

**APPENDIX I - STORMWATER QUALITY POLICY AND PROCEDURES**

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## I.1. RESERVED

Editor's note(s)—Res. No. 19-245, adopted July 2, 2019, repealed § I.1, which pertained to title.

## I.2. STORMWATER PROGRAM OVERVIEW

As part of the National Pollutant Discharge Elimination System (NPDES) Phase II program administered by the Colorado Department of Public Health and Environment (CDPHE), El Paso County (the County) has been issued a Colorado Discharge Permit System (CDPS) General Permit for Stormwater Discharges Associated with Municipal Separate Storm Sewer Systems (MS4 Permit). The MS4 Permit was first issued on March 9, 2003, although a 5 year staged implementation period was allowed from that date to implement the Stormwater Management Program required by the MS4 Permit (i.e., March 9, 2008). The MS4 Permit authorizes the County to discharge stormwater from its storm sewer systems into Waters of the State. As part of the MS4 Permit requirements, the County developed and maintains a Program Description Document (PDD) that reflects the County's current implementation of its Stormwater Management Program. The PDD is available to the public upon request. All requests can be made via email to [stormwater@elpasoco.com](mailto:stormwater@elpasoco.com). The MS4 Permit requires the County to implement control measures to prevent or reduce the discharge of pollutants to Waters of the State.

This Appendix focuses on stormwater quality requirements as they pertain to the MS4 Permit; stormwater detention requirements are outlined in Drainage Criteria Manual Volume 1 (DCM1) and Drainage Criteria Manual Volume 2 (DCM2).

Where feasible, the County has aligned the requirements in this Appendix to be consistent with CDPHE's CDPS General Permit for Stormwater Discharges Associated with Construction Activity. Should requirements conflict, it will be the responsibility of the owner to bring these conflicts to the County's attention and propose how to address them.

Though the MS4 Permit applies only to the urbanized areas of unincorporated El Paso County, the Engineering Criteria Manual (ECM), including this Appendix, applies to the entire unincorporated County pursuant to Section 1.4 of the ECM.

### I.2.1 Adopted Criteria

The City of Colorado Springs DCM2 (March 2014) was adopted as the County's stormwater quality design criteria in July 2019. It is supplemented by this Appendix, which provides additions and revisions as applicable to the County in order to expand its scope to cover rural areas and other situations specific to the County.

On January 27, 2015, the County adopted certain portions of the City of Colorado Springs DCM1 dated May 2014 (the DCM Update). Specifically, Chapter 6 in its entirety, Sections 3.2.1, 4.1.2, 4.1.3, 4.1.4, 4.2, 4.2.1, 4.2.2, and Figures 13-4a, 13-4b, and 13-5 of Chapter 13 were adopted to update the County criteria to reflect recent advances in hydrology.

To clarify applicability of DCM1, DCM2, and the DCM Update, "El Paso County" is to be substituted for "City of Colorado Springs" and a County department or position analogous to one in the City is to be used where appropriate unless otherwise specified in this Appendix. Table I-1 summarizes the most common or typical substitutions that shall be used in applying and interpreting DCM1, DCM2.

The County has adopted The Mile High Flood District's (MHFD) Urban Storm Drainage Criteria Manual (USDCM): Volume 3, Chapter 7: Construction BMPs (version applicable at time of project construction).

**Table I-1. General Substitutions**

<b>Text in DCM2</b>	<b>Substitution in DCM2 as Applied in El Paso County</b>
City of Colorado Springs	El Paso County
City	County
City Engineer	County Engineer
City Engineering Inspector	County Stormwater Inspector
City Inspections	County Inspections
Erosion and Stormwater Quality Control Plan	Stormwater Management Plan
<b>Other Changes</b>	
Hillside Overlay	Remove references to "Hillside Overlay"

**I.2.2 List of Acronyms and Abbreviations**

AESQCP	Associate Erosion and Stormwater Quality Control Permit
BESQCP	Builder’s Erosion and Stormwater Quality Control Permit
BMPs	Best Management Practices
BoCC	El Paso County Board of County Commissioners
CCM	Construction Control Measure
CECI	Certified Erosion Control Inspector
CDOT	Colorado Department of Transportation
CDPHE	Colorado Department of Public Health and Environment
CM	Control Measure
DBPS	Drainage Basin Planning Study
DCM1	Drainage Criteria Manual Volume 1
DCM2	Drainage Criteria Manual Volume 2
EDARP	Electronic Development Application Review Program
EPC	El Paso County
DPW Stormwater	El Paso County Department of Public Works – Engineering Division – Stormwater Section
ECM	Engineering Criteria Manual
ESQCP	Erosion and Stormwater Quality Control Permit
EDB	Extended Detention Basin
EOR	Engineer of Record
FA	Final Acceptance
FAE	Financial Assurance Estimate
FSD	Full Spectrum Detention
GEC Plan	Grading and Erosion Control Plan
≥1 ac	Greater than or equal to one acre
HOA	Homeowners’ Association
ISDS	Individual Sewage Disposal Systems
LCPD	Larger Common Plan of Development
NPDES	National Pollutant Discharge Elimination System
MDDP	Master Development Drainage Plan
MHFD	Mile High Flood District

MDCIA	Minimizing Directly Connected Impervious Areas
MS4	Municipal Separate Storm Sewer Systems
O&M	Operation and Maintenance
PA	Preliminary Acceptance
PCM	Permanent Control Measure
PCD	Planning and Community Development Department
PDD	Program Description Document
PPRBD	Pikes Peak Regional Building Department
R-Factor	Rainfall Erosivity Factor
SFB	Sand Filter Extended Detention Basin
SDI Form	Stormwater Detention and Infiltration Design Data Sheet
SWMP	Stormwater Management Plan
TMDL	Total Maximum Daily Load
TSS	Total Suspended Solids
QSM	Qualified Stormwater Manager
ROW	Right-of-Way
WQCV	Water Quality Capture Volume

### **I.2.3 Definitions**

The definitions below are intended strictly for clarification purposes and may not contain the full legal definition as per regulation. For the purposes of this Appendix:

- **303(d) List.** Section 303(d) of the Clean Water Act requires states to list those water bodies that are not attaining water quality standards, including designated uses, and identify relative priorities among the impaired water bodies. Once a stream is listed on the state 303(d) list, a Total Maximum Daily Load (TMDL) is typically required to assign allowable pollutant loads to various sources to enable the water body to attain designated uses in the future.
- **404 Permit.** A federal discharge permit authorized under Section 404 of the Clean Water Act, which regulates the discharge of dredged, excavated, or fill material into wetlands, streams, rivers, and other Waters of the U.S. The U.S. Army Corps of Engineers is the federal agency authorized to issue Section 404 Permits for certain activities conducted in wetlands or other U.S. waters.
- **Applicable Construction Activity/Activities.** Construction Activities that result in either a land disturbance of greater than or equal to one acre or a land disturbance that is less than one acre but is part of a larger common plan of development or sale that would disturb, or has disturbed since March 2, 2001, one acre or more, unless such activities are excluded consistent with Section I.3, or the disturbed areas have been finally stabilized. Applicable Construction Activity/Activities applies to Stormwater Permits.
- **Applicable Development Site.** Sites where development will result in land disturbance of greater than or equal to one acre or in land disturbance less than one acre that are part of a larger common plan of development or sale since March 9, 2008, unless excluded consistent with Section I.6.1.B. Applicable development sites include all New Development and Redevelopment sites for which PCMs were required in accordance with an MS4 permit.
- **Applicant.** As defined in ECM Section 1.22: The individual, firm, business entity, trust, association, syndicate, partnership, or corporation of record or any person designated by the property owner who has applied for or is requesting a permit.

- **As-Built Drawings.** An approved final revision of a design drawing or plan updated to include information from field inspections showing the true condition or configuration of what has been built. The drawing or plan is designated “Record Drawing” or equivalent by stamp or lettering on the drawing.
- **Clean Water Act.** Federal legislation that provides statutory authority for the National Pollutant Discharge Elimination System program and other water quality protection requirements; Public law 92-500; § 33 U.S.C. 1251 et seq. Also known as the Federal Water Pollution Control Act. Under the Clean Water Act stormwater requirements, most urban areas must meet the requirements of Municipal Separate Storm Sewer System (MS4) permits.
- **Construction Activity/Activities.** Ground surface disturbing and associated activities (land disturbance), which include, but are not limited to, clearing, grading, excavation, demolition, installation of new or improved haul roads and access roads, staging areas, stockpiling of fill materials, and borrow areas. Activities that include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility are not considered Construction Activities. Activities to conduct repairs that are not part of regular maintenance and activities that are for replacement are considered Construction Activities and are not considered routine maintenance. Repaving activities where underlying or surrounding soil is cleared, graded, or excavated as part of the repaving operation are Construction Activities unless they are an excluded site under Section 1.3.1. Construction Activity occurs from initial groundbreaking to final stabilization regardless of ownership of the Construction Activities.
- **Construction Control Measure (CCM).** A Control Measure used to limit erosion and the transport of soil and other pollutants within or leaving construction sites. Construction Control Measures can be structural (e.g., silt fence) and non-structural (e.g., street sweeping). Additionally, Construction Control Measures may be temporary (e.g., erosion control log) or permanent (e.g., seeding). For guidance on CCM selection and standard details refer to MHFD’s USDCM Volume 3 Chapter 7: Construction BMPs, City of Colorado Springs SCM Appendix E, and DCM2 Sections 3.2 and 3.3.
- **Contractor.** A person, partnership, corporation, subcontractor, or other legal entity that assumes responsibility to conduct an activity covered by this Appendix as or on behalf of an Owner. **The Contractor has control of day-to-day operations, is the co-Permit Holder with the Owner, and shares the responsibility for compliance with these criteria and the terms and conditions of the Stormwater Permit.**
- **Control Measure (CM).** Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to Waters of the State. Control Measures also include treatment, operating procedures, and practices to control site runoff, spillage or leaks, waste disposal, or drainage from material storage. Additionally, Control Measures include structural and non-structural controls and may be temporary or permanent.
- **County Stormwater Inspector.** The authorized representative of the County Engineer assigned to make detailed inspection of Construction Activities to assess compliance with the MS4 Permit and the plans as approved by the County.
- **Developing Watershed.** For the purposes of this Appendix and the use of MHFD flowcharts: a watershed with significant development potential or sediment sources upstream of a development area. The potential for ongoing or future sediment transfer downstream is the concern, which may not be the case when the upstream watershed is stable and has little further development potential. (Refer to MHFD USDCM Volume 3 Chapter 2: BMP Selection Sections 1.1, 1.8, and 1.11 for further discussion.)
- **ECM Administrator.** The County Engineer and authorized designee(s).
- **EDARP.** El Paso County Planning and Community Development (PCD) Electronic Development Application Review Program (EDARP). Information regarding access and use of EDARP is provided on the County’s website.

- **Engineer of Record (EOR).** The engineer who directly prepared plans and calculations or who directly supervises the preparation of project plans and calculations. The Engineer of Record seals, signs, and dates the plans and calculations certifying that they meet the required standards. The Engineer of Record must be a Professional Engineer licensed by the State of Colorado.
- **Erosion.** The wearing away of the land surface by water, wind, ice, or other geological agents, including the detachment and movement of soil or rock fragments by water, wind, ice, gravity, or any combination thereof.
- **Final Stabilization.** The condition reached when all Construction Activities at the site have been completed and permanent stabilization methods are complete. Final Stabilization also includes installation of permanent roads, structural Permanent Control Measures, and removal of all temporary Construction Control Measures. See Section I.4.8.A for additional information regarding Final Stabilization requirements.
- **Full Spectrum Detention (FSD).** Stormwater detention facility design concept, which “is intended to reduce the flooding and stream degradation impacts associated with urban development by controlling peak flows in the stream for a range of events.” Refer to MHFD USDCM Volume 2 Chapter 12: Storage.
- **Good Engineering, Hydrologic and Pollution Control Practices.** Methods, procedures, and practices that: are based on basic scientific facts; reflect best industry practices and standards; are appropriate for the conditions and pollutant sources; and provide appropriate solutions to meet the associated permit requirements.
- **Grading and Erosion Control (GEC) Plan.** Project drawings submitted to the County for review and approval prior to construction that show the location, character, and dimensions of the proposed work, such as layouts, profiles, cross sections, details, methods, and general notes with a focus on the temporary and permanent control measures as outlined in the SWMP.
- **Illicit Discharge.** Any discharge to an MS4 that is not composed entirely of stormwater except for the following:
  - landscape irrigation;
  - lawn watering;
  - diverted stream flows;
  - irrigation return flow;
  - rising ground waters;
  - uncontaminated ground water infiltration, as defined at 40 CFR 35.2005 (20);
  - uncontaminated pumped ground water (note that discharges containing groundwater that comes into contact with Construction Activity are not considered “uncontaminated”);
  - springs;
  - flows from riparian habitats and wetlands;
  - water line flushing in accordance with the CDPHE Water Quality Control Division’s Low Risk Discharge Policy Guidance: Potable Water;
  - discharges from potable water sources in accordance with the CDPHE Water Quality Control Division’s Low Risk Discharge Policy Guidance: Potable Water;
  - foundation drains;
  - air conditioning condensation;
  - water from crawl space pumps;
  - footing drains;
  - individual residential car washing;
  - dechlorinated swimming pool discharges in accordance with the CDPHE Water Quality Control Division’s Low Risk Discharge Policy Guidance: Swimming Pools;
  - water incidental to street sweeping, including associated sidewalks and medians and that is not associated with construction;

- dye testing in accordance with manufacturer's recommendations;
  - stormwater runoff with incidental pollutants;
  - discharges resulting from emergency fire fighting activities;
  - discharges authorized by a CDPS or NPDES permit;
  - agricultural stormwater runoff;
  - discharges that are in accordance with the CDPHE Water Quality Control Division's Low Risk Discharge Policy guidance documents, or other CDPHE Water Quality Control Division policies and guidance documents where the CDPHE Water Quality Control Division has stated it will not pursue permit coverage or enforcement for specified point source discharges.
- **Initial Control Measures.** Construction Control Measures including but not limited to perimeter control, inlet protection, vehicle tracking pads, temporary sediment basins, etc. that must be installed prior to initiating earth disturbing activities within a construction site.
  - **Inspection.** An evaluation by a County Stormwater Inspector of a site for compliance with the ESQCP, AESQCP, SWMP, approved plans, PCM Maintenance Agreement and the Stormwater Ordinance. For the purposes of Appendix I, inspections performed by County Stormwater Inspectors include inspection types described in Section I.4.
  - **Larger Common Plan of Development or Sale (LCPD).** A contiguous area or site where multiple separate and distinct Construction Activities may be taking place at different times on different schedules but remain related. For the purposes of this Appendix, contiguous means located in close proximity to each other (within ¼ mile), which is considered to be a LCPD. Construction Activities are considered to be related if they share the same development plan, builder or contractor, equipment, storage areas, etc. LCPD also includes Construction Activities that are associated with the construction of field-wide oil and gas permits for facilities that are related.
  - **Municipal Separate Storm Sewer System (MS4).** A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned or operated by a State, city, town, county, district, association, or other public body and designed or used for collecting or conveying stormwater.
  - **New Development.** Land disturbing activities, structural development, including construction or installation of a building or structure, creation of impervious surfaces, or land subdivision for a site that does not meet the definition of Redevelopment.
  - **Owner.** The person or legal entity that owns property or an interest in property. **The Owner is the co-Permit Holder with the Contractor, if different, and has the ultimate responsibility for compliance with these criteria and the terms and conditions of the Stormwater Permit.**
  - **PCM Owner.** The person or legal entity responsible for maintenance of a PCM pursuant to a recorded PCM Maintenance Agreement. Typically, the PCM Owner is the person or legal entity that owns the property or interest in property (i.e., the property owner) on which a PCM is located. In some cases, the PCM Owner may differ from the property owner (e.g. a property owner's association or metropolitan district). **The PCM Owner has the ultimate responsibility for compliance with these criteria.**
  - **Permanent Control Measures (PCM).** Control Measures (e.g., extended detention basins, sand filter basins, runoff reduction and infiltration areas, etc.) designed to permanently mitigate water quality impacts of New Development and Redevelopment sites.
  - **Permit Holder.** The persons or legal entities to whom a Stormwater Permit has been issued by the County.
  - **Pollutants.** Dredged soil, soil, slurry, solid waste, incinerator residue, sewage, sewage sludge, garbage, trash, chemical waste, biological nutrient, biological material, radioactive material, heat, wrecked or discarded equipment, rock, sand, or any industrial, municipal, agricultural, or construction waste.

- **Qualified Stormwater Manager (QSM).** 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 the effectiveness of stormwater controls implemented to meet stormwater permitting requirements. In addition, a QSM must have one of the following credentials: (1) is a registered Professional Engineer; (2) is certified in a regionally recognized erosion and sediment control inspection training program; or (3) is employed by a company specializing in erosion and sediment control. The Permit Holder shall authorize the QSM to direct individuals, as needed, at a site to carry out activities to maintain compliance with the Stormwater Permit. The QSM role may be fulfilled by more than one individual meeting the requirements outlined above. In cases where multiple individuals are fulfilling the QSM role, the QSM listed on the Stormwater Permit and Stormwater Management Plan shall be the main point of contact.
- **Recalcitrant Violator:** Any Person who, after receiving written notice of a violation or other enforcement action under these criteria or the Stormwater Ordinance, continues to willfully or negligently violate any provision of these criteria, the Stormwater Ordinance, a Stormwater Permit, stormwater regulations, or related requirements. A Person may be designated by the ECM Administrator as a Recalcitrant Violator if one or more of the following criteria are met:
  - Failure to Correct Violations: Does not complete required corrective actions within the timeframe specified in the written notice, unless an extension is granted in writing by El Paso County.
  - Repeated Violations: Commits two or more similar violations of the same provision within a 12-month period, whether at the same site or multiple sites under the same ownership or control.
  - Non-Responsive to Enforcement: Fails to respond to two or more written communications from El Paso County related to stormwater compliance within the specified timeframe.
  - Obstruction or Refusal: Actively obstructs, denies access to, or refuses to cooperate with El Paso County inspectors or enforcement personnel.
  - Demonstrated Pattern of Non-Compliance: Has a documented history of three or more separate violations across multiple sites or properties within a 24-month period.
- **Redevelopment.** Further development of a site that is already 35% or more impervious by adding impervious area (including removal or replacement of pervious materials), to include the expansion of a building footprint, addition to or replacement of a structure, engaging in structural development, replacing impervious area that is not part of a routine maintenance activity, or engaging in land disturbing activities.
- **Sensitive Area.** Sites that meet one or more of the following criteria may be identified by the ECM Administrator to be a Sensitive Area:
  - endangered species habitat area (Refer to U.S. Fish and Wildlife Service website for additional information and a map of Critical Habitat for Threatened & Endangered Species),
  - wetlands (refer to the Army Corps of Engineers for additional information),
  - floodplains (refer to FEMA website for additional information and a map of National Flood Hazards), or
  - direct discharges to Waters of the State (Refer to CDPHE website for additional information and the Water Quality Control Division GIS data map of stream segmentation and their classifications).
- **Stop Work Order (SWO).** Written order from the County Stormwater Inspector to immediately cease all Construction Activities.
- **Stormwater Management Plan (SWMP).** A written plan to identify possible pollutant sources that may contribute pollutants to stormwater and Construction Control Measures that, when implemented, will reduce or eliminate any possible water quality impacts. The SWMP must be completed and implemented prior to

commencement of any Construction Activity and revised during construction through Final Stabilization to accurately reflect the conditions and practices at the site. A SWMP is a requirement of the MS4 permit.

- **Stormwater Permit.** El Paso County stormwater permits: ESQCP, AESQCP, and BESQCP.
- **Water Quality Capture Volume (WQCV).** The volume equivalent to the runoff from an 80th percentile storm, meaning that 80 percent of the most frequently occurring storms are fully captured and treated and larger events are partially treated.
- **Water or Waters of the State or State Waters.** As defined by CDPHE and may be amended: Any and all surface and subsurface waters which are contained in or flow in or through this state, but does not include waters in sewage systems, waters in treatment works of disposal systems, waters in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed.

Note that some of the definitions above differ from the definitions of other applicable agencies, codes and regulations (USACE, CDPHE, EPC Land Development Code, MS4 Permit, etc.); this is done for clarification purposes and the most restrictive applicable definition applies.

#### **I.2.4 Policies and References**

This Appendix, when combined with the following documents and their amendments and successors, forms the basis for protecting surface water quality in the County:

- The City of Colorado Springs and El Paso County DCM1 (adopted October 1991)
- The DCM Update (adopted January 2015)
- The City of Colorado Springs DCM2, as adopted by El Paso County (March 2014, adopted July 2019)
- The El Paso County Land Development Code (LDC) (latest version)

Amendments to any of these documents prior to initial project submittal apply unless otherwise approved by the ECM Administrator.

**In the event that a conflict arises between criteria in this Appendix and any of the documents listed above or the County's MS4 Permit, the most restrictive requirements shall govern unless otherwise approved in writing by the ECM Administrator.**

It shall be the responsibility of the Engineer of Record (EOR) to identify those conflicts and bring them to the attention of the ECM Administrator. The ECM Administrator, at their sole discretion, will determine which specific use of criteria is acceptable for the project under review.

The following guidance documents are recommended reference material:

- The Mile High Flood District (MHFD) Urban Storm Drainage Criteria Manual (USDCM) Volume 1 through Volume 3 (latest version)
- The City of Colorado Springs Stormwater Construction Manual (SCM) Appendix E (latest version)

Nothing contained herein relieves any person, corporation, firm or entity from the obligation to comply with any applicable state or federal laws or regulations relating to water quality or water quality standards, or any other standards related to land disturbance activities.

### I.3. STORMWATER PERMITS

This section provides an overview of the three types of erosion and stormwater quality permits (Stormwater Permits) issued by the County and includes specific permit application requirements and Permit Holder responsibilities for Construction Activities that occur within the unincorporated areas of El Paso County.

The three types of Stormwater Permits are:

1. Erosion and Stormwater Quality Control Permit (ESQCP)
2. Associate Erosion and Stormwater Quality Control Permit (AESQCP)
3. Builder's Erosion and Stormwater Quality Control Permit (BESQCP)

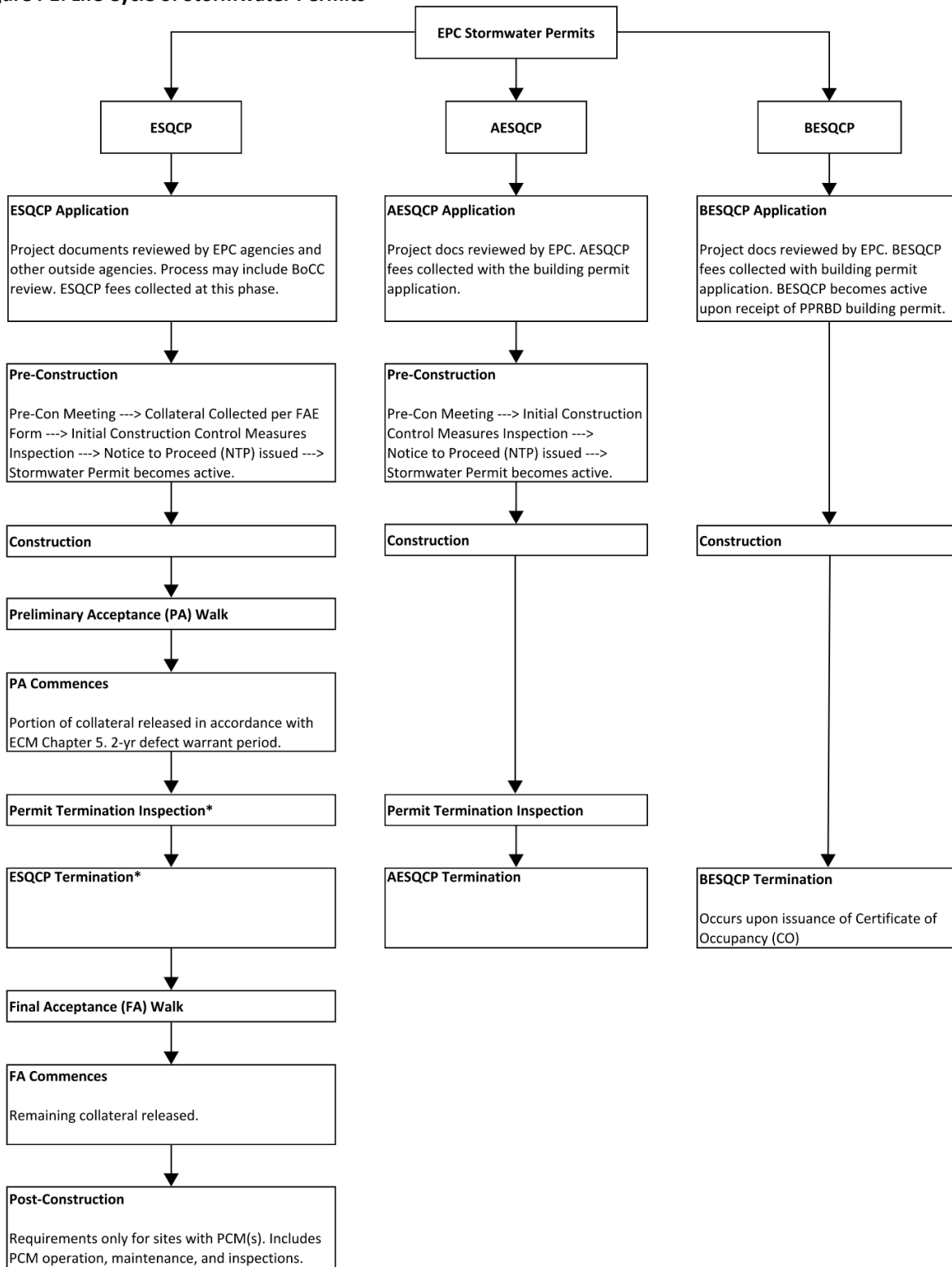
Once a permit is issued, the Owner and Contractor become the Permit Holder and share joint and several liability for compliance with these criteria and the terms and conditions of the Stormwater Permit. On all projects, the Permit Holder must own or have legal responsibility for the property on which Construction Activity is taking place. The Permit Holder shall be responsible for the work authorized under the permit per the conditions agreed upon within the Stormwater Permit. The Permit Holder is responsible to ensure that subcontractors and others at the site meet the requirements of the Stormwater Permit. The Permit Holder is responsible for determining the need for and obtaining other required permits. In most cases, a CDPS General Permit COR400000 for "Stormwater Discharges Associated with Construction Activities" is required when an ESQCP or AESQCP is required by the County.

The purpose of the three Stormwater Permits is to: protect water quality in the County; require the implementation of appropriate Control Measures (CMs) prior to the start of Construction Activity; require that CMs be maintained in operational condition to control all potential pollutants during each phase of construction, through Final Stabilization; and provide for the enforcement of CM requirements. The Stormwater Permits and associated standards are intended to minimize soil erosion and sedimentation during and after construction and to control non-point source pollution by requiring the implementation of soil erosion, sedimentation, and runoff control measures for protection of water quality.

Permit Holders must control erosion and prevent the transport of sediment off their site and onto adjacent properties, public rights-of-ways, streets, storm drainage facilities, channels or any other public or private facilities. For the purposes of this Appendix, "private" means anything that is not owned or maintained by El Paso County.

To provide context to the overall process of the three Stormwater Permit types, see Figure I-1 – Life Cycle of Stormwater Permits below. As this is only an overview, refer to subsequent sections within this Appendix for additional detail regarding each of the individual Stormwater Permits.

Figure I-1. Life Cycle of Stormwater Permits



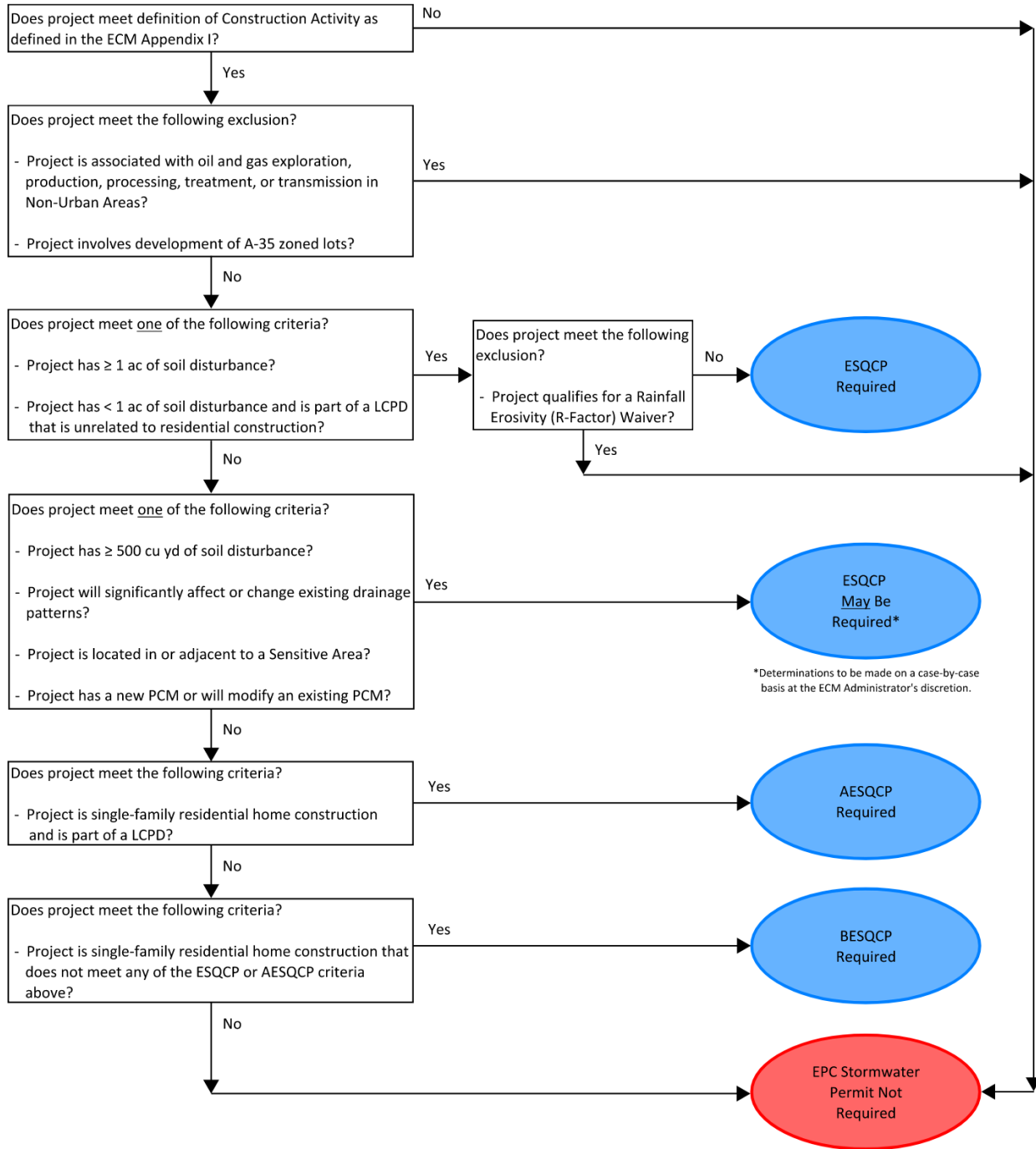
\*Permit Termination may occur prior to or concurrently with FA.

For general guidance on determining which type of Stormwater Permit is required for a project, the following Figure I-2 – Stormwater Permit Applicability Overview Flowchart can be used. Some limitations and notes for the flowchart include:

- The goal of this flowchart is to help the Applicant determine if a Stormwater Permit is required or not. Other applicable permits may still be required from the County or other agencies, regardless of the determination made from this flowchart.
- In order to limit erosion and the transport of soil and other pollutants within or leaving the project area, Construction Control Measures (CCMs) are to be implemented when needed, even if a Stormwater Permit is not required.
- The Applicant must also refer to Figure I-3 - PCM Applicability Flowchart in Section I.6.1 to determine if a Permanent Control Measure (PCM) is required.
- When there is a change in ownership of property covered by an active ESQCP (e.g., single-family residential lots within a larger development), the new Owner (i.e., builder) must obtain an AESQCP prior to any Construction Activities on individual lots. Lots shall be removed from the Permit Holder's ESQCP once an AESQCP has been obtained by the new Owner. See Section I.4.7 for additional information regarding transfer of ownership or control of a residential property.
- If the proposed project does not meet the definition of "Construction Activity" a Stormwater Permit is not required. Please note that other permits may still be required.
- The Pikes Peak Regional Building Department (PPRBD) considers permanently set manufactured/modular/mobile homes as "single-family construction." A Stormwater Permit is required for such homes.

Additional guidance for determining the type of Stormwater Permit required and circumstances in which no Stormwater Permit is required is discussed in more detail in subsequent Sections below.

Figure I-2. Stormwater Permit Applicability Overview Flowchart



### **I.3.1 Erosion and Stormwater Quality Control Permit (ESQCP) Applicability**

The ESQCP is one of the three Stormwater Permits that are a key mechanism for protecting water quality in the County and provides the requirements for the selection, installation, implementation, and maintenance of temporary and permanent best management practices/control measures (BMPs/CMS [herein referred to collectively as CMS]) during construction through Final Stabilization.

Applicant should see Figure I-2 – Stormwater Permit Applicability Overview Flowchart and the description of each inclusion and exclusion below when determining if an ESQCP is required for the proposed project.

#### **I.3.1.A ESQCP Inclusions**

- Project meets definition of Construction Activity, as defined in Section I.2.3, and either:
  - Project has one (1) acre or greater of soil disturbance, or
  - Project has less than one (1) acre of soil disturbance and is part of a LCPD that is unrelated to residential construction.

For the following four (4) inclusions, ESQCP Applicability determinations are to be made at the ECM Administrator's discretion on a case-by-case basis:

- 500 cubic yards or greater of soil disturbance.
  - Typically applies when potential Pollutants, site topography, hydraulics, or proximity to surface water are of significant concern. The total volume includes cumulative cut and/or fill.
  - This includes any soil import and/or export from the site.
- Project will significantly affect or change existing drainage patterns, by grading or the addition of impervious area.
- Project is located in or adjacent to a Sensitive Area as defined in Section I.2.3.
- Project requires a new Permanent Control Measure (PCM) or modification of an existing PCM. Modifications are defined as activities not related to maintenance.

#### **I.3.1.B ESQCP Exclusions**

ESQCP exclusions must be approved by the ECM Administrator during the development review process. Projects that do not require an ESQCP may still require other applicable County or other agencies' permits.

Applicable Construction Activities that may not require an ESQCP include:

- Projects that qualify for a Rainfall Erosivity (R-Factor) Waiver through CDPHE. Refer to CDPHE website for requirements and application form. Any Applicant proposing to utilize this exclusion shall submit the R-Factor Waiver to CDPHE and provide the County with the CDPHE R-Factor Waiver Memo, outlining the terms of approval.
- Projects that are associated with oil and gas exploration, production, processing, treatment, or transmission in Non-Urban Areas.
- Projects located outside of the County MS4 Urban Area, that include the development of A-35 zoned properties, including access to the property, that are not subject to County review due to Colorado Senate Bill 35 (1972).

It should be noted that the County does not allow for any Stormwater Permit exclusions which fall under County Growth Areas as the MS4 Permit is applied to the entire unincorporated County pursuant to Section 1.4 of the ECM, and as specified in Section I.2.

**I.3.2 Associate Erosion and Stormwater Quality Control Permit (AESQCP) Applicability**

An AESQCP is required for Construction Activities related to new single-family residential home construction that result in land disturbance of less than one (1) acre and are part of a Larger Common Plan of Development (LCPD) or sale that cumulatively will disturb one (1) acre or more. When there is a change in ownership for a parcel covered by an active ESQCP (e.g., single-family residential lots within a larger development), the new Owner (i.e., Builder) must obtain an AESQCP prior to any Construction Activities on individual lots.

**I.3.3 Builder's Erosion and Stormwater Quality Control Permit (BESQCP) Applicability**

A BESQCP is required for Construction Activities related to new single-family residential home construction that will result in land disturbance of less than one (1) acre and that are not part of a LCPD or sale that cumulatively will disturb one (1) acre or more.

If the lot has been disturbed previously by Construction Activities but has been Final Stabilized and any ESQCP on the property has been closed, the lot may be considered undisturbed and not part of a LCPD. In these cases, a BESQCP may be issued for the single-family residential lot provided less than one (1) acre of disturbance will occur and no other ESQCP or AESQCP thresholds are met.

**I.3.4 Stormwater Permit Application**

Applications for a Stormwater Permit shall include a completed permit application form and any required documents necessary to review, evaluate, and approve the application. To apply for a Stormwater Permit, the Applicant must submit the documents outlined in Table I-2 and the descriptions below to the County's Planning and Community Development (PCD) Department via the Electronic Development Application Review Program (EDARP) for review and approval.

Permit fees must be paid at the time of permit application. The permit fee shall be in a form acceptable to the ECM Administrator. Permit fees are non-refundable. The Permit Fee Schedule is available on the County's website.

**Table I-2. Overview of Stormwater Documents Required with Stormwater Permit Application**

Document	Stormwater Permit		
	ESQCP	AESQCP	BESQCP
Drainage Report or Drainage Letter	X		
FAE Form	X		
GEC Plan	X	X	
GEC Checklist	X		
PCM Applicability Form	X		
Site Map			X
Stormwater Permit Form	X	X	X
SWMP	X	X	
SWMP Amendment Form		X	
SWMP Checklist	X		
MHFD-Detention Basin Design Workbook or applicable drain time calculations*	X		
PCM O&M Manual*	X		
PCM Maintenance Agreement*	X		
Proof of Submittal of Colorado Division of Water Resources' (DWR) "Notice of Intent to Construct a Non-Jurisdictional Water Impoundment Structure" Application*	X		

\* - Document only required for an ESQCP if the project includes a proposed PCM.

(The descriptions of required submittal documents below are not intended to be definitions.)

- Drainage Report or Drainage Letter.** The purpose of a Drainage Report is to identify and propose specific solutions to drainage impacts that would occur as a result of development. Detailed analysis of drainage basin hydrology and hydraulics is required. Alternative solutions to drainage impacts shall be noted and the capacity of drainage facilities on and off-site shall be evaluated. Specific improvements, including open channels, storm sewers, grading, site stabilization, catch basins, culverts and other improvements, shall be located and sized to meet requirements of the initial and major drainage system.

A Drainage Letter is required for a property for which a complete Drainage Report has previously been approved by the ECM Administrator and significant changes from such report are not proposed. An approved Drainage Report or Drainage Letter is required to obtain an approved ESQCP. For additional guidance on Drainage Reports and Drainage Letters, refer to Chapter 4 of DCM1.

When applying for an AESQCP, if the proposed lot grading associated with the AESQCP application is not consistent with the approved Drainage Report or Drainage Letter, a new Drainage Letter shall be submitted as part of the AESQCP application.

The County has prepared Drainage Report and Drainage Letter checklists for guidance. There are separate checklists for Preliminary and Final Drainage Reports. Refer to DCM1 Chapter 4 for report requirements.

- Financial Assurance Estimate (FAE) Form.** Construction surety is required for an ESQCP. The FAE Form is used to determine the collateral amount for the project. The FAE Form and guidance is provided on the County's website. Additional information regarding collateral is discussed in ECM Chapter 5. Section 1 of

the FAE Form is specific to stormwater quality. This section is for the surety for temporary and permanent control measures.

- **Grading and Erosion Control (GEC) Plan.** The GEC Plan is used to identify all proposed disturbances and any CCMs and PCMs associated with the proposed construction in order to maintain compliance with the MS4 Permit requirements. The GEC Plan must contain details for all proposed CCMs and PCMs to include information on dimensions, installation, materials, and maintenance requirements. The GEC Plan may be included in the construction drawings set.

When applying for an AESQCP, the Applicant shall submit the GEC Plan approved with the ESQCP. The Applicant shall update the GEC Plan to identify all of the lots to be included under the AESQCP. Lot identification may be done by circling, highlighting, or shading the applicable AESQCP lots. If not already identified on the GEC Plan, the Applicant shall identify the lot type for each lot to be covered under the AESQCP.

- **GEC Checklist.** To assist in the preparation of the GEC Plan, the County developed a checklist to guide the completion and review of submitted plans. The GEC Checklist is provided on the County's Stormwater website.
- **PCM Applicability Form.** The PCM Applicability Form was developed by the County to assist the Applicant in determining if a PCM is required for the proposed project. The PCM Applicability Form is provided on the County's Stormwater website. See Section I.6.1 for additional information and guidance regarding PCM Applicability.
- **Site Map.** The Site Map is required for a BESQCP. The Site Map shall include the entire lot with existing structures, proposed development, temporary control measures, total percent impervious, and be drawn to scale.
- **Stormwater Permit Form.** An ESQCP, AESQCP or BESQCP Stormwater Permit Form must be submitted as part of the Application process. The three Stormwater Permit Forms is provided on the County's Stormwater website. A Stormwater Permit Form from the Permit Holder, which certifies that all applicable EPC requirements will be met, is required to be signed by all parties and approved prior to the start of construction. There may be times where the Contractor information is not yet known during the Stormwater Permit review; in these instances, the Contractor information and signature must be entered no later than the pre-construction meeting (i.e., can be left blank during the review phase).
- **Stormwater Management Plan (SWMP).** A plan developed in compliance with the content requirements in the County's MS4 Permit and this Appendix. The purpose of a SWMP is to identify all possible pollutant sources from an Applicable Construction Activity that may contribute to stormwater pollution, and to address the selection, installation, implementation and maintenance of CMs that, when implemented, will prevent pollution or degradation of Waters of the State.

The SWMP must be prepared using good engineering, hydrologic, and pollution control practices and shall be implemented prior to beginning ground disturbing activities.

The SWMP is intended to be a dynamic document and must be revised during construction to accurately reflect the current conditions and CMs in use at the site. Therefore, the County does not "approve" the SWMP, but rather "accepts" the SWMP for file during the Stormwater Permit review. A SWMP Template is provided on the County's website. See Section I.4.2 for additional information regarding SWMP and recordkeeping requirements during construction.

- **SWMP Amendment Form.** When applying for an AESQCP, the Applicant shall use the SWMP approved with the ESQCP. The Applicant shall submit, along with the SWMP, a SWMP Amendment Form documenting any revisions to the existing SWMP to ensure that the SWMP remains relevant to the Construction Activities to be completed under the AESQCP.

- SWMP Checklist.** To assist in the preparation of the SWMP, the County developed a checklist to guide in the completion and review of submitted plans. The SWMP Checklist includes all requirements under the County MS4 Permit, CDPHE Colorado Discharge Permit System General Permit COR400000, and Appendix I. The SWMP Checklist is provided on the County’s Stormwater website.

For sites with a proposed PCM, the following documents are also required:

- MHFD-Detention Basin Design Workbook (MHFD Workbook).** All detention facilities constructed after August 5, 2015 must meet the requirements of “stormwater detention and infiltration facilities” under CRS 37-92-602(8) which was enacted through Senate Bill 15-212. This statute provides certain legal protections for detention facilities in Colorado if they meet the statute’s criteria. For additional information regarding CRS 37-92-602(8) see ECM Section 3.2.5.F.

The MHFD Workbook is a tool used to ensure compliance with state law and is required for all proposed detention and infiltration facilities (see Table I-3). A separate Workbook must be submitted for each proposed facility. The purpose of the MHFD Workbook is to show that the facility is meeting required drain time requirements. Applicants shall use the latest Workbook on the MHFD website. If the size or design of a PCM will not be represented properly in the MHFD Workbook, other appropriate modeling of the respective storm event release rates and drain times shall be provided, including a summary in tabular format.

In accordance with Senate Bill 15-212, notification of construction of detention facilities, with data demonstrating compliance with CRS 37-92-602(8), shall be provided to the State prior to operation of the facility. The County, on behalf of the Applicant, provides notice to the State via the Statewide Notification Portal Website, maintained by the State Engineer, by uploading the MHFD-Detention Basin Design Workbook to the portal.

Please note, neither retention facilities nor constructed wetlands are protected under CRS 37-92-602(8). These facilities expressly require a water right from the State.

The MHFD Workbook (or other approved summary of modeling results) shall be included in the Drainage Report or Drainage Letter and shall also be uploaded as a separate document to EDARP.

**Table I-3. Permanent Control Measures that Require a MHFD-Detention Basin Design Workbook**

Detention Basin Design Workbook Requirements		
PCM Type	Water Quality Only	Flood Control Included
Grass Buffer (GB)	Not Required	Not Required
Grass Swale (GS)	Not Required	Not Required
Porous Landscape Detention (PLD)	Not Required	Required
Extended Detention Basin (EDB)	Required	Required
Sand Filter Basin (SFB)	Not Required	Required
Permeable Paving System (PPS)	Not Required	Required
Underground Detention (UGD)	Required	Required
Constructed Wetland Basin (CWB)	N/A, SUBJECT TO WATER RIGHTS	
Constructed Wetland Channel (CWC)	N/A, SUBJECT TO WATER RIGHTS	

- PCM Operation and Maintenance (O&M) Manual.** A PCM O&M Manual is a document that provides the PCM Owner with detailed information regarding required PCM inspection and maintenance, to ensure the long-term observation, maintenance, and operation of a PCM. The Engineer of Record shall develop and

submit a PCM O&M Manual for each proposed type of PCM at the time of the Stormwater Permit application review. The PCM O&M Manual shall include the frequencies for routine inspections and maintenance activities to be completed by the PCM Owner. The County-accepted PCM O&M Manual will be recorded with the PCM Maintenance Agreement. The PCM Owner shall routinely inspect and provide appropriate long-term maintenance for all PCMs in accordance with the PCM O&M Manual. Example PCM O&M Manual templates with minimum requirements for select PCMs are available on the County Stormwater website for reference.

- **PCM Maintenance Agreement.** The MS4 permit requires the County to ensure the long-term operation and maintenance of both County and private PCMs. To meet this requirement, the County requires the Owner of an Applicable Development Site with a PCM to enter into a PCM Maintenance Agreement with the County. An Applicable Development Site with multiple PCMs or other drainage facilities may have one or more PCM Maintenance Agreements depending upon the type of facilities, ownership, and maintenance responsibilities. The PCM Maintenance Agreement(s) shall cover all PCMs that are included in a development application and shall grant the County a non-exclusive perpetual easement to allow County access to the PCM(s).

When submitting a PCM Maintenance Agreement for review and recordation by the County, the agreement shall include the PCM O&M Manual as an exhibit. Multiple types of PCMs may be included in one PCM Maintenance Agreement and PCM O&M Manual. The PCM Owner shall routinely inspect and provide adequate long-term maintenance for all PCMs as described in the PCM O&M Manual. PCM Maintenance Agreements shall be approved by the County Attorney's office and signed by the responsible parties and submitted to the County prior to the issuance of Notice to Proceed (see Section I.4.1.C).

- **Proof of Submittal of the Colorado Division of Water Resources (DWR) "Notice of Intent to Construct a Non-Jurisdictional Water Impoundment Structure."** Any Applicant proposing to construct a reservoir for the purpose of storing water, (i.e., water quality and/or detention facility), shall submit notice thereof to the State Engineer prior to the beginning of any construction. Such notice shall include the location of such proposed reservoir with reference to Section, Township, and Range and the dimensions of the reservoir, the dam, and the spillway. If any reservoir is constructed without the notice required, the State Engineer may prohibit the storage of water in such reservoir or direct the withdrawal of water from such reservoir. This notice is required per CRS 37-87-125 and must be submitted to the Colorado Division of Water Resources (DWR) Dam Safety Engineer's Office a minimum of 45 days prior to construction. Proof of this notice is required to be submitted to the County.

Jurisdictional Size Dam. A dam creating a reservoir with a capacity of more than one hundred (100) acre-feet, or a surface area in excess of twenty (20) acres at the high water line, or where the jurisdictional height exceeds ten (10) feet.

Non-Jurisdictional Size Dam. A dam creating a reservoir with a capacity of one hundred (100) acre-feet or less, and a surface area of twenty (20) acres or less, and a jurisdictional height of ten (10) feet or less. Non-jurisdictional size dams are regulated and subject to the authority of the State Engineer.

Additional information regarding the Rules and Regulations for Dam Safety and Dam Construction is available on the State of Colorado Division of Water Resources website (see Section I.8.2).

The documents listed above are required for a Stormwater Permit. Additional documents may be required by the County as part of the Construction Permit application. Because each site is different with respect to the scope of work and location, additional requirements may be added to address specific concerns related to the proposed work.

Once a development application is approved, all signed documents will be uploaded to EDARP.

## **I.4. STORMWATER CONSTRUCTION**

[Replaces DCM2 Section 3.4]

This section provides an overview of all Permit Holder and County responsibilities for Construction Activities that occur within the unincorporated areas of El Paso County. The Permit Holder shall be responsible for the work authorized under the permit, per the conditions agreed upon within the permit forms.

Sites that are required to have a Stormwater Permit must control erosion and prevent the transport of sediment off site and onto adjacent properties, County rights-of-ways, streets, storm drainage facilities, channels or any other County or private facilities. The Permit Holder is responsible for subcontractors and others at the site to meet the requirements of the Stormwater Permit. CCMs must be selected, designed, installed, implemented, and maintained to provide control of all potential pollutants on site. At a minimum, pollutant sources associated with the following activities, if part of the Construction Activity, must be addressed with the appropriate CCMs:

- Land disturbance and storage of soils
- Vehicle tracking
- On-site waste management practices (waste piles, liquid wastes, dumpsters)
- Loading and unloading operations
- Outdoor storage of construction site materials, building materials, fertilizers, and chemicals
- Bulk storage of materials
- Vehicle and equipment maintenance and fueling
- Significant dust or particulate generating processes
- Routine maintenance activities involving fertilizers, pesticides, detergents, fuels, solvents, and oils
- Concrete truck and equipment washing, including the concrete truck chute and associated fixtures and equipment
- Dedicated asphalt and concrete batch plants
- Other areas or operations where spills can occur
- Other non-stormwater discharges, including construction dewatering and wash water, that may contribute pollutants to the MS4.

This section only discusses Stormwater Permit construction requirements; additional Construction Permit requirements may apply (see ECM Chapter 5).

### **I.4.1 Pre-Construction**

The following steps must be completed prior to the start of construction for all sites working under an approved ESQCP or AESQCP. This section does not apply to sites with an approved BESQCP.

#### **I.4.1.A Pre-Construction Meeting**

The Permit Holder is required to schedule a Pre-Construction (Pre-Con) Meeting with the County prior to any land disturbance. The Permit Holder shall arrange the time and location of the Pre-Con Meeting at least 72 hours prior to the scheduled meeting.

The purpose of the Pre-Con Meeting is to review the scope of work, discuss the County's inspections and reporting requirements, and answer any Permit Holder questions. The Permit Holder, Developer, Builder, Engineer, Qualified Stormwater Manager (QSM) and/or Contractor, as applicable, are expected to attend the Pre-Con Meeting.

The Permit Holder must provide the following information to the County at or before the Pre-Con Meeting:

- Contractor information (must be filled out on the Stormwater Permit Form)
- QSM credentials (see Section I.2.3)
- Documentation for all collateral as determined on the approved FAE Form
- Current construction schedule
- Spill Prevention and Response Plan, if not already provided with the SWMP
- CDPHE Colorado Discharge Permit System General Permit COR400000 Certification

During the Pre-Con Meeting, the Permit Holder and the County Stormwater Inspector will discuss the initial CCMs expected to be installed prior to the start of construction, as outlined in the SWMP and GEC Plans. If the Permit Holder wishes to install the initial CCMs prior to the Pre-Construction Meeting, the Permit Holder must notify the County at least 48 hours prior to the scheduled Pre-Con Meeting. The County Stormwater Inspector may then schedule the Initial Inspection to coincide with the Pre-Con Meeting in accordance with Section I.4.1.B.

#### I.4.1.B Initial Inspection

Initial Inspections are conducted to confirm that all initial CCMs are implemented in accordance with the SWMP and the GEC Plan prior to the start of construction. No other land disturbing activity shall occur prior to the Initial Inspection. An Initial Inspection is required for projects with an approved ESQCP or AESQCP. Projects with a BESQCP do not require an Initial Inspection; however, one may be requested by County staff or the Permit Holder.

Once the installation of all initial CCMs is complete, the Permit Holder shall request an Initial Inspection. The Initial Inspection must be scheduled with a County Stormwater Inspector at least 48 hours in advance of the proposed inspection time.

Following the Initial Inspection, the Permit Holder will receive an Initial Inspection Report. In the event the Initial Inspection identifies a failure to implement adequate initial CCMs, the Permit Holder must request a follow-up Initial Inspection once adequate initial CCMs have been installed in accordance with the SWMP and the GEC Plan.

Once the County Stormwater Inspector has determined that all findings have been addressed on the Initial Inspection Report, the Permit Holder will receive an Initial Inspection Memo confirming that all initial CCMs have been adequately installed at the Site. The Initial Inspection Memo is not the Notice to Proceed. No land disturbance or Construction Activities beyond the installation of the initial CCMs may occur prior to receiving the Notice to Proceed.

#### I.4.1.C Notice to Proceed

Once all Pre-Con Meeting and Initial Inspection requirements have been met, the ECM Administrator shall issue a Notice to Proceed to the Permit Holder. It is only at this time that the ESQCP or AESQCP becomes an active permit and Construction Activities may commence.

Failure to obtain a Notice to Proceed prior to beginning land disturbing activities may result in an immediate Stop Work Order (see Section I.4.4).

Notice to Proceed is required for projects with an approved ESQCP or AESQCP. Projects with a BESQCP do not require a Notice to Proceed.

#### **I.4.2 Stormwater Management Plan (SWMP) and Recordkeeping Requirements**

The purpose of a SWMP is to identify all possible pollutant sources from an Applicable Construction Activity that may contribute to stormwater pollution, and to address the selection, installation, implementation and maintenance of CMs that, when implemented, will prevent pollution or degradation of Waters of the State. CMs identified in the SWMP must be appropriate for the specific construction activity, the pollutant sources present, and the phase of construction. There is a wide variety of structural and non-structural CMs that can be used.

The SWMP is required to be on-site or digitally accessible during Construction Activities and must be implemented as written and updated from the start of Construction Activity until Final Stabilization is achieved. The QSM shall revise the SWMP during construction to accurately reflect the current conditions, practices, and CMs at the site. Revisions must be made to the SWMP before changes are made in the field. SWMP revisions must include a notation in the SWMP identifying the date and description of the change. Methods for notation may include notations on the GEC Plan, a log of changes, redline changes in the SWMP, or other measures to document revisions.

During construction, the SWMP must contain records of Permit Holder inspections (defined in Section I.4.3.A), the GEC Plan showing revised CMs as they are installed, modified, or removed, CM detail sheets with installation and maintenance specifications, and all other items listed in the SWMP Checklist.

#### **I.4.3 Construction Inspections**

Once the Initial Inspection for the site has been successfully completed and the Notice to Proceed has been issued, inspections shall be conducted throughout the duration of construction and until Stormwater Permit Termination. See Section I.4.8 for additional information regarding Permit Termination.

The focus of construction inspections is to ensure construction is in compliance with the approved plans and that CMs are installed and maintained consistent with the onsite SWMP and GEC Plan to prevent erosion, sediment transfer, spillage and leakage, and improper sludge or waste disposal. Inspections also serve as a means of educating Permit Holders of the need to minimize negative stormwater quality impacts from the site operations and to assist in complying with the requirements of this Appendix. As such, County Stormwater Inspectors will take a compliance assistance approach and will work with and assist the Permit Holder to maintain compliance with the approved plans and erosion and stormwater quality control requirements. It is the responsibility of the Permit Holder to take measures as necessary to ensure that the site is in compliance with local and state requirements, the SWMP, and the GEC Plan.

The following subsections outline the Permit Holder inspection requirements and the County inspection requirements for sites with an active ESQCP or AESQCP. Sites with an active BESQCP are not subject to Permit Holder inspections; however, County inspections may be conducted in response to complaints in accordance with Section I.4.3.B.3.

##### **I.4.3.A Permit Holder Inspections**

The Qualified Stormwater Manager (QSM) is required to conduct all Permit Holder inspections for sites with an active ESQCP or AESQCP. The QSM performing the inspections may be the Permit Holder, on the Permit Holder's staff, or a contracted third party. The QSM, if different than the Permit Holder, shall be authorized by the Permit Holder to direct individuals to carry out activities required by the Stormwater Permit.

The purpose of Permit Holder inspections is for the QSM to ensure that all CMs are installed according to approved plans, the CMs are adequate and are being properly maintained, the SWMP and GEC Plan is updated to reflect current conditions, and only allowable discharges are occurring off the site.

There are two types of Permit Holder inspections that the QSM must conduct (as applicable) as part of the Stormwater Permit requirements: routine Permit Holder inspections and reduced frequency Permit Holder inspections.

1. **Routine Permit Holder Inspections.** Routine Permit Holder inspections are to be performed and documented to ensure compliance with the Stormwater Permit. The QSM may choose to conduct a routine Permit Holder inspection either (1) at least once every 7 calendar days or (2) at least once every 14 calendar days with post-storm event inspections conducted within 24 hours after the end of any precipitation or snowmelt event that causes surface erosion. Provided the timing is appropriate, post-storm event inspections may be used to fulfill the 14-day inspection requirement.

Post-storm event inspections of all CMs shall be conducted within 24 hours after the end of any precipitation or snowmelt event that causes surface erosion to ensure that the CMs have operated as intended, to determine if maintenance is needed, and to locate and clean up any areas where materials may have run off site.

2. **Reduced Frequency Permit Holder Inspections.** The QSM may perform Permit Holder inspections at the following reduced frequencies when one of the following conditions exists:

- **Post-Storm Inspections at Temporarily Idle Sites**

For those choosing to utilize a 14-day and post-storm event inspection frequency, if no Construction Activities will occur immediately following a storm event, the post-storm event inspection must be conducted prior to resuming Construction Activities but no later than 72 hours after the end of any precipitation or snowmelt event that causes surface erosion. The delay of any post-storm event inspection must be documented in the inspection records and kept with the SWMP. Routine Permit Holder inspections must still be conducted at least every 14 calendar days.

- **Inactive Site Inspections**

When the site, or portions of a site, are awaiting establishment of vegetative ground cover and Final Stabilization, the QSM shall conduct a Permit Holder inspection at least once every 30 days. This reduced frequency Permit Holder inspection schedule may be used only when all of the following criteria are met:

- All land disturbing activities are complete;
- All activities for Final Stabilization have been completed with the exception of seed or sod application which has not yet occurred due to seasonal conditions or the necessity to reapply additional seed to augment previous efforts; and
- The SWMP and GEC Plan have been updated to locate those areas subject to the reduced inspection frequency.

The QSM is responsible for confirming that the frequency of inspections is sufficient to ensure that all CMs remain in good working condition at all times. The QSM shall record the results of all inspections by completing an inspection report or similar inspection checklist included in the SWMP Appendix. Completed inspection reports shall be kept on site or electronically and available to County Stormwater Inspectors for review. If completed inspection reports are kept electronically, the inspection reports must be immediately accessible to the County Stormwater Inspector during an inspection to the same extent as a paper copy stored at the site would be. The County may require the submission of these inspection reports on a site-specific basis.

### I.4.3.B County Inspections

County Inspections shall be performed by the County Stormwater Inspectors for the purpose of assuring compliance with the County's MS4 Permit. Inspections performed by County Stormwater Inspectors do not fulfill the requirement for Permit Holder inspections. All County Inspections will include observations and documentation of both CCMs and PCMs for conformance with the SWMP, approved construction drawings and the GEC Plan. County inspections are conducted for the general purpose of determining compliance at a site. During a County Inspection the site is assessed for the adequacy of CCMs, PCMs, overall site management, and record-keeping.

County Inspections for sites with an active ESQCP and/or AESQCP include the following types of inspections: Routine Inspections, Compliance Inspections, Complaint Response Inspections, Inactive Site Inspections, and/or Staff Vacancy Inspections. Each inspection type is discussed in further detail below. Not all inspection types will be performed at all sites. Sites with an active BESQCP are only inspected if there are observations of discharges of sediment from the disturbed area or if the County receives a complaint.

For all inspections conducted by County Stormwater Inspectors, a copy of the completed inspection report will be provided to the Permit Holder typically within two (2) County workdays following the inspection.

1. **Routine Inspections.** Routine Inspections are conducted to assess CCMs, PCM construction, pollutant sources, and discharge points. During a Routine Inspection, any failure to implement CMs, inadequate CMs, and/or CMs requiring routine maintenance will be identified. All sources of pollution, including trash, will be evaluated to determine if any non-allowable discharges are occurring. Discharge points to the MS4 or beyond the limits of the permitted site will be evaluated to determine if an Illicit Discharge has occurred (see Section I.5). The removal of pollutants will be required, when feasible, if a failure to implement a CM or an inadequate CM results in an off-site discharge of pollutants. During a Routine Inspection, the County Stormwater Inspector will review Permit Holder inspection reports for accuracy and completeness. In addition, the SWMP and GEC Plan will be reviewed to ensure the plans reflect current site conditions. Routine Inspections are conducted at least once every 45 days.
2. **Compliance Inspections.** Compliance Inspections are conducted as a follow up to an Illicit Discharge, failure to implement a CM, or an inadequate CM.

During Compliance Inspections the County Stormwater Inspector shall verify the following:

- If corrections have been completed on sites where an Illicit Discharge, a failure to implement a CM, or an inadequate CM was documented in the previous inspection report,
- CMs are installed and functioning according to design, and
- Only allowable discharges are occurring.

During a Compliance Inspection, the County Stormwater Inspector will review Permit Holder inspection reports for accuracy and completeness. In addition, the SWMP and GEC Plan will be reviewed to ensure the plans reflect current site conditions.

Compliance Inspections are conducted within 14 days of the previous inspection, unless the necessary corrections were made and observed by the County Stormwater Inspector during the previous inspection when the compliance issue was observed.

3. **Complaint Response Inspections.** Complaint Response Inspections are conducted in response to a complaint received by the County. Complaint Response Inspections are conducted to assess CMs, pollutant sources, and discharge points. During a Complaint Response Inspection, any failure to implement CMs, inadequate CMs, and/or CMs requiring routine maintenance will be identified. All sources of pollution, including trash, will be evaluated to determine if any non-allowable discharges are occurring. Discharge points to the MS4 or beyond the limits of the permitted site will be evaluated to determine if an Illicit Discharge has occurred (see Section I.5). The removal of pollutants will be required, when feasible, if a

failure to implement a CM or an inadequate CM results in an off-site discharge of pollutants. The Permit Holder will be notified at the time of the Complaint Response Inspection and of any issues identified during the inspection.

All construction sites are subject to Complaint Response Inspections. In the event that a Construction Activity is found to be operating without an applicable Stormwater Permit and meets a Stormwater Permit inclusion listed in Section I.3.1, the County Stormwater Inspector may pursue appropriate enforcement action described in Section I.4.4.B.

4. **Reduced Site Inspections.** Reduced Site Inspections are conducted by County Stormwater Inspectors at the frequency indicated below:

a. **Inactive Site Inspections.** Inactive Site Inspections are conducted on sites where land disturbing activities are completed and are awaiting growth of vegetation for Final Stabilization or on sites where no construction activity has occurred since the last inspection. Inactive Site Inspections are conducted to assess CCMs, PCMs, and discharge points. During an Inactive Site Inspection, any failure to implement CMs, inadequate CMs, and/or CMs requiring routine maintenance will be identified. All sources of pollution, including trash, will be evaluated to determine if any non-allowable discharges are occurring. Discharge points to the MS4 or beyond the limits of the permitted site will be evaluated to determine if an Illicit Discharge has occurred (see Section I.5). The removal of pollutants will be required, when feasible, if a failure to implement a CM or an inadequate CM results in an off-site discharge of pollutants.

Inactive Site Inspections are conducted at least once every 90 days unless the site qualifies for another inspection type in accordance with this section.

b. **Staff Vacancy Inspections.** Staff Vacancy Inspections are conducted as needed to accommodate a County staff vacancy or leave due to vacation or illness. During a Staff Vacancy Inspection, failures to implement CMs, inadequate CMs, and/or CMs requiring routine maintenance will be identified. All sources of pollution, including trash, will be evaluated to determine if any non-allowable discharges are occurring. Discharge points to the MS4 or beyond the limits of the permitted site will be evaluated to determine if an Illicit Discharge has occurred (see Section I.5). The removal of pollutants will be required, when feasible, if a failure to implement a CM or an inadequate CM results in an off-site discharge of pollutants.

Staff Vacancy Inspections are conducted at least once every 90 days.

#### **I.4.4 Enforcement**

As part of an effective stormwater quality protection program, a process of enforcement procedures shall be used to ensure compliance with County Stormwater Permits, the El Paso County Stormwater Ordinance, and the County MS4 permit. This applies to both sites with an existing Stormwater Permit and sites that neglected to obtain a required Stormwater Permit prior to starting construction. Enforcement procedures, and all associated fees, are provided in detail in the El Paso County Stormwater Ordinance.

In addition to the procedures outlined below, the ECM Administrator may enforce violations of the El Paso County Stormwater Ordinance, as appropriate, to address issues with discharges from a site resulting in an Illicit Discharge. See Section I.5 for additional information regarding Illicit Discharges.

#### I.4.4.A Sites With a Stormwater Permit

It is the responsibility of the Permit Holder to take all necessary measures to ensure that the site is in compliance with the Stormwater Permit and this Appendix. In addition to County requirements, the Permit Holder must meet State and Federal regulatory requirements for permits, Control Measures, and water rights. This section is applicable for all sites with an active ESQCP, AESQCP, and/or BESQCP.

County Stormwater Inspectors will take a compliance assistance approach with the Permit Holder during inspections. Failure to adequately respond to a violation documented in any Inspection Report provided by the County, however, may result in an enforcement action.

The County MS4 Permit requires enforcement procedures and sanctions designed to minimize the occurrence of violations and obtain compliance from chronic and Recalcitrant Violators of stormwater control requirements. Escalation of enforcement must occur as necessary based upon the severity of the violation and/or the recalcitrance of the violator to ensure that violations of a similar nature are enforced consistently. As a general outline, the following process will be followed until the site is brought into compliance:

Violation documented on Inspection Report > Informal Notice of Noncompliance > Formal Notice of Noncompliance > Stop Work Order > Revocation of Permit > Abatement Action and Performance of Remedial Work and/or Civil Enforcement and/or Criminal Prosecution. The County retains its right, however, to exercise its discretion in applying enforcement procedures as circumstances warrant. Each of these enforcement procedures are outlined in greater detail below.

Accelerated enforcement procedures or the immediate imposition of stricter remedies may be pursued in certain instances. Factors to be considered include:

- Recurrence of the same violation at a site;
- Occurrence of frequent violations at a site;
- Repeated failure to correct violations at a site; and
- A history of noncompliance or recalcitrance.

In the event that CMs have not been implemented, are inadequate, or require routine maintenance, the Permit Holder must take all necessary steps to minimize or prevent the discharge of pollutants until an adequate CM is implemented and operational. If it is not feasible to immediately install, repair, or perform maintenance on a CM, the Permit Holder Inspection Report must describe the reason such action is infeasible and establish a schedule for installing, repairing, or performing maintenance on the CM as soon as possible. The Permit Holder must also remove and properly dispose of any unauthorized release or discharge (e.g., non-stormwater discharge, trash, sediment, spill, or leak) and clean up any contaminated surfaces to minimize future unauthorized discharges.

If the County Stormwater Inspector observes a violation of the Stormwater Permit, County regulations, or the Stormwater Ordinance, the violation(s) will be documented in the inspection report. Examples of violations include failure to implement CMs, inadequate CMs, an offsite discharge, or an Illicit Discharge. The Permit Holder will remain noncompliant until the violation is corrected. At the subsequent Compliance Inspection (within 14 days of the previous inspection), if the violations have not been resolved before or during the inspection, then the County Stormwater Inspector will issue a Notice of Noncompliance to the Permit Holder.

**Notice of Noncompliance.** A Notice of Noncompliance is used to inform the Permit Holder that the permitted site is not in compliance with the Stormwater Permit or other requirements of County criteria, codes, or ordinances relating to grading, erosion, and stormwater quality. There are two types of Notices of Noncompliance issued by County Stormwater Inspectors: an Informal Notice of Noncompliance and a Formal Notice of Noncompliance.

- **Informal Notice of Noncompliance.** During the Compliance Inspection (within 14 days of the previous inspection), the County Stormwater Inspector will document any violations that have not been resolved

from the previous Inspection Report in the current Inspection Report and prepare an Informal Notice of Noncompliance. Both the Inspection Report and the Informal Notice of Noncompliance will be provided to the Permit Holder. During the subsequent Compliance Inspection (within 14 days of the previous inspection), if the violations have not been resolved before or during the inspection, the County Stormwater Inspector will issue a Formal Notice of Noncompliance to the Permit Holder.

- **Formal Notice of Noncompliance.** Following issuance of the Informal Notice of Noncompliance, the County Stormwater Inspector will conduct a second Compliance Inspection (within 14 days of the previous Compliance Inspection) to determine if the previous violations have been resolved. If any violations have not been resolved from the previous report, the County Stormwater Inspector will document the violations on the Inspection Report and issue a Formal Notice of Noncompliance. Failure to subsequently correct the violations prior to the next Compliance Inspection will result in the issuance of a Stop Work Order.

**Stop Work Order.** A Stop Work Order (SWO) is a written order to immediately cease all Construction Activities at a site. The SWO may be issued by the ECM Administrator or County Stormwater Inspector to the Permit Holder. A SWO shall be issued if the Permit Holder has demonstrated continued noncompliance with the ESQCP, AESQCP, or BESQCP after repeated and documented attempts by the County Stormwater Inspector to bring the site into compliance (i.e., Informal Notice of Noncompliance and Formal Notice of Noncompliance). An immediate SWO shall be issued without prior issuance of an Informal or Formal Notice of Noncompliance when: (1) the Permit Holder has failed to obtain a Notice to Proceed prior to commencing any land disturbing activities; (2) if the impacts of noncompliance are great enough, in the County's discretion, to warrant issuance of a SWO; or (3) the Permit Holder is deemed a Recalcitrant Violator. When a SWO is issued, it requires all work on the site to cease. No further land use approvals relative to the site will be allowed by the County, nor will work be allowed to resume, until the Permit Holder takes the measures necessary to bring the site into compliance, as described in the SWO. The only work that may continue under a SWO is work associated with bringing the site into compliance and/or stabilizing all land disturbance using temporary or permanent stabilization measures. The Permit Holder shall notify the County Stormwater Inspector once the violations have been corrected in order to schedule a Stop Work Order Resolution Inspection. The County Stormwater Inspector will perform a Stop Work Order Resolution Inspection to verify satisfactory correction of the violations identified in the SWO. No work shall commence until the Permit Holder receives a Resolution of Stop Work Order Memo to resume full Construction Activities.

**Revocation of Permit.** The County may revoke a Stormwater Permit in the following instances: (1) the Permit Holder has failed to comply with the SWO; (2) the current GEC Plan has been determined by the ECM Administrator to be inadequate and the Permit Holder failed to take the necessary measures to improve the GEC Plan; (3) the Permit Holder is deemed a Recalcitrant Violator; or (4) the impacts of noncompliance are great enough, in the County's discretion, to warrant revocation of a Stormwater Permit. Revocation of the Stormwater Permit has the same effect as a Stop Work Order, except that the ESQCP or AESQCP Permit Holder will need to resubmit an adequate SWMP, GEC Plan, a new Stormwater Permit Form, and Stormwater Permit Fee. When a BESQCP is revoked, the Permit Holder must apply for an ESQCP (see Section I.3.4). A second BESQCP will not be issued for the same site once revoked.

**Abatement Action and Performance of Remedial Work.** If the Permit Holder does not successfully complete all required work or violates any requirement of the Stormwater Permit (ESQCP or AESQCP), the County may perform remedial work by and through County forces, contract, or otherwise at the expense of the Permit Holder in accordance with the El Paso County Stormwater Ordinance. This enforcement level is used when a site is vulnerable to significant erosion or sediment migration and offsite discharge of pollutants and when the Permit Holder cannot or will not come into compliance.

**Civil Enforcement.** Failure to comply with a SWO or Revocation of Permit, or failure to reimburse the County for costs incurred through Abatement Action and Performance of Remedial Work, may result in a civil court action being filed against the Permit Holder in accordance with the El Paso County Stormwater Ordinance.

**Criminal Prosecution.** Failure to comply with a SWO or Revocation of Permit, or failure to reimburse the County for costs incurred through Abatement Action and Performance of Remedial Work, may result in criminal prosecution being filed against the Permit Holder in accordance with the El Paso County Stormwater Ordinance.

#### I.4.4.B Sites Without a Stormwater Permit

When a site does not have an active Stormwater Permit, the County considers the property owner (Owner) the ultimate responsible party for all Construction Activities.

**Stop Work Order.** If a County Stormwater Inspector determines that a Construction Activity is taking place or has taken place that requires a Stormwater Permit, a SWO will be issued to the Owner. Upon issuance of a SWO, the Owner must then cease all work at the site. The only work that may continue is to implement CMs to prevent any offsite discharge and stabilize all land disturbance using temporary or permanent stabilization measures.

If the Owner wishes to continue Construction Activities, a Stormwater Permit must be obtained through the County before any Construction Activities may resume. The Owner shall follow the procedures outlined in Section I.3 in order to obtain a Stormwater Permit. Once all Pre-Con Meeting and Initial Inspection requirements have been met, the County Stormwater Inspector will issue a Resolution of Stop Work Order Memo to the Owner to document that the SWO has been resolved. Construction Activities may not commence until Notice to Proceed has been issued. See Section I.4.1 for additional information regarding the Pre-Con Meeting, Initial Inspection, and Notice to Proceed requirements.

If the Owner does not wish to obtain a Stormwater Permit in order to continue Construction Activities, the Owner must return the site to the original grade and permanently stabilize the disturbed area with vegetation. Vegetation cover used for permanent stabilization must meet the criteria outlined in Section I.4.8.A. The Permit Holder shall notify the County Stormwater Inspector once corrective actions have been taken in order to schedule a Stop Work Order Resolution Inspection. The County Stormwater Inspector will perform a Stop Work Order Resolution Inspection to verify satisfactory completion of required corrective actions identified in the SWO. Upon satisfactory completion of the required corrective actions, the County Stormwater Inspector will issue a Resolution of Stop Work Order Memo to the Owner to document that the SWO has been resolved.

**Abatement Action and Performance of Remedial Work.** If the Owner fails to comply with a SWO, the County may perform remedial work by and through County forces, contract, or otherwise at the expense of the Owner in accordance with the El Paso County Stormwater Ordinance.

**Civil Enforcement.** Failure to comply with a SWO, or failure to reimburse the County for costs incurred in the Performance or Contracting of Remedial Work, may result in a civil court action being filed against the Owner in accordance with the El Paso County Stormwater Ordinance.

**Criminal Prosecution.** Failure to comply with a SWO, or failure to reimburse the County for costs incurred in the Performance or Contracting of Remedial Work, may result in criminal prosecution in accordance with the El Paso County Stormwater Ordinance

#### I.4.5 Preliminary Acceptance (PA)

This section is specific to Preliminary Acceptance (PA) requirements as they relate to the Stormwater Permit. See ECM Chapter 5 for additional PA requirements.

PA is only required for projects with construction surety. Projects with an active AESQCP or BESQCP do not require PA.

The Permit Holder seeking PA shall notify the County that the public and common development improvements are complete and ready to be accepted. Prior to notifying the County, the Permit Holder must ensure that all permanent

stormwater infrastructure (e.g., inlets, piping, PCMs) is properly installed per the approved construction plans (e.g., all fine grading of PCMs must be completed and their components must be completely installed) and adequately maintained. The County will then schedule the PA Walk to occur within approximately 1 week of receiving the request.

Following the PA Walk, the County Stormwater Inspector will send a PA Punchlist of corrective actions, if any, to the Permit Holder. The Permit Holder shall notify the County once all PA Punchlist items have been resolved. The County Stormwater Inspector will then complete a follow-up PA Walk to confirm all PA Punchlist items have been resolved and notify the ECM Administrator that the site is ready for PA.

If the permit holder fails to make the required repairs or corrections identified during the PA Walk inspection within 6 months, the ECM Administrator may draw on the construction collateral in order to perform the required repairs or corrections.

For sites with PCM(s), the Permit Holder must submit the following items to the County for review and approval:

- As-Built Drawings with updated survey information for all stormwater infrastructure, certified by the EOR.
- PCM Certification Letter, certified by the EOR.
- Updated PCM(s) volume calculations, certified by the EOR. If significant changes to the approved plans are identified in the As-Built Drawings, a revised inflow hydrograph based on the As-Built changes shall be provided to the County to confirm that the changes made during construction did not negatively alter the effective operation of the PCM(s).
- Contact information for the PCM Owner.

Following PA, the operation and maintenance of any County PCMs will remain the Permit Holder's responsibility until Stormwater Permit Termination (see Section I.4.8). Any private PCMs shall continue to be maintained by the Permit Holder, Owner, or PCM Owner identified in the PCM Maintenance Agreement.

All construction Permit Holder and County Inspections shall continue at the site while in PA (see Section I.4.3) until Stormwater Permit termination.

#### **I.4.6 Final Acceptance (FA)**

This section is specific to stormwater related Final Acceptance (FA) requirements. See ECM Chapter 5 for additional FA requirements.

FA is only required for projects with construction surety. Projects with an active AESQCP or BESQCP do not require FA. If all Stormwater Permit termination requirements have been met, the Stormwater Permit may be terminated prior to FA. See Section I.4.8 for additional requirements regarding Permit Termination.

The Permit Holder seeking FA shall notify the County that County and common development improvements are ready to be accepted. Prior to notifying the County, the Permit Holder must ensure that all PCMs are adequately maintained in order for the County to identify any deficiencies or defects in workmanship or materials. The County will then schedule the FA Walk to occur within approximately 1 week of receiving the request.

Following the FA Walk, the County Stormwater Inspector will send a FA Punchlist of any deficiencies or defects in workmanship or materials relating to the permanent stormwater infrastructure that have occurred during the 2-year defect warranty period to the Permit Holder. The Permit Holder shall notify the County once all FA Punchlist items have been resolved. The County Stormwater Inspector will then complete a follow-up FA Walk to confirm all FA Punchlist items have been resolved and notify the ECM Administrator that the site is ready for FA.

Once the site is in Final Acceptance, PCM information will be entered into the County's Post-Construction PCM Program database (see Section I.6.2) and the Routine PCM Inspection process will commence.

#### **I.4.7 Transfer of Ownership or Control of a Residential Property**

Each successive Owner through the land development and building process shall obtain its own Stormwater Permit and submit its own permit fees and financial assurance (if required) until Final Stabilization is achieved. An entity that takes ownership of property that has an active Stormwater Permit must immediately obtain its own Stormwater Permit. If the new Owner will be building single-family residences or duplexes, an AESQCP will be required. The AESQCP is to be obtained by the new Owner immediately following purchase of the lot(s). If an Owner has already obtained an AESQCP for lots within a subdivision filing, the AESQCP must be modified to add any new lot(s) that the Permit Holder has taken ownership of within that subdivision filing. To add a lot(s) to an existing AESQCP, the Permit Holder must submit an AESQCP Modification Request Form to the County.

When a property is covered by an ESQCP, construction is complete, Final Stabilization has not occurred, and the property is sold to another party (e.g., a home builder or private investor) the previous Owner (i.e., current Permit Holder) is responsible for installing all necessary CCMs and informing the new Owner in writing of their responsibility to maintain the CCMs until Final Stabilization has been achieved. Upon issuance of a new Stormwater Permit, the previous Owner will then be allowed to modify the ESQCP to remove the newly permitted properties from the ESQCP coverage. The current ESQCP Permit Holder shall submit a "Notice of Reassignment of Permit Coverage and General Permit Application Stormwater Discharges Associated with Construction Activities" to the County Stormwater Inspector and to the State of Colorado. The SWMP and GEC Plan must also be revised to account for the change in permit area coverage. Following the transfer and issuance of an AESQCP, the ESQCP Permit Holder may receive a partial release of the financial assurance proportional to the CCMs on the part of the property that was sold (see ECM Section 5.3.15).

If the existing ESQCP is terminated (see Section I.4.8), the AESQCP Permit Holder is responsible for any CCMs providing treatment for or located on the AESQCP lot(s).

In situations where a CCM that provides protection for property that has been sold is located on property that belongs to the original Owner, the responsibility for the CCM remains with the original Owner.

The Permit Holder may remove a residential lot from an AESQCP when all of the following criteria are met:

- The lot has been sold to the homeowner(s) for private residential use;
- A certificate of occupancy (or equivalent) has been issued;
- The lot contains less than one acre of disturbed area;
- All Construction Activity conducted by the Permit Holder on the lot is complete, including the installation of CCMs that minimize sediment from exiting the lot, or the installation of temporary stabilization on remaining disturbance where the Permit Holder is not responsible for final stabilization; and
- The Permit Holder is not responsible for final stabilization of the lot.

The Permit Holder is responsible for installing adequate CCMs prior to the sale of the lot to a private homeowner and informing the private homeowner, in writing, of their responsibility to maintain the CCMs until Final Stabilization has been achieved. The AESQCP must be modified to indicate that the property is no longer covered by the AESQCP. To remove the property from the AESQCP, the AESQCP Permit Holder must submit an AESQCP Modification Request Form to the County. Once the AESQCP modification request has been reviewed and approved by the County, the property will be removed from the AESQCP.

When a property is covered by a BESQCP, construction is complete, and Final Stabilization has not occurred, the current Permit Holder is responsible for installing adequate CCMs prior to the sale of the lot to a private homeowner. Additionally, the current Permit Holder is responsible for informing the private homeowner, in writing, of their responsibility to maintain the CCMs until Final Stabilization has been achieved.

### **I.4.8 Stormwater Permit Termination**

Stormwater Permit Termination is required for all sites with an active ESQCP. For sites with an active AESQCP, the Stormwater Permit shall be administratively terminated once all lots have been removed from the AESQCP (see Section I.4.7) For sites with an active BESQCP, the Stormwater Permit shall be administratively terminated once the Certificate of Occupancy (CO) is issued (see Section I.4.7).

For sites with construction surety, the Stormwater Permit may not be terminated prior to PA (see Section I.4.5). If all Stormwater Permit termination requirements have been met, the Stormwater Permit may be terminated prior to FA (see Section I.4.6).

The Permit Holder seeking to close their Stormwater Permit shall notify the County Stormwater Inspector that conditions for Final Stabilization (see Section I.4.8.A) have been met and request a Stormwater Permit Termination Inspection (see Section I.4.8.B).

#### **I.4.8.A Final Stabilization**

Final Stabilization is the condition reached when all ground disturbing activities at the site have been completed and permanent stabilization methods are complete. Permanent stabilization methods may include but are not limited to the following: permanent pavement or concrete, hardscape xeriscape, stabilized driving surfaces and storage areas, vegetative cover, or equivalent permanent alternative stabilization methods.

When using vegetative cover as a permanent stabilization method, the following criteria must be met:

- The vegetation, which may include trees and shrubs, shall be evenly distributed perennial vegetation and of the variety and species found in the County-approved seed mixes or in the approved GEC Plan.
- Vegetation coverage shall be, at a minimum, equal to 70 percent of what would have been provided by native vegetation in a local, undisturbed area or adequate reference site. Weeds and invasive species are typically not perennial and would not be considered native vegetation. Therefore, weeds would not be included in the 70% analysis used for achieving Final Stabilization (refer to CDPHE General Permit COR400000 Guidance for Achieving Final Stabilization (revised March 2024) for additional information regarding native vegetation requirements).

#### **I.4.8.B Permit Termination Inspection**

Prior to requesting a Permit Termination Inspection, the Permit Holder must ensure that all permanent stormwater infrastructure (e.g., inlets, piping, PCMs) is adequately maintained (as applicable) and Final Stabilization at the site has been achieved. The County Stormwater Inspector will then schedule the Permit Termination Inspection to occur within approximately 1 week of receiving the request. A Permit Termination Inspection may be requested in conjunction with FA (see Section I.4.6).

During a Permit Termination Inspection, the following items will be evaluated:

- The site has entered into Preliminary Acceptance consistent with Section I.4.5 and ECM Chapter 5, if applicable.
- The site has achieved Final Stabilization consistent with Section I.4.8.A.
- Any sediment or other pollutant that may have been transferred off-site has been removed. In some circumstances, when approved, sediment discharged off-site may be left in place and stabilized.

- All PCMs are functioning in accordance with the design and with the PCM O&M Manual.
- All temporary CCMs have been removed from the site.
- Any sediment or other pollutant that may have been transferred to the streets, parking lots, pipes, inlets, and channels (on-site and off-site) has been removed.
- The site is in compliance with all required corrective action identified during previous Inspections.
- A copy of the CDPHE Colorado Discharge Permit System Notice of Termination, Permit Modification Certification, or Permit Transfer Certification has been provided to the County.

Following the Permit Termination Inspection, the County Stormwater Inspector will send the Permit Holder a Termination Inspection Report.

Once all Permit Termination Inspection Report items have been resolved the County Stormwater Inspector will complete a follow-up Termination Inspection to confirm all findings have been resolved.

Once all Permit Termination Inspection Report findings have been addressed, the County will provide the Permit Holder a written Notice of Termination Memo stating that the Stormwater Permit has been closed.

All Permit Holder and County Inspections related to Construction Activities shall cease at Permit Termination.

## I.5. ILLICIT DISCHARGE ENFORCEMENT

As part of an effective stormwater quality protection program, a process of enforcement procedures shall be used to prohibit, cease, and remove Illicit Discharges, ensuring compliance with the El Paso County Stormwater Ordinance and the County MS4 permit. An Illicit Discharge is any discharge into the County MS4 that is not composed entirely of stormwater, except those discharges excluded by the Stormwater Ordinance. This applies throughout unincorporated El Paso County, including sites operating under an active Stormwater Permit. Enforcement measures are provided in detail in the El Paso County Stormwater Ordinance.

The County MS4 Permit requires enforcement procedures and sanctions designed to prohibit Illicit Discharges, require the cessation of any active Illicit Discharge, and require the removal of any Illicit Discharge that has occurred. Escalation of enforcement must occur as necessary, based upon the severity of the Illicit Discharge and/or the recalcitrance of the violator to ensure that violations of a similar nature are enforced consistently. As a general outline, the following process will be followed until the Illicit Discharge has ceased and been removed:

Illicit Discharge observed or reported and confirmed by the County Stormwater Inspector > Notice of Violation > Stop Work Order (if applicable) > Abatement Action and Performance of Remedial Work and/or Civil Enforcement and/or Criminal Prosecution. The County retains its right, however, to exercise its discretion in applying enforcement procedures as circumstances warrant. Each of these enforcement procedures are outlined in greater detail below.

Accelerated enforcement procedures or the immediate imposition of stricter remedies may be pursued in certain instances. Factors to be considered include:

- recurrence of the same type of Illicit Discharge at a property or by a violator;
- occurrence of frequent Illicit Discharges at a property or by a violator;
- repeated failure to cease and remove Illicit Discharges at a property or by a violator; and
- a history of noncompliance or recalcitrance by a violator.

When an unauthorized discharge of a pollutant occurs directly into Waters of the State, the County, at their discretion, may notify the CDPHE pursuant to the reporting requirements included in the County's MS4 permit or the CDPS General Permit for Stormwater Discharges Associated with Construction Activity.

After observation or receiving a report of a potential Illicit Discharge, the County Stormwater Inspector will conduct an inspection to confirm that the discharge is an Illicit Discharge, as defined in Section I.2.3. Following confirmation that an Illicit Discharge is occurring or has occurred, the County Stormwater Inspector will issue a Notice of Violation to the Owner and to the party responsible for the Illicit Discharge, if different from the Owner.

**Notice of Violation.** A Notice of Violation is used to inform the Owner and the party responsible for the Illicit Discharge, if different from the Owner, that an Illicit Discharge in violation of the Stormwater Ordinance is occurring or has occurred. The Notice of Violation instructs the recipient to contact the County Stormwater Inspector and cease and remove the Illicit Discharge within two (2) business days of receiving the Notice of Violation.

**Stop Work Order.** In cases where an Illicit Discharge is occurring or has occurred from a site operating under an active Stormwater Permit, following the issuance of an NOV, failure to cease and remove the Illicit Discharge will result in a SWO being issued to the Permit Holder. SWOs are not issued for Illicit Discharges at a site without a Stormwater Permit. When a SWO is issued, it requires all Construction Activities on the site to cease. No further land use approvals relative to the site will be allowed by the County, nor will Construction Activities be allowed to resume, until the Permit Holder takes the measures necessary to cease and remove the Illicit Discharge. The Permit Holder shall notify the County Stormwater Inspector once corrective actions have been taken in order to schedule a Stop Work Order Resolution Inspection. The County Stormwater Inspector will perform a Stop Work Order Resolution Inspection to verify satisfactory completion of required corrective actions identified in the SWO. No Construction

Activities shall commence until the Permit Holder receives a Resolution of Stop Work Order Memo to resume full Construction Activities.

**Abatement Action and Performance of Remedial Work.** If the Owner and/or the party responsible for the Illicit Discharge fails to cease and remove the Illicit Discharge, the County may perform remedial work by and through County forces, contract, or otherwise at the expense of the Permit Holder in accordance with the El Paso County Stormwater Ordinance.

**Civil Enforcement.** Failure to cease and remove the Illicit Discharge, or failure to reimburse the County for costs incurred through Abatement Action and Performance of Remedial Work, may result in a civil court action being filed against the Owner and/or party responsible for the Illicit Discharge in accordance with the El Paso County Stormwater Ordinance.

**Criminal Prosecution.** Failure to cease and remove the Illicit Discharge, or failure to reimburse the County for costs incurred through Abatement Action and Performance of Remedial Work, may result in criminal prosecution being filed against the Owner and/or party responsible for the Illicit Discharge in accordance with the El Paso County Stormwater Ordinance.

## I.6. STORMWATER PCMs

[Replaces DCM2 Section 4.1, pages 4-1 through "Other BMPs" continued on 4-5]

This section contains requirements and procedures for the applicability, selection, installation, implementation and maintenance of permanent stormwater quality Control Measures that will remain in operation after construction for New Development and Redevelopment sites. All Applicable Development Sites must have operational PCMs at the completion of the site, unless excluded from the requirements of an Applicable Development Site as described in Section I.6.1.B. All PCMs for Applicable Development Sites shall meet one of the "base design standards" described in Section I.6.3.A.

In the case where PCMs are part of future phasing, the Permit Holder must have a mechanism to ensure that all CMs 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 CMs must meet one of the "base design standards" described in Section I.6.3.A.

A procedure is provided within the context of a flow chart and a four-step process that shall be followed for all Applicable Development Sites. Detailed descriptions, sizing and design criteria, and design procedures for PCMs are provided in the New Development BMP Factsheets provided in Section 4.2 of the DCM2 and the MHFD USDCM Volume 3 (<https://mhfd.org/resources/criteria-manual-volume-3/>).

It is recommended that discussions and collaboration regarding proposed CMs occur early in each project between the developer's planner and engineer, County Stormwater and County Planning and Community Development staff.

The analysis of the requirements, exclusions and base design standards presented in this Section I.6 shall be incorporated into existing ECM Administrator submittals for review and acceptance, including Preliminary/Final Drainage Reports and construction plans, or as otherwise specified by the ECM Administrator.

Note that the PCM criteria in this section is applicable to all soil disturbances, not just impervious surfaces.

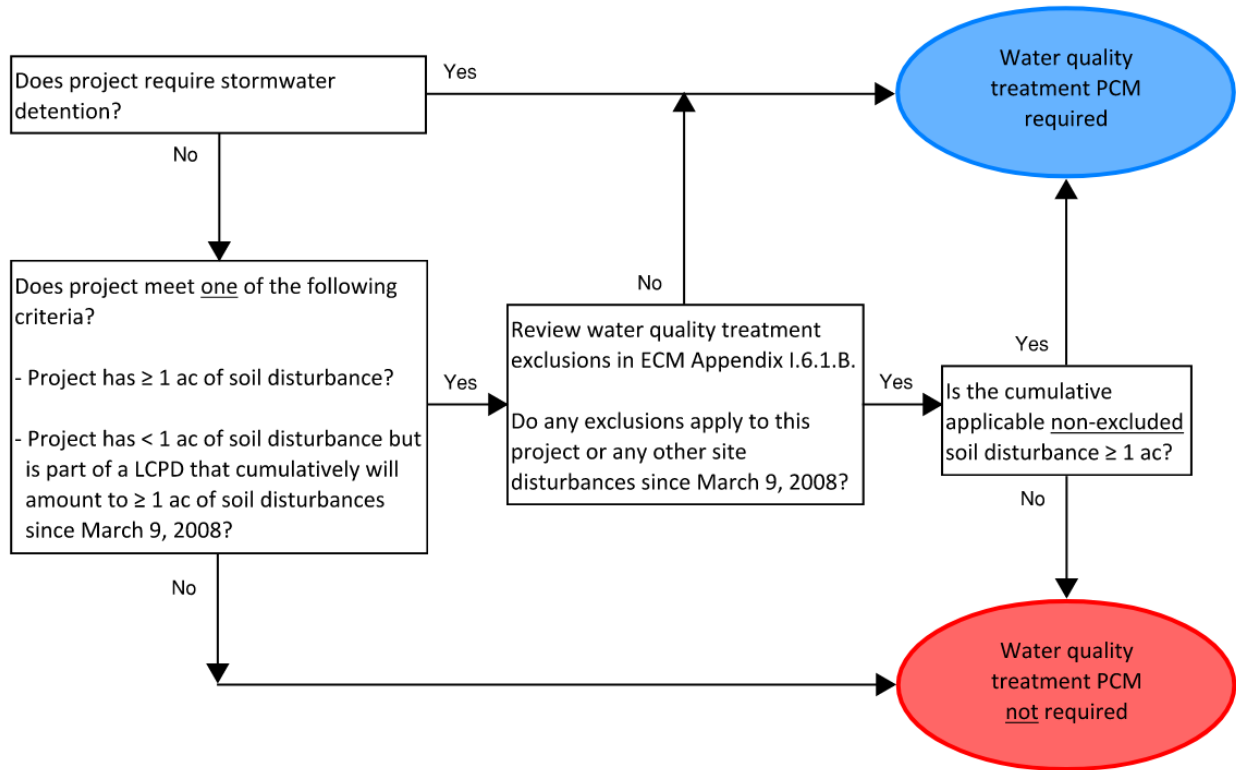
### **I.6.1 PCM Applicability**

Figure I-3 below helps to determine if a water quality PCM is required for a Construction Activity. If it is determined that a PCM is required, use MHFD USDCM Volume 3 Chapter 2: BMP Selection (<https://mhfd.org/wp-content/uploads/2020/01/Chapter-2-BMP-Selection.pdf>) to help determine what type of PCM is best suited for the project. Complete the "PCM Applicability Form" to document whether or not a PCM is required and which exclusions are applicable.

If a PCM is required, Applicant may utilize one of the following options for water quality treatment:

- Design and construct a new onsite/offsite PCM.
- Redesign and retrofit (as needed) an existing onsite or offsite PCM. If utilizing an existing PCM and modifications are necessary to accommodate the proposed improvements, the PCM must be brought up to current County standards at the time of project submittals (e.g., FSD).

Figure I-3. PCM Applicability Flowchart



I.6.1.A PCM Inclusions

- Projects that meet the definition of an Applicable Development Site, as defined in Section I.2.3.
- Projects that require stormwater detention.
  - For stormwater detention requirements, refer to DCM2 Chapter 1 and ECM Chapter 3. If the project requires stormwater detention, then it must also address stormwater quality, per DCM2 Chapter 4 and Section I.6.3.B.
- Projects that will have cumulative applicable non-excluded soil disturbance ≥ 1 ac.
  - It is acceptable to utilize the exclusions in Section I.6.1.B to exclude partial areas of the project as applicable and then treat the remaining area (if the remaining area is > 1 ac).
- Projects that will have < 1 ac of non-excluded soil disturbance but are part of a LCPD that cumulatively will amount to ≥ 1 ac of non-excluded soil disturbances since March 9, 2008.

I.6.1.B PCM Exclusions

**Applicable Development Sites: Excluded Sites.** The following types of sites and associated land disturbances are excluded from the requirements of this Section I.6. Although a site may qualify for an exclusion to Section I.6 below, the site may still be considered an Applicable Construction Activity subject to the requirements of a Stormwater Permit. See Section I.3 for additional information regarding Stormwater Permit requirements.

1. **Pavement Management Sites.** Sites, or portions of sites, for the rehabilitation, maintenance, and reconstruction of roadway pavement, which includes roadway resurfacing, mill and overlay, white topping,

black topping, curb and gutter replacement, concrete panel replacement, and pothole repair. The purpose of the site must be to provide additional years of service life and optimize service and safety. The site also must be limited to the repair and replacement of pavement in a manner that does not result in an increased impervious area, and the infrastructure must not substantially change. The types of sites covered under this exclusion include day-to-day maintenance activities, rehabilitation, and reconstruction of pavement. "Roadways" include roads and bridges that are improved, designed or ordinarily used for vehicular travel and contiguous areas or that are improved, designed or ordinarily used for pedestrian or bicycle traffic, drainage for the roadway, and/or parking along the roadway. Areas primarily used for parking or access to parking are not roadways.

2. **Excluded Roadway Redevelopment.** Redevelopment sites including existing roadways, when one of the following criteria is met:
  - 1) The site adds less than 1 acre of paved area per mile of roadway to an existing roadway, or
  - 2) The site does not add more than 8.25 feet of paved width at any location to the existing roadway.
3. **Excluded Existing Roadway Areas.** For Redevelopment Sites including existing roadways, only the area of the existing roadway is excluded from the requirements of an Applicable Development Site when the site does not increase the width by 2 times or more, on average, of the original roadway area. The entire site is not excluded from being considered an Applicable Development Site for this exclusion. The area of the site that is part of the added new roadway area is still an Applicable Development Site.
4. **Aboveground and Underground Utilities.** Activities for installation or maintenance of underground utilities or infrastructure that does not permanently alter the terrain, ground cover, or drainage patterns from those present prior to the Construction Activity. This exclusion includes, but is not limited to, activities to install, replace, or maintain utilities under roadways or other paved areas that return the surface to the same condition.
5. **Large Lot Single-Family Sites.** A single-family residential lot or agricultural zoned lands greater than or equal to 2.5 acres in size per dwelling and having a total lot impervious area of less than 10%. A total lot imperviousness greater than 10% is allowed when a study specific to the watershed and/or MS4 shows that expected soil and vegetation conditions are suitable for infiltration/filtration of the WQCV for a typical site, and the County accepts such study as applicable within its MS4 boundaries. The maximum total lot impervious covered under this exclusion shall be 20%.
6. **Non-Residential and Non-Commercial Infiltration Conditions.** This exclusion does not apply to residential or commercial sites for buildings. This exclusion applies to Applicable Development Sites for which post-development surface conditions do not result in concentrated stormwater flow during the 80th percentile stormwater runoff event. In addition, post-development surface conditions must not be projected to result in a surface water discharge from the 80th percentile stormwater runoff events. Specifically, the 80th percentile event must be infiltrated and not discharged as concentrated flow. For this exclusion to apply, a study specific to the site, watershed and/or MS4 must be conducted. The study must show rainfall and soil conditions present within the project area, must include allowable slopes, surface conditions, and ratios of impervious area to pervious area, and the County must accept such study as applicable within its MS4 boundaries.
7. **Sites with Land Disturbance to Undeveloped Land that will Remain Undeveloped.** Sites with land disturbance to undeveloped land (land with no human-made structures such as buildings or pavement) that will remain undeveloped after the site. Typical examples of this type of site are trails, parks and open space without structures.
8. **Stream Stabilization Sites.** Construction Activity that is solely for the purpose of stream stabilization.

9. **Trails.** Bike and pedestrian trails. Bike lanes for roadways are not included in this exclusion, unless attached to a roadway that qualifies under another exclusion in this section.
10. **Oil and Gas Exploration.** Facilities associated with oil and gas exploration, production, processing, or treatment operations, or transmission facilities, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not such field activities or operations may be considered to be an Applicable Construction Activity.

It should be noted that the County does not allow for any PCM exclusions which fall under County Growth Areas as the MS4 Permit is applied to the entire unincorporated County pursuant to Section 1.4 of the ECM, and as specified in Section I.2.

### **I.6.2 Post-Construction Inspections and Enforcement**

As required by the MS4 Permit, the County developed a Post-Construction PCM Program that includes post-construction oversight inspections of PCMs, enforcement procedures to ensure long-term operation and maintenance of PCMs, and PCM-related education for PCM Owners throughout the County. The program pertains to PCMs that have been fully constructed and have reached the FA stage, in accordance with Section I.4.6.

The County requires a PCM Maintenance Agreement with PCM Owners throughout the County. Per the PCM Maintenance Agreement, it is the ultimate responsibility of the PCM Owner to routinely inspect, clean, and maintain their PCMs and if they do not, the County has the right to perform the necessary maintenance and be reimbursed by the PCM Owner for any costs incurred. The PCM O&M Manual templates available on the County Stormwater website can be used as guidance for necessary PCM maintenance.

Information regarding the inspection and maintenance needs associated with each PCM type is provided in the generic PCM O&M Manual Templates available on the County Stormwater website and should be included in site-specific PCM O&M Manuals. PCM O&M Manuals also include specifics on frequency of inspections and maintenance; standards for vegetation or structures, such as species of vegetation, mowing height, revegetation of worn or eroded areas, cleaning methods; depth of sediment requiring removal; replacement frequencies; and other relevant topics.

#### **I.6.2.A PCM Owner Inspections**

As required by the PCM Maintenance Agreement, the PCM Owner is responsible for conducting routine inspections and maintenance. The PCM O&M Manual included with the PCM Maintenance Agreement outlines the required frequency of PCM Owner Inspections for each type of PCM at the site.

The PCM Owner may use their own PCM Inspection Report, or they may use the County's PCM Inspection Report provided in the PCM O&M Manual template, available on the County Stormwater Website.

Prior to a County Routine PCM Inspection (see Section I.6.2.B), the County may send the PCM Owner a letter to schedule an optional PCM Co-Inspection. The County will take a compliance assistance approach with the PCM Owner during the PCM Co-Inspection by reviewing all inspection and maintenance requirements of each PCM at the site and answering any questions the PCM Owner may have. The County recommends that the PCM Owner complete at least one PCM Co-Inspection to better understand what is required of the PCM Owner.

#### **I.6.2.B County Inspections**

As required by the MS4 Permit, the County must inspect all County and private PCMs within unincorporated El Paso County to ensure adequate operation and maintenance. During a County PCM Inspection, the County Stormwater Inspector will inspect the PCM to confirm that it is operational in accordance with the approved design and to

identify any PCM components requiring routine maintenance or corrective action to ensure adequate operation. A completed PCM Inspection Report documenting the inspection findings will be provided to the PCM Owner.

County PCM Inspections do not fulfill the requirement for PCM Owner Inspections.

In accordance with the PCM Maintenance Agreement, the Owner grants the County a non-exclusive perpetual easement to allow the County to access the PCM(s) and as such, notification of an upcoming County PCM Inspection is not required.

The County performs the following types of Post-Construction PCM Inspections:

- **Routine PCM Inspection.** The County conducts Routine PCM Inspections at least once every MS4 Permit term (approximately once every 5 years) to ensure the long-term operation and maintenance of all PCMs. These inspections may be completed more frequently if, for example, a complaint is received or if an existing PCM is proposed to be tied into or retrofitted with a New Development. If a Routine PCM Inspection does not identify that any corrective action items are required, the PCM Owner will receive the PCM Inspection Report and a Notice of Compliance.
- **Follow-up PCM Inspection.** If a Routine PCM Inspection identifies corrective action items are required, an Informal Notice of Noncompliance will be issued and a Follow-up PCM Inspection will be conducted to confirm that all corrective action items have been addressed by the PCM Owner. See Section I.6.2.C for additional information regarding Follow-up PCM Inspections and enforcement procedures. See Table I-4 and Figure I-4 for a summary of time between Follow-Up PCM Inspections and the associated enforcement notices.

### I.6.2.C Enforcement

As part of an effective post-construction stormwater quality protection program, a process of enforcement procedures shall be used to ensure compliance with PCM Maintenance Agreements, the El Paso County Stormwater Ordinance, and the County MS4 Permit. The County MS4 Permit requires enforcement procedures and sanctions designed to minimize the occurrence of violations and obtain compliance from chronic and Recalcitrant Violators of PCM requirements. Escalation of enforcement must occur as necessary based upon the severity of the violation and/or the recalcitrance of the violator to ensure that violations of a similar nature are enforced consistently.

It is the responsibility of the PCM Owner to take all necessary measures to ensure that the PCM is maintained in compliance with the PCM Maintenance Agreement and the Stormwater Ordinance.

County Stormwater Inspectors will take a compliance assistance approach with the PCM Owner during inspections. Failure to adequately respond to a violation documented in any Inspection Report provided by the County, however, may result in an enforcement action.

The County MS4 Permit requires enforcement procedures and sanctions designed to minimize the occurrence of violations and obtain compliance from chronic and Recalcitrant Violators of PCM requirements. Escalation of enforcement must occur as necessary based upon the severity of the violation and/or the recalcitrance of the violator to ensure that violations of a similar nature are enforced consistently. As a general outline, the following process will be followed until the site is brought into compliance:

Informal Notice of Noncompliance > Formal Notice of Noncompliance > Final Notice of Noncompliance > Notice of Enforcement Action > El Paso County Abatement Action and Performance of Remedial Work and/or Civil Enforcement and/or Criminal Prosecution. The County retains its right, however, to exercise its discretion in applying enforcement procedures as circumstances warrant. Each of these enforcement procedures are outlined in greater detail below.

**Notice of Noncompliance.** A Notice of Noncompliance is used to inform the PCM Owner that the PCM is not in compliance with the PCM Maintenance Agreement and/or Stormwater Ordinance. There are three types of Notices of Noncompliance issued by County Stormwater Inspectors: an Informal Notice of Noncompliance, a Formal Notice of Noncompliance, and a Final Notice of Noncompliance. During any of the Follow-up PCM Inspections described below, if all corrective action items documented in the previous PCM Inspection Report have been resolved, the PCM Owner will receive a PCM Inspection Report documenting that no corrective action items were identified, in addition to a letter notifying the PCM Owner that the PCM is in general compliance with the PCM Maintenance Agreement. No further enforcement action will occur and the PCM will return to follow the normal Routine PCM Inspection frequency.

- **Informal Notice of Noncompliance.** During a Routine PCM Inspection, the County Stormwater Inspector will identify any corrective action items which have resulted or are likely to result in inadequate operation of a PCM. The County Stormwater Inspector will document the corrective action items in a PCM Inspection Report and prepare an Informal Notice of Noncompliance. Both the PCM Inspection Report and the Informal Notice of Noncompliance will be provided to the PCM Owner. A Follow-Up Inspection will be conducted within 90 days to confirm that all corrective action items have been resolved.
- **Formal Notice of Noncompliance.** Following issuance of the Informal Notice of Noncompliance, the County Stormwater Inspector will conduct a Follow-Up Inspection (within 90 days of the previous inspection) to determine if the previous corrective action items were resolved. If any corrective action items have not been resolved from the previous report, the County Stormwater Inspector will document the corrective action items in a PCM Inspection Report and prepare a Formal Notice of Noncompliance. Both the PCM Inspection Report and the Formal Notice of Noncompliance will be provided to the PCM Owner. A second Follow-Up Inspection will be conducted within 60 days to confirm all corrective action items have been resolved.
- **Final Notice of Noncompliance.** Following issuance of the Formal Notice of Noncompliance, the County Stormwater Inspector will conduct a second Follow-Up Inspection (within 60 days of the previous inspection) to determine if the previous corrective action items were resolved. If any corrective action items have not been resolved from the previous report, the County Stormwater Inspector will document the corrective action items in a PCM Inspection Report and prepare a Final Notice of Noncompliance. Both the PCM Inspection Report and the Final Notice of Noncompliance will be provided to the PCM Owner. A third and final Follow-Up Inspection will be conducted within 30 days to confirm all corrective action items have been resolved.

The timeframe in which a PCM Follow-Up Inspection may be conducted by the County Stormwater Inspector to ensure the corrective action items have been resolved may be reduced based on the severity of the corrective action required.

**Notice of Enforcement Action.** Following issuance of the Final Notice of Noncompliance, the County Stormwater Inspector will conduct a third and final Follow-Up Inspection (within 30 days of the previous inspection) to determine if the previous corrective action items were resolved. If any corrective action items have not been resolved from the previous report, the County Stormwater Inspector will document the corrective action items in a PCM Inspection Report and prepare a Notice of Enforcement Action. Both the PCM Inspection Report and the Notice of Enforcement Action will be provided to the PCM Owner. The Notice of Enforcement Action notifies the PCM Owner that the County may pursue additional enforcement procedures, in accordance with the County Stormwater Ordinance, to include one or a combination of the enforcement procedures described below.

**Abatement and Performance or Contracting of Remedial Work.** If the PCM Owner fails to address all required corrective action items as documented in the Inspection Reports and enforcement notices, the County may perform remedial work by and through County forces, contract, or otherwise at the expense of the Permit Holder in accordance with the El Paso County Stormwater Ordinance.

**Civil Enforcement.** Failure to comply with the terms of the recorded PCM Maintenance Agreement or failure to reimburse the County for costs incurred in the Performance or Contracting of Remedial Work, may result in a civil court action being filed against the Permit Holder in accordance with the El Paso County Stormwater Ordinance.

**Criminal Prosecution.** Failure to comply with the terms of the recorded PCM Maintenance Agreement or failure to reimburse the County for costs incurred in the Performance or Contracting of Remedial Work, may result in criminal prosecution in accordance with the El Paso County Stormwater Ordinance.

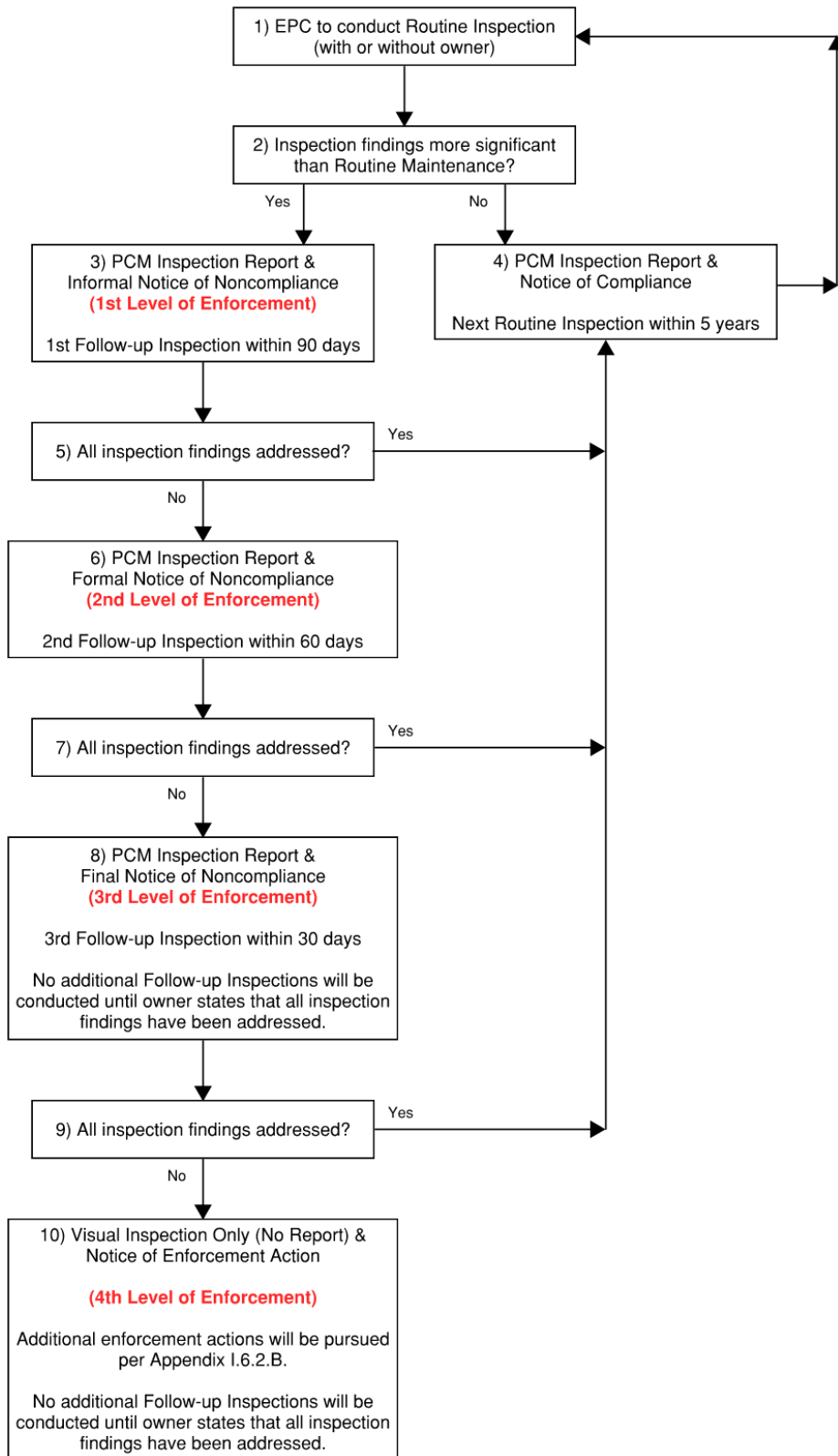
**Table I-4. Inspection and Enforcement for Privately Owned and Maintained PCMs**

Order of Inspection	Type of Inspection	Corrective Action Required?	Notice Type	Level of Enforcement	Time Until Next Inspection
1	Routine PCM Inspection	No	Notice of Compliance	N/A	5 years*
		Yes	Informal Notice of Noncompliance	1st	90 days
2	1st Follow-up PCM Inspection*	Yes	Formal Notice of Noncompliance	2nd	60 days
3	2nd Follow-up PCM Inspection*	Yes	Final Notice of Noncompliance	3rd	30 days
4	3rd Follow-up PCM Inspection*	Yes	Notice of Enforcement Action	4th	N/A

\*Routine PCM Inspections are required to be completed once a permit term (typically every 5 years).

\*\*Once all corrective action findings are resolved, the PCM owner shall be notified that the PCM is now in compliance and the next inspection will be a Routine PCM Inspection and follow the standard inspection frequency.

Figure I-4. Inspection and Enforcement Process for Privately Owned and Maintained PCMs



### I.6.3 PCM Design Methods

This section contains guidance and recommendations for the selection and design of PCMs for Applicable Development Sites. See Section I.6.1 for additional information when determining if a PCM is required for an Applicable Development Site. The Applicant must address the selection, installation, implementation, and maintenance of PCMs in accordance with the PCM Base Design Standards, as outlined in Section I.6.3.A.

#### I.6.3.A PCM Base Design Standards

**Base Design Standard Requirements.** The "base design standard" is the minimum design standard for New Development and Redevelopment sites for water quality only. Detention design standards are provided in DCM2. PCMs for Applicable Development Sites shall meet one of the following base design standards:

1. **Water Quality Capture Volume (WQCV) Standard.** The PCM is designed to provide treatment and/or infiltration of the WQCV and:
  - a. 100% of the Applicable Development Site is captured, except the County may exclude up to 20%, not to exceed 1 acre, of the Applicable Development Site area when the County has determined that it is not practicable to capture runoff from portions of the site that will not drain towards PCMs. In addition, the County must also determine that the implementation of a separate PCM for that portion of the site is not practicable (e.g., driveway access that drains directly to street).
  - b. Evaluation of the minimum drain time shall be based on the pollutant removal mechanism and functionality of the PCM implemented. Consideration of drain time shall include maintaining vegetation necessary for operation of the PCM (e.g., wetland vegetation).
2. **Pollutant Removal Standard.** The PCM is designed to treat at a minimum the 80th percentile storm event. The PCM shall be designed to treat stormwater runoff in a manner expected to reduce the event mean concentration of total suspended solids (TSS) to a median value of 30 mg/L or less.
  - a. 100% of the Applicable Development Site must be captured, except the County may exclude up to 20%, not to exceed 1 acre, of the Applicable Development Site area when the County has determined that it is not practicable to capture runoff from portions of the site that will not drain towards PCMs. In addition, the County must also determine that the implementation of a separate PCM for that portion of the site is not practicable (e.g., driveway access that drains directly to street).
3. **Runoff Reduction Standard.** The PCM is designed to infiltrate into the ground where site geology permits, evaporate, or evapotranspire a quantity of water equal to 60% of what the calculated WQCV would be if all impervious area for the Applicable Development Site discharged without infiltration. This base design standard can be met through practices such as green infrastructure. "Green infrastructure" generally refers to Control Measures that use vegetation, soils, and natural processes or mimic natural processes to manage stormwater. Green infrastructure can be used in place of or in addition to low impact development principles.
4. **Applicable Development Site Draining to a Regional WQCV Control Measure.** The regional WQCV PCM must be designed to accept the drainage from the Applicable Development Site. Stormwater from the site must not discharge to a Water of the State before being discharged to the regional WQCV PCM. The regional WQCV PCM must meet the requirements of the WQCV Standard, as outlined above.
5. **Applicable Development Site Draining to a Regional WQCV Facility.** The regional WQCV facility must be designed to accept drainage from the Applicable Development Site. Stormwater from the site may discharge to a Water of the State before being discharged to the regional WQCV facility. Before discharging to a water of the state, at least 20% of the upstream imperviousness of the Applicable Development Site must be disconnected from the storm drainage system and drain through a receiving pervious area PCM

comprising a footprint of at least 10% of the upstream disconnected impervious area of the Applicable Development Site. In addition, the stream channel between the discharge point of the Applicable Development Site and the regional WQCV facility must be stabilized. The regional WQCV facility must meet the following requirements:

- a. The regional WQCV facility must be implemented, functional, and maintained following good engineering, hydrologic, and pollution control practices.
  - b. The regional WQCV facility must be designed and maintained for 100% WQCV for its entire drainage area.
  - c. The regional WQCV facility must have capacity to accommodate the drainage from the Applicable Development Site.
  - d. The regional WQCV facility must be designed and built to comply with all assumptions for the development activities planned by the County within its drainage area, including the imperviousness of its drainage area and the Applicable Development Site.
  - e. Evaluation of the minimum drain time shall be based on the pollutant removal mechanism and functionality of the facility. Consideration of drain time shall include maintaining vegetation necessary for operation of the facility (e.g., wetland vegetation).
  - f. The County shall require site plans and perform a site plan review consistent with the requirements of this ECM to ensure the regional WQCV facility and PCMs for the Applicable Development Site plans include:
    - i. Design details for all structural PCMs implemented to meet the requirements of the DCM1, DCM Update, DCM2, and ECM.
    - ii. A narrative reference for all non-structural PCMs for the site, if applicable. "Non-structural PCMs" are PCMs that are not structural and include, but are not limited to, PCMs that prevent or reduce pollutants being introduced to water or that prevent or reduce the generation of runoff or illicit discharges (e.g., grass buffers, grass swales, receiving pervious areas, separate pervious areas, etc.).
    - iii. Documentation of O&M procedures to ensure the long-term observation, maintenance, and operation of the PCMs. The documentation shall include frequencies for routine inspections and maintenance activities.
    - iv. Documentation regarding easements or other legal means for access of the PCM sites for operation, maintenance, and inspection of PCMs.
    - v. Confirmation that PCMs meet the requirements of this Section I.6.3.A
    - vi. Confirmation that site plans meet the requirements of County's site plan review and approval requirements
  - g. The regional WQCV facility must be subject to the County's authority consistent with requirements and actions for a PCM in accordance with a base design standard.
  - h. Regional Facilities must be designed and implemented with flood control or water quality as the primary use. Recreational ponds and reservoirs may not be considered Regional Facilities. Water bodies listed by name in surface water quality classifications and standards regulations (5 CCR 1002-32 through 5 CCR 1002-38) may not be considered Regional Facilities.
6. **Constrained Redevelopment Sites Design Standard.** The Constrained Redevelopment Sites standard applies to Redevelopment sites meeting the following criteria:

- a. The site has greater than 75% impervious area, and
- b. The County must determine that it is not practicable to meet any of the base design standards in Section I.6.3.A 1, 2, or 3. The County's determination shall include an evaluation of the applicable redevelopment site's ability to install a PCM without reducing surface area covered with the structures.

The PCM is designed to meet one of the following:

- Provide treatment of the WQCV for the area captured. The captured area shall be 50% or more of the impervious area of the applicable redevelopment site. Evaluation of the minimum drain time shall be based on the pollutant removal mechanism and functionality of the PCM implemented.
- The PCM is designed to provide for treatment of the 80th percentile storm event. The PCM shall be designed to treat stormwater runoff in a manner expected to reduce the event mean concentration of total suspended solids (TSS) to a median value of 30 mg/L or less.

A minimum of 50% of the applicable development area including 50% or more of the impervious area of the applicable development area shall drain to the PCM. This standard does not require that 100% of the applicable redevelopment site area be directed to a PCM as long as the overall removal goal is met or exceeded (e.g., providing increased removal for a smaller area), or

- Infiltrate, evaporate, or evapotranspire, through practices such as green infrastructure, a quantity of water equal to 30% of what the calculated WQCV would be if all impervious area for the applicable redevelopment site discharged without infiltration.

#### I.6.3.B PCM Selection

The selection of appropriate PCMs is based on the characteristics of the site and potential pollutants. The Four-Step Process provides a method for the selection process, which is discussed in Chapter 1: Stormwater Management and Planning of MHFD's USDCM Volume 3. For additional guidance on PCM selection refer to MHFD's USDCM Volume 3 Chapter 2: BMP Selection.

## **I.7. ASSESSMENT OF EXISTING FACILITIES FOR RETROFITTING WATER QUALITY FEATURES**

[Replaces DCM2 Section 4.4, page 4-133]

At some sites, there may be an existing regional facility for flood control and/or other water quantity control purposes. It may be possible to retrofit this facility for water quality in addition to the quantity functions. The following procedure will assist in evaluating the potential for retrofitting. In a New Development or Redevelopment site, new PCMs will be required if retrofitting an existing facility is not a reasonable option.

The purpose of this section is to outline the procedures for these evaluations. These procedures would then be utilized in conjunction with developing a new Drainage Basin Planning Study (DBPS), a DBPS amendment, or a standalone study to determine the potential and feasibility for retrofitting existing regional facilities (detention or retention basins).

The evaluation of the existing facility involves three elements:

- The first element is a review to determine if retrofitting of the existing facility is acceptable. The changes that would occur if the detention facility is modified for water quality purposes are analyzed, and the extent to which the changes would affect facility functions and whether these changes in function are acceptable is determined. The detention facility modifications must first be acceptable under this analysis, or the evaluation will conclude and not continue to the second level of review.
- The second element is quantitative to determine the pollutant removal effectiveness of the facility, both with and without water quality elements. Total Suspended Solids (TSS) will typically be the only constituent evaluated, unless other pollutants of concern are specified by the ECM Administrator based on site-specific information such as draining to a Sensitive Area. A determination is made of whether the percent removal of TSS (or other specified constituent of concern) is significant. For purposes of this assessment, a significant change is defined as the percent removal of the constituent after retrofitting the detention facility estimated to be at least 20% greater than the percent removal of the constituent for the detention facility without the water quality element incorporated. If a significant change is not found, then the option to retrofit the detention pond may be eliminated.
- If a significant change is estimated in the second step, or a decision is otherwise made to proceed in the evaluation process, then the third element of analysis, the economic feasibility study, is conducted. A cost estimate for retrofitting the existing facility is produced to determine the economic feasibility and financial implications for the drainage basin fee or County obligations.

### **I.7.1. DBPS Final Alternative Selection**

The final alternative selection process for drainage facility retrofitting options in any new DBPS is based on the evaluation of many factors including costs, safety, environmental issues including water quality, and public input. If the selected alternative includes retrofitting structural controls to provide additional pollutant removal, responsibility for implementation would need to be outlined in the DBPS; if it is determined to not be the responsibility of private development, consideration for funding any such drainage improvement project would need to be made by the Board of County Commissioners during its annual budget approval process in conjunction with all other budget requests. If the responsibility is determined to be a private development responsibility, the ECM Administrator would decide when implementation would be required in conjunction with the timing of future developments.

## **I.8. SUPPLEMENTAL INFORMATION: HYDROLOGY AND HYDRAULICS DESIGN TOOLS AND WEBLINKS**

[Replaces DCM2 Appendix A]

### **I.8.1 Design Tools and Software**

The Mile High Flood District (MHFD) located in Denver, Colorado has developed several tools to assist engineers and design professionals in developing hydrologic and hydraulic analyses and designs adhering to MHFD criteria. El Paso County allows for the use of these tools on submittals required during the development review and approval process where applicable. In the event there are conflicts that arise between the inputs or results of a MHFD tool and the criteria contained in this ECM, it shall be responsibility of the Engineer of Record to identify those conflicts and bring them to the attention of the ECM Administrator. Only the appropriate MHFD design tools available on the MHFD website at the time of plan submittal will be acceptable for use unless otherwise approved in advance.

Design tools publicly available from other Colorado jurisdictions or other non-proprietary software consistent with these criteria may be utilized with approval of the ECM Administrator, who, at their sole discretion, will determine if the specific use of the tool or software is acceptable for the project under review.

The preparation of final design plans addressing details of structural adequacy, public safety, hydrology, hydraulic functionality, maintainability, and aesthetics remains the sole responsibility of the Engineer of Record.

Refer to the MHFD website (See Section I.8.2) for additional information, restrictions and disclaimers on its software and design tools.

**I.8.2 Links to Referenced Websites**

- EPC PCD: <https://planningdevelopment.elpasoco.com/>
- EPC DPW: <https://publicworks.elpasoco.com/>
- EPC DPW Stormwater: <https://publicworks.elpasoco.com/stormwater/>
- EPC Engineering Criteria Manuals: <https://publicworks.elpasoco.com/policies-manuals/>
- EPC Municode: [https://library.municode.com/co/el\\_paso\\_county](https://library.municode.com/co/el_paso_county)
- MHFD Resources: <https://mhfd.org/resources/>
- City of Colorado Springs Stormwater Construction Manual (SCM) Appendix E: [https://coloradosprings.gov/sites/default/files/inline-images/scm\\_final\\_2.pdf](https://coloradosprings.gov/sites/default/files/inline-images/scm_final_2.pdf)
- CDPHE Water Quality Permitting: <https://cdphe.colorado.gov/water-quality-permits>
- CDPHE Stream Segmentation: <https://cdphe.colorado.gov/clean-water-gis-maps>
- Colorado Division of Water Resources – Dam Safety: <https://dwr.colorado.gov/services/dam-safety>
- NPDES Permit Basics: <https://www.epa.gov/npdes/npdes-permit-basics>
- FEMA NFHL Viewer: <https://www.fema.gov/flood-maps/national-flood-hazard-layer>
- U.S. Fish and Wildlife Service: <https://ecos.fws.gov/ecp/>
- U.S. Army Corps of Engineers: <https://www.spa.usace.army.mil/Missions/Regulatory-Program-and-Permits/>