

Attached is your renewal MS4 Permit and Certification.

This renewal permit is effective March 10, 2008

**PLEASE NOTE THAT YOUR PERMIT
CERTIFICATION NUMBER HAS
CHANGED!**

You are now covered under the CDPS General Permit for Stormwater Discharges Associated with Non-Standard Municipal Separate Storm Sewer Systems. Your new permit certification number is:

COR-070059

The Water Quality Control Division currently has the following email addresses on file for you.

If an address is not correct, please send the correct information to nathan.moore@state.co.us

Legal Contact: None Provided

Local Contact: lillesser@aps.k12.co.us

Provide any corrected information by March 31, 2008.

STATE OF COLORADO

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

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

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



Colorado Department
of Public Health
and Environment

James E. Bittle, Dir.
Aurora Public Schools dba Adams/Arap Dist 28J
1369 Airport Blvd
Aurora, CO 80011

March 6, 2008

RE: Final Permit, Colorado Discharge Permit System - Stormwater
 Certification No. : **COR-070059**

Local Contact: **Rita Lesser, Env. Compliance Mgr.**

Dear Sir or Madam:

Enclosed please find a copy of permit and certification which have been issued to you under the Colorado Water Quality Control Act.

Your certification under the permit requires that specific actions be performed at designated times. You are legally obligated to comply with all terms and conditions of your certification. Note that the requirements in the permit for "Renewal Permittees" apply to you.

As detailed in Part I.A.7 of the permit, your CDPS Stormwater Management Program must be submitted to the Division by **June 10, 2008**.

Please read the permit and certification. If you have any questions, contact Nathan Moore at (303) 692-3555.

Sincerely,

Kathryn Dolan
Stormwater Program Coordinator
Permits Unit
WATER QUALITY CONTROL DIVISION

xc: File Copy

CERTIFICATION

CDPS GENERAL PERMIT

STORMWATER DISCHARGES ASSOCIATED WITH

MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s)

This permit specifically authorizes: **Aurora Public Schools**

to discharge stormwater from the portions of its MS4 located in an Urbanized Area

which are located at the following sites: **Aurora Central H.S., Aurora Hills M.S., Columbia M.S., East M.S., Gateway H.S., Hinkley H.S., Mrachek M.S., Rangeview H.S., and West M.S.**

to State waters, including but not limited to: **Sand Creek, Westerly Creek**

effective: **March 10, 2008**

Annual Fee: **\$ 810 (DO NOT PAY NOW. You will receive a prorated bill later.)**

CDPS GENERAL PERMIT
STORMWATER DISCHARGES ASSOCIATED WITH
NON-STANDARD MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s)
AUTHORIZATION TO DISCHARGE UNDER THE
COLORADO DISCHARGE PERMIT SYSTEM

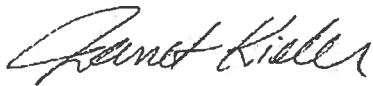
In compliance with the provisions of the Colorado Water Quality Control Act, (25-8-101 et seq., CRS, 1973 as amended) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.; the "Act"), this permit authorizes the discharge of stormwater associated with municipal separate storm sewer systems certified under this permit, from those locations specified throughout the State of Colorado to specified waters of the State. Such discharges shall be in accordance with the conditions of this permit.

This permit specifically authorizes the permittee listed on page 1 of this permit to discharge stormwater associated with municipal separate storm sewer systems, as of this date, in accordance with permit requirements and conditions set forth in Parts I and II hereof. All discharges authorized herein shall be consistent with the terms and conditions of this permit.

This permit and the authorization to discharge shall expire at midnight, **March 9, 2013**.

Issued and Signed this 8th day of February, 2008

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



Janet S. Kieler
Permits Section Manager
Water Quality Control Division

ISSUED AND SIGNED FEBRUARY 8, 2008

EFFECTIVE MARCH 10, 2008

**NON-STANDARD MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s)
COR-070000**

TABLE OF CONTENTS (cont.)

PART II

A. PERMITTEE RESPONSIBILITIES	20
1. Duty to Comply	20
2. Minimization of Adverse Impact.....	20
3. Proper Operation and Maintenance	20
4. Reduction, Loss, or Failure of Water Quality Controls.....	20
5. Upset	20
6. Inspections and Right to Entry	21
7. Duty to Reapply	21
8. Duty to Provide Information	21
B. NOTIFICATION, REPORTING AND ADMINISTRATIVE REQUIREMENTS.....	21
1. Noncompliance Notification	21
2. Availability of Reports	22
3. Submission of Incorrect or Incomplete Information	22
C. MODIFICATION OR TERMINATION OF PERMITS	22
D. CONSISTENCY WITH OTHER LAWS AND REGULATIONS.....	23
1. State Laws	23
2. Property Rights.....	23
3. Oil and Hazardous Substance Liability	23
4. Removed Substances.....	23
E. OTHER STANDARD CONDITIONS	23
1. Requiring an Individual or Alternate General CDPS Permit.....	23
2. Severability	24
3. Fees	24

A. COVERAGE UNDER THIS PERMIT (cont.)

- a) **Due Dates:** Within 180 days of Division notification, the operator of the MS4 shall submit an application form as provided by the Division. (The Division retains the right to grant permission for a later date upon good cause shown.) One original completed discharge permit application shall be submitted, by mail or hand delivery, to:

Colorado Department of Public Health and Environment
Water Quality Control Division
WQCD-P-B2 – Stormwater Program
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

- b) **Application Form and CDPS Stormwater Management Program Description:** The application form requires, at a minimum, the following information:

- 1) Name and address of principal executive officer, ranking elected official, or other duly authorized employee in charge of the resources used for implementation of the CDPS Stormwater Management Program
- 2) MS4 location description and map
- 3) Names of USGS named State waters that receive discharges from the permittee's MS4
- 4) Name of the person responsible for overseeing implementation and coordination of the CDPS Stormwater Management Program
- 5) MS4 population and area
- 6) CDPS Stormwater Management Program description consisting of, at a minimum, a general description of the program elements that will be implemented (or already exist) for each of the CDPS Stormwater Management Program Areas (see Part I.B of the permit)
- 7) Measurable Goals for each of the program areas including, as appropriate, the year by which the permittee will undertake required actions, including interim milestones and the frequency of the action.
- 8) Certification and signature requirements in accordance with Part I.H.1

The descriptions for Items (6) and (7), above, must be detailed enough for the Division to determine the permittee's general strategy for complying with the required items in each of the six CDPS Stormwater Management Program areas (Parts I.B.1-6 of this permit). This must include an indication of which program elements (such as those in the Colorado's Phase II Municipal Guidance) the permittee intends to utilize, and to what degree particular elements will be stressed.

All Measurable Goals must have a due date of December 31st of the intended year of completion, and shall be reported on in the subsequent Annual Report.

- c) **Permit Certification Procedures:** If the general permit is applicable to the applicant's operation and the application has been reviewed and determined to be complete, a certification will be issued and the applicant will be authorized to discharge stormwater under this general permit.

- 1) **Request for Additional Information for Acceptance of Application:** The Division shall have up to 30 days after receipt of the information required in subparagraph (b), above, to determine application completeness, and to request additional data and/or deny the authorization for any particular discharge. Upon receipt of additional information, the Division shall have an additional fifteen days to determine if the information provided satisfies the request, or to deny coverage under the permit.
- 2) **Automatic Coverage:** If the applicant does not receive a request for additional information, denial of coverage under the permit, or acceptance of the application from the Division dated within 30 days of receipt of the application by the Division, authorization to discharge in accordance with the conditions of this permit shall be deemed granted.

A. COVERAGE UNDER THIS PERMIT (cont.)

- 3) CDPS Stormwater Management Program description consisting of, at a minimum, a general description of the program elements that will be implemented (or are already being implemented) for each of the CDPS Stormwater Management Program Areas (see Part I.B of the permit.)
 - i) For each CDPS Stormwater Management Program Area, briefly summarize any modifications to ordinances or long-term/ongoing processes implemented in accordance with the previous MS4 general permit.
- 4) For any new program elements implemented to meet specific requirements of this permit, that were not addressed under the permittee's previous CDPS Stormwater Management Program:
 - i) A description and relevant Measurable Goals that include, as appropriate, the year by which the permittee will undertake required actions (on or before December 31, 2009), including interim milestones, and the frequency of the action (this item may reference information already provided under Item (3), above) ; or
 - ii) A reference to existing program areas described in Item (3), above, that already meet the permit requirements.
- 5) Certification and signature requirements in accordance with Part I.H.1.

The descriptions for Items 3 and 4 above must be detailed enough for the Division to determine the permittee's general strategy for complying with the required items in the six CDPS Stormwater Management Program areas (Parts I.B.1-6 of this permit).

All Measurable Goals must have a due date of December 31st of the intended year of completion, and shall be reported on in the subsequent Annual Report.

- c) Review of CDPS Stormwater Management Program: The Division shall have up to **180 days** after receipt of the complete submittal required in subparagraph b, above, to review the CDPS Stormwater Management Program as described. See Part I.E.1 of this permit.
 - 1) Public Notice and Comment: Upon review, and modification if required in accordance with Part I.E.1 of the permit, of the CDPS Stormwater Management Program Description and Measurable Goals, the Division will provide public notice on the Division website (<http://www.cdphe.state.co.us/wq/PermitsUnit>), along with procedures for public review.

8. Local Agency Authority

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

9. Permit Expiration Date

Authorization to discharge under this general permit shall expire on March 9, 2013. The Division must evaluate and reissue this general permit at least once every five years and must recertify the applicant's authority to discharge under the general permit at such time. Any permittee desiring continued coverage under the general permit must reapply by September 9, 2012. The Division will determine if the applicant may continue to operate under the terms of the general permit. An individual permit may be required for any facility not reauthorized to discharge under the reissued general permit.

The reapplication form requires, at a minimum, the following information:

- a) Name and address of principal executive officer, ranking elected official, or other duly authorized employee in charge the of municipal resources used for implementation of the CDPS Stormwater Management Program
- b) Name of the person responsible for overseeing implementation and coordination of the CDPS Stormwater Management Program
- c) MS4 population
- d) Certification and signature requirements in accordance with Part I.H.1

B. CDPS STORMWATER MANAGEMENT PROGRAM (cont.)

- b) Provide one or more of the following feedback mechanisms:
- i) Publish and maintain a web page providing information on the permittee's CDPS Stormwater Management Program, including directions for providing feedback.
 - ii) Publish and distribute, or post in a public place, notice of the permittee's CDPS Stormwater Management Program and directions for obtaining more information and providing feedback.

3. **Illicit Discharge Detection and Elimination**

The permittee must develop, implement and enforce a program to detect and eliminate illicit discharges, as defined below, into the permittee's MS4. Illicit discharges do not include discharges or flows from emergency fire fighting activities, or other activities specifically authorized by a CDPS permit.

The permittee must meet the following minimum requirements:

- a) Develop and maintain a current storm sewer system map, showing the location of all of the permittee's storm sewer outfalls and the names and location of all state waters that receive discharges from those outfalls.
- b) Develop, document, and implement a plan to detect and address illicit discharges to the system. The plan must include:
 - i) procedures for tracing the source of an illicit discharge;
 - ii) procedures for removing the source of the discharge, including procedures to refer discharges to a city or county for enforcement when appropriate; and
 - iii) procedures to document occurrences of illicit discharges and how they were responded to.
- c) Develop and implement a program to train permittee 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.

Illicit Discharges include any discharge to an MS4 that is not composed entirely of stormwater, except:

- Discharges specifically authorized by a CDPS permit.
- Discharges resulting from emergency fire fighting activities.
- the following categories of non-stormwater discharges or flows, unless the permittee identifies them as significant contributors of pollutants to the permittee's MS4: landscape irrigation, lawn watering, diverted stream flows, irrigation return flow, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), uncontaminated pumped ground water, springs, flows from riparian habitats and wetlands, water line flushing, discharges from potable water sources, foundation drains, air conditioning condensation, water from crawl space pumps, footing drains, individual residential car washing, dechlorinated swimming pool discharges, and water incidental to street sweeping (including associated side walks and medians) and that is not associated with construction.
- occasional incidental non-stormwater discharges similar to those in the above paragraph, (e.g., non-commercial or charity car washes, etc.) as determined and documented by the permittee, if approved by the Division. 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, etc.). The permittee must document in their program any local controls or conditions placed on the discharges. The permittee must include a provision prohibiting any individual non-stormwater discharge that is determined to be contributing significant amounts of pollutants to the MS4.

B. CDPS STORMWATER MANAGEMENT PROGRAM (cont.)

- 4) Develop, document, and implement a Compliance Assessment program, including:
- i) Procedures for site plan review which incorporate consideration of potential water quality impacts.
 - ii) Procedures for construction site compliance assessment, including:
 - A) site inspections; and
 - B) receipt and consideration of information submitted by the public.
 - iii) procedures and mechanisms to track and provide the Annual Report information required in Part I.F.6(a) of the permit.
- 5) Develop and implement a Compliance Assurance program, including:
- i) Procedures for enforcement of control measures that include documented procedures for response to violations of the permittee's program requirements. Procedures must include specific processes and sanctions adequate to minimize the occurrence of, obtain compliance from, chronic and recalcitrant violators of control measures.
 - ii) An education and training program for staff and contractors that includes, at a minimum, information for construction site operators unfamiliar with the program requirements.

5. Post-Construction Stormwater Management in New Development and Redevelopment

The permittee must develop, document, and implement a program to address stormwater runoff from the permittee's new development and redevelopment projects that 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, following new development and/or redevelopment, permanent water quality controls are in place that would prevent or minimize water quality impacts.

The permittee program must meet either the requirements in Option 1, subsection (a), or the requirements in Option 2, subsection (b), below. The requirements of Option 1 must be met any areas discharging to the Cherry Creek Reservoir Drainage Basin.

- a) **Option 1 - Develop, document, and implement a program to follow the requirements of the city and/or county program(s) (local program(s)). Under this option, the permittee would be in violation of this permit if they fail to comply with the local program(s). The following requirements must be met under this option:**
- 1) Document the local program(s) that will be followed for the permitted area. If different programs will be followed in different areas, this must be clearly described.
 - 2) Require that permanent water quality controls are developed and implemented in compliance with all requirements of the local program(s).
 - 3) Ensure the long-term operation and maintenance of permanent water quality controls, in accordance with the local program(s).
 - 4) Submit construction and long-term operation and maintenance plans and documentation for review by the local program(s), as required by those local programs.
 - 5) Allow for site inspections, both during construction and following construction, by the local program(s), as required by the local program.

C. CDPS STORMWATER MANAGEMENT PROGRAM - IMPLEMENTATION SCHEDULE (cont.)

1. New Applicants

Applicants not covered under a previous MS4 General Permit (i.e., COR-080000 or 090000) must meet the following application requirements.

Implementation of the permittee's CDPS Stormwater Management Program, as described in the permittee's application, is required to begin within 30 days after the completed application is submitted, or by April 9, 2008, whichever is later. Measurable Goals must be continued until each program area has been fully developed and implemented.

A staged implementation is allowed. The permittee must fully develop and implement the CDPS Stormwater Management Program as discussed in Part I.B of the permit, by **March 9, 2013**. At a minimum, the program areas must be developed and implemented at a relatively steady rate over the initial permit term, to the MEP.

The Division may include alternative deadlines in the permit certification that would allow the permittee to have their program areas partially completed by March 9, 2013, only if the permittee is designated by the Division (as requiring permit coverage) after September 9, 2008.

2. Renewal Permittees

Permittees that were covered under a previous MS4 General Permit (i.e., COR-080000 or 090000), and that have submitted a permit renewal application in accordance with the provisions of that permit, must meet the following requirements.

The permittee must continue to implement the CDPS Stormwater Management Program as described in the application and submittals provided in accordance with the previous MS4 general permit, unless proposed modifications or revisions are made in accordance with Part I.E or Part I.A.7(b) of the permit.

Implementation of the permittee's new CDPS Stormwater Management Program, as described in the program submittal required by Part I.A.7(b) of the permit, is required to begin by **July 10, 2008**.

A staged implementation is allowed only for new program elements required to meet specific requirements of this permit, that were not addressed under the permittee's previous CDPS Stormwater Management Program. However, the permittee must fully develop and implement all elements of the CDPS Stormwater Management Program as discussed in Part I.B of the permit, by **December 31, 2009**.

For any changed program elements, implementation of the previous CDPS Stormwater Program elements must continue during the time of such modifications or revisions.

3. Newly Designated Areas

For Renewal Permittees where additional areas are designated for permit coverage, either through issuance or amendment of the certification under this permit, the permittee must fully comply with the CDPS Stormwater Management Program requirements of Part I.B of the permit for that newly designated area within one year of the issuance or amendment of the certification that includes the new designation, or by **December 31, 2009**, whichever is later.

D. OTHER TERMS AND CONDITIONS

1. General Limitations

The following limitations shall apply to all discharges covered by this permit:

- a) No chemicals are to be added to the discharge for stormwater treatment unless permission for the use of a specific chemical is granted by the Division. In granting the use of such chemicals, special conditions and monitoring may be addressed by separate letter.

D. OTHER TERMS AND CONDITIONS (cont.)

- c) The other entity agrees to implement the control measure on the permittee's behalf. Written acceptance of this obligation is expected. This obligation must be maintained as part of the description of the permittee's CDPS Stormwater Management Program.

The permittee remains liable for ensuring that all requirements of this permit are complied with, regardless of who implements the element(s).

7. Monitoring

The Division reserves the right to require water quality sampling and testing, on a case-by-case basis. Monitoring may also be required if a stormwater-based TMDL and WLA have been put into place for any waterbody into which the permittee discharges.

E. PROGRAM REVIEW AND MODIFICATION

1. Division Review of Programs and Reports

Any programs or reports that are prepared as a condition of this permit and are required to be submitted to the Division for review are subject to the following deadlines.

- a) Within 180 days of the submittal, or a later date agreed to by the permittee, the Division shall notify the permittee that the program or report is acceptable or that it does not meet one or more of the minimum requirements of this permit. Such notification shall identify which provisions of the submittal, if any, require modification.
- b) 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 program or report.
- c) If the Division notifies the permittee that a submittal is unacceptable, the Division may grant the permittee permission to extend schedules, deadlines and Measurable Goals that may be affected by the resulting delays in implementation, in accordance with Part I.E.2(b)) of this permit.

CDPS Stormwater Management Program and program element descriptions and Measurable Goals as submitted by the permittee, once accepted by the Division, shall become enforceable conditions under this permit.

2. CDPS Stormwater Management Program and Measurable Goals Modification

a) Permittee-Initiated Changes

The permittee shall amend the program whenever there is a change in design, construction, operation, or maintenance which has a significant effect on the potential for the discharge of pollutants to the waters of the State, or if one or more elements of the CDPS Stormwater Management Program proves to be ineffective in achieving the general objectives of controlling pollutants in MS4 stormwater discharges.

- 1) **Additions:** Changes adding (but not removing or replacing) components, controls, or requirements to the CDPS Stormwater Management Program and/or Measurable Goals may be made at any time. Such changes shall be summarized in the subsequent Annual Report.
- ②) **Modifications and Removals:** Significant changes that involve replacing or deleting an ineffective or unfeasible BMP specifically identified in the CDPS Stormwater Management Program, or a Measurable Goal with an alternate BMP/Goal must be submitted to the Division for review prior to implementation. This includes changes to BMPs that have been proposed in the application/Annual Reports but not yet implemented. Unless denied by the Division, changes proposed in accordance with the criteria below shall be deemed acceptable and may be implemented 60 days after submittal of the request, or upon acceptance by the Division, whichever is sooner. If the request is denied, the Division will send a written response giving a reason for the decision. The modification request must include:

F. REPORTING REQUIREMENTS - ANNUAL REPORT (cont.)

1. The implementation status of each of the program areas within the CDPS Stormwater Management Program for which any program element is still being developed in accordance with a Measurable Goal. Must include a brief summary of the CDPS Stormwater Management Program elements that have been changed or further refined since the previous report or the permit application, and status of achieving the Measurable Goals for each of the program areas;
2. A summary of the stormwater activities the permittee plans to undertake during the next reporting cycle to meet any outstanding Measurable Goals (including an implementation schedule);
3. Proposed changes to the CDPS Stormwater Management Program, including changes to any BMPs or any identified Measurable Goals that apply to the program elements (see Part I.B and I.E);
4. Notice, if not included in previous reports or application, that the permittee is relying on another government entity to satisfy some of their permit obligations (if applicable);
5. An update on areas added to the MS4 due to expansion of facilities or other means; and
6. If submittal of information is required in subsection (a) or (b), below, a summary, that includes the information indicated in those subsections, of the number and nature of sites/facilities addressed, enforcement actions, and inspections performed for the various program areas.
 - a) Construction Site Stormwater Runoff Control Program: If Option 2, as described in Part I.B.4(b), is implemented by the permittee, the following information must be provided:
 - 1) The total number of construction sites covered by the permittee's inspection program during the year.
 - 2) The total number of inspections performed.
 - 3) A summary of Compliance Assurance activities performed, including:
 - i) The total number of enforcement actions performed, by enforcement type (e.g., monetary penalty, stop work order, written notice of violation, etc.);
 - b) Post-Construction Program: If Option 2, as described in Part I.B.5(b), is implemented by the permittee, the following information must be provided:
 - 1) 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) The total number of such sites/BMPs inspected jurisdiction-wide to ensure compliance with long term operation and maintenance requirements.
 - 3) The total number of enforcement actions performed, by enforcement type (e.g., monetary penalty, written notice of violation, etc.).
7. One-Time Operating Procedures Report: Permittees must submit a one-time inventory of the written procedures for the Pollution Prevention/Good Housekeeping for Permittee Operations program, as described in Part I.B.6(a). The inventory is due with the next Annual Report:
 - For New Applicants: **March 10, 2013**
 - For Renewal Permittees: **March 10, 2010**

The permittee must provide the following information for each of the operations (i.e., activities and facilities) listed in Part I.B.6 of the permit, as well as any other operations or facilities that the permittee has addressed under their Pollution Prevention/Good Housekeeping for Permittee Operations program. The Division may also specifically request additional types of operations or facilities be included in the inventory by providing such a list at least 6 months prior to the above applicable due date.

G. DEFINITIONS (cont.)

11. **Outfall:** point where a municipal separate storm sewer discharges to state waters; does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other state waters and are used to convey state waters.
12. **Point Source:** any discernible, confined and discrete conveyance from which pollutants are or may be discharged. Point source discharges of stormwater result from structures which increase the imperviousness of the ground which acts to collect runoff, with runoff being conveyed along the resulting drainage or grading pattern.
13. **Process Water:** any water which during manufacturing or processing, comes into contact with or results from the production of any raw material, intermediate product, finished product; by product or waste product. This definition includes mine drainage.
14. **Renewal Permittee:** permittee that was covered under a previous MS4 General Permit.
15. **Significant Materials** include but are not limited to: raw materials; fuels; materials such as metallic products; hazardous substances designated under section 101(14) of CERCLA; any chemical the facility is required to report pursuant to section 313 of title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharge.
15. **Stormwater:** precipitation-induced surface runoff.
16. **Urbanized Area:** contiguous, densely settled census block groups and census blocks that meet minimum population density requirements, along with adjacent densely settled census blocks that together encompass a population of at least 50,000 people. Urbanized area boundaries are determined by the latest Decennial Census by the U.S. Bureau of the Census.
17. **Waters of the State of Colorado (State waters):** any and all surface and subsurface waters which are contained in or flow in or through this State, but not including 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. This definition can include water courses that are usually dry. For the purposes of this permit, Waters of the State does not include subsurface waters.

H. GENERAL REQUIREMENTS

1. **Signatory Requirements**

- a) All reports required for submittal shall be signed and certified for accuracy by the permittee in accordance with the following criteria:
 - 1) In the case of corporations, by a principal executive officer of at least the level of vice-president or his or her duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge described in the form originates;
 - 2) In the case of a partnership, by a general partner;
 - 3) In the case of a sole proprietorship, by the proprietor;
 - 4) In the case of a municipal, state, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.
- b) **Changes to authorization.** If an authorization under paragraph a) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph a) 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.

PART II

A. PERMITTEE RESPONSIBILITIES

1. Duty To Comply

The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Water Quality Control Act and is grounds for enforcement action; for permit termination, revocation and reissuance or modification; or denial of a permit renewal application. Violation of the terms and conditions specified in this permit may be subject to civil and criminal liability pursuant to C.R.S. 25-8-601 through 612 and the Federal Clean Water Act.

2. 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.

3. Proper Operation and Maintenance

In accordance with the requirements of Part I of this Permit, the permittee shall at all times properly implement the six program areas, as described in Part I.B of the permit, to the maximum extent practicable to achieve compliance with the conditions of this permit. Proper implementation includes effective performance, adequate funding, and adequate operator staffing and training.

4. Reduction, Loss, or Failure of Water Quality Controls

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.

5. Upset

- 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.

B. NOTIFICATION, REPORTING AND ADMINISTRATIVE REQUIREMENTS (cont.)

- 1) Any instance of noncompliance, which may endanger health or the environment;
- c) The permittee shall report all other instances of noncompliance to the Division within 30 days. The reports shall contain the information listed in sub-paragraph (a) of this section.

2. Availability of Reports

Except for data determined to be confidential under Section 308 of the Federal Clean Water Act and Regulations for the State Discharge Permit System 61.5(4), all reports prepared and submitted in accordance with the terms of this permit shall be available for public inspection at the offices of the Water Quality Control Division. As required by the Federal Clean Water Act, monitoring data shall not be considered confidential.

3. Submission of Incorrect or Incomplete Information

- a) Where the permittee becomes aware that it 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.
- b) Knowingly making false statements 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.

C. MODIFICATION OR TERMINATION OF PERMITS

1. 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.
2. All permit modification, termination or revocation and reissuance actions shall be subject to the requirements of the State Discharge Permit System Regulations, Sections 61.5(2), 61.5(3), 61.7 and 61.15, 5 C.C.R. 1002-61, except for minor modifications.
3. This permit or certification under the 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:
 - a) Violation of any terms or conditions of the permit;
 - b) 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
 - c) Materially false or inaccurate statements or information in the permit application or the permit.
 - d) 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.
4. 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 antibacksliding:
 - a) The Division has received new information which was not available at the time of permit issuance (other than revised regulations or guidance) and which would have justified the application of different permit conditions at the time of issuance.
 - b) 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:

D. CONSISTENCY WITH OTHER LAWS AND REGULATIONS (cont.)

2. **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.

3. **Fees**

The permittee is required to submit payment of an annual fee as set forth in the Water Quality Control Act, Section 25-8-502 (1)(b) 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.

II. DIFFERENCES FROM PHASE II MS4 PERMITS COR-090000 AND COR-080000 (cont.)

The following is a summary of the differences in this permit and COR-090000/080000, for each of the six minimum measures.

1. Public Education and Outreach on Stormwater Impacts

The overall focus of this program area, to educate the general public on potential sources of pollution to the MS4, does not differ significantly from COR-090000/080000. The language however has been revised to be more appropriate to the populations and activities existing at facilities operated by Non-Standard MS4s.

2. Public Involvement/Participation

The requirement to provide public notice of ordinances has been removed from this permit. Non-standard MS4s covered under this permit are not required to pass ordinances, as discussed below (see subsections (3), (4), and (5), below). The requirement to allow for public comment on the permittee's program remains.

3. Illicit Discharge Detection and Elimination

The requirements to pass and enforce an ordinance are not included in this permit. Non-Standard MS4s covered under this permit may rely on the authority of the appropriate city or county. Because most activities that could result in an illicit discharge would be conducted by the permittee or their contractor, the requirements in this permit focus on preventing/removing discharges from those sources.

4. Construction Sites

Nonstandard permittees covered under this permit typically own or operate facilities and activities that discharge to their MS4s, and therefore would typically be the owners or operators of construction activities occurring in those areas. For areas not under the ownership or control of the permittee, a city or county would have full authority over any construction activities. Therefore, the requirements of this section are limited to controlling sources under the ownership or operational control of the permittee.

5. Post-Construction Stormwater Management in New Development and Redevelopment

For the reasons discussed in subsection (4), above, the requirements of this section are limited to controlling sources under the ownership or operational control of the permittee.

6. Pollution Prevention/Good Housekeeping for Permittee's Operations

The requirements for this program area do not differ significantly from those in COR-090000/080000.

B. Cherry Creek Drainage Basin Requirements (COR-080000)

The Cherry Creek Reservoir Control Regulation (5 CCR 1002-72) includes requirements for those parts of an MS4 that drain into the Cherry Creek Reservoir drainage basin. The Cherry Creek MS4 Permit, COR-080000 includes specific CDPS Stormwater Management Program requirements to address the requirements in the regulations. As discussed below, the conditions of this permit are adequate to require compliance with the regulatory requirements, and therefore additional specific conditions for discharges in the Cherry Creek Reservoir Drainage Basin are not included.

1. Public Education and Outreach (Part I.B.1): The Creek Reservoir Control Regulation requires implementation of an education program to address sources determined to have a significant potential to contribute phosphorus and nitrogen loads to State waters in the Cherry Creek Reservoir drainage basin. Such sources for Non-Standard MS4s are expected to be associated with the permittee's own activities and facilities. The provisions for Pollution Prevention/Good Housekeeping for Permittee's Operations (Part I.B.6 of the permit) already require education of the permittee's staff and contractors to cover all stormwater pollutant sources, which includes those that can contribute phosphorus and nitrogen. Therefore, additional specific Public Education and Outreach permit requirements to address the provisions of the Creek Reservoir Control Regulation are not required.

III. BACKGROUND (cont.)

Implementation of a CDPS Stormwater Management Program in accordance with Part I.B and I.C of the permit will constitute compliance with MEP. The management program must include program areas covering Public Education and Outreach, Public Involvement/ Participation, Illicit Discharge Detection and Elimination, Construction Site Stormwater Runoff Control, Post-Construction Stormwater Management in New Development and Redevelopment, and Pollution Prevention/Good Housekeeping for Municipal Operations.

The Division has intentionally not provided a precise definition of MEP, in order to allow maximum flexibility in MS4 permitting. MS4s need the flexibility to optimize reductions in stormwater pollutants on a location-by-location basis. The pollutant reductions that represent MEP may be different for each small MS4, given the unique local concerns that may exist and the different possible pollutant control strategies. Therefore, each permittee will determine appropriate BMPs to satisfy each of the six program areas through an evaluative process. The Division may evaluate permittees' proposed stormwater BMPs to determine if reduction of pollutants to the MEP can be achieved with the identified BMPs (see Part I.E of the permit).

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 continually adapt to current conditions and BMP effectiveness, and must strive to 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 six program areas (see Section V.A of the rationale), 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 six program areas, as per the standard of MEP. This process may involve more than one permit term.

B. Violations/Penalties

Dischargers of stormwater from regulated small MS4s, as defined in the Colorado Discharge Permit Regulations (61.0) who do not obtain coverage under this or other Colorado general permits, or under an individual CDPS permit, will be in violation of the Colorado Water Quality Control Act, 25-8-101. For facilities covered under a CDPS permit, failure to comply with any CDPS permit requirement constitutes a violation. Civil penalties for violations of the Act or CDPS permit requirements may be up to \$10,000 per day. Criminal pollution of State waters is punishable by fines of up to \$25,000/day.

IV. APPLICATION AND CERTIFICATION

Certification under this permit may be issued to both New Applicants who previously have not been issued a CDPS permit for discharges from their MS4, and to Renewal Permittees previously authorized under such a permit, including those covered under COR-090000 and COR-080000. As discussed below, separate requirements for certification under this permit apply to New Applicants and Renewal Permittees:

A. New Applicants

For New Applicants, certification under the permit requires submittal of an application. Upon receipt of all required information, the Division may allow or disallow coverage under the general permit. Within 180 days of Division notification, the operator of the MS4 shall submit an application form as provided by the Division. (The Division retains the right to grant permission for a later date upon good cause shown.) Refer to Part I.A.6.b of the permit for a description of what must be included in an application for coverage under this permit. If this general permit is applicable, then a certification will be developed and the applicant will be certified under this general permit.

B. Renewal Permittees

The requirements in this permit for submittal of an application in Part I.A.6 of the permit do not apply to renewal permittees. Application for coverage under this permit for Renewal Permittee occurs through submittal of a renewal application in accordance with the requirements of their previous MS4 permit. Submittal of program descriptions and Measurable Goals for the CDPS Stormwater Management Program is required by Part I.A.7.b of the permit. Because the majority of program development occurred during the previous permit term, most Renewal Permittees will be focused on program implementation and modifications during this permit term, and have fewer, or no, Measurable Goals. However, changes and Measurable Goals may still be needed to address new permit requirements or changes to a permittee's CDPS Stormwater Management Program.

V. TERMS AND CONDITIONS OF PERMIT (cont.)

Two options are included in the permit for compliance with this program area. A permittee is required to choose, and comply with, one of the two options. **Option 1** requires that the permittee ensure compliance at its construction sites with the requirements of a city or county's program for construction sites. **Option 2** includes more extensive requirements for a permittee to develop their own program, including criteria for BMPs, plan review, site inspection, enforcement, etc. The Division expects most Non-Standard MS4s will be able to use Option 1.

5. Post-Construction Stormwater Management in New Development and Redevelopment (Part I.B.5 of the permit)

This program area addresses implementation, operation, and maintenance of control measures after construction is completed, to control pollution sources associated with the long-term use of areas that have undergone new development and redevelopment. The permittee must ensure that controls are in place when it develops new facilities, or redevelops its existing facilities, if the activity results in a land disturbance of greater than or equal to one acre (or is part of a larger common plan of development). The permittee must also implement a program for the long term operation and maintenance of the controls.

Similar to the Construction Sites program discussed in subsection 4, above, two options are included in the permit for compliance with this program area. A permittee is required to choose, and comply with, one of the two options. **Option 1** requires that the permittee ensure compliance with a city or county's program for design, installation, and long term operation and maintenance of permanent water quality controls. **Option 2** includes more extensive requirements for a permittee to develop their own program, including criteria for permanent water quality control design and implementation, plan review, site inspection, maintenance criteria, etc. The Division expects most Non-Standard MS4s will be able to use Option 1.

6. Pollution Prevention/Good Housekeeping for Municipal Operations

The permittee must develop and implement an operation and maintenance program, including an employee training component, that has the ultimate goal of preventing or reducing pollutant runoff from its own operations, including those performed under contract.

B. CDPS Stormwater Management Program Implementation Schedule and Measurable Goals

The Clean Water Act (40 CFR 122.34(a)) and the Colorado Discharge Permit Regulations (61.8 (11)(a)(i)) require full development and implementation of the permittee's CDPS Stormwater Management Program as required by the permit within the permit term

For **New Applicants**, in most cases, this will require full development and implementation of the CDPS Stormwater Management Program within five years of the date of permit issuance (March 9, 2013). The CDPS Stormwater Management Program must be developed and implemented at a relatively steady rate over the permit term. That is, it is not acceptable to delay the majority of the work involved in program development and implementation until near the end of the permit term.

For **Renewal Permittees**, a specific deadline of December 31, 2009 is included for those new permit conditions that may require additional programs to be developed and implemented.

Measurable Goals are milestones in the development and implementation of the CDPS Stormwater Management Program areas. Measurable Goals are only needed for those elements that, during the permit term, will either be implemented as new programs, modified, or are one-time events (e.g., one-time educational brochure distribution or water festival). Programs elements that are fully implemented, are not scheduled to be modified, and are on-going or annually scheduled only need to be described in the CDPS Stormwater Management Program description, and do not require Measurable Goals. Measurable Goals must be continued until each program area has been fully developed.

Measurable Goals for each of the program areas must include, as appropriate, the year by which the permittee will undertake required actions, including interim milestones and the frequency of the action. Measurable Goals shall be set for December 31 of the year for which the action will be completed.

V. TERMS AND CONDITIONS OF PERMIT (cont.)

H. Annual Report: *The permittee is required to submit their program area descriptions in their CDPS Stormwater Management description. After that, in general, program updates will be provided in the permittee's Annual Report. The permittee shall prepare an Annual Report to be submitted by March 10 of each year, covering January 1 through December 31 of the previous year. The Division will provide an Annual Report form. (See Part I.F of the permit).*

If a permittee chooses Option 2, to develop their own Construction and/or Post Construction Programs (see Sections V.A(4) and (5) of the rationale), additional specific details must be included in the Annual Report to quantifying its implementation of the Construction, and Post Construction Programs. Refer to Part I.F.6(a) and (b) of the permit.

J. Annual Fees: *All permittees are required to pay the annual permit administration fee, as described in the Colorado Water Quality Control Act. (See Part II.E.3 of the permit.)*

K. Duration of Permit: *The general permit may not exceed five years in duration. In this case, the expiration date is set for March 9, 2013. The permittee's authority to discharge under this permit is approved until the expiration date of the general permit. The permittee must apply for recertification under the general permit at least 180 days prior to its expiration date.*

Nathan Moore
December 18, 2007

VI. RESPONSE AND CHANGES AFTER PUBLIC NOTICE

Several written comments were received during the public notice period. Comments and changes to the permit are addressed below, except for minor change and comments that were made for the sake of 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 are addressed in subsection B, below.

A. Permit Changes After Public Notice

1. Comment: *A comment was received recommending that the application requirements for renewal permittees not include a separate requirement to address all modifications, revisions, additions, or deletions of program areas described in the application and submittals provided in accordance with the previous MS4 general permit.*

Response: This requirement in the public notice version of the permit was unclear and overly burdensome. The requirement was removed from the permit and replaced with Part I.A.7(b)(3)(i), requiring permittees to summarize changes to ordinances and long-term/ongoing processes previously implemented. The intent is to simplify the Division's review process since many program elements have already been reviewed, while not placing a significant burden on the renewal applicant to develop extensive application language.

2. Comment: *A comment was received recommending that the language in Part I.B.1 of the permit, requiring public education, be clarified to indicate that the education address pollution of stormwater, not just pollution.*

Response: Language was added to Part I.B.1 to indicate that the public education activities must address both stormwater pollution and illicit discharges.

3. Comment: *A comment was received recommending that an exclusion be included in the Construction Sites program for sites qualifying for an R-Factor waiver (in accordance with regulation 61.3(2)(f)(ii)(B)).*

Response: The exclusion was added to Part I.B.4, to be consistent with the intent of the R-Factor waiver and other CDPS general permits for MS4s (COR-080000 and 090000).

4. Comment: *A comment was received recommending that, for the purposes of this permit, the definition of Waters of the State of Colorado (State Waters) in the permit exclude a water course that is part of an MS4. The intent of the comment was to consider discharges to storm sewers that were then removed as not having reached State Waters.*

VI. RESPONSE AND CHANGES AFTER PUBLIC NOTICE (cont.)

Response: Although a local program would already require the measures in these permit sections, they are critical measures for ensuring adequate management of construction sites to protect State waters. Regardless of whether the permittee or the city and/or county implements the program, the permittee is responsible for ensuring that plans/documents are submitted and that contractors comply with the local requirements. Therefore, the requirement was included in the permit to allow oversight by the Division to ensure adequate implementation by the permittee.

4. Comment: *The required program that was previously labeled as the "Construction Site Stormwater Runoff Control Program" was changed to the "Construction Sites Program" in this renewal permit. A comment was received that the name and the requirements of the program should be revised to focus only on stormwater pollution. The comment stated that this change would be consistent with the intent of the regulations. The CDPS Stormwater Management Program requirements in the Colorado Discharge Permit System Regulation 61, Part 61.8(11)(D)(i), clearly cover sources of potential discharges to an MS4 that are in addition to stormwater, including the requirement to prevent illicit discharges. Specifically, Part 61.8(11)(D)(i) of the regulation requires that permittees develop and implement a program to assure adequate design, implementation, and maintenance of BMPs at construction sites to "reduce pollutant discharges and protect water quality." The requirement is in no way limited to only stormwater discharges. Because nonstormwater discharges, including wash water and construction dewatering, are potential sources of pollutants, the permittee must require BMPs, as necessary, to reduce the discharge of pollutants associated with those non-stormwater sources. The name of the program in the permit was changed to the Construction Sites Program to further clarify this existing regulatory requirement and intent that the CDPS Stormwater Management address potential discharges to MS4s from both stormwater and nonstormwater sources.*

5. Comment: *A comment was received recommending that the language in Part I.D.5 of the permit that allows for amendment of a permit certification to address a TMDL be removed. The comment recommended only including the allowance for modification of the permit itself.*

Response: The Division does not agree with this approach. It is the Division's responsibility to implement waste load allocations included in a TMDL. Including a process in the permit to amend a certification to incorporate requirements to address a Waste Load Allocation allows the Division to address discharges from a specific permittee under a general permit without amending the permit for all permittees or issuing an individual permit.

6. Comment: *Comments were received requesting clarification of the requirement in Part I.D.6 (requirements for Implementation by Other Parties) that written acceptance be obtained from third-parties that are being relied on to implement a control measure. Specifically, would a written agreement be required if a non-standard MS4 permittee chose to follow city and/or county program(s) for the Construction Sites and Post-Construction programs, in accordance with Parts I.B.4(a) and I.B.5(a) of the permits?*

Response: As per Parts I.B.4(a) and I.B.5(a) of the permit, a written agreement is not required for a non-standard MS4 permittee that plans to comply with a city or county's Construction Sites and Post-Construction program. A written agreement is only required by Part I.D.6 if the city or county is implementing measures that the permit requires the non-standard MS4 permittee to ensure are performed. Parts I.B.4(a) and I.B.5(a) require a non-standard MS4 permittee to implement procedures to comply with a city and/or county program, but do not require the permittee to ensure that the programs are implemented adequately by the city and/or county. (The Division will provide oversight of cities and counties' program implementation separately.)

7. Comment: *A comment was received suggesting that the discussion of Reasonable Potential in Section IIIA of the rationale was inappropriate for this permit, since numeric effluent limits were not included.*

Response: The permit applies practice-based effluent limits instead of numeric effluent limits. Reasonable Potential analysis is required for all permitted discharges, including those for which practice-based effluent limits are applied in place of numeric effluent limits.

Nathan Moore
February 7, 2008