



**Colorado Discharge Permit System (CDPS)
 Fact Sheet for Modification 2
 Permit Number COS000005
 COLORADO DEPARTMENT OF TRANSPORTATION**

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I. TYPE OF PERMIT

- A. **Type of Modification:** Modification 2
- B. **Discharge To:** Surface Water

II. FACILITY INFORMATION

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

III. SCOPE OF MODIFICATION REQUEST

The division is initiating these modifications to clarify sections of the permit, and to remove an administrative error (Part I.H).

IV. CHANGES MADE AS A RESULT OF THE MODIFICATION

- Permanent Water Quality Management, Part I.E.2.a.v. The division clarified that the requirements in the section apply to all permanent water quality control measures installed under this permit or a previous permit. Parts I.E.2.a.v(A) and (B) were clarified that these sections apply to control measures installed in accordance with this permit. Parts I.E.2.a.v(C) and (D) were clarified that these sections apply to control measures installed in accordance with this permit and previous permits. Section titles in Parts I.E.2.b.v and I.E.2.c.v were also updated.
- Public Education and Outreach Program, Part I.E.5. The division added public education and outreach for nutrients requirements as required by Regulation 85.
- Pollution Prevention and Good Housekeeping Program, Part I.E.6. The division added requirements for permittee operations and facilities to control nutrients as required by Regulation 85.
- Wet Weather Monitoring, Part I.F.6. The division clarified that the permittee must electronically submit discharge monitoring forms with the sampling data gathered under the wet weather monitoring program. The division also added a section on submitting electronic DMRs (Part I.F.6.i(G)). In Part I.F.6.a, the division fixed an inconsistency with Parts I.F.6.a.i(A) and (B).





- Compliance Schedule, Part I.H. The division clarified that the permittee must implement the current program in accordance with the previous permit until a new program is implemented in accordance with the current permit.
- Compliance Schedule, Part I.H. The division deleted the requirement that the plans shall be submitted to the division by a certain date. The requirement to submit plans was in error as the compliance schedule did not include any tasks that required submittal of plans.
- Compliance Schedule, Part I.H. The previous permit was not clear regarding what wet weather sampling was required for 2016. Based on the division’s and the permittee’s shared understanding of the wet weather monitoring requirements for 2016, the permittee conducted wet weather sampling for at least one outfall for 2016. To clarify and document this understanding, the division added a requirement that the permittee monitor one outfall one time in 2016.

V. PUBLIC NOTICE COMMENTS

The public notice period was from January 12, 2017 to February 13, 2017. Comments were received from the Colorado Department of Transportation. The responses from the Division to the comments are given below.

Comment 1: Parts: I.E.2.a.v(C), I.E.2.a.v.(D), I.E.2.b.v(C), I.E.2.b.v(D), I.E.2.c.v(C), I.E.2.c.v(D) (Please note there was a typographical error in the citation originally provided by CDOT in its modification request.) CDOT Suggestion: "...Control Measures Installed in accordance with this Permit and Previous Permits during this permit term." OR "...in accordance with this Permit and Part I.E.2.a.iii.(A)5) " CDOT Rationale for Suggestion: "The addition of the phrase, "and Previous Permits" is confusing regarding timing, especially for record keeping requirements. CDOT believes CDPHE's intent is that CDOT apply the new permit requirements from the effective date of the current permit going forward to CMs installed using the previous permit standard. However, this does not seem clear as phrased, particularly for the record keeping requirement. For example, the record keeping requirement requires CDOT to track when a CM is installed and if it met a previous design standard. While CDOT is tracking this information going forward it was not required under the old permits and may be difficult to recreate."

Division Response to Comment 1: This comment has been partially incorporated into the permit. No changes to Parts I.E.2.a.v(C), I.E.2.a.v(D), I.E.2.b.v(C), I.E.2.c.v(C), I.E.2.c.v(D) have been made. Only I.E.2.b.v(D) has been partially modified to clarify recordkeeping requirements for control measures installed under a previous permit. Specifically, if the control measure was installed under a previous permit, then the permittee only has to document the year that the control measure was installed, not the specific date. Further discussion of the Division’s response to Comment 1 follows:

Installation Date

The permittee should be able to document the year in which a control measure/BMP was installed without having to recreate any information. Parts I.E.2.a.v(C), I.E.2.a.v(D), I.E.2.b.v(C), I.E.2.c.v(C), I.E.2.c.v(D) do not have requirements to document when a control measure was installed. Only Part I.E.2.b.v(D) requires the permittee to document when a control measure was installed. Part I.E.2.b.v(D) requires that the permittee keep records on the date that control measures were installed. Part I.B.1 of the previous permit required the permittee to “report on the number of post-construction BMPs, type, and location (planned and/or installed) for a given reporting year within the permitted areas.” The permittee, therefore, should be able to document the year in which the control measure/BMP was installed. The permit has been modified to require the **date** of installation for a control measure installed under the current permit and the **year** of installation for a control measure/BMP that was installed under a previous permit.

Design Standard

The permittee should already have documentation that each BMP met a design standard. Specifically, the previous permit and the two CDOT audits required the permittee to evaluate if each permanent BMP met a





design standard. The permittee, therefore, should not have to recreate any information in order to meet this recordkeeping requirement.

Parts I.E.2.a.v(D), I.E.2.c.v(C), I.E.2.c.v(D) do not have specific requirements to document if a control measure met a previous design standard. Parts I.E.2.a.v(C), I.E.2.b.v(C), I.E.2.b.v(D) address documenting previous permit term design standards. Please see above for the changes that were made to Part I.E.2.b.v(D). No changes were made to Parts I.E.2.a.v(C), I.E.2.b.v(C) since control measures had to meet design standards under the previous permit and the division’s 2008 audit report required documentation of the design standard for each BMP.

Part I.B of the permit requires the permittee to “implement its New Development and Redevelopment Program as submitted to and approved by the Division, and expand the program into the Phase II permit coverage areas.” Part I.B.1 of the previous permit required the permittee to “report on the number of post-construction BMPs, type, and location (planned and/or installed) for a given reporting year within the permitted areas.” Specifically, the previous permit required the permittee to document the type of BMP installed. The types of BMPs are outlined in the permittee’s *Erosion Control and Stormwater Quality Guide*. In addition, Part II.A.3 of the Permit states, “The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit.”

In the Division’s January 25, 2008 audit report (required action 2.C(3)), the permittee was required to “ensure that the design criteria in the New Development and Redevelopment Program are fully met for all BMPs and that compliance with those criteria are documented.” In addition, the audit report (required action 2.C(5)) required the permittee to submit reports for all new projected disturbing one acre or more or as part of a large common plan of development that provide information on the permanent control measures installed. The audit report also required (required action 2.C(7)) “CDOT must ensure that all permanent BMPs installed in accordance with the current and previous MS4 permits, and CDOT’s New Development and Redevelopment Program, be maintained so as to operate in accordance with the New Development and Redevelopment Program design criteria.” The audit report also required (required action 2.C.(8)) that the permittee submit “Procedures and schedules, including a completion date for each item, for the following tasks. The reviewed BMPs shall include all BMPs installed in accordance with the current and previous MS4 permits.” Three of the five items that must have been included in the report was

- Revise or develop operation and maintenance plans if current plans do not meet CDOT criteria.
- Review field conditions at all BMPs and assess if BMPs are operating in accordance with design criteria.
- Perform maintenance as necessary on all BMPs not operating in accordance with design criteria.

The audit report required the permittee to evaluate all permanent BMPs and document if the BMP met the design criteria.

The U.S. Environmental Protection Agency’s September 30, 2015 audit report required the permittee to “Develop a procedure to ensure that maintenance is performed on CDOT’s PWQFs and the PWQFs are operating properly, including those that are covered under IGAs or other similar agreements with external entities.” The permittee must identify the type and design standard to determine if the BMP is operating properly.

Comment 2: Part I.F.6.a.i.(G). “Since there is no “report only” DMR, there needs to be an explanation on how the DMR will be developed and who CDOT has to collaborate with at the division to submit the DMR. It would be helpful to add this explanation on how the DMR will be developed and who CDOT has to collaborate with at the division to submit the DMR in the permit or fact sheet since this is the first time we have had to submit WWM data in this format.”





Division Response to Comment 2: The division provides electronic DMR’s to permittees and so CDOT will not have to “develop” a DMR. Note that a “report” requirement in a permit does not exempt a permittee from submitting a DMR. Report means that data must be reported but no limits are set. The DMR forms provided will show a “report” per parameter, consistent with the permit Report only DMRs are available on the NetDMR system as well. Please visit the division’s discharge monitoring report information web page (<https://www.colorado.gov/pacific/cdphe/e-reporting-rule-discharge-monitoring-report-information>) for more information about DMR submittals.

Comment 3: Part I.F.6.a.i.(G). “Recommend changing to ‘The data must be submitted using the DMR for each specific sampling location (outfall) on an annual basis. The DMR must be received by the Division by January 28th following the sampling year.’ This added section states to use DMR to report and do so no later than 28 days. It is a little confusing to know if we are to report using the DMR 28 days from the date the samples were pulled Or 28 days after all samples for the specific outfall have been analyzed. If after each sample, then how is a mean and/or average developed? Since our discharges are controlled by weather, the sampling can not be completed in a consistent manner.”

Division Response to Comment 3: This is a compliance question and does not require a permit change. Therefore it is not addressed in this is response to comments. Please consult with our Compliance Assurance Unit for clarification on specific permit requirements and our NetDMR web page for more information on NetDMRs (<https://www.colorado.gov/pacific/cdphe/e-reporting-rule-discharge-monitoring-report-information>).

Comment 4: Part I. F.6.a.i.(G). “Add: ‘Data to be reported through this requirement will be used for research purposes and not to be construed as numeric limits or values to be used as compliance limits.” As DMRs are historically used to determine compliance by comparing monitoring data with numeric limitations, CDOT wishes to make the purpose of reporting WWM data on DMRs known. As a MS4, CDOT does not have numeric limitations in our permit.”

Division Response to Comment 4: This comment has not been incorporated into the permit. The division will use all information submitted, including data submitted on a DMR by the permittee to determine compliance with the permit. Note, however, that the current permit does not include numeric effluent limits.

Comment 5: Part I.H. “Suggest ‘...with this permit, as per the scheduled deadline date in Table 2. We understand this paragraph to mean the permit condition and action are to be implemented by the compliance schedule date. Is this correct?”

Division Response to Comment 5: The comment did not provide enough information and is unclear. This comment may be a compliance question and does not require a permit change. Therefore, it is not addressed in this is response to comments. Please consult our Compliance Assurance Unit for clarification on specific permit requirements.

Comment 6: Part I.H. “Compliance with the terms and conditions of this permit, including Parts I.D and E, shall be required by the effective date of the permit, except as provided below in Table 2. When applicable, a schedule of dates to accomplish various tasks related to the Programs, including training and implementation milestones shall also be required to be completed. The second paragraph that was deleted needs to be reworded and left in. As these programs are not static, but continual process improvement, few tasks will be “one and done”. Implementation will be an ongoing, continually improved, system of tasks, products, and initiatives that will interact to result in a holistic program.”

Division Response to Comment 6: This comment has not been incorporated into the permit. The terms and





conditions of this permit must be completed by the compliance schedule. The permittee has the flexibility to change any part of the program at any time, but any changes to the program must be in compliance with the permit.

Comment 7: Fact Sheet. “Why does CDOT need to be identified as an industrial classification. Did CDPHE investigate potential implications of assigning such a code were one did not previously exist? Delete the code if not needed. 9511 Air and Water Resource and Solid Waste Management doesn't match our structure or purpose. The proposed SIC may have unintended consequences with the CDOT MS4 Industrial Program, OSHA implications, or other undesired consequences. While the old SIC Codes are still widely used, the Federal Government will no longer support and maintain this system. What about using NAICS system?”

Division Response to Comment 7: This comment has not been incorporated into the fact sheet. This comment is out of scope of the permit modification and has not been incorporated into the fact sheet. Note that the SIC is not included in the CDOTs permit, which is the legal document. Please contact the division if the code in the fact sheet results in any unintended consequences.

