CSEP Participant

Policies & Procedures

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Updates:

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**Introduction:**

The voluntary self-policing CSEP offers many important benefits to all water quality stakeholders in the state. Maintaining the credibility and integrity of the CSEP for all stakeholders is important for the program to succeed over the long-term. CSEP Advisory Board (Board) policies must be adhered to by all stakeholders if they wish to participate in the voluntary CSEP.

**PARTICIPANT POLICIES**

**(Regulated Entities)**

1. **Corporate Participation & Commitment**
   1. **Executive signed CSEP participation agreement**

A Corporate Executive, representing the highest level of authority over construction activities conducted in Colorado, must sign the AGC/C CSEP letter of participation on behalf of the company. In doing so, they agree to provide the resources and support needed to meet the following program “Basic” participation standards.

* 1. **Basic CSEP (Minimum Participation Requirements)**

1. Participant Executive has signed the annual CSEP Corporate Commitment letter, adopts the USMS compliance methodology, pays the AGC/C yearly program administration free, and renews the CSEP commitment letter with AGC/C annually, and
2. Participant Executive implements the standardized CSEP compliance performance email notifications system within their company. The system alerts project supervisors and their superiors when certain “Intermediate level” CSEP performance expectations are not being met, and
3. Participant Executive reviews their project CSEP performance summary scores in the CWT online database at least once per month, and
4. At all times at least one AGC/C USMS Certified (Advanced USMS) SWMP Administrator will be assigned to, and be responsible for, Construction General Permit (CGP) compliance on every CDPS permitted project, and
5. Participant assures that all projects permitted under the Colorado CGP are registered in the CSEP to receive standard monthly audits by a CSEP Advisory Board approved Construction Reviewer (CR)
6. Participant has not been found by the Board to have violated any CSEP ethical policies during the program calendar year
   1. **Duration of CSEP Participation Commitment**

A minimum commitment period of one year is required. Enrollment in the CSEP will be automatically renewed at the start of each calendar year unless participation is withdrawn or terminated. A Participant that does not meet their one-year commitment for participation, due to withdrawal or termination, must re-apply to the Board for re-entry to the program. Re-entry into the CSEP is at the sole discretion of the Board

* 1. **Project Owner or Developer Participation and/or Representation**

Project owners or developers may participate in the CSEP individually (or directly) if they require all CGP permitted projects on their Colorado properties to formally participate in the CSEP and maintain “Basic” participation requirements.

Owners and Developers can jointly participate when represented by, and upon invitation of, an existing CSEP participant. All CSEP benefits, including yearly awards and recognition, lower regulatory enforcement risks, etc., can be shared by CSEP participants with the owner/developer on a project, or projects, at the discretion of the participant. The participant must deliver written notification to the CSEP Administrator, at least one month prior to end of the program calendar year, and include the name and contact information for the organization sharing CSEP status with the participant. Shared participation is limited to one additional organization per permitted project.

* 1. **Withdrawal of Participant Agreement**

CSEP Participation Agreements can be withdrawn by participants at any time. The CSEP participant must notify the CSEP Administrator in writing of their intent to withdraw from the program. All CSEP declarations including banners or decals should be removed by the participant from all jobsites and returned (if applicable) to the CSEP Administrator within 14 calendar days. Displaying CSEP declarations on any project that is not officially registered or is not maintained in good standing is prohibited.

* 1. **Termination of Participant’s CSEP Agreement**

The Board is the only entity with authority to terminate a participant’s involvement in the program. The Board may terminate a participant’s involvement with or without cause if in the Board’s sole discretion they determine that termination is in the best interest of the CSEP. The Board’s operating rules determine the process and procedures for termination of a participant.

Participation agreements may be terminated for any reason including, but not limited to, ongoing or repeated failure to meet Basic CSEP participation standards (see CSEP Performance Scoring System policy) or unethical behavior while in the CSEP, or for any participant actions or behaviors that the Board believes might jeopardize the integrity or credibility of the program.

Upon termination, regulatory agencies that are formally participating in the CSEP will be notified. Agencies that require CSEP participation within their jurisdictions retain their authority to take further actions separate from the Board.

* 1. **Participant Re-entry into the CSEP**

Application for a Participant’s re-entry into the CSEP after withdrawal or termination shall be made through the CSEP Administrator to the Board. The Board has full and final authority to accept or reject a Participant’s application for re-entry

1. **Compliance, Accountability and Performance Assurance**
   1. **Construction Reviewer (CR) Inspections**

The required use of a Board approved Construction Reviewer (CR) to perform regular compliance audits is a foundational element of this industry self-policing program. Participants may choose one or more CR from those approved by the Board to perform the required regular audits. Board approved CR must follow CSEP procedures and policies strictly to maintain the credibility of the program. Any variance from the approved CSEP procedures may cause revocation of a CR’s Board Certification, potentially ending their ability to continue to offer CSEP services. Detailed CR policies and procedures are included in the CSEP Policies and Procedures manual approved by the Board.

* + 1. Monthly CR inspections will be scheduled and performed by the CR on an approximate thirty (30) calendar day interval. The CR is allowed a variance from a minimum twenty eight (28) calendar days to a maximum of thirty five (35) calendar days between inspections as long as at least one CR inspection is performed in each calendar month (minimum of 12 CR inspections per year).
    2. Inspections will occur during regular business hours for the project being inspected. In most cases inspections will not begin earlier than 7:00 am or later than 3:00 pm unless agreed to by both parties per item “iv” below.
    3. No formal notice of a pending CR inspection is required to be given to the participant. In fact, prior notice of initial inspections is not encouraged by the Board as the intent of CR inspections is to simulate as closely as possible an unannounced regulatory inspection. Where prior notice of an initial inspection may be required to facilitate site access or attendance by essential site personnel, 24 hours is the maximum notice allowed for the CR to give the participant prior to an initial inspection. Participants are encouraged to participate in and respond to CR inspections as they would a formal regulatory inspection.
    4. Cancellation of CR inspections for participant convenience is not endorsed by the Board. If unavoidable circumstances dictate that the CR must reschedule a project inspection, it must be rescheduled within the 35 day time-frame from the previous initial inspection. The CR may be entitled to reimbursement for mileage and other reasonable expenses consistent with the participant/CR contract, however neither the CSEP Administrator nor the Board will mediate disputes regarding compensation for inspection cancellations or rescheduling.
    5. Consistent with the permit requirements, proper SWMP documentation shall be available on all active permitted jobsites during regular business hours as noted in item “ii” above. Failure to retain permit required documentation on the project site is not considered a valid reason for inspection cancellation and will result in a significant negative impact on compliance performance scores.
  1. **Participant Corrective Action Period Allowed for Inspection Findings**
     1. The CR should provide inspection reports for participant review within 24 hours or less from the start of the inspection or the arrival of the inspector on the site.
     2. Participants should correct CR inspection findings as soon as possible, immediately in most cases, from the time the finding was brought to their attention. Corrective action times used in evaluating participant performance will begin at the date and time of the finding discovery and not at the time of the receipt of the CR inspection report. Participants are encouraged to participate during the CR initial inspection and begin corrective actions and correction documentation immediately.
     3. Participants must enter their corrective action response to each finding, including photos, into the CSEP database for review and approval of the CR. Participant responses may be entered as soon as the CR completes entry of the inspection report into the database. The participant’s designated contacts will receive an email notifying them when the inspection report is available. The participant may also employ the CR to document corrective actions and enter them into the database. **The documentation of findings or failure to document findings during a CR inspection does not relieve, or increase, permit responsibility or liability for the participant. CRs attempt to mirror a thorough regulatory inspection to reduce a participants enforcement risks, but do not represent, nor act on behalf of, any permitting authority.**
     4. CSEP Award levels are partly contingent on corrective action response time and participants are solely responsible for entering responses into the CSEP database. CRs may perform follow-up inspections and corrective action data entry at the request of the participant. Participants may employ CRs in any capacity they wish to improve CGP compliance and CSEP performance scores as long as there are no conflicts of interest created.

Manipulation or falsifying of corrective action dates and times by either the participant or the CR is cause for immediate termination from the CSEP. It is the sole responsibility of the participant to assure that digital cameras used for documentation of corrective actions are set to the accurate date and time before using them. Numerous safeguards have been programmed into the CSEP database to detect inconsistent date and time entries to protect the credibility of the industry self-policing process.

* + 1. Consistent with the permit requirements, it is the participant’s responsibility to maintain the SWMP, properly implement and maintain BMPs at all times and to implement corrective actions “as soon as possible, immediately in most cases” for all known, or potential, compliance deficiencies. It is also outside of the authority of the CSEP to arrange or dictate specific inspection schedules between the participant and the approved CR as long as they fall within the program parameters. **Participation in the CSEP in no way grants an exclusion from any permit requirements or infers a release from the CDPS or local permit requirements.** Participants have an obligation to provide any required time-dated documentation and to cooperate fully with the CR in their efforts to accurately document permit compliance levels per the CSEP requirements.
  1. **CR Inspections Required for Participation**

CR inspections required for participation in the CSEP are in addition to the regular inspections required by Part I.C.5.a of the Colorado CGP, as well as any local authority inspection requirements, and are not intended to replace permit-required inspections performed by the participant. Participants may use information gathered during the CR inspection to prepare their own permit-required inspections if they have jointly participated in the CR inspection process.

1. **Documentation**
   1. **Standardized CSEP Compliance Data Collection**

CSEP approved standardized data collection, reporting processes, and performance standards must be used to participate in the CSEP but are separate from the CDPS Construction General Permit (CGP) and local permit requirements. The Board may, upon notification to the participants, change the CSEP processes and procedures from time to time. CSEP changes should reflect changes in the permit requirements but **permit requirements always take precedence over CSEP program requirements**. Participants should always notify the CSEP Administrator immediately if they feel there is any conflict between the CSEP program requirements or expectations and the regulations the CSEP is intended to support.

* 1. **CSEP Data is Not “Public” Information**

Certain participant project-specific performance data will be accessible to the CSEP Administrator and the CSEP Advisory Board. Such data is needed to facilitate the awards and recognition aspect of the program, for dispute resolution, and to assure CR performance standards are being maintained. **The CSEP data collected is not “public” information and will be protected through customary database security protocols such as user passwords, permissions, etc. A participant’s permission will always be requested, and must be granted, prior to any potentially sensitive data being reviewed by other than the participant or their CR.**

* 1. **CSEP Participant Summary Data to Regulatory Agencies**

Availability of performance data to regulatory agencies will be limited to summary data that is not company specific. Participants who may want to make their company’s performance data available to regulators or other parties may do so at their discretion.

1. **Participant Disputes and Dispute Resolution Process**

Participants can seek resolution of CSEP-related disputes through a three-tier process.

1. **Third party Construction Reviewer (CR)**

The majority of issues should be able to be resolved between the participant and the CR. The CR represents, and is the service provider for, the participant and has a professional obligation to resolve disputes with their clients. The CR must also represent the best interests of the CSEP and perform their duties in a professional manner that promotes the credibility and integrity of the CSEP

1. **CSEP Administrator**

When a dispute can not be resolved between the CR and the participant it should be brought to the attention of the CSEP Administrator for resolution. If the dispute can not be resolved by the CSEP Administrator then the dispute will be referred to the Board for resolution.

1. **CSEP Advisory Board (Final Authority)**

In the instances when the CSEP Administrator is unable to resolve the dispute, the Board will determine a resolution that is in the best interest of the CSEP. The Board has final authority over all disputes and may determine, based on specific circumstances, the manner or process in which disputes will be resolved.

1. **Modification of Report Data**

Participants may request modifications of report data by the CR after the initial entry, if data in the report appears to be flawed. It is the participant’s responsibility to provide all back up documentation and/or facts to support the requested modification(s). Requesting that the CR modify reports, or actually modifying reports, for the benefit of the participant without reasonable cause is considered a breach of the CSEP Ethical Policy and could result in termination proceedings by the Board of either the CR or the participant, or both.

1. **Selection of CSEP Approved Construction Reviewer**

Participants may choose from any of the Board-approved CRs to perform their required inspections or may use more than one CR. The CSEP Administrator will maintain a complete and current list of Board-approved CRs.

1. **CSEP No Guarantee of Immunity from Enforcement Actions**

Although the CSEP provides many benefits in addition to compliance assistance, the CSEP does not provide immunity from enforcement or penalties that may result from non-compliance with any federal, Colorado or local jurisdiction laws, regulations or permits.

1. **Participant/CR Relationship**

Participants must hire one or more Board-approved CRs to perform the required third-party inspections. Board-approved CRs must follow all CSEP standard practices and procedures as determined by the Board. The participant and CR are jointly and solely responsible for all contractual arrangements, including any additional services agreed to or payment for such services. Neither the CSEP Administrator nor the Board will mediate contractual disputes between participants and CRs. The Board will only get involved if such disputes result in a failure by either party to adhere to the CSEP policies, procedures or ethical standards.

Participants are ultimately responsible for the integrity of the compliance performance data entered into the CSEP database by the CR and as such have an obligation to the Board to notify the CSEP Administrator of any deviation from CR standard practices or policies as defined by the Board.

CRs may choose to terminate their relationship with participants for any reason. Contracts between the participant and CR are at the sole discretion of the two contracting parties and contract disputes will be resolved by those parties outside of the CSEP. At no time should any dispute affect the quality and accuracy of the compliance or performance data entered into the CSEP database. Entering false or incomplete data is a breach of the CSEP ethical policies and may be cause for disciplinary action against the participant, the CR, or both, including termination.

Participants may change CRs at anytime, but in doing so must maintain the required inspection schedules defined in Section 2. CRs have an obligation to the CSEP and to the participant to facilitate a smooth transition from one CR to another in a timely manner

1. **Termination from the CSEP**

The CSEP Advisory Board has sole discretion in terminating participants from the CSEP and can do so with or without cause if the Board determines that termination is in the best interest of the CSEP. Participants may appeal before the Board, upon written request to the CSEP Administrator, any disciplinary action by the Board, including termination. Appeals will be heard at the next regular Board meeting unless it is determined by the Board that a special meeting is justified and is in the best interest of the CSEP.

1. **CSEP Official Banners, Decals or Artwork**

Pre-printed CSEP banners or decals, or approved artwork for participant use in self-printed items, will be made available through the CSEP Administrator. Participants in good standing may choose, but are not required, to display a CSEP banner, decal or signage at each project. Participants newly registered in the CSEP will not be eligible to post or display CSEP declarations until the first month of CR inspections have been performed. All official declarations provided to participants for individual projects must be removed immediately upon withdrawal or termination from the CSEP or as directed by the CSEP Administrator or the Board.

Participants must coordinate directly with the CSEP Administrator to acquire banners, decals or CSEP Artwork for each project. Banners, decals and artwork remain the property and copyright of the CSEP and may not be reproduced or copied without the express written permission of the CSEP Administrator or Board.

1. **Definitions**
   1. **Participant:** A company or person, as defined by the Colorado Discharge Permit System, who voluntarily joins the CSEP by signing the participant commitment letter, and who agrees to abide by all of the CSEP participation terms and conditions as defined by the Board and who receives CSEP board approval.
   2. **Withdrawal:** A participant’s voluntary revocation of their signed letter of commitment upon written notice to the Board.
2. **Termination:** An involuntary revocation by the Board of a participant’s letter of commitment resulting in immediate removal from the CSEP.
3. **Construction Reviewer (CR):** An impartial and independent third-party inspection company or individual approved by the CSEP Board and hired by a participant that is not directly affiliated to the participant through any employment agreement as defined by the Division of Labor.
4. **CSEP Board of Directors (Board):** A group of persons appointed by the Colorado Water Quality Control Division to represent the interests of the CSEP and who has authority to make decisions on behalf of the CSEP including the implementation of, or changes to, the CSEP policies and procedures. The Board has the authority to approve or remove CSEP CRs and participants and to define minimum standards of performance for all program stakeholders.
5. **CSEP Administrator:** The entity, or person, chosen by the Board to manage information reported to the CSEP database by CRs and oversee adherence to the CSEP policies and procedures of all stakeholders on behalf of the Board. The CSEP Administrator monitors participant and CR performance to assure conformance with program rules and standards and initiates disciplinary actions when appropriate to maintain the integrity and credibility of the CSEP. The CSEP Administrator will resolve disputes between stakeholders or refer disputes to the Board for final resolution and will provide summary participant performance results to the Board for the purpose of administering the CSEP.