

2016 MS4 General Permit and Construction

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What is an MS4 Permit

- Permit issued to government entities in urban areas or over 10,000 in population
- COR090000 and COR080000 General Permits for cities and counties renewed this year
 - There is also a nonstandard permit for districts and other government entities, but it is not focused on oversight of 3rd parties and has not yet been renewed
- Authorizes point source discharges from the cities stormwater system
- Includes requirements to reduce the discharge of pollutants



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The MS4 Permit and Third Parties

- The MS4 permit requirements apply to the permittee (city or county)
- The permit requires the permittee to regulate, through ordinance or other regulatory mechanism, activities of third parties that may impact the quality of discharges
- If a construction site operator's action is not in accordance with the permit requirement, it is the MS4 permittee that is in violation of the MS4 permit, not the construction site operator
 - HOWEVER, the construction site operator and owner may still be in violation of the CWA, Colorado Water Quality Control Act, or a separate permit (Construction Stormwater)



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Legal Authority of the City or County

- Legal authority to regulate construction site is provided in the state statutes...NOT by the permit
- Cities and Counties have authority to be more stringent than the permit
- Cities and Counties have authority to regulate activities, even if the resulting/potential discharge is not covered by the permit, including
 - Construction sites outside the permit area
 - Discharges that do not go to the permittee's collection system (MS4)



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What is the permittee's MS4 (stormwater collection system)

- A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) designed or used for collecting or conveying stormwater (full definition in permit/reg)
- Includes conveyances that are owned or operated by the permittee through agreement, contract, direct ownership, easement, or right-of-way and are for the purpose of managing flood plains, stream banks, and channels for conveyance of stormwater flows in order for the discharges to be authorized by this permit.
- Paraphrased: If the water flows over area managed by the permittee to allow drainage, it is most likely the MS4



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Change in Basic Permit Approach

Previous Permit

- Set basic program outcome expectations, and permittee identified in a program description the specifics on how those outcomes would be reached.
 - E.G.: develop, implement, and document procedures for construction site compliance assessment, including site inspections

Current Permit

- Identifies the basic minimum scope and scale of a program implementation. Procedures and processes are documented by the permittee, but the expectations are in the permit
 - E.G.: A routine inspection must be conducted at least once before final stabilization....Conduct at least every 45 days (with exceptions)....etc..
- Permittees must continue to meet the Previous Permit requirement until they revise the program to meet the Current Permit (no later than July 2019)



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Construction Sites Section of Permit

- Covers all discharges (not just stormwater) from construction activities
 - In the permit area
 - that result in a land disturbance of greater than or equal to one acre, including activates part of a common plan of development one acre or more
- A few exclusions:
 - R-Factor Waiver sites
 - Some exclusions for county growth areas (e.g., some large lot single family home development and some agricultural construction)



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Basic Components of Construction Sites Section of Permit

- Selection, installation, implementation, and maintenance of control measures in accordance with Good Engineering, Hydrologic and Pollution Control Practices: Methods, procedures, and practices that:
 - Are based on basic scientific fact(s).
 - Reflect best industry practices and standards.
 - Are appropriate for the conditions and pollutant sources.
 - Provide appropriate solutions to meet the associated permit requirements, including practice based and numeric effluent limits.



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Basic Components

- All site plans must be reviewed
- Inspections
 - 45-day routine inspections
 - Reduced inspections frequency for certain sites: inactive, Qualified CSEP (Associated General Contractor's excellence program), staff vacancy
 - Allows a 90-day frequency PLUS 14-day indicator inspections
 - Must conduct follow-up Compliance Inspections when for failure to implement or inadequate controls. Allows for operator inspectors and reports with photos.



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Basic Components

- Enforcement with sanctions and a process for escalation
- Training to make sure operators are aware of the program
- Record keeping and procedures



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Construction activities that overlap jurisdictions

- When a written agreement is in place with a co-regulating MS4 permittee:
 - 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.
 - Site plan review/acceptance and site inspection actions may be conducted by a co-regulating MS4 permittee to meet the requirement of the permit.



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Stormwater Discharges Associated with Construction Activity

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General Permit: Considerations

- House Bill 12-1119
- EPA Effluent Limitation Guidelines
- Stormwater inspections conducted at construction sites.
- EPA and other state's - most recent construction stormwater general permits.



General Permit: Notable changes

- Change permit number:
 - From COR030000 to COR400000.
- Adjust layout of permit.
- Removal of uncontaminated groundwater to land.
 - Covered under a low risk discharge policy.



General Permit: Notable changes

- Added 7 day inspection frequency option
- Added definition for a qualified stormwater manager.



General Permit: Notable changes

- Incorporate EPA Effluent Limitation Guidelines.
 - Examples:
 - Maintaining pre-existing vegetation within 50 feet of a surface waterbody, unless infeasible.
 - Temporary soil stabilization.
 - Surface outlets for discharges from basins and impoundments
 - The term infeasible -
“Not technologically possible, or not economically practicable and achievable in light of best industry practices.”



General Permit: Notable changes

- Control Measure Requirements.
 - Structural and Non-structural.
 - Control measure requiring routine maintenance.
 - Inadequate Control Measure.



General Permit: Notable changes

- Owner/Operator Requirements
 - Background:
 - House Bill 12-1119 stakeholder process.
 - EPA and other states.



General Permit: Notable changes

- Owner/Operator Requirements
- Draft:
 - Requires the owner and operator's signatures
 - Allows flexibility for owner's signature
 - Allows flexibility for operator to terminate



Questions?



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