**COR 070000** **Post-Construction Program Procedures TEMPLATE**

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*DISCLAIMER:*

*This document, courtesy of SPLASH members, has been provided for* ***educational purposes only*** *to assist other permittees regarding the MS4 Non-standard Permit, effective November 1, 2021.*

*This document may contain omissions or errors and therefore any use of this will be entirely at your own risk.*



(The following template is an example only. There are many methods to comply with the COR-070000 MS4 Permit and many types of permittees. Edit this document as needed based on your specific program.)

*Permittee to fill out yellow highlighted sections.*

*Recordkeeping that must occur has been included with the requirement section.*

*Insert Document Revision number and date here.*

# Introduction

Protecting the quality of stormwater runoff is required by the Colorado Discharge Permit System (CDPS) Regulations. The procedures described in this document detail compliance with requirements of the Municipal Separate Storm Sewer System (MS4) Permit (COR070000) issued by the Colorado Department of Public Health and Environment (CDPHE). The CDPHE, Water Quality Control Division (WQCD), through the MS4 permit issued to the Permittee, requires the Permittee 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 Regulations (Colorado Regulation 61). Specifically, 61.8(11) Conditions for Phase II Municipal Stormwater Permits states,

*(a) An individual permit or general stormwater permit certification issued to a regulated small MS4 shall contain the following requirements, at a minimum:*

*(i) …regulated small MS4 develop, implement, and enforce a stormwater management program designed to reduce the discharge of pollutants from the MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Colorado Water Quality Control Act (25-8-101 et seq., C.R.S.). …Implementation of BMPs consistent with the provisions of the stormwater management program required pursuant to this section and the provisions of the permit required pursuant to subsection (ii) constitutes compliance with the standard of reducing pollutants to the MEP…*

*(ii) Minimum control measures (management programs).*

*(E) Post-construction stormwater management in new development and redevelopment*

*(I) The permittee must develop, implement, and enforce a program to address stormwater runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the small MS4. The program must ensure that controls are in place that would prevent or minimize water quality impacts.*

*(II) The permittee must:*

*(a) Develop and implement strategies which include a combination of structural and/or non-structural BMPs appropriate for the community;*

*(b) Use an ordinance or other regulatory mechanism to address post construction runoff from new development and redevelopment projects to the extent allowable under State or local law; and*

*(c) Ensure adequate long-term operation and maintenance of BMPs.*

As required in the MS4 general permit (COR-070000) Post Construction Stormwater Management in New Development and Redevelopment Program, a program to reduce the discharge of pollutants from public and private construction sites must be implemented.

## Purpose of Document

This procedure, titled *Stormwater Post-Construction Program Procedures*, documents the process for complying with the Post-Construction Stormwater Management in New Development and Redevelopment Program in the Non-Standard MS4 Permit (COR-070000).

The procedure may change without notice if it is found to no longer be effective and/or compliant with the MS4 permit requirements. Unless significant changes warrant, this Document is reviewed annually and updated as necessary.

## Applicability (Part I.E.4.)

MS4 Permit Requirement

Part I.E.4. *The permittee must implement a program to ensure that controls are in place that would prevent or minimize water quality impacts applicable development sites, including new development and redevelopment sites.*

* *All permittees: Parts I.E.4.a.i through xi and I.E.4.b apply to all applicable development site.*

# Section 1: Post Construction Regulatory Mechanisms (Part I.E.4.a.ii)

This section, titled Post Construction Regulatory Mechanism, documents the regulatory mechanism used to meet the requirements of the Post-Construction Stormwater Management in New Development and Redevelopment Program.

Permit Requirement:

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

*(A) Require control measures to be implemented in accordance with Part I.B for applicable development sites.*

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

*(C) Ensure that mechanisms are in place for control measures used to meet the requirements of this permit by an applicable development site in the jurisdictional boundary that are located outside of the implementation authority of the permittee.*

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

The following regulatory mechanisms are the stormwater quality requirements to reduce the discharge of pollutants to the MS4 from applicable development sites.

*Click here to enter text.*

*Describe the regulatory mechanism(s). Regulatory mechanisms can include code, contracts, resolutions, design standard, application/permit requirements, etc. They are the mechanisms by which the MS4 requires to reduce the discharge of pollutants to the MS4 from “applicable development sites.” Cite the specific sections of code, ordinance, design standard, etc. that provide basis for the following:*

* *Require Post-construction control measures for any land disturbance greater than or equal to one acre, including site less than one acre that are part of a larger common plan of development, unless an exclusion listed in the permit applies*
* *Require maintenance to ensure the long-term operation and maintenance of control measures. This may be in a policy, but may be included on a Plat, in an Operation and Maintenance Plan for the site, etc.*
* *Ensure that mechanisms are in place for control measures implemented as part of an applicable development site located outside of the jurisdictional control of the permittee. For example, project is in your jurisdiction, but the portion of the project where the control measure is located is in an adjacent jurisdiction. Typically this would be documented in an agreement with the other jurisdiction.*
* *Implement sanctions against entities responsible for the long-term operation and maintenance of the control measures.*

*This is also an ideal place to clarify that for the purposes of the MS4 Permit compliance- only the projects meeting the “applicable development sites” definition in the permit are covered. Your regulatory mechanism and contracts may actually require more, but this document can clarify for purposes of compliance with the permit, you only follow this document for those sites that meet the definition of applicable development site.*

*For permit areas excluded based on adequate land use authority without a formal Participation Agreement, provide documentation that the city/county has sufficient authority to implement and enforce their local construction program and regulatory mechanism on the non-standard MS4’s jurisdictional boundary and actively does so.*

*Describe the process used to comply with the local entities program (plan submittal requirement, criteria manual, permit(s) required, etc). Documentation must consist of:*

* *a description of an effective legal means or process such as issuance of a local grading and erosion control permit.*
* *a description of how the non-standard MS4 is legally held to the city, county, or quasi-governmental MS4 permittee’s construction program requirements.*

*<<Pro Tip: Check with your local city/county for any flow charts or documentation they may have on erosion control requirements. The information above may already exist. For example, check out Longmont’s Construction Permit Fact Sheet. It has the regulatory mechanism (Code section) listed as well as the City’s requirements for permitting:*

[*https://www.longmontcolorado.gov/home/showpublisheddocument/27510/637184065120130000*](https://www.longmontcolorado.gov/home/showpublisheddocument/27510/637184065120130000)*)*

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# Section 2: Exemptions and Exclusions (Part I.E.4.a. i and iii)

This section, titled Exemptions and Exclusions, documents the requirements for sites that can be exempted or excluded from the Post-Construction Stormwater Management in New Development and Redevelopment Program to ensure all exclusions meet the requirements of the Post-Construction Stormwater Management in New Development and Redevelopment Program.

MS4 Permit requirement:

Part I.E.4.a.i. Exclusions: *Permittees may exclude the following from the requirements of an applicable development site.*

*(A) Applicable development sites for which the permittee does not own or operate or have implementation authority over are excluded from the requirements of Part I.E.4.a.ii through xii and Part I.E.4.b.*

*(B) Permittees with a documented MS4 participation agreement(s) are excluded from the requirements of Part I.E.4.a.ii through xii for all applicable Post-Construction Stormwater Management in New Development and Re-Development activities covered by agreement(s) (…)*

*(C) Pavement Management Sites (…)*

*(D) Excluded Roadway Redevelopment (…)*

*(E) Excluded Existing Roadway Areas for Roadway Redevelopment (…)*

*(F) Aboveground and Underground Utilities (…)*

*(G) Non-Residential and Non-Commercial Infiltration Conditions (…).*

*(H) Sites with Land Disturbance to Undeveloped Land that will Remain Undeveloped Redevelopment (…)*

*(I) Stream Stabilization Sites Redevelopment (…)*

*(J) Trails (…)*

*(K) Stormwater Facilities (…)*

MS4 Permit requirement:

##### Part I.E.4.a.iii. Regulatory Mechanism Exemptions: *Procedures must be implemented to ensure that any exclusions, exemptions, waivers, and variances included in the regulatory mechanism are applied in a manner that complies with the terms and conditions of this permit.*

Part I.E.4.b.i. Excluded Sites: *Maintain records for activities covered under Part I.E.4.a.i.(B) through (E) and (G) through (J). Records must include the site name, owner name, location, completion date, site acreage, reason for exclusion, and any information required below.*

*(A) Pavement Management Sites – The acreage of the excluded impervious area for rehabilitation and reconstruction of pavement that are not maintenance sites.*

*(B) Excluded Roadway Redevelopment – The acreage of the excluded impervious area.*

*(C) Excluded Existing Roadway Areas for Roadway Redevelopment – The acreage of the excluded impervious area.*

*(D) Non-Residential and Non-Commercial Infiltration Conditions – The acreage of the excluded impervious area.*

*(E) Sites with Land Disturbance to Undeveloped Land that will Remain Undeveloped Redevelopment – The acreage of the excluded impervious area.*

*(F) Stream Stabilization Sites Redevelopment – The acreage of the excluded impervious area, if applicable.*

*(G) Trails – The acreage of the excluded impervious area.*

*Click here to enter text.*

*Insert any exclusions that are allowed by your MS4. Exclusions cannot be something that would be required to comply with the Post Construction program; they are only those exclusions that are specifically listed in the MS4 permit. Review the allowed exclusions listed in the permit and determine which of those you will allow (e.g. Trails, Roadway, etc.). Describe the process for granting the exclusion. This is to prove you do not allow variances that would not be allowed by the permit.*

*In addition, document how exclusions will be tracked, including the information required (site name, owner name, location, completion date, site acreage, reason for exclusion, and any required information specific to each exclusion).*

# Section 3: Control Measure Requirements – Design Standards (Part I.E.4.a.iv)

This section, titled Design Standards, documents the standards used for ensuring compliance with the Post-Construction Stormwater Management in Development and Redevelopment Program. It also documents the requirements for submittals to ensure procedures to determine the design standard are documented.

MS4 Permit Requirement:

Part I.E.4.a.iv. Control Measure Requirements: *The permittee’s requirements and oversight for applicable development sites must be implemented to address the selection, installation, implementation, and maintenance of control measures in accordance with requirements in Part I.B. The “base design standards” are listed below and are the minimum design standard for new development and redevelopment sites. All control measure must also be sized and designed for the drainage area of the control measure installed; as necessary to meet the post-construction requirements of the applicable development site. Any excluded area of the applicable development site must be documented.*

Part I.E.4.b.v. Control Measure Requirements: *Procedures to determine which design standard applies to each applicable development site and the design specifications for each design standard (if applicable).* *Any excluded area of the applicable development site, regardless of the type of design standard, must be documented. When approving a Constrained Redevelopment Design Standard, the permittee must document why it was not practicable for the applicable development site, or any portion of the applicable development site, to use another design standard.*

*Click here to enter text.*

*Discuss the standards and requirements used for selection, installation, implementation, and maintenance of control measures (the design criteria, contracts/code, or other method(s) used). Review the design standards allowed by the MS4 permit and ensure specific parameters for each are sufficiently met by the standards you’re citing.*

*Discuss the procedure for determining (documenting) which design standard has been applied to each applicable development site (for example, documented in the drainage report).*

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# Section 4: Post-Construction Site Plans (Part 1.E.4.a.v)

This section, titled Post-Construction Site Plans, documents the requirements for site plan submittals to ensure compliance with Post-Construction Stormwater Management in Development and Redevelopment Program.

MS4 Permit Requirement:

##### Part I.E.4.a.v. Site Plans: *(A) Before a structural control measure can be approved by the permittee, the permittee must evaluate the applicable development site for the following:*

##### *1) First, the permittee must review the site for control measures that reduce runoff. The permittee’s review must include consideration of ways to minimize imperviousness and directly connected impervious areas.*

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

Part I.E.4.a.v. (B) Site Plan Requirements: *The permittee shall review and approve all site plans for the following:*

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

*2) Design details for all control measures implemented to meet the requirements of Part I.B and Part I.E.4.*

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

*4) Documentation of operation and maintenance procedures to ensure the long term observation, maintenance, and operation of the control measures. The documentation shall include frequencies for routine inspections and maintenance activities.*

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

*Click here to insert text.*

*Describe how your MS4 ensures consideration of ways to minimize imperviousness, procedures to reduce stormwater pollution, design details for all structural control measures are included in the site plan as well as the narrative for non-structural control measures. This is typically a design criteria manual.*

*Describe how your MS4 ensures that site plans include procedures for long term observation, maintenance, and operation of control measures. The site plan procedures must include frequencies for routine inspections and maintenance activities. This may be included in the design criteria manual, or an operation and maintenance agreement, etc.*

*Describe how your MS4 ensures that site plans include legal access (via easement or other legal means) to inspect and maintain (if necessary) operation of the permanent control measure. This is typically included in a criteria manual or policy. Most non-standard MS4 permit holders will own/operate the land where the control measure is. In that case simple ownership of the land should be adequate legal access.*

*Note: Site Plan is broadly used in the MS4 permit and can also mean drainage reports, drainage plans, etc.*

MS4 Permit Requirement:

Part I.E.4.a.v (C) Site Plan Review: *The permittee shall implement a site plan review process for applicable development sites. The site plan review shall include the following minimum requirements designed to prevent inadequate control measures from being implemented:*

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

*2) Confirmation that site plans meet the requirements of Part I.E.4.a.v(B).*

*3) Post Construction Site Plan Revisions:*

*(a) Major Modifications (…)*

*(b) Minor Modifications. (…)*

*(c) The permittee will only approve a major and minor modification if the modification meets the applicable requirements of Part I.E.4.a.v(A) and (B).*

*Click here to enter text.*

*Describe your MS4’s site plan review process for*

* *ensuring control measures are designed using one of the base design standards allowed for in the permit.*
* *how your plan review process confirms one or more of the base design standards was used.*
* *how your plan review process confirms the site plan has the required elements.*
* *approving minor and major plan modifications.*

*Many MS4s use a checklist for this, but a checklist is not required. Some MS4s simply issue a letter to the applicant stating that the MS4’s design criteria are met. If you chose to meet the requirements this way, ensure the criteria manual used has all the requirements needed.*

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# Section 5: Final Construction Inspection and Acceptance (Part I.E.4.a.vi)

This section, titled Final Construction Inspection and Acceptance, documents the requirements for site inspections and acceptance to ensure compliance with Post-Construction Stormwater Management in Development and Redevelopment Program.

MS4 Permit Requirement:

Part I.E.4.a.vi. Final Construction Inspection and Acceptance: *The permittee must implement inspection and acceptance procedures to ensure that control measures are installed and implemented in accordance with the site plan and include the following:*

*(A) Confirmation that the completed control measure operates in accordance with the approved site plan.*

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

*For the purpose of this section, completion of a site or phase shall be determined by the issuance of a certificate of occupancy, use of the completed site area according to the site plan, payment marking the completion of a site control measure, the nature of the selected control measure or equivalent determination of completion as appropriate to the nature of the site.*

*Click here to enter text.*

*Describe your process for confirming the control measures are installed per the approved site plan. Including ensuring they are operational. Control measures must be in place and operational at the “completion of the site” (see permit language above for specifics on defining completion of the site). Typically, this may include a final inspection, engineer’s certification, etc.*

# Section 6: Long-Term Operation and Maintenance and Post Acceptance Oversight (Part I.E.4.a.vii)

This section, titled Long-Term Operation and Maintenance and Post Acceptance Oversight, documents the requirements for site inspections to ensure compliance with Post-Construction Stormwater Management in Development and Redevelopment Program.

MS4 Permit Requirement:

Part I.E.4.a.vii. Long-Term Operation and Maintenance and Post Acceptance Oversight: *The permittee must implement written procedures which include the following minimum requirements to ensure adequate long-term operation and maintenance of control measures installed under previous and current permits that are owned by the permittee to ensure that they are functioning as designed.*

*(A) Procedures to track the location, operator (if different than the permittee), operator contact information, type, and maintenance of each control measure.*

*(B) Procedures to enforce the requirements for the operator (if different than the permittee) to implement and maintain control measures when necessary.*

*(C) Where the permittee owns the control measure but a different entity (excluding the permittee’s contractors) performs control measure operation and maintenance, the permittee shall perform oversight inspections. For oversight inspections, the permittee must inspect all control measures installed under previous permits and this permit at a frequency that it determines to ensure that the control measure is functioning as designed and is in compliance with the site plan, however, the permittee shall inspect the control measure at least once every 5 years. If the site plans for control measures installed under previous permits are unavailable the permittee must determine during the inspection whether the control measure meets the requirements of Part I.B. Oversight inspections shall include the inspection of field conditions and control measures to confirm conformity with the site plan, identify any inadequate control measures, and identify control measures requiring routine maintenance, such as trash removal.*

*If the permittee owns the control measure and performs operation and maintenance procedures themselves or through a contractor, then the permittee is not required to conduct the once per 5 year oversight inspections.*

*In addition to the permittee oversight inspections once every 5 years, the permittee must ensure that the operator of the control measure installed under this permit must also perform operation and maintenance inspections at a frequency that the permittee determines will ensure that the control measure is functioning as designed or at a minimum of twice per year. All functional elements of control measures shall be inspected during operation and maintenance inspections.*

*Click here to enter text.*

*Describe your process for tracking control measures owned by the MS4 Permit holder.*

*Describe your process for confirming that the control measure matches the site plan during inspections. The process must include procedures to:*

* *identify any inadequate control measures, including any modifications that have been made*
* *and identify control measures requiring routine maintenance, such as trash removal.*

*Describe the frequency that all functional elements of the control measures will be inspected by your MS4, including whether the inspections are oversight inspections of control measures operated by others.*

*Describe your MS4’s procedures to ensure the control measure is installed properly and will maintain the control measure in the future. This section should include an enforcement process if the control measure is not operated/maintained by the MS4 permit holder.*

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# Section 7: Enforcement Response (Part I.E.4.a.viii)

This section, titled Enforcement Response, documents the requirements for enforcement to ensure compliance with Post-Construction Stormwater Management in Development and Redevelopment Program.

MS4 Permit Requirement:

Part I.E.4.a.viii. Enforcement Response: *Implement appropriate written enforcement procedures and actions to meet the requirements of Part I.E.4. Where the permittee owns the control measure but a different entity (excluding the permittee’s contractors) performs control measure operation and maintenance, the permittee must have processes and sanctions to minimize the occurrence of, and obtain compliance from chronic and recalcitrant violators of control measure requirements.*

*(A) The permittee must follow the written enforcement procedures. Written enforcement procedures must include informal, formal, and judicial enforcement responses. The permittee must require enforcement escalation as necessary based on the severity of violation and/or the recalcitrance of the violator to ensure that findings of a similar nature are enforced upon consistently.*

*(B) The permittee must escalate enforcement procedures if non-compliance has continued at the applicable development project for more than two inspections. If the permittee does not escalate enforcement at that time, they must document the reason why they did not take enforcement actions.*

Part I.E.4.b.ix. Enforcement Response: *The document(s) must detail the types of escalating enforcement responses the permittee will take in response to common violations and time periods within which responses will take place.*

*Click here to enter text.*

*Describe your community’s enforcement process specific to Post-Construction. Detail the types of enforcement (informal, formal, judicial) used. Describe what type is used for common violations and the time period the community will respond within.*

*Most likely, post construction control measures will be owned by the MS4 permit holder. If this is the case, describe policies in place or processes in place that allow for prioritization and funding for maintaining control measures and enforcing the requirement to maintain control measures long-term.*

#

# Section 8: Tracking (Part I.E.4.a.ix)

This section, titled Tracking, documents the tracking requirements for control measures to ensure compliance with Post-Construction Stormwater Management in Development and Redevelopment Program.

MS4 Permit Requirement:

Part I.E.4.a.ix. Tracking: *Implement and document procedures and mechanisms to track the location of, and adequacy of, operation of control measures implemented in accordance with the program.*

*Click here to enter text.*

*Describe your MS4’s procedure for tracking the location and adequacy of operation of control measures. In other words, how do you track where the control measures are and if they are working?*

#

# Section 9: Training (Part I.E.4.a.x)

This section, titled Training, documents the training requirements for inspection of control measures to ensure compliance with Post-Construction Stormwater Management in Development and Redevelopment Program.

MS4 Permit Requirement:

Part I.E.4.a.x. Training: *Train applicable staff to inspect the control measures in accordance with the permittee’s procedures in Part I.E.4.a.vi and vii. The permittee must identify those who will be likely to inspect the control measures and provide training to those individuals. The training must also include information on trash and its effects on water quality.*

*Click here to enter text.*

*Describe the training provided to staff inspecting permanent control measures. Identify the staff that will be likely to conduct the inspections (name/titles). Ensure trash is addressed as a potential pollutant.*

#

# Section 10: Overlapping Permit Areas (Part I.E.4.a.xi)

This section, titled Overlapping Permit Areas, details the stormwater procedures followed in cases of overlapping permit areas for compliance with the Post-Construction Stormwater Management in Development and Redevelopment Program.

MS4 Permit Requirement:

Part I.E.4.a.xi. For Applicable Development Sites that Overlap Multiple MS4 Permittee Jurisdictional Boundaries (co-regulating MS4 permittee), when a written agreement is in place with a co-regulating MS4 permittee for the portions of the applicable development site located within the permittee’s jurisdiction:

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

*(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.*

*Click here to enter text.*

*Describe your process for overlapping permit areas if you allow that. (Include what type of written agreement will be in place and what information the agreement will contain.)*