

**AUTHORIZATION TO DISCHARGE UNDER THE
COLORADO DISCHARGE PERMIT SYSTEM**

In compliance with the provisions of the Colorado Water Quality Control Act, (25-8-101 et seq., CRS, 1973 as amended) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.; the "Act"), the

CITY OF COLORADO SPRINGS

is authorized to discharge stormwater and from emergency firefighting activities from the municipal separate storm sewer system owned and operated by the City of Colorado Springs located at 38.835 latitude and -104.820 longitude. All discharges authorized herein shall be consistent with the terms and conditions of this permit.

The applicant may demand an adjudicatory hearing within thirty (30) days of the issuance of the final permit determination, per Regulation for the State Discharge Permit System, 6.8.0 (1). Should the applicant choose to contest any of the terms or conditions contained herein, the applicant must comply with Section 24-4-104 CRS 1973 and the Regulations for the State Discharge Permit System. Failure to contest such terms and conditions constitutes consent to the condition by the applicant.

This permit and the authorization to discharge shall expire at midnight, October 31, 2016.

Issued and signed this 27th day of September, 2011

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



Janet S. Kieler
Permits Section Manager
Water Quality Control Division

ISSUED AND SIGNED: SEPTEMBER 27, 2011

EFFECTIVE: NOVEMBER 1, 2011

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PART I

A. COVERAGE UNDER THIS PERMIT

1. Authority to Discharge

Under this permit, beginning immediately and lasting through September 30, 2016, the City of Colorado Springs (CCS) is authorized to discharge stormwater and from emergency firefighting activities from all portions of its municipal separate storm sewer system (MS4) to State Waters in accordance with the approved Stormwater Management Programs, and other provisions set forth herein.

2. Discharges Covered Under This Permit

This permit authorizes new or existing discharges composed of stormwater from CCS's municipal separate storm sewer system (MS4).

The permit also authorizes discharges from emergency firefighting activities.

3. Permit Area

This permit covers all areas within the corporate boundary of CCS served by, or otherwise contributing to, discharges to state waters from MS4s owned or operated by CCS.

4. Local Agency Authority

This permit does not pre-empt or supersede the authority of local agencies to prohibit, restrict, or control discharges to storm drain systems or other water courses within their jurisdiction.

B. TERMS AND CONDITIONS

The permittee must develop, implement, and enforce a CDPS Stormwater Management Program, in accordance with Part I.B of this permit, designed to reduce the discharge of pollutants from the MS4 to the "maximum extent practicable" (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Colorado Water Quality Control Act (25-8-101 et seq., C.R.S.) and the Colorado Discharge Permit Regulations (61). Implementation of Best Management Practices (BMPs) consistent with the provisions of the CDPS Stormwater Management Program and the other requirements in this permit constitutes compliance with the standard of reducing pollutants to the MEP.

1. Stormwater Management Program Requirements

The permittee shall operate a Stormwater Management Program in accordance with the following requirements. Any additions or changes made in accordance with Part C, are required to be implemented as part of the CDPS Stormwater Management Program.

The programs as previously submitted by the permittee and approved updates are hereby incorporated by reference. The programs in this permit generally existed in prior permit terms however program names and structure may have changed. New program tasks are given a compliance schedule.

The permittee shall document and submit program descriptions that reflect current Division-approved versions of the following programs required to be implemented by this permit by **April 1, 2012**:

- Commercial/Residential Management Program Plan (Part I.B.1.a)
 - Illicit Discharges Management Program Plan (Part I.B.1.b)
 - Industrial Facilities Program Plan (Part I.B.1.c)
 - Construction Sites Program Plan (Part I.B.1.d)
 - Pollution Prevention/Good Housekeeping for Municipal Operations (Part I.B.1.e)
- a. Commercial/Residential Management Program

The permittee shall continue to implement the previous Division-approved Commercial/Residential Management Program. The program shall include the following areas.

- 1) **Maintenance of Structural Controls.** The permittee shall continue to implement a program of routine maintenance activities for municipally-owned structural controls to reduce pollutants (including floatables) in discharges from the MS4. This program shall include the following activities:
 - a) Sediment, trash and debris shall be periodically removed from municipally-owned detention facilities. The frequency of removal shall be based upon visual inspection by CCS personnel.
 - b) Trash and debris shall be periodically removed from municipally-owned, open-channel drainageways. The permittee shall implement and document procedures for this activity by **October 1, 2012**, and notify the Division that this requirement has been met in the following Annual Report, due **April 1, 2013**.
 - c) Trash and debris shall be periodically removed from municipally-owned storm sewer inlets on an as-needed basis at locations known to accumulate these materials. Other municipally-owned inlets, catch basins, siphons and storm sewers shall be cleaned of debris as determined necessary by CCS personnel. The permittee shall implement and document procedures for this activity by **October 1, 2012**, and notify the Division that this requirement has been met in the following Annual Report, due **April 1, 2013**.
- 2) **New Development and Redevelopment.** The permittee must implement and enforce a program to address stormwater runoff from projects for which construction activities disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale that discharge into the MS4. The program must ensure that controls are in place that would prevent or minimize water quality impacts. The permittee must:
 - a) Implement and document strategies which include the use of structural and/or non-structural BMPs appropriate for the community, that address the discharge of pollutants from projects, or that follow principles of low-impact development to mimic natural (i.e., pre-development) hydrologic conditions at sites to minimize the discharge of pollutants and prevent or minimize adverse in-channel impacts associated with increased imperviousness. Strategies must include specific consideration to require BMPs that address specific pollutant sources associated with projects for industrial and commercial land uses determined to have an increased potential to cause an impact on stormwater runoff quality. Minimum technical requirements for required structural BMPs shall be documented and be based on those specified in the Drainage Criteria Manual Volume II or equivalent and be in accordance with good engineering, hydrologic and pollution control practices;
 - b) Use an ordinance or other regulatory mechanism to address post- construction runoff from projects and to implement the requirements of this section, I.B.1.a(2), to the extent allowable under State or local law;

- c) Implement and document procedures to determine if the BMPs required under Item (a), above, are designed and installed in accordance with program requirements;
 - d) Implement and document procedures, including procedures to enforce the requirements to maintain BMPs when necessary, to ensure adequate long-term operation and maintenance of BMPs consistent with the Permittee's program requirements. Any modification to the BMPs design shall be documented prior to the modification occurring.
 - e) Implement and document an enforcement program, which addresses appropriate responses to common noncompliance issues, including those associated with both installation (subparagraph (c), above) and long-term operation and maintenance (subparagraph (d), above) of the required control measures;
 - f) Implement procedures and mechanisms to track the location of BMPs required under Item (a), above, and document whether the BMPs are constructed and operating as required by subsection (d), above, at the time of inspection and in accordance with the Permittee's program. The permittee shall implement and document procedures to include tracking of BMPs by **October 1, 2012**, and notify the Division that this requirement has been met in the following Annual Report, due **April 1, 2013**.
- 3) **Assess Impacts of Flood Management Projects.** The permittee shall continue to implement procedures to assure that the impact on water quality is assessed for proposed flood management projects. The following water quality impact assessment shall be ongoing.
- a) Proposed channel improvements shall be evaluated as to their stability and need for grade control structures and bank protection within the limits and scope of the project. Where warranted to ensure stability, grade control structures and bank protection shall be implemented as part of the project. The permittee shall implement and document procedures for this activity by **October 1, 2012**, and notify the Division that this requirement has been met in the following Annual Report, due **April 1, 2013**.
 - b) Proposed municipally-owned detention facilities shall be evaluated as to the feasibility and potential effectiveness of installing stormwater quality features. Where determined to be feasible and effective, such stormwater quality features shall be implemented as part of the project.
 - c) The CCS shall schedule and implement planned and Division approved water quality improvements to the pond at 19th and Dale. The improvements to the pond shall be completed by **May 31, 2014**.

A list of all new flood management projects constructed for which reviews were required in accordance with subparagraphs (3)(a), (b), and (c) above, and whether water quality improvements were incorporated in these new projects, shall be included in each Annual Report.

b. Illicit Discharges Management Program

The permittee shall continue to implement the Illicit Discharges Management Program. This program shall include the following program areas:

- 1) **Prevention of Illicit Discharges and Improper Disposal.** The permittee shall continue to implement an ongoing program to detect and eliminate the source of the illicit discharges (or to confirm that the discharge no longer meets the definition of an illicit discharge) and improperly disposed materials into the MS4 in accordance with this program area and mitigate as required by I.B.1.b(2). Elimination of an illicit discharge shall include measures as necessary to address the source to prevent an ongoing

discharge (e.g., cleaning up a spill, fixing a leak, removing a cross connection). The permittee shall review current City Code to ensure it is adequate to meet this requirement, make revisions if necessary by **October 1, 2012**, and notify the Division that this requirement has been met and if the City Code was revised in the following Annual Report, due **April 1, 2013**.

- a) The permittee shall effectively prohibit illicit discharges, by enforcement of CCS ordinances.
 - b) Unless identified by either the permittee or the Division as significant sources of pollutants to the State Waters, the following sources of non-stormwater discharges are excluded from the definition of "illicit discharge": landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration to separate storm sewers, uncontaminated pumped ground water, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, single family residential underdrain systems, lawn watering, individual residential car washing, individual residential swimming pool and hot tub discharges, water-line flushing, flows from riparian habitats and wetlands, and water incidental to street sweeping (including associated sidewalks and medians) that is not associated with construction.
 - c) The permittee may develop a list of occasional and/or incidental sources of non-stormwater discharges similar to those in paragraph b), above (e.g., non commercial or charity car washes, etc.), that are excluded from the definition of "illicit discharge." These non-stormwater discharges must not be reasonably expected (based on information available to the permittee) to be significant sources of pollutants to the MS4, because of either the nature of the discharges or conditions the permittee has established for allowing these discharges to the MS4 (e.g., a charity car wash with appropriate controls on frequency, proximity to sensitive waterbodies, BMPs, and discharges in accordance with the Division's Low Risk Discharges Policy, etc.). The permittee must document in its program any local controls or conditions placed on the discharges. The permittee must include a provision prohibiting any individual non-stormwater discharges that are determined to be contributing significant amounts of pollutants to the MS4. The initial list and additions or modifications to the list must be approved in accordance with Part I.C.3 of the Permit.
 - d) The following sources are excluded from the prohibition against illicit discharges in subsection (a) and the requirements of subsection (c), above:
 - i) Discharges resulting from emergency fire fighting activities within CCS. Such discharges are specifically authorized under this permit (see Part I.A.2).
 - ii) Discharges specifically authorized by a separate CDPS permit.
- 2) **Illicit Discharge Detection and Elimination.** The permittee shall continue to implement a program to detect and eliminate the source of illicit discharges, including but not limited to illegal dumping, sanitary sewer overflows, and illicit connections. The program shall include ongoing field observations and investigation of suspected illicit discharges.
- a) The permittee shall continue to maintain a current storm sewer system outfall inventory with the location of all existing and new municipal storm sewer outfalls and the names and locations of all state waters that receive discharges from those outfalls within CCS's jurisdiction portrayed on a map. Investigation and inventory need not include confined-space entry. If field work is performed as part of the inventory update, observations of indicators of illicit discharges identified shall be investigated per subparagraph (b) below.
 - b) The permittee shall continue to implement and document a plan to detect and address illicit discharges. The plan must be updated to include response procedures, procedures for tracing the source of an illicit discharge, procedures for elimination of the source of the discharge, mitigation

procedures, and tracking. The permittee shall update the plan and implement the revised procedures for this activity by **October 1, 2012**, and notify the Division that this requirement has been met in the following Annual Report, due **April 1 2013**.

- c) The permittee shall continue to implement a program to train municipal staff to recognize and appropriately respond to illicit discharges observed during typical duties. The program must address who will be likely to make such observation and therefore receive training, and how staff will report observed suspected illicit discharges.
 - d) All reports of illicit discharges (including dumping) from citizens, staff, and other information made available to the permittee, shall be evaluated and receive follow-up in accordance with the plan required in subsection (b), above. A record of all reported illicit discharges and the permittee's response shall be maintained. The permittee shall update the plan and implement the revised procedures for this activity by **October 1, 2012**, and notify the Division that this requirement has been met in the following Annual Report, due **April 1, 2013**.
- 3) **Procedures to Prevent, Contain and Respond to Spills.** The permittee shall implement procedures to prevent, contain and respond to spills that may discharge or have discharged into the MS4 that are not composed entirely of stormwater except sources that are excluded from the definition of "illicit discharge" in accordance with Parts I.B.1.b(1)(b), (c), and (d).
 - 4) **Educational Activities to Promote Public Reporting of Illicit Discharges and Improper Disposal.** The permittee shall continue to implement a plan to promote and facilitate public reporting of the presence of illicit discharges and spills addressed by the requirements of subsection (3), above, or improper disposal of materials into the MS4. The program shall include the following:
 - a) goal statement and identification of the target audience;
 - b) operation of a central phone number (i.e., a 'hotline') for public reporting of illicit discharges; and
 - c) strategy for continuing to promote public reporting of illicit discharges, illegal dumping, and illicit connections through brochures and other means.
 - 5) **Public Educational Activities to Promote Proper Management and Disposal of Potential Pollutants.** The permittee shall continue to implement a Public Educational Activities to Promote Proper Management and Disposal of Potential Pollutants plan to reduce or eliminate the discharge of pollutants to the MS4. The plan must be reviewed for compliance and effectiveness, and any changes made as necessary. If changes are needed to meet the requirements of items a, b, c, d, and e, below, of this plan shall be updated and shall be submitted to the Division by **August 31, 2012**, and implemented by **November 30, 2012**. The updated program must contain elements designed to promote behavior change by the public to reduce water quality impacts associated with pollutants in stormwater runoff and illicit discharges, and shall include the following:
 - a) any changes to the target audience;
 - b) strategy to inform and educate the public on proper management and disposal of used oil, other automotive fluids, and household chemicals. This shall include distribution of educational materials to the public on pollution prevention procedures for storage, disposal and application of pesticides, herbicides, and fertilizers;
 - c) CCS shall inform residents of the availability of its community-based collection and recycling programs and the proper disposal methods for used oil, automotive fluids, and other household chemicals. Copies of any new educational materials shall be submitted to the Division with the following Annual Report. The stormwater sections of CCS's website shall be maintained and

updated as needed;

- d) conducting outreach activities about the impacts of stormwater discharges and the steps that can be taken to reduce stormwater pollution. Such outreach activities can include educational programs for school-age children, participation at water or river festivals, storm drain stenciling, tributary signage, using a speaker's bureau or volunteer citizen educators, and other means. The plan shall include specific tasks to measure program compliance; and
 - e) strategy for targeting commercial sites with a high potential for contributing to stormwater pollution. In addition to addressing sources of stormwater pollution (e.g., outdoor storage), such sites could include those with illicit non-stormwater discharges from pavement cutting, concrete chute washout, and power washing fueling aprons and other washing operations where detergents are used.
- 6) **Household Chemical Waste Collection Programs.** The permittee shall continue its participation in El Paso County's HHW collection program or substitute an equivalent program that has the same result of making reasonably available to CCS residents the means to recycle or properly dispose of the more common household chemical wastes. The status of this program shall be reported as a part of the Annual Report. The following items shall be included:
- a) dates of collection
 - b) what kinds of materials were accepted
 - c) what measures were taken to publicize the collection program
 - d) amount or volume of collected materials, by category
 - e) number of vehicles or citizens that contributed waste, when known
 - f) ultimate disposal of the waste
 - g) plans for the next year
- 7) **Control of Sanitary Sewer Seepage into the Municipal Storm Sewer System.** The permittee shall continue a program to detect and eliminate sources of sanitary sewer seepage into the MS4.

c. Industrial Facilities Program

The permittee shall continue to implement a program to promote proper management of industrial sites regarding stormwater quality and industrial best management practices. The program shall provide education and outreach on pollutants in stormwater discharges to municipal systems from industrial facilities that the permittee determines are contributing or have the potential to contribute a substantial pollutant loading to the municipal storm sewer system. The program shall include:

- 1) goal statement and identification of the target audience;
- 2) coordination with CCS personnel on inspections of industrial sites to be sure stormwater issues are addressed and used as a means to deliver information; and
- 3) information on industrial activity and resources available to improve quality of stormwater runoff from industrial sites within CCS shall be distributed to the targeted industrial facilities.

When industrial facility stormwater runoff having a negative water quality impact on the discharge from the MS4 is identified by permittee staff, the permittee shall take measures to require compliance with the permittee's requirements implemented in accordance with Part I.B.2.a of the permit. If, after implementing its authority to the extent allowable under State or local law, stormwater discharges from the industrial activity continue to have a negative water quality impact on the discharge from the MS4, the permittee shall provide a written report to the Division identifying the location of the discharge and any information obtained by the permittee pertaining to the operator and water quality concerns. The report shall be provided to the Division

within 15-days of the determination by the permittee that it cannot control the discharge as required above.

d. Construction Sites Program

The permittee shall continue to implement and enforce the Construction Sites Program to reduce the discharge of pollutants from public and private construction sites that disturb at least one acre of ground, or are part of a larger common plan of development or sale that would disturb one or more acres.

- 1) **Procedures for Site Planning.** The permittee shall continue to implement procedures for site planning that incorporate consideration of potential water quality impacts from construction sites within CCS.
 - a) CCS shall use ordinances and rules to integrate into the development review process the requirements for stormwater quality control plans, which include erosion and sediment control, construction waste control, and material containment and spill prevention. Construction site operators must be required to implement BMPs to control the discharge of pollutants associated with waste at the construction site such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste, and other illicit discharges including construction dewatering and wash water that may cause adverse water quality impacts to State Waters.

CCS shall document and implement procedures for site plan review which incorporate consideration of potential water quality impacts for construction sites that disturb at least one acre of ground, or are part of a larger common plan of development or sale that would disturb one or more acres.
 - b) Stormwater quality control plans for construction sites shall be subject to review and approval by the permittee. However, the permittee must provide adequate project oversight to prevent inadequate stormwater control site plans from being implemented and resulting in degradation of state waters.
 - c) Project Review and Approval Procedures shall be documented and implemented. The site planning and approval procedures shall be documented and submitted to the Division by **April 1, 2013**. The procedures shall include:
 - i) criteria and standards for site plan approval;
 - ii) description of the site plan review and approval process; and
 - iii) plans for staff training on implementation of the procedure.
- 2) **Structural and Non-Structural Best Management Practices (BMPs).** The permittee shall continue to implement requirements for the selection, implementation, installation, and maintenance of appropriate BMPs at construction sites.
 - a) BMP requirements and procedures shall be documented and include:
 - i) minimum BMP requirements for construction sites; and
 - ii) criteria for BMP selection which shall consider such factors as project type, size, duration, soil type, site slope and proximity to state waters.
 - b) Minimum technical requirements for all required BMPs shall be documented and be based on those specified in the Drainage Criteria Manual Volume II or equivalent and be in accordance with good engineering, hydrologic and pollution control practices.
- 3) **Procedures for Site Inspection and Enforcement.** The permittee shall document and continue to implement procedures for inspection and enforcement of control measures at construction sites to the

extent allowable under State and local law. The required documents shall include the following:

- a) procedures to ensure that BMPs are being installed and maintained in accordance with subsection (2), above, the approved plan, and that sediment sources, materials, equipment maintenance areas (including fueling) and other significant sources of pollution have been addressed;
- b) plans for training the staff responsible for inspections and enforcement; and
- c) enforcement provisions to ensure compliance with requirements as defined in CCS ordinances and rules and approved plans, and to ensure effective operation and maintenance of BMPs. Procedures must include specific processes and sanctions to minimize the occurrence of, and obtain compliance from, chronic and recalcitrant violators of control measures.

The above plans and procedures shall be submitted to the Division by **April 1, 2013**.

- 4) **Training and Education for Construction Site Operators.** The permittee shall continue to implement an education and training program for permittee staff and construction contractors. At a minimum, the program must include an information program for construction site operators unfamiliar with the reviewing authority's regulatory requirements.

e. Pollution Prevention/Good Housekeeping for Municipal Operations

The permittee shall continue to implement a program for Pollution Prevention/Good Housekeeping for Municipal Operations, with the ultimate goal of preventing or reducing pollutants in runoff from municipal operations. The program must also inform public employees of impacts associated with illegal discharges and improper disposal of waste from municipal operations.

An updated program to include the new requirements in subsection (1) and (3), below, shall be completed by **December 31, 2012**, and reported to the Division in the following Annual Report.

- 1) The program must include a list of facilities the permittee owns or operates that are subject to separate coverage under CDPS permits for discharges of stormwater associated with industrial activity. The requirements of subsection (2) and (3), below, do not apply to stormwater discharges authorized by these separate permits.
- 2) **Municipal Facility Runoff Control Plans**
 - a) The permittee shall continue to document and implement Municipal Facility Runoff Control Plans (MFRCPs) for the following permittee-owned and/or operated facilities that do not have independent CDPS Stormwater permits. New MFRCPs shall be developed for any new qualifying facilities. Facilities may be grouped together by type, and one MFRCP may be developed for each group.
 - i) vehicle maintenance facilities (maintenance includes equipment rehabilitation, mechanical repairs, painting, fueling and lubrication);
 - ii) asphalt and concrete batch plants which are not already individually permitted;
 - iii) solid-waste transfer stations;
 - iv) exposed stockpiles of materials, including stockpiles of road deicing salt, salt and sand, sand, rotomill material.
 - b) The permittee shall maintain a complete list of these facilities. The facility list shall include the

address of the facility, type of operation, size of the facility, and receiving water drainage basin. This list shall indicate which sites are covered under grouped MFRCPs, and set out the reasons for the grouping.

- c) MFRCPs shall contain the following:
 - i) Activity description
 - ii) Facility site map
 - iii) Description of potential pollutant sources including an evaluation of that potential.
 - iv) Stormwater Management Controls. The description of stormwater management controls shall address the following minimum components, including a schedule for implementing such controls:
 - Runoff control plan administrator
 - Preventive maintenance
 - Good housekeeping
 - Spill prevention and response procedures
 - Best management practices for pollutant sources
 - Evaluation for non-stormwater discharges
 - Employee training
 - v) Inspection procedures
 - d) Facilities with MFRCPs shall be inspected by the permittee at least once each year, after the runoff control plan is completed.
 - e) Bulk storage structures for petroleum products and any other chemicals located at facilities with MFRCPs shall have secondary containment or equivalent protection so as to contain all spills and prevent any spilled material from entering State waters. Bulk storage on mobile refuelers that are subject to the authority and control of the U.S. Department of Transportation, as defined in the Memorandum of Understanding between the Secretary of Transportation and the Administrator of EPA, dated November 24, 1971 are not subject to the requirements of this subsection (e). Where additional structural controls are need to comply with the requirements of this subsection, the controls shall be implemented by **December 31, 2014**, and notify the Division that this requirement has been met in the following Annual Report, due **April 1, 2015**. Prior to implementation of such controls, the permittee shall implement practices, such as spill prevention and response, to prevent or reduce pollutants in runoff associated with bulk storage structures.
 - f) The permittee must implement the provisions of the MFRCPs required under this part as a condition of this MS4 permit. The Division reserves the right to review those MFRCPs, and to require additional measures to prevent and control pollution as needed.
 - g) MFRCPs for new facilities shall be completed and implemented before the facility becomes operational. A list of any new (or newly identified) facilities shall be submitted to the Division with the following Annual Report.
 - h) The permittee shall summarize the conformity of facilities with its MFRCPs in each year's Annual Report.
- 3) Operations and Maintenance Procedures

The permittee must develop and implement written operation and maintenance procedures that include

an employee training and have the ultimate goal of preventing or reducing pollutants in runoff from those municipal operations not already addressed by MFRCs required in subsection (2), above, and that do not have separate coverage under a CDPS permit for discharges of stormwater associated with industrial activity. The program must specifically list the municipal operations (i.e., activities and facilities) that are impacted by this operation and maintenance program.

- a) Implementation of the procedures must prevent or reduce stormwater pollution from the following facilities operated by the permittee:
- streets, roads, highways
 - municipal parking lots
 - maintenance and storage yards
 - maintenance shops with outdoor storage areas
 - snow dumps/snow disposal areas
 - sites used for temporary storage of sweeper tailings or other waste piles

And from the following activities conducted by the permittee

- park and open space maintenance
- building maintenance
- street maintenance
- new construction of municipal facilities
- application of pesticides, herbicides, and fertilizers
- large outdoor festivals and events

- b) The procedures must include training to municipal employees as necessary to implement the program under Item (a), above, and informing Permittee employees of impacts associated with illegal discharges and improper disposal of waste from municipal operations.

2. Legal Authority

The permittee shall insure legal authority exists and is maintained to control discharges to and from the MS4. This legal authority may be a combination of statute, ordinance, permit, contract, or order to:

- a. Control the contribution of pollutants to the MS4 by stormwater discharges associated with industrial activity and the quality of stormwater discharged from sites of industrial activity;
- b. Prohibit illicit discharges to the municipal separate storm sewer;
- c. Control the discharge of spills and the dumping or disposal of materials other than stormwater into the MS4;
- d. Require compliance with conditions in ordinances, permits, contracts or orders; and
- e. Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance with permit conditions in this permit.

3. Resources

The permittee shall provide adequate finances, staff, equipment, and support capabilities to implement the CDPS Stormwater Management Program.

4. TMDLs

If a TMDL has been approved for any waterbody into which the permittee discharges, and discharges requiring controls under this permit certification have been assigned a pollutant-specific Wasteload Allocation (WLA) under the TMDL, and if the Division determines that the conditions of this permit are not adequate to bring about compliance with the WLA, the Division may modify this permit in accordance with Part II.C.4 of the permit.

C. PROGRAM REVIEW AND MODIFICATION

1. Review and Approval of Plans and Reports

Any plans or reports that are prepared as a condition of this permit shall be submitted to the Division for review and approval, unless submittal is not a requirement of this permit.

- a. Within 90 days of the submittal, or a later date agreed to by the permittee, the Division shall notify the permittee that the plan or report is acceptable or that it does not meet one or more of the minimum requirements of this permit.
- b. Such notification shall identify which provisions of the submittal, if any, require modification.
- c. Within 30 days of such notification from the Division, or a later date agreed to by the Division, the permittee shall make the required changes and re-submit the plan or report.

2. Annual Program Review

The permittee shall conduct an annual review of the current Programs in conjunction with preparation of the Annual Report required under Part I.F. This annual review shall include:

- a. A review of Program implementation and compliance (or non-compliance) with all schedules of compliance contained in this permit;
- b. An assessment of the effectiveness of controls established by the Program;
- c. A review of monitoring data; and
- d. An assessment of any Program modifications needed.

3. Program Modification

- a. The approved Programs shall not be modified by the permittee without the prior approval of the Division.
- b. Modifications shall not become enforceable permit conditions until such time as the modifications are formally approved.
- c. Modification requests and/or notifications shall be signed in accordance with Part I.G.

D. MONITORING PROGRAM

The permittee shall continue to implement its current MS4 wet weather monitoring program to assess wet weather conditions and other discharges from the MS4, particularly urban stormwater effects on state waters associated with discharges from the permittee's MS4. The permittee shall develop and implement a dry weather outfall screening, in accordance with this section.

1. Monitoring Plan

a. The plan must continue to meet the following minimum requirements:

- 1) address wet weather conditions, particularly urban stormwater effects on receiving waters associated with discharges from the permittee's MS4;
- 2) include a clear statement of goals and have components that address the goals of the monitoring program;
- 3) be able to be expanded over time as inter-related municipal stormwater discharges are included as MS4 permittees;
- 4) commitment of a level of resource expenditure that is commensurate with the monitoring plan; and
- 5) include Selenium and E. coli monitoring.

b. Contents of Monitoring Plan

- 1) Site selection, including criteria and procedures used.
- 2) Final methodology and protocols for each component, including, but not limited to, such factors as:
 - a) Constituents and analytical methods;
 - b) Frequency for monitoring and sampling;
 - c) Description of potential revision to activities currently performed by the USGS in the event of that agency's decreased involvement; and
 - d) Quality control and quality assurance protocols.

c. MS4 Dry Weather Outfall Selenium and E coli Monitoring Plan

For those parts of the permittee's MS4 that directly discharge to the impaired portions of segments COARFO01a, COARFO02a, COARFO04 and COARFO06 of Fountain Creek, the permittee shall develop, document and implement a dry weather monitoring plan targeted at identifying the source (e.g., geographic areas or land use) and scope (e.g., geographical extent of contamination, seasonality, and contaminant levels) of the impairment. The monitoring is required for only those portions of impaired segments and only for those parameters (e.g., Escherichia coli ("E. coli") and/or selenium) causing the impairment. Segments that are removed from the list of impaired waterbodies shall not be subject to outfall monitoring requirements.

The plan shall be submitted to the Division by **August 31, 2012**, and implemented by **August 31, 2013**. The plan shall include the following components:

- 1) Definitions: For the purpose of this subsection (I.D.1(c)), the following definitions apply:
 - a) Dry Weather Discharge: A discharge not resulting from surface runoff from rain or snowmelt events.
 - b) Outfall: the point where a municipal separate storm sewer discharges to State Waters.
- 2) Selenium monitoring is not required for MS4 outfalls that are not reasonably expected to receive groundwater or alluvial water infiltration that has the potential for selenium contributions from contact with strata identified as having elevated selenium concentrations. The permittee shall document Outfalls of Concern meeting this exclusion for which selenium monitoring will not occur.

- 3) **Identification of Dry Weather Flows:** The plan shall include processes to identify and document all outfalls with dry weather discharges that persist during periods with little to no irrigation contributions. It is not necessary to include submerged outfalls. Initial identification of outfalls with dry weather flows shall be completed by **March 31, 2014**. Identification of additional outfalls may occur during the permit term, in accordance with the Selenium and E. coli Monitoring Plan.

Dry weather flows that are less than five gpm as determined through estimation methods are considered negligible and do not need to be identified.

- 4) **Identification of Outfalls of Concern:** The plan shall include processes to identify and track Outfalls of Concern. Initial identification of Outfalls of Concern shall be completed by **March 31, 2014**. Identification of additional outfalls may occur during the permit term, in accordance with the Selenium and E. coli Monitoring Plan.

Outfalls of Concern shall include the following outfalls, at a minimum, unless removed in accordance with subparagraph (5), below:

- a) All outfalls with greater than a 36" or equivalent having dry weather flows identified in accordance with subparagraph (3), above.
 - b) All outfalls with smaller than a 36" diameter or equivalent having dry weather flows identified in accordance with subparagraph (3), above that are determined to have significant dry weather discharge conditions. Significant dry weather discharge conditions may include flow rates that are substantially elevated relative to the outfall size and the flow rate of any nearby outfalls, and discharges likely to be resulting from a cross connection based on qualitative observations.
- 5) **Outfall Monitoring:** The plan shall identify processes to monitor dry weather flows at Outfalls of Concern to determine, at a minimum, estimated flow rates, potential dissolved selenium concentration and E. coli densities (cfu/100ml). For segment COARFO04 only, dry weather flows less than 20 gpm as determined through estimation methods do not need to be monitored. All Outfalls of Concern shall be monitored a minimum of four times between the period **April 1, 2014 through March 31, 2016**, with a minimum of one sample collected that represents each calendar quarter. Outfalls with smaller than a 36" diameter or equivalent that do not have concentrations exceeding stream standards in the first two sampling events do not require additional sampling. These outfalls of concern could be removed from the monitoring program. The Selenium and E. coli Monitoring Plan shall include procedures for scheduling monitoring events to obtain samples that are reasonably representative of the dry-weather discharges at the outfall.
 - 6) **Analysis:** The permittee shall perform an analysis of available data on selenium and E. coli densities in the MS4 and the 303(d) listed segments of Fountain Creek as referenced in Part I.D.1.c, and review the implementation of the requirements of this section (I.D.1.c). The analysis/review will assess the permittee's progress towards identifying the source and scope of selenium and E. coli densities in dry weather discharges from the MS4. The permittee shall document the process and results for this analysis by **April 1, 2017**.

2. Monitoring Reporting and Evaluation

a. Annual Reporting

The permittee shall submit a Monitoring Annual Report to the Division by June 1 of each year, covering the previous January 1 through December 31. The report shall include:

- 1) Summary of monitoring program.

- 2) Tabulated data generated from the stormwater monitoring program described above. In the report for year four, a trend analysis of the data collected to date for the Wet Weather Monitoring Program shall be included.
- 3) Summary of the monitoring program work to date, any problems with the protocol or selected sampling locations, and recommendations for any changes to the monitoring program.
- 4) Identification of water quality improvements or degradation

For required constituents (E. coli and selenium), monitoring results shall be reported in a format approved by the Division, which may include discharge monitoring report (DMR) forms (EPA form 3320-1) or by using the Division's Net-DMR service (when available).

b. Reporting for Year Four

The report submitted in year four of the permit, submitted by **June 1, 2015**, covering **January 1, 2014** through **December 31, 2014**, shall include:

- 1) information required by subsection a., above;
- 2) an assessment of the impact of wet-weather discharges on CCS area's State waters, and an assessment of the changes over time. This assessment shall be based on all currently available information collected by the permittee in accordance with the MS4 permit and during current and past permit terms; and
- 3) a proposal for a monitoring program for the next permit term.

3. General Monitoring and Sampling Requirements

The permittee shall comply with the following requirements for all monitoring required by this permit, except for field analysis which may be conducted as part of the Illicit Discharges Management Program (Part I.B.1.b of the permit). Where field analysis does not involve analytical methods approved under 40 CFR Part 136, the applicant shall document a description of the method used, including the name of the manufacturer of the test method along with the range and accuracy of the test. Documentation shall be included in the program description update in accordance with Part I.B.1.b(2)(b).

a. Analytical and Sampling Methods for Monitoring

The permittee shall install, calibrate, use and maintain monitoring methods and equipment, including biological and indicated pollutant monitoring methods. All sampling shall be performed by the permittee according to specified methods in 40 C.F.R. Part 136; methods approved by EPA pursuant to 40 C.F.R. Part 136; or methods approved by the Division, in the absence of a method specified in or approved pursuant to 40 C.F.R. Part 136. When requested in writing, the Division may approve an alternative analytical procedure or any significant modification to an approved procedure.

The analytical method and PQL chosen for monitoring required by this permit shall be one that can measure at or below the applicable receiving water standard. If all analytical methods and corresponding PQLs are greater than the applicable receiving water standard, then the analytical method with the lowest PQL shall be used.

The present lowest PQLs for specific parameters, as determined by the State Laboratory (November 2008) are provided below. If the analytical method cannot achieve a PQL that is less than or equal to the stream standard, then the method, or a more precise method, must achieve a PQL that is less than or equal to the PQL in the table below. A listing of the PQLs for organic parameters that must meet the above requirement can be found in the Division's Practical Quantitation Limitation Guidance Document, July 2008.

These limits apply to the total recoverable or the potentially dissolved fraction of metals.

Parameter	Practical Quantitation Limits,	Parameter	Practical Quantitation Limits, µg/l
Aluminum	50 µg/l	Mercury	0.1 µg/l
Ammonia	1 mg/l	Mercury (low-level)	0.003 µg/l
Arsenic	1 µg/l	Nickel	50 µg/l
Barium	5 µg/l	N-Ammonia	50 µg/l
Beryllium	1 µg/l	N Nitrate/Nitrite	0.5 mg/l
BOD / CBOD	1 mg/l	N-Nitrate	50 µg/l
Boron	50 µg/l	N-Nitrite	10 µg/l
Cadmium	1 µg/l	Total Nitrogen	0.5 mg/l
Calcium	20 µg/l	Phenols	100 µg/l
Chloride	2 mg/l	Phosphorus	10 µg/l
Chlorine	0.1 mg/l	Radium 226	1 pCi/l
Total Residual Chlorine		Radium 228	1 pCi/l
DPD colorimetric	0.10 mg/l	Selenium	1 µg/l
Amperometric titration	0.05 mg/l	Silver	0.5 µg/l
Chromium	20 µg/l	Sodium	0.2 mg/l
Chromium, Hexavalent	20 µg/l	Sulfate	5 mg/l
Copper	5 µg/l	Sulfide	0.2 mg/l
Cyanide (Direct / Distilled)	10 µg/l	Total Dissolved Solids	10 mg/l
Cyanide, WAD+A47	5 µg/l	Total Suspended Solids	10 mg/l
Fluoride	0.1 mg/l	Thallium	1 µg/l
Iron	10 µg/l	Uranium	1 µg/l
Lead	1 µg/l	Zinc	10 µg/l
Magnesium	20 µg/l	Nonylphenol D7065	10 µg/l
Manganese	2 µg/l	Nonylphenol D7485	0.33 µg/l

b. The permittee shall establish and maintain records for all monitoring required by Part I.D.1(c) of this permit. Those records shall include the following:

- 1) The date, type, exact location, and time of sampling or measurements;
- 2) The individual(s) who performed the sampling or measurements;
- 3) The date(s) the analyses were performed;
- 4) The individual(s) who performed the analyses;
- 5) The analytical techniques or methods used;
- 6) The results of such analyses; and
- 7) Any other observations which may result in an impact on the quality or quantity of the discharge as indicated in 40 CFR 122.44 (i)(1)(iii).

The permittee shall retain for a minimum of three (3) years records of all monitoring information, including all original strip chart recordings for continuous monitoring instrumentation, all calibration and maintenance records, copies of all reports required by this permit and records of all data used to complete the application for this permit. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or when requested by the Division or EPA.

c. If the permittee monitors discharges addressed in Part I.D.1.c for E. Coli or selenium more frequently than required by the permit, using approved test procedures or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of data to the Division.

E. COMPLIANCE SCHEDULE

Except as provided below, compliance with the terms and conditions of this permit, including the Stormwater Management Programs, shall be required by the effective date of the permit. Where dates in the compliance schedule and in the text of the permit conflict, the dates in the compliance schedule are deemed to be correct. The compliance schedule detailed in Table 1, below, includes submittals of plans and implementation of permit conditions.

In the case of the required submittal of plans, the permittee shall submit the plans to the Water Quality Control Division by the specified date. When applicable, a schedule of dates to accomplish various tasks related to the plans, including implementation shall also be included. Upon approval of a plan(s) by the Division, implementation of all terms and conditions of the plan(s), including but not limited to the compliance schedule, shall be a requirement of this permit.

**TABLE 1
Compliance Schedule**

Permit Condition	Activity	Deliverable	Date Due
Part I.D.2.a	Monitoring Annual Report	Monitoring Annual Report	Annually on June 1st
Part I.F	Annual Report	Annual Report	Annually on April 1st
Part I.B.1	Document and submit program descriptions that reflect current Division-approved versions of the following programs required to be implemented by this permit: <ul style="list-style-type: none"> • Commercial/Residential Management Program Plan (Part I.B.1.a) • Illicit Discharges Management Program Plan (Part I.B.1.b) • Industrial Facilities Program Plan (Part I.B.1.c) • Construction Sites Program Plan (Part I.B.1.d) • Pollution Prevention/Good Housekeeping for Municipal Operations (Part I.B.1.e) 	Program Descriptions	April 1, 2012
Parts: I.B.1.a(1)(b), I.B.1.a(1)(c), I.B.1.a(2)(f), Part I.B.1.b(1), I.B.1.b(2)(d),	Document and Implement required program revision in accordance with the listed sections of the Permit	Notification in 2012 Annual Report	Completed by October 1, 2012 Notification of completion submitted by April 1, 2013

Parts: I.B.1.a(3), I.B.1.b(2)(b), I.B.1.d(1)(c), I.B.1.d(3)(c)	Document new and updated information in accordance with the listed sections of the Permit	Plan	April 1, 2013
Part I.B.1.a.3(c) - Assess Impacts of Flood Management Projects	Schedule and implement the planned water quality improvements to the pond at 19 th and Dale.	Notification in 2014 Annual Report	Completed May 31, 2014 Due April 1, 2015
Part I.B.1.b(5) - Public Educational Activities to Promote Proper Management and Disposal of Potential Pollutants	Submit updated plan	Plan	August 31, 2012
	Implement plan	--	November 30, 2012
Part I.B.1.e(1) - Pollution Prevention/Good Housekeeping for Municipal Operations	List of permittee owned or operated industrial facilities developed	Report in 2012 Annual Report	Completed December 31, 2012 Due April 1, 2013
Part I.B.1.e(2)(e) - Pollution Prevention/Good Housekeeping for Municipal Operations	Implement bulk storage requirements	Notification in 2014 Annual report	Completed December 31, 2014 Due April 1, 2015
Part I.B.1.e(3) - Pollution Prevention/Good Housekeeping for Municipal Operations	Develop written operation and maintenance procedures for applicable facilities and activities.	Report in 2012 Annual Report	Completed December 31, 2012 Due April 1, 2013
Part I.D- Selenium and E Coli Monitoring Plan	Develop and submit Selenium Monitoring Plan	Plan	August 31, 2012
	Implement Plan	-	August 31, 2013
Part I.D - Selenium and E Coli Monitoring Plan: Identification of Dry Weather Flows and Identification of Outfalls of Concern	Complete initial identification of outfalls with dry weather flows and initial identification of Outfalls of Concern	-	March 31, 2014
Part I.D - Selenium and E Coli Monitoring Plan: Outfall Monitoring	Begin Outfall Monitoring	-	April 1, 2014
Part I.D.1.c(6) - Selenium and E Coli Monitoring Plan: Outfall Monitoring	Annual analysis of Selenium and E Coli data	Report in 2016 Annual Monitoring Report	June, 1 2017

F. REPORTING REQUIREMENTS - Annual Report

The permittee shall prepare an annual system-wide report to be submitted by April 1 of each year, covering the previous January 1 through December 31. The exception to this is the information required in the Monitoring Annual Report (Part I.D.2), due June 1 of each year. The first reporting period under this reissued permit will therefore include reporting from the period of time for which permit coverage was under the previous version of the permit, beginning on January 1, 2011. The report shall include the following separate sections:

1. The permittee shall submit program descriptions of all current permit activities including those previously submitted to the Division and approved.
2. The implementation status of each the components of the Stormwater Management Programs that are established as permit conditions (status of compliance with any schedules established under this permit shall be included in this section) and shall include specific quantitative measures where possible. For the Illicit Discharge program section, the report shall include the average staffing levels per program/agency used for observation and inspection of the MS4 during the year.
3. Proposed changes to the Stormwater Management Programs that are established as permit conditions including an update on areas added to the MS4 due to annexation or other legal means. This shall include any proposed changes to the stormwater management programs based on the trend analysis described item 4, below.
4. Revisions, if necessary, to the assessments of controls and the fiscal analysis reported in the permit application in accordance with Regulation 61.4(3)(c)(ii)(E) and (F).
5. A summary of the data, including numeric monitoring data that is accumulated throughout the reporting year (in a format to be agreed upon by the Division and the Permittee), that is accumulated throughout the reporting year. In the report for year four, a trend analysis of the data collected to date for the Wet Weather Monitoring Program shall be included.
6. List of the facilities with runoff control plans as required under this permit at Part I.B.1.e, a summary of conformity with their plans, and a summary of any significant plan revisions;
7. Summary of educational activities including specific quantitative measures;
8. Annual expenditures for the past reporting year, and budget for the next reporting year;
9. A summary of the number and nature of sites/facilities addressed, enforcement actions, and inspections performed for the various program areas.
 - a. Commercial/Residential Management Program (Part I.B.1.a):
 - 1) Provide the total number of sites for which BMPs were required or specific BMPs implemented during the reporting period, in accordance with the permittee's Post-Construction Stormwater Program.
 - 2) Provide the total number of such sites/BMPs inspected in the MS4 to ensure compliance with long term operation and maintenance requirements.
 - 3) Provide the total number of enforcement actions performed, by enforcement type (e.g., monetary penalty, written notice of violation, etc.).
 - b. Illicit Discharges Management Program (Part I.B.1.b):
 - 1) Provide the total number of enforcement actions performed, by enforcement type (e.g., monetary

penalty, written notice of violation, etc.).

c. Construction Sites Program (Part I.B.1.d):

- 1) Provide the total number of construction sites covered by the permittee's inspection program during the year.
- 2) Provide the total number of inspections performed.
 - a) For all Annual Reports from **April 1, 2013** forward, provide the total number of inspections divided into one of the following two categories, as most appropriate:

Full Level Inspections assessing the adequacy of BMPs and overall site management, performed by an inspector adequately trained to determine compliance with the requirements of the permittee's CDPS Stormwater Management Program.

Reconnaissance/Indicator Inspections conducted to only assess sites for indicators of noncompliance. Reduced Level Inspections do not fully assess the adequacy of BMPs and overall site management and/or are not performed by an inspector adequately trained to determine compliance with the requirements of the permittee's CDPS Stormwater Management Program. (For Reduced Level Inspections, an estimate of the number of inspections performed is acceptable.)

- 3) A summary of Compliance Assurance activities performed, including:
 - a) Provide the total number of enforcement actions performed, by enforcement type (e.g., monetary penalty, stop work order, written notice of violation, etc.).

G. CERTIFICATION AND SIGNATURE OF REPORTS

1. Signatory Requirements

All reports required for submittal shall be signed and certified for accuracy by the permittee in accordance with the following criteria:

- a. Principal executive officer, or ranking elected official; or
- b. A duly authorized representative of that person. A person is a duly authorized representative only if:
 - 1) The authorizations made in writing by a person described above and submitted to the Division.
 - 2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).
- c. If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new notice satisfying the requirements of this section must be submitted to the Division prior to or together with any reports, information or applications to be signed by an authorized representative.

2. Certification

Any person signing documents under paragraph 1 of this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information submitted, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

H. REPORTING: WHERE TO SUBMIT

Annual Reports and all other documents required by the terms and conditions of this permit shall be signed in accordance with Part I.G. of this permit and submitted to the following address:

Colorado Department of Public Health and Environment
WQCD-P-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Attention: Permits Section

I. ADDITIONAL SUBMITTAL

A copy of the Annual Report required by Part I.F shall also be submitted upon request to:

U.S. EPA, Region 8
Stormwater Program Coordinator (8P-W-WW)
1595 Wynkoop Street
Denver, CO 80202-1129

J. RETENTION OF RECORDS

The permittee shall retain the latest approved version of the Stormwater Management Program developed in accordance with Part I of this permit until at least three years after coverage under this permit terminates. The permittee shall retain all records of all monitoring information, copies of all reports required by this permit, and records of all other data required by or used to demonstrate compliance with this permit, until at least three years after coverage under this permit terminates. This period may be explicitly modified by alternative provision of this permit or extended by request of the Division at any time.

K. DEFINITIONS

The definitions below are intended strictly for clarification purposes, and may not contain the full legal definition as per regulation. For the purposes of this permit:

1. **Best Management Practices (BMPs):** schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of State waters. BMPs also include treatment, operating procedures, and practices to control site runoff, spillage or leaks, waste disposal, or drainage from material storage. BMPs include structural and nonstructural controls.
2. **Construction activity:** Construction activity refers to ground surface disturbing activities, which include, but are not limited to, clearing, grading, excavation, demolition, installation of new or improved haul roads and access roads, staging areas, stockpiling of fill materials, and borrow areas. Construction does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility.
3. **Discharge:** the discharge of pollutants as defined in Section 25-8-103(3); also includes land application.
4. **Division:** the Water Quality Control Division of the Colorado Department of Public Health and Environment.
5. **Good Engineering, Hydrologic and Pollution Control Practices:** are methods, procedures, and practices that:
 - a. are based on basic scientific fact(s);
 - b. reflect best industry practices and standards;
 - c. are appropriate for the conditions and pollutant sources; and
 - d. provide appropriate solutions to meet the associated permit requirements, including practice based and numeric effluent limits.
6. **Illicit discharge:** any discharge to a municipal separate storm sewer that is not composed entirely of stormwater except the sources that are excluded from the definition of "illicit discharge" in accordance with Parts I.B.1.b(1)(b), (c), and (d).
7. **Larger common plan of development or sale:** is a site where multiple separate and distinct construction activities may be taking place at different times on different schedules.
8. **Municipal separate storm sewer** means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):
 - a. owned or operated by a State, city, town, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the CWA that discharges to state waters;
 - b. designed or used for collecting or conveying stormwater;
 - c. which is not a combined sewer; and
 - d. which is not part of a Publicly Owned Treatment Works (POTW).
9. **MS4** means municipal separate storm sewer system.
10. **Operator:** the individual who has day-to-day supervision and control of activities occurring at the site.

11. **Point Source:** any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. "Point Source" does not include irrigation return flow.
12. **Pollutant:** dredged spoil, dirt, slurry, solid waste, incinerator residue, sewage, sewage sludge, garbage, trash, chemical waste, biological nutrient, biological material, radioactive material, heat, wrecked or discarded equipment, rock, sand, or any industrial, municipal or agricultural waste.
13. **Pollution:** man-made or man-induced, or natural alteration of the physical, chemical, biological, and radiological integrity of water.
14. **Program** means any of the Stormwater Management Programs that are required by this permit (see part I.B. of the permit).
15. **State Waters:** any and all surface and subsurface waters which are contained in or flow in or through this State, but does not include waters in sewage systems, waters in treatment works of disposal systems, waters in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed. For the purposes of this permit, State Waters does not include subsurface waters.
16. **Stormwater** is precipitation-induced surface runoff.
17. **Structural Controls** include facilities and structures which detain or retain stormwater or provide for infiltration or evaporation of stormwater, for the purpose of or with the result of water quality enhancement.

PART II

A. NOTIFICATION REQUIREMENTS

1. Notification to Parties

All notification requirements under this section shall be directed as follows:

a. Oral Notifications, during normal business hours shall be to:

Permits Section - Construction, MS4, and Pretreatment Unit
Water Quality Control Division
Telephone: (303) 692-3500

b. Written notification shall be to:

Permits Section - Construction, MS4, and Pretreatment Unit
Water Quality Control Division
Colorado Department of Public Health and Environment
WQCD-P-B2
4300 Cherry Creek Drive South
Denver, CO 80246-1530

2. Special Notifications - Definitions

- a. Bypass: The intentional diversion of waste streams from any portion of a treatment facility.
- b. Severe Property Damage: Substantial physical damage to property at the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. It does not mean economic loss caused by delays in production.
- c. Upset: An exceptional incident in which there is unintentional and temporary noncompliance with permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

3. Noncompliance Notification

- a. If, for any reason, the permittee does not comply with or will be unable to comply with any permit limitations, standards or permit requirements specified in this permit, the permittee shall, at a minimum, provide the Water Quality Control Division with the following information:
 - 1) A description and cause of noncompliance;
 - 2) The period of noncompliance, including dates and/or the anticipated date when the permittee will return to compliance; and
 - 3) Steps being taken to reduce, eliminate, and prevent recurrence of the noncomplying activity.
- b. The permittee shall report the following instances of noncompliance orally within twenty four (24) hours from the time the permittee becomes aware of the noncompliance, and shall mail to the Division a written report within five (5) working days after becoming aware of the noncompliance.

- 1) Circumstances leading to any noncompliance which may endanger health or the environment regardless of the cause of the incident;
- c. The permittee shall report all other instances of noncompliance to the Division prior to or with the Annual Report required by Part I.F of the permit. The reports shall contain the information listed in sub paragraph a of this section.

4. Other Notification Requirements

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule in the permit shall be submitted no later than fourteen (14) days following each scheduled date, unless otherwise provided by the Division.

The permittee shall notify the Division, in writing, thirty (30) days in advance of a proposed transfer of permit as provided in Part II.B.3.

The permittee's notification of all anticipated noncompliance does not stay any permit condition.

5. Bypass Notification

A Bypass conducted in accordance with the permittee' CDPS Stormwater Management Program is not subject to the requirements of this subsection. A Bypass in accordance with the CDPS Stormwater Management Program is not prohibited by this permit.

If the permittee knows in advance of the need for a bypass, a notice shall be submitted, at least ten days before the date of the bypass, to the Division. The bypass shall be subject to Division approval and limitations imposed by the Division. Violations of requirements imposed by the Division will constitute a violation of this permit.

6. Upsets

a. Effect of an Upset

An upset constitutes an affirmative defense to an action brought for noncompliance with permit limitations and requirements if the requirements of paragraph b of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

b. Conditions Necessary for a Demonstration of Upset

A permittee who wishes to establish the affirmative defense of upset shall demonstrate through properly signed contemporaneous operating logs, or other relevant evidence that:

- 1) An upset occurred and that the permittee can identify the specific cause(s) of the upset;
- 2) The CDPS Stormwater Management Program was at the time being properly implemented;
- 3) The permittee submitted notice of the upset, if required by and in accordance with Part II.B.1(b) of this permit (24 hour notice); and
- 4) The permittee complied with any remedial measures required under 40 CFR Section 122.41(d) of the federal regulations or Section 61.8(3)(h) of the Colorado Discharge Permit System Regulations.

c. Burden of Proof

In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

7. Proper Operation and Maintenance

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. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

8. Minimization of Adverse Impact

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or environment.

9. Removed Substances

Solids or other pollutants removed in the course of maintenance on a stormwater facility treatment shall be disposed of in a manner such as to prevent any pollutant from such materials from entering State waters.

10. Submission of Incorrect or Incomplete Information

Where the permittee failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or report to the Division, the permittee shall promptly submit the relevant information which was not submitted or any additional information needed to correct any erroneous information previously submitted.

11. Bypass

- a. Bypasses are prohibited and the Division may take enforcement action against the permittee for bypass, unless:
 - 1) The bypass is unavoidable to prevent loss of life, personal injury, or severe property damage;
 - 2) There were no feasible alternatives to bypass such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - 3) Proper notices were submitted in compliance with Part II.A.4.
- b. "Severe property damage" as used in this Subsection means substantial physical damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- c. The permittee may allow a bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance or to assure optimal operation. These bypasses are not subject to the provisions of paragraph (a) above.
- d. The Division may approve an anticipated bypass, after considering adverse effects, if the Division determines that the bypass will meet the conditions specified in paragraph (a) above.

12. Reduction, Loss, or Failure of Treatment Facility

It shall not be a defense for a permittee in an enforcement action that it would be necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

B. RESPONSIBILITIES

1. Inspections and Right to Entry

The permittee shall allow the authorized representative of the Water Quality Control Division, upon the presentation of credentials:

- a. To enter upon the permittee's premises where a regulated facility or activity is located or in which any records are required to be kept under the terms and conditions of this permit;
- b. At reasonable times to have access to and copy any records required to be kept under the terms and conditions of this permit, and to inspect any monitoring equipment or monitoring method required in the permit; and
- c. To enter upon the permittee's premises in a reasonable manner and at a reasonable time to inspect and/or investigate any actual, suspected, or potential source of water pollution, or to ascertain compliance or non-compliance with the Colorado Water Quality Control Act or any other applicable state or federal statute or regulation or any order promulgated by the Division. The investigation may include, but is not limited to, the following: sampling of any discharge and/or process waters, the taking of photographs, interviewing of any person having knowledge related to the discharge permit, Stormwater Management Program, or alleged violation, and access to any and all facilities or areas within the permittee's premises that may have any effect on the discharge, permit, or alleged violation.

The Division shall split samples taken by the Division during any investigation with the permittee if requested to do so by the permittee.

2. Duty to Provide Information

The permittee shall furnish to the Division, within a reasonable time, any information which the Division may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Division, upon request, copies of records required to be kept by this permit.

3. Transfer of Ownership or Control

- a. Except as provided in paragraph b. of this section, a permit may be transferred by a permittee only if the permit has been modified or revoked and reissued as provided in Section 61.8(8) of the Colorado Discharge Permit System Regulations, to identify the new permittee and to incorporate such other requirements as may be necessary under the Federal Act.
- b. A permit may be automatically transferred to a new permittee if:
 - 1) The current permittee notifies the Division in writing 30 days in advance of the proposed transfer date; and
 - 2) The notice includes a written agreement between the existing and new permittee(s) containing a specific date for transfer of permit responsibility, coverage and liability between them; and
 - 3) The Division does not notify the existing permittee and the proposed new permittee of its intent to modify, or revoke and reissue the permit.

- 4) Fee requirements of the Colorado Discharge Permit System Regulations, Section 61.15, have been met.

4. Availability of Reports

Except for data determined to be confidential under Section 308 of the Federal Clean Water Act and the Colorado Discharge Permit System Regulations 5 CCR 1002-61, Section 61.5(4), all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Division and the Environmental Protection Agency.

The name and address of the permit applicant(s) and permittee(s), permit applications, permits and effluent data shall not be considered confidential. Knowingly making false statement on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the Federal Clean Water Act, and Section 25-8-610 C.R.S.

5. Modification, Suspension, Revocation, or Termination of Permits By the Division

The filing of a request by the permittee for a permit modification, termination, revocation and reissuance, inactivation or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

- a. A permit may be modified, suspended, or terminated in whole or in part during its term for reasons determined by the Division including, but not limited to, the following:
 - 1) Violation of any terms or conditions of the permit;
 - 2) Obtaining a permit by misrepresentation or failing to disclose any fact which is material to the granting or denial of a permit or to the establishment of terms or conditions of the permit; or
 - 3) Materially false or inaccurate statements or information in the permit application or the permit.
 - 4) A determination that the permitted activity endangers human health or the classified or existing uses of state waters and can only be regulated to acceptable levels by permit modifications or termination.
- b. This permit may be modified in whole or in part for the following causes, provided that such modification complies with the provisions of 5 CCR 1002-61 Sec. 61.10 regarding anti-backsliding:
 - 1) There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance, which justify the application of permit conditions that are different or absent in the existing permit.
 - 2) The Division has received new information which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of different permit conditions at the time of issuance.
 - 3) The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only as follows:
 - a) The permit condition requested to be modified was based on a promulgated effluent limitation guideline, EPA approved water quality standard, or an effluent limitation set forth in 5 CCR 1002-62, § 62 et seq.; and
 - b) EPA has revised, withdrawn, or modified that portion of the regulation or effluent limitation

guideline on which the permit condition was based, or has approved a Commission action with respect to the water quality standard or effluent limitation on which the permit condition was based; and

- c) The permittee requests modification after the notice of final action by which the EPA effluent limitation guideline, water quality standard, or effluent limitation is revised, withdrawn, or modified; or
 - d) For judicial decisions, a court of competent jurisdiction has remanded and stayed EPA promulgated regulations or effluent limitation guidelines, if the remand and stay concern that portion of the regulations or guidelines on which the permit condition was based and a request is filed by the permittee in accordance with this Regulation, within ninety (90) days of judicial remand.
- 4) The Division determines that good cause exists to modify a permit condition because of events over which the permittee has no control and for which there is no reasonable available remedy.
 - 5) The permittee has received a variance.
 - 6) When required to incorporate applicable toxic effluent limitation or standards adopted pursuant to Sec. 307(a) of the Federal act.
 - 7) When required by the reopener conditions in the permit.
 - 8) When the level of discharge of any pollutant which is not limited in the permit exceeds the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under Section 61.8(2) of the Colorado Discharge Permit System Regulations.
 - 9) To correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions, to the extent allowed in Section 61.10 of the Colorado State Discharge Permit System Regulations.
 - 10) For any other cause provided in Section 61.10 of the Colorado Discharge Permit System Regulations.
- c. At the request of a permittee, the Division may modify or terminate a permit and issue a new permit if the following conditions are met:
- 1) The Regional Administrator has been notified of the proposed modification or termination and does not object in writing within thirty (30) days of receipt of notification,
 - 2) The Division finds that the permittee has shown reasonable grounds consistent with the Federal and State statutes and regulations for such modifications or termination;
 - 3) Requirements of Section 61.15 of the Colorado Discharge Permit System Regulations have been met, and
 - 4) Requirements of public notice have been met.
- d. Permit modification (except for minor modifications), termination or revocation and reissuance actions shall be subject to the requirements of Sections 61.5(2), 61.5(3), 61.6, 61.7 and 61.15 of the Colorado Discharge Permit System Regulations. The Division shall act on a permit modification request, other than minor modification requests, within 180 days of receipt thereof. Except for minor modifications, the terms of the existing permit govern and are enforceable until the newly issued permit is formally modified or revoked and reissued following public notice.

- e. Upon consent by the permittee, the Division may make minor permit modifications without following the requirements of Sections 61.5(2), 61.5(3), 61.7, and 61.15 of the Colorado Discharge Permit System Regulations. Minor modifications to permits are limited to:
- 1) Correcting typographical errors; or
 - 2) Increasing the frequency of monitoring or reporting by the permittee; or
 - 3) Changing an interim date in a schedule of compliance, provided the new date of compliance is not more than 120 days after the date specific in the existing permit and does not interfere with attainment of the final compliance date requirement; or
 - 4) Allowing for a transfer in ownership or operational control of a facility where the Division determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage and liability between the current and new permittees has been submitted to the Division; or
 - 5) Changing the construction schedule for a discharger which is a new source, but no such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge; or
 - 6) Deleting a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits.
- f. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term.
- g. The filing of a request by the permittee for a permit modification, revocation and reissuance or termination does not stay any permit condition.
- h. All permit modifications and reissuances are subject to the antibacksliding provisions set forth in 61.10(e) through (g).

6. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 (Oil and Hazardous Substance Liability) of the Clean Water Act.

7. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority granted by Section 510 of the Clean Water Act.

8. Permit Violations

Failure to comply with any terms and/or conditions of this permit shall be a violation of this permit. The discharge of any pollutant identified in this permit more frequently than or at a level in excess of that authorized shall constitute a violation of the permit. Except as provided in Part I.D and Part II.A or B, nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance (40 CFR 122.41(a)(1)).

9. Property Rights

The issuance of this permit does not convey any property or water rights in either real or personal property, or stream flows, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

10. Severability

The provisions of this permit are severable. If any provisions of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances and the application of the remainder of this permit shall not be affected.

11. Renewal Application

If the permittee desires to continue to discharge, a permit renewal application shall be submitted at least one hundred eighty (180) days before this permit expires. If the permittee anticipates there will be no discharge after the expiration date of this permit, the Division should be promptly notified so that it can terminate the permit in accordance with Part II.B.5.

12. Confidentiality

Any information relating to any secret process, method of manufacture or production, or sales or marketing data which has been declared confidential by the permittee, and which may be acquired, ascertained, or discovered, whether in any sampling investigation, emergency investigation, or otherwise, shall not be publicly disclosed by any member, officer, or employee of the Commission or the Division, but shall be kept confidential. Any person seeking to invoke the protection of this Subsection (12) shall bear the burden of proving its applicability. This section shall never be interpreted as preventing full disclosure of effluent data.

13. Fees

The permittee is required to submit payment of an annual fee as set forth in the 1983 amendments to the Water Quality Control Act, Section 25-8-502 (l) (b), and State Discharge Permit Regulations 5 CCR 1002-61, Section 61.15 as amended. Failure to submit the required fee when due and payable is a violation of the permit and shall result in enforcement action pursuant to Section 25-8-601 et. seq., C.R.S. 1973 as amended.

14. Duration of Permit

The duration of a permit shall be for a fixed term and shall not exceed five (5) years. Filing of a timely and complete application shall cause the expired permit to continue in force to the effective date of the new permit. The permit's duration may be extended only through administrative extensions and not through interim modifications.

15. Effect of Permit Issuance

- a. The issuance of a permit does not convey any property rights or any exclusive privilege.
- b. The issuance of a permit does not authorize any injury to person or property or any invasion of personal rights, nor does it authorize the infringement of federal, state, or local laws or regulations.

- c. Except for any toxic effluent standard or prohibition imposed under Section 307 of the Federal act or any standard for sewage sludge use or disposal under Section 405(d) of the Federal act, compliance with a permit during its term constitutes compliance, for purposes of enforcement, with Sections 301, 302, 306, 318, 403, and 405(a) and (b) of the Federal act. However, a permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in Section 61.8(8) of the Colorado Discharge Permit System Regulations.

COLORADO DISCHARGE PERMIT SYSTEM (CDPS)
FACT SHEET FOR PERMIT NUMBER COS-000004
CITY OF COLORADO SPRINGS, MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)
EL PASO COUNTY

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I. TYPE OF PERMIT

This is a municipal stormwater discharge permit which authorizes the discharge of stormwater from the municipal separate storm sewer system (MS4) owned and operated by the City of Colorado Springs (CCS). The permit is intended to authorize discharge of stormwater even as jurisdictional boundaries change through the life of the permit.

II. PERMITTEE INFORMATION

A. Permit Type and Fee Category: Medium Municipal Separate Storm Sewer permit – Second renewal Category 23, Subcategory 1 - Municipalities of 250,000 or more in population. Current fee: \$10,580 (see CRS 25-8-502(P)).

B. Major Changes from Last Renewal:

The current permit expired on February 28, 2009 and has been administratively extended by the Water Quality Control Division (Division). Major changes from the last renewal include the following:

- Various changes were made to the requirements for the CDPS Stormwater Management Program, and are identified in Part IX.A of the Fact Sheet. Major changes include:
 - Additions and subtractions were made from the list of non-stormwater discharges are excluded from the definition of “illicit discharge” in Part I.B.1.b(1)(b) based on determinations of the potential for contributions of pollutants to State waters.
 - The “Operations and Maintenance Procedures” requirements include new requirements to address additional municipal operations not covered by requirements of the previous permit.
- A requirement was added to develop and implement a Selenium and E Coli Monitoring Plan for dry weather flows for those parts of the MS4 that directly discharge to the impaired segments of Fountain Creek.

III. RECEIVING STREAMS

The CCS contributes municipal stormwater runoff to state waters in the Arkansas River watershed. Named state waters include Monument Creek, Fountain Creek, Camp Creek, Cheyenne Creek, Shooks Run, etc. As defined in the Colorado Discharge Permit Regulations, "state waters means any and all surface and subsurface waters which are contained in or flow in or through this State..." (61.2).

TABLE 1 CCS Receiving Waters, Their Basins and Segments, Designated Uses, and Classifications			
RECEIVING WATER	BASIN & SEGMENT	DESIG.USE	CLASSIFICATION
Fountain Creek, Camp Creek, and tributaries	Fountain Creek, Segment 1a	Reviewable	Aq Life Cold 1, Recreation E, Water Supply, Agric.
Fountain Creek	Fountain Creek, Segment 2a	Reviewable	Aq Life Warm 2, Recreation E, Water Supply, Agric.
Tributaries to Fountain Creek (including tributaries to Monument Creek)	Fountain Creek, Segment 4	UP	Aq Life Cold 1, Recreation E, Water Supply, Agric.
Monument Creek	Fountain Creek, Segment 6	Reviewable	Aq Life Warm 2, Recreation E, Water Supply, Agric.
Note: UP = use protected			

There are stream segments to which the City of Colorado Springs discharges are on the Division's 303(d) list, meaning that at least one of their classified uses was impaired, based on one or more parameters.

A TMDL development may indicate that discharges from the CCS's MS4 have a reasonable potential to cause exceedances of the applicable Water Quality Standards (WQS), and provide a loading allocation that includes such discharges. If this is the case, the permit can be amended to include additional requirements for the discharges to the TMDL segments.

IV. DESCRIPTION OF MUNICIPAL STORMWATER DISCHARGE SYSTEM

See the previous permit rationale (fact sheet) for a description of CCS's outfalls, structural controls and open space.

V. LEGAL AUTHORITY TO CONTROL DISCHARGE OF POLLUTANTS

The CCS, as a permittee, is responsible for compliance with this permit and must have the authority to implement the conditions contained in the permit. The permit application regulations require that the applicant demonstrate that they have adequate legal authority to control the contributions of pollutants in stormwater discharges to its MS4 in several specific areas. The CCS has indicated in Parts 1 and 2 of their application, via legal opinions from the City Attorney's Office, that the CCS has adequate legal authority. See Part I.B.2 of the permit.

VI. TERMS AND CONDITIONS

The narrative requirements in the permit are for the permittee to reduce the discharge of pollutants from its MS4 to the maximum extent practicable, to protect water quality standards, and to satisfy the appropriate water quality

requirements of the Colorado Water Quality Control Act (25-8-101 et seq., C.R.S.) and the Colorado Discharge Permit Regulations (61.0) through the development and implementation of a CDPS Stormwater Management Program. Implementation of the CDPS Stormwater Management Program involves implementation of a suite of Best Management Practices (BMPs) to reduce the discharge of pollutants from the MS4. "Maximum extent practicable" (MEP) is the standard that establishes the level of pollutant reductions that operators of regulated MS4s must achieve through implementation of BMPs included in their CDPS Stormwater Management Program.

The Division has made a determination that discharges from the MS4 authorized by this permit have the reasonable potential to result in exceedance of a Water Quality Standard. The Division has also determined that the practice-based effluent limits in the permit (i.e., implementation of a CDPS Stormwater Management Program) are adequate to protect Water Quality Standards resulting from discharges authorized by this permit. If additional information becomes available that indicates that this permit is not protective of Water Quality Standards, modifications of the permit requirements to be protective of those standards shall occur in accordance with Part I.B.4 or II.C of the permit. Requirements to protect water quality standards may exceed those set by the MEP standard discussed above. Likewise, implementation of the CDPS Stormwater Management Program to the MEP may result in reduction of pollutants in excess of that necessary to protect water quality standards. Implementation of a CDPS Stormwater Management Program in accordance with Part I.B of the permit will constitute compliance with MEP.

The Division has intentionally not provided prescriptive requirements for meeting MEP for many of the practices required in the permit. Future permit modifications may be necessary to provide more prescriptive requirements if necessary to ensure the regulatory standard of MEP is met.

Based on EPA's discussion in the preamble of the federal Phase II regulation, the Division envisions application of the MEP standard as an iterative process. The standard of MEP should be applied to permit requirements that adapt to current conditions and BMP effectiveness, and must protect water quality and satisfy the appropriate water quality requirements of the Colorado Water Quality Control Act (25-8-101 et seq., C.R.S.) and the Colorado Discharge Permit Regulations (61.0).

Successive iterations of the mix of BMPs will be driven by this objective. If, after implementing the Stormwater Management Program, there is still water quality impairment associated with discharges from the MS4, the permittee will need to expand or better tailor its BMPs within the scope of the program areas, as per the standard of MEP. This process may involve more than one permit term.

A. CDPS Stormwater Management Program Requirements

The first permit required the CCS to implement system-wide management programs to control stormwater pollution for their municipality. Some elements of these programs were already in place, while some had to be developed. The CCS submitted the specified management programs as required in the compliance schedule in previous permits. The programs are, in general, incorporated into the permit as written and supplemented.

Subsequent permit terms are used in part to review existing programs, and determine whether or not the programs should be enhanced, changed or expanded. Based on proposals by the permittee, internal review, and the Phase II regulations (see discussion below), the Division has included additional requirements in the programs. See the previous rationale, and Part I.B.1 of the permit, for a description of the basic programs. Changes and additions to the programs for this permit term are described below.

The CCS is in Phase I of the Federal and State stormwater regulations, which address municipalities with populations over 100,000. Since the CCS's original permit was issued, Phase II has been promulgated, which requires many smaller MS4 operators to obtain permit coverage. The Phase II regulation includes minimum requirements for a stormwater discharge control program determined by the Division and EPA to be necessary to meet the regulatory standard of maximum extent practicable (MEP) for small MS4s. It is the State and EPA's intention that the various elements of the stormwater management programs for the Phase I

(i.e. medium and large MS4s) municipalities be at least equal to those required for the Phase II municipalities (although the Phase I municipalities also have requirements for industrial sites and wet weather monitoring). By including requirements in this permit that are consistent with the minimum program requirements from the Phase II regulations, the Division is including the most recent regulatory interpretation of the MEP standard.

The statewide Phase II MS4 general permit was renewed in early 2008 and the permits for the other Phase I MS4s were renewed in early 2009. These permits included several revisions. In keeping with the regulatory intent, and to provide consistency in the Division's administration of the MS4 program, similar changes and additions will be required in the CCS's programs as well. The compliance schedules for these items will generally be based on the schedules included in the statewide MS4 general permit. The compliance schedules can be found at Part I.E of the permit.

1. Commercial/Residential Management Program

A management program is required addressing commercial and residential areas, to reduce the discharge of pollutants to the MS4. Part I.B.1.a was previously titled: Drainage and Street Maintenance and Pesticides/Herbicides/Fertilizers Program. The New Development and Redevelopment program was previously included in the Planning, Design, Flood Management Projects, Structural Controls, and Construction Activities Program. Part I.B.1.a of the permit contains the requirements for each program area. The section titled Public Street Maintenance, which contained specific details regarding street maintenance such as the frequency of street sweeping, was removed.

- a. **Maintenance of Structural Controls.** This section includes new requirements for periodically removing trash and debris from drainageways and from storm sewer inlets. A compliance schedule is included in the permit.
- b. **New Development and Redevelopment.** This section has been modified to be similar to the language that is contained in other Phase I permits and removed references to specific manuals and reference documents used by the Permittee. Part I.B.1.a(2) of the permit contains more detail about the program. Part I.B.1.a(2)(a) clarifies that minimum technical requirements for structural BMPs shall be in accordance with good engineering, hydrologic and pollution control practices and Part I.B.1.a(2)(d) clarifies that BMPs can be maintained or redesigned as long as the design adheres to the Permittee's minimum technical requirements.
- c. **Assess Impacts of Flood Management Projects.** This section was previously titled Flood Management Projects and Structural Controls. This section includes a new requirement for designing stable channel improvements. After evaluation in the previous permit term, the CCS had determined that one structural flood control device should be retrofitted to provide additional pollutant removal from stormwater. The pond at 19th and Dale was proposed to have the outlet structure modified to provide water quality benefits. This modification has not been completed. The permit requires CCS to complete this improvement, which was previously determined to be feasible. A compliance schedule is included in the permit.

The Annual Report requirements for this program area were clarified.

2. Illicit Discharges Management Program

This permit requires an effective detection and removal program for illicit or improper discharges. Part I.B.1.b of the permit contains more detail about the program. This section was previously titled Identification and Monitoring of Industries and Landfills/Illicit Discharges Program.

- a. **Prevention of Illicit Discharges and Improper Disposal.** This section was previously titled Prevent Illicit Discharges. The requirements of this section were reworded, but except where

specifically discussed in items (1) through (3), below, no new requirements were added to those in CCS's previous permit. A deadline is included for any changes that need to be made by the permittee to fully comply with this section.

- 1) Part I.B.1.b(1)(b) of the permit continues to include a list of discharges that the permittee is not required to prohibit from entering the MS4. Although the permit does not require the permittee to prohibit these discharges, the permit does not authorize these discharges.

Discharge water from individual residential street washing was removed from this list. The Division has determined that this source can be reasonably expected to be a significant contributor of pollutants to State waters.

Discharge from potable water sources was removed from this list. The permittee was authorized to include conditional discharges of potable water in accordance with the Division's Low Risk Discharge policy in the list of discharges allowed by Part I.B.1.b(1)(c). The previous allowance for potable water under I.B.1.b(1)(b) was unconditional and could have been interpreted outside of the Division's intent to authorize sources that could be a significant source of pollutants to State waters, such as industrial process water.

Discharge water, incidental to street sweeping (including associated sidewalks and medians) that is not associated with construction, has been added to the list of discharges that the permittee is not required to prohibit from entering the MS4. This addition is consistent with other MS4 permits in Colorado, and the Division has determined that this source is not reasonably expected to be a significant contributor of pollutants to State waters.

- 2) Part I.B.1.b(1)(c) of the permit was added to authorize the permittee to exclude additional specific incidental non-stormwater discharges from being considered illicit discharges that must be prohibited from entering the MS4. Although the permit does not require the permittee to prohibit these discharges, the permit does not authorize these discharges.
- 3) Part I.B.1.b(1)(d) of the permit was added to clarify that discharges specifically authorized by a separate CDPS permit and discharges resulting from emergency fire fighting activities do not need to be prohibited.

Note that although excluded from the requirements of the Illicit Discharges Management Program, discharges authorized by a separate CDPS permit and their associated activities may still need to be addressed under other Stormwater Management Program requirements (e.g., requirements for the Construction Sites program to address non-stormwater discharges).

- b. **Illicit Discharge Detection and Elimination.** The sections titled On-Going Field Screening and Investigate MS4 Illicit Discharges were merged, and the language reworded. Except where specifically discussed in items (1), (2), and (3) below, no new requirements were added to those in the CCS's previous permit.

- 1) A requirement was added in Part I.B.1.b(2)(a) of the permit, for the permittee's storm sewer system inventory to include identification of state waters that receive discharges from the MS4.
- 2) A requirement was added in Part I.B.1.b(2)(b) of the permit that the permittee's procedures for detection and elimination be documented.
- 3) A requirement was added to Part I.B.1.b(2)(d) of the permit that the permittee must maintain records of illicit discharges and response.

- c. **Procedures to Prevent, Contain and Respond to Spills.** This section was previously titled Spill

Prevention, Containment and Response. No program changes required. A clarification was added to this section regarding the requirement to address spills that have already discharged into the MS4.

- d. **Educational Activities to Promote Public Reporting of Illicit Discharges and Improper Disposal.** This section was previously titled Educational Activities/Recycling. No program changes required.
- e. **Public Educational Activities to Promote Proper Management and Disposal of Potential Pollutants.** The requirement for educational materials to specifically target regarding pesticide, herbicides and fertilizers is a new requirement to the permittee.
- f. **Control of Sanitary Sewer Seepage into the Municipal Storm Sewer System.** This section was previously titled Limiting Infiltration of Seepage from Sanitary System. No program changes required. The intent of this program is to for the permittee to establish measures to detect illicit discharges from sanitary sewer seepage into the MS4 and take appropriate actions to mitigate such a discharge, if found. It is not the intent of the Water Quality Control Division to regulate the operation, maintenance, inspection, or rehabilitation of sanitary sewer infrastructure that is not resulting in illicit discharges to the MS4 by means of this permit.

3. Industrial Facilities

The previous permit required the development and implementation of an Industrial Facilities Program that emphasized education of and outreach to industries, versus enforcement and monitoring.

Part I.B.1.c of the permit contains more detail about the program. The permittee is also responsible for taking action as needed for industrial site runoff that may be having a negative impact on the MS4.

4. Construction Sites Program

The requirements of this section were reworded and similar language was previously included in the Planning, Design, Flood Management Projects, Structural Controls, and Construction Activities Program. Specific details such as referencing a specific manual or ordinance title were removed. The permit requires a Construction Sites Program to reduce the discharge of pollutants from construction sites, including updating of codes and regulations, Best Management Practices guidance, site inspection and enforcement procedures, and training and education of construction site operators. Part I.B.1.d of the permit contains more detail about each program area.

- a. **Procedures for Site Planning.** Part I.B.1.d(1)(a) of the permit was revised to clarify that nonstormwater discharges associated with construction activity (such as wash water or construction dewatering) must be addressed when they have the potential to discharge pollutants from a construction site. This requirement applies even if the discharge is authorized by a separate CDPS discharge permit. New requirements associated with site planning and approval procedures are included in the compliance schedule.
- b. **Structural and Non-Structural Best Management Practices.** No program changes required, beyond those needed to fully implement the changes under Procedures for Site Planning. A clarification was added that practices must be required to be in accordance with good engineering, hydrologic and pollution control practices.
- c. **Procedures for Site Inspection and Enforcement.** Part I.B.1.d(3)(c) of the permit was amended to clarify that written procedures must include specific processes and sanctions to minimize the occurrence of, and obtain compliance from, chronic and recalcitrant violators of

control measures. The procedures are included in the compliance schedule.

- d. **Training and Education for Construction Site Operators.** The requirements of this section were reworded, but no new requirements were added to those in the CCS's previous permit.

5. Pollution Prevention/Good Housekeeping for Municipal Operations

The Pollution Prevention/Good Housekeeping for Municipal Operations requirements are broken into two main subsections: "Municipal Facility Runoff Control Plans" and "Operations and Maintenance Procedures."

The "Municipal Facility Runoff Control Plans" (MFRCPs) section has been reworded, and a new requirement has been added for bulk storage exposed to stormwater. Bulk storage pertains to the primary source storage (i.e. containment to be drawn from or added to) of material. Bulk fuel storage or "silos" of magnesium chloride are bulk storage examples. Electrical, operating, or manufacturing equipment, motive power containers, a tank of magnesium chloride on an application truck, and ancillary product piping, are not considered bulk storage structures.

The containment in direct contact with the bulk material is the primary containment. Secondary containment is the back-up containment to the primary containment. The requirement is for secondary containment or equivalent that is adequate protection so as to contain all spills and prevent spilled material from entering State waters. Such secondary containment must be designed in accordance with good engineering practices or industry standards and must include excess capacity for precipitation as necessary to contain all spills.

Examples of secondary containment or equivalent controls include impervious bermed areas, double walled tanks, storage lockers and buildings with built in containment, discharges to a sump, and structural or non-structural BMPs, etc. A compliance schedule was added for bulk storage. Prior to the due date in the compliance schedule, the permittee remains responsible for complying with other applicable permit requirements for preventing or reducing pollutants in runoff from bulk storage.

Some additional flexibility has been allowed with the MFRCPs by removing the distinction between major and minor facilities, and the requirements for some operations have been removed and added to the "Operations and Maintenance Procedures" section. The permittee may retain its existing major and minor categorization and does not have to regroup or recategorize its municipal facilities and operations to meet the requirements of Part I.B.1.e(2).

The "Operations and Maintenance Procedures" section contains some new requirements, as well as requirements that were in the previous permit's "Public Streets Maintenance" and "Pesticide, Herbicide, and Fertilizer Application" sections. Requirements from the previous permit have been reworded and, in some cases, are less prescriptive concerning the specific program elements used to control sources. This measure's emphasis on proper O&M and employee training, as opposed to requiring the permittee to undertake major new activities, is meant to ensure that municipal activities are performed efficiently to minimize contamination of storm water discharges.

The requirements in this section to control pollutant sources associated with the permittee's facilities and operations differ significantly from those in the "Municipal Facility Runoff Control Plans" section. In general, operations and facilities covered under the "Operations and Maintenance Procedures" section do not require plans that specifically address each applicable facility/operation. Instead, the permittee must document the processes implemented for pollution prevention and good housekeeping. The documented processes can be specific to certain facilities/operations, or be more general in addressing activities associated with multiple facilities/operations. Examples include inserting water quality practices into existing operating procedures, developing training plans, or having specific environmental

management procedures in place. The permittee is encouraged to integrate the pollution prevention and good housekeeping practices into existing processes when possible, to facilitate adoption of the practices as "business as usual".

All of the new requirements that were added to those in CCS's previous permit are addressed in items (a) and (b), below.

In addition to the new requirements listed below, the language was also clarified in several areas to emphasize the importance of employee training. This is not a new requirement, but clarifies requirements that were also in the previous permit.

- a. A requirement was added to develop and maintain a list of industrial facilities the permittee owns or operates, and that are subject to separate coverage under the State's general stormwater permits for discharges of stormwater associated with industrial activity. Because alternative CDPS permitting requirements are in place for stormwater discharges authorized by these separate permits, the requirements of Parts I.B.1.e(2) and (3) of this permit do not apply to those discharges.

A deadline is included for any changes that need to be made by the permittee to fully comply with this permit section, I.B.1.e(1).

- b. Requirements were added to develop, document and implement procedures to prevent or reduce pollutants in runoff from municipal operations and facilities. Some of these operations and facilities were previously addressed by requirements of the previous permit and some potentially impose new requirements, as described below. Where an MFRCP already addresses an operation/facility, the permittee may continue to use that plan to meet the new permit requirements or develop revised procedures. Requirements for several new facilities and operations have been added to address the potential for water quality impacts to state waters.
 - **Streets, Roads, Highways, Municipal Parking Lots:**
These sources were addressed under Part I.B.1a(3) (Public Street Maintenance) of the previous permit. Procedures developed and implemented in compliance with that section of the previous permit meet the requirements of this new permit section for these facilities.
 - **Maintenance and Storage Yards, Maintenance Shops with Outdoor Storage Areas:**
The requirement to develop and implement procedures for these facilities is new in this permit, unless covered under an MFRCP, as described above.
 - **Snow Dumps/Snow Disposal Areas:**
These sources were addressed under Part I.B.1.e (Municipal Facility Runoff Control Program) of the previous permit. Procedures developed and implemented in compliance with that section of the previous permit would meet the requirements of this new permit section for these facilities.
 - **Park and Open Space Maintenance:**
The requirement to develop and implement procedures for these operations is new in this permit, unless covered under an MFRCP, as described above.
 - **Building Maintenance:**
The requirement to develop and implement procedures for these operations is new in this permit, unless covered under an MFRCP, as described above.
 - **New Construction of Municipal Facilities:**
The requirement to develop and implement procedures for these operations is new in this permit, unless covered under an MFRCP, as described above.
 - **Application of Pesticides, Herbicides, and Fertilizers:**
These sources were addressed under Part I.B.1.a.5 (Pesticide, Herbicide, and Fertilizer Application) of the previous permit. Procedures developed and implemented in compliance with that section of the previous permit meet the requirements of this new permit section for these operations
 - **Large Outdoor Festivals and Events:**

The requirement to develop and implement procedures for these operations is new in this permit, unless covered under an MFRCP, as described above. This includes events/festivals conducted by the permittee or at permittee facilities, such as parks or streets.

A deadline is included for any changes that need to be made by the permittee to fully comply with this permit section, I.B.1.e(3).

B. Program Review and Modification

Provisions are included in the permit for program review and modification, as well as for review and approval of plans and reports. See Part I.C of the permit.

VII. MONITORING AND REPORTING

The receiving stream to which the CCS MS4 discharges is currently listed on the State's 303(d) list for development of TMDLs for selenium and E. coli. Specifically, Fountain Creek, Segment 1a (COARFO01a) has selenium and E. coli impairment; Fountain Creek, Segment 2a (COARFO02a) has E. coli impairment; Fountain Creek Segment 4 (COARFO04) has E. coli impairment (note this only applies to some sampled tributaries); and Monument Creek, Segment 6 (COARFO06) has selenium (below Mesa Road only) and E. coli impairment (seasonal – only May to October). However, the TMDLs have not yet been finalized. Consistent with Division practice, this permit establishes monitoring and reporting requirements for these pollutants until such time as the TMDLs is complete and waste load allocations have been determined. The permit may be reopened to include limitations based upon a finalized TMDL.

Wet weather monitoring was developed and implemented in previous permit terms to characterize the quality of stormwater leaving the CCS's MS4. Annual reporting will track the progress of individual components of the Stormwater Management Programs. The current wet-weather monitoring program will continue.

It is the Division's intent to use information gathered during the permit term to evaluate trends and identify the scope and scale of Selenium and E. coli in stormwater discharges covered by this permit. The information will also be used to prioritize areas of the program and to assess the effectiveness of program components. Over the long term (several permit terms), monitoring and reporting data may indicate trends in receiving water quality impacts from stormwater and assist the CCS in developing a plan to reduce pollutant discharges to Waters of the State.

A. Monitoring Requirements

The federal regulations that direct the national discharge permitting program, require monitoring in permits to assure compliance with permit limits [40 CFR 122.44 (i)]. While the regulations specifically list factors that relate to numerical effluent limits, the regulations allow for other measurements to be used as appropriate [40 CFR 122.44 (i) (1) (iii)]. The Division has added dry weather flow monitoring to the wet-weather monitoring program as a permit requirement in order to gauge the quality and impacts of discharges leaving the CCS MS4.

The wet weather monitoring requirements are in Part I.D of the permit.

1. Monitoring Plan

The CCS developed and implemented a Monitoring Plan to comply with the wet-weather monitoring requirements and submitted it to the Division on May 31, 2003.

The current plan pertains to wet-weather monitoring and must be updated to include a Selenium and E Coli Monitoring Plan for dry weather flows for those parts of the MS4 that directly discharge to the impaired segments of Fountain Creek. The permittee shall develop, document and implement a

monitoring plan targeted at identifying the source and scope of Selenium and Escherichia coli ("E. coli") discharging from the MS4.

B. Annual Reporting Requirement

The CCS will prepare an annual system-wide report and an annual monitoring program report. The objective of the reports is to summarize the progress the CCS has made in implementing the conditions of the permit. Both annual reports shall cover January 1 through December 31 of each year. The Annual Report covering items other than the wet-weather monitoring will be due to the Division on or before April 1 of the following year. The Annual Monitoring Program Report covering January 1 through December 31 of each year will be due to the Division on or before June 1 of the following year, to allow for additional time in compiling the necessary data.

C. Compliance Schedule

Many of the permit requirements are not effective immediately. A compliance schedule is included in Part I.E of the permit, which consolidates the information regarding the compliance dates for requirements that are discussed elsewhere in the permit.

D. Reporting Requirements – Annual Report

There is a new requirement to provide the number of Full Level and Reconnaissance construction site inspections. This requirement applies to annual reports starting in 2013.

VIII. DEFINITIONS

Included in the definition of an MS4, are areas owned or operated by a municipality that are contiguous to water ways and that are designed or used to convey stormwater into the water way. These areas are often maintained by municipalities through direct ownership, easement, or right-of-way for the purpose of managing flood plains, stream banks, and channels for conveyance of stormwater flows. For example, a discharge from a privately-owned stormwater collection system into and through a municipality's easement along a stream or other water way would be considered a discharge into the municipality's MS4.

IX. RESPONSE AND CHANGES AFTER PUBLIC NOTICE

The public notice period was held from April 22, 2011 to June 22, 2011. Comments were received from the City of Colorado Springs, Colorado Springs Utilities, the City of Aurora, and the Colorado Stormwater Council. Comments and changes to the permit are addressed below, except for minor changes for grammar and readability and comments that were made for clarification. Changes to the permit and rationale based on comments and additional internal review are discussed in subsection A, below. Response to comments for which changes were not made is addressed in subsection B, below.

A. Permit Changes After Public Notice

1. The permittee provided comments identifying several new requirements in the permit for which a reasonable opportunity was requested to attain compliance with the requirements. Compliance schedules were added for the following requirements, and are documented in Part E of the permit:
 - Part I.B.1.a(1) – Requirement that trash and debris be periodically removed from municipally-owned, open-channel major drainageways and municipally-owned storm sewer inlets. Upon further review, it is the Division's intent that the Permittee implement a program that addresses removal of trash and debris from all open channels for which the Permittee has operational control over,

- regardless of “major” drainageway classification. The term “major” was removed from this section.
- Part I.B.1.a(2)(f) – Requirement to track the location of permanent BMPs. This requirement was revised to allow for redesign of BMPs, and a new requirement was added to ensure modifications were documented prior to occurring.
 - Part I.B.1.a(3)(a) – Requirement for designing stable proposed channel improvements.
 - Part I.B.1.b(1) – Requirement to review the City Code for the requirements in this section and make changes as needed.
 - Part I.B.1.b(2)(b) – Requirement for submitting and updated Illicit Discharges Management Plan
 - Part I.B.1.d(1)(c) – Requirement to document and implement construction site project review and approval procedures.
 - Part I.B.1.d(3) – Requirement to submit procedures for site inspection, staff training and enforcement.
 - Part I.B.1.e(2)(e) – Requirement to implement bulk storage requirements.
 - Part I.D.1.c(6) – Requirement to provide annual analysis of selenium and E. coli data.
2. Part I.B.1. The permittee and the City of Aurora provided comment about the requirement to submit program descriptions of all current permit activities including those previously submitted to the Division and approved. Division believes that submitting updated program summaries is a reasonable requirement to be completed every 5 years to help ensure that the Division’s records are up to date and that programs have been maintained and modified as required by the permit. Upon further Division review, the following statement was added to clarify that existing programs with changes in naming convention or organization in the permit are still considered existing programs and new tasks, as acknowledged separately. “The programs as previously submitted by the permittee and approved updates are hereby incorporated by reference. The programs in this permit generally existed in prior permit terms however program names and structure may have changed. New program tasks are given a compliance schedule.”
3. Part I.B.1.a. Upon further Division review, language was added to clarify that the permittee must implement the previous Division-approved program, and new tasks.
4. Part I.B.1.a(2). The permittee requested guidance regarding redevelopment. The Division did not add a definition for “new development” or “redevelopment.” These terms are only used to denote program applicability and not in determining the program scope. The language was changed in Part I.B.1.a(2) to clarify that the program applies to all projects for which construction activities, as defined in Part I.K disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the MS4. Disturbance is the trigger regardless of the change in impervious area.
5. Part I.B.1.a(2)(a) and Part I.B.1.a(2)(c). The permittee provided a comment regarding how the requirements for BMPs to be “in accordance with good engineering, hydrologic and pollution control practices” apply differently to technical requirements and to implementation. The permittee’s program must result in BMPs being implemented for new development and redevelopment projects that are in accordance with good engineering, hydrologic and pollution control practices. The Division has revised the permit to clarify that this outcome can be reached by the permittee having minimum technical requirements that require BMPs to be implemented that are in good engineering, hydrologic and pollution control practices, and then implementing a program to ensure the BMPs implemented are in accordance with those technical requirements. These minimum technical requirements, and the permittee’s process, must require proper selection and implementation of BMPs appropriate for the conditions and pollutant sources present for the new development and redevelopment projects. The Division has added the following statement to Part I.B.1.a(2)(a): “Minimum technical requirements for required structural BMPs shall be documented and be based on those specified in the Drainage Criteria Manual Volume II or equivalent and be in accordance with good engineering, hydrologic and pollution control practices.” The reference to “good engineering, hydrologic and pollution control practices” was removed from Part I.B.1.a(2)(c). However, the permittee remains responsible for reviewing design, installation, and long-

term operation to require that BMPs are meeting the permittees requirement, including the minimal technical requirements. In addition, the permittee provided comments that the word "general" should be added in Part I.B.1.a(2)(a) prior to the "good engineering ..." standard. This addition was not made. This edit could be interpreted as not requiring that the details of "good engineering, hydrologic and pollution control practices" be addressed in the permittee's technical requirements. Design details must be addressed to ensure that BMPs function as intended for removal of pollutants to the Maximum Extent Practicable.

6. Part I.B.1.a(2)(d). The permittee submitted the following comment: "The City does not maintain private BMPs and the requirement that the City 'enforce the requirements for other parties to maintain BMPs when necessary' implies that the City is maintaining them." This language was reworded to remove any implication that maintenance by a private party was a secondary response. In addition, upon further Division review language was changed to clarify that BMPs can be maintained or redesigned as long as the design adheres to the Permittee's minimum technical requirements.
7. Part I.B.1.a(3)(a). The permittee requested that the following clarification language be added: "within the limits and scope of the project." The Division added this phrase.
8. Part I.B.1.a(3)(c). The permittee submitted the following comment: "The task to identify needed retrofits was completed in the prior permit term and the requirement should be to implement the approved/planned retrofit. As written, the Division is adding new requirements that may not be feasible and have not been recently evaluated. In addition, it was our understanding from prior discussions with the Division that the City would establish a schedule in the third permit term. Given project scheduling and budgeting issues, the City is requesting additional time for these improvements." Upon further Division review, the language has been added to clarify that the requirements apply to implementing "planned and Division-approved" water quality improvements.
9. Part I.B.1.b(1). The permittee submitted the following comment: "It may not always be possible to remove the discharge but the source can be stopped and mitigation can occur per the IDDE." The Colorado Stormwater Council provided a comment that the word "eliminate" should be used instead of "remove." The Division has changed the permit to require the permittee to "eliminate the source." Additional language was also added to clarify that eliminating a source may require action to address a source that is resulting in an ongoing discharge, such as cleaning up a spill, fixing a leak, or removing a cross connection. Upon further Division review, language was added to clarify the requirement to remove the source of the illicit discharge or to confirm that the discharge no longer meets the definition of illicit discharge. The Colorado Stormwater Council provided an additional comment that MS4s do not have the authority to require an entity to obtain a CDPS permit. This language was reworded to better clarify the intent that permitted discharges do not need to be "removed."
10. Part I.B.1.b(1)(b). The Colorado Stormwater Council commented that the list of allowable non-storm water discharges is inconsistent with the MS4 Phase II Permit and the Division's Low Risk Discharge Guidance because residential swimming pool and hot tub discharges are specifically allowed, however commercial swimming pool and hot tub discharges addressed in the Low Risk Discharges Guidance is not referenced in the permit. To address this, the Permit has been revised to state in Part I.B.1.b(1)(c) that discharges in accordance with the Division's Low Risk Discharges Policy may be excluded from the definition of "illicit discharge" by the permittee.
11. Part I.B.1.b(2). The permittee submitted a comment that it may not always be possible to eliminate/remove the illicit discharge but the source can be stopped and mitigation can occur per the IDDE. The Division added language to clarify the requirement, which reads, "The permittee shall continue to implement a program to detect and eliminate the source of illicit discharges..." Additionally, the permittee requested that the specific references to illegal dumping, sanitary sewer overflows, and illicit connections be removed from the permit. It is the Division's determination that providing these specific examples provides a clear understanding of the scope of the requirements.

12. Part I.B.1.b(2)(a). The permittee provided comment that identifying major and minor outfalls was not necessary. The Division removed this requirement and clarified the requirements for illicit discharge investigation.
13. Part I.B.1.b(2)(b). The permittee provided comment that specific procedures for tracing were not required to be part of the current plan and has not been documented. This element has been added into the compliance schedule.
14. Part I.B.1.b(2)(d). The permittee provided comment that documenting and maintaining responses to illicit discharges is a new component to this task and should be noted in the fact sheet. The Division added compliance schedule language in the permit and clarification language in the Fact Sheet for this requirement.
15. Part I.B.1.e(2)(c). The permittee provided comment that there is no differentiation between major and minor facilities. The Division removed the reference to major facilities.
16. Part I.B.1.e(2)(e). The permittee provided comment regarding bulk storage and secondary containment; and requested that threshold quantities be defined by the permittee. City of Aurora provided comment that bulk storage needs to be clarified and stated that the permittee should be allowed to define threshold quantities for bulk storage; and that this is a new requirement and requires adequate time for the permittee to implement. The Division provided additional clarification in the Fact Sheet and compliance schedule language in the permit. The permit has not been changed to allow the permittee to include or define threshold quantities of bulk storage that do not require secondary containment. All quantities of storage have a potential to impact water quality, and implementing controls for smaller quantities should be relatively simple. In addition, upon further Division review, language was added that exempts mobile refuelers from secondary containment requirements when those mobile refuelers are also exempt from the same requirements through Federal SPCC rules. All other mobile refuelers would still be subject to the requirement on the permit. The end result is, if a mobile refueler is in compliance with SPCC rules, it would be in compliance with the Permit requirements of I.B.1.e(2)(e). Mobile refuelers remain subject to the remaining applicable requirement in I.B.1.e for Pollution Prevention/Good Housekeeping for Municipal Operations.
17. Part I.D. The permittee provided comment to clarify that the permittee will continue to implement its wet weather monitoring program and will develop and implement a dry weather screening program. The Division made this clarification change. The City of Aurora provided comment that the permittee should be allowed flexibility in developing an effective program for identifying areas of concern regarding selenium and E. coli. The Division believes that the current language provides an appropriate degree of flexibility while ensuring that the necessary information is collected.
18. Part I.D.1.b. The permittee commented seeking clarification if the Contents of the Monitoring Plan requirements applied to both the wet weather program and the dry weather screening. The Contents of the Monitoring Plan applies to the entire monitoring program, which includes the current wet weather monitoring program and the new dry weather screening program. Additionally, the permittee commented that some content requirements are not necessary. The Division agrees and deleted some of the requirements.
19. Part I.D.1.c. The permittee provided comments regarding the applicability of selenium and E. coli monitoring for specific segments of Fountain Creek. The Division provided language to clarify the applicability of the MS4 Dry Weather Outfall Selenium and E. coli Monitoring Plan. Additionally, the Division noted that although segment COARFO04 was included in the fact sheet, it was mistakenly left out of the permit. This has been corrected.
20. Part I.D.1.c(1)(a). The permittee requested removing the reference to major and minor outfalls as this is

- not an identification system that the permittee uses. The Division has deleted the corresponding definitions and has replaced references to "major outfalls" with a working definition of outfalls greater than a 36" or equivalent. The term "minor outfalls" has been replaced with a reference to outfalls with smaller than a 36" diameter or equivalent.
21. Part I.D.1.c(2). The permittee provided comment to remove the requirement to monitor areas where selenium bearing strata may be associated with high selenium in groundwater being discharged through the permittee's storm sewer system. The Division provided additional clarification that the permittee may remove areas and corresponding outfalls that are not reasonably expected to contain elevated concentrations in groundwater with a potential to infiltrate into the MS4.
 22. Part I.D.1.c(3). The permittee provided comment that the permittee is only aware of three major/minor submerged outfalls out of over 500 outfalls in the impaired segments; and requested removing the reference to "submerged outfalls." The Division removed the language allowing for an alternative approach for submerged outfalls.
 23. Part I.D.1.c(5). The permittee requested clarification on the type of selenium monitoring. The Division clarified that the permittee must monitor for potential dissolved selenium. The permittee also commented that four sampling rounds during one year should be evaluated to determine the effectiveness of the dry weather screening program and adapt as necessary; and to allow the elimination of outfalls from the monitoring program after one sampling event for the outfalls that did not exceed stream standards. Dry weather screening has been modified to allow two years to conduct four rounds of sampling. The Division agrees and reduced the requirement to four samples. The Division maintained the 2-year timeframe to allow additional flexibility for implementation. The Division did not include the proposed process to eliminate monitoring after one-sample based on a determination that additional samples are necessary to provide a statistically significant and representative characterization. However, due to the lower potential loading and less variability associated with smaller collection systems, taking fewer samples is allowed for outfalls less than 36 inches, based on the results for the first two sampling events. For segment COARFO04, the Division is allowing an iterative approach and the permit does not require monitoring outfalls with dry weather flows less than 20 gpm. The Division will assess the need for monitoring these outfalls during the next permit term. The Division believes that monitoring outfalls with flows less than 20 gpm and greater than 5 gpm to segment COARFO04 will likely be necessary during the next permit term.
 24. Part I.D.1.c(6). The permittee provided comment that the data collection from 4/1/14 to 3/31/15 covers two different calendar year annual reports and therefore, this dry weather screening data analysis should be reported in the annual report due 6/1/16 covering the 2015 calendar year. Additionally, the permittee provided comment that there is a reference to a permit section that does not exist. Since the monitoring has increased to two years, the Division provided language clarifying the required reporting and documentation, specifically allowing a one-time report in the 2016 Annual Monitoring report.
 25. Parts I.D.2.a and I.D.3.a. The permittee commented that, "the City has used the USGS for over 15 years to monitor stormwater and the intent is to continue with this program. The requirement for the permittee to contract with USGS to use the State's format requirements (i.e., DMR) and analytical procedures provides no extra value to water quality and adds great cost." The Division has limited the DMR reporting requirement to be applicable only to E. coli and selenium. However, the requirement for sampling to be conducted in accordance with 40 CFR Part 136 methods, and for reporting levels to be based on the Division developed PQLs is required by Regulation 61.8(4) and has been kept in the permit. The permittee has not provided any information to demonstrate that this will require a modification in the current sampling procedures and methods. Based on information provided by the permittee, current methods are resulting in PQLs more stringent than PQL's listed in the Division's "PQL Guidance Document," or if less stringent, are still more stringent than the associated water quality standard which the permit sets as the applicable reporting level. The Division did add new language, consistent with Regulation 61.4(3)(c)(i)(D)(iv) that excludes field analysis conducted as part of the Illicit Discharges

Management Program from these requirements.

26. Part I.E. The permittee commented that the Division is requesting program descriptions that have not been required of, prepared by, or submitted by the City; and the City would need time to prepare program descriptions. If it is the Divisions intent for the City to submit documents that are have already been submitted, then this is a redundant activity being assigned to the City. Division believes this is a reasonable requirement to be completed every 5 years to help ensure that the Division's records are up to date and that programs have been maintained and modified as required by the permit.
27. Part I.F.5. The permittee provided comment that the sentence, "A summary of the number and nature of sites/facilities addressed, enforcement actions, and inspections performed for the various program areas shall be included, " is redundant with Part I.F.9. The Division deleted this sentence.
28. Part I.F.9.c. The permittee provided comment that dividing inspections into two categories is a new requirement and that the permittee is prepared to provide number of inspections based on their current inspection categorization. The City of Aurora provided a similar comment and concern that this requirement dictated a "tiered inspection process." The two general inspection categories required for reporting do not dictate implementation of a tiered inspection process. The Division provided additional text in the permit stating that all inspection types conducted by the permittee can be classified according to Full level and Reconnaissance; and to provide the total number of these inspections for all annual reports from April 1, 2013 on.
29. Part I.K. Upon further review, the Division has made several changes to the definitions:
 - For **Municipal Separate Storm Sewer**, the Division deleted the phrase, "...or natural waterways that are managed to accept stormwater runoff from urbanized areas." Clarification on the Division's interpretation of MS4 has been added to the fact sheet.
 - The definition for **Redevelopment** has been deleted. This term is only used to denote program applicability and not in determining the program scope. The language was changed in Part I.B.1.a(2) to clarify that the program applies to all projects for which construction activities, as defined in Part I.K disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the MS4.
 - A definition for **Good engineering, hydrologic and pollution control practices** has been added
 - A definition for **Larger common plan of development or sale** has been added
 - The permittee provided comment that the definition for **Significant Materials** is not needed because this phrase is not used in the permit. The Division has removed this definition.

B. Response to Additional Public Comments

1. Permit coversheet, and Parts I.A. and I.B.1.b(1)(d). The permittee provided comment requesting that the word "emergency" be removed in defining firefighting discharges authorized by the permit, and in associated permit requirements. The permit limits the authorization for discharges and the exclusion from the definition of illicit discharge" for firefighting activities to emergencies. It is the Division's determination that this is consistent with the intent of State and Federal regulations and that it cannot be demonstrated that all potential discharges associated with non-emergency firefighting activities are not a significant sources of pollutants to the MS4. The operator of the non-emergency firefighting operations may submit separate application for coverage for these discharges under an individual permit for which appropriate effluent limits will be developed by the Division.
2. Parts I.B.1.a(2)(b), I.B.1.c, and I.B.1.d(3). The permittee provided a comment that the phrase "to the extent allowable under State or local law" was not necessary and creates confusion. This language is consistent with state and federal regulations. This regulatory language does not mean that the permittee can simply fail to pass an ordinance necessary for compliance with the regulation. The reference to "the

extent allowable under State or local law” refers to the local laws of *other* political subdivisions to which the permittee MS4 operator is subject. The permittee may omit a requirement to develop an ordinance or other regulatory mechanism only to the extent State statute or other legal authority prevents the permittee from exercising the necessary authority.” Additionally, regarding this phrase in Part I.B.1.c – Industrial Facilities, it is the Division’s expectation that the permittee will be able to effectively address these discharges. The reference is necessary to specifically require that all possible legal options are pursued.

3. Part I.B.1.b(1)(c). The permittee submitted a comment that developing a list of occasional and/or incidental sources of non stormwater discharges is a new optional task that should be noted in the fact sheet. This new option is noted in the fact sheet. The permittee also requested clarification on the requirement that the initial list must be submitted to the Division and approved in accordance with Part I.C.3. Part I.C.3 provides the requirements for program modifications, which would include developing a list of non-stormwater discharges that are excluded from the definition of illicit discharge.
4. Part I.B.1.b(2)(d). The permittee and Colorado Stormwater Council provided comment that the record of illicit discharges maintained should only pertain to illicit discharges that reach State Waters through the MS4. The definition of illicit discharges in the permit is, “any discharge to a municipal separate storm sewer that is not composed entirely of stormwater except the sources that are excluded from the definition of “illicit discharge” in accordance with Parts I.B.1.b(1)(b), (c), and (d).” Therefore spills that do not discharge to the MS4 are not illicit discharges. However, the Division believes that due to the applicability of the requirement in I.B.1.b(1) to prohibit discharges to the MS4, tracking of when this prohibition has been violated is a reasonable requirement to allow for Division oversight and could provide necessary information to the permittee to address reoccurring violations. Additionally, this requirement is consistent with Regulation 65, which enables the Division to prohibit a discharge to an MS4.
5. Part I.B.1.b(7). Colorado Springs Utilities requested clarification on the requirement to properly operate its sanitary sewer infrastructure under CDPS Permit Nos. CO-0026735 and CO-0046850. Clarification was added to Part VI.a.2(f) of the fact sheet. The permittee must fully implement its Illicit Discharge Management Program to address the operator of an illicit discharge, including when the source is from sanitary sewer infrastructure.
6. Part I.B.1.c. The permittee provided comment that reporting to the Division about unresponsive or non-compliant industries is a new requirement. This a cross reference to the existing requirement in Part I.B.2 to clarify the extent of the existing industrial program requirements.
7. Part I.B.1.d. The permittee provided comment that the requirements to control pollutants in non-stormwater discharges from construction activities should be limited to illicit discharges. This change was not made. The construction sites program requirements apply to all stormwater and non-stormwater discharges from construction sites, not just sources not covered by a CDPS discharge permit.
8. Part I.C.1.a. The permittee provided comment to retain the sentence, “If the permittee does not receive notification from the Division within the agreed time frame, the plans and/or reports shall be considered acceptable.” Program descriptions in submittals and reports that require Division approval establish what the discharger will do to reduce the discharge of pollutants to the “maximum extent practicable.” Therefore, submittals associated with the CDPS stormwater management program must, in every instance, be subject to meaningful review by the Division to ensure that each such programs reduces the discharge of pollutants to the maximum extent practicable as required by the regulation. The provision allowing for automatic approval by the Division has been removed because it could bypass the necessary Division review to ensure this regulatory standard is met.
9. Part I.D.2. The permittee provided comment that the requirement to provide information an annual identification of water quality improvements or degradations should be removed from the annual report. This requirement is included in Regulation 61.8(4)(n) and has therefore not been removed. This is a

reporting requirement only, and does not require any additional studies or analysis. The permittee is only required to report on changes that have been determined during the reporting year.

Michelle DeLaria
September 15, 2011

