar site in the area that is undisturbed or that has established non-irrigated vegetation. No changes were made to the permit.	n/a
	5.b Final Stabilization	
	i Comment(s): A comment was received requesting that, for oil and gas construction activities, the permit definition of Final Stabilization be based on the Colorado Oil and Gas Conservation Commission's (COGCC's) definition of Interim Stabilization. • The COGCC Rule 1003 Interim Reclamation includes requirements addressing site restoration and revegetation. 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 proposal would allow the inactivation of the Stormwater Construction Permit following the seeding of areas, but while the land still remains unstabilized and requires stormwater management controls. This approach would not adequately protect water quality. Therefore, the existing final stabilization requirements in the permit were maintained.	n/a
	5.c Clarification of vegetation density	
	i Comment(s): A comment was received requesting that language in Part I.C.4(c) and I.E.3 of the permit be changed to clarify the meaning of "density of vegetation" as used in these sections. • The intent of the permit language in these sections is that individual plant density, as opposed to canopy cover, be used in evaluating whether final stabilization efforts have achieved the 70 percent of pre-disturbance levels criteria. The permit has been changed to reflect this clarification.	Permit Parts I.C.4(c) and I.E.3

6	**Inspections**	
	6.a Minimum Inspection Schedule	
	i Comment(s): A comment was received asking that the minimum inspection schedule (the requirement to perform an inspection every 14 days) be modified to allow for exceptions due to severe weather. • The 14-day inspection schedule is intended for conditions at active sites where this minimum frequency is adequate to maintain compliance with the permit requirements. Any conditions that would make this schedule insufficient (e.g., rapid site changes, heavy construction vehicle traffic, specific BMP maintenance schedules, or the expectation of severe weather) should lead to an increased inspection frequency, not a decrease. No changes were made to the permit. ii Comment(s): A comment was received asking for a change in the minimum inspection schedule, to make it clear that the legal permittee does not have to be the person who actually performs the inspection. • The permit includes many references to "the permittee." It is generally understood that this term can also include the permittee's representative(s), while the actual permittee retains the legal responsibility to ensure that the permit requirements are met. No changes were made to the permit.	n/a
	6.b Post-Storm Inspections	
	i Comment(s): A comment was received asking if the post-storm inspections can also be used to fulfill the 14-day routine inspection requirement. • The requirements in performing the two types of inspections are the same, so, provided that the timing is appropriate, the post-storm inspections may be used to fulfill the 14-day routine inspection requirement. Part I.D.6(a)(1) of the permit has been modified. ii Comment(s): A comment was received requesting that the allowance in Part I.D.6(a)(1) for an additional 48 hours to conduct inspections in some cases be removed. • The additional time to conduct an inspection only applies to sites where no construction activities will occur following the storm event. This is most typical at remote sites where access may be limited following storm events due to road conditions, or for sites that are temporarily idle, such as over weekends and holidays. The Division has determined that this time frame provides an acceptable balance between providing flexibility to the site operator, 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. It should be noted that this is a <u>minimum</u> inspection schedule, and operators still must perform more frequent inspections as necessary, depending on factors such as site-specific conditions and BMP maintenance schedules, to comply with the requirements in the permit to maintain BMPs in working order. No changes were made to the permit.	Permit Part I.D.6(a)(1)

	6.c Monthly Inspections	
	i Comment(s): A comment was received asking for clarification regarding the allowable time interval between "monthly" inspections. • The intent of this section is to provide relief from the 14-day inspection requirement when warranted, but to also ensure that BMPs continue to function properly while the site is undergoing final stabilization. The term "monthly" is used for convenience; the intent is for inspections to occur once per calendar month, at a minimum. No changes were made to the permit. ii Comment(s): A comment was received objecting to allowing permittees to switch to the reduced frequency for inspections at sites that have been prepared for final stabilization, but have not been seeded. • The Division tries to balance protection of water quality with the responsibilities of carrying out the permit provisions. While seeding can be carried out at any time of the year, in some circumstances it may be more practical to wait for certain weather conditions. As long as appropriate and effective BMPs are in place to minimize erosion and sedimentation while awaiting seeding and the establishment of vegetation, it is reasonable to allow some flexibility in this permit requirement. No changes were made to the permit.	
	6.d Winter Conditions	
	i. Comment(s): A comment was received that the winter conditions exclusion from inspections, in Part I.D.6(a)(3), is confusing and should be removed. • Snow cover conditions where there is no risk of surface erosion can exist at high elevations within the Colorado mountains during some periods of the year. It is not necessary for inspections to be conducted during these periods. No changes were made to the permit.	n/a
	6.e Inspection Documentation	
	i Comment(s): A comment was received requesting clarification of the requirement in Part I.D.6(b)(2)(vii) to document measures taken to prevent future violations, including requisite changes to the SWMP, when a violation is found during an inspection. • The documentation requirement to specifically record measures taken to prevent future violations is included to clarify that not only changes to the failed BMP need to be recorded, but also any changes made to related processes, such as training, inspection and maintenance procedures, accountability structures, etc. Also, the requirement to document changes to the SWMP is included to reinforce the need to make those changes and to simplify review of the SWMP. No changes were made to the permit. ii Comment(s): Comments were received expressing concern that an inspector may not have adequate information to certify that a site is fully in compliance, as required by Part I.D.6(b)(2)(viii). • This requirement has been clarified to be more consistent with other signatory requirements in the permit. The permit now requires that the certification be made once the site is in compliance, to the best of the inspector's knowledge and belief (see Item 6.f, below).	Permit Part I.D.6(b)(2)(viii)
	6.f Inspection Compliance Statement Signature	
	i Comment(s): A comment was received requesting clarification on who is authorized to sign the compliance statement on inspection reports. • Inspection reports generated in accordance with Part I.D.6(b)(2) must be signed by the inspector, or the individual verifying the corrective action indicated in the inspection report, on behalf of the permittee. Inspection reports are not typically required to be submitted to the Division, and therefore, are not required to be signed and certified for accuracy in accordance with Part I.F.1 of the permit. However, inspection reports that <u>are</u> submitted to the Division must follow the signatory requirements contained in this section. No changes were made to the permit.	n/a

7	**Terms and Conditions**	
	7.a Prevention of Pollution or Degradation, and Water Quality Standards	
	i. Comment(s): A comment was received requesting modification of the requirement to report noncompliance when there is an exceedance of a water quality standard. The commenter believed that all discharges from construction sites result in an exceedance of water quality standards. • Part I.D.1(a) of the permit includes requirements that address preventing exceedances of water quality standards. Appropriate site-specific design, including industry-accepted standards for BMP selection that are appropriate for the conditions and pollutant sources present, and ongoing assessment of BMPs and pollutant sources, should be adequate to prevent discharges from resulting in an exceedance of water quality standards. Construction BMPs are intended to prevent the discharge of all but minimal amounts of sediment or other pollutants; such discharges would not be expected to result in exceedance of water quality standards. A more complete discussion of the permit conditions to prevent exceedance of water quality standards, including a discussion of the definition of pollution, can be found in Section III.B of the rationale. No changes were made to the permit. ii Comment(s): A comment was received questioning the requirement in Part I.D.2 of the permit that sets a design standard for BMPs to prevent pollution or degradation of State waters. • The requirement to prevent pollution or degradation of State waters is included in the permit as a design standard for BMPs. Pollution is defined in CDPS 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 these criteria, since construction BMPs are intended to prevent the discharge of all but minimal amounts of sediment or other pollutants, which 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. This is further addressed in Section III.B of the rationale. No changes were made to the permit. iii Comment(s): A comment was received requesting clarification of the requirement in the permit to "control all potential pollutant sources." • Part I.D.2 of the permit has been changed to clarify that the intent is for the BMPs to "provide control for all potential pollutant sources."	Permit Part I.D.2
	7.b Adding Chemicals	
	i Comment(s): A comment was received requesting that the requirement be removed from Part I.D.1(d) of the permit, which states that no chemicals are to be added to the discharge unless permission for the use of a specific chemical is granted by the Division. The comment suggested that chemicals should be routinely allowed for removing sediment from stormwater discharges. • Construction site stormwater management does not allow for the level of process control afforded at fixed treatment facilities, such as domestic wastewater treatment plants, where flocculants are used to remove pollutants from waste streams. Without significant engineering and control of flow rates, settling times and conditions, etc., there is a significant potential for chemicals to be discharged. Authorization for the use of flocculants or other chemicals under the Stormwater Construction Permit necessitates a case-by-case review and determination by the Division. No changes were made to the permit.	n/a
	7.c Concrete Washout	
	i Comment(s): A comment was received requesting clarification of language in Part I.D.1(b) of the permit regarding concrete washout water, which was interpreted to mean that concrete washout activities, in general, are not allowed by the permit. • The Division's intent is to allow <u>temporary</u> containment of concrete washout water from washing of tools and concrete mixer chutes only, and prohibit <u>permanent</u> on-site disposal of concrete washout waste. Part I.D.1(b) of the permit has been clarified.	Permit Part I.D.1(b) Rationale Section II.I.3(c)(iv)

	7.d On-Site Solid Waste Disposal	
	i Comment(s): A comment was received questioning the appropriateness of permit language prohibiting solid waste disposal in a stormwater permit. • On-site waste must be properly managed to prevent potential pollution of State waters. Part I.D.1(f) of the permit has been clarified to address this requirement, and to state that this permit does not authorize on-site waste disposal.	Permit Part I.D.1(f)
8	**Allowable Non-Stormwater Discharges**	
	8.a Additional Allowable Discharges	
	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. • Except as discussed in Items 8.b and 8.c, below, 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. No changes were made to the permit.	n/a
	8.b Concrete Washout Water	
	i. Comment(s): Comments were received requesting clarification of the concrete washout provision in the permit. • The Division has determined that discharges to the ground of concrete wash water from washing of tools and concrete mixer chutes may be authorized by this permit, provided that: 1) the source is identified in the SWMP; 2) BMPs are included in the SWMP in accordance with Part I.C.3(c)(7) and to prevent pollution of groundwater in violation of Part I.D.1(a); and 3) these discharges do not leave the site as surface runoff or to surface waters A new section was added to the permit (Part I.D.3(c)) with this clarification. Further discussion of concrete washout may be found in Section II.I.3(c)(iv) of the rationale.	Permit Part I.D.3(c) Rationale Section II.I.3(c)(iv)
	8.c Construction Dewatering	
	i. Comment(s): Several comments were received requesting that the Division consider including construction dewatering activities in the revised permit. • The Division has determined that discharges to the ground of water from construction dewatering activities may be authorized by this permit, provided that: 1) the source is groundwater and/or groundwater combined with stormwater that does not contain pollutants in concentrations exceeding the State groundwater standards in Regulations 5 CCR 1002-41 and 42; 2) the source is identified in the SWMP; and 3) BMPs, including those to prevent discharge from the site, are included in the SWMP, as required by Part I.C.3(c)(8). Discharges to the ground from construction dewatering activities that do not meet the above criteria, and discharges to surface waters, must be covered under a separate CDPS discharge permit. A new section was added to the permit (Part I.D.3(d)) with this clarification. Further discussion of construction dewatering may be found in Section II.I.3(c)(v) of the rationale. • As requested by several commenters, the Division's current intent is to allow discharges of construction dewatering to surface waters under the CDPS Stormwater Construction General Permit at the time of the <u>next</u> permit renewal (July 1, 2012). It is anticipated that this will allow for a more streamlined approach to permitting regulated discharges at construction sites, while allowing adequate time for development of appropriate permit conditions, and receiving input from stakeholders.	Permit Part I.D.3(d) Rationale Section II.I.3(c)(v)

	8.d Stormwater Dewatering	
	i. Comment(s): A comment was received asking about the discharge of stormwater that has accumulated in excavations or other depressions, and that has not mingled with process or ground water. • The dewatering of stormwater to surface waters from excavations is allowed under the permit. However, this approval only applies where there is no mixing of any groundwater that has infiltrated into the excavation with the stormwater. Any such mixing of stormwater and groundwater renders the resulting excavation water a process water. This process water could be discharged to the ground, in accordance with Item 8.c, above. Discharge to surface waters would only be allowed under a separate Construction Dewatering Permit. Discharge of stormwater from site excavations requires the implementation of BMPs that will minimize the potential for pollution from the discharge, and must be addressed in the SWMP. Selection, implementation and maintenance of such BMPs must follow good engineering practices. Part I.C.3(c)(8) of the permit has been changed.	Permit Part I.C.3(c)(8)
9	**TMDLs**	
	i Comment(s): Comments were received questioning inclusion of the TMDL requirements in Part I.D.11 of the permit. It was suggested that such requirements should be addressed through an individual permit, and that a Wasteload Allocation (WLA) should not be applied to a construction site, which is a temporary activity. • The Division has a regulatory responsibility to implement WLAs through discharge permits. It is possible that construction site discharges that occur in a TMDL stream segment may warrant coverage under an individual permit. However, this will not be true in every case. The requirements outlined in the construction permit will allow for a more rapid authorization of permit coverage in cases where compliance with the WLA can be achieved relatively easily. In addition, a WLA may encompass all of the construction activity occurring in a specific watershed, in which case the temporary nature of an individual site may not be relevant. No changes were made to the permit.	n/a
10	**Definitions**	
	10.a Common Plan of Development	
	i Comment(s): Comments were received asking why the Division's definition for a "common plan of development" is not consistent with EPA's definition. • EPA's definition is included in its fact sheet for EPA's construction general permit. The Division is not bound by EPA's guidance, and may adopt definitions and procedures more appropriate for Colorado. The Division's definitions are consistent with the state and federal regulations. No changes were made to the permit.	n/a
	10.b Pollutant	
	i Comment(s): A comment was received requesting that a definition of "Pollutant" be added to the permit. • The definition of "Pollutant" from the CDPS permit regulations (5CCR 1002-61) was added.	Permit Part I.E.9
	10.c Storm Sewer System	
	i Comment(s): A comment was received requesting that a definition of "Storm Sewer System" be provided. • The definition of a Municipal Separate Storm Sewer System (MS4) in Part I.E.4 of the permit is adequate to support the language used in the permit. No changes were made to the permit.	n/a

	10.d Language From CDPS Permit Regulation 61	
	i Comment(s): A comment was received requesting that the definition of "Significant Materials" in Part I.E.12 and several references in Part II of the permit be revised to be relevant to construction activities. • The definition of significant materials, and the sections referenced in Part II, must be consistent with the CDPS permit regulations (5CCR 1002-61). Although the language in the permit may include references and terminology more typical of other types of permitted discharges, they are still appropriate for inclusion in the Stormwater Construction permit. No changes were made to the permit.	n/a
11	**Upslope Flows**	
	i Comment(s): A comment was received requesting that the Division allow for a permittee to claim an "upset" and avoid noncompliance penalties when a storm event causes significant erosion and runoff from upslope areas not under the control of the operator, such that sediment runoff from such areas mixes with the permitted discharge. • Addressing run-on to a construction site is a typical variable that needs to be addressed when developing an adequate SWMP. Many options exist for an operator to adequately manage a site when run-on conditions exist. These options include, but are not limited to, diverting upslope flows, properly sizing BMPs to account for increased flows and sediment loads, stabilizing flow paths, etc. To the extent that upslope run-on has the potential to impact the BMPs and/or pollutant sources at the down-gradient site, the permittee must address those conditions. No changes were made to the permit.	n/a
12	**MS4 Permits**	
	i Comment(s): A comment was received requesting clarification on what is expected of CDPS Municipal Separate Storm Sewer System (MS4) permittees concerning oversight of the revised SWMP requirements. • Many municipalities in the State have coverage under an MS4 permit. The MS4 permit requires the development and implementation of a program, including site plan review, to address stormwater quality at construction sites within the municipality's jurisdiction. The MS4 permit does not require the permittee to ensure construction sites within their jurisdiction comply with the CDPS Stormwater Construction Permit. However, many of the programs do reference the CDPS Stormwater Construction Permit, and specifically the construction permit's SWMP requirements, in their own programs, and therefore may evaluate compliance of construction sites with those requirements. This includes municipalities that implement a Qualifying Local Program, discussed in Section VII of the rationale. The Division will provide additional guidance to these municipalities concerning requirements for their oversight of the revised SWMP requirements in the CDPS Stormwater Construction Permit. No changes were made to the permit.	n/a
13	**Noncompliance Notification**	
	i Comment(s): A comment was received requesting clarification on the Noncompliance Notification requirements in Part II.A.3 of the permit, relative to on-line spill reporting capabilities. • The Division is currently facilitating a work group that is evaluating spill reporting requirements. Since the work is not yet complete, any outcomes would be addressed through guidance, or future permit revisions or renewals. No changes were made to the permit.	n/a