COLORADO
Department of Public Health & Environment

CDPS PERMIT COS000004

STORMWATER DISCHARGES ASSOCIATED WITH

SEPARATE STORM SEWER SYSTEMS (MS4s) FOR CITY OF COLORADO SPRINGS

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 all discharges from the municipal separate storm sewer system certified under this permit. Such discharges shall be in accordance with the conditions of this permit.

This permit specifically authorizes the City of Colorado Springs (permittee) to discharge as of the effective date stated on this permit, in accordance with pollutant restrictions, prohibitions, and reduction requirements and monitoring requirements and other conditions set forth in Parts I and II. All discharges authorized herein shall be consistent with the terms and conditions of this permit.

The applicant may demand an adjudicatory hearing within 30 days of the date of issuance of the final permit determination, per the Colorado Discharge Permit System Regulations, 61.7(1). Should the applicant choose to contest any of the pollutant restrictions, prohibitions, and reduction requirements monitoring requirements or other conditions contained herein, the applicant must comply with Section 24-4-104 CRS and the Colorado Discharge Permit System Regulations. Failure to contest any such pollutant restriction, prohibition, and reduction requirement, monitoring requirement, or other condition, constitutes consent to the condition by the Applicant.

This permit and the authorization to discharge shall expire at midnight on August 31, 2027.

Issued and Signed May 31, 2023, effective July 1, 2023

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Sayers-Fay, Andrew
Digitally signed by Sayers-Fay, Andrew
Date: 2023.05.31 12:31:34 -06'00'

Andrew Sayers-Fay

Section Manager

Water Quality Control Division

PERMIT ACTION SUMMARY:
Modification #1 Issued: May 31, 2023 and Effective: July 3, 2023
Issued and Signed July 29, 2022
EFFECTIVE: September 1, 2022

City of Colorado Springs
COS000004
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I. PART I

A. COVERAGE UNDER THIS PERMIT

1. Discharges Authorized Under This Permit

   This permit authorizes **stormwater discharges** from the permittee's **municipal separate storm sewer system (MS4)** located within the permit area to **state waters**.

2. Limitations on Coverage

   a. This permit in no way removes or modifies the responsibility for an **owner or operator** with control of the facility or activity from which the discharge originates to obtain separate CDPS or NPDES permit coverage or report spills when required in accordance with the Colorado Water Quality Control Act, Regulation 5 CCR 1002-61.

   b. Discharges or conveyances for which the flow is **irrigation return flow**, agricultural stormwater runoff, or a combination thereof; or water that is used for supplying irrigation water to irrigated land are excluded from being part of the MS4 and do not require CDPS permit coverage.

3. Permit Implementation Area

   a. This permit covers all areas within the jurisdictional boundary of the permittee served by, or otherwise contributing to discharges to state waters from municipal separate storm sewers owned or operated by the permittee.

   b. In accordance with **Part I.H**, compliance with permit requirements shall begin immediately for areas that meet the permit implementation area description through expansion of the **municipal** boundaries or infrastructure. Areas removed from a permittee's jurisdiction, such as through annexation or incorporation by a separate **municipality**, are removed from permit coverage at the time of the transfer of the jurisdiction.

4. Application

   The permittee must reapply at least 180 days before this permit expires to continue coverage under this permit. The permit will be administratively continued and remain in force and effect if this permit is not reissued prior to the expiration date. Any discharges authorized under this permit will automatically remain covered by this permit if the permittee was authorized to discharge under this permit prior to the expiration date. Upon availability, the permittee must reapply to the **division** by electronic delivery. Until such time, the application shall be submitted to:

   CDPHE -Water Quality Control Division

   Permits Section, WQCD-P-B2

   4300 Cherry Creek Drive South

   Denver, Colorado 80246-1530

5. Local Agency Authority

   Nothing in this permit shall be construed to limit a local government's authority to impose land-use or zoning requirements or other limitations on the activities subject to this permit. This 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.

   To the maximum extent allowable under state or local law, the permittee must implement regulatory mechanisms to meet the requirements in this permit. Local laws, standard operating procedures, contracts, and other documents that can be legally changed by the permittee to allow implementation of permit requirements do not constitute a barrier to implementation of a permit requirement.

B. **CONTROL MEASURES**

The following requirements apply to all **control measures** used by the permittee to achieve the effluent limits in this permit.

1. **Good Engineering, Hydrologic, and Pollution Control Practices**

Control measures shall be selected, designed, installed, implemented, and maintained in accordance with good engineering, hydrologic, and **pollution** control practices, and the manufacturer's specifications, when applicable.

2. Maintenance

Control measures shall be maintained in effective operating condition.

3. **Inadequate Control Measures**

A control measure shall be considered an inadequate control measure if it is not designed or implemented in accordance with the requirements of the permit, including the specific requirements in each program area in **Part I.E** or other requirements, and implemented and maintained to operate in accordance with the design.

4. **Control Measure Requiring Routine Maintenance**

A control measure shall be considered a control measure requiring routine maintenance if it is still operating in accordance with its design and the requirements of this permit, but requires maintenance to prevent potential for failure during a future runoff event.

5. **Minimize**

The term "minimize," for purposes of implementing control measures of this permit, means reduce and/or eliminate to the extent achievable using control measures that are technologically available and economically practicable and achievable in light of best industry practices.

C. **PROGRAM DESCRIPTION DOCUMENT**

1. Development and Maintenance

The permittee must develop, and maintain **program description documents** (PDDs) that comply with this permit. The PDDs must reflect current implementation of the permittee's program. The PDDs must contain a list of citation(s) and location(s) of the written procedures used for compliance with this permit. The PDDs do not need to be submitted or approved by the division, unless specifically requested by the division. The PDDs must include the following:

a. Current Control Measure Implementation and Procedures: The PDD content and public participation required by Parts I.C and **Part I.D** describe how the requirements of **Parts I.D**., **I.E**, and **Part I.F.4, 5, 6 and 7** are being met. Requirements subject to a compliance schedule do not need to be addressed in the PDDs until the due date in the compliance schedule in **Part I.H**.

b. Current Documents and Electronic Records: The permittee must document the implementation of this permit requirement and, at a minimum, must maintain a list of citations for documents and electronic records used to comply with permit requirements. It is not required that the PDDs repeat the information included in the cited documents. The PDDs must include the titles of the most recent version of the documents, source/author of the document (if different from the permittee), date of the document, and location(s) where the supporting documentation is maintained.

c. Current Organizational Chart: An organizational chart indicating the legally responsible official over the applicable departments.

2. Availability

   The PDDs must be available to the public at reasonable times during regular business hours and, at a minimum, on the permittee's website. PDDs available to the public must reflect all updates made prior to the previous 30 days.

3. Modification

   Information in the PDDs may be revised by the permittee at any time. The permittee must modify the PDD as changes occur to ensure the information is up to date.

D. **PUBLIC INVOLVEMENT/PARTICIPATION**

1. Public Involvement and Participation Process

   The permittee must implement and document a public involvement and participation process that complies with the permittee's public notice requirements for actions conducted, when applicable, to comply with this permit. The following requirements apply:

   a. The permittee must follow its own public notice requirements to provide opportunities for public involvement that reach a majority of citizens within the permittee's permit implementation area through the notification process.

   b. The permittee must provide a mechanism and processes to allow the public in the permittee's permit implementation area to review and provide input on the PDD. At a minimum, the current PDDs must be available on the permittee's website. PDDs available to the public must reflect all updates made prior to the previous 30 days. The permittee must also provide a statement on the permittee's web site that the PDD is publicly available for review.

   c. The permittee must have the ability to accept and respond (in accordance with permit requirements) to information submitted by the public, including information on illicit discharges or failure to implement or meet control measure requirements associated with covered construction activities, applicable development projects, or permittee operations.

2. Recordkeeping

   The permittee must document the implementation of these permit requirements and, at a minimum, maintain the following records for activities to meet the requirements of this section.

   a. Copies of the documents used to provide public notice and any public comment received as part of the public notice process.

   b. Documentation of the mechanism used to allow the public to provide input and any comments received.

   c. Records of information submitted by the public in accordance with **Part I.D.1.c** and any actions the permittee took to address the information.

E. **EFFLUENT LIMITATIONS**

Effluent Limitations are **pollutant** restrictions, prohibitions, and reductions required by the permit and are listed below. All control measures must be implemented before the discharge from the MS4 enters state waters, unless otherwise specified in this permit.

The permittee must implement its current stormwater management program until a new or revised program is implemented in accordance with the requirements and compliance schedule (**Part I.H**) in this permit.

Included in this section are requirements for the permittee to develop and maintain records associated with the terms and conditions of this section.

1. Public Education and Outreach Program

   The permittee must implement a public education and outreach program to build awareness and promote behavior change by the public to reduce pollutants in discharges from the MS4. The

permittee may meet the requirements of this section by participating in collaborative education and outreach activities. The public education and outreach program must address the impacts of stormwater discharges on water bodies, the steps the target audience can take to reduce pollutants in stormwater runoff, and water quality impacts associated with illicit discharges and improper disposal of waste. Based on the target audience's demographic, the permittee must consider delivering its selected message in language(s) appropriate for the target audience.

a. The following requirements apply:

i. Website: The permittee's website must provide the following minimum information:

(A) A copy of this permit or a link to division's webpage including directions for finding the permit.

(B) Contact information and directions for comments, questions, and complaints associated with a statement explaining that the permittee must meet the permit requirements.

(C) A basic message explaining that stormwater discharges to surface water bodies without undergoing treatment by a wastewater treatment plant. The message must include a diagram illustrating that stormwater does not go to a wastewater treatment plant.

(D) Identification of common indicators of an illicit discharge and procedures on how to report an illicit discharge.

(E) A summary of the permittee's requirements for control measures for covered construction projects.

(F) A summary of how to provide information to the permittee regarding failures to implement the terms of this permit.

ii. Illicit Discharges: The permittee must provide information to businesses and the general public regarding the permittee's prohibitions of and the water quality impacts associated with illicit discharges as part of the public education and outreach program. At a minimum, the permittee must:

(A) Determine the business types that are likely to cause or contribute to an illicit discharge or improperly dispose of waste.

1) Identify at least one type of business to target and develop a list of the names and locations of the businesses that fit the identified business type.

2) Develop and implement at least one education and outreach activity to those businesses identified in **Part I.E.1.a.ii(A)1)**. Educational materials and activities, individually or as a whole, must describe water quality impacts associated with illicit discharges and the improper disposal of waste, the behaviors of concern, and actions that the business can take to reduce the likelihood of illicit discharges and the improper disposal of waste. The permittee may incorporate the education and outreach activities to meet this requirement into the education and outreach activities provided in accordance with **Part I.E.1.a.iii**.

(B) Determine the priority **onsite wastewater treatment systems (OWTS)** within the MS4 permit area that may have a higher potential to contribute to an illicit discharge. This may include OWTS that have flowed to the MS4 in the past, OWTS with no or infrequent inspections or maintenance, areas with poor soils, or high groundwater elevations unsuitable for an OWTS, etc.

1) Identify the locations, including latitude and longitude and distance from the MS4, and property owner mailing addresses of the OWTS within the MS4 permit area.

2) At least once every five years, the permittee must develop and implement one education and outreach activity targeting property owners identified in **Part I.E.1.a.ii(B)1)**. The permittee may coordinate with a regional partner to achieve this outcome (e.g. El Paso County). The permittee may incorporate the

education and outreach activities to meet this requirement into the education and outreach activities provided in accordance with **Part I.E.1.a.iii**.

iii. Education and Outreach Activities: Each year, the permittee must implement at least four education and outreach activities (bulleted items). At least two of the four must be from the Active Outreach column. The activities can be the same from year to year or be different each year. At least one active outreach activity must address the proper management and disposal of used oil and toxic materials.

TABLE 1
Education and Outreach Activities Table

Passive Outreach (pick any two bullets each year)	**Active Outreach (pick any two bullets each year)**
● Bus shelter or bench advertisement on at least 6 bus shelters or benches. ● Bus advertisement on at least 6 busses. ● Billboard or dasher board advertisement on at least 5 billboards or dasher boards. ● Municipal vehicle advertisement on 25% of public works vehicles. ● Radio, television, or movie theatre advertisement. ● Newspaper advertisement in least 6 issues. ● Distribute educational materials by brochure or door hanger in the permit implementation area of at least 2,500 households. ● Distribute educational materials by fact sheet to in the permit implementation area of at least 2,500 households. ● Distribute educational material by utility bill insert (paperless or paper) to at least 50% of the permit implementation area. ● Distribute educational material by mail to targeted property owners and/or businesses. ● Publish article (hard copy or electronic). ● Publish newsletter (hard copy or electronic). ● Social media advertisement for a minimum of 1 month. ● Storm drain marking that maintains 50% of permittee-maintained inlets.	● Ongoing advertisement or promotion of a stormwater hotline number or other method to report an illicit discharge. ● Ongoing advertisement or promotion on how to get more information about the stormwater program. ● Ongoing social media campaign. ● Promotion of existing local stormwater or environmental events or program that help protect water quality. ● Distribute promotional items or giveaways during at least 6 events. ● Participate in or sponsor a water festival which involves populations that exist within the permit boundary. ● Participate in or sponsor a waterway clean-up and trash removal event. ● Participate in or sponsor a service project. ● Participate in or sponsor a stormwater or environmental presentation. ● Participate in or sponsor a stormwater or environmental event. ● Participate in or sponsor a household hazardous waste event or collection service. ● Participate in or sponsor an Adopt-a-Street/Highway program. ● Participate in or sponsor an Adopt-a-Waterway program. ● Participate in or sponsor an Adopt-a-Storm Drain program. ● Provide ongoing access to motor vehicle fluids recycling program. ● Participate in or sponsor a stormwater booth at a community event. ● Conduct a stormwater survey. ● Sponsor a storm drain marking program performed by the public or community. ● Sponsor pet waste stations in at least 10 parks. ● Participate in, plan, or present stormwater materials to schools. ● Participate in or sponsor a stormwater demonstration project that shows control measures or other pollutant reduction methods.

iv. Nutrients: As part of their public education and outreach program, the permittee must specifically address the water quality impacts associated with nitrogen and phosphorus in discharges from the MS4. The permittee can meet the requirements of this section through contribution to a collaborative program to evaluate, identify, target, and provide outreach that addresses sources state-wide or within the specific region or watershed that includes the **receiving waters** impacted by the permittee's discharge.

(A) For both nitrogen and phosphorus, the permittee must determine the targeted sources (e.g., residential, industrial, agricultural, or commercial) that are contributing to, or have the potential to contribute to the discharge of nitrogen and phosphorus to the receiving waters authorized under the MS4 permit.

(B) The permittee must prioritize which targeted sources are likely to obtain a reduction in nitrogen and phosphorus discharges through education and outreach. The permittee must distribute educational materials, give workshops, or equivalent outreach to the prioritized targeted sources. Educational materials or equivalent outreach, individually or as a whole, must describe stormwater quality impacts associated with nitrogen and phosphorus in stormwater runoff and illicit discharges, the behaviors of concern, and actions that the target source can take to reduce nutrients. Examples of public education and outreach include encouraging responsible fertilizer application, encouraging xeriscaping, proper disposal of leaves and lawn waste, and evaluating alternatives to deicers containing phosphorus.

(C) The permittee must evaluate the estimated effectiveness of the educational materials or equivalent outreach to promote behavior change (i.e. the estimated reduction in fertilizer application, number of square feet of new xeriscaping, quantity of leaves collected in a waste collection program, survey of participation, etc.).

(D) The permittee may incorporate the education and outreach to meet this requirement into the education and outreach activities provided in accordance with **Part I.E.1.a.iii**.

b. Recordkeeping: The permittee must document the implementation of these permit requirements and at a minimum, maintain the following records for activities to meet the requirements of this section:

i. Website: Maintain the website.

ii. Illicit Discharges: A written list of the targeted business and the locations of the priority OWTS and distribution mechanism for each activity and the following:

(A) Dates the activities were implemented, including, as applicable, dates of events and the materials that were made available.

(B) Documentation of the activities that were provided and/or made available and the dates of distribution. Signs, markers, or equivalent intended to be maintained for the permit term must be described with location information.

iii. Education and Outreach Activities: A written list of the targeted pollutant sources and/or pollutants, the target audience, and distribution mechanism for each activity and the following:

(A) Dates the activities were implemented, including, as applicable, dates of events and the materials that were made available.

(B) Documentation of the activities that were provided and/or made available and the dates of distribution. Signs, markers, or equivalent intended to be maintained for the permit term must be described with location information.

iv. Nutrients: A written list of the targeted sources that are contributing to, or have the potential to contribute nutrients to stormwater, the education and outreach activity conducted for the nitrogen and phosphorus sources, and the metrics used to evaluate behavior change.

2. Illicit Discharge Detection and Elimination (IDDE) Program

   The permittee must implement a program to effectively prohibit **illicit discharges**.

   a. The following requirements apply:

      i. Storm Sewer System Map: The permittee must maintain a current map of the location of all **MS4 outfalls** within the permit implementation area with the names and locations of all state waters that receive discharges from those outfalls, and open channel conveyances (swales, ditches, concrete channels, etc.), interconnections with other MS4s and storm sewer systems.

      ii. Regulatory Mechanism: Implement a **regulatory mechanism** to meet the requirements in Part I.E.2., including the following:

         (A) Prohibit illicit discharges into the MS4 unless excluded from being effectively prohibited in accordance with **Part I.E.2.a.v**;

         (B) Allow access to property, as necessary for the permittee to implement the illicit discharges procedures; and

         (C) Provide the permittee the legal ability to meet the permit requirements to remove, or require and ensure the removal of, and impose penalties for all illicit discharges for the period from when the illicit discharge is identified until removed.

      iii. Regulatory Mechanism Exemptions: The permittee must implement procedures to ensure that any **exclusions**, exemptions, waivers, and variances included in the regulatory mechanism are applied in a manner that complies with the terms and conditions of this permit.

      iv. Tracing an Illicit Discharge: The permittee is required to respond per procedures outlined in this section to illicit discharges that are reported through **Part I.D.1.c** and observed during day-to-day normal work activities as soon as possible, but no later than 24 hours. With the exception of dry weather screening in **Part I.E.2.a.xii**, the permittee is not expected to actively seek out unreported illicit discharges, but is required to identify and respond to illicit discharges observed during day-to-day normal work activities. The permittee must document and implement procedures, including the tools needed, to trace the source of an illicit discharge when identified within the MS4. This may include identifying unpermitted discharges of groundwater that that may not meet **water quality standards**. The permittee must have written procedures and tools for tracing the illicit discharge within the MS4, including identifying and screening the point(s) of entry and the outfall(s) associated with the illicit discharge.

      v. Discharges That Could Be Excluded From Being Effectively Prohibited: The following discharges do not need to be effectively prohibited and the permittee is not required to address the discharges as illicit discharges as long as these discharges do not come in contact with unpermitted construction or industrial activities prior to discharge to the MS4 in accordance with the requirements of this permit. The permittee may not exclude the discharges in this part if the permittee identifies them as significant contributors of pollutants to their MS4. The permittee must list all discharges excluded from being effectively prohibited in their regulatory mechanism as an allowable non stormwater discharge. Any discharges listed below that are not listed in the permittee's regulatory mechanism must be effectively prohibited.

         (A) Landscape irrigation

         (B) Lawn watering

         (C) Diverted stream flows

         (D) Irrigation return flow

         (E) Rising ground waters

(F) Uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers.

(G) Uncontaminated pumped groundwater

Note: This permit is not prescriptive in how the permittee makes the determination that groundwater is uncontaminated. Note that all dischargers of groundwater (contaminated and uncontaminated) to surface waters of the state must obtain authorization to discharge under a CDPS or NPDES permit (see **Part V** below) or under a division policy, like Water Quality Policy (WQP) 27 – Low Risk Discharges. Examples of regulated discharges of uncontaminated pumped groundwater include but are not limited to discharges from **construction dewatering** activities, subterranean dewatering activities, and well development activities.

Residential Structures: The permittee may assume that subterranean or foundation dewatering discharges from residential structures including single family homes, duplexes and triplexes (e.g. discharges from sump pumps, foundation drains, crawl spaces and footing drains) are not comprised of groundwater, but rather, are comprised of stormwater-only, except where the following conditions apply:

1) The residential structures are single family homes, duplexes and triplexes and the subterranean structure is an underground parking garage, elevator shaft, and/or similar significant subterranean feature expected to increase the reasonable potential for subterranean structure dewatering activities to draw shallow groundwater into the discharge, and/or

2) The division has identified the source water (e.g. groundwater) as a potential significant contributor of pollutants and has provided written notification of this determination to the discharger and the MS4 permittee.

(H) Springs

(I) Flows from riparian habitats and wetlands

(J) Water line flushing in accordance with the division's *Low Risk Policy Discharge Guidance: Potable Water*.

(K) Discharges from potable water sources in accordance with the division's *Low Risk Discharge Guidance: Potable Water*.

The potable water shall not be used in any additional process. Processes include, but are not limited to, any type of washing, heat exchange, manufacturing, and hydrostatic testing of pipelines not associated with treated water distribution systems.

(L) Foundation drains, water from crawl space pumps, and footing drains
Note: The permittee must verify that any new discharges from foundation drains, water from crawl space pumps, and footing drains into the MS4 (*except* those associated with residential structures including single family homes, duplexes and triplexes as described in **Part G** above) are located above the water table in order to be considered stormwater. Foundation drains, water from crawl space pumps, and footing drains comprised of water from above the water table must not have evidence of a visible sheen, odor, color, turbidity or floatables. If the permittee confirms that the discharge does not meet these requirements, it must prohibit the discharge under this section and direct the discharger to the division to determine applicability of permit requirements. Where the discharge from a foundation drain is comprised of groundwater, the discharge must be authorized as described in **Part G** above.

(M) Air conditioning condensation

(N) Individual residential car washing

(O) Dechlorinated swimming pool and hot tub discharges in accordance with the division's *Low Risk Discharge Guidance: Discharges from Pools, Fountains and Other Similar Type Facilities that are Fed Solely by Potable Water*.

(P) Water incidental to street sweeping (including associated sidewalks and medians) and that is not associated with construction

(Q) Dye testing in accordance with the manufacturers' recommendations

(R) Stormwater runoff with incidental pollutants

(S) Discharges resulting from emergency firefighting activities

(T) Discharges authorized by a CDPS or NPDES permit

(U) Agricultural stormwater runoff

(V) Discharges that are in accordance with the division's Low Risk Policy guidance documents or other division policies and guidance documents where the division has stated that it will not pursue permit coverage or enforcement for specified **point source** discharges.

vi. Removing an Illicit Discharge: When an illicit discharge is identified, the permittee must remove or require the removal of the source of the illicit discharge. The permittee must also cease or require the cessation of the illicit discharge. After the illicit discharge has stopped, the permittee must also minimize surface contamination by removing or requiring the removal of surface residue or other type of pollutant sources, if feasible. When CDPS or NPDES general permit coverage is available for a discharge and the discharge is not subject to prohibitions against issuance of a permit in regulation 61.8(1) (e.g. contaminated groundwater that could be permitted under the division's COG318000 permit), the permittee can meet these removal and cessation requirements by notifying both the division and the operator responsible for the discharge through a written report. The permittee must also have written procedures for requiring cleanup from the operator and procedures for cleanup conducted by the permittee, when necessary, to remove materials associated with the illicit discharge.

vii. Enforcement Response: The permittee must implement appropriate written enforcement procedures and actions to eliminate the source of an illicit discharge when identified or reported, stop responsible parties from willfully or negligently repeating or continuing illicit discharges, and discourage future illicit discharges from occurring. The written procedures must address mechanisms for enforcement for all illicit discharges from the moment an illicit discharge is identified or reported until it is eliminated. The permittee must escalate enforcement as necessary based on the severity of violation and/or the recalcitrance of the responsible party to ensure that findings of a similar nature are enforced upon consistently. Written enforcement procedures must include informal, formal, and judicial enforcement responses.

viii. Priority Areas: The permittee must locate priority areas with a higher likelihood of having illicit discharges, including areas with higher likelihood of illicit connections. At a minimum, the priority areas must include areas with a history of past illicit discharges or include the outfalls of concern identified in **Part I.E.2.a.xii**.

ix. Training: The permittee must train municipal staff, which may include fire district staff and police department staff, to recognize and appropriately respond to illicit discharges observed during typical duties. The permittee must identify those who will be likely to make such observations and provide training to those individuals, including those that work for other agencies, departments, etc. The training must address how suspected illicit discharges will be reported or identified, general information for recognizing and responding to illicit discharges observed during typical duties, information on the sources and types of operations or behaviors that can result in an illicit discharge, and information on the location of priority areas.

x. Industrial Activities: If the permittee identifies an illicit discharge from CDPS and NPDES permitted or unpermitted industrial activities (included in **Part I.E.5.a.i**), the permittee must report to the division via email or mail to MS4 staff as soon as possible following making this determination, but no later than 90 days after the permittee has identified the illicit discharge from the industrial facility.

xi. Control of Sanitary Sewer Seepage into the MS4: The permittee shall implement a program to detect and eliminate sources of sanitary sewer seepage into the MS4. The permittee must monitor at least 1700 miles of sanitary sewer lines once every five years and monitor for cross-connections, broken lines, shifted joints, and illicit discharges. The permittee may reduce the total number of miles to be monitored by both of the following: 1) the number of sanitary sewer miles the permittee has rehabilitated or replaced (i.e. sliplining, cured-in-place pipe, etc.) within the last fifteen years or within the permit term; and 2) the number of new sanitary sewer lines that have been installed within the last fifteen years or within the permit term.

xii. Dry Weather Outfall Screening and Monitoring: The permittee must screen once every five years the 37 outfalls with a **dry weather discharge** identified in the previous permit term in the report entitled *Dry Weather E. coli Analysis Report dated October 2017* that contain dry weather flows equal to or more than 5 gpm. If any of the 37 outfalls no longer contain dry weather flows equal to or greater than 5 gpm, it may be removed from screening. Screening means a visual screen for evidence of an illicit discharge, including for odor, color, turbidity, and floatables.

Of the 37 outfalls, 8 were identified within the report as being primary outfalls of concern. The permittee must identify the source of the dry weather flows within those 8 primary outfalls of concern. If any of the 8 outfalls no longer contain dry weather flows equal to or greater than 5 gpm, it may be removed from source investigation. This may be conducted in conjunction with **Part I.E.7.a**. The permittee must use the procedures for tracing an illicit discharge immediately, or at a minimum within 24 hours, when evidence of an illicit discharge is observed, and must follow procedures for removing the illicit discharge. If the permittee determines the source of the dry weather flow and confirms no illicit discharge is occurring from those flows, the outfall may be removed from screening.

During the dry weather outfall screening and source identification when an illicit discharge is suspected, the permittee must include monitoring for the pollutant of concern for any impaired water or **TMDL** for the receiving water plus any additional pollutants related to the suspected illicit discharge.

b. Recordkeeping: The permittee must document the implementation of these permit requirements and at a minimum, maintain the following records for activities to meet the requirements of this section:

i. Storm Sewer System Map: The current map.

ii. Regulatory Mechanism: The applicable specifications, contracts, standards, operating procedures, and other documents used to meet the permit requirements.

iii. Regulatory Mechanism Exemptions: The applicable specifications, contracts, standards, operating procedures, and other documents used to meet the permit requirements.

iv. Tracing an Illicit Discharge:

(A) The applicable program documents and procedures used to respond to reports or identification of illicit discharges.

(B) The permittee must maintain centralized recordkeeping systems of illicit discharge responses conducted by the permittee. Records maintained by other departments can be in different centralized recordkeeping systems. The centralized record keeping system must contain the information in **Part I.E.2.b.vi(A)** or provide a reference to

where the information is maintained and how information is shared between separate functional groups within the permittee's organization.

v. Discharges That Could Be Excluded From Being Effectively Prohibited: The applicable specifications, contracts, standards, operating procedures, and other documents used to meet the permit requirements.

vi. Removing an Illicit Discharge:

(A) The permittee must document and maintain records of each illicit discharge identified by the permittee that includes the following information, or identifies that the information is unknown or not applicable:

1) The date that the illicit discharge was reported to and/or identified by the permittee.

2) The date the permittee responded to the reported or identified illicit discharge.

3) The location of the illicit discharge.

4) Potential responsible party for the illicit discharge (if identified).

5) A description of the source and nature of the illicit discharge.

6) A description of how the source of the illicit discharge was eliminated or resolved.

7) Documentation of enforcement actions (if applicable).

vii. Enforcement Response: The applicable codes, resolutions, ordinances, and program documents used to meet the permit requirements.

viii. Priority Areas: The map and/or list of priority areas.

ix. Training: A list of staff positions and departments/agencies that must be trained and the frequency of training. Program documents that describe how and when new employees will be trained. Name and title of each individual trained, date of training, the type of training, and a list of topics covered.

x. Industrial Facilities: Copies of illicit discharge reports and the date that the division was notified by the city that the discharges originated from a permitted or unpermitted industrial activities for which CDPS or NPDES permit coverage is available.

xi. Control of Sanitary Sewer Seepage into the MS4: The applicable program documents and procedures used to detect and eliminate sources of sanitary sewer seepage into the MS4. The permittee must document the miles of sanitary sewer lines monitored and the actions taken each year.

xii. Dry Weather Outfall Screening and Monitoring: The applicable program documents and procedures used to screen outfalls during dry weather. The permittee shall document the outfalls screened and the actions (if applicable) taken each year, and the results from the source investigation and monitoring, if applicable.

3. Construction Sites Program

The permittee must implement a program to reduce or prevent the **discharge of pollutants** to the MS4 from public and private **construction activities** that result in a land disturbance of greater than or equal to one acre or for construction activity disturbing less than one acre if it is part of a larger **common plan of development or sale** that would disturb one acre or more. The permittee must implement a program to require **structural control measures** and/or **non-structural control measures** that effectively minimize erosion, sediment transport, and the release of other pollutants related to construction activity. The requirements for construction activity does not apply to those activities that meet the definition of **routine surface maintenance**. See **Part I.F.6** regarding the City of Colorado Springs Consent Decree effective January 11, 2021. At a minimum,

the City of Colorado Springs's adopted criteria manual must at a minimum meet the permit requirements, including specifically the requirements in this section, Part I.E.3.

Exclusion: The permittee may exclude the waived activity from being an applicable construction activity if the division waives requirements for stormwater discharges associated with a small construction activity in accordance with Regulation 61.3(2)(f)(ii)(B) (the "R-Factor" waiver).

a. The permittee must meet the following requirements for applicable construction sites:

   i. Regulatory Mechanism: The permittee must implement a regulatory mechanism to meet the requirements in **Part I.E.3**, including the following:

      (A) The ability to implement sanctions against entities responsible for applicable construction activities.

      (B) For public projects, implement, at a minimum, contract provisions, internal processes and internal management procedures.

      (C) Require control measures to be implemented for all applicable construction activities from initial disturbance until **final stabilization** and completion of construction activities.

   ii. Regulatory Mechanism Exemptions: The permittee must implement procedures to ensure that any exclusions, exemptions, waivers, and variances included in the regulatory mechanism are applied in a manner that complies with the terms and conditions of this permit.

   iii. Control Measure Requirements: The permittee's Construction Sites Program must require the selection, installation, implementation, and maintenance of structural and nonstructural control measures that meet the requirements of **Part I.B**. The permittee must require that control measures are appropriate for the specific construction activity, the applicable pollutant sources, and phase of construction, and minimize pollutants in stormwater runoff from construction sites to the municipal storm sewer system. Control measures must meet the minimum requirements below.

      (A) Appropriate control measures must be implemented prior to the start of construction activity, during each phase of construction, and through completion of final stabilization.

      (B) Control measures must be maintained in accordance with good engineering, hydrologic and pollution control practices. The necessary repairs or modifications to a **control measure requiring routine maintenance** must be conducted to maintain an effective operating condition.

      (C) Control measures must be selected, designed, installed, implemented, and maintained to minimize all known or expected potential pollutants, including, but not limited to, sediment, construction site waste, trash, discarded building materials, concrete truck washout, chemicals, sanitary waste, and contaminated soils in discharges to the MS4. Pollutant sources must be addressed, at a minimum, as specified below:

         1) Control Measures for Erosion and Sediment Control

            (a) Stormwater runoff from all disturbed areas and soil storage areas must utilize or flow to at least one or more control measures to minimize erosion or sediment in the discharge from the site. The control measure must be selected, designed, installed and adequately sized for the intended application in accordance with good engineering, hydrologic, and pollution control practices. The control measure(s) must contain or filter flows in order to prevent the bypass of flows without treatment and must be appropriate for stormwater runoff from disturbed areas and for the expected flow rate, duration, and flow conditions (i.e., sheet or concentrated flow).

(b) Structural and/or nonstructural vehicle tracking controls must be implemented to minimize vehicle tracking of sediment from disturbed areas.

(c) Outlets that withdraw water from or near the surface must be installed when discharging from basins and impoundments, unless **infeasible**.

(d) Maintain pre-existing vegetation or equivalent control measures for areas within 50 horizontal feet of receiving waters, unless infeasible.

(e) Soil compaction must be minimized for areas where infiltration control measures will occur or where final stabilization will be achieved through vegetative cover.

(f) Unless infeasible, topsoil shall be preserved for those areas of a site that will utilize vegetative final stabilization.

(g) Minimize the amount of soil exposed during construction activity, including the disturbance of steep slopes.

2) Practices for Other Common Pollutants

(a) Bulk storage, individual containers of 55 gallons or greater, for petroleum products and other liquid chemicals must have secondary containment, or equivalent protection, in order to contain spills and to prevent spilled material from entering the MS4 or state waters.

(b) Control measures designed for concrete washout must be implemented. The permittee must ensure the washing activities do not contribute pollutants to stormwater runoff or receiving waters.

3) Stabilization Requirements: The following requirements must be required for each site:

(a) Temporary stabilization must be implemented for earth disturbing activities on any portion of the site where ground disturbing construction activity has permanently ceased, or temporarily ceased for more than 14 calendar days. The permittee may allow the construction operator to exceed the 14-day schedule when either the function of the specific area of the site requires it to remain disturbed, or, physical characteristics of the terrain and climate prevent stabilization. The SWMP must document the constraints necessitating the alternative schedule, provide the alternate stabilization schedule, and identify all locations where the alternative schedule is applicable on the site map.

(b) **Final stabilization** must be implemented for all construction sites. The permittee must conclude final stabilization is reached when (i), (ii), and (iii) below are complete:

(i) All ground surface disturbing activities at the construction site are complete.

(ii) Permanent stabilization methods are complete (e.g. permanent pavement, concrete vegetative cover, etc.). Vegetative cover must meet the following criteria:

(A) Evenly distributed perennial vegetation, and

(B) Coverage, at a minimum, equal to 70 percent of what would have been provided by native vegetation in a local, undisturbed area.

(iii) All temporary control measures are removed from the construction site once final stabilization is achieved, except when the control measure

specifications allow the control measure to be left in place (i.e. bio-degradable control measures).

(c) Stabilization measures may include, but are not limited to, seed mix selection and application methods, soil preparation and amendments, and soil stabilization methods.

iv. Construction Activities Stormwater Management Plans (SWMPs):

(A) SWMP Requirement: The permittee must require operators to develop and maintain SWMPs that locate and identify all structural and non-structural control measures for the applicable construction activities. For the permittee this may include the Grading and Erosion Control Plan and the City Stormwater Management Plan or other equivalent documents. The permittee must require that a SWMP be maintained to reflect current conditions. The permittee must have the ability to take enforcement steps necessary at each site in order to ensure that the SWMP is maintained to reflect all current conditions.

1) Initial SWMP Review: The permittee must review and approve the SWMP for all applicable construction activities prior to the start of construction activities. If a SWMP does not meet the requirements in Part I.E.3.a.iv.1)(a)-(d), the permittee will not approve the SWMP and will notify the SWMP contact that construction activities must not commence at the site. For **public emergency related sites** the permittee must review the SWMP no later than 14 days following the start of construction activity. The permittee will only approve a SWMP if the permittee has confirmed that the site SWMP meets the following:

(a) Has been prepared in accordance with good engineering, hydrologic, and pollution control practices.

(b) Includes anticipated appropriate control measures for all known or expected potential sources of pollution at the major stages of construction, including final stabilization.

(c) Includes control measures that meets the requirements in **Part I.E.3.a.iii**.

(d) Must include, at a minimum, the following additional information:

(i) **Qualified Stormwater Manager** which also may be called the Grading and Erosion Control Administrator. The SWMP must list the initial preparer of the SWMP, and the anticipated individual(s) by title and name or third party consultant who are designated as the site's qualified stormwater manager(s) responsible for implementing the SWMP in its entirety. This role may be filled by more than one individual.

(ii) Spill Prevention and Response Plan. The SWMP must have a spill prevention and response plan. The plan may incorporate by reference any part of a Spill Prevention Control and Countermeasure (SPCC) plan under section 311 of the Clean Water Act (CWA) or a Spill Prevention Plan required by a separate CDPS permit. The relevant sections of any referenced plans must be available as part of the SWMP.

(iii) Materials Handling. The SWMP must describe and locate all control measures implemented at the site to minimize impacts from handling significant materials that could contribute pollutants to runoff. These handling procedures can include control measures for pollutants and activities such as, exposed storage of building materials, paints and solvents, landscape materials, fertilizers or chemicals, sanitary waste material, trash and equipment maintenance, or fueling procedures.

(iv) Potential Sources of Pollution. The SWMP must list all potential sources of pollution which may reasonably be expected to affect the quality of

stormwater discharges associated with construction activity from the site. This includes, but is not limited to, the following pollutant sources:

(A) Disturbed and stored soils;

(B) Vehicle tracking of sediments;

(C) Management of contaminated soils;

(D) Loading and unloading operations;

(E) Outdoor storage activities (erodible building materials, fertilizers, chemicals, etc.);

(F) Vehicle and equipment maintenance and fueling;

(G) Significant dust or particulate generating processes (e.g., saw cutting material, including dust);

(H) Routine maintenance activities involving fertilizers, pesticides, herbicides, detergents, fuels, solvents, oils, etc.;

(I) On-site waste management practices (waste piles, liquid wastes, dumpsters);

(J) Concrete truck/equipment washing, including washing of the concrete truck chute and associated fixtures and equipment;

(K) Dedicated asphalt, concrete batch plants, and masonry stations;

(L) Non-industrial waste sources such as worker trash and portable toilets.

(v) Implementation of Control Measures. The SWMP must include design specifications that contain information on the implementation of the control measure in accordance with good engineering, hydrologic, and pollution control practices; including as applicable drawings, dimensions, installation information, materials, implementation processes, control measure-specific inspection expectations, manufacturer specifications and maintenance requirements or a reference to the document with installation, implementation, and maintenance specifications for all structural control measures. A narrative description of non-structural control measures must be included in the SWMP.

(A) The SWMP must include a documented use agreement between the applicable construction site owner or operator and the owner or operator of any control measures located outside of the construction site boundaries that are used by the applicable construction site for compliance with the SWMP, but not under the direct control of the applicable construction site owner or operator. The applicable construction site owner or operator is responsible for ensuring that all control measures located outside of the construction site boundaries, that are being used by the applicable construction site, are properly maintained and in compliance with all terms and conditions of **Part I.E.3**. The SWMP must include all information required of and relevant to any such control measures located outside the construction site boundaries, including location, installation specifications, design specifications and maintenance requirements.

(vi) Site Description. The SWMP must include a site description which includes, at a minimum, the following.

(A) The nature of the construction activity at the site;

(B) The proposed schedule for the sequence for major construction activities and the planned implementation of control measures for each phase. (e.g., clearing, grading, utilities, vertical, etc.);

(C) Estimates of the total acreage of the site, and the acreage expected to be disturbed by clearing, excavation, grading, or any other construction activities;

(D) A summary of any existing data used in the development of the construction site plans and SWMP that describe the soil types and the erodibility of the identified soil types;

(E) A description of the percent cover of native vegetation on the site if the site is undisturbed, or the percent cover of native vegetation in a similar, local undisturbed area if the site is disturbed. If a percent cover is not appropriate for the site location (i.e. arid), describe the technique and justification for the identified cover of native vegetation;

(F) A description of any allowable non-stormwater discharges at the site, including those being discharged under a division low risk discharge guidance policy;

(G) A description of the drainage patterns from the site. Including a description of the immediate source receiving the discharge. If the stormwater discharge is to a municipal separate storm sewer system, the location(s) of the storm sewer discharge and the receiving water(s); and

(H) A description of all stream crossings located within the construction site boundary.

(vii) Site Map. The SWMP must include a site map which includes, at a minimum, the following:

(A) Construction site boundaries;

(B) Flow arrows that depicts stormwater flow directions on-site and runoff direction(s);

(C) All areas of ground disturbance including areas of borrow and fill;

(D) Areas used for storage of soil;

(E) Locations of all waste accumulation areas, including areas for liquid waste, concrete, masonry, and asphalt;

(F) Locations of asphalt, concrete batch plants and masonry mixing stations;

(G) Locations of all structural control measures;

(H) Locations of all non-structural control measures. Nonstructural control measures (e.g. street sweeping) without specific location may be notated;

(I) Locations of springs, streams, wetlands and other state waters, including areas that require pre-existing vegetation or equivalent control measures be maintained within 50 feet of a receiving water, where determined feasible in accordance with **Part I.E.3.a.iii(C)1)(d)**; and

(J) Locations of all stream crossings located within the construction site boundary.

(viii) Final Stabilization and Long Term Stormwater Management. The SWMP must describe the practices used to achieve final stabilization of all disturbed areas at the site and any planned permanent control measures that will remain after construction operations are completed, including but not limited to, detention/retention ponds, rain gardens, stormwater vaults, etc.

(B) SWMP Revisions: The permittee must require the operator to ensure the SWMP reflects current site conditions, and that the current SWMP must be available during inspections. The permittee will implement procedures and deadlines for the following SWMP modifications:

1) Major Modifications. Changes to the original SWMP that remove or add additional area to the project, modify the final hydrology or drainage of the final design, replace approved SWMP, or otherwise expand or contract the scope of the original project shall require the submission of plans to permittee for review and approval. An exclusion to major modifications includes residential development and home building. As lots are removed from the initial SWMP through sale and conveyance to the homeowner, the permittee is not required to have the operator complete the process for a major modification approval.

2) Minor Modifications. Modifications to the original SWMP that do NOT increase the scope or change hydrology of the project but modify/improve specific control measures in use at a site, indicate progression in phasing of the project, or specify relocation of previously approved control measures within the project must be made in the field by the construction site owner/operator and thoroughly documented in the SWMP narrative and/or site map drawings, where applicable. The permittee must evaluate minor modifications made by the construction site owner/operator during site inspections and determine if the modification is adequate. No formal written approval is required for minor modifications, except minor modifications identified during site inspections must be documented in some way (like initialing the map or through an electronic log, or inspection reports).

3) The permittee will only approve a major and minor modification if the modification meets the applicable requirements of **Part I.E.3.a.iii**.

v. Site Inspections: The permittee shall visually inspect applicable construction sites at a frequency determined by the permittee, however, it must inspect the applicable construction sites at a minimum inspection frequency listed below. Documentation of inspections outlined below must be maintained in accordance with recordkeeping requirements in **Part I.E.3.b**. Assessment of pollutant sources and control measures required by inspections shall be visual and an in the field assessment unless otherwise stated in this section. The following requirements apply:

(A) Site Inspection Frequency Exclusion: For any of the following, the permittee is not required to conduct inspections unless there are observations or reports of discharges of pollutants from disturbed areas:

1) Individual Homes in a Residential Subdivision-Finished Home: Inspections are not required for a residential lot that has been conveyed to a homeowner when all of the following criteria have been met:

(a) The lot has been sold to the homeowner(s) for private residential use.

(b) The lot has less than one acre of disturbed area.

(c) All construction activity associated with grading the lot and building the home is completed.

(d) A certificate of occupancy (or equivalent) has been issued to the homeowner.

(e) The permittee has documented that the lot is subject to this exclusion.

(f) The residential development site must have a permittee-approved SWMP and still be inspected by the permittee under the inspection frequencies described in this **Part I.E.3.a.v**.

2) Winter Conditions: Inspections are not required at sites where construction activities are temporarily halted, snow cover exists over the entire site for an extended period, and melting conditions posing a risk of surface erosion do not exist. This exclusion is applicable only during the period where melting conditions do not exist. Other required minimum inspection frequencies remain applicable but do not include the days during which this exclusion applies. The following information must be documented for this exclusion: dates when snow cover occurred, date when construction activities ceased, and date melting conditions began.

(B) Initial Inspection: An initial inspection must be conducted before construction activity can begin to ensure that all control measures on the approved SWMP for the applicable phase(s) have been installed.

1) Frequency: Conduct before construction activity begins.

2) Scope: The inspection must assess the following:

(a) Current SWMP: Evaluate whether the approved SWMP accurately reflects site conditions and includes all installed initial control measures for potential pollution sources. Evaluate the adequacy of any changes, including new onsite control measures, and determine if the inspector will: 1) approve or deny the changes as minor modifications, and document these decisions on the onsite SWMP; or 2) require the owner or operator of the site to re-submit the SWMP for review by the permittee because it includes major changes, see **Part I.E.3.a.iv(B)**.

(b) Control measures: Identify failure to implement initial control measures, and inadequate control measures, and control measures requiring routine maintenance.

(c) Pollutant sources: Evaluate all pollutant sources, including trash, to determine if any spill, release or illicit discharge has occurred.

(C) Compliance Inspection: A compliance inspection must be conducted at least once before final stabilization. Compliance inspections do not apply to sites eligible for other applicable inspection frequencies in accordance with this section (**PartI.E.3.a.v**).

1) Frequency: April to October - Conduct at least every 28 calendar days. November to March – Conduct at least every 56 calendar days. If the final day of the maximum frequency falls on a Saturday, Sunday, or federal, state, or city holiday, the maximum frequency may be moved to the next business day.

2) Scope: The inspection must assess the following: Evaluate control measure changes and new pollutant sources, including any new areas of disturbance, since the last inspection and determine whether Major or Minor Modifications have occurred. Modifications must be approved or denied in accordance with the procedures and deadlines for SWMP revisions, see **Part I.E.3.a.iv(B)**.

(a) Control measures: Identify failure to implement control measures, inadequate control measures, and control measures requiring routine maintenance.

(b) Pollutant sources: Evaluate all pollutant sources, including trash, to determine if any spill, release or illicit discharge has occurred.

(c) Discharge points: Visually inspect the drainage areas from the site and each discrete discharge point to the MS4, or beyond the limits of the construction site as necessary, to determine if an illicit discharge has occurred. The

permittee must require the removal of the pollutants from the MS4, when feasible, when pollutants have discharged to the MS4 or beyond the limits of the construction site.

(D) Reduced Site Inspection: Reduced site inspections can occur at a reduced frequency and must include the scope indicated below.

1) Inactive Site Inspection: Sites where surface ground disturbance activities are completed and are pending plant growth for final stabilization or for sites where no construction activity has occurred since the last inspection and has been temporarily stabilized or other control measures installed.

(a) Frequency: Conduct at least every 90 calendar days. If the final day of the 90 calendar days falls on a Saturday, Sunday, or federal, state, or city holiday, the final day may be moved to the next business day.

(b) Scope: The inspection must assess the following:

(i) Control measures: Identify failure to implement control measures, inadequate control measures, and control measures requiring routine maintenance.

(ii) Discharge points: Visually inspect the drainage areas from the site and each discrete discharge point to the MS4, or beyond the limits of the construction site as necessary, to determine if an illicit discharge has occurred. The permittee must require the removal of the pollutants from the MS4, when feasible, when pollutants have discharged to the MS4 or beyond the limits of the construction site.

Stormwater Management System Administrator's Program Inspection: These inspections are for construction activities operated by a qualified participant in a division-designated Stormwater Management System Administrator's Program in accordance with Article 8 of title 25, Colorado Revised Statutes that has been identified by the Stormwater Management System Administrator to be fully implementing the program and qualified for reduced oversight incentives of the program.

(c) Frequency: Conduct at least every 90 calendar days. If the final day of the 90 calendar days falls on a Saturday, Sunday, or federal, state, or city holiday, the final day may be moved to the next business day.

(d) Scope: The inspection must assess the following:

(i) Control measures: Identify failure to implement control measures, inadequate control measures, and control measures requiring routine maintenance.

(ii) Pollutant sources: Evaluate all pollutant sources, including trash, to determine if any spill, release or illicit discharge has occurred.

(iii) Discharge points: Visually inspect the drainage areas from the site and each discrete discharge point to the MS4, or beyond the limits of the construction site as necessary to determine if an illicit discharge has occurred. The permittee must require the removal of the pollutants from the MS4, when feasible, when pollutants have discharged to the MS4 or beyond the limits of the construction site.

2) Indicator Inspection: Indicator inspections, such as a drive-by or screening, are conducted to assess sites for indicators of noncompliance and do not fully assess the adequacy of control measures and overall site management. A compliance inspection must be conducted at least once at the site with applicable construction activity before an indicator inspection can be used. In addition, if the indicator

inspection indicates a need for a follow-up inspection, then another compliance inspection must be conducted and no compliance issues found before the indicator inspection frequency and scope can be used again.

Indicator inspections are a reduced scope inspection that can be used to extend the frequency required of compliance inspections up to 90 calendar days when all indicators evaluated determine control measures meet good engineering, hydrologic, and pollution control practices as defined in **Part I.B.1** and there is no evidence of illicit discharges to the MS4 or state waters. Indicator inspections must include the following:

(a) Frequency: Conduct at least every 14 calendar days. A compliance inspection must be conducted every 90 calendar days. If the final day of the 14 or 90 calendar days falls on a Saturday, Sunday, or federal, state, or city holiday, the final day may be moved to the next business day.

(b) Scope: Perimeter of the site must be evaluated for indicators of failure to implement control measures and inadequate control measures. The inspection must assess the following:

(i) Control measures: Identify failure to implement control measures and inadequate control measures.

(ii) Discharge points: Visually inspect the drainage areas from the site each discrete discharge point to the MS4, or beyond the limits of the applicable construction activities as necessary, to determine if an illicit discharge has occurred. The permittee must require the removal of the pollutants from the MS4, when feasible, when pollutants have been discharged to the MS4 or beyond the limits of the construction site.

(E) Follow-Up Inspection: A follow-up inspection must occur after the permittee documents an illicit discharge from the construction site, identifies that there is a failure to implement a control measure resulting in an increase discharge of pollutants from the construction site or identifies an inadequate control measure resulting in an increase discharge of pollutants from the construction site, unless corrections were made and observed by the inspector during the same inspection in which the findings occurred.

1) Frequency: Conduct within at least 14 calendar days from the time the permittee identifies an illicit discharge or identifies that there is a failure to implement a control measure or an inadequate control measure, unless corrections were made and observed by the inspector during the inspection in which the findings occurred. If the final day of the 14 calendar days falls on a Saturday, Sunday, or federal, state, or city holiday, the final day may be moved to the next business day.

2) Scope: A follow-up inspection, or alternative inspection listed below, must identify if corrections have been completed on sites where the permittee has documented an illicit discharge or failure to implement a control measure or an inadequate control measure during the previous inspection.

One of the following alternative inspections, that incorporates this required scope, may be performed or required in lieu of a follow-up inspection within 14 days of the permittee site inspection identifying that there is a failure to implement a control measure or an inadequate control measure.

(a) Compliance inspection in accordance with **Part I.E.3.a.v(C)**;

(b) Indicator Inspection that assesses adequate correction of the control measure in review in accordance with **Part I.E.3.a.v(D)3)**; or

(c) QSM Self Inspection: Require the operator to inspect and document that the control measure has been implemented or corrected as necessary to meet the

requirements of this **Part I.E.3**. The operator's documentation must include photographs of the new/adequate control measure(s). The City must review photos to verify corrections were made to meet the requirements of Part I.E.3.

(F) Final Inspection: This inspection is conducted at the completion of all construction activities and final stabilization and must include the scope indicated below. For individual homeowner sites that are removed under Part I.E.3.a.v(A)1), the permittee may accept photographic documentation to meet Part I.E.3.a.v(A)1)(e) and those sold homeowner lots are not subject to the final inspection requirements in this section – Part I.E.3.a.v(F).

1) Frequency: Conduct one final inspection within 56 calendar days after the permittee is notified that all construction activities and final stabilization are complete. If the final day of the 56 calendar days falls on a Saturday, Sunday, or federal, state, or city holiday, the final day may be moved to the next business day.

2) Scope: The inspection must assess the following: installation of permanent control measures, completion of permanent final stabilization, including vegetation, that meets **Part I.E.3.a.iii(C)3)(b)**.

(a) Control measures: Ensure removal of temporary control measures, and installation of permanent stabilization methods (e.g. pavement, concrete, final landscaping, vegetative cover). Permanent control measures that meet the requirements of **Part I.E.4** may be inspected under this section to satisfy the requirements of **Part I.E.4.a.vi** as long as the criteria under **Part I.E.4.a.vi** are met.

(b) Pollutant sources: Evaluate all pollutant sources, including trash and sediment, to determine if any spill, release, erosion or illicit discharge has occurred.

(c) Discharge points: Visually inspect the drainage areas from the site and each discrete discharge point to the MS4, or beyond the limits of the construction site as necessary, to determine if an illicit discharge has occurred. The permittee must require the removal of the pollutants from the MS4, when feasible, when pollutants have discharged to the MS4 or beyond the limits of the construction site.

vi. Enforcement Response: Implement appropriate enforcement procedures and actions to meet the requirements of this **Part I.E.3**.

(A) The permittee must have procedures and sanctions to minimize the occurrence of, and obtain compliance from, chronic and recalcitrant violators of control measure requirements. Including, the permittee must issue a stop work order when two or more letters of non-compliance have been issued in a 6-month period.

(B) The permittee must require enforcement escalation as necessary based on the severity of violation and/or the recalcitrance of the violator to ensure that findings of a similar nature are enforced upon consistently. The permittee must use the following types of enforcement mechanisms or their equivalent.

1) Verbal warning at time of failed inspection requiring follow-up

2) Letter of non-compliance/notice of violation

3) Partial stop work order

4) Full stop work order

5) Notice and order to correct

(C) The permittee must escalate enforcement procedures at a construction site if inadequate control measure(s) resulting in an increase discharge of pollutants from the

construction site or the failure to implement control measure(s) resulting in an increase discharge of pollutants or illicit discharge from the construction site have been identified at the site for more than two inspections. If the permittee does not escalate enforcement at that time, permittee will document and submit to the division a document justifying why the permittee did not choose to take enforcement actions under the enforcement escalation policy. Exceptions to reporting may be made if the following conditions are met:

1) The permittee has determined and documented that the operator of a construction site has taken all necessary steps to minimize or prevent the discharge of pollutants until an inadequate control measure is replaced or corrected and returned to effective operating conditions. Alternatively, the permittee has approved a schedule (provided by the operator of the construction site) for installing or repairing the control measure and returning it to an effective operating condition as soon as possible, but no later than seven business days from when the inadequate control measure was first documented.

2) The inadequate control measure must not have resulted in conditions subject to the permittee's 24-hour reporting requirement in **Part II.L.7** of the permit. All noncompliance requiring 24-hour reporting must still be reported to the division in accordance with **Part II.L.7**.

(D) The enforcement procedure(s) must detail the types of escalating enforcement responses the permittee will take in response to common violations and time periods within which responses will take place, including as a minimum:

1) Construction commencing without SWMP review in accordance with **Part I.E.3.a.iv** and an initial inspection.

2) SWMPs consistently not maintained and modified in accordance with the permittee's requirements.

3) Control measures not maintained in operational condition at time of permittee inspection, including sites that have temporarily shut down construction activities.

4) Uncorrected finding(s) from previous inspections.

5) Failure to implement a control measure for a pollutant source or inadequate control measure resulting in a discharge of pollutants from the applicable construction site to the MS4 or state waters.

6) Failure to take corrective actions required by the permittee.

vii. State or EPA Inspection Notifications: The permittee will review within 30 days of notification of the provided state and EPA inspection reports that are from within the permittee oversight for construction sites where the state or EPA has required a written response to findings of noncompliance with the CDPS general permit authorizing stormwater discharges associated with construction activities (CDPS stormwater construction permit, currently General Permit COR400000). The permittee will review the state or EPA inspection report against at least one of the most recent inspections conducted by the permittee. The permittee will determine whether the evidence of noncompliance with the CDPS stormwater construction permit identified by the state or EPA is also grounds for noncompliance with the permittee's construction program. The permittee will maintain a documented summary of this review. The summary must describe whether the city's oversight failed to identify noncompliance and must describe corrective actions that will prevent future oversight failures.

viii. Training: The permittee must provide information to staff and operators of applicable construction activities as necessary to ensure that the necessary staff and each operator are aware of the permittee's requirements, including controlling pollutants such as trash and sediment.

(A) The permittee must provide information to operators of applicable construction activities as necessary to ensure that each operator is aware of the permittee's requirements (i.e. post information on the permittee's website).

(B) Provide industry-specific information on the official city web site.

(C) The permittee shall require that all operators of applicable construction activities have at least one individual knowledgeable in the principles and practices of erosion and sediment control and pollution prevention, and with the skills to assess conditions at construction sites that could impact stormwater quality and to assess the effectiveness of stormwater controls implemented to meet the requirements of this permit.

(D) The permittee must require all existing and newly hired permittee staff who are involved in project design, oversight and/or maintenance related to stormwater drainage management with sediment and erosion control to attend a stormwater training course, or demonstrate other equivalent training, education, or experience, that includes, but is not limited to the following:

1) Control measure design and overall stormwater management into a project's construction design and planning phase.

2) Implementation of control measures during different phases of construction and the maintenance of a system/series of pollution controls throughout the life of a project and as a project evolves through those different phases.

3) Specific guidance on appropriate, functional, and effective control measures to implement when working in and adjacent to state waters and how those control measures can and should be incorporated into the design of a project.

4) The proper use of, and necessary modifications to, permanent flood control structures that are used as temporary construction control measures.

5) Detailed instruction on final stabilization and the implementation and maintenance of control measures at projects once construction operations have ceased, including a discussion of who will be responsible for maintaining those control measures and how final stabilization will generally be monitored and achieved.

ix. For Applicable Construction Activities that Overlap Multiple Jurisdictional Boundaries, when a written agreement is in place with a co-regulating MS4 permittee:

(A) Control measure requirements may be imposed on the operator in accordance with the requirements of a co-regulating MS4 permittee pursuant to the written agreement.

(B) SWMP review/acceptance and site inspection actions may be conducted by a co-regulating MS4 permittee to meet the requirements of the permit.

x. Consideration of Information Submitted by the Public: The permittee shall have procedures for the receipt and consideration of information from the public that follow **Part I.D.1** as it relates to public information on construction sites.

b. Recordkeeping: The permittee must document the implementation of these permit requirements and at a minimum, maintain the following records for activities to meet the requirements of this section. Equivalent terms may be used for this section Part I.E.3.b. If the permittee uses equivalent terms, the terms must be documented in the PDD as they relate to this permit.

i. Regulatory Mechanism: The specifications, contracts, standards, operating procedures, and other documents used to meet the permit requirements.

ii. Regulatory Mechanism Exemptions: The specifications, contracts, standards, operating procedures, and other documents that allow for exemptions and the documented procedures that confirm the exemptions, waivers, and variances comply with the permit.

iii. Control Measure Requirements: The specifications, contracts, standards, operating procedures, and other documents used to meet the permit requirements.

iv. Construction Activities Stormwater Management Plans: Copy of the final SWMP reviewed prior to the initial inspection and major modifications, and confirmation of the permittee's review and acceptance.

v. Site Inspection Documentation:

(A) Site Inspection Frequency Exclusion: The specifications, standards, operating procedures, and other documents used to meet the permit requirements.

(B) Initial Site Inspection: Maintain inspection records with the following minimum information for all inspections conducted to meet the minimum inspection frequency:

1) Inspection date

2) Name of inspector

3) Site identification

4) Inspection results including the location of any illicit discharges, failure to implement control measures, and inadequate control measures. The inspection results should also list (not locate) any control measures requiring routine maintenance.

5) Type of inspection

(C) Compliance Site Inspection: Maintain inspection records with the following minimum information for all inspections conducted to meet the minimum inspection frequency:

1) Inspection date

2) Name of inspector

3) Site identification

4) Inspection results including the location of any illicit discharges, failure to implement control measures, and inadequate control measures. The inspection results should also list (not locate) any control measures requiring routine maintenance.

5) If the inspection is conducted in lieu of a follow-up inspection, identification of any inadequate control measures that have not been resolved from the previous inspection.

6) Type of inspection

(D) Reduced Site Inspection: Maintain inspection records with the following minimum information for all inspections conducted to meet the minimum inspection frequency:

1) Inspection date

2) Name of inspector

3) Site identification

4) Inspection results including the location of any illicit discharges, failure to implement control measures, and inadequate control measures. The inspection results should also list (not locate) any control measures requiring routine maintenance.

5) If the inspection is conducted in lieu of a follow-up inspection, identification of any inadequate control measures that have not been resolved from the previous inspection.

6) Type of inspection

(a) Inactive Site

(b) Indicator Inspection

(E) Follow-up Inspection: Maintain inspection records with the following minimum information for all inspections conducted to meet the minimum inspection frequency:

1) Inspection date

2) Name of inspector

3) Site identification

4) Inspection results including any inadequate control measures that have not been resolved from the previous inspection.

5) Type of follow-up inspection

(a) Compliance Inspection

(b) Indicator Inspection

(c) QSM Self Inspection

(F) Final Inspection: Maintain inspection records with the following minimum information for all inspections conducted to meet the minimum inspection frequency:

1) Inspection date

2) Name of inspector

3) Site identification

4) Inspection results including the location of any illicit discharges, failure to implement control measures, and inadequate control measures. The inspection results should also list (not locate) any control measures requiring routine maintenance.

5) Type of Inspection

vi. Enforcement Response: The applicable specifications, contracts, standards, operating procedures, policies and other documents used to meet the permit requirements. Maintain records of the enforcement documents and escalation policies, and number of enforcement responses per enforcement mechanism, and documentation of permittee rationale of why the permittee did not take enforcement action under **Part I.E.3.a.vi**.

vii. State or EPA Inspection Notifications: The applicable specifications, contracts, standards; operating procedures, and other documents used to meet the permit requirements. Maintain records of the analysis of the comparison between permittee inspections and state and EPA inspections.

viii. Training: Name and title of each staff trained, date of training, the type of training, and a list of topics covered.

ix. Consideration of Information Submitted by the Public: The applicable operating procedures and other documents used to meet the requirements of this permit.

4. Post Construction Program for New Development and Redevelopment

The permittee must implement a program to ensure that controls are in place that would prevent or minimize water quality impacts due to runoff from **applicable development sites**, including **new development** and **redevelopment** sites. The requirements for redevelopment sites do not apply to those activities that meet the definition of **routine surface maintenance**. See **Part I.F.6** regarding the October 29, 2020 City of Colorado Springs Consent Decree. For the permittee, the City of Colorado Spring's adopted Drainage Criteria Manual or equivalent must at a minimum meet the permit requirements, including specifically the requirements in this section, Part I.E.4.

a. The following requirements apply to **applicable development sites**:

i. Excluded Sites: The permittee may exclude the following types of sites from the requirements of an applicable development site. Any exclusions granted must be documented. The only types of sites that the permittee might exclude from the requirements of an applicable development site include the following:

(A) Aboveground and Underground Utilities: Activities for installation or maintenance of aboveground and underground utilities or infrastructure that does not permanently alter the terrain, ground cover, or drainage patterns from those present prior to the project. This exclusion includes, but is not limited to, projects to install, replace, or maintain utilities under **roadways** or other paved areas that return the surface to the same condition.

(B) Non-Residential and Non-Commercial Infiltration Conditions: This exclusion does not apply to residential or commercial projects for buildings. This exclusion applies to applicable development projects for which post-development surface conditions do not result in concentrated stormwater flow during the 80th percentile stormwater runoff event. In addition, post-development surface conditions must not be projected to result in a surface water discharge from the 80th percentile stormwater runoff events. Specifically, the 80th percentile event must be infiltrated and not discharged as concentrated flow. For this exclusion to apply, a study specific to the site, watershed and/or MS4 must be conducted. The study must show rainfall and soil conditions present within the permitted area; must include allowable slopes, surface conditions, and ratios of **impervious area** to pervious area; and the permittee must accept such study as applicable within its MS4 boundaries.

(C) Land Disturbance to Undeveloped Land that will Remain Undeveloped: Permittee may exclude areas with land disturbance to undeveloped land (land with no human-made structures such as buildings or pavement) that will remain undeveloped after the project (i.e. staging areas).

(D) Stream Stabilization Projects: Permittee may exclude stream stabilization projects.

(E) Trails: Permittee may exclude bike and pedestrian trails. Bike lanes for roadways are not included in this exclusion.

(F) Maintenance Trails: Permittee may exclude unpaved vehicle maintenance trails designed and built for city personnel to access surface waters, such as streams and channels. This exclusion does not apply to vehicle maintenance trails that allow for public vehicle access. This exclusion only applies if the permittee maintains pre-existing vegetation or equivalent within 50 horizontal feet of the surface water to allow adequate filtering or infiltration.

(G) Stormwater Facilities: Permittee may exclude the area used for installation and maintenance of stormwater facilities for flood control and water quality, including but not limited to, flood control ponds and post-construction control measures.

ii. Regulatory Mechanism: The permittee must implement a regulatory mechanism to meet the requirements in **Part I.E.4.a**, including, but not limited to:

(A) Require control measures to be implemented in accordance with **Part I.E.4**.

(B) Require the long-term operation and maintenance of control measures.

(C) Establish and maintain mechanisms for control measures used to meet the requirements of this permit, including those that are located outside of the jurisdictional control of the permittee.

(D) Ability to implement sanctions against entities responsible for installation and for the long-term operation and maintenance of the control measures.

iii. Regulatory Mechanism Exemptions: The permit must implement procedures to ensure that any exclusions, exemptions, waivers, and variances included in the regulatory mechanism are applied in a manner that complies with the terms and conditions of this permit.

iv. Control Measure Requirements: The permittee must continue to document and implement citywide strategies that follow the principles of low-impact development/green infrastructure to mimic natural (i.e. pre-development) hydrologic conditions to minimize the discharge of pollutants and prevent or minimize adverse in-channel impacts associated with increased imperviousness. Where applicable within the city, the permittee must require that these low-impact development/green infrastructure strategies be considered for runoff reduction prior to the selection of control measures (i.e. Step 1 in the 4 Step Process found within Mile High Flood District's Criteria Manual Volume 3).

The permittee's requirements and oversight for applicable development projects must be implemented to address the selection, installation, implementation, and maintenance of control measures in accordance with requirements in **Part I.B** (e.g. control measures must be sized and designed for the drainage area of the control measure installed). The permittee must maintain an adopted criteria manual, and all applicable control measures must meet the **base design standards** listed below which are the minimum design standards for new development and redevelopment sites (e.g. Step 2). The MS4 permittee may apply more than one of these design standards to a specific new development or redevelopment project by breaking the project area into multiple applicable development sites.

Any excluded area of the applicable development site must be documented. The control measures for applicable development sites shall meet one of the following design standards listed below:

(A) Water Quality Storage Volume (**WQSV**) Standard: The control measure(s) is designed to provide treatment and/or infiltration for the runoff generated by the water quality capture volume (**WQCV**) storm event for 100% of the applicable development site.

1) If the permittee determines and documents that it is not practicable to capture runoff from portions of the site that will not drain towards control measures, then the permittee can exclude up to 5 percent, not to exceed 1 acre, of the applicable development site area.

2) The minimum designed drain time for the WQSV shall be 12 hours; or for control measures where infiltration may reduce the drain time, the flow rate of control measure surface outflow shall not exceed the flow rate that would be expected with a 12-hour drain time if infiltration was not occurring.

(B) Pollutant Removal Standard: The control measure(s) is designed to treat at a minimum the 80th percentile stormwater runoff event for 100% of the applicable development site. The control measure(s) shall be designed to treat stormwater runoff in a manner expected to reduce the event mean concentration of total suspended solids (TSS) to a median value of 30 mg/L or less.

1) If the permittee determines and documents that it is not practicable to capture runoff from portions of the site that will not drain towards control measures, then the permittee can exclude up to 5 percent, not to exceed 1 acre, of the applicable development site area.

(C) Volume Reduction Standard: The control measure(s) is designed to infiltrate into the ground where site geology permits, evaporate, or evapotranspire a quantity of water equal to 75% of what the calculated WQSV would be if all **impervious area** for the applicable development site discharged without infiltration. This base design standard can be met through practices such as **green stormwater treatment infrastructure**. "Infiltrate" is the act of stormwater runoff infiltrating into the ground without release to the MS4. An underdrain that discharges to the MS4 or a state waters can be used for

runoff in excess of the 75% infiltration standard, provided that the 75% of the calculated WQSV has infiltrated. A separation distance of 2 feet is required between the bottom of the area of infiltration of the control measure and the elevation of the top of bedrock or the expected seasonally high ground water table, including alluvial groundwater.

(D) Applicable Development Site Draining to a Regional Permanent Control Measure: The regional permanent control measure must be designed to accept the drainage from the applicable development site. Stormwater from the site must not discharge to state waters before being discharged to the regional permanent control measure. The permittee shall meet the requirements in Part I.E.4.a.v, vi & vii and Part I.E.4.b for the regional permanent control measures consistent with requirements and actions for control measures. The regional permanent control measure must meet the requirements of the WQSV **Part I.E.4.a.iv(A)** or a Concrete Channel Conversion Standard that meets the criteria outlined below:

1) Conversion of a concrete channel that is not a state water to a vegetated swale/natural channel.

2) The vegetated swale/natural channel must be designed so that the maximum design flow velocity does not exceed the permittee criteria for stable open channel velocities and in accordance with good engineering practices to minimize channel erosion.

3) The longitudinal slope must not exceed 4% (drop structures can be used to reduce slope).

4) Maximum flow depth must not exceed one foot at the 2-year peak flow rate.

5) The vegetated swale/natural channel may also be designed as a grass swale using recognized drainage criteria such as city criteria, the Urban Storm Drainage Criteria Manual, Volume 3 or equivalent. Design would also include that the swale must not exceed 2 inches during the 80th percentile storm event and the total surface area of the swale exceeds 1% of the area that drains to the swale (500 square feet per acre).

Additionally, the regional permanent control measure must meet the following requirements:

1) The regional permanent control measure must be designed and maintained for 100% WQSV for its entire drainage area.

2) The regional permanent control measure be designed and built to comply with all assumptions for the development activities planned by the permittee within its drainage area, including the imperviousness of its drainage area and the applicable development site.

3) The minimum designed drain time for the WQSV shall be 12 hours; or for control measures where infiltration may reduce the drain time, the flow rate of control measure surface outflow shall not exceed the flow rate that would be expected with a 12-hour drain time if infiltration was not occurring.

(E) Applicable Development Site Draining to a Regional Permanent Control Facility: The regional permanent control facility is designed to accept drainage from the applicable development site. Stormwater from the site may discharge to state waters before being discharged to the regional permanent control facility. Before discharging to a water of the state, at least 20% of the impervious area of the applicable development site must drain through a receiving area of infiltration comprising a footprint of at least 10% of the impervious area draining to it. The area of infiltration must be designed in accordance with a design manual identified by the permittee. In addition, the stream

channel between the discharge point of the applicable development site and the regional permanent control facility must be stabilized.

The regional permanent control facility must meet the following requirements:

1) The regional permanent control facility must be implemented, functional, and maintained following good engineering, hydrologic, and pollution control practices.

2) The regional permanent control facility must be designed and maintained for 100% WQSV for its entire drainage area.

3) The regional permanent control facility must have capacity to accommodate the drainage from the applicable development site.

4) The regional permanent control facility be designed and built to comply with all assumptions for the development activities planned by the permittee within its drainage area, including the imperviousness of its drainage area and the applicable development site.

5) The minimum designed drain time for the WQCV shall be 12 hours; or for control measures where infiltration may reduce the drain time, the flow rate of control measure surface outflow shall not exceed the flow rate that would be expected with a 12-hour drain time if infiltration was not occurring.

6) The permittee shall meet the requirements in Part I.E.4.a.v, vi & vii and Part I.E.4.b for the regional permanent control facility consistent with requirements and actions for control measures.

7) The regional permanent control facility must be subject to the permittee's authority consistent with requirements and actions for a Control Measure in accordance with **Part I.E.4.a.iv**.

8) Regional Facilities must be designed and implemented with flood control or water quality as the primary use. Recreational ponds and reservoirs may not be considered Regional Facilities. Water bodies listed by name in surface water quality classifications and standards regulations (5 CCR 1002-32 through 5 CCR 1002-38) may not be considered regional facilities.

(F) Previous Permit Term Standard:

1) Applicability: The previous permit term standard is only applicable to applicable development activities where one of the following criteria are met:

(a) The control measure(s) is constructed for the applicable development site prior the deadline in **Part I.H** to implement a post-construction sites program.

(b) The control measure(s) for the applicable development site is designed and in review prior the Control Measure Requirements deadline in **Part I.H**.

(c) The control measure(s) for the applicable development site is designed and approved prior the Control Measure Requirements deadline in **Part I.H**.

2) The previous permit design standard is the design approved by the permittee consistent with the Program Description Document approved by the division in accordance with the requirements of the previous permit.

3) Any modifications to the control measure(s) shall be consistent with the Program Description Document approved by the division in accordance with the requirements of the previous permit, or consistent with one of the control measure requirements in I.E.4.a.iv(A) through (F).

(G) Alternative Treatment Standards: The permittee may use the two alternative treatment standards for applicable development sites in previously developed areas and redevelopment sites if the criteria are met within each standard below.

1) Constrained Site Treatment Option

(a) The applicable development site in a previously developed area or applicable redevelopment site must meet the following conditions:

(i) The site must lack a suitable connection to underground storm sewer infrastructure that meets either of the following criteria:

(A) Inlet is located more than 250 linear feet from the property boundary.

(B) Inlet or storm sewer infrastructure is undersized such that the system does not have capacity to intercept runoff to meet the permittee's established criteria.

(ii) Variances to the permittee's floodplain ordinance must not be granted for the portion of the applicable redevelopment site that is using an offsite treatment control measure.

(iii) Discharges from the portion of the applicable development site in a previously developed area or applicable redevelopment site that is using an offsite treatment control measure must have adequate facilities that do not cause or increase flood damage from the 100-year flood or alter natural floodplains, stream channels, and natural protective barriers which help accommodate or channel floodwaters, and minimize erosion due to flood conditions.

(iv) Volume reduction requirements through onsite infiltration must meet one of the following criteria:

(A) 20% of the impervious area must run over pervious area of at least 10% of the size of the impervious area.

(B) 10% of the WQCV event.

(C) 4% of the 2 year event.

(v) The permittee has determined that it is technically **infeasible** to meet any of the other design standards in **Part I.E.4.a.iv**. A determination of technical infeasibility must not be based solely on cost. Technical infeasibility is determined by a site-specific hydrologic and/or design analysis conducted and endorsed by a registered professional engineer, geologist, architect, and/or landscape architect. The determination of technical infeasibility must be based upon one of the following factors:

(A) Soil instability as documented by a geotechnical analysis and/or land use inconsistent with capture and infiltration of stormwater.

(B) Restricted right-of-way, for roadway, aircraft or railroad movement surfaces only.

(C) Other physical, topographical, and/or environmental challenges that would make implementation at the applicable redevelopment site infeasible and cannot be addressed by changes in the site layout.

(b) If the conditions of Part I.E.4.a.iv(G)1)(a)(i)-(v) above are met, the applicable development site in a previously developed area or applicable redevelopment site must have an offsite treatment control measure at the same time or before development/redevelopment occurs and may not be directly connected to the applicable development/redevelopment site. The offsite treatment control measure must meet the following criteria:

(i) The offsite treatment control measure must, at a minimum, provide treatment for an equivalent amount of impervious area as the

development/redevelopment site less any volume reduction completed on the development/redevelopment site as part of **Part I.E.4.a.iv(G)1)(a)(iv)**.

(ii) The offsite treatment control measure cannot be counted if the area is subject to the following:

(A) An area for which the permittee was required, under a separate development or redevelopment project, to implement permanent control measures for new development or redevelopment under this permit or any previous MS4 permit, including areas located at the applicable development/redevelopment site.

(B) Development plans known to the permittee that would make the area part of an applicable development site prior to January 1, 2037.

(C) An area from which runoff is already directed to an existing permanent water quality control measure that provides treatment or infiltration of the WQSV or greater unless it meets **Part I.E.4.a.iv(G)1)(b)(vii)** below.

(iii) Variances to the permittee's floodplain ordinance must not be granted for the area of the offsite treatment control measure.

(iv) The impervious drainage area for the offsite treatment control measure must have similar pollutant loading as the applicable development/redevelopment site. The permittee may use land use as a method for determining similar pollutant profiles.

(v) The offsite treatment control measure must discharge to the same HUC10 watershed as the applicable development/redevelopment site.

(vi) The offsite treatment control measure must meet the following design standards:

(A) Meet the design standards for Water Quality Storage Volume Standard, Pollutant Removal Standard, or Volume Reduction Standard (**Part I.E.4.a.iv**).

(B) Be properly sized to provide treatment and/or infiltration for the entire drainage area of the control measure in accordance with the applicable design standard.

(C) Be designed and built to comply with all assumptions for the development activities planned within its drainage area, including the imperviousness of its drainage area and the applicable development/redevelopment site.

(vii) Modifications of offsite treatment control measures is allowable for the permittee. The permittee may enlarge an existing control measure or the control measure implemented for a different applicable development or redevelopment site to provide additional treatment capacity for the impervious area of the applicable redevelopment site, provided such modification does not reduce the effectiveness of the control measure for its existing treatment area. Additional- runoff from impervious area within the drainage area to the offsite treatment control measure must be equal to or greater than the amount of runoff from the impervious area of the applicable redevelopment site.

(c) The applicable redevelopment site control measures and the offsite treatment control measures are subject to all the requirements of **Part I.E.4** of this permit, including tracking, inspection and maintenance requirements.

2) **Roadway** Capital Project Treatment Option

(a) The applicable redevelopment site must meet the following conditions:

(i) The roadway project must be performed or contracted by the City of Colorado Springs, and not include additional project scope outside of roadway work and associated appurtenances.

(ii) Variances to the permittee's floodplain ordinance must not be granted for the portion of the applicable redevelopment site using this Roadway Capital Project Treatment Option.

(iii) Discharges from the portion of the applicable redevelopment site using the offsite treatment control measures must have adequate facilities to not cause or increase flood damage from the 100-year flood or alter natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters. Erosion due to flood conditions must be minimized.

(iv) The permittee has determined as part of the roadway project it is technically **infeasible** or impractical to meet any of the other design standards in **Part I.E.4.a.iv**. A determination of technical infeasibility or impracticality must not be based solely on cost. Technical infeasibility and impracticality is determined by a site-specific hydrologic and/or design analysis conducted and endorsed by a registered professional engineer, geologist, architect, and/or landscape architect. The determination of technical infeasibility or impracticality must be based upon one of the following factors:

(A) Soil instability as documented by a geotechnical analysis and/or land use inconsistent with capture and infiltration of stormwater.

(B) Restricted right-of-way for roadway movement surfaces only.

(C) Other physical, topographical, and/or environmental that would make implementation at the applicable redevelopment site infeasible or impractical and cannot be addressed by changes in the site layout.

(b) If the conditions of Part I.E.4.a.iv(G)2)(a)(i)-(iv) are met, the applicable redevelopment site must have an offsite treatment control measure at the same time or before redevelopment occurs and may not be directly connected to the applicable redevelopment site. The offsite treatment control measure must meet the following criteria:

(i) The offsite treatment control measure cannot be counted if the area is subject to the following:

(A) An area for which the permittee was required, under a separate development or redevelopment project, to implement permanent control measures for new development or redevelopment under this permit or any previous MS4 permit, including areas located at the applicable redevelopment site.

(B) Development plans known to the permittee that would make the area part of an applicable development site prior to January 1, 2037.

(C) An area from which runoff is already directed to an existing permanent water quality control measure that provides treatment or infiltration of the WQSV or greater unless it meets **Part I.E.4.a.iv(G)2)(b)(iv)** below.

(ii) The offsite treatment control measure must discharge to the same HUC10 watershed as the applicable redevelopment site.

(iii) The offsite treatment control measure must meet the following design standards:

(A) Meet the design standards above for Water Quality Storage Volume Standard, Pollutant Removal Standard, or Volume Reduction Standard. Or meet a Concrete Channel Conversion Standard that meets the following criteria (including Part I.E.4.a.iv(G)2)(b)(iii)(B)-(C) below):

1. Conversion of a concrete channel that is not a state water to a vegetated swale/natural channel.

2. The vegetated swale/natural channel must be designed so that the maximum design flow velocity does not exceed the permittee criteria for stable open channel velocities and in accordance with good engineering practices to minimize channel erosion.

3. The longitudinal slope must not exceed 4% (drop structures can be used to reduce slope).

4. Maximum flow depth must not exceed one foot at the 2-year peak flow rate.

5. The vegetated swale/natural channel may also be designed as a grass swale using recognized drainage criteria such as city criteria, the Urban Storm Drainage Criteria Manual, Volume 3 or equivalent. Design would also include, the swale must not exceed 2 inches during the 80th percentile storm event and the total surface area of the swale exceeds 1% of the area that drains to the swale (500 square feet per acre).

(B) Be properly sized to provide treatment and/or infiltration for the entire drainage area of the control measure in accordance with the applicable design standard.

(C) Be designed and built to comply with all assumptions for the development activities planned within its drainage area, including the imperviousness of its drainage area and the applicable development site.

(iv) Modifications of offsite treatment control measures is allowable for the permittee. The permittee may enlarge an existing control measure or the control measure implemented for a different applicable development or redevelopment site to provide additional treatment capacity for the impervious area of the applicable redevelopment site, provided such modification does not reduce the effectiveness of the control measure for its existing treatment area. Additional- runoff from impervious area within the drainage area to the offsite treatment control measure must be equal to or greater than the amount of runoff from the impervious area of the applicable redevelopment site.

(c) The applicable redevelopment site control measures and the offsite treatment control measures are subject to all the requirements of **Part I.E.4** of this permit, including tracking, inspection and maintenance requirements.

v. Post Construction Stormwater Quality Control Plans

(A) Before a structural control measure can be approved by the permittee, the permittee must evaluate and document the applicable development site for the following:

1) First, the permittee must review the site for the potential addition of control measures that reduce volume of runoff. The permittee must evaluate the

applicable development site to conserve existing amenities, minimize imperviousness, and minimize directly connected impervious areas.

2) Second, the permittee must review the site for procedural control measures appropriate for the type of facility and potential pollutant sources that could reduce stormwater pollution, including covering storage and handling areas, spill containment and control, disposal of household waste, illicit discharge controls, good housekeeping, preventative maintenance, vehicle maintenance, fueling, and storage, use of pesticides, herbicides, and fertilizers, landscape maintenance, snow and ice management, street sweeping and cleaning, and storm sewer system cleaning.

(B) Post Construction Stormwater Quality Control Plan Requirements: The permittee shall review and approve all Stormwater Quality Control Plans to ensure that they contain the following:

1) Analysis from evaluation of runoff reduction and procedural control measures from **Part I.E.4.a.v(A)**.

2) Design details for all control measures implemented to meet the requirements of this permit.

3) A narrative reference for all **non-structural control measures** for the site, if applicable.

4) Documentation of operation and maintenance procedures to ensure the long-term observation, maintenance, and operation of the control measures. The documentation must include frequencies for routine inspections and maintenance activities. Documentation may include agreements with other overlapping MS4 with implementation areas.

5) Documentation regarding easements or other legal means for access of the control measure sites for operation, maintenance, and inspection of control measures.

(C) Post Construction Stormwater Quality Control Plan Review: The permittee shall implement a plan review process for the control measures. The plan review shall include the following minimum requirements designed to prevent inadequate control measures from being implemented:

1) Confirmation that control measures were designed to meet the requirements of **Part I.E.4.a.iv**.

2) Confirmation that Post Construction Stormwater Quality Control Plans meet the requirements in **Part I.E.4.a.v(B)**.

(D) Post Construction Stormwater Quality Control Plan Revisions:

1) Major Modifications. Changes to the original stormwater quality control plan that remove or add additional area to the project, modify the final hydrology or drainage of the final design, replace approved Post Construction Stormwater Quality Control Plans, or otherwise expand or contract the scope of the original project shall require the submission of plans to the permittee for review and approval.

2) Minor Modifications. Modifications to the original Stormwater Quality Control Plan that does NOT increase the scope or change hydrology of the project but modifies/improves specific control measures used or specifies the relocation of previously approved control measures within the project shall be made in the field by the construction site owner/operator and thoroughly documented in the stormwater quality control plan narrative and drawings. If the permittee determines there are significant stormwater quality control plan revisions or updates that reflect changes to critical control measures that may result in an

illicit discharge to the MS4 or state waters, the permittee must require approval of those control measures during an inspection. The permittee must review these revisions during inspections, determine if the permittee approves, and show in some way (like initialing the map or through an electronic log) that the permittee approves of the minor modifications.

vi. Final Construction Inspection and Acceptance: The permittee must implement inspection and acceptance procedures (e.g. a certificate of occupancy), and may conduct the inspection and acceptance procedures during the construction final inspection in **Part I.E.3.a.v(F)**. The permittee must ensure that control measures are installed and implemented in accordance with the Post Construction Stormwater Quality Control Plan and include the following:

(A) Confirmation that the completed control measure is constructed and operable in accordance with the approved Post Construction Stormwater Quality Control Plan, including any procedures and inspections for follow up on required corrections.

(B) All applicable development sites must have operational permanent water quality control measures at the completion of the site except where permanent water quality control measures are part of future phasing. In such case, the permittee must have a mechanism to ensure that all control measures will be implemented, regardless of completion of future phases or site ownership and must implement and maintain temporary water quality control measures, as feasible, until removed or modified. These temporary water quality control measures must meet one of the design standards in **Part I.E.4.a.iv**.

For the purpose of this section, completion of a site or phase shall be determined by the issuance of a certificate of occupancy, use of the completed site area according to the Post Construction Stormwater Quality Control Plan, payment marking the completion of a site control measure, or equivalent determination of completion as appropriate for the nature of the site.

vii. Long-Term Operation and Maintenance and Post Acceptance Oversight: The permittee must implement written procedures which include the following minimum requirements to ensure adequate long-term operation and maintenance of all control measures installed under previous and current permits, beginning with control measures constructed after June 2, 2008. Credited measures under the Consent Decree used to address previous permit requirement deficiencies are also included, including those owned by the permittee and by private entities to ensure that they are functioning as designed. Credited measures that are not included in this section are those associated with low-impact development (Step 1 in the 4 Step Process) and those that are for the conversion of concrete channels to natural channels unless the conversion is being used as a regional water quality capture volume facility in Part I.E.4.a.iv(E).

(A) Procedures to track the location, ownership, owner contact information, type, and maintenance schedule of each control measure. For control measures constructed before June 4, 2008, the permittee must maintain the known inventory of the locations of the control measures. The permittee does not need to proactively identify these control measures.

(B) Procedures to enforce the requirements for the owner to implement and maintain control measures when necessary. For control measures constructed before June 4, 2008, the permittee must have the ability to require maintenance in the event of a complaint or issue that is causing a downstream issue.

(C) Oversight Inspections: For control measures owned by private entities, the permittee must perform oversight inspections and inspect all control measures installed under previous permits, beginning with control measures constructed after June 4, 2008, and credited measures under the Consent Decree used to address previous permit deficiencies, and this permit at a frequency that it determines necessary to ensure that

the control measure is functioning as designed and is in compliance with the Post Construction Stormwater Quality Control Plan and at a minimum, what is listed below.

1) The permittee must require private entities to submit an annual certification that the inspection and maintenance has been performed on the control measure(s). The certification must include the date(s) of inspections and corrections and/or maintenance performed on the control measure(s), if applicable.

   If the permittee choses to not require annual certifications, the permittee must then perform annual oversight inspections of private control measures and follow the requirements listed in below in **Part I.E.4.vii(C)2)(b)**.

2) The permittee must perform, or have performed within the last 3 years, oversight inspections for 50% of all control measures by the end of year 2 and the remaining control measures in year 3.

   (a) Adequate Control Measure: Any control measures that are functioning as designed must then be inspected once every 60 months after the initial inspection.

   (b) Inadequate Control Measure or Control Measure Needing Maintenance: The following applies for any control measure that is not functioning as designed, is inadequate, or needs maintenance:

      (i) The permittee must review the owner's operating and maintenance records and determine whether inspection and maintenance frequencies are adequate. If the permittee does not find the frequency adequate, they must notify the permittee of the adequate annual inspection and maintenance frequency as stated in **Part I.E.4.a.vii(D)1)**.

      (ii) The permittee must require the owner to perform necessary maintenance as soon as possible, but no later than 6 months following the date the city first discovered during an inspection (including an inspection in response to a complaint), the inadequate control measure or control measure needing maintenance. The permittee may allow the owner up to 12 months to complete maintenance if all of the following conditions are met:

         (a) The owner demonstrates it is infeasible to complete the necessary maintenance within 6 months.

         (b) The owner develops a plan and schedule for completing maintenance, including modifying or replacing the inadequate control measure.

         (c) The owner develops a frequent maintenance plan; and

         (d) The owner installs temporary features on the inadequate control measure to minimize the risk of pollutants in stormwater runoff.

      (iii) As soon as possible, but no later than 6 months following the date the city first discovered during a city inspection (including an inspection in response to a complaint), the inadequate control measure or control measure needing maintenance, the permittee must review the owner's operating and maintenance records and inspection reports, and confirm that all necessary maintenance has been performed.

      (iv) After the maintenance or repairs are complete, the permittee must perform an oversight inspection within 12 months of the date of discovery of the inadequate control measure or control measure needing maintenance. If during this inspection all control measures are adequate and functioning as designed, the permittee must resume a minimum oversight inspection frequency of once every 60 months. If, during this inspection, the control measure is inadequate or not functioning as

designed the permittee must repeat procedures in **Part I.E.4.a.vii(C)2)(b)** and must follow their escalation procedures in **Part I.E.4.a.viii**.

(v) Inadequate control measures or control measures needing maintenance may be defined as having a major or minor deficiency identified during an oversight inspection.

Major and minor deficiencies may include the following:

(A) Excessive vegetation that inhibits the hydraulic functionality of the Permanent Control Measure.

(B) Debris plugging the outlet or the Permanent Control Measure not draining.

(C) Visible excess sedimentation (more than 6" of excess sediment measurable) in the bottom pool (i.e., outside of a forebay if present) of basins.

(D) Severely eroded inlets resulting in an ongoing pollutant source or potential structural failure.

(E) Permanently submerged inlet or forebay which renders the inlet or forebay as unmaintainable or negatively impacts the overall functionality of the facility, defined as any of the following qualitatively observable conditions: resuspension of previously settled materials, short-circuiting (which requires an observation during runoff conditions), or erosion of the structure.

(F) Compromised outlet structure, including but not limited to crumbling, demolished, or defective outlet structure that prevents the slow release of stormwater as designed.

(G) Missing outlet plate, riser pipe, or equivalent; or other modifications to the outlet plate that removes or reduces the ability of the Permanent Control Measure to detain the WQSV for the design period.

(H) Modification to the Permanent Control Measure that would reduce the WQSV by more than 20% including, but not limited to, placement of a structure or fill within the basin.

(I) Compromised berms that prevent the detention or retention of stormwater as designed.

(J) Missing overflow spillway for basins, or alternative for stable discharge, unless there is no potential for discharge due to storm events up to the 100-year event.

(K) Missing, incorrectly sized (defined as having holes larger than the smallest release orifice and not meeting the criteria at the time of design), or non-functional trash rack on outlet structures.

(L) Missing wetland vegetation where wetland vegetation is part of the Permanent Control Measure design, for example, in a constructed wetland. The amount of remaining vegetation must be within the limits of good engineering practices to be considered fully functional.

(M) Modifications reducing the surface area of infiltration Permanent Control Measures by more than 20% including, but not limited to, removal of porous pavement, rerouting of roof drains previously directed to pervious areas, removal of curb cuts or placement of fill on top of a sand filter.

(N) Modifications to site drainage that result in a bypass of WQSV flows around the Permanent Control Measure.

(O) Other modifications, removals, or errors in water quality capture volume calculations that would result in a lack of functionality to a Permanent Control Measure that would reasonably be expected to significantly reduce the expected pollutant removal based on the design standards.

(P) Deficient trickle channel.

(Q) Lack of or improperly sized forebay or of energy dissipation in the forebay.

(R) Lack of or improperly sized micropool.

(S) Missing initial surcharge volume

(T) Standing pool of water larger than the micropool.

(U) Insufficiently designed or installed weir/spillway.

(V) Lack of or insufficient maintenance access road.

(W) Side banks steeper than criteria requirements.

(X) Insufficient inlet or erosion under the inlet(s).

(D) Operator Operation and Maintenance Inspections

1) For control measures owned by private entities that were construction after June 4, 2008, the permittee must require that owners perform operation and maintenance inspections at a frequency that they determine necessary to ensure that the control measure is functioning as designed, but at a minimum of once per year, unless specified by the permittee in **Part I.E.4.a.vii(C)2)(b)(i)**.

The permittee must provide information to private owners of control measures regarding the adequate long-term operation and maintenance of control measures on an annual basis (once in a 12-month period). This information must include the following:

(a) Owner requirements for long-term operation and maintenance of privately maintained control measures.

(b) Recommendations on inspection and maintenance specific to the components of various control measures.

(c) Resources available for assistance in maintenance of control measures.

(d) Requirements to document the operation and maintenance inspection reports. Inspection reports must include the components listed in **Part I.E.4.b.vii**.

2) For control measures owned by the permittee, the permittee must perform operation and maintenance inspections at a frequency that they determine necessary to ensure that the control measure is functioning as designed, but at a minimum of once per year. Once every three years the permittee must conduct an evaluation to determine the adequacy of the inspection frequency, including by type of control measure and location which may result in a higher inspection frequency to ensure the control measure is operating according to Part I.B.

3) The operation and maintenance inspection reports must include the items listed in **Part I.E.4.b.vii**.

viii. Enforcement Response: Implement appropriate written enforcement procedures and actions to meet the requirements of **Part I.E.4**. The permittee must have procedures and the ability to apply sanctions to minimize the occurrence of, and obtain compliance from, chronic and recalcitrant violators of control measure requirements. The permittee must follow the written enforcement procedures. Written enforcement procedures must include informal, formal, and judicial enforcement responses.

(A) The permittee must require enforcement escalation as necessary based on the severity of violation and/or the recalcitrance of the violator to ensure that findings of a similar nature are enforced upon consistently. At a minimum, the permittee must use the following types of enforcement mechanisms or the equivalent:

1) Verbal warning

2) Notice of violation

3) Notice and order to correct

(B) The permittee must escalate enforcement procedures if corrective documentation is not received within 30 business after the city issues an inspection report identifying the findings. For corrective actions that require construction, corrective documentation may include a schedule to complete the required maintenance. The permittee may complete the required maintenance at the cost of the owner of the control measure.

ix. Tracking: Implement and document procedures and mechanisms to track the location of and adequacy of operation of control measures constructed after June 4, 2008 implemented in accordance with the program.

x. Training: Train applicable municipal staff to inspect the control measures in accordance with the permittee's procedures, including design, installation, operation and maintenance. The permittee must identify those who will be likely to inspect the control measures and provide training to those individuals. The training must also include information on sediment and flows and the effects on water quality.

xi. Applicable Development Sites that Overlap Multiple Permit Implementation Areas (co-regulating MS4 permittee): When a written agreement is in place with a co-regulating MS4 permittee the following is required:

(A) Control measure requirements may be imposed on the operator in accordance with the requirements of a co-regulating MS4 permittee pursuant to the written agreement. This requirement does not apply to applicable development sites in the permit implementation area of the Colorado Department of Transportation.

(B) Post Construction Stormwater Quality Control Plan review/acceptance and site inspection actions may be conducted by a co-regulating MS4 permittee to meet the requirements of the permit. The agreement must outline which MS4 is responsible for operations and maintenance and which MS4 is responsible for oversight inspections.

b. Recordkeeping

The permittee must document the implementation of these permit requirements and at a minimum, maintain the following records for activities to meet the requirements of this section:

i. Excluded Sites: Maintain records of exclusions granted. Records must include the site name, owner name, location, date, site acreage, reason for exclusion, and any information required below.

(A) Non-Residential and Non-Commercial Infiltration Conditions – The study used for this exclusion and the documentation granting the exclusion.

ii. Regulatory Mechanism: The applicable codes, resolutions, ordinances, and program documents used to meet the permit requirements.

iii. Regulatory Mechanism Exemptions: The specifications, contracts, standards, operating procedures, and other documents that allow for exemptions and the documented procedures that confirm the exemptions, waivers, and variances comply with the permit.

iv. Control Measure Requirements: The applicable codes, resolutions, ordinances and program documents used to meet the permit requirements, including the determination of which design standard applies to each applicable development site and the design specifications for each design standard (if applicable). Any excluded area of the applicable development site, regardless of the type of design standard, must be documented.

(A) For area excluded under **Part I.E.4.a.iv(A)1)** and **(B)1)** the permittee must document the following information:

1) Why capturing 100% of the applicable development site is not practicable, including the impracticability of implementing an additional control measure(s) to treat 100% of the applicable development site (e.g., driveway access that drains directly to street).

(B) For all sites for which the Alternative Treatment Standards are applied: The site plan and the permittee's written determination that it is technically infeasible to meet the Water Quality Capture Volume, Pollutant Removal, or Runoff Reduction design standards. The permittee's written determination shall document that treatment or control of the applicable redevelopment site is technically infeasible.

1) Documentation must demonstrate that offsite treatment control measure will meet the permit requirements, including the following:

(a) Documentation demonstrating that treating stormwater on the applicable redevelopment site was technically infeasible;

(b) Documentation demonstrating that the provided stormwater treatment of impervious surfaces is not otherwise required;

(c) Under the Constrained Site Treatment Option - documentation demonstrating the volume reduction and the offsite treatment control measure area has similar pollutant loading requirements.

(d) Documentation demonstrating that the impervious area treated by the offsite treatment control measure is equal to or greater than the impervious area at the applicable development/redevelopment site that would be treated by a base design standard;

2) The permittee must maintain a system that tracks the following:

(a) Location and acreage of untreated impervious area for sites where the Alternative Treatment Standards were applied.

(b) Location, including whether it was located in the same HUC10, and acreage of the treated impervious area for the offsite treatment control measure, including but not limited to the type of control measure, the final as-built of the control measure, long-term operation and maintenance agreements (if applicable), property documentation indicating that the offsite treatment control measure is in the Alternative Treatment Standards program and must be preserved.

v. Post Construction Stormwater Quality Control Plans: Copies of final site plans for all applicable control measures.

(A) For all control measures for which the stormwater runoff flow to a regional permanent control measure is applied: The name and location of the control measure and documentation that the control measure has the capacity for the applicable development site. Procedures to track the drainage area and post-construction projects contributing to the regional control measure.

(B) For all control measures for which the stormwater runoff flow to a regional permanent control facility is applied: The name and location of the facility and documentation that the facility has the capacity for the applicable development site. Procedures to track the drainage area and post-construction projects contributing to the regional facility.

(C) For all sites for which the previous permit term standard is applied: Date of the start of the permittee's review process, the permittee's approval of the site plan (if applicable), the control measure implementation, and any modifications to the site plan.

(D) The applicable documentation for the operation and maintenance procedures that ensure the long-term observation, maintenance, and operation of control measures, including routine inspection frequencies and maintenance activities.

(E) The applicable documentation regarding easements or other legal means for access to the control measure for operation, maintenance, and inspection of control measures.

vi. Final Construction Inspection and Acceptance: Maintain records of inspections conducted during construction and the permittee's acceptance of the control measure(s), including the process and tools used for documenting inspections, the process for inspection follow-up, including determining, implementing, and documenting the nature of the follow-up action.

vii. Long Term Operation and Maintenance and Post Acceptance Oversight: Maintain oversight inspection records with the following minimum information for all inspections conducted to meet the minimum inspection frequency. For operation and maintenance inspection reports related solely to trash, reports must contain at a minimum (A), (B), (C), (E), (F) and (G).

(A) Inspection date

(B) Name of inspector

(C) Control measure identification, including the type of control measure and control measure owner and operator

(D) Confirmation that, based on observation of accessible components, the control measure conforms to the final approved plan

(E) Inspection findings including, when present: inadequate control measures and control measures requiring routine maintenance

(F) Confirmation that the control measure is operating as designed or a list of follow up actions

(G) If applicable from Part I.E.4.b.vii(F), date the follow up actions were completed

(H) Where required under **Part I.E.4.a.vii(C)2)(b)(i)**, the date the permittee reviewed the control measure operator's operation and maintenance records.

(I) Where applicable under **Part I.E.4.a.vii(C)2)(b)(ii)**, documentation that the owner of a control measure demonstrated it was infeasible to complete the necessary maintenance within 6 months; the owner's schedule and plan for completing maintenance, the owner's frequent maintenance plan, and a description of temporary control measures that the owner installed to minimize the risk of pollutants in runoff.

viii. Enforcement Response: Maintain records of the enforcement response. The document(s) must detail the types of escalating enforcement responses the permittee will take in response to common violations and time periods within which responses will take place. Must include any reports developed in accordance with **Part I.E.4.a.viii(B)**, Enforcement Escalation.

ix. Tracking for Control Measures Installed in Accordance with this Permit and Previous Permits, Constructed after June 2, 2008: Maintain records of the required control measure and regional control measure information, including the type of control measure, project identifier, ownership of the control measure, entity responsible for maintenance, the location of the control measure, as-built plan date, engineer certification date, acceptance date, if it was approved under a previous design standard (if applicable), if it was approved under the permittee's current design standard, the amount of acreage of the permittee's permit implementation area draining to the control measure, and required frequency of inspections and maintenance.

x. Training: Name and title of each individual trained, date of training, the type of training, and a list of topics covered.

xi. For Applicable Permanent Water Quality Management Activities that Overlap Permit Implementation Areas of more than one MS4 Permittee (co-regulating MS4 permittee): Copies of any written agreements between co-regulating MS4 permittees.

5. Industrial and Commercial Facilities Program

The permittee must implement a program to monitor and minimize pollutants in stormwater discharges to the MS4 from industrial facilities.

a. The following requirements apply to industrial and commercial facilities:

i. Industrial and Commercial Facility Inventory: The permittee must continue to maintain an inventory of all industrial and commercial sources within its jurisdiction (regardless of ownership) with a high potential to discharge pollutants in stormwater to the MS4 and not directly to state waters. The Industrial and Commercial Facility Inventory must indicate the industrial and commercial facilities that the permittee determines may have a discharge that contributes a substantial pollutant loading to the MS4 and at a minimum include municipal landfills, hazardous waste treatment, disposal, and recovery facilities, wood product facilities (sector A4), glass, clay, cement, concrete and gypsum product facilities (sector E), and steam electric generating facilities (sector O), and any industrial and commercial facility type the permittee identifies as posing a significant negative water quality impact. Additionally, the permittee must consider those industrial facilities listed in section 61.3(2)(e)(iii), except (J) construction activity, in their inventory.

If the permittee identifies an industrial or commercial facility as potentially needing to obtain a CDPS or NPDES permit, they must refer the facility to the division. The permittee does not need to proactively identify such facilities.

(A) The following information must be included for each facility listed in the Industrial and Commercial Facility Inventory.

1) Address and latitude/longitude of the facility.

2) Name of receiving water.

3) A narrative description of the industrial activity including the primary standard industrial classification (SIC) code for each facility, if applicable.

4) Indication of whether a Facility has a No Exposure certification, and a list of additional division permits that cover the facility, including individual or general Colorado-issued CDPES Permits or EPA issued NPDES permits.

(B) The Industrial and Commercial Facility Inventory must be updated to reflect current facilities located in the permit implementation area, but at a minimum it must be updated at least once every 12 months.

(C) Per **Part I.E.2.a.x**, the permittee must notify the division of illicit discharges from permitted or unpermitted industrial or commercial facilities.

ii. Education and Outreach: The permittee shall develop, document, and implement a strategy to provide education and outreach to industrial and commercial facilities on the proper selection, design, and implementation of control measures. The strategy shall address the proper management and disposal of used oil and toxic materials as well as other pollutants targeted by the permittee. At a minimum, the strategy must include the following:

(A) Provide education and outreach materials and/or activities for all industrial and commercial facilities identified on the Industrial and Commercial Facility Inventory of both their potential to contribute polluted stormwater run-off and their potential requirement to gain permit coverage if they are regulated (if the facility is unpermitted). The permittee must provide to each facility on the Industrial and Commercial Facility Inventory at least one education and outreach material or activity at least once every 12 months. Education as provided under **Part I.E.1.a.ii(A)** or **Part I.E.5.a.iii(A)2)(b)** may count towards this requirement.

(B) Provide information for industrial and commercial facilities on the permittee's web site.

iii. Site inspections: The permittee must inspect industrial and commercial facilities at a frequency that it determines to ensure that the facility does not contribute a substantial pollutant load to the MS4 or state waters, however, it shall inspect all applicable industrial and commercial facilities at the minimum frequencies detailed below. Documentation of inspections outlined below must be maintained in accordance with recordkeeping requirements in **Part I.E.5.b**. Assessment of pollutant sources and control measures required by inspections shall be visual and an in the field assessment unless otherwise stated in this section. A facility that is a significant source for this section includes, but is not limited to, aerial imagery evidence of potential pollutants migrating offsite. The following requirements apply:

(A) Aerial Imagery Inspections: The permittee must inspect each facility on the Industrial and Commercial Facility Inventory, that meets the following criteria: municipal landfills, hazardous waste treatment, disposal, recovery facilities, and any industrial and commercial facility the permittee identifies as posing a significant negative water quality impact. Aerial imagery used for aerial imagery inspections must be updated at a minimum of twice per year.

1) Frequency: Aerial imagery inspections must be conducted once every 5 years.

2) Scope: The inspection must assess the following:

(a) If the facility is a significant source of stormwater pollutant discharges.

(b) Pollutant sources: Evaluate all pollutant sources and facility housekeeping.

(c) Discharge points: Evaluate discharge points to the MS4and beyond the limits of the facility for evidence of potential pollutants migrating off of the facility (i.e. vehicle tracking, tailings beyond the fence, etc).

(B) Onsite Inspections:

1) Frequency: Onsite inspections must be conducted within 12 months of a facility being identified as a potentially significant source of stormwater pollutants (i.e. poor housekeeping, evidence of pollutant migration off-site) through the aerial imagery inspections.

2) Scope: The inspection must assess the following:

(a) If the facility is a significant source of stormwater pollutant discharges.

(b) Control measures: Identify failure to implement control measures and inadequate control measures. If one or more of the above items are identified, the permittee must educate the industrial facility on proper control measure practices.

(c) Pollutant sources: Evaluate all pollutant sources, to determine if an illicit discharge has occurred.

(d) Discharge points: Evaluate discharge points to the MS4, or beyond the limits of the facility as necessary to determine if an illicit discharge has occurred. The permittee must implement their illicit discharge detection and elimination program when an illicit discharge is found.

iv. Training: The permittee must require all existing and newly hired municipal staff who are involved in the industrial and commercial facilities program to be trained once a year. The training must, at a minimum, include the following:

(A) Basic industrial stormwater management, and

(B) How to identify questionable or suspicious conditions that could cause impairment or illicit discharge to the MS4 or receiving waters.

b. Recordkeeping: The permittee must document the implementation of these permit requirements and at a minimum, maintain the following records for activities to meet the requirements of this section:

i. Industrial and Commercial Facility Inventory: The specifications, standards, operating procedures, and other documents used to meet the permit requirements. The inventory of industrial and commercial facilities.

ii. Education and Outreach: The specifications, standards, operating procedures, and other documents that used to meet the permit requirements. A written list of the distribution mechanism for each education and outreach material and activity and the following:

(A) Dates the activities were implemented, including, as applicable, name of the industrial facilities, dates of events and the materials that were made available.

iii. Site Inspections:

(A) Aerial Imagery Inspections: Maintain inspection records with the following minimum information for all inspections conducted to meet the minimum inspection frequency:

1) Inspection date

2) Name of inspector

3) Inspection results including any evidence of poor facility housekeeping or potential pollutants migrating off of the facility boundaries.

(B) Onsite Inspections: Maintain inspection records with the following minimum information for all inspections conducted to meet the minimum inspection frequency:

1) Inspection date

2) Name of inspector

3) Facility representative, if applicable.

4) Inspection results including location of any illicit discharges, failure to implement control measures, and inadequate control measures.

iv. Training: Name and title of each individual trained, date of training, the type of training, and a list of topics covered.

6. Pollution Prevention/Good Housekeeping Program

   The permittee must implement a program for Pollution Prevention/Good Housekeeping for facilities and operations that they own, operate, or perform within the permit implementation area. The program must minimize water quality impacts from pollutants being discharged to the MS4 from the permittee's facilities and operations.

   a. The following requirements apply to **applicable permittee operations and facilities**:

      i. Control Measure Requirements: The permittee must address the selection, installation, implementation, and maintenance of control measures in accordance with **Part I.B**. At a minimum, control measures must be adequately designed and implemented to address potential pollutant sources associated with applicable permittee operations and facilities to minimize the discharge of pollutants, including trash, to the MS4.

      ii. Municipal Facility Runoff Control Measures

         (A) The permittee must maintain a list of all applicable municipal facilities. Applicable facilities include the following:

            1) Vehicle maintenance and washing facilities, motor pools with vehicle maintenance and washing, and loading and unloading areas.

            2) Asphalt and concrete batch plants that are not subject to a separate CDPS or NPDES permit coverage.

            3) Solid-waste transfer stations where waste and recyclables are briefly held before further transport.

            4) Outdoor storage yards with exposed stockpiles of materials which may be reasonably expected to affect the quality of stormwater runoff, including stockpiles of road deicing salt, salt and sand, sand, and rotomill material, dirt, snow dumps, sweeper tailings and/or spoils, gravel.

            5) Equipment storage yards.

            6) Areas of the municipal airport with potential pollutant sources associated with applicable permittee operations and facilities that do not require coverage by a CDPS/NPDES permit for the discharge of stormwater associated with industrial activity per Regulation 61.3(2)(e)(ii) through (v) and (f)(i).

         (B) The permittee shall implement control measures to minimize potential discharges of pollutants to the MS4 from the applicable permittee facilities. New procedures shall be developed and implemented for any new applicable permittee facilities before the facility becomes operational.

         (C) The permittee shall implement the following categories of control measures as necessary to minimize the pollutant sources present:

            1) Preventative maintenance

            2) Good housekeeping

            3) Spill prevention and response procedures

            4) Structural control measures

            5) Evaluation of non-stormwater discharges

            6) Personnel training

      iii. Municipal Site Inspections: The permittee shall implement written facility inspection procedures, which must at a minimum include the following:

         (A) An annual visual inspection of each applicable permittee facility, not including permanent control measures in **Part I.E.4**.

(B) A verification that the written facility procedures, documentation, and site map are current.

(C) Visual observation of locations and areas where stormwater from facilities is discharged off-site, including discharges to state waters, or to a storm sewer system that drains to state waters. The observations, at a minimum must include the following:

1) Observations for the presence of floating materials, visible oil sheen, discoloration, turbidity, odor, etc. in any stormwater discharge(s) and dry weather flows, if observed,

2) Observations of the condition of and around stormwater outfalls, including flow dissipation measures to prevent scouring, and

3) Observations for the presence of illicit discharges or other non-permitted discharges.

(D) Visual observation of facility conditions, including pollutant sources and control measures, to identify inadequate control measures and control measures requiring maintenance.

1) All inadequate control measures shall be modified or replaced as soon as possible, but not later than 6 months from the visual inspection. If the permittee is unable to modify or replace the inadequate control measure within 6 months, then the permittee must complete the following.

(a) Develop a plan to modify or replace the inadequate control measure.

(b) Develop a frequency maintenance plan.

(c) Install a temporary feature on the inadequate control measure or repair/re-engineer the inadequate control measure to minimize the risk of pollutants in runoff from municipal operations.

2) All control measures requiring routine maintenance shall be maintained as soon as possible, but not later than 6 months from the visual inspection.

iv. Municipal Operations and Maintenance Procedures: The permittee shall implement control measures that prevent or reduce discharges for the following operations that are not covered under **Part I.E.6.a.ii(A)**. New written procedures shall be developed and implemented for any new applicable permittee operations:

(A) At a minimum, implementation of the procedures must prevent or reduce stormwater pollution from the following operations conducted by the permittee:

1) Operation and maintenance of the streets, roads, and highways. This includes, but is not limited to, the **City Roadway Infrastructure Maintenance Program**.

2) Operation and maintenance of municipal parking lots

3) Operations at maintenance and storage yards

4) Operations at maintenance shops with outdoor storage areas

5) Operation and maintenance of snow dumps/snow disposal areas

6) Operation and maintenance of sites used for temporary storage of sweeper tailings or other waste piles

7) Park and open space maintenance

8) Exterior building maintenance

9) New construction of permittee facilities

10) Application of pesticides, herbicides, and fertilizers

11) Large outdoor festivals and events

12) Construction activities not subject to the requirements of **Part I.E.3**, Construction Sites Program

13) Maintenance, replacement, and construction of utilities and the storm system, including operations, such as storage, dewatering, or disposal, associated with removal of sediment, debris, and other pollutant sources from the MS4, including removal of materials, such as trash, from control measures implemented in accordance with **Part I.E.3**, unless covered by a separate CDPS or NPDES permit.

14) Firefighting training activities

v. Nutrient Source Reductions: The permittee shall implement a municipal operations program that has the ultimate goal of preventing or reducing nitrogen and phosphorus in stormwater runoff associated with the applicable municipal operations and facilities.

(A) The permittee shall evaluate, identify, and document the municipal operations and facilities that are and/or have the potential to contribute nitrogen and phosphorus to the waters receiving the discharge authorized under this permit (identified municipal operations nutrient sources). The permittee is authorized to meet the requirements of this section through contribution to a collaborative program to evaluate, identify, and target sources state-wide or within the specific region or watershed that includes the receiving waters impacted by the permittee's discharge(s). Additionally, the permittee must evaluate the following:

1) If the permittee has any operations that use fertilizers, then the permittee shall include the storage and application of fertilizer, including subsequent stormwater or irrigation runoff from areas where fertilizer has been applied, as an identified municipal operations nutrient source if these operations were not covered under **Part I.E.6.a.ii(A)** & **Part I.E.6.a.iv**. Additionally, once in the permit term, the permittee must identify if the fertilizers contain phosphorus above 1%. If the fertilizers contain phosphorus above 1%, the permittee must evaluate whether a phosphorus-free fertilizer could be used instead and meet the desired performance.

(B) The permittee shall implement control measures like those listed in **Part I.E.6.a.ii(C)** that prevent or reduce nitrogen and phosphorus in stormwater runoff associated with identified municipal operations nutrient sources. The control measures shall be implemented and documented in accordance with **Part I.E.6.a.ii**, if associated with an applicable municipal facility, or in accordance with **Part I.E.6.a.iv**, if associated with an applicable municipal operation

vi. Outdoor Bulk Storage: Outdoor bulk storage structures, of more than 55 gallons, for petroleum products and any other liquid chemicals located at applicable permittee facilities must have control measures implemented that provide secondary containment or equivalent protection that contains all spills and prevents any spilled material from entering state waters. Before the implementation of such controls, the permittee shall implement practices, such as spill prevention and response, to prevent or reduce pollutants in runoff associated with outdoor bulk storage structures. For the scenario of a single containment system serving multiple tanks, the containment system must have sufficient capacity to contain 10% of the volume of containers, or the volume of the largest container plus 10%, whichever is greater. Outdoor 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 this requirement.

vii. Use of Aqueous Film Forming Foam (AFFF) in Fire Training Activities and Emergencies: The permittee must prohibit the use of AFFF Class B firefighting foam that contains perfluoroalkyl and polyfluoroalkyl substances for training or testing purposes unless the use

of such foam is required by federal law. For emergency use, the permittee shall evaluate whether a Class B fluorine-free foam can provide the required performance for the specific hazard. Fluorinated Class B foams should only be used in situations of significant flammable liquid hazard with risk for public safety or significant property loss, where the performance of other foams has not been demonstrated to date.

viii. Training: Train applicable permittee staff to implement the Pollution Prevention/Good Housekeeping Program, including training for staff that will conduct inspections in accordance with **Part I.E.6.a.iii.** Additionally, staff responsible for operations listed in **Part I.E.6.a.iv** must be trained on the potential for illicit discharges and the water quality impacts of those operations when the procedures are not followed. The training must also include information on trash and nutrients and their effects on water quality.

b. Recordkeeping: The permittee must document the implementation of these permit requirements and at a minimum, maintain the following records for activities to meet the requirements of this section:

i. Control Measure Requirements: The specifications, standards, operating procedures, and other documents used to meet the permit requirements.

ii. Municipal Facility Runoff Control Measures: A facility runoff control plan must be developed for each applicable permittee facility and include the following information:

(A) Facility address, size, and description

(B) Types of operations and activities

(C) Receiving water drainage basin

(D) Facility site map, including location(s) of where stormwater discharges from the site

(E) Identification of potential pollutant sources

(F) Control measures implemented, including installation and implementation specifications and information, including the following:

1) Runoff control plan administrator

2) Preventative maintenance

3) Good housekeeping

4) Spill prevention and response procedures

5) Structural and/or nonstructural control measures

6) Evaluation for non-stormwater discharges

7) Employee training

(G) Personnel (position title) responsible for implementation of control measures and associated documentation

iii. Inspection procedures. Maintain inspection records with the following minimum information for all inspections conducted to meet the minimum inspection frequency:

1) Inspection date

2) Name of inspector

3) Applicable facility identification

4) Inspection findings including, when present: inadequate control measures, control measures requiring routine maintenance, and if there was any evidence of polluted discharges from the facility

5) Confirmation and documentation that the control measures are adequate or a list of follow up actions

6) Confirmation that all follow-up actions, including control measure maintenance and control measure modification or replacement, have been completed and the date of completion.

iv. Municipal Operations and Maintenance Procedures: Written procedures documenting the types of control measures that must be implemented for each type of procedure. Written documentation must include installation, maintenance, and implementation information for each type of control measure.

v. Nutrient Source Reductions: Types of control measures implemented to prevent or reduce nitrogen and phosphorus from municipal operations, including installation, procedure and implementation information and fertilizer evaluation, if applicable.

vi. Outdoor Bulk Storage: Description of types of control measures implemented for outdoor bulk storage structures.

vii. Documentation of whether Class B firefighting foams containing perfluoroalkyl and polyfluoroalkyl substances were used in an emergency, the locations of that use, and, if used, an evaluation of whether alternatives are available.

viii. Training: A list of staff positions and departments/agencies that must be trained and the frequency of training. Program documents that describe how and when new employees will be trained. Name and title of each individual trained, date of training, the type of training, and a list of topics covered.

7. Additional Requirements – Dry Weather and Wet Weather Monitoring

This section outlines the requirements for the permittee to continue the dry weather and wet weather monitoring programs. The permittee may coordinate with regional partners to meet these requirements.

a. Dry Weather Monitoring

The permittee must implement a dry weather monitoring program to assess dry weather impacts from the MS4 to impaired stream segments, specifically segments impaired with E. coli. The permittee may conduct this monitoring in conjunction with requirements under **Part I.E.2.a.xii**.

i. From the analysis conducted in the previous permit term and outlined in the report entitled *Dry Weather E. coli Analysis Report dated October 2017*, the permittee must develop and implement a dry weather monitoring plan on 2 of the 8 identified priority outfalls of concern that exceeded the recreation standard for E. coli at all times of the year. The goal of the monitoring plan is to identify sources of E. coli within the outfall catchment area and the scope of the E. coli impairment. The monitoring plan must include the following components:

(A) The 2 selected outfalls must include dry weather flows greater than 5 gpm.

(B) One stormwater sample must be conducted before source investigation begins at the outfall at least once between November and April with at least 48 hours since the last precipitation and no snowmelt. If the stormwater sample is equal to or lower than 126 CFU per 100 mL, an additional sample must be taken. If both samples are below 126 CFU per 100 mL, a different outfall must be selected.

(C) A strategic sampling methodology for isolating areas and sources within the outfall catchment that are contributing E. coli. This methodology may include a sediment sampling analysis within pipes, manholes, etc., or modeling predictors for E. coli such as dissolved oxygen and suspended sediment.

(D) Identification of industrial or commercial facilities with a potential to discharge dry weather flows containing E. coli (i.e. food processing, waste treatment, composting, outside dog day cares and kennels, etc).

(E) One stormwater sample conducted at the outfall at least once between November and April with at least 48 hours since the last precipitation and no snowmelt when source investigation is complete.

(F) If the permittee identifies a potential illicit discharge, the permittee must follow its IDDE procedures outlined in **Part I.E.2**.

(G) If none of the 8 priority outfalls of concern have an initial sample from Part I.E.7.a.i(B) over 126 CFU per 100 mL, the permittee does not need to continue sampling and would provide these results in the report below, Part I.E.7.a.ii.

ii. Report: The permittee must submit a report at the end of permit year 5 in the following annual report of the source investigation findings and if the source was eliminated, including the sample results, an analysis of any sampling conducted, and recommendations for the next permit term.

b. Wet Weather Monitoring

The permittee must implement a wet weather monitoring program to assess wet weather impacts from the MS4 to impaired stream segments where the permittee has 303(d)-listed streams within the permit implementation area, and to assess the effectiveness of the municipal stormwater program.

i. The permittee must continue the wet weather monitoring plan from the previous permit term as approved by the division in the document entitled *City of Colorado Springs Municipal Separate Storm Sewer System Permit (COS-000004) Monitoring Plan Prepared 8/31/12*. The permittee may make changes to the existing monitoring plan, but must maintain the following components:

(A) List of pollutants of concern. The permittee may utilize either the list from the wet weather monitoring plan from the previous permit term or the list found in this permit of the MS4 Pollutants of Concern (See Table 2 below).

(B) Analytical and sampling methodology. The methodology is listed in Part I.K of this permit.

(C) Similar resource expenditure. Resource expenditure for **Part I.E.7.a.i**, **Part I.E.7.b.i**, **Part I.E.7.b.ii**, and to develop the analysis required in **Part I.E.7.b.iii** can be included.

(D) Nine instream sampling locations that have had at least one sampling event per calendar year since 2004 and eleven instream sampling locations that have flow data from at least one event per calendar year since 2004. The sampling regime at each location must follow the monitoring plan with, at a minimum, of 1 storm sample collected during a storm event, 1 sample collected during base flow/cold season, and 1 sample collected during normal flow/warm season.

ii. Additionally, as part of the wet weather monitoring plan, the permittee must identify 3 outfalls to assess at least one of the four following study areas:

(1) Target an area of the MS4 that has increased E. coli concentrations during wet weather events using the priority outfalls of concern that exceeded the recreation standard for E. coli at all times of the year in the *Dry Weather E. coli Analysis Report dated October 2017* to identify trends.

(2) Target outfalls of a specific catchment type to characterize stormwater runoff (e.g. hobby farms, cemeteries, golf courses, etc.).

(3) Target outfalls that allow for comparison between an area with minimal control measures and an area with control measures installed per the MS4 permit requirements (e.g. permanent control measure types, leaf cleanup in one area but not another, etc.).

(4) Target outfalls that can provide the ability to do a sediment analysis comparison.

The study area plan must include the following:

(A) Monitor 3 outfalls each calendar year from 3 measurable storm events at least one month apart. Sampling locations must be chosen that will have at least three measurable storm events occur during the year, including at least one rainfall and one snowmelt event. Each outfall sample must be analyzed, at a minimum, for all the parameters outlined in Table 2. If 3 outfalls are not available for the study conducted, the permittee must include in the report in **Part I.E.7.b.ii(D)** why 3 outfalls are not included.

(B) All samples must be taken during a measurable storm event. A measurable storm event is a rain storm event of at least 0.1 inches that results in an actual discharge, and that follows the preceding measurable storm event by at least 48 hours (2 days) or a snowmelt event where a measurable discharge occurs from melting snow. Where feasible, the variance in the duration of the event and the total rainfall of the event should not exceed 50 percent from the average or median rainfall event in that area.

(C) Monitoring will begin according to the compliance schedule and last for 4 years. The sampling can be conducted via grab or composite sampling in accordance with 40 CFR 136 and 40 CFR 122. The results of such monitoring shall be reported on the Discharge Monitoring Report (DMR) form according to the frequencies listed in Table 2. E. coli must be reported as a **geometric mean** for the reporting period. Self-monitoring sampling by the permittee for compliance with the effluent monitoring requirements specified in this permit, shall be performed at the location(s) noted in **Part I.E.7.b.ii(A)** above. The permittee must electronically report DMRs by using the EPA's NetDMR service unless a waiver is granted in compliance with 40 CFR 127. The data must be received no later than the 28th day of the following month (for example, the DMR for the calendar year must be received by the division by January 28th). The Discharge Monitoring Report electronic forms shall be filled out accurately and completely in accordance with requirements of this permit and the instructions on the forms. They shall be signed by an authorized person as identified in **Part II.K**.

(D) Study Report: The permittee must submit a report at the end of permit year 5 in the following annual report that summarizes the study and discusses the results, including any conclusions that may be extrapolated to other areas of the MS4 and suggestions for control measures that may improve the stormwater management program.

iii. Trend Analysis: The permittee must submit a trend analysis at the end of permit year 5 in the following annual report from instream data collected from at least between 2004 – 2024 on at least 1 site in the Upper Fountain Creek, 2 sites in Monument Creek and 2 sites in Lower Fountain Creek. The permittee must evaluate if data points prior to 2004 are also available for the 5 sites, and, if so, incorporate those data into the trend analysis. At a minimum, the trend analysis must include the following:

(A) The selected 5 sites must be representative of the MS4 permit implementation area and minimize the influence of other major point source influences (e.g. selecting a site upstream of wastewater treatment facility).

(B) At a minimum, the permittee must analyze the following parameters: flow, E. coli, ammonia, nitrate plus nitrite, total phosphorus, TSS, total arsenic, total and dissolved selenium, total cadmium, total and dissolved iron, total lead, conductance, temperature, pH, hardness, as they relate to the three flow regimes (base flow/cold season, normal flow/warm season, and stormflow). If a parameter is not available for analysis, the permittee must notate that in the report.

(C) The trend analysis must also analyze the parameters in relation to the change in imperviousness during the same time period to identify if a correlation exists between water quality and incorporating stormwater management practices.

(D) Recommendations for the wet weather monitoring program for the next permit term.

Table 2[1]
Permitted Features 001-003 (MS4 outfall to a state water), limit set (rainfall, snow melt)

ICIS Code	Parameter	Discharge Limitations Daily Maximum	Reporting Frequency
00608	Ammonia, dissolved (µg/l)	Report	1/year
01309	Arsenic, potentially dissolved (µg/l)	Report	1/year
01002	Arsenic, total (µg/l)	Report	1/year
01313	Cadmium, potentially dissolved (µg/l)	Report	1/year
01113	Cadmium, total recoverable (µg/l)	Report	1/year
00940	Chloride (mg/l)[2]	Report	1/year
01030	Chromium, dissolved (µg/l)	Report	1/year
01118	Chromium, total recoverable (µg/l)	Report	1/year
00094	Conductivity	Report	1/year
01306	Copper, potentially dissolved (µg/l)	Report	1/year
01042	Copper, total	Report	1/year
51040	E.coli (per 100mL)	Report	1/year
50050	Flow (MGD)	Report	1/year
00900	Hardness	Report	1/year
01317	Iron, potentially dissolved (µg/l)	Report	1/year
00980	Iron, total recoverable (µg/l)	Report	1/year
01318	Lead, potentially dissolved (µg/l)	Report	1/year
01114	Lead, total recoverable (µg/l)	Report	1/year
01056	Manganese, dissolved (µg/l)	Report	1/year
01319	Manganese, potentially dissolved (µg/l)	Report	1/year
01322	Nickel, potentially dissolved (µg/l)	Report	1/year
01074	Nickel, total recoverable (µg/l)	Report	1/year
51489	Nitrite+Nitrate, dissolved (mg/l)	Report	1/year
03582	Oil and grease (mg/l)	Report	1/year
00400	pH	Report	1/year
01323	Selenium, potentially dissolved (µg/l)	Report	1/year

[1] The parameters in this table correspond to the MS4 pollutants of concern in Part I.J.33.
[2] This parameter only needs to be sampled when sampling occurs between November and April.

ICIS Code	Parameter	Discharge Limitations Daily Maximum	Reporting Frequency
00981	Selenium, total recoverable (µg/l)	Report	1/year
00010	Temperature, water deg. centigrade	Report	1/year
00640	Total inorganic nitrogen (mg/l)	Report	1/year
51445	Total nitrogen (mg/l)	Report	1/year
00665	Total phosphorus (mg/l)	Report	1/year
00530	Total suspended solids (mg/l)	Report	1/year
01303	Zinc, potentially dissolved (µg/l)	Report	1/year
82062	Zinc, total recoverable (µg/l)	Report	1/year

F. **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 by the permittee for the purpose of meeting a pollutant restriction, prohibition, or reduction requirement in this permit that have the potential to be present in the permitted discharge, including, but not limited to, chemical additions at any point in the treatment process, unless the permittee provides advance notice to the division of the planned changes in accordance with Part II and the division confirms that the new or altered discharge is appropriate for coverage under this permit.

   b. All discharges must comply with the lawful requirements of federal agencies, municipalities, counties, drainage districts, and other local agencies regarding any discharges to storm drain systems, conveyances, or other water courses under their jurisdiction.

2. Releases in Excess of Reportable Quantities

   This permit does not relieve the permittee of the reporting requirements of 40 C.F.R. 110, 40 C.F.R. 117 or 40 C.F.R. 302. Any discharge of hazardous material shall be handled in accordance with the division's Notification Requirements in Part II.

3. Records Availability

   All records required under this permit are considered reports that shall be available to the public under Section 308(b) of the CWA. The permittee shall make their PDD available to members of the public upon request. However, the permittee may claim any portion of a PDD as confidential in accordance with 40 C.F.R. 403.14.

4. Discharges to Waters with Total Maximum Daily Loads (TMDLs)

   A “TMDL” is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet **water quality standards**, and an allocation of that amount to the pollutant's sources. A water quality standard is a narrative and/or numeric restriction established by the Commission applied to state surface waters to protect one or more beneficial uses of such waters. Whenever only numeric or only narrative standards are intended, the wording shall specifically designate which is intended. See 5 CCR 1002- 31.5(37). A TMDL includes wasteload allocations (WLAs) for point source discharges; load allocations (LAs) for nonpoint sources and/or natural background, and must include a margin of safety (MOS) and account for seasonal variations. See section 303(d) of the Clean Water Act and 40 C.F.R. 130.2 and 130.7. The division will do either of the following if a TMDL has been approved for any waterbody into which the permittee discharges, and discharges subject to effluent limits under this permit certification have been assigned a pollutant-specific WLA under the TMDL:

a. If the division determines that pollutant restrictions, prohibitions, and reduction requirements in the current permit are adequate to ensure compliance with the WLA, the division will notify the permittee of the WLA and amend their permit certification, if necessary, to address additional reporting or documentation requirements to demonstrate compliance with the WLA, or

b. 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.

5. Implementation by Other Parties

Implementation of one or more of the actions required to comply with a term or condition of this permit, including effluent limitations, may be shared with another entity or the other entity may fully take over implementation of the action(s). The permittee remains liable for ensuring that all requirements of this permit are complied with, regardless of who implements the action(s). The permittee may rely on another entity for implementation only if:

a. The other entity agrees to implement the action(s) on the permittee's behalf. Written acceptance of this obligation is required and must be maintained as part of the PDD.

b. If the other entity conducts oversight of a third party to meet a pollutant restriction, prohibition, or reduction requirement, the entity must be capable of remaining impartial and must be a separate entity than the owner/operator of the activity for which the oversight is targeted.

c. The other entity must be capable of completing the necessary actions to comply with the relevant pollutant restriction, prohibition, or reduction requirement(s), including but not limited to effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate written quality assurance procedures.

d. If the permittee uses another party, including a storm water management system administrator, to conduct site inspections on their behalf, then the permittee must develop written procedures to demonstrate and report that the storm water management system administrator program meets the requirements of Part I.E.1.a.v. and Part I.E.1.b.v.

6. Consent Decree

(*USA et al. v. City of Colorado Springs*, 1:16-cv-02745-JLK)

a. The City's obligations under the Consent Decree are in addition to the City's obligations under this MS4 Permit. To the extent there is a conflict between an obligation in the Consent Decree and the Permit, the more stringent obligation shall apply. The permittee must notify the division of the identified conflict within 14 days of identification.

b. Meeting the reporting requirements of the Consent Decree does not relieve the permittee of the reporting requirements of this permit and the Clean Water Act.

7. Resources

The permittee shall provide adequate finances, staff, equipment, and support capabilities to implement the stormwater management program.

G. PROGRAM REVIEW AND MODIFICATIONS

1. Annual Program Review

The permittee shall conduct an annual review of the current program areas as necessary for the preparation of the annual report required under Part I.I. This annual review shall include the following:

a. A review of the compliance status with requirements in **Part I.E.**, **Part I.F.6**, **Part I.F.7.**, and compliance schedules in **Part I.H**.

b. An assessment of the effectiveness of control measures.

c. An assessment of any permit modifications that may be needed if compliance with a current term or condition may not be practicable.

H. **COMPLIANCE SCHEDULE**

The permittee is required to implement its current program in accordance with the previous permit until a new program is implemented in accordance with this permit, including this compliance schedule. Compliance with the terms and conditions of this permit, including Parts **I.D** and E, shall be required by the effective date of the permit, except as provided below.

TABLE 3
Compliance Schedule

ICIS Code	Permit Condition	Action	Deliverable	Deadline
1. PR010	All sections of the permit	Update PDDs to comply with the requirements of this permit.	Notification in annual report Due April 1, 2024	Completed 02/28/2023 (6 months from effective date) Compliance schedule items listed in Table 3 do not apply to this deadline until the compliance date listed in that row.
2. PR010	Part I.E.1.a.i and Part I.E.1.b.i (Website)	Complete all applicable changes to the website.	Notification in annual report Due April 1, 2024	Completed 02/28/2023 (6 months from effective date)
3. PR010	Part I.E.1.a.ii(A) and Part I.E.1.b.ii (Illicit Discharges - Business)	Update the education and outreach program regarding business illicit discharges.	Notification in annual report Due April 1, 2024	Completed 08/31/2023 (12 months from effective date)
4. PR010	Part I.E.1.a.ii(B) and Part I.E.1.b.ii (Illicit Discharges - OWTS)	Develop and implement the education and outreach program regarding OWTS illicit discharges.	Notification in annual report Due April 1, 2028	Completed 08/31/2027 (60 months from effective date)
5. PR010	Part I.E.1.a.iii and Part I.E.1.b.iii (Education and Outreach Table)	Update the education and outreach program to meet the minimum requirements of the permit.	Notification in annual report Due April 1, 2024	Completed 08/31/2023 (12 months from effective date)
6. PR010	Part I.E.1.a.iv and Part I.E.1.b.iv (Nutrients)	Develop and implement an education and outreach program regarding nutrients.	Notification in annual report Due April 1, 2024	Completed 08/31/2023 (12 months from effective date)
7. PR010	Part I.E.2.a.i and Part I.E.2.b.i (Storm Sewer Map)	Update IDDE storm sewer map to include MS4 open channel conveyances.	Notification in annual report Due April 1, 2024	Completed 02/28/2023 (6 months from effective date)

ICIS Code	Permit Condition	Action	Deliverable	Deadline
8. PR010	Part I.E.2.a.ii and Part I.E.2.b.ii (Regulatory Mechanism)	Complete all applicable changes to the regulatory mechanism(s): Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
9. PR010	Part I.E.2.a.iii and Part I.E.2.b.iii (Regulatory Mechanism Exemptions)	Analyze all regulatory mechanism exemptions: Ensure that any exemptions meet the requirements of the permit and revise the regulatory mechanism as necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
10. PR010	Part I.E.2.a.iv and Part I.E.2.b.iv (Tracing an Illicit Discharge)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2024	Completed 08/31/2023 (12 months from effective date)
11. PR010	Part I.E.2.a.v and Part I.E.2.b.v (Discharges that could be Excluded from being Effectively Prohibited)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2026	Completed 08/31/2025 (36 months from effective date)
12. PR010	Part I.E.2.a.vi and Part I.E.2.b.vi (Removing an Illicit Discharge)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2024	Completed 08/31/2023 (12 months from effective date)
13. PR010	Part I.E.2.a.vii and Part I.E.2.b.vii (Enforcement Response)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
14. PR010	Part I.E.2.a.viii and Part I.E.2.b.viii (Priority Areas)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
15. PR010	Part I.E.2.a.ix and Part I.E.2.b.ix (Training)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2026	Completed 08/31/2025 (36 months from effective date)
16. PR010	Part I.E.2.a.x and Part I.E.2.b.x	Ensure requirements are met; revise	Notification in annual report	Completed 08/31/2023

ICIS Code	Permit Condition	Action	Deliverable	Deadline
	(Industrial Activities)	implementation and documentation if necessary.	Due April 1, 2024	(12 months from effective date)
17. PR010	Part I.E.2.a.xi and Part I.E.2.b.xi (Control of Sanitary Sewer Seepage into the MS4)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2028	Completed 08/31/2027 (60 months from effective date)
18. PR010	Part I.E.2.a.xii and Part I.E.2.a.xii (Dry Weather Outfall Screening and Monitoring)	Year 1-2: Develop procedures to create the program; revise documentation as necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
19. PR010	Part I.E.2.a.xii and Part I.E.2.a.xii (Dry Weather Outfall Screening and Monitoring)	Year 3-5: Implement the program; ensure requirements are met; Revise documentation as necessary.	Notification in annual report Due April 1, 2028	Completed 08/31/2027 (60 months from effective date)
20. PR010	Part I.E.3.a.i and Part I.E.3.b.i (Regulatory Mechanism)	Complete all applicable changes to the regulatory mechanism(s): Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2024	Completed 08/31/2023 (12 months from effective date)
21. PR010	Part I.E.3.a.ii and Part I.E.3.b.ii (Regulatory Mechanism Exemptions)	Analyze all regulatory mechanism exemptions: Ensure that any exemptions meet the requirements of the permit and revise the regulatory mechanism as necessary.	Notification in annual report Due April 1, 2024	Completed 08/31/2023 (12 months from effective date)
22. PR010	Part I.E.3.a.iii and Part I.E.3.b.iii (Control Measure Requirements)	Year 1: Develop list of tasks needed to revise the program, develop and revise documentation as necessary.	Notification in annual report Due April 1, 2024	Completed 08/31/2023 (12 months from effective date)
23. PR010	Part I.E.3.a.iii and Part I.E.3.b.iii (Control Measure Requirements)	Year 2: Ensure requirements are met.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
24. PR010	Part I.E.3.a.iv and Part I.E.3.b.iv (Construction Activities	Year 1: Develop list of tasks needed to revise the program, develop and revise documentation as necessary.	Notification in annual report Due April 1, 2024	Completed 08/31/2023 (12 months from effective date)

ICIS Code	Permit Condition	Action	Deliverable	Deadline
	Stormwater Management Plans)			
25. PR010	Part I.E.3.a.iv and Part I.E.3.b.iv (Construction Activities Stormwater Management Plans)	Year 2: Implement the program; ensure requirements are met; Revise documentation as necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
26. PR010	Part I.E.3.a.v and Part I.E.3.b.v (Site Inspections)	Year 1: Develop list of tasks needed to revise the program, develop and revise documentation as necessary.	Notification in annual report Due April 1, 2024	Completed 08/31/2023 (12 months from effective date)
27. PR010	Part I.E.3.a.v and Part I.E.3.b.v (Site Inspections)	Year 2: Implement the program; ensure requirements are met; Revise documentation as necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
28. PR010	Part I.E.3.a.vi and Part I.E.3.b.vi (Enforcement Response)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2024	Completed 08/31/2023 (12 months from effective date)
29. PR010	Part I.E.3.a.vii and Part I.E.3.b.vii (State or EPA Inspection Notifications)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2024	Completed 08/31/2023 (12 months from effective date)
30. PR010	Part I.E.3.a.viii and Part I.E.3.b.viii (Training)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2024	Completed 08/31/2023 (12 months from effective date)
31. PR010	Part I.E.3.a.x and Part I.E.3.b.x (Consideration of Information Submitted by the Public)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2024	Completed 08/31/2023 (12 months from effective date)
32. PR010	Part I.E.4.a.i and Part I.E.4.b.i (Excluded sites)	If using exclusions, complete all applicable changes to the regulatory mechanism(s) and other applicable documents: Ensure requirements are met; revise implementation and	Notification in annual report Due April 1, 2026	Completed 08/31/2025 (36 months from effective date)

ICIS Code	Permit Condition	Action	Deliverable	Deadline
		documentation if necessary.		
33. PR010	Part I.E.4.a.ii and Part I.E.4.b.ii (Regulatory Mechanism)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
34. PR010	Part I.E.4.a.iii and Part I.E.4.b.iii (Regulatory Mechanism Exemptions)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
35. PR010	Part I.E.4.a.iv and Part I.E.4.b.iv (Control Measure Requirements)	Year 1: Develop list of tasks needed to revise the program, develop and revise documentation as necessary.	Notification in annual report Due April 1, 2024	Completed 08/31/2023 (12 months from effective date)
36. PR010	Part I.E.4.a.iv and Part I.E.4.b.iv (Control Measure Requirements)	Year 2: Implement the program; ensure requirements are met; Revise documentation as necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
37. PR010	Part I.E.4.a.v and Part I.E.4.b.v (Post Construction Stormwater Quality Control Plans)	Year 1: Develop list of tasks needed to revise the program, develop and revise documentation as necessary.	Notification in annual report Due April 1, 2024	Completed 08/31/2023 (12 months from effective date)
38. PR010	Part I.E.4.a.v and Part I.E.4.b.v (Post Construction Stormwater Quality Control Plans)	Year 2: Implement the program; ensure requirements are met; Revise documentation as necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
39. PR010	Part I.E.4.a.vi and Part I.E.4.b.vi (Final Construction Inspection and Acceptance)	Year 1: Develop list of tasks needed to revise the program, develop and revise documentation as necessary.	Notification in annual report Due April 1, 2024	Completed 08/31/2023 (12 months from effective date)
40. PR010	Part I.E.4.a.vi and Part I.E.4.b.vi (Final Construction Inspection and Acceptance)	Year 2: Implement the program; ensure requirements are met; Revise documentation as necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
41. PR010	Part I.E.4.a.vii and Part I.E.4.b.vii (Long-Term Operations and Maintenance and	Year 1: Develop list of tasks needed to revise the program, develop and revise documentation as necessary.	Notification in annual report Due April 1, 2024	Completed 08/31/2023 (12 months from effective date)

ICIS Code	Permit Condition	Action	Deliverable	Deadline
	Post Acceptance Oversight)			
42. PR010	Part I.E.4.a.vii and Part I.E.4.b.vii (Long-Term Operations and Maintenance and Post Acceptance Oversight)	Year 2: Implement the program; ensure requirements are met; Revise documentation as necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
43. PR010	Part I.E.4.a.vii(C) and Part I.E.4.b.vii (Long-Term Operations and Maintenance and Post Acceptance Oversight)	Year 2: Ensure initial oversight inspections for 50% of all control measures is complete.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
44. PR010	Part I.E.4.a.vii(C) and Part I.E.4.b.vii (Long-Term Operations and Maintenance and Post Acceptance Oversight)	Year 3: Ensure initial oversight inspections for remaining 50% of all control measures is complete.	Notification in annual report Due April 1, 2026	Completed 08/31/2025 (36 months from effective date)
45. PR010	Part I.E.4.a.viii and Part I.E.4.b.viii (Enforcement Response)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
46. PR010	Part I.E.4.a.ix and Part I.E.4.b.ix (Tracking)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2024	Completed 08/31/2023 (12 months from effective date)
47. PR010	Part I.E.4.a.x and Part I.E.4.b.x (Training)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
48. PR010	Part I.E.4.a.xi and Part I.E.4.b.xi (For Applicable Development Sites that Overlap Multiple Permit Implementation Areas)	If applicable, ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
49. PR010	Part I.E.5.a.i and Part I.E.5.b.i	Ensure requirements are met; revise	Notification in annual report	Completed 08/31/2024

ICIS Code	Permit Condition	Action	Deliverable	Deadline
	(Industrial and Commercial Facility Inventory)	implementation and documentation if necessary.	Due April 1, 2025	(24 months from effective date)
50. PR010	Part I.E.5.a.ii and Part I.E.5.b.ii (Education and Outreach)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
51. PR010	Part I.E.5.a.iii and Part I.E.5.b.iii (Site Inspections)	Year 1-2: Develop list of tasks needed to revise the program, develop and revise documentation as necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
52. PR010	Part I.E.5.a.iii and Part I.E.5.b.iii (Site Inspections)	Year 3-5: Implement the program; ensure requirements are met; Revise documentation as necessary.	Notification in annual report Due April 1, 2028	Completed 08/31/2027 (60 months from effective date)
53. PR010	Part I.E.5.a.iv and Part I.E.5.b.iv (Training)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
54. PR010	Part I.E.6.a.i and Part I.E.6.b.i (Control Measure Requirements)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
55. PR010	Part I.E.6.a.ii and Part I.E.6.b.ii (Municipal Facility Runoff Control Measures)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
56. PR010	Part I.E.6.a.iii and Part I.E.6.b.iii (Municipal Site Inspections)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
57. PR010	Part I.E.6.a.iv and Part I.E.6.b.iv (Municipal Operations and Maintenance Procedures)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
58. PR010	Part I.E.6.a.v and Part I.E.6.b.v (Nutrient Source Reductions)	Ensure requirements are met; revise implementation and	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)

ICIS Code	Permit Condition	Action	Deliverable	Deadline
		documentation if necessary.		
59. PR010	Part I.E.6.a.v and Part I.E.6.b.v (Phosphorus in Fertilizer Evaluation)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2028	Completed 08/31/2027 (60 months from effective date)
60. PR010	Part I.E.6.a.vi and Part I.E.6.b.vi (Outdoor Bulk Storage)	Year 1: Evaluate the need for outdoor bulk storage structure(s); revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2024	Completed 08/31/2023 (12 months from effective date)
61. PR010	Part I.E.6.a.vi and Part I.E.6.b.vi (Outdoor Bulk Storage)	Year 2-5: Install secondary containment for outdoor bulk storage structure(s) and ensure requirements are met.	Notification in annual report Due April 1, 2027	Completed 08/31/2026 (48 months from effective date)
62. PR010	Part I.E.6.a.vii and Part I.E.6.b.vii (Use of Fire Fighting Foam in Training Activities and Emergencies)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
63. PR010	Part I.E.6.a.viii and Part I.E.6.b.viii (Training)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
64. PR010	Part I.E.7.a.i (Dry Weather Monitoring)	Year 1-2: Identify which two outfalls will be studied and procedures/methodology necessary to complete E. coli source investigation.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
65. PR010	Part I.E.7.a.i (Dry Weather Monitoring)	Year 3-4: Complete the E.coli source investigation.	Notification in annual report Due April 1, 2027	Completed 08/31/2026 (48 months from effective date)
66. PR010	Part I.E.7.a.i (Dry Weather Monitoring)	Year 5: Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2028	Completed 08/31/2027 (60 months from effective date)
67. PR010	Part I.E.7.a.ii (Dry Weather Monitoring Report)	Year 5: Complete and submit in annual report the dry weather monitoring report.	Notification in annual report Due April 1, 2028	Completed 08/31/2027 (60 months from effective date)

ICIS Code	Permit Condition	Action	Deliverable	Deadline
68. PR010	Part I.E.7.b.i (Wet Weather Monitoring – Previous Monitoring Plan)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2024	Completed 08/31/2023 (12 months from effective date)
69. PR010	Part I.E.7.b.ii (Wet Weather Monitoring – Outfall Study)	Year 1: Identify which study, outfalls and procedures/methodology.	Notification in annual report Due April 1, 2024	Completed 08/31/2023 (12 months from effective date)
70. PR010	Part I.E.7.b.ii (Wet Weather Monitoring – Outfall Study)	Year 1-5: Complete the outfall study investigation.	Notification in annual report Due April 1, 2028	Completed 08/31/2027 (60 months from effective date)
71. PR010	Part I.E.7.b.ii (Wet Weather Monitoring – Outfall Study)	Ensure requirements are met; revise implementation and documentation if necessary.	Notification in annual report Due April 1, 2028	Completed 08/31/2027 (60 months from effective date)
72. PR010	Part I.E.7.b.ii (Wet Weather Monitoring – Outfall Study)	Year 5: Complete and submit in annual report the study report.	Notification in annual report Due April 1, 2028	Completed 08/31/2027 (60 months from effective date)
73. PR010	Part I.E.7.b.iii (Wet Weather Monitoring Trend Analysis)	Year 1-2: Complete data collection.	Notification in annual report Due April 1, 2025	Completed 08/31/2024 (24 months from effective date)
74. PR010	Part I.E.7.b.iii (Wet Weather Monitoring Trend Analysis)	Year 5: Complete and submit in annual report the trend analysis.	Notification in annual report Due April 1, 2028	Completed 08/31/2027 (60 months from effective date)

I. REPORTING REQUIREMENTS

1. Annual Report

   The permittee shall prepare an annual report for the entire permit implementation area to be submitted to the division by **April 1** of each year, covering January 1 through December 31 of the previous year. The first report may include less than 12 months of information. The report must include the following information:

   a. The required certification statement in **Part II.K** and signed by the individual meeting the criteria in **Part II.K**.

   b. Identify that the permittee is relying on another entity to satisfy any of the permit obligations (if applicable) if not included in previous reports or permit application.

   c. An update on areas added to or removed from the permit implementation area, which may include newly annexed areas.

d. A list of compliance schedule items completed, including the date of completion and any associated information required in **Part I.H**.

e. The results of the assessment of the effectiveness of the control measures.

f. A list of any parts of this permit needed to be modified or a condition of the permit that may not be practicable.

g. A fiscal analysis of the necessary capital and operation and maintenance expenditures necessary to accomplish the activities of the programs.

h. Provide the following information for the program elements listed below:

i. Public Education and Outreach Program (Part I.E.1)

(A) A list of the education and outreach activities completed in accordance with Part I.E.1.a.i., ii, and iii.

(B) A list of the education and outreach activities completed in accordance with Part I.E.1.a.iv and the targeted sources.

ii. Illicit Discharge Detection and Elimination Program (Part I.E.2)

(A) Provide the total number of reports/identification of illicit discharges, including any illicit discharges identified as part of the permittee screening and source investigation in **Part I.E.2.a.xii**.

(B) Total number of enforcement actions taken under this program.

iii. Construction Sites Program (Part I.E.3)

(A) Provide the total number of applicable construction sites required under the Construction Sites Program during the year.

(B) Provide the total number of approved initial SWMPs for the year.

(C) Provide the number of sites that the permittee applied the Winter Conditions Exclusion to and the dates that the Winter Conditions Exclusion was used.

(D) Provide the total number of inspections performed for the types of inspections listed below:

1) Compliance Inspections: Inspections of applicable construction activities that meet the inspection scope requirements in **Part I.E.3.a.v(C)** and for which documentation is recorded in accordance with in Part I.E.3.b.v.

2) Reduced Site Inspection: Inspections of applicable construction activities that meet the inspection scope requirements in **Part I.E.3.a.v(D)** for which documentation is recorded in accordance with in Part I.E.3.b.v.

3) Follow-up Inspections: Inspections or operator reporting or other action(s) to assess the control measure has been implemented or corrected of applicable construction activities that meet the inspection scope requirements in **Part I.E.3.a.v(E)** and for which documentation is recorded in accordance with in Part I.E.3.b.v.

4) Number of occurrences when follow-up inspections resulted in compliance inspections being required every 14 days per **Part I.E.3.a.v(E)3)**.

(E) Provide the number of enforcement actions by type of enforcement mechanism per **Part I.E.3.vi(B)**.

iv. Post Construction Program for New Development and Redevelopment (Part I.E.4)

(A) Provide the total number of applicable development and redevelopment sites for which control measures were implemented and the type of control measure used for the site during the reporting period.

(B) Excluded Sites: Provide a total number and list of the applicable development sites that had excluded area under the Alternative Treatment Standards as noted in the recordkeeping information required by Part I.E.4.b.iv:

1) Total number and list of sites excluded in accordance with Parts I.E.4.a.i(B) and (C).

(C) Long-Term Operation and Maintenance and Post Acceptance Oversight: Provide the total number of permittee private oversight inspections and permittee public inspections of applicable development sites and control measures to ensure compliance with the requirement in Part I.E.4.a.vii.

1) Provide a total number and list of all sites in which the permittee oversight inspections identified private control measures that were inadequate or needing maintenance, the actions taken by the City to address the noncompliance.

(D) Enforcement Escalation: Provide the date and control measure identifying information for all reports addressing determinations not to escalate enforcement, in accordance with I.E.4.a.viii..

v. Industrial and Commercial Facilities Program (Part I.E.5)

(A) Describe the status of implementing the industrial facilities program, and the number of facilities identified by the permittee that are included in the facility inventory.

(B) Report the number of inspections performed under this program.

(C) Report the number of enforcement actions under this program.

vi. Pollution Prevention/Good Housekeeping Program (Part I.E.6)

(A) Report the number of inspections performed on municipal facilities.

(B) Report the results of the fertilizer containing phosphorus evaluation.

(C) Report whether Class B firefighting foams containing perfluoroalkyl and polyfluoroalkyl substances are used and, if so, the facility location.

vii. Additional Requirements – Dry Weather and Wet Weather Monitoring (Part I.E.7)

(A) Status of reports.

(B) Sample results taken in each program. E. coli must be expressed as a geometric mean on an annual basis.

J. **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. Applicable Development Sites: Sites that result in construction activities with land disturbance (surface disturbing and associated activities) of greater than or equal to one acre, including sites less than one acre that are part of a common plan of development or sale, unless excluded in Part I.E.4.a.i. Applicable development sites include all new development and redevelopment sites for which permanent water quality control measures are required in accordance with an MS4 permit. At a minimum, applicable development sites include all sites meeting the criteria of the previous MS4 permit and completed after the date in **Part I.H**.

2. Applicable Permittee Operations and Facilities: Operations and facilities are permittee operations and facilities with stormwater discharges that are not authorized by a separate CDPS or NPDES discharge permit.

3. Base Design Standard: The minimum design standard for new and redevelopment before applying exclusions or alternative standards.

4. Best Management Practices (BMPs): means 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 requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. See control measure.
5. City Roadway Infrastructure Maintenance Program: A permittee-initiated maintenance program that involves a time limited citywide or partial citywide contract for the routine maintenance of small sites and improvement projects scattered around the city. These sites are for the maintenance of curbs, gutters, pedestrian ramps, and minor concrete or asphalt roadway repairs that may result in the short-term exposure of underlying or surrounding soil. These sites would not otherwise be covered under the Construction or Post Construction programs.
6. Classified State Water: A classified state water is a state water with a classification in the Classification and Numeric Standards Regulation for each of the seven river basins in Colorado. Classifications for each segment within the river basin can be found in the numeric and standards table for each basin regulation.
7. Common Plan of Development or Sale: A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules, but remain related. The division has determined that “contiguous” means construction activities located in close proximity to each other (¼ mile). Construction activities are considered “related” if they share the same development plan, builder or contractor, equipment, storage areas, etc.
8. Construction Activity: Ground surface disturbing and associated activities (land disturbance), 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 the original line and grade, hydraulic capacity, or original purpose of the facility, including routine maintenance. Activities to conduct repairs that are not part of routine maintenance or for replacement are construction activities and are not routine maintenance. Repaving activities where underlying and/or surrounding soil is exposed as part of the repaving operation are considered construction activities. Construction activity is from initial ground breaking to final stabilization regardless of ownership of the construction activities.
9. Construction Dewatering: Discharge of groundwater, surface water, and stormwater that has mixed with the groundwater and/or surface water (i.e. commingled stormwater runoff) that has come into contact with covered construction activities.
10. Control Measure: Any **Best Management Practices (BMPs)** or other method used to prevent or reduce the discharge of pollutants to state waters. Control measures include, but are not limited to best management practices. Control measures can include other methods such as the installation, operation, and maintenance of structure controls and treatment devices.
11. Control Measure Requiring Routine Maintenance: Any control measure that is still operating in accordance with its design and the requirements of this permit, but requires maintenance to prevent associated potential for failure during a runoff event. See also Inadequate Control Measure.
12. Discharge: Discharge means the discharge of pollutants as defined in section 25-8-103(3) C.R.S. For the purposes of this permit, discharges do not include land application or discharges to the ground.
13. Discharge of a Pollutant: Means the introduction or addition of a pollutant into state waters. See 25-8-103(3) C.R.S.
14. Division: The Water Quality Control division of the Colorado Department of Public Health and Environment.
15. Dry Weather Discharge: Is a discharge not resulting from surface runoff from stormwater.
16. Effluent Limitation: Means any restriction or prohibition established under the Colorado Water Quality Control Act, state regulations, or federal law on quantities, rates, and concentrations of

chemical, physical, biological, and other constituents which are discharged from point sources into state waters, including, but not limited to, standards of performance for new sources, toxic effluent standards and schedules of compliance.

17. Exclusion: Is a removal of the applicability of the terms or conditions in this permit from applying to the given conditions.

18. Final Stabilization: The condition reached when construction activities at the site have been completed, permanent stabilization methods are complete, and temporary control measures are removed. Areas being stabilized with a vegetative cover must have evenly distributed perennial vegetation. The vegetation coverage must be, at a minimum, equal to 70 percent of what would have been provided by native vegetation in a local, undisturbed area.

19. Geometric Mean: E. coli bacteria geometric mean concentrations may be calculated using two different methods. For the methods shown, a_1, a_2, a_3, a_n, etc. are individual sample results, and n is the total number of samples.

    Method 1:

    Geometric Mean = $\sqrt[n]{a_1, a_2, a_3, \cdots a_n}$

    Method 2:

    Geometric Mean = antilog $[(\log a_1,\ \log a_2, \log a_3, \cdots \log a_n) \div n]$

    Graphical methods, even though they may also employ the use of logarithms, may introduce significant error and may not be used.

    In calculating the geometric mean, for those individual sample results that are reported by the analytical laboratory to be "less than" a numeric value, a value of 1 should be used in the calculations. If all individual analytical results for the month are reported to be less than numeric values, then report "less than" the largest of those numeric values on the monthly DMR. Otherwise, report the calculated value.

    For any individual analytical result of "too numerous to count" (TNTC), that analysis shall be considered to be invalid and another sample shall be promptly collected for analysis. If another sample cannot be collected within the same sampling period for which the invalid sample was collected, then the following procedures apply:

    A minimum of two samples shall be collected for E. coli analysis within the next sampling period.

    If the sampling frequency is monthly or less frequent: For the period with the invalid sample results, leave the spaces on the corresponding DMR for reporting E. coli results empty and attach to the DMR a letter noting that a result of TNTC was obtained for that period, and explain why another sample for that period had not been collected.

    If the sampling frequency is more frequent than monthly: Eliminate the result of TNTC from any further calculations, and use all the other results obtained within that month for reporting purposes. Attach a letter noting that a result of TNTC was obtained, and list all individual analytical results and corresponding sampling dates for that month.

20. Good Engineering, Hydrologic, and Pollution Control Practices: are methods, procedures, and practices that:

    - Are based on basic scientific fact(s).
    - Reflect best industry practices and standards.
    - Are appropriate for the conditions and pollutant sources.
    - Provide appropriate solutions to meet the associated permit requirements, including practice based and numeric effluent limits.

21. Green Stormwater Treatment Infrastructure: Generally refers to control measures that use or mimic natural processes to infiltrate, evapotranspirate, or reuse stormwater on the site where it is generated. Green stormwater treatment infrastructure can be used in place of, or in addition to, low impact development principles. Green stormwater treatment infrastructure also includes strategies for implementing disconnected pervious areas in order to promote infiltration and increase evapotranspiration. Green stormwater treatment infrastructure for use in this permit is related to control measures in Step 2 of the 4 Step process

22. Illicit Discharges: Any discharges to an MS4 that is not composed entirely of stormwater except discharges specifically authorized by a CDPS or NPDES permit and discharges resulting from emergency firefighting activities. The permittee should note that there are many types of illicit discharges that in accordance with the permit need to be effectively prohibited. Only the discharges listed in **Part I.E.2.a.v** can be excluded from being effectively prohibited.

23. Impervious Area: Developed areas with covering or pavement that prevents the land's natural ability to absorb and infiltrate typical precipitation and irrigation events. Impervious areas include, but are not limited to; roof tops, walkways, patios, driveways, parking lots, storage areas, impervious concrete and asphalt, and any other continuous watertight pavement or covering.

24. Inadequate Control Measure: Any control measure that is not designed, implemented, or operating in accordance with the requirements of the permit, including the specific requirements in each program area in **Part I.E** and implemented and maintained to operate in accordance with the design. See also Control measure Requiring Routine Maintenance.

25. Infeasible: Not technologically possible, or not economically practicable and achievable in light of best industry practices.

26. Irrigation Return Flow: Tailwater, tile drainage, or surfaced groundwater flow from irrigated land.

27. Large MS4: means all municipal separate storm sewers that are either:

    a. Located in the City and County of Denver; or

    b. Located in a municipality other than that described in (a) and meets the criteria of either i or ii below:

        i. In an incorporated place, other than that described in (a), and other than the City of Colorado Springs, with a population of 250,000 or more as determined by the 1990 Decennial Census by the Bureau of Census; or

        ii. In the unincorporated portions of a county that has areas designated as urbanized areas by the 1990 Decennial Census by the Bureau of Census and where the population of the urbanized areas exceeds 250,000 after the population of the incorporated places within the urbanized areas is excluded, except municipal separate storm sewer systems that are located in the incorporated places within such counties; or

    c. Owned or operated by a municipality other than those described in paragraphs (a) or (b) and that are designated by the division as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described in paragraphs (a) or (b). In making this determination the division may consider the following factors:

        i. Physical interconnections between the municipal separate storm sewers;

        ii. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in subparagraph (a);

        iii. The quantity and nature of pollutants discharged to state waters;

        iv. The nature of the receiving waters; and

        v. Other relevant factors; or

d. The division may, upon petition, designate as a large municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a stormwater management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in paragraphs (a), (b), or (c).

28. Medium MS4: means all municipal separate storm sewers that are either:

    a. located in the City of Aurora, City of Lakewood, or the City of Colorado Springs; or

    b. located in a municipality other than that described in (a) and meets the criteria of either (b)(i) or (b)(ii) below:

        i. in an incorporated place, other than that described in (a), with a population of 100,000 or more but less than 250,000, as determined by the 1990 Decennial Census by the Bureau of Census; or

        ii. in the unincorporated portions of a county that has areas designated as urbanized areas by the 1990 Decennial Census by the Bureau of Census and where the population of the urbanized areas exceeds 100,000 but less than 250,000, after the population in the incorporated places with in the urbanized areas is excluded, except municipal separate storm sewer systems that are located in the incorporated places within such counties; or

    c. owned or operated by a municipality other than those described in paragraphs (a) or (b) and that are designated by the division as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under paragraphs (a) or (b). In making this determination the division may consider the following factors:

        i. Physical interconnections between the municipal separate storm sewers;

        ii. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in subparagraph (a);

        iii. The quantity and nature of pollutants discharged to state waters;

        iv. The nature of the receiving waters; or

        v. Other relevant factors; or

    d. The division may, upon petition, designate as a medium municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a stormwater management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in paragraphs (a), (b), or (c).

29. Measurable Storm Event:

    a. Rain event – A storm event that results in an actual discharge from the facility, and that follows the preceding measurable storm event by at least 48 hours (2 days).

    b. Snowmelt event - An event where a measurable discharge occurs from the facility resulting from melting snow.

30. Minimize: The term minimize, for purposes of implementing control measures of this permit means reduce and/or eliminate to the extent achievable using control measures that are technologically available and economically practicable and achievable in light of best industry practices.

31. Municipality/Municipal: A city, town, county, district, association, or other public body created by or under state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or a designated and approved management agency under section 208 of CWA (1987). A municipality, for purposes of this permit also includes a state; special districts under state law such as a sewer district, flood control district or drainage district, or similar entity; or an Indian tribe or an authorized Indian tribal organization.

32. Municipal Separate Storm Sewer System (MS4): 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, borough, county, parish, 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 an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;

    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). See 5 CCR 1002-61.2(62).

    An MS4 permittee may be classified as **Small**, **Medium**, or **Large**.

33. Municipal Separate Storm Sewer System Outfall (Outfall): A **point source** as defined herein, at the point where a municipal separate storm sewer discharges to state waters and 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.

34. MS4 Pollutants of Concern include:

    - Ammonia
    - Arsenic, (potentially dissolved and total)
    - Cadmium, (potentially dissolved and total)
    - Chloride
    - Chromium, (potentially dissolved and total)
    - Conductivity
    - Copper, (potentially dissolved and total)
    - E. coli
    - Flow
    - Hardness
    - Iron, (potentially dissolved and total)
    - Lead, (potentially dissolved and total)
    - Manganese, (potentially dissolved and total)
    - Nickel, (potentially dissolved and total)
    - Nitrite+Nitrate
    - Oil and grease
    - pH
    - Selenium, (potentially dissolved and total)
    - Temperature, water deg. centigrade
    - Total nitrogen
    - Total phosphorus
    - Total suspended solids (TSS)
    - Zinc, (potentially dissolved and total)

35. New Development: New Development means land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and on an area that has not been previously developed.

36. Non-Structural Control Measures: Includes control measures that are not structural control measures, and include, but are not limited to, control measures that prevent or reduce pollutants being introduced to water or that prevent or reduce the generation of runoff or illicit discharges.

37. Onsite Wastewater Treatment Systems (OWTS): broad term that means an absorption system of any size or flow or a system or facility for treating, neutralizing, stabilizing, or dispersing sewage generated in the vicinity and is not part of or connected to an sewage treatment works (e.g. a septic system is a type of OWTS).

38. Owner/Operator: The party that has operational control over day-to-day activities at a project site or facility and can ensure compliance with the permit. This party is authorized to direct individuals at a site to carry out activities required by the permit (e.g. the general contractor). The party that has overall control of the activities or facility or that has funded the implementation of the construction plans and specifications. This is the party with ownership of, a long term lease of, or easements on the property on which the construction activity is occurring or the control measure or facility is located (e.g., the developer). The person or entity who is responsible for the overall operation of the facility or activity from which the associated discharge originates.

39. Point Source: Means 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.

40. 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. See 5 CCR 1002-61.2(76).

41. Pollution: Man-made or man-induced, or natural alteration of the physical, chemical, biological, and radiological integrity of water.

42. Program Description Document: A "PDD" describes how the permittee will meet the requirements of this permit and includes a list of citations for documents and electronic record used to comply with the permit requirements; and an organization chart. See Part I.C.

43. Public Emergency Related Site: A project initiated in response to an unanticipated emergency (e.g. mud slides, earthquake, extreme flooding conditions, disruption in essential public services), for which the related work requires immediate authorization to avoid imminent endangerment to human health or the environment, or to reestablish essential public services.

44. Qualified Stormwater Manager: An individual knowledgeable in the principles and practices of erosion and sediment control and pollution prevention, and with the skills to assess conditions at construction sites that could impact stormwater quality and to assess the effectiveness of stormwater controls implemented to meet the requirements of this permit.

45. Receiving Water: Any **classified state water** or unclassified surface water segment (including tributaries) in the State of Colorado into which an MS4 discharges. This definition includes all water courses, even if they are usually dry, such as borrow ditches, arroyos, and other unnamed waterways.

46. Redevelopment: Includes a site that is already substantially developed with 35% or more of existing imperviousness; with the creation or addition of impervious area (including removal and/or replacement), to include the expansion of a building footprint or addition or replacement of a structure; structural development including construction, replacement of impervious area that is not part of a routine maintenance activity; and land disturbing activities.

47. Regulatory Mechanism: The mechanism that allows the permittee to implement and enforce the requirements of this permit. Examples of regulatory mechanism types include ordinances, permits, standards, contract language, or any other procedure, that will be enforced by the permittee.

48. Roadway: Roads and bridges that are improved, designed or ordinarily used for vehicular travel and contiguous areas improved, designed or ordinarily used for pedestrian or bicycle traffic, drainage for the roadway, and/or parking along the roadway. Areas primarily used for parking or access to parking are not included.

49. Routine Surface Maintenance: Routine surface maintenance includes roadway and aircraft

movement surface maintenance projects that do not change the existing template of the roadway or aircraft movement surface which includes the roadway, aircraft movement surface, and shoulders to the point of slope selection and maintenance to existing drainage features. Maintenance projects do not change the existing template of the roadway or aircraft movement surface; disturb more than 1 acre of subgrade at any one time; and include activities such as widening, paving previously unpaved shoulders, include other project work beyond the shoulders, slope flattening, roadway or aircraft movement surface realignment and other roadway, aircraft movement surface, and/or drainage improvements. Maintenance projects do not disturb one acre or more beyond the "Z slope" or shoulders which do not lead to any increase of impervious surface.

Roadway and aircraft movement surface maintenance projects include treatments or overlays with a net surface gain of 6 inches or less and soil is not exposed. Maintenance projects include shouldering projects that increase the roadway or aircraft movement surface elevation by 2 inches or less with an overall treated depth not exceeding the 6 inch limit identified for reconstruction and disturb less than 1 acre of subgrade at any one time. Maintenance projects include rubbilization and overlay projects with a net surface gain of 6 inches or less and disturb less than 1 acre of subgrade at any one time.

Roadway and aircraft movement surface maintenance projects include sites, or portions of sites, for the maintenance and minor reconstruction of roadway and aircraft movement surface pavement, which includes roadway and aircraft movement surface resurfacing, mill and overlay, white topping, black topping, curb and gutter replacement, concrete panel replacement, and pothole repair. The purpose of the maintenance project must be to provide additional years of service life and optimize service and safety. The maintenance project also must be limited to the repair and replacement of pavement in a manner that does not result in an increased impervious area and the infrastructure must not substantially change. The types of sites covered under this exclusion include day-to-day maintenance activities and minor reconstruction of pavement.

Additionally, routine surface maintenance applies to sidewalk repair and replacement projects that remove and replace existing sidewalk on a developed are completed as standalone projects and not part of a larger project. These sidewalk repair and replacement projects must not expose or disturb 1 acre or more of subgrade and/or soils at any one time.

50. Small Municipal Separate Storm Sewer System: means any municipal separate storm sewer that is not defined as a "large" or "medium" municipal separate storm sewer system pursuant to Regulation 61. This term includes publicly-owned systems similar to separate storm sewer systems in municipalities (i.e., non-standard MS4s), including, but not limited to, systems at military bases and large education, hospital or prison complexes, if they are designed for a maximum daily user population (residents and individuals who come there to work or use the MS4's facilities) of at least 1,000.

51. State Waters: Any and all surface 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. This definition can include water courses that are usually dry. For the purposes of this permit, state waters do not include subsurface waters. State waters are also known as waters of the state.

52. Stormwater: Stormwater runoff, snow melt runoff, and surface runoff and drainage. See 5 CCR 1002-61.2(103).

53. Structural Control Measures: Includes control measures that are comprised of facilities and structures that remove pollutants from water or retain, reuse, or provide for infiltration or evaporation of water.

54. To the Maximum Extent Allowable under State or Local Law: Is a standard of implementation of permit requirements and means that to the extent that the permittee is not constrained by state or local laws. A law that the permittee, including elected officials of the permittee, has the ability to change shall not be considered a constraint.

55. Total Maximum Daily Loads (TMDLs): The sum of the individual wasteload allocations (WLA) for point sources and load allocations (LA) for nonpoint sources and natural background. For the purposes of this permit, a TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. A TMDL includes WLAs, LAs, and must include a margin of safety (MOS), and account for seasonal variations. (See section 303(d) of the Clean Water Act and 40 C.F.R. 130.2 and 130.7).

56. Water Quality Capture Volume (WQCV): The volume equivalent, in watershed inches, to the runoff from an 80th percentile runoff producing storm.

57. Water Quality Standards: Means any standard promulgated pursuant to section 25-8-204 C.R.S. For purposes of this permit, water quality standards are a narrative and/or numeric restriction established by the Water Quality Commission applied to state surface waters to protect one or more beneficial uses of such waters. Whenever only numeric or only narrative standards are intended, the wording shall specifically designate which is intended. See 5 CCR 1002- 31.5(37).

58. Water Quality Storage Volume (WQSV): The volume of water, in acre feet (AF), calculated as the runoff occurring from the WQCV storm event for a specific area. This is a quantity of water used for the design of certain water quality control measures.

K. GENERAL MONITORING, SAMPLING, AND REPORTING REQUIREMENTS

1. Routine Reporting of Data

   Reporting of the data gathered in compliance with this permit shall be on an **annual** basis. Reporting of all data gathered shall comply with the requirements of this section Part I.K. (General Monitoring, Sampling, and Reporting Requirements).

   Monitoring results shall be summarized for each calendar year via the division's NetDMR service unless a waiver is granted in compliance with 40 CFR 127. If a waiver is granted, monitoring results shall be reported on division approved discharge monitoring report (DMR) forms (EPA form 3320-1).

   Reporting No Discharge:

   If no discharge occurs during the reporting period, a DMR must still be submitted. However, "No Discharge" shall be reported on the paper DMR and if reporting electronically please use the No Data Code (NODI) "C" for No Discharge in NetDMR.

   When submitting monitoring results via NetDMR, the Copy of Record shall reflect that the DMR was signed and submitted no later than the 28th day of the month following the reporting period. If submitting DMRs by mail, which is only allowed if a waiver has been granted, one copy of the DMR form shall be mailed to the division at the address provided below, so that the DMR is received no later than the 28th day of the month following the reporting period.

   If mailing, the original signed copy of each DMR shall be submitted to the division at the following address:

   Colorado Department of Public Health and Environment -Water Quality Control Division

   WQCD-P-B2

   4300 Cherry Creek Drive South

   Denver, Colorado 80246-1530

   The Discharge Monitoring Report paper and electronic forms shall be filled out accurately and completely in accordance with the requirements of this permit and the instructions on the forms; and signed by an authorized person as identified in Part II.K.

2. Representative Sampling

   Samples and measurements taken for the respective identified monitoring points as required herein shall be representative of the volume and nature of stormwater from the MS4. All samples shall be taken at the monitoring points selected by the permittee. Monitoring points shall not be changed without notification to and prior approval by the division.

3. Analytical and Sampling Methods for Monitoring and Reporting

   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.

   The permittee may use an equivalent and acceptable alternative to an EPA-approved method without EPA review where the requirements of 40 CFR Part 136.6 are met and documented. The permittee may use an Alternative Test Procedure (ATP). An ATP is defined as a way in which an analyte is identified and quantified that is reviewed and approved by EPA in accordance with 40 CFR Part 136.4 for nationwide use, or a modification to a 40 CFR 136 approved method that is reviewed and approved by EPA in accordance with 40 CFR Part 136.5 for limited use.

   a. The permittee must select a test procedure that is “sufficiently sensitive” for all monitoring conducted in accordance with this permit.

   b. The practical quantitation limits (PQLs) for specific parameters are listed in the table below. PQLs for other parameters included in this permit are listed below.

   c. When the analytical method which complies with the above requirements has an minimum level (ML) greater than the permit limit, and the permittee’s analytical result is less than the ML, the permittee shall report "BDL" (below detection limit) on the DMR. Such reports will not be considered as violations of the permit limit, as long as the method is sufficiently sensitive. For parameters that have a report only limitation, and the permittee’s analytical result is less than the ML, (where X = the ML) “< X” shall be reported on the DMR.

   d. In the calculation of average concentrations (i.e. 7- day, 30-day average, 2-year rolling average) any individual analytical result that is less than the ML shall be considered to be zero for the calculation purposes. When reporting:

      i. If all individual analytical results are less than the ML, the permittee shall report either “BDL” or “<X” (where X = the ML), following the guidance above.

      ii. If one or more individual results is greater than the ML, an average shall be calculated and reported. Note that it does not matter if the final calculated average is greater or less than the ML, it must be reported as a value.

Table 4: Practical quantitation limits – Metals, inorganics, nutrients, radiological parameters, and nonylphenol

Parameter	Reporting Units	PQL
Arsenic	µg/L[1]	1
Cadmium	µg/L	0.5
Chromium	µg/L	20
Copper	µg/L	2
Iron	µg/L	20[3]
Lead	µg/L	0.5
Magnesium	µg/L	35
Manganese	µg/L	2
Nickel	µg/L	1

Parameter	Reporting Units	PQL
Selenium	µg/ L	1[3]
Zinc	µg/ L	10
Total Inorganic Nitrogen	mg/L[2] N	0.2
Phosphorus	mg/L P	0.05[3]
Chloride	mg/L	2
Total Suspended Solids (TSS)	mg/L	5

[1] µg/L = micrograms per liter
[2] mg/L = milligrams per liter
[3] PQL established based on parameter specific evaluation

II. **PART II**

Part II contains standard conditions required by federal regulation to be included in all NPDES permits (see 40 C.F.R. 122.41). Part I contains permit specific requirements. The standard terms and conditions of Part I shall apply in addition to Part II.

A. **DUTY TO COMPLY**

1. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Colorado Water Quality Control Act and is grounds for: 1) enforcement action; 2) permit termination, revocation and reissuance, or modification; or 3) denial of a permit renewal application.

2. Federal Enforcement

   a. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal (see 40 CFR 122.2) established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.

   b. The Clean Water Act provides that any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed $25,000 per day for each violation. The Clean Water Act provides that any person who *negligently* violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of $2,500 to $25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than $50,000 per day of violation, or by imprisonment of not more than 2 years, or both. Any person who *knowingly* violates such sections, or such conditions or limitations is subject to criminal penalties of $5,000 to $50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than $100,000 per day of violation, or imprisonment of not more than 6 years, or both. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than $500,000 or by imprisonment of not more than 30 years, or both. An organization, as

defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than $1,000,000 and can be fined up to $2,000,000 for second or subsequent convictions.

c. Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed $10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed $25,000. Penalties for Class II violations are not to exceed $10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed $125,000.

B. **DUTY TO REAPPLY**

If the permittee plans to continue an activity regulated by this permit after the expiration date of this permit, the permittee must submit a permit application at least 180 days before this permit expires as required by Regulations 61.4 and 61.10.

C. **NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE**

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

D. **DUTY TO MITIGATE**

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

E. **PROPER OPERATION AND MAINTENANCE**

The permittee must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of this permit. See 40 C.F.R. §122.41(e).

F. **PERMIT ACTIONS**

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. Any request for modification, revocation, reissuance, or termination under this permit must comply with all terms and conditions of Regulation 61.8(8). See also 40 C.F.R. § 122.41(f).

G. **PROPERTY RIGHTS**

In accordance with 40 CFR §122.41(g) and Regulation 61.8(9):

1. The issuance of a permit does not convey any property or water rights in either real or personal property, or stream flows or any exclusive privilege.

2. 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.

3. Except for any toxic effluent standard or prohibition imposed under Section 307 of the Clean Water 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 Clean Water 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. See 61.8(9)(c).

H. **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 in accordance with 40 C.F.R. §122.41(h) and/or Regulation 61.8(3)(q).

I. **INSPECTION AND ENTRY**

The permittee shall allow the division and the authorized representative, including U.S. EPA, and/or their authorized representatives (including an authorized contractor acting as their representative), upon the presentation of credentials as required by law, to conduct inspections in accordance with 40 C.F.R. §122.41(i), Regulation 61.8(3), and Regulation 61.8(4):

1. To enter upon the permittee's premises where a regulated facility or activity is located or conducted in which any records are required to be kept under the terms and conditions of this permit;
2. 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 facilities, equipment (including monitoring and control equipment), practices, operations or monitoring method regulated or required in the permit;
3. To enter upon the permittee's premises in a reasonable manner and at a reasonable time to inspect or investigate, any actual, suspected, or potential source of water pollution, or to ascertain compliance or noncompliance with the Colorado Water Quality Control Act or any other applicable state or federal statute or regulation or any order promulgated by the division, and;
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

J. **MONITORING AND RECORDS**

1. Samples and measurements taken for the purpose of monitoring must be representative of the volume and nature of the monitored activity. See 40 C.F.R. § 122.41(j)(1).
2. Monitoring must be conducted according to test procedures approved under 40 C.F.R. part 136 for the analyses of pollutants unless another method is required under 40 C.F.R. subchapters N or O. In the case of pollutants for which there are no approved methods under 40 C.F.R. part 136 or otherwise required under 40 C.F.R. subchapters N or O, monitoring must be conducted according to a test procedure specified in this permit for such pollutants. See 40 C.F.R. § 122.41(j)(4); 122.44(i)(1)(iv)(A).
3. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. 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 Regional Administrator.
4. Records of monitoring information must include:
    a. The date, exact place, and time of sampling or measurements;
    b. The individual(s) who performed the sampling or measurements;

c. The date(s) analyses were performed

d. The individual(s) who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

5. The permittee shall install, calibrate, use and maintain monitoring methods and equipment, including biological and indicated pollutant monitoring methods. See Regulation 61.8(4)(b)(iii). All sampling shall be performed by the permittee according to sufficiently sensitive test procedures required by 40 C.F.R. 122.44(i)(1)(iv) or methods approved by the division, in the absence of a method specified in or approved pursuant to 40 C.F.R. Part 136.

6. The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

K. **SIGNATORY REQUIREMENTS**

1. Authorization to Sign: All documents required to be submitted to the division by the permit must be signed in accordance with 40 CFR §122.22, Regulation 61.4, and the following criteria:

   a. For a corporation: By a responsible corporate officer. For the purpose of this subsection, a responsible corporate officer means:

      i. a president, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or

      ii. the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

   b. For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

   c. For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this subsection, a principal executive officer of a federal agency includes

      i. the chief or principal executive officer of the agency, or

      ii. a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency. (e.g., Regional Administrator of EPA). For purposes of this section, a principal executive officer has responsibility for the overall operation of the facility from which the discharge originates.

   d. By a duly authorized representative in accordance with 40 C.F.R. 122.22(b), only if:

      i. the authorization is made in writing by a person described in Part II.K.1.a, b, or c above;

      ii. 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); and,

iii. The written authorization is submitted to the division.

2. Any person(s) signing documents required for submittal to the division must 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, the information submitted 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."

3. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both. See 40 C.F.R. §122.41(k)(2).

L. **REPORTING REQUIREMENTS**

1. Planned Changes: The permittee shall give advance notice to the division, in writing, of any planned physical alterations or additions to the permitted facility in accordance with 40 CFR §122.41(l) and Regulation 61.8(5)(a) and Part II.O. of this permit. Notice is required only when:

a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR §122.29(b); or

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR §122.41(a)(1).

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan. See 40 C.F.R. §122.41(l)(1)(iii).

2. Anticipated Non-Compliance: The permittee shall give advance notice to the division, in writing, of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements. The timing of notification requirements differs based on the type of non-compliance as described below.

3. Transfer of Ownership or Control: The permittee shall notify the division, in writing, thirty (30) calendar days in advance of a proposed transfer of the permit. This permit is not transferable to any person except after notice to the division. The division may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act. See Regulation 61.8(6); 40 C.F.R. §§ 122.41(l)(iii) and 122.61.

4. Monitoring reports: Monitoring results must be reported at the intervals specified in this permit.

a. If the permittee monitors any pollutant at the approved monitoring locations listed in Part I more frequently than that required by this permit using test procedures approved under 40 CFR Part 136, or another method required for an industry-specific waste stream under 40 CFR subchapters N or O, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the division. See 40 CFR 122.41(l)(4).

b. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the division in the permit.

5. Submission of Discharge Monitoring Reports (DMRs): DMRs shall be submitted electronically through NetDMR system unless the permittee requests and is granted a waiver of the electronic reporting requirement by the division pursuant to Regulation 61.8(4)(d).

6. Compliance Schedules: 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 on the date listed in the compliance schedule section. The fourteen (14) calendar day provision in Regulation 61.8(4)(n)(i) has been incorporated into the due date.

7. Twenty-four hour reporting:

   a. In addition to the reports required elsewhere in this permit, the permittee shall report the following circumstances orally within twenty-four (24) hours from the time the permittee becomes aware of the circumstances, and shall mail to the division a written report containing the information requested within five (5) working days after becoming aware of the following circumstances:

      i. Circumstances leading to any noncompliance which may endanger health or the environment regardless of the cause of the incident;

      ii. Circumstances leading to any unanticipated bypass which exceeds any effluent limitations in the permit; or

      iii. Circumstances leading to any upset which causes an exceedance of any effluent limitation in the permit.

   b. The report shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

   c. For noncompliance events related to combined sewer overflows, sanitary sewer overflows, or bypass events, these reports must include the data described above (with the exception of time of discovery) as well as the type of event (combined sewer overflows, sanitary sewer overflows, or bypass events), type of sewer overflow structure (e.g., manhole, combine sewer overflow outfall), discharge volumes untreated by the treatment works treating domestic sewage, types of human health and environmental impacts of the sewer overflow event, and whether the noncompliance was related to wet weather. See 40 CFR 122.41(l)(6)(i).

      i. As of December 21, 2020 all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient, as defined in 40 CFR 127.2(b), in compliance with 40 CFR part 3 (including, in all cases, subpart D to part 3), § 122.22, and 40 CFR part 127. See 40 CFR 122.41(l)(6)(i).

8. Other non-compliance: A permittee must report all instances of noncompliance at the time monitoring reports are due. These reports may be submitted annually in accordance with Regulation 61.8(4)(p) and/or 61.8(5)(f), but may be submitted at a more frequent interval.

M. **BYPASS**

1. Definitions:

   a. “Bypass” means the intentional diversion of waste streams from any portion of a treatment facility in accordance with 40 CFR §122.41(m)(1)(i) and/or Regulation 61.2(12).

   b. Severe property damage means substantial physical damage to property, 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. See 40 CFR §122.41(m)(1)(ii).

2. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of 40 CFR 122.41(m)(3) and (m)(4). See 40 CFR §122.41(m)(2).

3. Notice of bypass:

   a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, the permittee shall submit prior notice, if possible, at least ten (10) days before the date of the bypass. See 40 CFR §122.41(m)(3)(i) and/or Regulation 61.9(5)(c).

   b. Unanticipated bypass. You must submit notice of an unanticipated bypass as required in **Part II.L.7**. See also 40 CFR §122.41(m)(3)(ii).

4. Prohibition of Bypass: Bypasses are prohibited and the division may take enforcement action against the permittee for bypass, unless:

   a. the bypass is unavoidable to prevent loss of life, personal injury, or severe property damage;

   b. There were no feasible alternatives to the 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 backup 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

   c. Proper notices were submitted to the division.

      i. The division may approve an anticipated bypass, after considering its adverse effects, if the division determines that it will meet the three conditions listed.

N. **UPSET**

1. Definition: "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based 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. See 40 CFR §122.41(n) and Regulation 61.2(114).

2. Effect of an upset: An upset constitutes an affirmative defense to an action brought for noncompliance with permit effluent limitations if the requirements of section 3 are met. A determination made during administrative review of claims that noncompliance was caused by upset is final administrative action subject to judicial review in accordance with Regulation 61.8(3)(j).

***special note:** this provision is consistent with the definition of "Upset" as codified in Regulation 61.2(114). However, the Colorado regulatory definition of upset is less stringent than the federal code of regulations, which restricts the use of an upset defense to noncompliance with technology-based permit effluent limitations only. Colorado's regulatory definition of bypass is less stringent than the requirements of the federal Clean Water Act.*

3. Conditions necessary for demonstration of an 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:

   a. an upset occurred and the permittee can identify the cause(s) of the upset;

   b. the permitted facility was at the time being properly maintained; and

   c. the permittee submitted notice of the upset as required in **Part II.L.7** (24-hour notice); and

d. the permittee complied with any remedial measure necessary to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. See also 40 C.F.R. 122.41(n)(3)(i)-(iv).

***special note:** this provision is consistent with the definition of "Conditions necessary for demonstration of upset" as codified in Regulation 61.8(3)(j)(ii). However, the Colorado regulatory definition of upset is less stringent than the federal code of regulations, which restricts the use of an upset defense to demonstrate that a facility was properly operated and maintained. Colorado's regulatory definition of "Conditions necessary for demonstration of upset" is less stringent than the requirements of the federal Clean Water Act.*

4. In addition to the demonstration required above, a permittee who wishes to establish the affirmative defense of upset for a violation of effluent limitations based upon water quality standards shall also demonstrate through monitoring, modeling or other methods that the relevant standards were achieved in the receiving water.

5. Burden of Proof: In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

O. **REOPENER CLAUSE**

Procedures for modification or revocation. Permit modification or revocation of this permit or coverage under this permit will be conducted according to Regulation 61.8(8). This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations (and compliance schedule, if necessary), or other appropriate requirements if one of the following events occurs, including but not limited to:

1. Water Quality Standards: The water quality standards of the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.

2. Wasteload Allocation: A wasteload allocation is developed and approved by the State of Colorado and/or EPA for incorporation in this permit.

3. Discharger-specific variance: A variance is adopted by the Water Quality Control Commission.

P. **OTHER INFORMATION**

When 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 in any report to the division or U.S. EPA, the Discharger shall promptly submit such facts or information. See 40 C.F.R. § 122.41(l)(8).

Q. **SEVERABILITY**

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

R. **NOTIFICATION REQUIREMENTS**

Notification to Parties: All notification requirements shall be directed as follows:

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

   CDPHE-Emergency Reporting Line: 1-877-518-5608; or
   Water Quality Protection Section – Compliance Program
   Water Quality Control Division
   Telephone: (303) 692-3500
   After hours notifications should be made to the CDPHE-Emergency Reporting Line: 1-877-518-5608

2. Written notification shall be to:

   Water Quality Protection Section – Compliance Program
   Water Quality Control Division

Colorado Department of Public Health and Environment
WQCD-WQP-B2
4300 Cherry Creek Drive South
Denver, CO 80246-1530

S. **RESPONSIBILITIES**

Reduction, Loss, or Failure of Treatment Facility: The permittee has the duty to halt or reduce any activity if necessary to maintain compliance with the effluent limitations of the permit. 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.

T. **OIL AND HAZARDOUS SUBSTANCES 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 to under Section 311 (Oil and Hazardous Substance Liability) of the Clean Water Act.

U. **EMERGENCY POWERS**

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. Nothing in this permit shall be construed to prevent or limit application of any emergency power of the division.

V. **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, Colorado Open Records Act (CORA) request, or otherwise, shall not be publicly disclosed by any member, officer, or employee of the Water Quality Control Commission or the division, but shall be kept confidential. Any person seeking to invoke the protection of this section shall bear the burden of proving its applicability. This section shall never be interpreted as preventing full disclosure of effluent data.

W. **FEES**

The permittee is required to submit payment of an annual fee as set forth in the 2016 amendments to the Water Quality Control Act. Section 25-8-502 (1.1) (b), and the Regulation 61.15 as amended. Failure to submit the required fee when due and payable is a violation of the permit and will result in enforcement action pursuant to Section 25-8-601 et. seq., C.R.S.1973 as amended.

X. **DURATION OF PERMIT**

The duration of a permit shall be for a fixed term and shall not exceed five (5) years. If the permittee desires to continue to discharge, a permit renewal application shall be submitted at least one hundred eighty (180) calendar days before this permit expires. 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. 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 Regulation 61.

Y. **SECTION 307 TOXICS**

If a toxic effluent standard or prohibition, including any applicable schedule of compliance specified, is established by regulation pursuant to Section 307 of the Clean Water Act for a toxic pollutant which is present in the permittee's discharge and such standard or prohibition is more stringent than any limitation upon such pollutant in the discharge permit, the division shall institute proceedings to modify or revoke and reissue the permit to conform to the toxic effluent standard or prohibition.