



Construction Stormwater Quality Program

Standard Operating Procedures (SOP)

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Acronyms List

BCPH	Boulder County Public Health
BMP	Best Management Practice
C.R.S.	Colorado Revised Statute
CCR	Colorado Code of Regulations
CDOT	Colorado Department of Transportation
CDPHE	Colorado Department of Public Health and Environment
CDPS	Colorado Discharge Permit System
CIP	Capital Improvement Project
CM	Control Measure
CM&I	Construction Management and Inspection
CODE	Boulder County Land Use Code
CP&P	Boulder County Community Planning and Permitting
ECS	Erosion Control Supervisor
FDIC	Federal Deposit Insurance Corporation
KICP	Keep it Clean Partnership
MOU	Memorandum of Understanding
MS4	Municipal Separate Storm Sewer System
NDRD	New Development and Redevelopment
NOV	Notice of Violation
NPDES	National Pollutant Discharge Elimination System
O&M	operation and maintenance
RFP	Request for Proposal
ROW	Right-of-Way
SCP	General Permit for Stormwater Discharges Associated with Construction Activities
SDCM	Storm Drainage Criteria Manual – Boulder County
SDI	Stormwater Detention and Infiltration Facility
SOP	Standard Operating Procedure
SWMF	Stormwater Management Facility
SWMP	Stormwater Management Plan
SWQE	Stormwater Quality Enforcement
SWQP	Stormwater Quality Permit
TECS	Transportation Erosion Control Supervisor
TSS	Total Suspended Solids
USDCM	Urban Storm Drainage Criteria Manual – Mile High Flood District
WQCD	Water Quality Control Division
WQCV	Water Quality Capture Volume

Introduction

Protecting the quality of stormwater runoff is important to Boulder County (County) and is required by the Colorado Discharge Permit System (CDPS) Regulations. The policy described in this procedure is pursuant to the Boulder County Land Use Code (CODE) and the Municipal Separate Storm Sewer System (MS4) Permit issued from the Colorado Department of Public Health and Environment (CDPHE) Water Quality Control Division (WQCD). The MS4 permit issued to the County requires the County to control and reduce the discharge of pollutants to protect stormwater quality and to satisfy the appropriate water quality requirements of the Colorado Water Quality Control Act and the Colorado Discharge Permit System Regulations (Colorado Regulation 61). The MS4 permit requires the implementation of a program to reduce the discharge of pollutants from public and private construction sites, including post-construction control measures. The Standard Operating Procedure (SOP) provided in this document is a part of the construction and post-construction site plan review and inspection program the County is implementing in accordance with its MS4 permit requirements.

Purpose

This SOP constitutes the County's program description for the Construction Sites Program (program) and the Post Construction Stormwater Management in New Development and Redevelopment Program (Post-Construction). County staff will perform the actions indicated in this document for general compliance with the County's MS4 permit. Procedures in this document are used to meet MS4 Program requirements and provide required recordkeeping (Part 1.e.4.b in the MS4 Permit) and program descriptions (Part 1.E.4.c in the MS4 Permit).

This SOP is structured to provide exact language from the MS4 Permit (indicated by boxed text citing the permit section it came from) followed by a description of how each requirement is met by the County. In many cases, there is also information identifying who is responsible for each element of the program and how entities must work together to ensure overall compliance with the County's stormwater program.

Revisions to this SOP may be adopted annually and as often as needed by Boulder County Public Works or their approved designated representatives. This SOP is meant to be dynamic, adapting easily to changes and updates if the procedures are found to be ineffective and/or out of compliance with the County's MS4 permit requirements. This SOP will also be referenced in the County's overall MS4 Program Description Document. This SOP is meant to be a living document that can easily be changed, unlike ordinances, criteria and Land Use Code.

Construction Sites Program

Section 1: Construction Regulatory Mechanisms (Part I.E.3.a.ii)

This section documents the County's regulatory mechanism for ensuring compliance with the Construction Sites Program (program). Per the MS4 Permit, *applicable construction activities* that must be regulated as part of the program include construction activities that result in a land disturbance of greater than or equal to one acre or that is less than one acre but is part of a larger common plan of development or sale that would disturb, or has disturbed, one acre or more.

MS4 Permit Requirement

Part I.E.3.a.ii Regulatory Mechanism *...to the extent allowable under state or local law, implement a regulatory mechanism to meet the requirements in Part I.E.3.a., including the following:*

- (A) The ability to implement sanctions against entities responsible for applicable construction activities.*
- (B) Require control measures to be implemented for all applicable construction activities from initial disturbance until final stabilization.*

1.1 County's Regulations

The County utilizes a stormwater permit system, its Land Use Code (CODE) and Storm Drainage Criteria Manual (SDCM) to ensure controls are implemented for all stages of construction from initial disturbance until final stabilization and to provide the ability to implement sanctions against entities not meeting the requirements of the County's program.

1.1.1 Stormwater Permit System

Boulder County Public Works administers the County's stormwater quality regulations related to construction activities (including private development as well as projects performed by County departments). As part of the County's program, a Stormwater Quality Permit (SWQP) is required for all applicable construction activities. The permit is only issued after the County has reviewed a submittal that includes information and descriptions of pollutant sources and control measures that will be used from initial disturbance until final stabilization. This plan must also indicate the phasing of control measures with construction. These requirements apply to site grading, public improvements and individual lots (applies to developer, builder, homeowner and/or bank/ Federal Deposit Insurance Corporation (FDIC)-owned properties).

The County implements the SWQP program countywide to facilitate compliance with the State-issued General Permit for Stormwater Discharges Associated with Construction Activities (SCP); however, the MS4 Permit boundary and regulatory requirements apply only to the unincorporated urbanized area.

Although the MS4 Permit regulatory requirements only apply to the unincorporated urbanized area, a stormwater quality permit (SWQP) is required countywide for construction projects that:

- Disturb one acre or more in size;
- Are less than one acre and construction activity is part of a larger common plan of development that will ultimately disturb one acre or more, even if multiple, separate, and distinct land development activities may take place at different times; or,
- Are within 100 horizontal feet of a waterway.

Work under waterways (such as in the case of directional drilling and micro tunneling) are required to obtain SWQP coverage due to the location within 100 ft of a waterway.

Waterways are defined broadly in CODE 18-213A as "channel, natural depression, slough, artificial channel, gulch, arroyo, stream, creek, pond, reservoir or lake, including major drainageways, in which stormwater runoff and floodwater flow, either regularly or infrequently." The County does not implement the SWQP for small projects (less than one acre of disturbance) near agricultural ditches. The distinction between waterways as a determination for a small project SWQP is shown on the Boulder County Stormwater Map as the Ditch layer versus the Stream layer. Only the waterways shown on the Stream layer trigger a small project SWQP.

1.1.2 Land Use Code

The CODE, Article 7-903 Erosion and Sediment Control Part B and C state:

B. The plan shall include good engineering, hydrologic, soil restoration and revegetation and pollution control practices as outlined in the County's Storm Drainage Criteria Manual, Urban Storm Drainage Criteria Manual, Volume 3—Best Management Practices, or the Colorado Department of Transportation's Water Quality Control standards.

C. Installation of erosion and sediment control measures is required prior to beginning construction, and may be required to be maintained post-construction, as necessary.

The CODE, Article 7-904, Stormwater Quality Management Permit Requirements, Requirements for Stormwater Quality Permit; Limited Permit Exemptions also states:

A SWQP from the County Engineer is required for construction activity resulting in the following total disturbed area:

a. One acre or more; or

b. Less than one acre if construction activity is part of a larger common plan of development, even if multiple, separate and distinct land development activities may take place at different times on different schedules, so long as the common plan will ultimately disturb one acre or more.

The County Engineer may require a SWQP regardless of the size of the total disturbed area, in conjunction with approval of a final subdivision plat, special use permit, or other site-specific development plan under this CODE, or if the construction activity is adjacent to a watercourse or wetlands.

1.1.3 Boulder County Storm Drainage Criteria Manual

The Boulder County Storm Drainage Criteria Manual (SDCM), Section 1302, requires Stormwater Management Plans (SWMPs) for all construction projects that require a stormwater quality permit (SWQP) from the County and coverage under the CDPS Construction Discharge Permit from CDPHE. The SDCM outlines the criteria that must be followed when developing the SWMP; however, the County no longer requires that the SDCM SWMP report template be utilized. The template is a guide that may be used for reference as needed.

1.2 Key Personnel

See Appendix A: Key Actions and Responsibilities Table.

Section 2: Exemptions and Exclusions (Parts I.E.3.a. i and iii)

This section documents the County's requirements for sites exempted or excluded from the program to ensure all exclusions meet the requirements of the program as defined by the MS4 permit.

MS4 Permit Requirement

Part I.E.3.a.iii. Regulatory Mechanism Exemptions- *Procedures must be implemented to ensure that any exemptions, waivers or variances included in the regulatory mechanism are applied in a manner that complies with the terms and conditions of this permit.*

2.1 County's Automatic Exemptions

Automatic Exemptions are outlined in CODE, Article 7-904 Stormwater Quality Management Permit Requirements, Requirements for Stormwater Quality Permit; Limited Permit Exemptions. Automatic Exemptions include:

- Agricultural land management activities, except point source discharges subject to National Pollutant Discharge Elimination System (NPDES) or CDPS stormwater permitting requirements, are exempt from the stormwater quality management plan requirements and County stormwater quality permit (SWQP).
- Some oil and gas operations are exempt from obtaining a stormwater quality permit outside of the County's MS4 defined urbanized area. A Special Review Approval by the County authorizing oil and gas operations subject to a stormwater control plan approved under Article 12-700 or 12-701 of the CODE (conditions of approval), shall be considered the equivalent of a County Engineer stormwater quality permit under this Article 7-904 for areas outside the MS4 urbanized area.

Additional other automatic exemptions include:

- Boulder County does not regulate CDOT projects or any other project that CDOT assumes oversight on, when it is contained within CDOT's ROW, because projects fully contained within CDOT's right of way fall under CDOT's own MS4 Permit. See Section 8: Overlapping Permit Areas for requirements for projects that are not fully contained within the CDOT ROW or where CDOT is not assuming jurisdictional control.

- State or Federal lands where the County has no jurisdictional control. Note: If a non-standard MS4 (e.g., school district) submits a project for review and a permit, it can be reviewed by the County but all actions including the submittal would need to be initiated by the non-standard MS4 and they would have to agree to allow the County to perform compliance inspections on their sites or perform their own compliance inspections and enforcement.

2.2 Additional Exclusions and Determinations

Projects that have been granted an R-Factor waiver by the WQCD in accordance with Colorado Regulation 61.3(2)(f)(ii)(B) may request an exception to the permit by submitting information to the MS4 Coordinator or Stormwater Quality staff. R-Factor waivers tend to be for short-duration projects occurring in months with lower erosion potential (winter) that will be restored with hard surfaces such as linear projects that occur in the roadway.

Determinations are the process of internal communications to decide if a project falls within the triggers of a SWQP as an “applicable construction activity” and therefore whether a SWQP is required. The applicant is asked to provide a completed SWQP Exception Request Form and determinations are made by the County Engineer, Stormwater Quality staff, or MS4 Program Manager. When a project’s construction activities are deemed to be low risk, less than an acre and not part of common plan of development, or outside of the urbanized area, a determination can be made that a SWQP is not required. Determination emails are saved in a “Determinations” folder on the County’s G: Drive. The SWQP Exception Request Form is provided in Appendix B and on the county stormwater website.

2.3 Key Personnel

See Appendix A: Key Actions and Responsibilities Table.

Section 3: Standards and Requirements (Part I.E.3.a. iv)

This section provides the MS4 requirements and County standards used for ensuring compliance with the program.

3.1 County’s Standards and Requirements for Control Measures from Construction Start to Finish

MS4 Permit Requirement

Part I.E.3.a.iv.(A), Appropriate control measures must be implemented prior to the start of construction activity, must control potential pollutants during each phase of construction, and must be continued through final stabilization. Appropriate structural control measures must be maintained in operational condition.

Most of the County’s standards and requirements are outlined in CODE, the SDCM and are detailed in the SWQP application checklist. The SWQP review and inspections ensure the County’s standards and requirements are met.

Specific sections of these requirements include the following:

- The CODE, Article 7-903 Erosion and Sediment Control requires installation of erosion and sediment control measures prior to beginning construction.
- The CODE, Article 7-904 gives the stormwater quality permit requirements
- Any issued permit shall contain the Terms and Conditions given in Appendix C

- As part of the SWQP, the County requires that the design of temporary control measures (CMS) for erosion and sediment control be generally consistent with the CDOT Erosion Control and Stormwater Quality Guide or in the Urban Storm Drainage Criteria Manual (USDCM)

- The SDCM criteria also state that any control measures with loss of integrity, loss of function or breaches shall be repaired immediately to reduce the potential for stormwater to transport sediment and other pollutants off site.
- The SWQP site plan review, initial inspection, on-site inspections, and final permit inspection are conducted to ensure compliance with the requirements for control measures from construction start to finish. The following sections of this SOP describe each of these procedures.

3.2 County's Standards and Requirements for Evaluation of Minimum Pollutant Sources

MS4 Permit Requirement

Part I.E.3.a.iv.(B), Control measures must be selected, designed, installed, implemented and maintained to provide control of all potential pollutants, such as 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. At a minimum pollutant sources associated with the following activities (if part of the applicable construction activity) must be addressed:

- 1) *Land disturbance and storage of soils.*
- 2) *Vehicle tracking.*
- 3) *Loading and unloading operations.*
- 4) *Outdoor storage of construction site materials, building materials, fertilizers, and chemicals.*
- 5) *Bulk storage of materials.*
- 6) *Vehicle and equipment maintenance and fueling.*
- 7) *Significant dust or particulate generating processes.*
- 8) *Routine maintenance activities involving fertilizers, pesticides, detergents, fuels, solvents, and oils*
- 9) *Concrete truck/equipment washing, including the concrete truck chute and associated fixtures and equipment.*
- 10) *Dedicated asphalt and concrete batch plants.*
- 11) *Other areas or operations where spills can occur.*
- 12) *Other non-stormwater discharges including construction dewatering not covered under the Construction Dewatering Discharges general permit and wash water that may contribute pollutants to the MS4.*

The County requires an evaluation of potential pollutants through their SDCM and SWQP checklists. At a minimum, the SDCM requires each of the following sources/activities to be evaluated for the potential to contribute pollutants to stormwater discharges:

1. All disturbed and stored soils.
2. Vehicle tracking of sediments.
3. Management of contaminated soils.
4. Loading and unloading operations.
5. Outdoor storage activities (building materials, fertilizers, chemicals, etc.).
6. Vehicle and equipment maintenance and fueling.
7. Significant dust or particulate generating processes.
8. Routine maintenance activities using fertilizers, pesticides, detergents, fuels, solvents, oils, etc.
9. On-site waste management practices (waste piles, liquid wastes, dumpsters, etc.).
10. Concrete truck/equipment washing, including the concrete truck chute, fixtures and equipment.
11. Dedicated asphalt and concrete batch plants.
12. Non-industrial waste sources such as worker trash and portable toilets.
13. Other areas or procedures where potential spills can occur.

These elements have also been incorporated in the SWQP checklist. The current version of the SWQP Checklist is available on the SWQP website and kept on the server (Public Works G-drive) <https://www.bouldercounty.org/transportation/permits/stormwater-quality-permit/>

3.3 Key Personnel

See Appendix A: Key Actions and Responsibilities Table.

Section 4: Site Plans (Part I.E.3.a. v)

This section documents the County's requirements for site plans to ensure compliance with the Program as defined in the MS4 Permit.

MS4 Permit Requirement

Part I.E.3.a.v.(B) Site Plans, require operators to develop site plan(s) that locate (if applicable) and identify all structural and non-structural control measures for the applicable construction activities. The site plan(s) must contain installation and implementation specifications or a reference to the document with installation and implementation specifications for all structural control measures. A narrative description of non-structural control measures must be included in the site plan(s).

4.1 County's SWMP and Site Plan Requirements

SDCM, Section 1300, details the County's requirements for the SWMP. It includes requiring operators to develop a SWMP with all structural and non-structural control measures for the applicable construction activities on the plan. Most Public Works projects will use the CDOT SWMP template. There are also some additional required elements that must be added to the CDOT SWMP Template if it is used to meet the County's criteria. A list of these additional required elements is provided on the County's SWQP website

(<https://www.bouldercounty.org/transportation/permits/stormwater-quality-permit/>) and the County's server (Public Works G-drive).

NOTE: Projects disturbing under one acre but within 100 horizontal feet of a watercourse are considered small projects which require Site Plans, CM details and a SWQP checklist for small projects; a full SWMP is not required for small projects.

Control measures criteria can be obtained from USDCM, Volume 3 and/or CDOT's M & S Standards with the additional provisions and guidance in the SDCM. A narrative description of non-structural control measures must be included in the SWMP and are incorporated in the SWQP Checklist. SWMPs are reviewed and documented using the following systems.

4.1.1 SWMP Documentation Signatures

The SWMP and Site Plans are not required to be signed by a licensed professional engineer. The County requires that a qualified stormwater manager prepare the documents. The definition of a qualified stormwater manager is given by CDPHE as "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 the CDPS/SCP permit."

4.1.2 SWMP Review (Part I.E.3.a.v[C])

MS4 Permit Requirement

Part I.E.3.a.v(C) Initial Site Plan Review, *site plan review for all applicable construction activities prior to the start of construction activities. Initial site plan review shall include the following: 1) Confirmation that the site plan includes appropriate control measures for all stages of construction, including final stabilization. 2) Confirmation that the control measures meet the requirements in Part I.E.3.a.iv (design criteria).*

The County meets these MS4 requirements by having development proposals and plans submitted to the CP&P Department. If the site meets the definition of an applicable construction activity, the CP&P Department will require that a County stormwater quality permit be obtained and that a SWMP be developed in accordance with SDCM, Section 1300. A condition is added to the development review that a SWQP is required and the applicant then applies directly through the building permit (ezbp@bouldercounty.org). The Stormwater Quality staff is notified of the submittal through Accela, the County's tracking software, and start their review and comment process.

Plans for applicable construction activity located in the County are reviewed using the checklists found on the County's website and the County's server (Public Works G-drive). Use of the checklist ensures that the site plan includes appropriate control measures for each stage of construction. The checklist also ensures that control measures are selected, designed and implemented to address all potential pollutants identified on a site. Comments on the submittal are provided to the applicants and resubmittals are made until the submittal package is accepted.

The checklist is based on the requirements outlined in the SDCM, WQCD's stormwater inspection checklist and the State-issued SCP. The completed checklist is verified and uploaded to the Accela record.

County Capital Improvement Projects (CIPs) are reviewed using the same checklists and standards but are submitted directly through the CP&P Building Permit Counter at ezbp@bouldercounty.org.

4.1.3 SWMP Review Documentation (Part I.E.3.b.v)

MS4 Permit Requirement

Part I.E.3.b.v Site Plans, *Copy of the final site plan reviewed to meet the initial site plan review requirement, and confirmation of the Permittee's review and acceptance.*

The County meets these requirements by requiring applicants for applicable construction sites to submit a SWMP, to the CP&P Department as part of the SWQP application materials.

The SWQP application materials, including the Site Plans are logged in and uploaded to Accela by the CP&P Department, and a notification is sent to and reviewed by Stormwater Quality staff. Once the Site Plans have been reviewed and accepted for compliance with erosion, sediment and waste control requirements, the final site plan accepted by the County is uploaded into the Accela (documents tab) for reference.

4.1.4 SWQP Application Requirements

Before a Stormwater Quality Permit application can be approved, the submittal materials must be reviewed and accepted by the Stormwater Quality staff. These materials include:

Small Projects SWQP

- A **complete** "Stormwater Quality Permit Application" that has been signed by the applicant.
 - Signature by the project owner or the contractor and identification of the operator and other persons legally responsible for compliance with the permit, including the assigned erosion control supervisor as required in Boulder County Land Use Code 7-904.F.3.d. The County Engineer shall have the discretion to require that persons identified as operators, or other persons who are known at the time of application as being responsible for implementation of any approved permit, sign the application as applicants.
- A copy of the appropriate SWQP checklist. There is a checklist for small projects (less than an acre of disturbance within 100 feet of a waterway) and one for projects that disturb an acre or more or part of a larger common plan of development disturbing an acre or more. Checklists can be found on the County's SWQP website and in Appendix D.
- Site Maps with all items included as given on the appropriate checklist depicting the affected site in sufficient detail to show significant site features (natural and man-made), areas proposed to be disturbed and developed, existing easement areas, restricted development areas and locations of proposed temporary CMs.
- Identification of any affected MS4 or waters of the state anticipated to receive stormwater discharge from the site.

An Acre or Greater SWQP

In addition to the above, if the project disturbs an acre or greater or is part of a common plan of development that disturbs one acre or greater, the following items are required:

- A “Stormwater Management Plan” in compliance with the County SDCM and meeting all of the criteria in the SWQP Checklist. The SWQP cannot be issued until an accepted SWMP is on file in Accela. An evaluation of potential pollution sources.
- CMs to be installed on a temporary basis as necessary to control stormwater discharges from the construction site before and during construction until final stabilization. This includes a narrative describing nonstructural CMs such as construction site phasing (e.g., phasing of the project so that existing vegetation can be protected until it has to be disturbed, seeding or restoring areas after area is completed while other areas are being worked, etc.).
- Verification of a State Stormwater Construction Permit (SCP) or verification the permit has been applied for from CDPHE. This documentation should consist of a letter from the WQCD that assigns a certification number to the project (if available).

A copy of the Stormwater Quality Permit Application and checklists can be found on the County’s website <https://assets.bouldercounty.org/wp-content/uploads/2019/06/stormwater-quality-permit-application.pdf> and the County’s server. Checklists are given in Appendix D.

4.1.5 SWQP Issuance Process and Procedures

Stormwater Quality Permits are issued electronically for both County-administered and Private projects. Contractor bonding issues have been experienced on some private projects due to withholding of the SWQP. Therefore, the sequencing of Building Permits (BPs) and associated SWQPs uses the following process. A SWQP Process Flowchart is provided on the County’s website and in Appendix E.

1. The Stormwater Quality staff receives an Accela auto-generated email on application intake, and makes the SWQP (child) a related record to the BP (parent) in Accela, and adds **two conditions** to the BP for all projects that have a BP: **B4 BP TRAN : Stormwater Quality Permit Fees** “The applicant must pay the SWQP fee at BP issuance” and **ON BP TRAN : Stormwater Quality Permit** “Construction cannot start until the SWQP is issued (requires an initial SWQP inspection)”
2. When permits do not go through a planning process (i.e. SPR Exempt or CIP projects) Stormwater Quality staff conducts a review to determine if the activities require SWQP coverage. Factors that will be used to determine if a SWQP is required are listed in Section 1.1.1 Stormwater Permit System and for single-family lots include a detailed analysis to determine if the lot is a common plan of development.
3. Stormwater Quality staff reviews the Site Plan and SWMP and performs subsequent reviews until materials are accepted as meeting County requirements. Review, comments, revisions, and approvals are tracked in Accela.
4. Stormwater Quality staff adds SWQP fees based on the disturbance area in Accela for collection by the CP&P department.
5. Stormwater Quality staff changes the workflow to “approved and the following Accela auto-generated message is sent to the applicant “Your submittal for Permit No. SWQP-xx-xxx has been

reviewed, but the permit is not yet effective. You may only proceed with the installation of the initial best management practices (BMPs) shown on the stormwater management plan (SWMP) that was submitted for review. No clearing and grubbing, haul road grading, land disturbance, or other construction shall occur.”

6. Once the SWQP application materials are reviewed and accepted, and the fees for the SWQP have been paid, the applicant contacts the MS4SI for an initial inspection which is conducted prior to permit issuance.
7. The MS4SI conducts the initial inspection and upon a passing inspection sends the permit with the terms and conditions via email to the applicant.

4.1.4 Issuing the Permit

An initial inspection of the control measures installed at the site must be conducted (this initial inspection must occur prior to construction starting) before the SWQP is issued. The initial inspection must meet the requirements (adequate control measures are installed per design details and are in compliance with the MS4 permit requirements and County’s programs including the SWQP, CODE and SDCM). An initial inspection is required for all SWQPs.

The permit is not issued until there is a passing initial inspection. After the initial inspection, the permit document is created through an Accela report. The Terms and Conditions are added to the pdf and uploaded to the Accela documents and emailed to the permittee. The Accela workflow is updated to reflect the permit was issued

The stormwater inspection procedures including the initial inspection are detailed in Section 5.

4.2 Key Personnel

See Appendix A: Key Actions and Responsibilities Table.

Section 5: Stormwater Quality Inspection Procedures (Part I.E.3.b.vi.; Part I.E.3.c.vi.)

This section details the County’s inspection procedures for compliance with the program as outlined in the MS4 Permit Requirement.

MS4 Permit Requirement

Part I.E.3.c.vi. Site Inspection, *Permittee has written procedures for conducting site inspections, including the citation(s) and location(s) of supporting documents that describe the following:*

- (A) The process for determining, implementing and documenting the inspection frequencies.*
- (B) The process for inspection follow-up, including determining, implementing and documenting the nature of the follow-up action.*
- (C) The process and tools used for documenting inspections.*

5.1 County Stormwater Compliance Inspections and Process

Once a SWQP application process has been completed and permit fees have been paid, the applicant will notify the County's MS4 Stormwater Inspector to request an initial inspection. The SWQP is issued as described in Section 4, after a passing initial inspection.

A table of key actions and responsibilities for inspections for Private Projects and CIPs and a flowchart that summarizes the process of inspections through closeout is provided in Appendix F.

5.2 Initial Inspection

The purpose of the initial inspection is to review the installation of initial CMs and to ensure the Permittee understands stormwater compliance expectations for the project. The initial pre-construction inspection of control measures occurs prior to construction commencing (other than work to install initial control measures). The SWQP is not issued until there is a passing inspection by the County or their consultant. As discussed in Section 4, a passing inspection indicates that the control measures are adequate for the pollutant sources associated with the project and are installed correctly per the approved plan and details unless a suitable alternative has been installed instead.

The following representatives should attend the initial inspection for private projects:

- General contractor.
- Property owner.
- MS4SI.
- Qualified Stormwater Manager (Person responsible for stormwater management for the project).
- Grading subcontractor, if different from the general contractor, and any other person with a role in stormwater management during construction.

For public projects (Capital Improvement Projects), the same representatives should attend; however, the property owner may be represented by the Boulder County Project Manager or if another MS4's CIP project by their CIP manager.

The following agenda items are addressed at the initial inspection:

- Introductions.
- Confirm contact information and obtain any changes if they have occurred. A SWQP will not be issued until a SWMP Administrator/ECS is identified for the project and all contact information is obtained.
- The MS4SI will discuss expectations for site compliance, potential pollutants for the project including trash, and will go over the County's enforcement program.
- Limits of construction, disturbance and topsoil stripping will be confirmed.
- Final stabilization for the project will be reviewed and steps to move to a reduced inspection frequency and ultimately a final close-out will be discussed.
- The difference between the MS4SI oversight inspections and the contractor's SCP inspections
- After the inspection of initial control measures, the MS4SI will confirm if any corrections or additional controls are required.
- If the Permittee's project passes the initial inspection, then the SWQP is issued.

The County has created a kick-off/initial inspection agenda form using these initial inspection elements. A copy of this agenda is kept on the County's server (Public Works G-drive). The County uses this opportunity to provide outreach and education to the contractor regarding stormwater compliance. The MS4SI is also available to provide compliance assistance during the course of the project.

If the MS4SI or the permittee thinks that modifications to initial CMs shown in the SWMP should be made to provide for a more effective plan, it will be indicated on the inspection report assuming the MS4SI agrees to the permittee recommended changes.

5.3 County Stormwater Compliance Inspections on a County-Administered Project (Capital Improvement Projects)

Capital Improvement Projects (CIPs) follow the same general process as outlined in Sections 5.1 and 5.2 with the exception of a few items.

Attendees for the initial inspection for CIP projects are similar to those for the private projects but the Boulder County Project Engineer may be present acting as the project owner.

Since the majority of CIP projects do not intersect the unincorporated urbanized area, a major purpose of the SWQP and oversight inspections is to help county departments comply with the State General Stormwater Permit for Construction Activities (SCP) as well as to have consistency throughout the County.

5.4 Water Quality Control Division Audits

When the WQCD selects a Boulder County-administered project for inspection, the State will send an email notification (titled WQCD Permit Compliance Inspection Notice) to the co-permittees (both the County's contractor and County legal contact) and Stormwater Quality Coordinator. This email notification is automatically forwarded to Stormwater Quality Team, to ensure coverage of the following steps if the Stormwater Quality Coordinator is out of the office. These steps are time sensitive.

1. Immediately forward the notification to the applicable County Department (Project Engineer and Management) to ensure they have been alerted and have directed their contractor to prepare for the inspection, both documentation and site improvements. To determine the applicable department you may need to refer to the list of active CDPS certifications at <https://www.colorado.gov/pacific/cdphe/clean-water-active-permits> (sort by county).
2. Determine whether the project is located in the urbanized area. If so, the project is required to have oversight and the State inspection can have MS4 compliance implications..
3. Determine whether the project was issued a SWQP.
4. Offer compliance assistance. The County Department may choose to have the Stormwater Quality Team provide site specific recommendations and determine if a team member should attend the WQCD inspection..
5. When the final report and compliance advisory is sent from the WQCD, the County and its contractor will need to formally respond back in writing and demonstrate corrective actions have been taken. Have the County Department Project Engineer request the draft response from their contractor 4 days in advance of the deadline. **The Stormwater Quality Coordinator will review the contractor's responses based on experience dealing with the WQCD.** This is an ideal way to assist by making sure the corrections are adequate.

When WQCD selects a private project within the County, the state will send an email notification to the legally responsible person who holds the SCP. If the WQCD also notifies the County, then the Stormwater Quality Coordinator will attend the WQCD inspection. The County will coordinate with the WQCD to the extent required or feasible.

5.4 Frequency, Scope and Documentation of Inspections (Part I.E.3.c.vi [A] [B] [C])

Inspection frequencies, scope and documentation are described in the flow chart for active sites and in the remaining subsections of this section for inactive sites. These inspections are conducted for program compliance and to facilitate compliance with the State-issued SCP for both private and public projects.

5.4.1 Active Sites

County inspections and subsequent reports are not intended to exhaustively identify every violation or deficiency on a site. Similarly, photo logs, which may accompany inspection reports, are not intended to document every issue, every instance of every issue of concern, or every violation identified or existing on a site. MS4 inspections are performed to meet the requirements of the MS4 Permit and facilitate compliance with the SCP. **County inspection reports do not fulfill the requirement for self-inspections by the owner/operator of the site (required by the CODE and State Construction Stormwater Permit).**

5.4.1.1 Routine Inspections

The MS4SI conducts and documents Routine Inspections at least once every 45 days for active sites meeting the applicable definition of a construction site. Routine Inspections are not conducted on Small Projects (sites under an acre that are near a waterway).

5.4.1.2 Staff Vacancy Exception

One exception to an inspection frequency is allowed for a Staff Vacancy Inspection. These inspections are allowed to accommodate a staff vacancy or temporary leave due to vacation or illness and are conducted at least every 90 days.

The County uses staff vacancy to temporarily stop routine inspections after considering the following including without limitation:

- The safety and health of inspectors and facility personnel and assess whether travel should be limited to reduce the spread of an illness.
- Assess whether staff were symptomatic, in a high-risk group, or living with someone in this category.
- Set specific procedures for county inspection staff to model best behavior to limit the spread of the disease with proper travel, social distancing, and PPE.
- Consider the care of another member in the staffs household due to illness.

The County does not anticipate using the reduced inspections for staff vacancies except in unprecedented times. If this option is utilized, documentation will be provided in Accela and the reduced frequency will be noted in the inspection report.

5.4.1.3 Modification to Inspection process

In certain instances, examples of which are given below, with the approval of the County Engineer, the county's MS4 inspection process may be modified. A modification to the county's inspection process is only acceptable when the following conditions are met:

1. The project (or any portion of the project) is not within the urbanized area
2. The project will have a qualified stormwater inspector that is independent of the project owner and contractor.

When the above conditions are met, some or all of the county's inspections may be omitted at the County Engineer's discretion. In lieu of inspections the county will review the 3rd party inspections every 45 days. If chronic site violations or repeated non-compliance items are noted, the county's stormwater quality staff will perform an inspection and may follow the enforcement process described herein and revoke the modification to the inspection process.

3rd Party Inspections including photographs will be uploaded to Accela for documentation.

5.4.2 Scope of MS4 Inspections

A typical MS4SI inspection includes visual examinations of site conditions, construction activities, work practices and CMs. These CMs may be structural, physically installed features (structural CMs) or administrative/procedural activities that are part of the operator's work practices and procedures (non-structural CMs). Installed CMs will be reviewed for correct application, correct installation, adequacy and maintenance. The County-accepted SWMP or the site operator's updated version in the field for the project phase of construction may be used to verify features that should be in place and their specific locations. The scope of the inspection includes:

- Identification of failures to implement control measures.
- Identification of inadequate control measures.
- Identification of control measures requiring routine maintenance.
- Evaluation of all pollutant sources, including trash, to determine if an illicit discharge has occurred.
- Evaluation of discharge points to the MS4 or beyond the limits of the construction site as necessary to determine if an illicit discharge has occurred.

A discussion of general conditions of the site and any concerns regarding site conditions and compliance should be held in-person at the time of the inspection if someone representing the Permittee is available. A copy of the inspection report should be emailed to the Permittee and other project contacts upon return to the office and no later than 24 hours after the inspection was conducted.. The MS4SI is responsible for filing the completed inspection reports in Accela.

A copy of the MS4 Compliance inspection form is in Appendix G and on the County's server (Public Works G-drive).

The inspection result will be identified in the report based on the following options:

- Passing Inspection: No deficiencies exist
- Passing Inspection (with maintenance): No deficiencies exist but routine maintenance identified.
- Deficiencies Exist: Please note corrective actions must be addressed immediately in most cases.
- Notice of Non-Compliance: Numerous deficiencies are noted.
- Notice of Violation: Indicates a site with site-wide or systemic control measure issues, chronic site violations, and/or repeated non-compliance items which must be resolved immediately.

5.4.2.1 Follow Up/Compliance Inspections

If the MS4SI determines a site has failed to implement control measures, has inadequate control measures, or has an illicit discharge of pollutants, then a follow-up inspection must occur within 14 days from the time of the observation. The follow-up inspection may be either an Operator Compliance Inspection or a MS4SI Compliance Inspection at the discretion of the MS4SI. For illicit discharges of pollutants under the SWQP permit, the follow-up Compliance Inspection will be performed onsite by the MS4SI and the use of an Operator Compliance Form will not be allowed. The two compliance inspection types are discussed in detail below.

Operator Compliance Inspections (typically by the Contractor or Permittee)

Operator Compliance Inspections are conducted within 14 days of Routine Inspections when a site has failures to implement control measures or inadequate control measures documented on the inspection report. Typically, the MS4SI requires the Operator Compliance Inspection to be performed and sent back in a shorter time frame than the 14 days. This is a decision made by the MS4SI. The Operator Compliance Inspection does not fully assess the adequacy of the CMs or the overall site management and only addresses the findings from the Routine Inspection conducted by the County. The inspection must be sent to the MS4SI with 14 days of the Routine Inspection and be on the County-issued form or other approved method of documentation. The form includes the following information: inspection date, name of the operator inspector, site identification, inspection results including photos of the new or additional control measure to resolve issues from the previous inspection and any inadequate control measures that have not been resolved from the previous inspection. A copy of the form is in Appendix G and on the County's server (Public Works G-drive).

The MS4SI files the response from the operator (typically the contractor) in Accela. If the operator fails to supply the form or adequate photos documenting the corrective actions taken, or the response is inadequate based on the MS4SI's professional judgment, the County will perform a MS4SI Compliance Inspection.

County Compliance Inspections

County Compliance Inspections may be conducted in lieu of an Operator Compliance Inspection at the MS4 Stormwater Inspector's discretion and are conducted within 14 days of the Routine Inspection, when required. The Compliance Inspection does not fully assess the adequacy of all of the CMs or the overall site management and only addresses the findings from the previous Routine Inspection conducted by the County. The inspection is documented on the MS4 Compliance Inspection Form. The inspection should be marked as a Compliance Inspection under the Inspection Type section of the inspection report (See Appendix G for MS4 Inspection Form).

5.4.2.2 Indicator Inspection

Indicator inspections, such as 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 Routine Inspection must be conducted at least once at the site before an indicator inspection can be used. Indicator inspections must be conducted at least every 14 days and if an indicator inspector identifies noncompliance issues, then a Routine Inspection must be conducted before another indicator inspection can be utilized. The County has opted not to use indicator inspections under most circumstances; however, may use this type of inspection when conducting the compliance inspection to limit scope of the compliance inspection to only the outstanding items identified by a previous routine inspection.

5.4.3 Inactive Sites–Reduced Inspections

A site may be transferred to a Reduced Site Inspection schedule (every 90 days) if:

- 1) a site has completed all ground-disturbing activities and final stabilization measures have been implemented and are pending growth, or
- 2) if no construction activity has occurred since the last inspection at a site (inactive site).

The same MS4 Inspection Form is used. The completed inspection form is filed in Accela by the MS4SI.

5.4.4 Final Inspection and close out of the SWQP

In order to complete the Stormwater Quality Permit process and terminate an active permit, the site owner/operator must contact the County for a final inspection. Once this request is received, the County MS4 Stormwater Inspector completes a final inspection to confirm compliance with the SWQP. The inspection is documented on the MS4 Final Compliance Inspection Form found in Appendix G and on the County's server (Public Works G-drive). The permit is not closed-out until the County MS4SI completes these steps:

1. Completes the MS4 Final Inspection Form and files it in Accela.
2. Verifies that all disturbed areas are stabilized, per County criteria. This means the site has achieved 70% uniform vegetative cover on all exposed soil that has not been stabilized by another method (e.g., driveway, building or house, landscape cover).
3. Verifies that all streets, sidewalks and flowlines are free of sediment from the project work. WASHING OF STREETS, SIDEWALKS AND FLOWLINES IS IN DIRECT VIOLATION OF CODE. Verify all inlets, storm pipes, trickle channels and all other drainage features are free of project-related sediment and construction debris/waste.
4. Verifies removal of temporary erosion and sediment controls and materials. This includes the removal of all stockpiles of soil, construction material/debris, construction equipment, and other materials from the construction site. Biodegradable control measures may be left in place with approval.
5. If applicable, verifies that the Post-construction/Permanent Control has been accepted by the County per the County requirements (see Section 14: Long-Term Operation and Maintenance and Post Acceptance Oversight for details on those requirements).
6. Ensures any damaged public infrastructure caused by the Permittee's construction activity has been adequately repaired if such damage occurred.
7. Enters date of permit close-out in Accela.

For any site requiring installation of post-construction/permanent Stormwater Management Facilities (SWMF)s, the owner or operator must prepare and submit a certification signed by a professional engineer verifying that the post-construction/permanent SWMFs have been installed, as per approved plans and specifications, accompanied by as-built plans. Details for permanent SWMFs and their documentation are discussed in detail in Sections 9 through 15.

Upon confirmation that the site complies with the closeout requirements of the SWQP, the work flow in Accela is changed to *Permit Complete* and the owner/operator receives automatic notification that termination of the SWQP is complete.

Alternative Closeout Criteria -Utility Projects

In certain instances, with the approval of the County Engineer, the county's SWQP Closeout, as defined in Section 5.4.5 may be modified and the SWQP may be closed prior to achieving 70% uniform vegetative cover. The Utility Alternative Closeout Criteria may be applied when:

1. The project disturbs less than one acre and is not part of a common plan of development that disturbs an acre or more,
2. The project is on private property or access is through the private property,
3. The utility contractor has applied seed and mulch using standard practices, and
4. The property owner is satisfied with the condition of the restoration on their property

When the above conditions are met, the utility company may close their SWQP prior to achieving 70% uniform vegetative cover.

Alternative Closeout Criteria-Lots within a Development

If the residential lot meets the criteria listed below, then activities occurring on the lot are no longer considered to be construction activities with a duty to apply and maintain permit coverage. Therefore, the permittee is not required to meet the final stabilization requirements and may terminate permit coverage for the lot.

The permittee may remove residential lots from SWQP coverage once the lot meets the following criteria:

- a) The residential development site must have a permittee-approved site plan and still be inspected by the permittee under the inspection frequencies described in Part I.E.3.a.vi of the MS4 permit.
- b) The residential lot has been sold to the homeowner(s) for private residential use;
- c) A certificate of occupancy (or equivalent) has been issued to the homeowner.
- d) The lot is less than one acre of disturbance;
- e) All construction activity conducted on the lot by the permittee is complete;
- f) The permittee is not responsible for final stabilization of the lot;
- g) Control measures appropriate to the potential pollution sources are left in place
- h) Rock or erosion control blanket is placed below downspouts; and

- i) The SWMP is modified by the permit holder to indicate the lot is no longer part of the construction activity if the SWMP is for multiple lots.
- j) A SWQP Modification Form is submitted and approved, if not closing the entire SWQP.

5.4.6 Transferring Inspections of Stormwater Management Facilities to the Long-term Operation and Maintenance Inspection Program

Refer to Post-Construction Standard Operating Procedures for a detailed step by step chronological process and procedures for long term SWMF oversight. Stormwater Management Facilities are inspected as part of the Compliance Inspection during construction before they transfer to long-term SWMF oversight.

5.5 Key Personnel

See Appendix A: Key Actions and Responsibilities Table.

Section 6: Enforcement (Part I.E.3.a.vii)

This section details the County’s stormwater quality enforcement procedures for compliance with the program. It augments Article 7-904.I of the Land Use Code, Enforcement and Penalties, which is administered by the County Engineer and designees (e.g., Stormwater Quality staff, and consultants).

MS4 Permit Requirement

Part I.E.3.a.vii. Enforcement Response: Implement appropriate enforcement procedures and actions to meet the requirements of Part I.E.3.

(A) The Permittee must have processes and sanctions to minimize the occurrence of, and obtain compliance from, chronic and recalcitrant violators of control measure requirements.

(B) The Permittee must escalate enforcement 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. Enforcement procedures must include informal, formal and judicial enforcement responses.

6.1 Enforcement Response Tools

This section describes the available enforcement tools and provides guidance on the type and level of enforcement that Stormwater Quality Team may take to resolve an instance of non-compliance and describes how to properly administer and track enforcement actions. The procedures described in this section are guidelines, not rules. Departure from these guidelines will sometimes be appropriate, justified and acceptable. The intent of these procedures is to ensure that findings of a similar nature are enforced consistently (Part I.E.3.a.vii (B) of the MS4 Permit).

At this time, Stormwater Quality staff does not refer enforcement matters to Code Enforcement, but that may change in the future. Generally, the enforcement begins gradually, with efforts to obtain voluntary compliance and escalating to increasingly severe enforcement actions if compliance is not obtained. The County Engineer may be brought in if enforcement measures need to be escalated. The following CODE language gives the authority for many of the enforcement response tools:

Article 7-904 of the Land Use Code, Stormwater Quality Management Permit Requirements provides right of entry and includes the following tools for enforcement by the County.

Enforcement: All personnel authorized by the County Engineer shall have the power to conduct inspections, give verbal direction, issue notices of violations, perform abatement actions, seek judicial permission and relief, and implement other enforcement actions under this section or as otherwise authorized by law.

Enforcement actions are described in detail in the following subsections. These actions can be used in any order and can be used concurrently.

6.1.1 Informal Enforcement Response

Informal enforcement response includes notice to the operator or property owners such as verbal warnings at the time of inspection, telephone calls with responsible parties, technical compliance assistance, and distribution of educational materials (e.g., handouts, CM cut sheets from the SDCM, websites). Additional informal actions can include:

- Informal meetings.
- Written field inspection reports.
- Warning Notice –these written warnings do not constitute a Notice of Violation. A Warning Notice is the same as a “Notice of Non-compliance,” as it is referred to in the MS4 Compliance Inspection Form. **A Warning Notice is typically used to prevent deficiencies from becoming violations, or when voluntary compliance may be achieved.**
- Combination of any or all of the above.

In an effort to prioritize limited resources, MS4SIs may consider discretionary factors to determine whether immediate investigation or enforcement response is needed. Alleged construction stormwater quality violations that are an immediate threat to water quality are investigated (responded to) quickly. Other non-immediate threats to water quality may involve some compliance assistance and education of the contractor before escalating.

6.1.2 Formal Enforcement Response

Formal enforcement response consists of a Notice of Violation (NOV) or Stop Work Order. The NOV is issued under the signature of County Engineer or their designated representative with authority to inspect and determine the existence of a violation. The NOV should describe the alleged violation and state the timeframe for compliance and abatement of the violation.

The Stop Work Order is issued in a similar fashion or can be posted in a conspicuous location where the alleged violation is occurring. The Stop Work Order requires that the activity constituting a violation be stopped until further notice from the County Engineer or designees. The Stop Work Order should state the nature of the alleged violation.

Involvement of State or Federal authorities may be sought if the violation is believed to be occurring at a site with SCP coverage or other NPDES permit coverage.

Time periods for investigation or enforcement response are based on the discretionary factors listed in Section 6.2. The time period for formal enforcement response is typically within a few days and immediate when necessary.

In the event a property in violation fails to correct the violation or comply with the requirements under the NOV by the timeframes specified therein, including any reasonable extensions of time granted at the discretion of Public Works, the matter may be referred to the County Attorney's Office for determination of further enforcement steps. Upon consultation with the County Attorney's Office on a particular case, it may be appropriate to issue the responsible party or property owner a formal letter from the County Attorney's Office requiring compliance and abatement prior to a judicial enforcement response or move straight to a judicial enforcement response. County Attorney's Office contacts include:

- Attorney's Office Main Line, (303) 441-3190.
- Code Enforcement Attorney, (303) 441-4558.

6.1.3 Judicial Enforcement Response

Judicial enforcement response includes using the court process to obtain compliance. It is triggered only when a site has been through a formal enforcement response and is still not compliant. Judicial enforcement may be initiated in conjunction with the County Attorney's Office. The timeline for judicial enforcement response is determined by court schedules.

6.1.4 Enforcement Escalation Process

Each incident of non-compliance or violation requires a response that is appropriate for the nature of the violation. Enforcement actions include an assessment of the need for any corrective action, which may include an appropriate penalty. Enforcement response levels generally escalate progressively; however, an evaluation of the incident takes into consideration the discretionary factors in Section 6.2 to decide which level (or combination of levels) is used first. The typical enforcement escalation progress is:

1. MS4SI Compliance Inspection
2. Verbal notice of non-compliance
3. Written Warning Notice or MS4 Compliance Inspection Report noting a Notice of Non-compliance
4. Notice of Violation (NOV)
5. Stop Work Order with Parcel Condition/Hold
6. County Attorney Action

6.1.5 Enforcement Process for Inadequate Final Stabilization

When consistent inspections on completed projects show that adequate vegetation has not been established, the following process may be implemented. Enforcement for inadequate final stabilization shall consider seasonality and not be implemented during consistent ground freeze.

1. MS4SI will perform reduced MS4 Inspection – 90 days since site is inactive.
2. If inadequate vegetation is noted, inspection form is marked "Deficiencies Exist"
3. The contractor has 14 days to perform restoration, interim stabilization, or provide an acceptable schedule for when reseeding will occur (Note: The determination of acceptable timing is determined by the MS4 inspector).

Note: it is important to ensure the correct contact persons are being communicated with. It is often that the contacts for communications during active construction differ from the contacts post-construction.

6.2 Discretionary Factors

Stormwater Quality staff and their consultants may investigate public complaints pertaining to erosion and sediment control. In doing so, staff use professional judgment and may consider the following discretionary factors to determine whether immediate investigation is needed and in determining the appropriate level of compliance assistance and enforcement action in a given situation. Any action the County takes against the party in non-compliance is based on the nature and severity of the situation and in accordance with Article 7-904. Discretionary factors include, but are not limited to:

- Severity (per MS4 Permit), Duration and Impact of the Violation(s)—Consider the following questions:
 - Did the violation result in an actual or potential threat to human health and the environment?
 - Did the violation impact the County’s drainage system, MS4 or receiving waters?
 - What were the type and volume of pollutants discharged?
- Actions by the Responsible Party—Consider the following questions:
 - Was the violation intentional or was it caused by an unforeseen action?
 - What was the degree of negligence involved?
 - What control measures, if any, were installed to prevent the violation?
 - Did the owner/operator obtain required permits, particularly a SWQP or other applicable county permits?
- Compliance History—Use Accela to research whether there are chronic violations (as referred to in the MS4 Permit) and consider the following questions:
 - Is there a pattern of previous recurring violations, whether the same or of a different nature, that indicate a disregard for compliance with County ordinances, or other environmental laws and regulations? **Boulder County defines these as chronic violations.**
- Responsiveness (as Opposed to Recalcitrance Referred to in MS4 Permit)—Consider the following questions:
 - How did the responsible party respond once the violation was discovered or documented?
 - Did they cooperate? Did they act in good faith to respond to the violation in a timely manner? **Boulder County defines these qualities as being “responsive.” “Recalcitrant” is the opposite of “responsive.”**
- Circumstances—Consider the following questions:
 - Are there any mitigating factors outside the person’s control that contributed to the violation?
 - Was the violation a result of an extreme rainfall event or other unpredictable natural event?

6.3 Division of Labor with Boulder County Public Health

Construction stormwater quality violations are corrected using Article 7-904.I of the Land Use Code, Enforcement and Penalties, which is administered by the County Engineer and designees (e.g., Stormwater Quality staff).

Boulder County Public Health’s (BCPH) is the regulating authority for the County’s illegal discharge ordinance. The ordinance is generally intended to control pollution from other sources such as commercial and industrial activities or to regulate unpermitted construction sites.

If enforceable conditions of approval (for erosion and sediment control) do not exist in the applicable SWQP, Grading Permit, Building Permit or CP&P approval, then the violation and all supporting evidence should be coordinated with Boulder County Public Health (BCPH). BCPH is the regulatory authority for the illicit discharge ordinance. BCPH will work with the Enforcement Attorneys to determine whether the illegal discharge ordinance can be used and will coordinate with Boulder County Public Works as necessary. BCPH intends to use the illegal discharge ordinance when it is deemed the most effective and applicable ordinance to enforce, or even to support another ordinance.

6.4 General Procedures for Construction Stormwater Quality Complaints and Violations

The goal of enforcement is to protect the public health, safety and welfare of Boulder County citizens by controlling pollution associated with construction activities. Under routine circumstances, construction stormwater quality violations are corrected using Article 7-904.I of the Land Use Code, Enforcement and Penalties, that is administered by the County Engineer and designees (e.g., Stormwater Quality staff). Routine circumstances include sites where the owner/operator has properly obtained a SWQP or should have obtained a SWQP but failed to do so.

The MS4 Permit requires consistency in enforcement approach. Therefore, the enforcement procedures in this document apply to violations on projects conducted by private parties and projects administered by Boulder County. For County-administered projects, the main difference is that the enforcement steps need to be conducted in coordination with the Department that is administering the contract with the construction site operator (i.e., contractor). Stormwater Quality staff will work with the applicable department to enforce the contract provisions.

The following table shows how complaints are to be routed, who is responsible for response and communication, and coordination of communication. More step by step details are provided in Section 6.5.

Table 2. Routing of Construction Stormwater Complaints/Inquiries

Task	Responsibility	Communication Details
Private Development		
Complaint response, Accela entry, and enforcement through completion	Stormwater Quality Team	Keep Stormwater Quality Coordinator copied if not already involved.
County-administered project (e.g., CIP)		
Referral to correct County Department CIP Project Manager	Person that receives the complaint	Stormwater Quality Team should work with CIP manager to provide compliance assistance and enforcement if needed.
Accela entry and oversight to ensure corrective action	Stormwater Quality Team	Keep Stormwater Quality Coordinator copied and informed of progress
Communication with complainant	County Department CIP Project Manager	Keep Stormwater Quality team copied and informed of progress

Task	Responsibility	Communication Details
Ensure contractor resolves complaint and takes corrective action	County Department CIP Project Manager	Stormwater Quality Team will work with the applicable department to enforce the contract provisions if needed.

Right of entry is provided by the Article 7-904. Consent for entry onto private property must be obtained as described in Article 7-904.1.3 of the Land Use Code, unless the site has an open Stormwater Quality Permit issued by the County.

If such consent cannot be obtained while onsite, the inspector will:

- Observe and document conditions as well as possible from public property or public right-of-way (e.g., county road).
- Make observations of a premises under investigation from adjacent private property when the owner of the private property gives consent to do so.

Observations from public property, public right-of-way or with permission from adjacent private property may provide a sufficient and good-faith basis on which to initiate an informal or formal enforcement action. For example, an NOV can be issued based on the evidence gained, and it can describe the County’s efforts to obtain access. This approach is more likely to lead to the owner granting access.

If consent of the owner or other person having charge or control of the property under investigation cannot be obtained and the inspector has a reasonable basis for suspecting a violation of the ordinance on the property, they can seek entry by submitting a sworn affidavit to the proper court of jurisdiction, setting forth facts sufficient to support a reasonable belief that a violation exists or is likely to exist and that further investigation of the property is thus warranted. A request to the court for entry must be reviewed and filed with the court by the County Attorney’s Office. Such request for entry may include the right for Stormwater Quality Team or its designees to set up devices on the property, conduct sampling, take photographs, or perform other investigations deemed reasonably necessary to investigate the alleged violation or assess the effect of any unauthorized erosion or discharges. In a situation where the owner cannot be located and the discharge is ongoing or egregious, then Stormwater Quality Team or its designees may make a request to the court for an administrative abatement warrant rather than a search warrant.

Because of the potential for enforcement actions to be appealed, complete documentation of all circumstances and activities related to a violation is essential. The inspector must collect defensible documentation of the violation including clear photographic evidence that shows the relationship of the issue to downstream drainage features and waterbodies.

The MS4 Compliance Inspection form needs to be filled out to include:

- information on the issue (e.g., discharge)
- potentially responsible party
- nature of the violation
- the specific code alleged to have been violated
- the date which the violation was observed (i.e., date of project inspection)
- circumstances of the violation.

Furthermore, communication with the responsible party is critical because no enforcement action should come as a surprise to the recipient.

Enforcement for construction stormwater quality violations can be initiated as a result of Stormwater Quality Permit inspections, which promote compliance, or as a result of citizen or employee complaints and observations. The enforcement process for each is detailed below.

6.5 Enforcement Process and Procedures for Violations Resulting from Complaints

The enforcement process and procedures for violations resulting from complaints include:

1. **Complaint or referral of violation received**—Stormwater Quality staff make initial entry into Accela (database) as a SWQE (Stormwater Quality Enforcement) record and review the nature of the complaint. If the enforcement record is associated with a SWQP record, then the enforcement record needs to be related to the SWQP record as a child in Accela.
2. **Preliminary Research**—Research property and compliance history in Accela for relevant information, determine potential project owner, determine potential code citations for alleged violation, etc. Importantly, use Plan-X or another mapping program to determine if the site is within the MS4 Permit Area (i.e., unincorporated urbanized area). **If so, the incident needs to be tracked for the MS4 Annual Report and resolution needs to be carefully demonstrated.** Determine whether the parcel is “Inside the MS4 Permit Area.”
3. If the owner/operator has not obtained proper permits, then a major goal of enforcement is to get the site under permit, particularly a SWQP or other applicable county permits.
4. Initial Prioritization—Complete initial prioritization based on information from the complainant and use of the discretionary factors listed in Section 6.2, as applicable.
5. Site Investigation (i.e., Inspection)—Use the MS4 Compliance Inspection Report form to document the inspection and note this as an inspection resulting from a complaint. Obtain consent for entry as needed and attempt to contact contractor/owner at site or immediately after inspection to discuss the nature of the violation and corrective actions that are needed. No enforcement action should come as a surprise to the recipient.

If “No Violation” is found, note this in the Accela workflow and database, notify complainant, and close the case.

If there are potential violations outside of construction stormwater quality (Article 7-904), the inspector may notify other potential enforcement agencies (Zoning, Army Corps, etc.) that other violations may be involved.

6. Informal and Formal Enforcement—If a “Violation” is found, use the discretionary factors listed in Section 6.2, as applicable, to decide what type of enforcement is most appropriate to achieve the desired results. For consistency, the following guidelines are used.
 - a. A Written Warning Notice or MS4 Compliance Inspection Report is typically issued to prevent deficiencies from becoming violations, or when voluntary compliance may be achieved. At times, owners are unaware of the violation and will agree to voluntary

compliance. Meet or discuss violation with owner and follow up in writing (MS4 Compliance Inspection Report or Written Warning Notice) with a voluntary compliance timeline. If using the MS4 Compliance Inspection Report, due dates can be included in the "Corrective Action Needed" column. If the voluntary compliance timeline is satisfactorily met, note the compliance in Accela database, notify complainant, and close the case. The Written Warning Notice must be uploaded to Accela using the document naming standards.

- b. A Notice of Violation (NOV) is typically issued when the violations are severe in duration or impact (as explained in the discretionary factors in Section 6.2). Severe violations can include illegal discharges from the site, impacts to the County drainage system or waterbodies, or conditions that threaten human health and/or the environment. Severe violations and needed corrections are communicated verbally and in writing (using the MS4 Compliance Inspection Report Form) to the contractor/owner at site or immediately thereafter.

Specific NOV response times by violation type are as follows:

- i. Construction commencing without a SWQP or associated plan review will be issued an NOV within 10 business days of identification unless there are extenuating circumstances. If the owner/operator has not obtained proper permits, then a major goal of enforcement is to get the site under permit.
 - ii. Inadequate control measure resulting in a discharge of pollutants from the applicable construction site or to the MS4 will be issued an NOV within 3 business days of identification unless there are extenuating circumstances.
- c. A Notice of Violation (NOV) is also issued to chronic and recalcitrant violators (as explained in the discretionary factors in Section 6.2). The Transportation Development Review Inspector will evaluate the following violation types and deficiencies as a whole to determine whether there is a pattern that qualifies as a chronic or recalcitrant violation, in which case the violator will be issued an NOV within 10 business days of identification, unless there are extenuating circumstances.
 - i. Control measures not maintained in operational condition at time of Permittee inspection, including sites that have temporarily shut down construction activities.
 - ii. Uncorrected finding(s) from previous inspections.
 - iii. Failure to implement a control measure for a pollutant source.

Non-standard or complex NOV's can be reviewed by the County Attorney's Office upon request by staff or the County Engineer. The NOV must be uploaded to Accela using the document naming standards.

- d. If using an MS4 Compliance Inspection Report or Warning Notice to document violations and the voluntary compliance timeline is not satisfactorily met, the Stormwater Quality staff will issue an NOV.
- e. If using an NOV to document violations and the corrections have not been completed or satisfactory arrangements made by the established deadline, a **Stop Work Order** is posted at the site by the Transportation Development Review Inspector and a **Parcel Condition/hold** is placed on the parent project (typically a Building Permit) in Accela.

This serves to ensure that the contractor/owner cannot obtain inspections or approvals from the Building Division until the stormwater quality violations are resolved. The Parcel Condition/hold is often sufficient incentive to resolve the issue since the project cannot proceed, and this can cause the contractor/owner significant time and monetary delays on the project.

7. Referral to County Attorney

- a. If the violator has failed to remedy the violation after the established deadlines in the NOV and no extensions have been granted, the matter may be referred to the County Attorney's Office. Prior to referral, Stormwater Quality staff shall confirm (generally through field inspection) that the violation still exists and ensure support from the County Engineer. The case file in Accela should be fully up to date with all relevant documents and information at the time of referral.
- b. An attorney with the County Attorney's Office will review the matter and send a letter to the violator stating that the case has been referred to the County Attorney's Office and that an enforcement action will be commenced unless the property is brought into compliance within 14 days. The letter will instruct the recipient to respond if they wish to resolve the case short of court action. If the violator is represented by legal counsel, all communications should be routed through the County Attorney's Office.
- c. If the violator responds to the letter and desires to correct the violation, the County Attorneys' Office and Stormwater Quality staff will discuss available options to achieve compliance, including a written compliance agreement with the violator.
- d. If the violator does not respond to the letter or fails to correct the violation, an enforcement action may be filed in County Court (Judicial Enforcement Response). Depending on the nature of the violation, the enforcement action filed in court may be to seek monetary fines or other available relief under Article 7-904.I.7, or to request an administrative abatement warrant under Article 7-904.I.8.

6.6 Enforcement Process and Procedures for Violations Resulting from SWQP Inspection

The enforcement process and procedures for violations resulting from a SWQP inspection include:

1. **Violation observed during SWQP inspection**—Use the MS4 Compliance Inspection Report Form to document the inspection and note the anticipated enforcement response in the Inspection Results section of the form. Contact contractor/owner at site or immediately after inspection to discuss the nature of the violation and corrective actions that are needed. No enforcement action should come as a surprise to the recipient.
2. **SWQE (Stormwater Quality Enforcement) record in Accela if violation requires more than a follow up inspection or operator compliance response**—Because the enforcement record is associated with a SWQP record, the enforcement record needs to be related to the SWQP record as a subset of the SWQP record (often referred to as a child) in Accela.
3. **Research and Review of Circumstances of the Violation**—Research compliance history in Accela, determine potential code citations for alleged violation and formal enforcement, and review other background information.

4. **If the site is in the MS4 Permit Area, the incident needs tracked for the MS4 Annual Report and resolution needs to be carefully demonstrated.** Mark the box in Accela if the project is inside the MS4 Permit Area.
5. **Formal Enforcement**—Once a violation is identified, Stormwater Quality staff and their designees will use a series of escalating enforcement responses. Guidelines for responses to common violation types and time periods within which responses will take place (MS4 requirement) include:
 - a. **A Written Warning Notice** or MS4 Compliance Inspection Report is typically issued within 3 business days of the inspection, and is used to prevent deficiencies from becoming violations, or when voluntary compliance may be achieved.
 - b. **A Notice of Violation (NOV) is issued when the violations are severe.** Severe violations can include illegal discharges from the site, impacts to the County drainage system or waterbodies, or conditions that threaten human health and/or the environment. Severe violations and needed corrections are communicated verbally and in writing (using the MS4 Compliance Inspection Report Form) to the contractor/owner at site or immediately thereafter. Inadequate control measures resulting in a discharge of pollutants from the applicable construction site or to the MS4 will be issued an NOV within 10 business days of identification unless there are extenuating circumstances.
 - c. **A Notice of Violation (NOV) is also issued to chronic and recalcitrant violators (as explained in the discretionary factors listed in Section 6.2).** The Stormwater Quality staff will evaluate the following violation types and deficiencies as whole to determine whether there is a pattern that qualifies as a chronic or recalcitrant violation, in which case the violator will be issued an NOV within 10 business days of identification, unless there are extenuating circumstances. Violation types include:
 - i. Control measures not maintained in operational condition at time of Permittee inspection, including sites that have temporarily shut down construction activities.
 - ii. Uncorrected finding(s) from previous inspections.
 - iii. Failure to implement a control measure for a pollutant source.
 - d. Non-standard or complex NOV's can be reviewed by the County Attorney's Office upon request by staff or the County Engineer. **Stop Work Order** If using an NOV to document violations and the corrections have not been completed or satisfactory arrangements made by the established deadline, a Stop Work Order may be posted at the site and a **Parcel Condition/hold** is placed on the parent project (typically a Building Permit) in Accela. This serves to ensure that the contractor/owner cannot obtain inspections or approvals from the Building Division until the stormwater quality violations are resolved. The Parcel Condition/hold is often enough incentive to resolve the issue since the project cannot proceed, and this can cause the contractor/owner significant time and monetary delays on the project
 - e. **Referral to County Attorney** If the violator has failed to remedy the violation after the established deadlines and no extensions have been granted, the matter may be referred to the County Attorney's Office. Prior to referral, Stormwater Quality staff shall confirm (generally through field inspection) that the violation still exists and ensure

support from the County Engineer. The case file in Accela should be fully up to date with all relevant documents and information at the time of referral.

- i. An attorney with the County Attorney’s Office will review the matter and send a letter to the violator stating that the case has been referred to the County Attorney’s Office and that an enforcement action will be commenced unless the property is brought into compliance within 14 days. The letter will instruct the recipient to respond if they wish to resolve the case short of court action. If the violator is represented by legal counsel, all communications should be routed through the County Attorney’s Office.
- ii. If the violator responds to the letter and desires to correct the violation, the County Attorney’s Office and Stormwater Quality staff will discuss available options to achieve compliance, including as appropriate, a written compliance agreement with the violator.
- iii. If the violator does not respond to the letter or fails to correct the violation, an enforcement action may be filed in County Court (Judicial Enforcement Response). Depending on the nature of the violation, the enforcement action filed in court may be to seek monetary fines or other available relief under Article 7-904.1.7 or to request an administrative abatement warrant under Article 7-904.1.8.

6.7 Administrative Procedures for Proper Tracking of Enforcement Actions in Accela

Use the Accela permitting and enforcement system to track workflow, case materials, photographs, and all other forms of evidence. Administrative procedures include:

1. All items related to the case must be tracked within Accela in a SWQE record and related in Accela as a “child” to the parent project, if applicable.
2. Staff work product and any attorney consultation must be marked as internal and not available over the public web portal without approval from County Attorney’s Office.
3. Any conversations, e-mail, mail, meetings, documents, photographs, agreements and other information need to be captured and uploaded into Accela.
4. All cases shall have their statuses updated as events occur and in no case shall go longer than 30-days without the status being updated in Accela.

6.8 Key Personnel

See Appendix A: Key Actions and Responsibilities Table.

Section 7: Training (Part I.E.3.a.viii)

This section details how the County informs operators of the County requirements for controlling pollutants, including trash, for compliance with the program.

MS4 Permit Requirement

viii. Training: *The Permittee must provide information to operators of applicable construction activities as necessary to ensure that each operator is aware of the Permittee's applicable requirements, including controlling pollutants such as trash. The training must also include information on trash as pollutant source.*

The County provides information on permitting and plan review, including checklists on the County's webpage at <https://www.bouldercounty.org/transportation/permits/stormwater-quality-permit/>.

The County's initial inspection also serves as an opportunity to train operators of the County requirements in a one on one meeting. This training opportunity is used to answer contractors' questions and convey compliance requirements. A record is kept of the attendees at the initial inspection.

In addition, the County encourages contractors to attend training sponsored by Keep it Clean Partnership (KICP), CDOT, Colorado Stormwater Council, CIP Stormwater Compliance Training, Red Rocks Altitude Trainings and CDOT Transportation Erosion Control Supervisor (TECS). Boulder County sponsors several trainings through KICP including several Stormwater Compliance trainings for Construction as well as Post-Construction Inspection training.

Section 8: Overlapping Permit Areas (Part I.E.3.a.ix)

This section details the County's stormwater procedures in cases of overlapping permit areas for compliance with the program.

MS4 Permit Requirement

For Applicable Construction Activities that Overlap Multiple Permit Areas, 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) Site plan review/acceptance and site inspection actions may be conducted by a co-regulating MS4 Permittee to meet the requirement of the permit.

Projects with overlapping permit areas between the County and other MS4 Permit holders are handled on a case-by-case basis. Applicable construction sites that disturb area in the County and another MS4 Permit holder are reviewed, inspected and enforced on by both agencies or one agency is delegated authority to implement stormwater construction oversight. For applicable construction sites where the County delegates review, inspection and/or enforcement to another MS4, a written agreement must be completed and filed on the County's server (Development Review Folder under SWQP determinations). The County retains the right to perform inspections and must take part in the final inspection and concur that the project has met the requirements of final stabilization. The written agreement is typically written by the Stormwater Quality staff and signed by the County Engineer when the county is accepting MS4 responsibility. Conversely, when the county is delegating responsibility the agency accepting responsibility will write the letter for the County Engineer approval and signature. The written agreement should include the following:

- The project name, location, and description
- Elements to be delegated (e.g. site plan review, permitting, inspections, final vegetation inspection, permit close-out.
- Preferences and contact information for document sharing (i.e. inspection reports) and other communications between agencies.
- When the county delegates responsibility, the county requests that the responsible jurisdiction informs them when construction is complete so that a field visit can be conducted by the county for the portion within the county. A final inspection report is filed on the G: Drive because there is no Accela record for the project. The reason for this inspection is to ensure final stabilization meets the County's program requirements and it gives an opportunity for documenting that.

An example letter is given in Appendix H. This process is very similar to the process used for overlapping permit areas for post-construction controls (See Post-Construction Standard Operating Procedures).

Boulder County does not issue a permit for a CDOT project or any other project that is being overseen by CDOT, when it is fully contained within CDOT's ROW, because projects fully contained within CDOT's right of way fall under CDOT MS4 Permit regulations. Projects by a different entity, but within CDOT's ROW are issued a SWQP when not otherwise permitted by CDOT or another MS4. When a portion of a CDOT project or a staging area extends outside of the CDOT right-of-way and into Boulder County jurisdiction, CDOT would have to meet its MS4 requirements for the project areas within its ROW and meet Boulder County's MS4 requirements for any areas of the project within county jurisdiction (i.e., outside the CDOT ROW). A written agreement/MOU can also be used to clarify the MS4 requirements and specify responsible parties. Projects that occur in the CDOT ROW that are not CDOT projects will need to contact the County to discuss the project to verify their project is not subject to County permit requirements. The County will work with CDOT to confirm MS4 jurisdiction and to determine if a jurisdictional agreement is needed. The County will not take jurisdictional control over permanent water quality (PWQ) which must be reviewed and conform to CDOT's PWQ program.

Section 9: References and Resources

- Boulder County's Stormwater Quality Permit, <https://www.bouldercounty.org/transportation/permits/stormwater-quality-permit/>
- Boulder County Storm Drainage Criteria Manual, <https://www.bouldercounty.org/transportation/floodplain-management/storm-drainage-criteria-manual/>
- Colorado Department of Public Health and Environment, MS4 Phase 2 General Permit, <https://cdphe.colorado.gov/wq-municipal-ms4-permits>
- Colorado Stormwater Center, <http://stormwatercenter.colostate.edu/>
- EPA NPDES Stormwater program, <https://www.epa.gov/npdes/npdes-stormwater-program>
- Keep it Clean Partnership, <https://www.keepitcleanpartnership.org/>
- Mile High Flood District, <http://mhfd.org/>

Appendices

Appendix A: Key Actions and Responsibilities Table

Appendix B: SWQP Exception Request Form

Appendix C: SWQP Terms and Conditions

Appendix D: Checklists

Appendix E: SWQP Process Flowchart

Appendix F: MS4 Inspection Key Responsibilities Table and Inspection Process Flowchart

Appendix G: Inspection Forms

Appendix H: MS4 Delegation Letter Example



*Construction Stormwater Quality
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Standard Operating Procedures (SOP)

*Appendix A: Key Actions and
Responsibility Table*

Key Actions	Responsibility	Process
Permit Application		
Determine if Stormwater Quality Permit is required	Developers, land owners, CP&P Planners, CIP Project Managers	Private Development: Requirements are explained during development review process or during pre-application meeting. For projects that do not go through a review process, the County places information on their website and has provided some outreach to make utility owners and contractors aware of the process. CIP: Department Project Manager includes permit application into Bid documents at preconstruction meeting or if an internal crew the Stormwater Quality Team provides training on SWQP requirements and when it is needed.
Notify owner/operator to submit application documents for Stormwater Quality Permit	CP&P Planners and CIP Project Managers	Refer owner/operator to Boulder County Stormwater Quality website.
Owner/operator submits application documents for Stormwater Quality Permit	Owner/Operator	Electronic submittal to ezbp@bouldercounty.org
Verify application is complete	Stormwater Quality Team	Application must be complete before proceeding
Permit Review and Approval		
Complete review of submittal	Stormwater Quality Team	Review for compliance with County requirements. Work with applicant to resolve deficiencies.
Enter SWQP fee payment and initial inspection requirements into building permit conditions	Stormwater Quality Team	Add conditions in the Accela Record
Accept the submittal	Stormwater Quality Team	Sign the checklist for application acceptance
Enter information into Accela	Stormwater Quality Team	Enter all information into Accela, confirm status as APPROVED.
Notify Permittee	Accela Auto Generated Message	Inform Permittee that review is complete, the application is approved and that permit fees are due if a private project. CIPs do not pay permit fees.
Collect payment	CP&P Department	Fees must be paid prior to permit issuance. CP&P enters payment information into Accela. When applicable, Stormwater Quality Permit fee is collected with fees for additional County permits.
Inspections- See Appendix: MS4 Inspections Key Responsibilities Table		

Key Actions	Responsibility	Process
Construction		
Take enforcement actions as necessary in accordance with County regulations	Stormwater Quality Team, County Engineer	Follow the enforcement process. Most enforcement actions will be initiated by the Inspector and coordinated with the Project Manager and the County Engineer. Project Inspector typically does in-person and written warnings, the Project Manager typically does NOVs and abatement and the County Engineer typically does stop work orders.
Follow up on enforcement actions	Stormwater Quality Team, CIP Project Manager	The initiator of the in-person or written warnings will follow up to ensure the issues are corrected. For NOVs and stop work orders, the Project Manager and Project Inspector will assist the County Engineer to confirm that all conditions of the enforcement action have been met.
Document enforcement and follow up	Stormwater Quality Team	The initiator of the enforcement needs to document it in Accela.
Data Management		
Track and review permit assignments	Stormwater Quality Team	On a monthly basis, use Report Manager to view permits Review and track to ensure procedures and responsibilities are being followed.
Review and update Accela	Stormwater Quality Team	Periodically, review Accela and see if anything needs to be updated. . Use Report Manager to review s status of SWQP permits. Work with owner/operator, County Inspector, and Project Manager to get any additional information needed. (i.e., can the permit be closed, schedules for stabilization, checking on work progress and status
Notify owner/operator of permit expiration, modification, transfer, termination	Stormwater Quality Team	Let owner/operator know in person or in writing of any actions needed for permit expiration, modification, transfer, termination. Document notifications in Accela.
Document permit renewal, modification and transfers	Stormwater Quality Team	Document renewals, modifications, and transfers in Accela.
Owner/operator submits Notice of Termination	Stormwater Quality Team	The termination process typically begins with the owner/operator requesting termination of the permit.
Notify Permittee to close permit	Stormwater Quality Team	If the owner/operator does not initiate the termination process, the County Inspector or Project Manager will notify the owner/operator that the site is ready to close, send the final inspection and update Accela.
Final Inspection	Stormwater Quality Team	Project Manager will coordinate with County Inspector to verify final stabilization and temporary CM removal. The

Key Actions	Responsibility	Process
		County Inspector will take photos to document re-vegetation/stabilization of the site and notify Project Manager and County Engineer that permit has been closed.
Close permit	Stormwater Quality Team	Enter close out date in Accela. Send confirmation of termination to the owner/operator. Notify Project Manager and County Inspector that permit closed. Email is sufficient.
Clean up permit files	Stormwater Quality Team	Review permit files at least annually.



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Appendix B: SWQP Exception Form



Public Works – County Engineer

STORMWATER QUALITY PERMIT (SWQP) EXCEPTION REQUEST FORM

CONTACT INFORMATION			
Project Contact Name:		Phone:	
Email:			
PROJECT INFORMATION			
Project Name:			
Project Address/Location:			
Project Description:			
Total Disturbed Area (acres)	Total Project Area (acres)	Horizontal Distance to Waterway (feet)	Boring under a waterway? <input type="checkbox"/> yes <input type="checkbox"/> no
SWQP EXCEPTION REQUEST			
<p>Describe control measures to be implemented on the project.</p> <p><i>Note: All construction projects, regardless of size require the use of control measures. Even if a SWQP is not required, using control measures is essential and mandatory. Control measures will help minimize the risk of negative impacts to water quality.</i></p>			
<p>Slope between the project area and the waterway:</p> <p><i>Note: Steeper disturbed slopes upgradient of the waterway and within the project area may influence the need for a SWQP.</i></p>			
<p>Project Construction Duration:</p>			
<p>Rationale for exception:</p> <p><i>Note: Working in close proximity to waterways poses a higher risk to impact water quality. The rationale for the SWQP Exception Request shall demonstrate that the project will not have negative impacts to water quality.</i></p>			



Public Works – County Engineer

CERTIFICATION SIGNATURES	
<u>Signature of Project Owner:</u>	<u>Date:</u>

OFFICE USE	
Is the project in the Urbanized Area? <input type="checkbox"/> yes <input type="checkbox"/> no	
Does the project meet a Colorado Department of Public Health and Environment low risk discharge policy (Water Quality Permit 27)? (link) <input type="checkbox"/> yes <input type="checkbox"/> no	
If yes, list title:	
Approved:	<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> YES, WITH CONDITIONS
Conditions / Comments:	
<u>County Engineer signature (to be signed upon approval):</u>	<u>Date:</u>



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*Appendix C: SWQP Terms and
Conditions*



Public Works Department

2525 13th Street, Suite 203 • Boulder, Colorado 80304 • (303) 441-3900 •

Stormwater Quality Permit Terms and Conditions

Permit Standard Operating Requirements

1. The permittee must keep the accepted SWMP on site at all times and shall make the SWMP available for County Engineer inspection upon request.
2. The permittee shall provide timely installation and maintenance of all required temporary and permanent BMPs required in the SWMP. Nonfunctioning, damaged, or destroyed BMPs shall be repaired or restored immediately. All BMP maintenance, repair, and restoration work shall be documented on the accepted SWMP and available for County Engineer inspection.
3. The responsibility to maintain and reconstruct or repair all BMPs, both temporary and permanent, shall run with the land and be binding on subsequent owners. Permanent BMPs shall be maintained in perpetuity.
4. The permittee shall inspect all temporary BMPs at least every 14 days and within 24 hours after any precipitation or snowmelt event that causes surface runoff. An erosion control supervisor ("ECS") must conduct all BMP inspections and keep a detailed record of same, as part of the SWMP required to be kept on site and available for County Engineer inspection. The ECS is the same as a SWMP Administrator as described in the General Stormwater Permit issued by CDPHE.
5. By accepting the issued permit, the permittee consents, both for itself and its successors in interest, to allow the County Engineer and associated County agents access to the property which is the subject of the permit, for purposes of inspecting compliance with the permit including its approved SWMP, approved final drainage plan, and all required BMPs, both temporary and permanent. County access may occur at any time for this purpose and without prior notice to the permittee, including the landowner, operator or any responsible party under the approved permit, so long as the permit is active or BMPs or the permit requires meeting or maintaining other requirements.
6. In instances where the County Engineer has reason to believe that an unannounced inspection is not necessary to assessing compliance, the County Engineer may provide prior notice of a forthcoming inspection to the permittee.



Changes to Issued Permit; Required Permit Amendments

1. Upon receipt of a stormwater quality permit, the permittee may request, and the County Engineer may, at his discretion, administratively approve minor modifications to the SWMP and its approved temporary BMPs. To qualify as a minor change, the permittee must contact the MS4 Stormwater Compliance Inspector so that they can determine if the change provides equivalent water quality protection while still fulfilling the purposes of this section and not increasing adverse water quality impacts. The County Engineer may impose reasonable terms and conditions on any approval of the proposed change as minor, to assure that the change is not substantial and otherwise complies with the issued permit and this section, which terms and conditions shall become part of the issued permit.
2. When a change to the accepted SWMP or any other aspect of an approved permit involves design, construction, operation, or maintenance and has the potential to cause a reduction in water quality protection or have a significant effect on hydrology or stormwater discharge from the project or site, the change shall be considered a substantial modification to the approved permit, and may not proceed unless the County Engineer first approves an amendment to the permit filed and processed in accordance with the permit application procedures specified in this section, above. In the alternative, the permittee may request that the County Engineer determine whether a proposed change is minor or substantial in accordance with the considerations specified in this section.

County Confirmation of Compliance with Issued Permits; Ongoing Requirements To Maintain Permanent BMPs

1. Upon completion of the construction or development covered by a stormwater quality permit, the permittee shall request that the County Engineer perform a final inspection to confirm compliance with the accepted SWMP and all other requirements of the permit related to controlling stormwater and other construction site discharges prior to and during construction.
2. For all other requirements pertaining to Permanent BMPs, see the Boulder County Land Use Code that was in effect when the Stormwater Quality Permit (SWQP) was issued for this project.

Enforcement and Penalties

1. Violation: It is unlawful for any person to violate any provision of a stormwater quality permit or fail to comply with any of the requirements of Article 7-904 of the Boulder County Land Use Code. Any person who violates any of the



provisions of this code may be subject to one or more of the enforcement actions outlined below.

2. **Enforcement:** All personnel authorized by the County Engineer shall have the power to conduct inspections, give verbal direction, issue notices of violations, perform abatement actions, seek judicial permission and relief, and implement other enforcement actions under this section or as otherwise authorized by law.
3. **Right of Entry To Investigate Suspected or Known Violations:** Whenever the County Engineer has reason to believe that there exists or is likely to exist any condition which constitutes a violation of Article 7-904 of the Boulder County Land Use Code, the County Engineer shall have the right to enter the subject property at any reasonable time to inspect and determine whether a violation exists.
 - a. **Consent for Entry, or Administrative Search Warrant, Required:** Before entering any property, the County Engineer shall make a reasonable effort to locate the owner and obtain consent to enter. If such consent cannot be obtained, the County Engineer may seek entry by submitting a sworn affidavit to the proper court of jurisdiction, setting forth facts sufficient to support a reasonable belief that a violation exists or is likely to exist and that further investigation of the property is thus warranted. Such request for entry may include the right for the County Engineer or its designees to set up devices on the property, conduct sampling, take photographs, or perform other investigations deemed reasonably necessary to investigate the alleged violation or assess the effect of any unauthorized erosion or discharges.
 - b. **Consent for Entry, or Administrative Search Warrant, Not Required:** Consent to enter or an administrative search (inspection) warrant shall not be required if entry is authorized under an existing stormwater quality permit or other prior authorization of the owner or permittee; to make observations from public property, other private property, or portions of the subject property that are open or accessible to the public or in which the owner otherwise lacks a reasonable expectation of privacy; or where the County Engineer deems an emergency situation to exist which imminently threatens the public health or safety.
4. **Notice of Violation:** If the County Engineer determines that a violation of Article 7-904 of the Boulder County Land Use Code exists and exercises discretion to pursue enforcement, the County Engineer shall provide written notice, in letter or electronic form, to the property owner of record, and to any known permittee or operator if different from the owner. The notice shall describe the alleged violation, the steps required to abate the violation, and a reasonable timetable for compliance.
5. **Stop Work Order:** The County Engineer may also, in writing sent to or served on the property owner and/or permittee or operator, order that the activity



constituting a violation be stopped until further notice from the County Engineer. If the owner and/or operator or permittee cannot be located, the notice to stop shall be posted in a conspicuous place upon the area where the activity is occurring and shall state the nature of the violation. It shall be unlawful for any owner and/or operator or permittee to fail to comply with a stop work order.

6. **Judicial Enforcement Remedies Generally:** If compliance is not timely achieved, the County Engineer or County Sheriff, as applicable, may enforce Article 7-904 of the Boulder County Land Use Code in any court of competent jurisdiction, seeking civil or criminal remedies, as appropriate, and relying on any applicable legal enforcement authority, including but not necessarily limited to county zoning regulatory enforcement under C.R.S. Sections 30-28-124 and 30-28-124.5; county building code enforcement under C.R.S. Section 30-28-209; and county ordinance enforcement under Part 4 of Article 15 of Title 30, C.R.S. In addition, any condition caused or permitted to exist in violation of this section is a threat to public health, safety, and welfare, and is declared and deemed a public nuisance, with any court of competent jurisdiction empowered to enjoin such violations upon proof thereof. In any such action the County may recover its costs and attorneys' fees, and collect applicable penalty assessments, as authorized by law.
7. **Judicial and Penalty Assessment Enforcement Remedies under County Ordinance Powers (C.R.S. Sections 30-15-402-410, including the simplified county court procedures of Part 1 of Article 2 of Title 16, C.R.S., and the penalty assessment provisions of C.R.S. Sections 16-2-201 and 18-1.3-503):** Any person who violates a county ordinance adopted pursuant to Part 4 of Article 15 of Title 30, C.R.S., commits a class 2 petty offense under state law which shall be punished by a fine of not more than one thousand dollars for each separate violation. Each day that a violation is proven to exist may be considered a separate offense. Under this authority, the Board of County Commissioners adopts the following graduated fine schedule: \$500 for the first violation, and \$1,000 for the second or repeat violations. Pursuant to C.R.S. Section 16-2-201, the arresting officer may give the violator a penalty assessment notice, or a summons and complaint may be issued pursuant to the simplified county court procedures of Part 1 of Article 2 of Title 16, C.R.S. The County Engineer and official designees are hereby designated to enforce the ordinance provisions of this Article 7-904 of the Boulder County Land Use Code as authorized in C.R.S. Section 30-15-402.5, and the County Sheriff is empowered to enforce county ordinance provisions under C.R.S. Section 30-15-410.
8. **Administrative Remedy of Abatement of County Ordinance Violation under C.R.S. Section 30-15-401(11):** Any violation that the County Engineer determines is part of the County's stormwater quality management program required by the County's Municipal Separate Storm Sewer System (MS4)



CDPS General Permit issued by the state WQCD, and that the owner, operator or permittee fails to abate following notice of violation provided as required under Article 7-904 of the Boulder County Land Use Code, may be administratively abated by the County in accordance with C.R.S. Section 30-15-401(11), as incorporated herein. The following provisions shall govern such proceeding:

- a. The County Engineer shall seek an administrative entry and abatement (seizure) warrant from the county or district court having jurisdiction over the property from which the violation is to be abated, which the court shall issue upon the County Engineer's presentation of this Article 7-904 of the Boulder County Land Use Code (which has been adopted as a C.R.S. Section 30-15-401(11) ordinance); a sworn or affirmed affidavit stating the factual basis for the warrant; evidence that the property owner has received notice of the alleged violation and has failed to abate the condition within the reasonable prescribed period; a general description of the location of the subject property; and a general list of corrective action needed.
- b. Within ten (10) days after the date of issuance of the administrative entry and abatement (seizure) warrant, the County Engineer shall execute the warrant in accordance with the directions by the issuing court; provide or mail a copy of the warrant to the property owner; and submit proof to the court of execution of the warrant, including a written inventory of any property impounded by the County Engineer.
- c. Upon completion of these requirements, the County Engineer may assess the reasonable cost of the abatement, including five percent for inspection and other incidental costs in connection with the abatement, upon the subject property, by recording a notice of such assessment with the County Clerk and Recorder. The notice shall specify the basis for and amount of the assessment, and a reasonable time within which the assessment must be paid to the County, which generally shall be within thirty (30) days unless the County Engineer determines a longer or shorter payment period is reasonable.
- d. Once recorded, the assessment notice shall be a lien against the subject property until paid, and shall have priority based upon the date of recording. If the assessment is not paid within the time specified in the notice, the County Clerk and Recorder, upon request of the County Engineer or other responsible County official, may certify that fact to the County Treasurer, who shall collect the assessment, together with a ten (10) percent penalty for the cost of collection, in the same manner as taxes are collected. State law for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of the assessment authorized in Article 7-904 of the Boulder County Land Use Code.



9. Remedies Not Exclusive: The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law, and the exercise of any remedy specified herein shall not necessarily prejudice the pursuit of other listed remedies. It is within the discretion of the County Engineer to seek cumulative remedies.

Administrative Appeals

1. Any person aggrieved by the inability to obtain a stormwater quality permit under this Article 7-904 of the Boulder County Land Use Code, or by the County Engineer's final decision on an issued permit or interpretation of the provisions of this section, may file an administrative appeal with the Board of County Commissioners. An appeal must be filed in writing with and received by the County Engineer no later thirty (30) days after the final action or decision being appealed. Upon receipt of an appeal authorized in this section, the County Engineer shall schedule a public hearing before the Board of County Commissioners on the appeal at the soonest time practicable, considering the Board's schedule, staff time needed to prepare a presentation on the appeal, the issues presented in the appeal, and timing concerns of the appellant.
2. Notice of a Board of County Commissioners' hearing on the appeal shall be published in a newspaper of general circulation within the County, and provided to the appellant, no later than fourteen (14) days prior to the hearing. At the hearing, the Board shall consider the documents and testimony presented by the appellant and its representatives, the County Engineer, any other involved County staff, and any interested members of the public. The Board shall make a decision based on the entire record before it, either affirming in whole or in part, or overturning, the decision of the County Engineer. The Board's decision shall be considered final upon the Board's adoption of a written resolution memorializing its decision at the public hearing.

Related Provisions

1. In addition to requirements in this Article 7-904 of the Boulder County Land Use Code, stormwater quality and discharge of pollutants into the municipal separate storm sewer system (MS4, or County storm drain system) are subject to regulation under Boulder County Public Health's Ordinance 2012-4, "An Ordinance Concerning Illicit Discharge and Stormwater Quality."
2. Other permits or approvals under this Code, and related regulations of the County, such as those of the Community Planning and Permitting Department and County Public Health, may be necessary before construction or development can commence.



*Construction Stormwater Quality
Program*
Standard Operating Procedures (SOP)

Appendix D: Checklists



**STORMWATER QUALITY PERMIT REVIEW CHECKLIST –
 FOR SMALL PROJECTS NEAR WATERWAYS**

PROJECT INFORMATION				
1. Project Name/ Applicant Name: _____	2. SWQP # (Reviewer to Complete): _____			
3. Location/Address: _____				
4. Submittal Date:	(1)	(2)	(3)	(4)
5. a.Total Lot Size or Project Size (Acres): _____			b.Total Disturbed Area (Acres): _____	
c. Horizontal Distance to waterway (feet): _____ (or zero if boring under waterway)				
6. Submitted by:	Firm: _____			
	Contact (name and email): _____			
	Phone: _____			
7. Qualified Stormwater Manager (name and email): _____ _____				
SUBMITTAL REQUIREMENTS				

1. Site Map Requirements

ITEM	Permittee to complete: Included (I), not included (NI) or not applicable (N/A)	MS4 Reviewer to complete: (I, NI, or N/A)
a. Construction site boundaries		
b. Limits of disturbance. All areas of ground surface disturbance on the site including areas of borrow and fill.		
c. Flow arrows that depict stormwater flow directions on-site and runoff direction		
d. Areas used for storage of soil.		
e. Locations of all waste accumulation areas, including areas for liquid, concrete, masonry, and asphalt. <i>These areas must be located away from watercourses, drainage ditches, field drains, or other stormwater conveyances to the extent feasible.</i>		
f. Locations of dedicated masonry mixing stations, if applicable.		
g. The location of all structural controls, such as perimeter controls, sediment basins and vehicles tracking controls.		
h. The location of all non-structural control measures, such as protection of existing vegetation, areas to be seeded after construction, and temporary stabilization areas.		
i. Locations of springs, streams, wetlands, and other stormwater conveyances.		

j. Locations of all stream crossings located within the construction site boundary		
k. Specifications for the installation, implementation, and maintenance of the control measures (Control Measure Details)		

County Reviewer Comments:

Does the submittal meet the requirements of County regulations? _____

Date of review letter: _____

Reviewer's Name and Email: _____

Reviewer's Signature (to be signed upon final review and acceptance):

Note: The Boulder County Public Works Department has reviewed Stormwater Quality Permit (SWQP) submittal for local-level purposes, including conformance with Boulder County Land Use Code (LUC) pertaining to erosion and sediment control. Additional control measures may be requested in the field if the reviewed control measures are not adequate for field conditions.



STORMWATER QUALITY PERMIT REVIEW CHECKLIST

PROJECT INFORMATION				
1. Project Name/ Applicant Name: _____	2. SWQP # (Reviewer to Complete): _____			
3. Location/Address: _____				
4. Submittal Date:	(1)	(2)	(3)	(4)
5. a. Total Lot Size or Project Size (Acres): _____			b. Total Disturbed Area (Acres): _____	
c. Horizontal Distance to waterway (feet): _____ (or zero if boring under waterway)				
6. Submitted by:	Firm: _____			
	Contact (name and email): _____			
	Phone: _____			
7. Qualified Stormwater Manager (name and email): _____ _____				
SUBMITTAL REQUIREMENTS				

1. General Information and Site Description

ITEM	Permittee to complete: Included (I), not included (NI) or not applicable (N/A)	MS4 Reviewer to complete: (I, NI, or N/A)
a. A completed Stormwater Quality Permit Application.		
b. Documentation of an application for a State CDPS stormwater construction general permit (SCP). (For sites over one acre or common plan of development)		
c. A description of the nature and type of construction activity (e.g., low density residential, shopping mall, highway, etc.).		
d. The proposed schedule and sequence for major construction activities and the planned implementation of control measures for each phase. (e.g., clearing, grading, utilities, vertical, etc.)		
e. Estimates of the total acreage of the site, and the acreage expected to be disturbed by clearing, excavation, grading, or any other construction activities. SCP requires construction limits and disturbance acreages be provided. If these are the same indicate as such.		
f. Existing data describing the soil types on the site and/or the potential for soil erosion.		
g. A description of the percent of existing vegetative ground cover relative to the entire site and the method for determining the percentage.		
h. A description of any allowable non-stormwater discharges at the site, including those being discharged under CDPS low risk discharge guidance policy.		

i.	A description of areas receiving discharge 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 name of the entity owning that system, the location of the storm sewer discharge, and the ultimate receiving water(s).		
j.	A description of all stream crossings located within the construction site boundary.		

2. SWMP Site Map Requirements

ITEM	Permittee to complete: Included (I), not included (NI) or not applicable (N/A)	MS4 Reviewer to complete: (I, NI, or N/A)
a.	Construction site boundaries	
b.	Limits of Disturbance. All areas of ground surface disturbance on the site including areas of borrow and fill. The SCP requires construction and disturbance limits be illustrated on the site maps. If they are the same indicate as such on the maps.	
c.	Flow arrows that depict stormwater flow directions on-site and runoff direction	
d.	Areas used for storage of soil	
e.	Locations of all waste accumulation areas, including areas for liquid, concrete, masonry, and asphalt. <i>These areas must be located away from watercourses, drainage ditches, field drains, or other stormwater conveyances to the extent feasible.</i>	
f.	Locations of dedicated asphalt, concrete batch plants, and masonry mixing stations.	
g.	The location of all structural controls, such as perimeter controls, sediment basins and vehicle tracking controls.	
h.	The location of all non-structural control measures, such as protection of existing vegetation, areas to be seeded after construction, and temporary stabilization areas. <i>Note: Temporary stabilization is anticipated to be redlined in the field.</i>	
i.	Locations of springs, streams, wetlands and other state waters, including areas that require pre-existing vegetation be maintained within 50 feet of a receiving water, where determined feasible in accordance with State SCP.	
j.	Locations of all stream crossings located within the construction site boundary	

3. Construction Stormwater Management Controls for Potential Pollutant Sources

ITEM	Permittee to complete: Included (I), not included (NI) or not applicable (NA)	MS4 Reviewer to complete: (I, NI, or NA)
A description of all potential pollution sources, including surface disturbing activities, vehicle fueling areas, fertilizer or chemical storage, concrete truck washouts, etc. (See below for minimal pollutants that must be evaluated):		
a.	All 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, detergents, fuels, solvents, oils, etc.	

i.	On-site waste management practices (waste piles, liquid wastes, dumpsters, etc.)		
j.	Concrete truck/equipment washing, including the concrete truck chute and associated fixtures and equipment. Note there must be adequate buffering capacity for excavated washouts.		
k.	Dedicated asphalt, concrete batch plants, and masonry mixing stations		
l.	Non-industrial waste sources that may be significant such as worker trash and portable toilets		
m.	Other areas or procedures where potential spills can occur		
n.	Material handling: Does the SWMP describe and locate all control measures implemented at the site to minimize impacts from handling significant materials (e.g., paints, concrete, trash, etc.) that could contribute pollutants to runoff?		
o.	Spill Prevention and Response Plan - Does the SWMP have a spill prevention and response plan that includes providing secondary containment for 55 gallon or greater bulk storage of petroleum products and other liquid chemicals?		
p.	Implementation of Control Measures – Does the SWMP 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, and maintenance requirements.		

4. Effluent Limitations

ITEM	Permittee to complete: Included (I), not included (NI) or not applicable (N/A)	MS4 Reviewer to complete: (I, NI, or N/A)
A description of effluent limitations (not already covered in other sections of this checklist).		
a.	Based on the SWMP narrative and maps, does all runoff from disturbed areas and soil storage areas for which permanent or temporary stabilization has not been implemented appear to flow to at least one control measures to minimize sediment?	
b.	If there is a sediment basin or other impoundment, does the outlet draw water from the top?	
c.	Soil compaction must be minimized for areas where final stabilization will be achieved through vegetative cover or an infiltration control, is this described in the SWMP?	
d.	Topsoil must be preserved for areas that will utilize vegetative cover for final stabilization unless infeasible. Is this addressed in the SWMP?	
e.	Disturbances must be minimized, especially on steep slopes. Is this stated in the SWMP?	
f.	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. Is this addressed in the SWMP or an alternative schedule given?	

5. INSPECTION AND MAINTENANCE

ITEM	Permittee to complete: Included (I), not included (NI) or not applicable (N/A)	MS4 Reviewer to complete: (I, NI, or N/A)
a.	A description of inspection frequency and maintenance practices.	

6. F Final Stabilization and Long-Term Stormwater Management

The SWMP must include the following information on post-construction stabilization and long-term stormwater management:

ITEM	Permittee to complete: Included (I), not included (NI) or not applicable (N/A)	MS4 Reviewer to complete: (I, NI, or N/A)
<p>a. A description of the practices that will be used to achieve final stabilization of all disturbed areas at the site, including, but not limited to:</p> <ul style="list-style-type: none"> • Seed mix selection and methods of seed application; • Soil preparation and amendments; • Soil stabilization methods (Straw, hydromulch, rolled erosion control products); • Use of topsoil if salvation was feasible and if not feasible, information why topsoil preservation was not possible; • Sediment control BMPs to be maintained until stabilization is achieved; • Non-erosive surfaces (such as asphalt, concrete, riprap, gravel, etc.); • Landscaping plans or other stabilization practices as applicable. <p><i>Sediment that collects within the site's drainage system and permanent water quality or quantity controls is considered unstabilized soil, and must be removed prior to the site being considered finally stabilized.</i></p>		
<p>b. A description of structural post-construction or permanent control measure practices to manage stormwater runoff once construction activities have been completed. The post-construction checklist must also be submitted for projects disturbing one acre or more within the urbanized area.</p> <p><i>The permanent control measures must meet design requirements of SDCM Section 1204. Certain projects such as stream stabilization or trail work may qualify for an exclusion from the requirement to implement structural post-construction control measures. Post construction control measures and drainage reports are reviewed separately and have separate requirements other than just being shown on the SWMP Maps and describe briefly in the SWMP. See Boulder County Permanent Stormwater Control Measures Checklist for those requirements .</i></p>		

County Reviewer Comments:

Does the SWQP submittal meet the requirements of County regulations? _____

Date of review letter: _____

Reviewer's Name: _____

Reviewer's Signature (to be signed upon final review and acceptance):

Note: The Boulder County Public Works Department has reviewed the Construction Stormwater Management Plan (SWMP) as part of the above referenced Stormwater Quality Permit (SWQP) submittal. The SWMP was reviewed for local-level purposes, including conformance with Boulder County Land Use Code (LUC) pertaining to erosion and sediment control. Importantly, the SWMP was not reviewed for conformance with the Colorado Discharge Permit System (CDPS) general permit for *Stormwater Discharges Associated with Construction Activities* (state stormwater discharge permit); therefore, Boulder County's review does not ensure compliance with the state stormwater discharge permit or the required SWMP contents. Additional control measures may be requested in the field if the reviewed control measures are not adequate for field conditions.



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Appendix E: SWQP Process Flowchart

BOULDER COUNTY PUBLIC WORKS
 STORMWATER QUALITY PERMIT
 CONSTRUCTION SITES
 LU CODE 7-904

Projects within 100-ft of a watercourse with less than 1 acre of land disturbance

Projects with 1 acre or greater of land disturbance OR Common Plan of Development

Projects with less than an acre of land disturbance, AND farther than 100-ft from a watercourse, AND not part of a Common Plan of Development

Small Projects SWQP
 Submit to ezbp@bouldercounty.org
 1. Application
 2. Small Projects Checklist
 3. Site Plan
 4. BMP Details

Large Projects SWQP
 Submit to ezbp@bouldercounty.org
 1. Application
 2. SWQP Checklist
 3. SWMP
 4. Site Plan
 5. CDPS Certification
 4. BMP Details

No SWQP Required

Review by Public Works Stormwater Team (approx 2 weeks)

application accepted
 NOTE: SWQP not issued until after a passing Initial Inspection

application not accepted/requirements not met

pay fees when Building Permit is issued or email ezbp@bouldercounty.org

Obtain other required permits (i.e. building or grading permits)

install control measures appropriate for first construction activities

Email tdstormwater@bouldercounty.org for a SWQP Initial Inspection of control measures

SWQP Issued by the Stormwater Inspector after the Initial Inspection

Large Projects
 MS4 Inspections (every 45 days/every 90 days)

Small Projects
Permit Closeout
 1. All areas have achieved final stabilization (70% of pre-disturbance vegetation or non-erosive surfaces)
 2. All work areas have been left free of sediment and construction debris/waste
 3. No evidence of damage from the contractor to public infrastructure
 4. Temporary control measures (BMPs) have been removed
 5. Email tdstormwater@bouldercounty.org for a Final Inspection



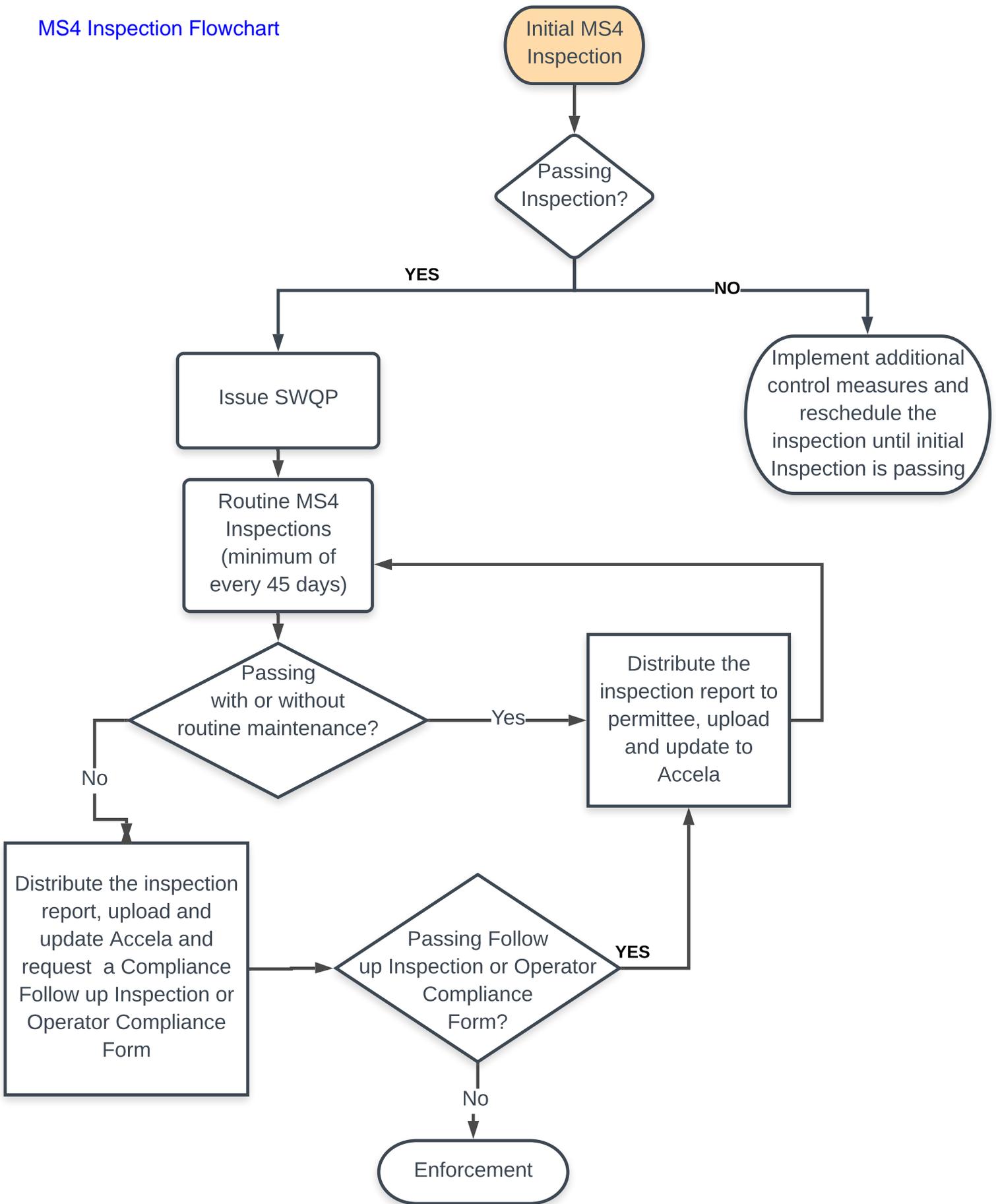
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*Appendix F:
MS4 Inspection Key Responsibilities
Table and Inspection Process
Flowchart*

MS4 Inspections Tasks and Responsibilities

Inspections		
Task	Responsibility	Details
Initial Inspection	Member of the County's Stormwater Quality Team	<ul style="list-style-type: none"> Inspect site once CMs have been installed but before work has started. The Initial MS4 Inspection is required before permittee can disturb ground other than for the installation of the initial CMs. Confirm with the permittee that the permit and the current site plan will be available at the project site. The site plan must be updated to reflect the most current conditions. Review permit requirements, potential pollutant sources, control measures and expectations for control of pollutants from site.
Perform MS4 routine inspections.	Member of the County's Stormwater Quality Team	Perform routine MS4 stormwater inspections—see SOP section "Frequency, Scope and Documentation of Inspections" for details.
Address corrective action items identified	Owner, Operator, Permittee or Contractor	Corrective action items must be addressed as soon as possible, immediately in most cases. Documentation must be supplied to demonstrate that corrective actions were addressed.
Perform re-inspections as needed.	Member of the County's Stormwater Quality Team or Operator Compliance Follow-Up	Complete follow-up inspections for observed problems or violations per SOP Section 5. Depending on the corrective action items identified, the County's MS4 Inspector may perform the follow-up inspection or it may be performed by the operator/permittee. The County's MS4 stormwater inspector decides who will be responsible for the follow-up inspection based on several factors including but not limited to the severity of the corrective action item, past history of the site, contractor, or location.
Document and File MS4 compliance inspections.	Member of the County's Stormwater Quality Team	Document all inspections. Enter inspection results into Accela.
Notify owner/operator or in the case of public projects the CIP Project Manager of MS4 Stormwater Inspection results.	Member of the County's Stormwater Quality Team	Inspector should provide owner/operator and CIP Project Manager, if applicable, copies of the inspection report via email. In most cases, the Inspector will go over the inspection results in person when in the field either during the site walk or as a debriefing after the site walk prior to the Inspector leaving the site.

MS4 Inspection Flowchart



Inspection cycle continues until construction is completed and final stabilization measures implemented. If final stabilization includes re-establishing vegetation then inspections are reduced to a minimum of every 90 days until final stabilization is achieved and a final inspection is completed and the project is closed out in Accela



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*Appendix G:
Inspection Forms*



Public Works Department MS4 OVERSIGHT INSPECTION

Project Information

Project Name:	Date of Inspection:
Boulder County Permit No.: SWQP-	Does the project drain to the County's MS4?

Reason(s) for Inspection

- | | |
|---|--|
| <input type="checkbox"/> Initial Inspection | 90 Calendar Day Reduced Inspection for |
| <input type="checkbox"/> 45 Calendar Day Routine Inspection for MS4 Oversight | <input type="checkbox"/> inactive sites <input type="checkbox"/> stormwater management program |
| <input type="checkbox"/> 14 Calendar Day Indicator Inspection Screening/Drive-by | <input type="checkbox"/> SWMP staff vacancy (check one) |
| <input type="checkbox"/> 14 Calendar Day Compliance Inspection corrective action follow-up | <input type="checkbox"/> Complaint:
Date reported/identified: |

Construction Site Assessment (Pollutants, Controls, and Discharge Evaluations)

Observations	Status	Corrective Action Needed and Notes, if Applicable
1. Did the project fail to implement control measures?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
2. Were inadequate control measures observed at the time of the inspection?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
3. Were any offsite discharges observed at the time of the inspection?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
If yes to questions 1-3, a follow up inspection or operator compliance form is required within 14 days. See Inspection Results for details.		
4. Did any control measures need routine maintenance at the time of the inspection?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
5. Were all potential pollutant sources evaluated?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
6. Is there a Stormwater Management Facility (SWMF) associated with the site? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, describe type of SWMF and the status and condition of the SWMF		
7. Has there been a major or minor modification since the last MS4 inspection? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, describe		
8. Other Observations/Field Notes:		

Inspection Results

- | | |
|---|--|
| <input type="checkbox"/> Passing Inspection: No deficiencies exist. | <input type="checkbox"/> Notice of non-compliance: Numerous deficiencies are noted. |
| <input type="checkbox"/> Passing Inspection: No deficiencies exist but routine maintenance identified. | <input type="checkbox"/> Notice of Violation: Indicates a site with site-wide or systematic BMP issues, chronic site violations, and/or repeated non-compliance items which must be resolved immediately. |
| <input type="checkbox"/> Deficiencies Exist: Please note corrective actions must be addressed immediately in most cases. | |

Contractor/Operator compliance form and photographs are due by (insert date):

If this form is not received by this date, a follow up inspection will be scheduled within 14 days of the original MS4 Inspection



Public Works Department
MS4 OVERSIGHT INSPECTION

Inspection Certification

I certify that the information in this Inspection Report is, to the best of my knowledge and belief, true, accurate, and complete. This report may not include all deficiencies on your site. This MS4 oversight inspection is designed to assist the County in determining if this site's stormwater program is being consistently and effectively implemented.

MS4 Compliance Inspector Name:

Date:

MS4 Compliance Inspector Signature:

Please note, this report may not include all deficiencies on your site. This MS4 oversight inspection is designed to assist the County in determining if this site's stormwater program is being consistently and effectively implemented.



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*Appendix H:
MS4 Delegation Letter Example*



Public Works

2525 13th Street • Boulder, Colorado 80304 • Tel: 303-441-3900
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.BoulderCounty.org

October 18, 2022

Jeff Arthur, Director of Public Works
City of Lafayette

Kurt Kowar, Director of Public Works
City of Louisville

Re: 104th Street Trail Connection

Dear Mr. Arthur, and Mr. Kowar

Boulder County Public Works Department (County) is contacting you regarding stormwater permitting and inspection for the above referenced project. This trail connection project along 104th St will include concrete and soft surface trail construction, drainage structures, and fencing. The project is anticipated to begin in the fall of 2022. This is a joint project of which a portion overlaps the City of Lafayette's (Lafayette) and the City of Louisville's (Louisville) jurisdictional boundaries. To avoid the confusion of permitting and inspections from multiple agencies, we are asking that Lafayette and Louisville agree to let Boulder County be the lead party regarding permitting and inspections of the project under Boulder County's Municipal Separate Storm Sewer System (MS4) permit certification.

By signing this letter, Lafayette and Louisville agree that the County will have delegated authority and be fully responsible for enforcement of rules, regulations, and policies including the issuance of the Stormwater Quality Permit and compliance with the MS4 Permit Construction Program and Post-Construction Program requirements. Specific to the project referenced above, the county will provide a Post-Construction exclusion for Trails.

Lafayette and Louisville maintain the right to perform inspections as deemed necessary and will inform the County of measures that need to be taken to remedy site conditions including but not limited to illicit discharge. The County shall be responsible for any enforcement actions and will follow enforcement procedures in the County's Standard Operating Procedures. The County will contact Lafayette and Louisville upon completion of construction so that the city may review and provide final acceptance.

We appreciate the collaborative partnership with the Cities of Lafayette and Louisville in streamlining the MS4 Construction oversight for the above referenced project.

Regards,

Michael A. Thomas, P.E.
County Engineer

Accepted and agreed to this 20th day of October, 2022