

WWE
MEMORANDUM

To: Permittees and Other Interested Parties

From: Wright Water Engineers, Inc.
Lily Montesano, Water Resources Specialist

Date: Originally Issued November 28, 2023, Revised January 19, 2024

Re: Renewal of Construction Stormwater Permit COR400000

The Colorado Department of Public Health and Environment (CDPHE) regulates municipal and industrial stormwater discharges under the Colorado Discharge Permit System (CDPS), including construction projects that (1) disturb an acre or more or (2) disturb less than an acre but are part of a larger common plan of development or sale that will ultimately disturb an acre or more. Most such projects obtain coverage under general permit COR400000, which has been issued under the CDPS. The existing general permit COR400000 (Current Permit) is set to expire on March 31, 2024, and the CDPHE's Water Quality Control Division (division) currently intends to bring a revised version of COR400000 (Renewal Permit) into effect on April 1, 2024. The intent of this memorandum is to summarize key timelines and activities for holders of certifications under the Current Permit and for prospective applicants who may need coverage in the coming months.

Existing Certifications

The division is requiring all current permittees to submit renewal applications by January 2, 2024, to continue coverage under the Renewal Permit when it goes into effect on April 1, 2024. Renewal applications must be submitted using the Colorado Environmental Online Service (CEOS). Any existing certifications for which a renewal is not received by January 2, 2024, will be automatically terminated on April 1, 2024. Permittees who fail to renew by the required deadline but need to continue coverage beyond March 31, 2024, ~~must reapply for coverage~~ are strongly encouraged by the CDPHE to submit a renewal as soon as possible. The division noted in the Clean Water Quarterly Webinar on January 18, 2024, that permittees who submit a renewal ahead of February 29, 2024, can reasonably expect that the division will process and honor those renewals. The division further clarified that permittees who submit a renewal request prior to that deadline can expect to receive correspondence from the division if for some reason the renewal cannot be honored. The division emphasized that the renewals process creates a sizeable influx of work for its personnel to manage and urged permittees to help ease this strain by submitting renewals as soon as possible. Note that gaps in coverage resulting from a failure to renew would constitute a violation of the requirement to hold permit coverage.

Any facilities with active certifications that existed prior to 2019 that have not yet been associated with a Responsible Official (a project official meeting certain criteria who is authorized to complete permit applications, modifications, and terminations) must be associated with the Responsible

Official in CEOS before the renewal application can be submitted. The CDPHE has published a list of unassociated facilities which can be accessed by clicking on the teal link near the bottom of this webpage: <https://cdphe.colorado.gov/General-Construction-Permit-COR400000>.

Certification Applications Submitted Between January 2, 2024, and February 29, 2024

The division has requested that applicants submitting between January 2, 2024, and February 29, 2024, submit a renewal application in CEOS. The division stated during its stakeholder meeting on November 2, 2023, that it will make an effort to renew on behalf of permittees applying during this short period, but the division's preference is that permittees do this themselves. Wright Water Engineers recommends that permittees in this category submit their own renewal applications, rather than relying on the division, in order to be most confident in the compliance status of their permits.

Certification Applications Submitted Between March 1, 2024, and March 31, 2024

The division has determined that it will not issue any certifications in the month of March 2024. Any permit applications submitted between March 1, 2024, and March 31, 2024, will be held and processed after the Renewal Permit comes into effect on April 1, 2024. The implication of this constraint is that projects wishing to begin construction at any point during March and likely early April should make every effort to apply for and obtain permit coverage prior to February 29, 2024. Note that a gap in coverage between when construction commences and when a certification is issued resulting from a failure to apply ahead of the March 1, 2024, deadline would constitute a violation of the requirement to hold permit coverage prior to commencing construction.

Certification Applications Submitted on and After April 1, 2024

All certifications for applications received on and after April 1, 2024, will be issued under the Renewal Permit with no need to follow a reapplication process.

Example Scenarios

Single Family Development Filing 2 holds a certification under the Current Permit that was issued in February 2023 and the project is forecasted to need coverage until final stabilization is achieved in September 2024. This project must apply for a permit renewal in CEOS before January 2, 2024.

Commercial Warehouse Facility has received all of its local approvals and will apply for coverage under the Current Permit in December 2023. This project must apply for coverage in CEOS, then also submit a renewal application before January 2, 2024. Guidance from the division indicates that the renewal application can be submitted immediately after the permit application is submitted in CEOS; the applicant does not need to wait for the certification to be issued before submitting the renewal application.

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Municipal Multi-Use Trail Project is still determining its limits of disturbance but anticipates being prepared to apply for coverage in mid-January 2024. This project must apply for coverage in CEOS, and the division has requested that the applicant submit a renewal application, as well. WWE recommends that the renewal application be submitted immediately after completing the permit application.

Linear Utility Project may not secure funding to commence construction by Q1 of 2024 but will certainly start construction by Q2 of 2024. This project is strongly encouraged to apply for coverage in CEOS and immediately submit the renewal application any time before March 1, 2024. If the project does not submit a permit application prior to March 1, 2024, the project would not be able to commence work until at least April 1, 2024. If the project submits an application prior to March 1, 2024, but does not submit the renewal prior to March 1, 2024, the project's permit would automatically be terminated on April 1, 2024, and a gap in coverage would exist until the permittee applied for and obtained coverage under the Renewal Permit.

All four of these projects will be covered under the Current Permit and therefore held to the Current Permit terms through March 31, 2024. On April 1, 2024, all four projects would need to begin complying with the requirements of the Renewal Permit.

Final Remarks

Wright Water Engineers welcomes the opportunity to help our clients navigate submittal timelines and procedures in CEOS. Please do not hesitate to contact me at 303-480-1700 or lmontesano@wrightwater.com with any questions.