



Colorado Discharge Permit System (CDPS) Special Notice Fact Sheet  
Re-public notice of Parts I.A.1.b.ii, I.B.1.a.ii.b., I.C.2.a.vii.i, I.C.4.  
I.E.1., I.E.20., I.E.25., I.E.26, I.E.33, and Part II.  
Permit Number COR400000  
**CONSTRUCTION STORMWATER GENERAL PERMIT**

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**I. TYPE OF PERMIT**

**A. Permit Type:**

This is a renewal of the master general permit for stormwater discharges associated with construction activities and specific non-stormwater discharges associated with construction activities. The types of discharges authorized under the permit are specified in Part I.A.1. and I.A.2. of the master general permit.

**B. Discharge To:**

Surface waters of the State of Colorado.

**II. GENERAL DISCHARGER INFORMATION**

**A. SIC Code:**

1521 (General Contractors-Single Family Houses), 1522 (General Contractors-Residential Buildings, other than Single-Family), 1531 (Operative Builders), 1541 (General Contractors-Industrial Buildings and Warehouses), 1542 (General Contractors-Nonresidential Buildings, other than Industrial Buildings and Warehouses), 1611 (Highway and Street Construction, except Elevated Highways), 1622 (Bridge, Tunnel, and Elevated Highway Construction), 1623 (Water, Sewer, Pipeline, and Communications and Power Line Construction), 1629 (Heavy Construction, Not Elsewhere Classified) and various other construction related SIC codes.





**B. Discharge Location:**

Discharges from specific permitted construction projects statewide.

**III. BACKGROUND**

As required under the Clean Water Act amendments of 1987, the Environmental Protection Agency (EPA) has established a framework for permitting municipal and industrial stormwater discharges. This framework is under the National Pollutant Discharge Elimination System (NPDES) program (Note: The Colorado program is referred to as the Colorado Discharge Permit System, or CDPS, instead of NPDES.) The Water Quality Control Division ("the division") has permit regulations (5CCR 1002-61) in place. These regulations require specific types of industrial facilities that discharge stormwater associated with industrial activity (industrial stormwater), to obtain a CDPS permit for such discharge. The regulations for these industrial facilities specifically include construction activities that disturb one acre of land or more. Construction activities that are part of a larger common plan of development which disturb one acre of land or more over a period of time are also included.

The permit also discusses necessary compliance with water quality standards. Water quality standards are promulgated through the Water Quality Control Commission's rulemaking process and established regulations, which are available to the public. The rule making process includes extensive public notice and public participation components. Compliance with some water quality standards is generally confirmed with laboratory analysis. However, compliance with narrative water quality standards found in Regulation 31.11, may be confirmed without laboratory sampling in some instances. For example 31.11(1)(a)(iii) addresses "...color, odor, or other conditions in such a degree as to create a nuisance or harm existing beneficial uses..."

**A. General Permits:**

The Division has determined that the use of general permits is the appropriate procedure for handling most of the thousands of industrial stormwater applications within the State.

**B. Industry Information:**

The types of industrial activities covered under this general permit include construction related activities that meet the definition of construction activity in the general permit (Part I.E.2.) and that discharge to a state waters. Violations/Penalties:

Dischargers of stormwater associated with industrial activity, as defined in the CDPS regulations (5CCR 1002-61), that do not obtain coverage under this or other Colorado general permits, or under an individual CDPS permit regulating industrial stormwater, will be in violation of the Clean Water Act (CWA) and the Colorado Water Quality Control Act, 25-8-101. For facilities covered under a CDPS permit, failure to comply with any CDPS permit requirement constitutes a violation.

**IV. History and Proposed Action**

The division revised the 2007 Construction Stormwater General Permit (CSGP) and posted a draft permit for public comment on October 24, 2016. The comment period was expired on December 16, 2016. In response to many comments received on the 2016 draft permit, and as a result of a permit quality review (PQR) audit of the permitting program performed by EPA in August 2017





(2017 EPA PQR), the division has significantly revised portions of the permit since it was last put out to public notice.

As a result, the Division is reopening the public comment period only for certain provisions in the draft CSGP. The division is reopening the comment period based on the significance of the changes described below. The division is reopening the public comment period because of information submitted during the initial comment period, and required changes identified during the 2017 EPA PQR audit appear to raise substantial new questions with regard to certain draft permit requirements. Based on these limited changes the division is proposing to revise these particular draft permit requirements. It has specified which sections of the draft permit that the public may review and provide comment on.

The division is reopening the comment period for the 2018 draft CSGP to take comments on new language in Parts I.A.1.b.ii, I.A.3.i, I.B.1.a.ii.b., I.C.2.a.vii.i, I.C.4., I.E.1, I.E.20., I.E.25., I.E.26, I.E.33, and Part II only. The new proposed Parts I.A.1.b.ii, I.A.3.i, I.B.1.a.ii.b., I.C.2.a.vii.i, I.C.4., I.E.1, I.E.26, I.E.33, and Part II will completely replace the corresponding sections in the 2016 draft CSGP released on October 24, 2016. The new language that is open to public comment is in bold font in the version of the permit that is the subject of this public notice. Consistent with Regulation 61.5(2), and as stated above, the division is re-noticing only certain provisions of the draft permit and is not seeking additional comment on any of the draft permit's other provisions.

Portions of the draft permit that are open to comment have been highlighted in yellow. Please note that the version of the CSGP that is the subject of this public notice contains language that differs from the language in the CSGP that was public noticed on 10/24/16, which is not open for public comment at this time. The division has provided this language for context and clarity. The division's responses to both the public comments received on the 10/24/16 draft CSGP, along with the public comments received in response to this public notice, will be made available when the final CSGP is issued.

Since this is a re-opening of a public comment period, the division will follow the procedures in Regulation 61.5(2). The division will re-open the public comment period for 30 days beginning on January 31, 2018 and ending on March 2, 2018.

## V. Basis for Modification and Summary of Changes Subject to Special Public Notice

In response to public comments, the division made several changes to sections of the permit to provide greater clarity of permit terms and applicability of requirements. Changes to these portions of the permit are as follows:

- Definition of "bypass:" In response to public comments, the division has modified the definition of severe property damage in section I.E.1. The division is seeking public comment on this revision.
- Definition of "presentation of credentials:" The division has added a definition of "presentation of credentials" in Part I.E.20.
- Definition of "receiving water:" In response to several commenters, the division has modified the approach of the permit and prohibited discharges to "receiving waters" as defined by the permit. This approach replaces the previous version of the permit for discharges to the ground of concrete washout water and pre-existing vegetation, which relied on the term state surface waters. The division has added a definition of "receiving waters" in the definition





section, Part I.E.25. The division is seeking comment on the use of the term “receiving water” in the permit as it is defined in Part I.E.25 and applied in sections I.A.1.b.ii, I.B.1.a.ii.b., I.C.2.a.vii.i.

- Definition of “severe property damage:” In response to public comments, the division has modified the definition of severe property damage in section I.E.26. The division is seeking public comment on this revision.
- Definition of “state waters”: In response to public comments, in I.E.30, the division has included a definition of “state waters” that matches the definition found in the Colorado Water Quality Control Act. The division is seeking comment on this change in the definition.
- Definition of “upset:” In response to public comments, the division has clarified the definition of upset for purposes of the CSGP in section I.E.34. The division is seeking comment on this revised definition.
- Discharges of concrete washout water: In Part I.A.1.b.ii., The division provided clarity about requirements for discharges of concrete washout water on a construction site. The division has clarified that concrete washout water must not leave a site as surface water runoff or reach a receiving water as defined by the permit. The division is seeking comment on the revised coverage and permitting requirements for handling of concrete washout water.
- Permittee initiated permit actions: In response to several commenters, the division has added clarification to the permit clarification and submittal procedures in Part I.A.3.i. regarding permittee initiated permit actions, including modifications, transfers, reassignments, and terminations. The permit has been clarified to require that permittee initiated permit actions must be conducted in accordance with division guidance using division provided forms. The division is seeking comment on the revised permitting requirements.
- Right of entry of state inspectors: The division has added clarifying language in Part II.I. of the permit describing the right of entry that state and federal inspectors have to enter a permitted property for purposes of performing an inspection. The division is seeking public comment on this addition.
- Stormwater management plan availability: In response to public comments, the division has clarified the language in Part I.C.4. which states that a copy of the stormwater management plan (SWMP) must be provided upon request of the division. The division has further clarified that the SWMP provided to the division must include a signed certification that the SWMP is complete and compliant with all terms and conditions of the CSGP. The division is seeking public comment on this clarification as it relates to a permit obligation to provide a SWMP with a signed certification.
- Co-permittee signature requirements and use of electronic signatures: The majority of public commenters supported the approach to include a co-permittee signature requirement. The division has maintained this requirement. However, in response to public comments the division has revised Part II.K.2. of the permit to specify that the signature requirements can be satisfied by submitting application materials electronically using the Colorado Environmental Online Service (CEOS) system. The division is seeking public comments on this revision.
- Part II: In response to the EPA PQR audit, and in response to several public comments, the division has reorganized and clarified Part II of the permit. The division is seeking public comment on these changes.
- Part II - Noncompliance Notification - Part II.L.7 adds a requirement for at least annual reporting of all instances of noncompliance that are not already subject to the 24-hour reporting requirement in Part II.L.6. This reporting requirement is required by federal regulation, 40 CFR 122.41(l)(7) and state regulation 61.8(4)(p) and 61.8(5)(f). The division is specifically seeking comments on the practicality of compliance with this requirement and any expected benefit(s) it would result in for water quality, public health or overall permittee compliance.





The division is currently considering issuing a policy to address this requirement. The proposed policy may state the division would not expect submittals for noncompliance in accordance with Part II.L.7 and would not take enforcement actions for violations of that part. Consistent with the current permit, notification would still be expected for the listed categories of noncompliance subject to the 24-hour reporting requirement in Part II.L.6.

**VI. ADMINISTRATIVE RECORD, PUBLIC NOTICE AND COMMENT PERIOD, AND PROCEDURES FOR FINAL DECISION.**

The public notice period will run from January 31, 2018 to March 5, 2018. All persons who believe any conditions that are included in this re-notice are inappropriate must raise all issues and submit all available arguments and all supporting material for their arguments in full by the close of the comment period to Kendra Kelly, Environmental Protection Specialist, Permits Section and Clean Water Compliance Units, Water Quality Control Division, 4300 Cherry Creek Drive South, Denver, CO 80246. [kendra.kelly@state.co.us](mailto:kendra.kelly@state.co.us).

In reaching a final decision on the draft permit, the division will respond to all significant comments made during both the original public notice period and the special public notice period and make these responses available to the public. Following the close of the special notice comment period, the division will issue a final permit decision and post a final version of the permit on its website.

