

**OKLAHOMA POLLUTANT DISCHARGE ELIMINATION SYSTEM (OPDES)  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
SMALL MS4 PERMIT OKR04  
FACT SHEET**

The Oklahoma Pollutant Discharge Elimination System (OPDES) General Permit OKR04 for the Small Municipal Separate Storm Sewer Systems (MS4) to discharge stormwater to waters of the State.

**TABLE OF CONTENTS**

<b>PARAGRAPH</b>	<b>PAGE</b>
A. NOTICE OF INTENT TO ISSUE A PERMIT .....	1
B. PERMITTING AUTHORITY .....	1
C. ELIGIBILITY .....	2
1. Applicant(s) .....	2
2. Eligibility Criteria for Endangered Species .....	2
a. Criterion A .....	3
b. Criterion B .....	3
c. Criterion C .....	3
d. Criterion D .....	3
e. Criterion E .....	3
3. Historic Preservation .....	3
D. DISCHARGES AUTHORIZED BY THIS PERMIT .....	4
1. Stormwater .....	4
2. Non-Stormwater .....	5
3. Discharges to Outstanding Resource Waters (ORWs) .....	5
4. Discharges Originating on Indian Country Lands .....	5
5. Spills .....	5
E. EFFECTIVE DATE .....	5
F. PUBLIC NOTICE .....	5
G. POINT OF CONTACT .....	6
H. SUMMARY OF CHANGES FROM PREVIOUS PERMIT .....	7
1. Part 1.C.5: Limitations on Coverage .....	7
2. Part I.C.6: Discharges not Consistent with a Total Maximum Daily Load .....	7
3. Part I.F.4: Application and annual Permit Fee .....	7
4. Part II: Notice of Intent Requirements .....	7
5. Part III: Special Conditions .....	7
6. Part IV: Stormwater Management Program .....	8
7. Part V.C: Annual Reports .....	8
8. Part VI: Standard Permit Conditions .....	9
9. Part VII: Definitions .....	9
10. Part VIII: Optional Permit Requirements for Municipal Construction Activities .....	9
11. Exhibit 1: Endangered and Threatened Species and Their Critical Habitat .....	9
12. Exhibit 2: Notice of Intent .....	9
13. Exhibit 4: Buffer Guidance .....	9

- I. BASIS FOR PERMIT CONDITIONS ..... 9
  - 1. Statutory Basis for Permit Conditions ..... 9
  - 2. Regulatory Basis for Permit Conditions ..... 10
  - 3. Discharge Goals and Limitations..... 10
    - a. Discharge Goals.....10
    - b. Discharge Limitations.....11
- J. STORMWATER MANAGEMENT PROGRAM ..... 11
  - 1. Best Management Practices ..... 12
  - 2. The Measurable Goals for Each BMP ..... 12
  - 3. The Responsible Person or Persons ..... 12
  - 4. Sharing Responsibility..... 12
  - 5. Minimum Control Measures ..... 13
    - a. Public Education and Outreach Program .....13
    - b. Public Participation and Involvement .....13
    - c. Illicit Discharge Detection and Elimination.....14
    - d. Construction Site Stormwater Runoff Control.....15
    - e. Post-Construction Management in New Development and Redevelopment .....16
    - f. Pollution Prevention/Good Housekeeping for MS4 Operations .....17
  - 6. Optional Permit Requirements for MS4 Construction Activities ..... 18
- K. MENU OF BEST MANAGEMENT PRACTICES FOR PHASE II MS4S ..... 18
- L. EXAMPLE SCHEDULE OF SWMP ELEMENTS ..... 18
  - 1. First Year of Five (5) Permit Term..... 18
  - 2. Second Year of Five (5) Permit Term ..... 19
  - 3. Third Year of Five (5) Permit Term ..... 19
  - 4. Fourth Year of Five (5) Permit Term..... 19
  - 5. Fifth Year of Five (5) Permit Term ..... 19
- M. STORMWATER MANAGEMENT PROGRAM COMPLIANCE ..... 19
  - 1. Roles and Responsibilities of Permittees ..... 20
  - 2. Permittees’ Legal Authority ..... 20
  - 3. 303(d) List of Impaired Waters ..... 20
  - 4. Identify and address failing system ..... 21
    - a. Illicit Discharges and Dumping .....21
    - b. Animal Sources.....21
    - c. Residential Education .....21
  - 5. Total Maximum Daily Loads ..... 21
  - 6. Outstanding Resource Waters..... 22
  - 7. Reports Required ..... 22
- N. PERMIT MODIFICATIONS..... 23
  - 1. Re-opener Clause..... 23
  - 2. Other Changes ..... 24
- O. CONSIDERATIONS UNDER THE LAW ..... 24
- P. PUBLIC PARTICIPATION ..... 24
- Q. STORMWATER DESIGNATION CRITERIA ..... 25
- R. STORMWATER: SMALL MS4 DESIGNATIONS ..... 26

- 1. Existing small MS4s that are currently regulated under Phase II regulations ..... 26
- 2. Small MS4s that are partially or wholly located in an UA ..... 27
- 3. Small MS4s located outside of an UA ..... 28
- 4. Designated small MS4s: ..... 28
- S. STORMWATER PHASE II SMALL MS4 WAIVERS ..... 30
  - 1. The Waiver Procedures of Phase II Regulations ..... 30
  - 2. Justification for Small MS4 Waiver under 40 CFR 122.32(d) ..... 31
    - a. Cleveland County .....31
    - b. Collinsville, City of .....31
    - c. Forest Park, Town of .....32
    - d. Goldsby, Town of .....32
    - e. Moffett, Town of .....32
    - f. Newcastle, City of .....32
    - g. Pocola, Town of.....32
    - h. Sequoyah County .....33
    - i. Smith Village, Town of .....33
    - j. Sperry, Town of .....33
    - k. Valley Brook, Town of .....33
    - l. Woodlawn Park, Town of .....33
- T. DEFINITIONS ..... 34

**LIST OF TABLES**

- Table Q-1 Small MS4 Grade Sheet..... 26
- Table R-1 Regulated Small MS4s under 2005 OPDES General Permit..... 27
- Table R-2 Small MS4s that are partially or wholly located within an UA ..... 27
- Table R-3 Small MS4s that are located outside of an UA ..... 28
- Table R-4 Total final scores for each small MS4 ..... 28
- Table R-5 Regulated Phase II Small MS4 List..... 29
- Table S-1 Summary of Waiver Criteria ..... 31

## **ISSUANCE OF DRAFT SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEM GENERAL PERMIT OKR04 FOR STORMWATER DISCHARGES WITHIN STATE OF OKLAHOMA**

**April 1, 2015**

The Oklahoma Department of Environmental Quality (DEQ) has issued the “Small Municipal Separate Storm Sewer System (MS4) General Permit OKR04 for Stormwater Discharges within the State Of Oklahoma”. This permit will replace small MS4 general permit OKR04, which expired on February 7, 2010. Both new MS4 operators and existing permittees must obtain coverage under this new permit in order to discharge stormwater from MS4 in small cities, urbanized areas and other county areas within the State of Oklahoma.

### **A. BACKGROUND**

On November 19, 1996, the Environmental Protection Agency (EPA) Region 6 approved the State of Oklahoma’s application for DEQ to administer and enforce the National Pollutant Discharge Elimination System (NPDES) program for discharges of pollutants, including stormwater discharges, within the State of Oklahoma. However, DEQ’s approved program does not include the discharges from construction activity which are located on Indian Country<sup>1</sup> lands, or related to construction activity for oil & gas extraction and agricultural purposes.

DEQ issued its first small MS4 general permit OKR04 on February 8, 2005. Currently, DEQ is proposing the 2015 small MS4 general permit OKR04 to replace the 2005 small MS4 general permit OKR04 which expired on February 7, 2010. The issuance procedure for the permit is based on the Oklahoma Environmental Code found in Title 27A of the Oklahoma Statutes, Section 2-14-101, et seq, and rules found in Oklahoma Administrative Code (OAC) 252:004-7.

The proposed permit will have a term of five (5) years from the effective date. Every authorization to discharge under this permit will expire at the same time, and all authorizations to discharge will be required to be renewed on the same date. In order to receive this authorization, you must file a Notice of Intent (NOI) with DEQ and pay the application fee (\$100) and permit fee (\$748.11). The 1st year fee for a new permit will be prorated and covers the period beginning the issuance date of your authorization and ending June 30th of the coinciding fiscal year. Also, you must develop, implement and enforce a storm water management program (SWMP) according to the requirements of this permit.

### **B. PERMITTING AUTHORITY**

The Oklahoma Department of Environmental Quality  
707 N. Robinson, P.O. Box 1677  
Oklahoma City, OK 73101-1677

---

<sup>1</sup> Under EPA’s 1996 approval of the State of Oklahoma’s permitting program, the State was not authorized to issue NPDES permits under the federal Clean Water Act in areas of Indian Country, as defined in 18 U.S.C. § 1151, within the State. 61 Fed. Reg. 65047, 65049 (December 10, 1996). Therefore, this permit does not apply to discharges of stormwater in Indian Country. However, section 10211(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005 (“SAFETEA”), Public Law 109-59, 119 Stat. 1144 (August 10, 2005), provides the State the opportunity to request approval from the EPA to administer federal environmental regulatory programs, including the Clean Water Act NPDES program, in Indian country areas of the State. The submission, by the State, and review, by the EPA, of this permit is without prejudice to the State’s right to request such approval at any time.

## C. ELIGIBILITY

This permit authorizes discharges of stormwater and certain non-stormwater discharges from small MS4s, as defined in 40 CFR §122.26(b)(16-19) adopting and incorporating by reference in OAC 252:606-1-3(b)(3). This includes MS4s designated under 40 CFR §122.32(a)(1) and 40 CFR §122.32(a)(2) that describes the referenced area with a population of at least 10,000 but not exceeding 100,000, and small MS4s located in Urbanized Areas (UAs). Operators of small MS4s located outside of a UA may be designated as a regulated MS4.

Small MS4s are eligible provided they are able to meet all permit requirements and the eligibility conditions of Part C.

### 1. Applicant(s)

The following categories of small MS4s are potentially subject to permitting under Phase II of the stormwater program (40 CFR 122.32):

- a. Small MS4s operated by municipalities in UAs as defined by the US Census Bureau. These MS4s must be permitted unless they receive a waiver based on the criteria discussed below in Part R. An UA is basically a core city and urban fringe with a population of 50,000 or more. For those MS4s not located entirely within an UA, operators of the small MS4s must be permitted to cover the entire area within the corporate boundaries of the municipalities.
- b. Designated MS4s operated by municipalities which are outside UAs which have a population of 10,000 or more and population density of 1,000/sq. mi. Permitting of these MS4s is required on a case-by-case basis based on factors such as rapid growth, high population density or adverse water quality impacts. Small MS4 designation reviews by DEQ are discussed in Part Q.
- c. Designated MS4s which contribute substantial pollutant loads to a regulated MS4s through interconnections.
- d. MS4s designated by the DEQ Executive Director.

DEQ relied solely upon the 2010 U.S. Census UA for determining small MS4 automatic designations. A reference map identifying the Census 2010 UAs within your jurisdiction can be found on the following EPA's website: <http://water.epa.gov/polwaste/npdes/stormwater/Urbanized-Area-Maps-for-NPDES-MS4-Phase-II-Stormwater-Permits.cfm>. Municipality is used broadly to describe both traditional and non-traditional MS4s, such as MS4s operated by the federal or state government, or other public entity such as: military bases, universities, hospitals, prisons, and county operations.

### 2. Eligibility Criteria for Endangered Species

Activities authorized by this permit must avoid unacceptable effects to Federally and State listed endangered or threatened ("listed") species or designated critical habitats. Direct and indirect effects must be considered. Coverage under this permit is available only if the stormwater discharges, allowable non-stormwater discharges, and discharge related activities are not likely to:

- a. Jeopardize the continued existence of any listed species or result in the adverse modification or destruction of critical habitat, or

- b. Cause a prohibited “take” of endangered or threatened species (as defined under Section 3 of the Endangered Species Act (ESA) and 50 CFR 17.3, unless such takes are authorized under Section 7 or Section 10 of the ESA.

“Discharge-related activities” include: activities which cause, contribute to, or result in stormwater point source pollutant discharges; and measures to control stormwater discharges including the construction and operation of best management practices (BMPs) to control, reduce or prevent stormwater pollution.

The permittee must meet one or more of the five (5) eligibility criteria for the entire term of coverage under the general permit. The information used to make the eligibility determination must be documented and included as part of the SWMP. The endangered species eligibility criteria are:

**a. Criterion A**

No endangered or threatened species or critical habitats are in proximity to the small MS4s.

**b. Criterion B**

Consultation with the U.S. Fish and Wildlife has resulted in a documented determination that the resultant stormwater discharge will not adversely impact threatened or endangered species.

**c. Criterion C**

The activities of the small MS4 are authorized under Section 10 of the ESA and the authorization addresses stormwater and non-stormwater discharges on threatened and endangered species.

**d. Criterion D**

The applicant has evaluated the effects of the stormwater discharges, allowable non-stormwater discharges, and discharge related activities on listed species and critical habitat. Based on the evaluation there is no reason to believe the discharge and discharge related activities are likely to adversely affect any listed species or result in the adverse modification or destruction of critical habitat.

**e. Criterion E**

The stormwater discharges, allowable non-stormwater discharges, and discharge related activities were already addressed in another operator’s certification of eligibility.

The permittee must certify that you have met eligibility criteria for protection of threatened or endangered species and their critical habitat. If the eligibility requirements cannot be met, you may seek coverage under a DEQ individual permit. This eligibility must be evaluated before the Notice of Intent (NOI) is submitted.

DEQ strongly recommends that you conduct this evaluation at the earliest possible stage to ensure that measures to protect listed species are incorporated early in the planning process.

**3. Historic Preservation**

DEQ’s OPDES permitting activities are not Federal undertakings and, therefore, are not subject to review under Section 106 of the National Historic Preservation Act. However,

applicants and permittees must comply with the State Antiquities Act (Title 53, Chapter 20, Section 361) where applicable and the Burial Disturbance Law (Title 21, Chapter 47, Section 1168.0-1168.6), as well as with any applicable local laws concerning the identification and protection of historic properties.

Applicants and permittees who may receive Federal funding or other Federal assistance in the completion of their projects must be aware that compliance with Section 106 of the Historic Preservation Act may apply. For information about the Section 106 review process in Oklahoma, Oklahoma properties listed on or eligible for the National Register of Historic Places, and related topics, contact:

State Historic Preservation Office  
Oklahoma Historical Society  
Oklahoma History Center  
800 Nazih Zuhdi Drive  
Oklahoma City, OK 73105  
Tel: (405)521-6249

To identify historic properties, examine the following web site at:  
[www.okhistory.org/index](http://www.okhistory.org/index)

Oklahoma Archeological Survey  
111 East Chesapeake  
Norman, OK 73019  
Tel: 405/325-7211

To identify archeological sites go to the following website at:  
[www.ou.edu/cas/archsur/](http://www.ou.edu/cas/archsur/).

## **D. DISCHARGES AUTHORIZED BY THIS PERMIT**

### **1. Stormwater**

This permit authorizes all existing or new stormwater point source discharges to waters of the State from a regulated small MS4. The Nationwide Urban Runoff Program (NURP), which was sponsored by the Environmental Protection Agency (EPA) in the years 1978 through 1983, showed that stormwater runoff is a significant source of pollutants (EPA, 1983). The study identified 77 priority toxic pollutants in stormwater runoff discharged from residential, commercial and light industrial areas. Of these toxic pollutants, heavy metals such as copper, lead and zinc were detected most frequently and at levels of greatest concern. Floatables, pesticides, nutrients, bacteria, and erosion runoff from construction activities are potential pollutants expected in MS4 discharges. More information and copies of documents with additional information on the environmental impacts of stormwater discharges are available via EPA's stormwater web page at [water.epa.gov/polwaste/npdes/stormwater/index.cfm](http://water.epa.gov/polwaste/npdes/stormwater/index.cfm).

General permits rely on permittees to certify that they meet the eligibility conditions and implement requirements that will ensure compliance with the conditions of the permit. The permit requirements at Part IV and Part V are intended to ensure that those seeking coverage under this general permit select, implement, and maintain BMPs for their SWMP that will reduce the discharge of pollutants and effectively control pollutant discharges from the MS4.

**2. Non-Stormwater**

This permit authorizes the discharge of stormwater commingled with flows contributed by process wastewater, non-process wastewater, or stormwater associated with industrial activity, provided such discharges are authorized under separate OPDES or NPDES permits. In addition, certain types of non-stormwaters listed in OPDES regulations OAC 252:606-1-3(b)(3) adopting and incorporating by reference 40 CFR 122.26 are allowable if appropriately addressed in the SWMP.

**3. Discharges to Outstanding Resource Waters (ORWs)**

Except for discharges of stormwater from temporary construction activities, new discharges located within the watershed of any waterbody designated Outstanding Resource Water (ORW) in Oklahoma's Water Quality Standards are not allowed and are not authorized by this permit. Discharges to ORW waters from MS4s existing as of June 25, 1992 are allowed but such stormwater discharges are prohibited from increased load of any pollutant. A copy of the Oklahoma Water Quality Standards can be obtained by calling the Oklahoma Water Resources Board at (405) 530-8800 or online at [www.owrb.ok.gov/util/rules/pdf\\_rul/current/Ch45.pdf](http://www.owrb.ok.gov/util/rules/pdf_rul/current/Ch45.pdf).

**4. Discharges Originating on Indian Country Lands**

Stormwater discharges from MS4s or construction activities occurring on Indian Country lands (as defined in 18 USC Section 1151) are not under the authority of DEQ and are not eligible for coverage under this permit. If discharges of stormwater require authorization under federal NPDES regulations, a permit for these discharges must be obtained from EPA.

**5. Spills**

This permit does not authorize discharges of material resulting from a spill. If discharges from a spill are necessary to prevent imminent threat to human life, personal injury, or severe property damage, the permittees have the responsibility to insure the party responsible for the spill takes reasonable and prudent measures to minimize the impact of discharges on human health and the environment. These responsibilities may be in the form of a spill prevention and response plan or through implementation and legal enforcement of other BMPs developed to satisfy the six (6) minimum control measures.

**E. EFFECTIVE DATE**

Dischargers who submit an NOI in accordance with the requirements of this permit are not authorized to discharge stormwater runoff from MS4s under the terms and conditions of this permit until an authorization is received from DEQ. Compliance with permit conditions is required on the effective date of the permit authorization.

**F. PUBLIC COMMENT PERIOD**

A public notice was published in state newspapers announcing the new, proposed small MS4 general permit on March 31, 2015. The comment period will be opened until April 30, 2015.

DEQ will also be conducting an informal public meeting which will provide an overview of new small MS4 general permit, including proposed changes from previous permit. This will be followed by an informal question and answer session with DEQ staff then an opportunity for the public to make formal public comments. The public meeting will be held:



**3:00 P.M., Wednesday, April 22, 2015**  
**Department of Environmental Quality**  
**1<sup>st</sup> Floor Multipurpose Room**  
**707 North Robinson**  
**Oklahoma City, OK**

Persons wishing to file comments and/or request that DEQ hold a public meeting on the proposed small MS4 general permit are required to do so in writing to DEQ at the point of contact listed in Part G within 30 days after the date of publication. Requests for a public hearing should include:

1. Name and address of the interested person
2. The title of the permit to which the objection or comment(s) relates
3. The nature and basis of the interest of the person affected
4. A statement of the objection or comment, the basis therefore, and any requested action by DEQ.

A formal public hearing may be scheduled if there is a significant degree of public interest. Notice of the date, time and place of the hearing will be given to all parties of record.

The application, draft permit, and other relevant documents may be viewed at DEQ's central office at 707 N. Robinson, Oklahoma City, during the public comment period, between 8:30 a.m. and 4:30 p.m., Monday through Friday. Any person wishing to view these documents should contact the point of contact listed in Part G of the Fact Sheet to schedule an appointment.

At the end of the comment period, DEQ will make any necessary changes to the permit, provide a written response to comments to all parties that provided comment, and the response to comments and permit issuance will be posted and/or published to the public. If significant changes to the permit are necessary, the modified draft permit will be placed through the procedures of this section as necessary.

Notice is also given that one public meeting will be held to clarify issues involved in the permit decision and to receive public comments. The meeting will be held at DEQ central office in Oklahoma City.

## **G. POINT OF CONTACT**

For information or to submit comments, contact:

Ms. Karen Milford  
Department of Environmental Quality  
Water Quality Division  
P.O. Box 1677  
Oklahoma City, Oklahoma 73101-1677  
Phone: (405) 702-8191  
Fax: (405) 702-8101 or  
**E-mail:** [Karen.Milford@deq.ok.gov](mailto:Karen.Milford@deq.ok.gov)

## **H. SUMMARY OF CHANGES FROM PREVIOUS PERMIT**

This proposed general permit will replace the 2005 small MS4 OKR04, which is administratively continued in accordance with the Administrative Procedures Act. Following is a list of changes in the proposed general permit as compared to the previous small MS4 general permit.

### **1. Part I.B.2: Authorized Non-Stormwater Discharges**

Added discharges of gray water from municipal splash pads (aka, spray parks or spray grounds) as defined in Oklahoma Statutes §27A-2-6-107 to the list of authorized non-stormwater discharges, provided the discharges comply with all applicable municipal or county ordinances enacted pursuant to law. Discharges from recirculating systems shall be de-chlorinated prior to discharge.

### **2. Part I.C.5: Limitations on Coverage**

To be consistent with 40 CFR 122.44(d)(1)(j), added “future discharges”, “potential to cause” and “have the reasonable potential to cause” to the proposed language.

### **3. Part I.C.6: Discharges not Consistent with a Total Maximum Daily Load**

For clarification purpose, added the requirement of watershed plan in lieu of a Total Maximum Daily Load (TMDL).

### **4. Part I.F.4: Application and annual Permit Fee**

Updated application and annual permit fee requirement and added a reference to the DEQ’s website.

### **5. Part II: Notice of Intent Requirements**

The following changes have been made to this part:

- a. Added application deadline requirements for “Renewal Permittees”, “Newly Regulated Small MS4s” and “Small MS4 Newly Designated after the Date of Permit Issuance”.
- b. Extended the jurisdiction for those MS4 cities not located entirely within an UA (to cover the entire area within the corporate boundaries of the municipality).
- c. Modified the names of the major receiving waters to include indication of whether any of your receiving waters designated as Outstanding Resource Water or had a TMDL either established or approved by DEQ or EPA.
- d. Added a new provision to include documentation addressing the special conditions of permit in Part III.B Established Total maximum Daily Load Allocations and Part III.C Discharges to Outstanding Resource Waters.
- e. Included a description of the optional permit requirements or an outline of your MS4’s stormwater pollution prevention plan (SWP3).

### **6. Part III: Special Conditions**

The following changes have been made to this Part:

- a. Added a new provision to discharge any of pollutants (e.g. nitrogen or phosphorus, bacteria) into any water identified on the latest Clean Water Act § 303(d) list of impaired waters.

- b. Added a new provision for further clarification on TMDL requirement to adopt any waste load allocation (WLA) assigned to your discharges specified in the TMDL, or similar targets in the watershed plan as measurable goals in your SWMP. Also this new provision requires that your SWMP must be modified to implement the TMDL within the timeframe established in the TMDL or as otherwise specified in watershed plan.

## **7. Part IV: Stormwater Management Program**

The following changes have been made to this Part:

- a. Added new requirements for those permittees authorized by the 2005 MS4 general permit to review and update their BMPs and measurable goals.
- b. Added new requirements for newly regulated small MS4s to develop a written SWMP addressing six (6) minimum control measure (BMPs and measurable goals).
- c. Added new requirements for those small MS4s newly designated after the date of permit issuance.
- d. Modified “Sharing Responsibility” requirements to comply with permit requirements within one (1) year if the other government entity fails to implement the control measure on your behalf.
- e. Reorganized the six (6) Minimum Control Measure (MCM) requirements into two sections: "Permit Requirements" and "Recommendations". The both sections are elaborated to be consistent with EPA stormwater rules (40 CFR) and MS4 Permit Improvement Guide. Those existing permittees require revising their SWMP within the first year after effective date of this permit.
- f. Added a new provision to provide a procedure to notify DEQ if the permittee lacks legal authority of direct enforcement action for their Construction Site Runoff Controls.
- g. Added a new requirement to review local ordinances and regulations, identify any legal barriers to Low Impact Development (LID), and develop a schedule to remove those barriers or a justification for each barrier not removed for Post-Construction Management in New-Development and Redevelopment.
- h. Added a new requirement to implement a municipal employee training and education program for your Pollution Prevention /Good Housekeeping for MS4 Operations.
- i. Added a new requirement to maintain a list of industrial facilities you own or operate that are subject to the DEQ Multi-Sector General Permit or individual OPDES or NPDES permits.

## **8. Part V.C: Annual Reports**

The following changes have been made to the Permit:

- a. Specified your annual report to be submitted by mailed or Email to DEQ electronically and by March 1st of the year beginning in year 2016.
- b. Included a description and schedule for implementation of any additional BMPs or monitoring that may be necessary to reduce/eliminate the discharges of the pollutant of concern into impaired waters on the 303(d) list.

- c. Modified the description and schedule for implementation of any additional BMPs or monitoring that may be necessary to ensure compliance with any applicable TMDL or watershed plan in lieu of a TMDL to be consistent with Part III of the proposed permit.

## **9. Part VI: Standard Permit Conditions**

The following changes have been made to the permit:

- a. Updated the permit language of "Duty to Comply" to be consistent with OPDES act.
- b. Added a new provision to submit reports in any compliance schedules and report any noncompliance in twenty-four (24) hours.

## **10. Part VII: Definitions**

The following changes have been made to the permit:

- a. Updated the definition of "Construction Site Operator" to be consistent with construction general permit OKR10.
- b. Added new definitions of "Impaired Water", "LID", "Newly Regulated Small MS4", "Outstanding Resource Waters", "Small MS4 newly designated after the date of permit issuance", "Stabilization", "Total Maximum Daily Load" and "Waters of the State".

## **11. Part VIII: Optional Permit Requirements for Municipal Construction Activities**

Updated the requirements to be consistent with OKR10 issued on September 12, 2012

## **12. Exhibit 1: Endangered and Threatened Species and Their Critical Habitat**

Updated the list and map according to the comments received from USFWS.

## **13. Exhibit 2: Notice of Intent**

Updated NOI according to the new requirements of this permit.

## **14. Exhibit 4: Buffer Guidance**

Added this new Exhibit to be consistent with Construction General Permit OKR10.

# **I. BASIS FOR PERMIT CONDITIONS**

## **1. Statutory Basis for Permit Conditions**

The conditions established by this permit are based on Section 402(p) of the Act which mandates that a permit for discharges from MS4s must effectively prohibit the discharge of non-stormwater to the MS4 and require controls to reduce pollutants in discharges from the MS4 to the Maximum Extent Practicable (MEP) including BMPs, control techniques, system, design and engineering methods, and other such provisions determined to be appropriate. MS4s are not exempt from compliance with Water Quality Standards. Section 301(b) of the CWA requires OPDES permits to include effluent limitations necessary to meet water quality standards. The intent of the permit conditions is to meet the statutory mandate of the Act.

As authorized by OPDES regulations OAC 252:606-1-3(b)(3) adopting and incorporating by reference 40 CFR 122.44, the permit will be utilizing Structural Controls, BMPs, and a comprehensive SWMP as the mechanism to implement the statutory requirements. Section 402(p) of the Act clearly includes structural controls as a component of the MEP requirement. DEQ has encouraged permittees to explore opportunities for pollution prevention measures, while reserving the more costly structural controls for high priority locations, or where pollution prevention measures are unfeasible or ineffective.

There is a difference between the Act's statutory requirements for discharges from municipal storm sewers and industrial sites:

- a. Section 402(p) of the Act requires an effective prohibition on non-stormwater discharges to a MS4 and controls to reduce the discharge of pollutants from the MS4 to the MEP.
- b. Section 402(p) of the Act requires compliance with treatment or Best Available Technology (BAT) and Section 301 water quality requirements on discharges of storm water associated with industrial activity.

Because of the difference in the statutory requirements, and the fact that the Act does not exempt storm water associated with industrial activity from the requirement to obtain a separate OPDES permit, these stormwater discharges cannot be authorized by the small MS4 permit. Such discharges would require a separate OPDES permit. However, the permittees are responsible for the quality of the combined discharge, and have a vested interest in locating uncontrolled and unpermitted illicit and industrial stormwater discharges.

## **2. Regulatory Basis for Permit Conditions**

As a result of the statutory requirements of the Act, DEQ promulgated the small MS4 permit application regulations, OPDES regulations OAC 252:606-1-3(b)(3) adopting and incorporating by reference 40 CFR 122.30 and 40 CFR 122.32-36. These regulations are described in details for the permit application requirements for operators of small MS4s. The information contained in the NOI and the updated or newly developed description of the SWMP is utilized by DEQ to determine the authorization conditions and the permittee status in regards to these conditions.

## **3. Discharge Goals and Limitations**

### **a. Discharge Goals**

General permits rely on permittees to certify that they meet the eligibility conditions and implement requirements that will ensure compliance with the conditions of the permit. The permit requirements at Part IV and Part V are intended to ensure that those seeking coverage under this general permit select, implement, and maintain BMPs for their SWMP that will reduce the discharge of pollutants to the MEP and will be adequate and sufficient to meet water quality standards for all pollutants of concern.

The following goals apply to discharges from small MS4s and are considered in review of the SWMP and in preparation of the authorization. In implementing their SWMP, permittees are required to aspire to these goals. The goals are included to further define the intent of the permit, but are not to be directly interpreted as discharge limitations independent of the SWMP and any numeric or narrative limitations under Part III of the permit:

- (1) No discharge of toxic pollutants in toxic amounts. It is the national policy that the discharge of toxics in toxic amounts be prohibited according to Section 101 (a) of the Act. The Oklahoma Water Quality Standards (Section 785:45-5-12[f][6]) states, "Surface waters of the State shall not exhibit acute toxicity and shall not exhibit chronic toxicity outside the mixing zone."
- (2) No discharge of pollutants in quantities that would cause a violation of State water quality standards. Section 301 (b) of the Act and OPDES regulations OAC 252:606-1-3(b)(3) adopting and incorporating by reference 40 CFR 122.44 require that OPDES permits include "...any more stringent limitations, including those necessary to meet water quality standards, treatment standards, or schedule of compliance, established pursuant to State law or regulations..." Implementation of the SWMP is reasonably expected to provide for protection of State water quality standards.
- (3) No discharge of floatable debris, oils, scum, foam, or grease in other than trace amounts. The Oklahoma Water Quality Standards (OAC 785:45-5-9) require waters of the State to "...be maintained so as to be essentially free of floating debris, bottom deposits, scum, foam and other materials, including suspended substances of a persistent nature, from other than natural sources."
- (4) No discharge of non-stormwater from the MS4, except in accordance with Part I.B. Permits issued to small MS4s are specifically required by Section 402(p) of the Act to "...include a requirement to effectively prohibit non-stormwater discharges into the storm sewers..." The OPDES regulations OAC 252:606-1-3(b)(3) adopting and incorporating by reference 40 CFR 122.26 allow the permittee to accept certain non-stormwater discharges, where they have not been identified as significant sources of pollutants. Any discharge subject to its own OPDES or NPDES permit is not subject to the ban on non-stormwater discharges.
- (5) No impairment of State-designated beneficial uses of receiving waters as a result of stormwater discharges from the municipal separate storm sewer. The State of Oklahoma has adopted an Antidegradation Policy as part of the Water Quality Standards OAC 785:45-3-1. This Policy requires maintenance of existing or designated in stream water uses.

**b. Discharge Limitations**

All entities designated or potentially designated for coverage under this general permit discharged from the MS4 prior to August 13, 1979 and thus would not be considered new discharges under 40 CFR 122.2.

No numeric limitations are proposed at this time. In accordance with OPDES regulations OAC 252:606-1-3(b)(3), adopting and incorporating by reference 40 CFR 122.44, DEQ has required a series of BMPs, in the form of a comprehensive SWMP, in lieu of numeric limitations.

**J. STORMWATER MANAGEMENT PROGRAM**

If you are a renewal permittee authorized by the 2005 small MS4 general permit, you are required to review and revise your SWMP as needed to meet the requirements of this permit, or as required by the director to ensure compliance with the CWA. Modifications and updates shall be reflected

in your SWMP and implemented within one (1) year of the effective date of this permit. You are required to keep the SWMP document up to date during the term of the permit.

If you are newly regulated small MS4, you are required to develop a written SWMP according to this permit and include all six (6) minimum control measure requirements. A list of the BMPs to address six (6) minimum control measures must be defined in your SWMP and implemented within five (5) years of the permit term.

The following summarize the SWMP elements to be submitted by the permittee(s) to satisfy the requirements:

**1. Best Management Practices**

List and define the BMPs that you or another entity will implement for each of the stormwater minimum control measures. See Part I.5 for explanation of the six (6) Minimum Control Measures (MCMs) required for development in the SWMP.

**2. The Measurable Goals for Each BMP**

Include, as appropriate, the months and years in which you will undertake required actions, including interim milestones and the frequency of the action.

If you are a renewal permittee authorized by the 2005 small MS4 general permit, you are required to develop new elements, as needed, and continue to implement and enforce the SWMP. Program improvement and implementation schedules must be provided for full implementation of the complete SWMP as soon as practicable, but no later than five (5) years from the effective date of the permit unless the director specifies a different deadline.

If you are newly regulated small MS4, program development and implementation schedules must be provided for full implementation of the completed SWMP as soon as practicable, but no later than five (5) years from the effective date of this permit unless the director specifies a different deadline. Credible interim progress in developing and implementing program elements must be made over the term of the permit.

**3. The Responsible Person or Persons**

Identify who will be responsible for implementing or coordinating the BMPs for your stormwater management program.

**4. Sharing Responsibility**

Implementation of one or more of your stormwater minimum control measures may be shared with another government entity or may be fully implemented by another government entity. You may rely on another government entity only if:

- a. The other government entity implements the control measure.
- b. The particular control measure, or component of that measure, is at least as stringent as the corresponding permit requirement.
- c. The other government entity agrees to implement the control measure on your behalf. Written acceptance of this obligation is required. This obligation must be maintained as part of the description of your stormwater management program. If the other government entity agrees to report on the minimum measure, you must supply the other government entity with the reporting requirements. If the other government entity fails to implement the control measure on your behalf, then you

remain responsible for compliance with permit obligations. You must modify your SWMP within one (1) year and comply with permit requirements.

## 5. **Minimum Control Measures**

More information and assistance in understanding the six (6) MCMs and development of measurable goals can be located on the EPA's web at [water.epa.gov/polwaste/npdes/stormwater/Municipal-Separate-Storm-Sewer-System-MS4-Main-Page.cfm](http://water.epa.gov/polwaste/npdes/stormwater/Municipal-Separate-Storm-Sewer-System-MS4-Main-Page.cfm)

### a. **Public Education and Outreach Program**

You must revise your existing public education and outreach program. The revision of the program shall be completed within the first year after effective date of this permit. You must continue to implement a public education and outreach program to distribute information and educational materials to the community or conduct equivalent outreach activities to promote behavior change by the public to reduce pollutants in stormwater runoff and eliminate illicit discharges. The public education or equivalent outreach activities shall be tailored, using a mix of locally appropriate strategies, to target specific audiences and communities. You must:

- (1) Include education and outreach efforts for the following audiences
  - (a) Traditional municipalities such as cities, counties, etc. must address the general public being served by the MS4.
  - (b) Non-traditional municipalities such as universities, hospital complexes, prisons, special districts, etc. and federal facilities must address the community served by the MS4. For example, at a university it would be the faculty, other staff, students, and visitors, while at a military base, it would include military personnel (and dependents) contractors, employees, tenants, visitors, etc.
  - (c) Departments of transportation must address the community working on or served by the transportation network within the MS4 including employees, contractors, and the general public.
- (2) Establish measurable goals for each BMP, including target day (month and year), and identify responsible persons.
- (3) Assess your education and outreach program annually as required by the permit.

### b. **Public Participation and Involvement**

You must revise your existing public participation and involvement program as needed. The revision of the program shall be completed within the first year after effective date of this permit. You must continue to implement a plan to encourage public involvement and participation in implementation of your SWMP. You must:

- (1) Include a process by which the public comments on the SWMP are received and reviewed by the person(s) responsible for the SWMP.
- (2) Comply with State and local public notice requirements when implementing your public involvement and participation program.
- (3) Establish or revise measurable goals for each BMP, including target day (month and year), and identify responsible persons.



- (4) Assess your public participation and involvement program annually as required by the permit.

**c. Illicit Discharge Detection and Elimination**

You must review and revise your existing illicit discharge detection and elimination program, as necessary. The revision of the program shall be completed within the first year after effective date of this permit. You must continue to implement, and enforce a program to detect and eliminate illicit discharges into your small MS4, including a dry weather field screening program continually to identify non-stormwater flows. You must:

- (1) Enforce ordinance or other regulatory mechanism that you utilize to effectively prohibit illicit discharges into your small MS4. You may describe why you chose that mechanism and a schedule to do so. If your ordinance or regulatory mechanism is already developed, include a copy of the relevant sections with your program.
- (2) Implement a dry weather field screening program to detect investigate, and eliminate illicit discharges. Rely on visual indicators and simple field test kits for most work where you are looking for indications of a problem. Laboratory methods can be reserved for situations where you have identified a problem and need to prove that you have traced the problem to a particular illicit discharger. Your field screening program must address the following, at a minimum:
  - (a) Procedures for locating priority areas within your MS4 likely to have illicit discharges (e.g., areas with older sanitary sewer lines), or ambient sampling to locate impacted reaches.
  - (b) Procedures to address on-site sewage disposal systems that may flow into your storm drainage system.
  - (c) Procedures for tracing the source of an illicit discharge, including the specific techniques you will use to detect the location of the source.
  - (d) Procedures for removing the source of the illicit discharge.
  - (e) Procedures for program evaluation and assessment.
- (3) Develop (if necessary), maintain and regularly update a storm sewer system map, showing the location of all outfalls and the names and location of all waters of the State that receive discharges from those outfalls.
- (4) To the extent allowable under State or local law, effectively prohibit, through ordinance, or other regulatory mechanism, non stormwater discharges into your storm sewer system and implement appropriate enforcement procedures and actions. If you lack legal authority for direct enforcement action, you must include procedures to notify DEQ when a party fails to comply with the requirements. You may rely on DEQ for assistance in enforcement of this provision of the permit in these cases.
- (5) Develop (if necessary) and implement a plan to detect and address non stormwater discharges, including illegal dumping to your system.
- (6) Inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste.

- (7) Maintain a list of occasional incidental non-stormwater discharges or flows as allowed in the permit that will not be addressed as illicit discharges. These non-stormwater discharges must not be reasonably expected (based on information available to you) to be significant sources of pollutants to the small MS4, because of either the nature of the discharges or conditions you have established for allowing these discharges to your small MS4 (e.g., a charity car wash with appropriate controls on frequency, proximity to sensitive water bodies, BMPs on the wash water, etc.). You must document in your SWMP any local controls or conditions placed on the discharges. You must include a provision prohibiting any individual non-stormwater discharge that is determined to be contributing significant amounts of pollutants to your MS4.
- (8) Establish or revise measurable goals for each BMP, including target milestones (month and year), frequency of action(s) and identify responsible persons.
- (9) Assess your illicit discharge detection elimination program annually as required by this permit.

**d. Construction Site Stormwater Runoff Control**

You must review and revise your existing construction site stormwater runoff control program, as necessary. The revision of the program shall be completed within the first year after effective date of this permit as needed. You continue to implement, and enforce a program to reduce pollutants in any stormwater runoff to your MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of stormwater discharges from construction activity disturbing less than one acre must be included in your program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. You must:

- (1) Develop, implement and enforce an ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under State or local law. Review and revise your existing ordinance to meet the permit requirements. If you lack legal authority for direct enforcement action, you must include procedures to notify DEQ if a construction site operator fails to comply with the permit. You may rely on DEQ for assistance in enforcement of this provision of the permit in these cases.
- (2) Develop, implement and enforce requirements for construction site operators to implement appropriate erosion and sediment control BMPs.
- (3) Develop, implement and enforce requirements for construction site operators to control waste at the construction site that may cause adverse impacts to water quality as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste.
- (4) Develop, implement and enforce procedures for site plan review which incorporate consideration of potential water quality impacts including erosion and sediment control, control of other wastes, and any other impacts that must be examined according to the requirements of the local ordinance or other regulatory mechanism.
- (5) Develop, implement and enforce procedures for receipt and consideration of information submitted by the public.

- (6) Develop, implement and enforce procedures for site inspection and enforcement of control measures, including enforcement escalation procedures for recalcitrant or repeat offenders. Document inspection findings and take all necessary follow-up actions (i.e., re-inspection, and enforcement) to ensure site compliance.
- (7) Establish or revise measurable goals for each BMP, including target day (month and year), and identify responsible persons.
- (8) Assess your construction site stormwater runoff control program annually as required by this permit.

**e. Post-Construction Management in New Development and Redevelopment**

You must review and revise your existing new development and redevelopment post-construction management program, as necessary. The revision of the program shall be completed within the first year after effective date of this permit as needed. You must develop new elements, as necessary, and continue to implement, and enforce a programs to address stormwater runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one(1) acre that are part of a larger common plan of development or sale, that discharge into your small MS4. Your program must attempt to maintain pre-development runoff conditions and ensure that controls are in place that would prevent or minimize water quality impacts. You must:

- (1) Develop, implement and enforce strategies which include a combination of structural and/or non-structural BMPs appropriate for your community.
- (2) Develop, implement and enforce an ordinance or other regulatory mechanism to address post construction runoff from new development and redevelopment projects to the extent allowable under State or local law.
- (3) Review local ordinances and regulations, and identify the legal/regulatory barriers to Low Impact Development (LID). Develop a schedule to remove those barriers that prohibit LID practices selected by the MS4s, or provide a justification for each barrier not removed.
- (4) Develop, implement and enforce procedures to ensure adequate long term operation and maintenance of BMPs that are put in place after the completion of a construction project, including inspections of each BMP.
- (5) Participate in an education program for developers and the public about project designs that minimize water quality impacts, including LID strategies. This would coordinate with your public education minimum control measure and your pollution prevention and good housekeeping minimum control measure programs.
- (6) Establish or continue to revise measurable goals for each BMP, including target milestones (month and year), frequency of action(s) and identify responsible persons.
- (7) Assess your new development and redevelopment post-construction management program annually as required by this permit.

**f. Pollution Prevention/Good Housekeeping for MS4 Operations**

You must review and revise your existing pollution prevention and good housekeeping program, as necessary. The revision of the program shall be completed within the first year after effective date of this permit as needed. You must develop new elements, as necessary, and continue to implement an operation and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from MS4 operations. You must:

- (1) Use training materials that you develop or that are available from EPA, DEQ, or other organizations. Your program must include employee training to prevent and reduce stormwater pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and stormwater system maintenance.
- (2) Implement a municipal employee training and education program that you will use to prevent and reduce stormwater pollution from MS4 activities. Describe any existing, available materials you plan to use. Describe how this training program will be coordinated with the outreach programs developed for the public information minimum measure and the illicit discharge minimum control measure.
- (3) Maintain a list of industrial facilities you own or operate that are subject to the DEQ Multi-Sector General Permit or individual OPDES or NPDES permits for discharges of stormwater associated with industrial activity that ultimately discharge to your small MS4. Include the authorization number or a copy of the Industrial NOI form for each facility. You must review this inventory annually and update as necessary.
- (4) Implement procedures for controlling, reducing or eliminating the discharge of pollutants from streets, roads, highways, parking lots, maintenance and storage yards, waste transfer stations, fleet or maintenance shops with outdoor storage areas, and salt/sand storage locations and snow disposal areas you operate.
- (5) Implement procedures to ensure that new flood management projects are assessed for impacts on water quality.
- (6) Implement inspection/maintenance for structural and non-structural BMPs, including maintenance activities, maintenance schedules and long term inspection procedures for controls to reduce floatables and other pollutants discharged to your small MS4.
- (7) List and define the BMPs that you or another entity will implement in the program. You must include, as appropriate, the months and years in which you will undertake required actions, including interim milestones and the frequency of the action. Also you must identify who will be responsible for implementing or coordinating the BMPs in your program.
- (8) Establish or continue to revise measurable goals for each BMP, including target milestones (month and year), frequency of action(s) and identify responsible persons.
- (9) Assess your pollution prevention and good housekeeping program annually as required by this permit.

## **6. Optional Permit Requirements for MS4 Construction Activities**

A permittee may elect to develop this optional permit requirement. Construction activities one acre or greater in size or part of a common plan of development that is one acre or greater in size are regulated under the stormwater regulations. This option will provide a mechanism for small MS4 regulated entities to remain in compliance with these regulations through the incorporation of appropriate controls and procedures addressing construction activities. The optional requirement will be applicable for construction activities where the small MS4 meets and maintains the status of “construction site operator”. Additionally, contractors working for the small MS4 operator may not be required to obtain separate authorization as long as the contractor does not meet the status of “construction site operator”, but does remain compliant with the conditions of this permit. Such discharges from small MS4 construction activities are authorized under this permit. If small MS4s choose to develop this measure, a description of how the small MS4s will ensure that the Stormwater Pollution Prevention Plan (SWP3) requirements are properly implemented and maintained at the construction site. This description shall be included as part of your SWMP. Stormwater discharges associated with construction activities are allowed within the boundaries of your local authority and in compliance with this permit.

## **K. MENU OF BEST MANAGEMENT PRACTICES FOR PHASE II MS4S**

The Phase II stormwater regulations specified that the state should develop or adopt a menu of BMPs to assist regulated small MS4s in implementing the general permit. DEQ encourages regulated communities to develop their own BMPs for using in their SWMP, but has determined that the EPA menu of BMPs provides appropriate guidance for meeting the conditions of the general permit.

The EPA Menu of BMPs can be found from the EPA website at:  
[water.epa.gov/polwaste/npdes/swbmp/index.cfm](http://water.epa.gov/polwaste/npdes/swbmp/index.cfm)

## **L. EXAMPLE SCHEDULE OF SWMP ELEMENTS**

The following is a partial list of example items that could be used by newly regulated small MS4s for developing their SWMP:

### **1. First Year of Five (5) Permit Term**

- a. Develop a written SWMP.
- b. Evaluate placement of structural controls and retrofitting of existing structures.
- c. Submit program, including priorities and schedules for street sweeping and creek or waterway or water body maintenance.
- d. Identify a list of allowable non-stormwater discharges.
- e. Make revisions to ordinances or rules for construction/post-construction/illicit discharges.
- f. Develop master pollution prevention study.
- g. Develop and implement illicit discharge/construction education program.
- h. Develop program for illicit discharge field screening.
- i. Develop and implement program to receive information from the public.

- j. Develop MS4 inspection program.
- k. Develop mapping system for receiving streams and outfalls.
- l. Implement water quality consideration in site plan reviews.
- m. Define the need of pollution data from wet weather screening of all watersheds.
- n. Submit annual report and every year hereafter.

## **2. Second Year of Five (5) Permit Term**

- a. Update SWMP to include follow-up activities and spill prevention response for HAZMAT and sanitary sewer leakage and overflow.
- b. Implement illicit discharge/construction education program.
- c. Implement employee training and education program.
- d. Conduct construction site inspection.
- e. Conduct inspection for city facilities and maintenance yards.
- f. Develop and implement pollution prevention education program.
- g. Develop program for volunteer stream monitoring.
- h. Submit schedule for estimates of annual pollutant loading.
- i. Complete revisions to ordinances.
- j. Install floatable monitoring devices at selected locations.
- k. Assess the appropriateness of each best management practices and every year hereafter.

## **3. Third Year of Five (5) Permit Term**

- a. Develop or adopt erosion control manual for construction.
- b. Consider making changes in street design and parking lot guideline.
- c. Develop and implement post construction education program.
- d. Develop a long-term O&M program for selected BMPs.
- e. Create incentives to encourage interest in low impact development.

## **4. Fourth Year of Five (5) Permit Term**

- a. Implement program for new/significant re-development.
- b. Construction site runoff program enhancements.
- c. Evaluation of hazardous waste program and need for collection and recyclable safe disposal.

## **5. Fifth Year of Five (5) Permit Term**

- a. Complete illicit discharge field screening.
- b. Complete self-evaluation of your SWMP.

## **M. STORMWATER MANAGEMENT PROGRAM COMPLIANCE**

Compliance with the permit will be accomplished by the implementation of and compliance with the described activities in the various elements of the permittee's SWMP. Permittees must begin

implementation the SWMP as defined by the permittee (which may initially include schedules for program development and implementation) on the effective date of the permit. All the required support and initiation procedures for the program elements should be established, and the activities performed as described and scheduled. The SWMP must be fully implemented within five (5) years from the date of permit issuance.

### **1. Roles and Responsibilities of Permittees**

The regulation OAC 252:606-1-3(b)(3) adopting and incorporating by reference 40 CFR 122.26 and 40 CFR 122.32-37 requires permittees to describe the roles and responsibilities of each entity applying for the permit to ensure effective coordination. Interagency Agreements may be utilized to implement portions of the SWMP and monitoring program. Permittees are accountable for understanding their role and responsibilities regarding permit conditions.

### **2. Permittees' Legal Authority**

The permittees are required to successfully enforce, implement, and complete the various activities described in the permit and SWMP to the extent their legal authority allows. These activities include control of the contribution of pollutants to, and quality of stormwater from industrial sites contributing to the storm sewer system; prohibit illicit discharges to the storm sewer system; control spills, dumping or improper disposal to the storm sewer system; control of the contribution of pollutants from one portion of the storm sewer system to the other; require compliance with ordinances; perform site inspections and monitoring. Failure to adopt rules, regulations, codes, or other forms of legal authority within your jurisdiction, does not constitute a lack of legal authority.

### **3. 303(d) List of Impaired Waters**

Operators seeking coverage under this permit shall not be causing or have the reasonable potential to cause or contribute to a violation of a water quality standard. If you have discharges to receiving waters included on the latest CWA § 303(d) list of impaired waters, you must document in your SWMP how you will comply with this requirement. You must consider the following in developing or revising your SWMP:

- a. Your outreach programs must be directed toward targeted groups of commercial, industrial and institutional entities likely to have significant stormwater impacts on your impaired waters.
- b. You must identify any non-stormwater discharges that contribute significant pollutants to your impaired water.
- c. You must locate those areas likely to have illicit discharges and conduct inspections based on the priority areas in the watershed of your 303(d) listed water bodies.
- d. You must include any operation and maintenance procedures for structural and non-structural stormwater controls to reduce pollutants discharged into your impaired water. You must ensure that new flood management projects assess the impacts on water quality and examine existing projects to determine if incorporating additional water quality protection devices and practices are necessary.
- e. You must choose BMPs from EPA's menu or select others that can be used for managing the identified pollutants (e.g, nitrogen or phosphorus, bacteria) in your discharges. The details of the BMPs can be viewed from EPA's website at [water.epa.gov/polwaste/npdes/swbmp/index.cfm](http://water.epa.gov/polwaste/npdes/swbmp/index.cfm) .

- f. If the pollutant of concern is bacteria, you must include a list of identified BMPs addressing the below areas, as applicable, in the SWMP and implement as appropriate. You may not exclude BMPs associated with the minimum control measures required under this permit (see Part IV.C). The Proposed BMPs will be required to be submitted to DEQ for review. The BMPs shall, as appropriate, address the following:
- (1) Sanitary Sewer Systems
    - i. Make improvements to sanitary sewers.
    - ii. Address lift station inadequacies.
    - iii. Improve reporting of violations.
    - iv. Strengthen controls.
  - (2) On-site Sewage Facilities (for entities with appropriate jurisdiction)

#### **4. Identify and address failing system**

Address inadequate maintenance of On-Site Sewage Facilities

##### **a. Illicit Discharges and Dumping**

Place additional effort to reduce waste sources of bacteria. For Example, discharges from septic systems, grease traps, and grit traps.

##### **b. Animal Sources**

Expand existing management programs to identify and target animal sources such as zoos, pet waste, horse stables, and livestock sale barns.

##### **c. Residential Education**

Increase focus to educate residents on:

- (1) Bacteria discharging from a residential site during runoff events or directly
- (2) Fats, oils and grease clogging sanitary sewer lines and resulting overflows
- (3) Decorative ponds
- (4) Pet waste

#### **5. Total Maximum Daily Loads**

One of the main goals of the CWA is to ensure that all waterbodies achieve their beneficial uses. When a water body becomes impaired, a Total Maximum Daily Load (TMDL) study is performed to determine the amount of pollutants that can be discharged to the waterbody and still achieve the listed beneficial uses. The permit is required to address TMDL as follows.

- (a) If a TMDL or watershed plan in lieu of a TMDL is established for any water body into which you discharge prior to the date that you submit an NOI, and if that TMDL includes a waste load allocation (WLA) or load allocation for a parameter likely to be discharged by the MS4, your discharges must meet any limitations, conditions and other requirements of the WLA, load allocation and/or its associated implementation plan within any timeframes established in the TMDL or watershed plan. Monitoring and reporting of the discharges may also be required as appropriate to ensure compliance with the TMDL or watershed plan. You must adopt any WLAs assigned to your discharges specified in the TMDL, or similar



targets in the watershed plan, as measurable goals in your SWMP. The SWMP must be modified to implement the TMDL within the timeframe established in the TMDL or as otherwise specified in watershed plan. You must comply with additional annual report and evaluating progress requirements in TMDL.

- (b) If a TMDL or watershed plan in lieu of a TMDL is approved for any water body into which you discharge after the date that you submit an NOI, you must incorporate any limitations, conditions, and requirements applicable to your discharges into your SWMP to ensure that the WLA, load allocation and/or the TMDL's associated implementation plan will be met within any timeframes established in the TMDL or watershed plan. Monitoring and reporting of the discharges may also be required as appropriate to ensure compliance with the TMDL or watershed plan. You must adopt any WLAs assigned to your discharges specified in the TMDL or similar targets in the watershed plan, as measurable goals in your SWMP. The SWMP must be modified to implement the TMDL with the timeframe established in the TMDL or as otherwise specified in watershed plan. You must comply with additional annual report and evaluating progress requirements in TMDL.

303(d) water bodies are listed as Category 5 waters in the DEQ Integrated Water Quality Assessment. Impaired water bodies that have had an EPA/DEQ approved TMDL developed are listed as Category 4 waters in the DEQ Integrated Water Quality Assessment. The Integrated Water Quality Assessment can be obtained at:

[www.deq.state.ok.us/WQDnew/305b\\_303d/index.html](http://www.deq.state.ok.us/WQDnew/305b_303d/index.html)

This list of water bodies is updated biennially and contains information regarding the reason, or cause, for the impairment.

## **6. Outstanding Resource Waters**

Except for discharges of stormwater from temporary construction activities, new discharges located within the watershed of any waterbody designated Outstanding Resource Water (ORW) in Oklahoma's Water Quality Standards are not allowed and are not authorized by this permit. Discharges to ORW waters from MS4s existing as of June 25, 1992 are allowed but such stormwater discharges are prohibited from increased load of any pollutant. If any part of your MS4 discharges to an ORW waterbody, you must document in your SWMP how you will comply with this prohibition.

## **7. Reports Required**

Permittees are required by OAC 252:606-1-3(b)(3) adopting and incorporating by reference 40 CFR 122.42 to prepare an annual system-wide report including the status of implementing the SWMP. The annual report must include:

- a. The status of your compliance with permit conditions, an assessment of the appropriateness of the identified BMPs, progress towards achieving the statutory goals of reducing the discharge of pollutants to the MEP and protection of water quality, and progress toward achieving the measurable goals for each of the minimum control measures.
- b. Results of information collected and analyzed, if any, during the reporting period, including monitoring data used to assess the success of the program at reducing the discharge of pollutants to the MEP.

- c. A summary of the stormwater activities you plan to undertake during the next reporting cycle (including an implementation schedule).
- d. Proposed changes to your SWMP, including changes to any BMPs or any identified measurable goals that apply to the program elements.
- e. Description and schedule for implementation of any additional BMPs or monitoring that may be necessary to reduce or eliminate the discharges of the pollutant of concern into impaired waters on the 303(d) list.
- f. Description and schedule for implementation of any additional BMPs or monitoring that may be necessary to ensure compliance with any applicable TMDL or watershed plan in lieu of a TMDL.
- g. Notice that you are relying on another government entity to satisfy some of your permit obligations (if applicable) and a copy of the written agreement with that entity.
- h. If the optional permit requirement is elected you must also include in your Annual Report a progress report concerning the elected optional permit requirements. At a minimum this must include:
  - (1) The number of your active construction sites that are currently covered under the elected optional permit requirement.
  - (2) The number of construction projects that were started during the reporting period.
  - (3) The number of construction projects that were completed during the reporting period.
  - (4) The number of construction sites that were covered under the elected optional permit requirement that have reached final stabilization.

You must submit an annual report for each permit year to DEQ for review by mail or electronically. Your annual report must be received by March 1st of the year beginning in 2015.

## **N. PERMIT MODIFICATIONS**

### **1. Re-opener Clause**

DEQ may re-open and require modifications to the permit (including the SWMP) based on the following factors: changes in the State's Water Quality Management Plan and State or Federal requirements; adding co-permittees; SWMP changes impacting compliance with permit requirements; additional stormwater controls identified in a TMDL that may be necessary to maintain applicable water quality standards; other modifications deemed necessary by DEQ to adhere to the requirements of the Clean Water Act. These modifications comply with OAC 252.606-1-3(b)(3) adopting and incorporating by reference 40 CFR 122.63 which allows permits to be modified to conform to changes in OAC 252.606-1-3(b)(3) adopting and incorporating by reference 40 CFR 122.41.

Implementation of the SWMP is expected to result in the protection of water quality standards. The permit does, however, contain a re-opener clause should new information indicate the discharges from the MS4 are causing, or significantly contributing to, a violation of the State's water quality standards.

## **2. Other Changes**

The SWMP is a document prepared by the permittees to address the regulatory application requirements. The document is intended as a functioning mechanism for the permittees' use. Therefore minor changes and adjustments to the various SWMP elements are expected and desired. Incorporating this form of document into an OPDES permit has some inherent conflicts. The regulatory rules concerning permit changes and modifications do not easily translate to the minor changes that will be necessary to occur to the various elements during the permit term. The changes may be necessary to more successfully adhere to the true intent of the permit to reduce pollutants to the MEP. DEQ has determined that these minor changes that are specifically described in the permit shall not be considered permit modifications as defined in the regulations. The permit must address the following unique issues:

- a. The incorporation of the SWMP
- b. Multiple entities as co-permittees
- c. The permit covering an entire municipality subject to changes in boundaries and responsibilities

DEQ has attempted to develop permit language to clarify the permit requirements concerning possible changes to the SWMP, permittees status, and other changes inherently caused by these unique issues.

The process for terminating coverage for an existing permittee shall adhere to the regulations OAC 252:606-1-3(b)(3) adopting and incorporating by reference 40 CFR 122.64. A Notice to Terminate (NOT) will be filed in accordance with permit procedures.

It is the intent of DEQ to allow the permittees to annex lands and accept the transfer of operational authority over portions of the small MS4 without mandating a permit modification. Implementation of appropriate SWMP elements for these additions (annexed land or transferred authority) is required. Upon notification of the additions in the annual report DEQ may require a modification to the permit based on the new information.

## **O. CONSIDERATIONS UNDER THE LAW**

The discharge that is being controlled by the terms and conditions of this permit is the result of natural precipitation, and as such would continue to be discharged regardless of DEQ action represented here. The terms of this permit require that the permittees minimize or reduce the pollutants in stormwater discharges to the MEP and effectively prohibit non-stormwater discharges into the small MS4s.

## **P. PUBLIC PARTICIPATION**

April 16, 2004 EPA Headquarters released guidance in response to the U.S. 9th Circuit Court of Appeals decision pertaining to Phase II general permitting of small MS4s. DEQ will implement the following procedures to address several court ordered issues:

1. After receipt of a complete Notice of Intent (NOI) for coverage under this permit, DEQ will allow a 30-day public comment period for review of the application and comment by the public.

2. A list of NOIs received for coverage under this permit will be maintained on the DEQ webpage [www.deq.state.ok.us/mainlinks/publicpermits.html](http://www.deq.state.ok.us/mainlinks/publicpermits.html). The list will include:
  - a. Applicant / Entity name
  - b. A copy of NOI
  - c. A copy of supporting documents
  - d. Public comment period started and closed date
3. Copies of the NOI and supporting documents will be available for review locally from the entity seeking coverage and at the DEQ central office.
4. During the comment period, any interested person may submit written comments stating their issues and may request a public meeting. All comments should be made in accordance with PART G. of this Fact Sheet. If DEQ determines that a significant degree of public interest exists, the Department will schedule a public meeting in the area of concern. A public meeting may address more than one permit applicant. After evaluating comments received and making any necessary changes, the permit coverage will be issued or denied.

## **Q. STORMWATER DESIGNATION CRITERIA**

December 8, 1999 EPA finalized the Stormwater Phase II regulations. In these regulations designated small MS4s were required to apply for a permit and develop a SWMP. Small MS4s are defined as those towns located within an UA or those towns with at least a 10,000 population and a minimum density of 1,000 people per square mile.

In March 2012 the updated UA delineations based on 2010 census data was released by US Census Bureau. DEQ has reviewed the newly released UA. The updated UA maps for each of the communities were produced and are available in the EPA's website at: <http://water.epa.gov/polwaste/npdes/stormwater/Urbanized-Area-Maps-for-NPDES-MS4-Phase-II-Stormwater-Permits.cfm>. This 2010 census impacts the scope of coverage of the small MS4 general permit. Small MS4s that are located in an UA and required permit coverage are determined by the latest Decennial Census under 40 CFR 122.32(a)(1). These small MS4s are shown in the Table Q-2 and may be eligible for a waiver from permit requirements under 40 CFR 122.32(d).

The regulations created two methods to determine what small MS4s need to be permitted. Those cities that are located within an UA are automatically designated and required to apply for a permit. The second method is for the DEQ to evaluate those small MS4s that are located outside of an UA.

In order to appropriately evaluate those cities that are not located within an UA, but meet the population and density criteria of a small MS4, DEQ has evaluated information available. The factors were used to designate the potential small MS4s are shown in Table Q-1.

DEQ employed a weighted value technique to rank the possible designees. This system allows DEQ to determine those cities that have a high probability to significantly contribute to the State's stormwater pollutant load.

**Table Q-1 Small MS4 Grade Sheet**

<b>Factors</b>	<b>Scores</b>
Population <sup>2</sup>	10
Density <sup>3</sup>	10
High growth or high growth potential change from previous census <sup>4</sup>	10
Corporate land area <sup>5</sup>	10
Contiguity to an urbanized area <sup>6</sup>	15
Discharge or potential discharge to sensitive waters 303(d) listed streams for stormwater related pollutants <sup>7</sup>	20
HOW, ORW, Scenic River, SWS, or ORW/SWS watersheds <sup>8</sup>	25
<b>Total</b>	<b>100</b>

## **R. STORMWATER: SMALL MS4 DESIGNATIONS**

### **1. Existing small MS4s that are currently regulated under Phase II regulations**

The following small MS4s that are currently regulated under Phase II regulations and covered under existing OPDES general permit OKR04 (see Table R-1). These small MS4s are required to submit a new NOI to continue their permit coverage under this permit.

<sup>2</sup> Population – 1 point for every 10,000 people (rounded up to the nearest 10,000).

<sup>3</sup> 1 point for every 100 density increase above 1,000 (rounded up to the nearest 100).

<sup>4</sup> Previous change (Percent) – 2 points for between 0 and 1%; 3 points for changes of 1-10%; 4 points for changes of 10-15%; 5 points for changes of 15-20%; 6 points for changes of 20-25%; 7 points for changes of 25-30%; 8 points for changes of 30-35%; 9 points for changes of 35-40%; and 10 points for 40+%.

<sup>5</sup> Land Size – 5 points if Corporate Land Area is 10-50% larger than what is necessary to obtain a 1,500 density; and 10 points if Corporate Land Area is 50+% larger than what is necessary to obtain a 1,500 density.

<sup>6</sup> Contiguity to an Urbanized Area – 15 points if directly adjacent; 10 points if the city boundaries are within 2 miles of an UA; and 5 points if the city boundaries are within 5 miles of an UA.

<sup>7</sup> 303(d) listed streams – 20 points if the town would directly discharge to the listed stream; and 10 points if the town is within 5 miles of the listed stream.

<sup>8</sup> HQW, ORW, SWS, Scenic River or ORW/SWS watersheds – 20 points if the city would discharge directly to a HQW, SWS, or Scenic River; 20 points if the city is located within a SWS watershed; and 25 points if the city would discharge directly to an ORW or is located within an ORW watershed.

**Table R-1 Regulated Small MS4s under 2005 OPDES General Permit**

	<b>Regulated Small MS4s</b>		<b>Regulated Small MS4s</b>
1	Altus, City of	23	Nichols Hills, City of
2	Bartlesville, City of	24	Nicoma Park, City of
3	Bethany, city of	25	Noble, City of
4	Bixby, City of	26	Norman, City of
5	Broken Arrow, City of	27	Oklahoma County
6	Catoosa, City of	28	Oklahoma Dept. of Transportation
7	Choctaw, City of	29	Oklahoma Turnpike Authority
8	Claremore, City of	30	Okmulgee, City of
9	Comanche County	31	Owasso, City of
10	Coweta, City of	32	Ponca City, City of
11	Creek County	33	Sand Springs, City of
12	Del City, City of	34	Sapulpa, City of
13	Edmond, City of	35	Spencer, City of
14	Fort Sill Army Base	36	Stillwater, City of
15	Jenks, City of	37	Tahlequah, City of
16	Lawton, City of	38	The Village, City of
17	McAlester, City of	39	Tinker Air Force Base
18	Miami, City of	40	Tulsa County
19	Midwest City, City of	41	University of Oklahoma
20	Moore, City of	42	Wagoner County
21	Muskogee, City of	43	Warr Acres, City of
22	Mustang, City of	44	Yukon, City of

## 2. **Small MS4s that are partially or wholly located in an UA**

Those towns, cities, state agencies, federal agencies, and counties that are partially or wholly located in an UA are shown in Table R-2. These small MS4 are automatically designated. However, the automatic designation did not take into consideration the size of these entities or their potential to contribute significant pollutant loading. The Phase II regulations allow some entities the opportunity to qualify for a waiver from permitting requirements if these entities have a population of less than 1,000 inside an UA and meet certain other criteria. The determination of small MS4 waivers under 40 CFR 122.32(d) is included in Part S and Table S-1.

**Table R-2 Small MS4s that are partially or wholly located within an UA**

	<b>Communities/Counties</b>	<b>Population within UA</b>
1	Arkoma, Town of	1,682
2	Cleveland County*	0
3	Collinsville, City of	998
4	Forest Park, Town of	<998
5	Glenpool*, City of	9,646
6	Goldsby*, Town of	140
7	Hall Park**, Town of	0
8	Harrah, City of	3,278

9	Jones, Town of	1,316
10	Kiefer, Town of	1,570
11	Logan County	>10,000
12	Moffett, Town of	<128
13	Newcastle*, City of	23
14	Pocola, Town of	862
15	Rogers County	>10,000
16	Sequoyah County***	0
17	Smith Village, Town of	<66
18	Sperry, Town of	946
19	Valley Brook, Town of	<765
20	Woodlawn Park, Town of	<153

\* All of the UA in Cleveland County are located within the city limits of Norman, Noble, and Moore.

\*\* Hall Park was annexed by the City of Norman in 2005 and ceased to be a town.

\*\*\* All of the UA in Sequoyah County are located within the city limits of Sallisaw, Muldrow and Roland.

### 3. Small MS4s located outside of an UA

There are two (2) cities (see Table R-3) must be evaluated according to Phase II regulations. Using the small MS4 grade sheet and scoring system described in Table P-1, DEQ has determined the values for each category and all scores were summed to give a final total for each city. A summary of these scores are included in Table R-4.

**Table R-3 Small MS4s that are located outside of an UA**

	Cities	Population	Density(Pop/Sq. mi)
1	Guymon, City of	11,442	1,512.7
2	Weatherford, City of	10,833	1,681.6

**Table R-4 Total final scores for each small MS4**

Cities	Pop.	Pop. Density	Pop. Changes	Corp. Land	Contiguity to an UA	303(d) listed streams	Sensitive Watershed	Total score
Guymon	2	6	4	0	0	0*	0	12
Weatherford	2	7	4	0	0	0	0	13

\*While Beaver Creek (north Canadian) Watersbody ID OK205100000190\_00 which receives a portion of the stormwater runoff from City of Guymon is listed on the 2012 303(d) list as impaired for dissolved oxygen, this stream segment is being delisted from the 2014 303(d) list since more recent data indicates it is in attainment for dissolved oxygen. Although the 2014 303(d) list, and that the discharges from City of Guymon are unlikely to cause or contribute to any impairment. DEQ has therefore assigned a value of 0 for this factor.

### 4. Designated small MS4s:

Those entities wholly or partially located in an UA are automatically designated unless DEQ grants a waiver to those entities under 40 CFR 122.32(d). Also, DEQ has determined that an evaluation score of 20 or below will provide reasonable certainty that the small MS4 discharge will not significantly contribute to stormwater pollutant loading for those

entities are located outside an UA. A regulated entity must submit a complete NOI or was granted a completed exemption by DEQ. A complete list of all regulated Phase II small MS4s is included in Table R-5:

**Table R-5 Regulated Phase II Small MS4 List**

	<b>Regulated Small MS4s</b>		<b>Regulated Small MS4s</b>
1	Altus, City of	27	Moore, City of
2	<b>Arkoma, Town of*</b>	28	Muskogee, City of
3	Bartlesville, City of	29	Nichols Hills, City of
4	Bethany, city of	30	Nicoma Park, City of
5	Bixby, City of	31	Noble, City of
6	Broken Arrow, City of	32	Norman, City of
7	Catoosa, City of	33	Oklahoma County
8	Choctaw, City of	34	Oklahoma Dept. of Transportation
9	Claremore, City of	35	Oklahoma Turnpike Authority
10	Comanche County	36	Okmulgee, City of
11	Coweta, City of	37	Owasso, City of
12	Creek County	38	Ponca City, City of
13	Del City, City of	39	<b>Rogers County*</b>
14	Edmond, City of	40	Sand Springs, City of
15	Fort Sill Army Base	41	Sapulpa, City of
16	<b>Glenpool, City of*</b>	42	Spencer, City of
17	<b>Harrah, City of *</b>	43	Stillwater, City of
18	Jenks, City of	44	Tahlequah, City of
19	<b>Jones, Town of*</b>	45	Tinker Air Force Base
20	<b>Logan County*</b>	46	The Village, City of
21	<b>Kiefer, Town of*</b>	47	Tulsa County
22	Lawton, City of	48	University of Oklahoma
23	McAlester, City of	49	Wagoner County
24	Miami, City of	50	Warr Acres, City of
25	Midwest City, City of	51	Yukon, City of
26	Mustang, City of		

\* This MS4 is newly designated as results of 2010 US census data.



## **S. STORMWATER PHASE II SMALL MS4 WAIVERS**

### **1. The Waiver Procedures of Phase II Regulations**

The Phase II regulations contained two waiver procedures, which are listed under 40 CFR 122.32 (d) and (e), to remove non-significant stormwater pollutant contributors from the permit requirements. These waivers allow these designated entities to exclude the permit requirements for five (5) years. The Phase II regulation requires DEQ to revisit the waiver designations every five (5) years.

These waivers are specified in 40 CFR 122.32 (d) and (e) and are written as follows:

- (d) The National Pollutant Discharge Elimination System (NPDES) permitting authority may waive permit coverage if your MS4 serves a population of less than 1,000 within the UA and you meet the following criteria:
  - (1) Your system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the NPDES stormwater program (see Sec. 123.35(b)(4) of this chapter).
  - (2) If you discharge any pollutant(s) that have been identified as a cause of impairment of any water body to which you discharge, stormwater controls are not needed based on wasteload allocations that are part of an EPA approved or established “Total Maximum Daily Load” (TMDL) that addresses the pollutant(s) of concern.
- (e) The NPDES permitting authority may waive permit coverage if your MS4 serves a population of less than 10,000 within the UA and you meet the following criteria:
  - (1) The permitting authority has evaluated all waters of the U.S., including small streams, tributaries, lakes, and ponds, that receive a discharge from your MS4.
  - (2) For all such waters, the permitting authority has determined that stormwater controls are not needed based on wasteload allocations that are part of an EPA approved or established TMDL that addresses the pollutant(s) of concern, or if a TMDL has not been developed or approved, an equivalent analysis that determines sources and allocations for the pollutant(s) of concern.
  - (3) For the purpose of this paragraph (e), the pollutant(s) of concern include biochemical oxygen demand (BOD), sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation), pathogens, oil and grease, and any pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from your MS4.
  - (4) The permitting authority has determined that future discharges from your MS4 do not have the potential to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts.

No entities qualify for a waiver under 40 CFR 122.32(e). There were twenty (20) entities that were located wholly or partially within an UA (see Table Q-2) and evaluated by DEQ. DEQ granted a waiver from the Phase II small MS4 permitting requirements to the following cities, towns and counties (see Table S-1):

**Table S-1 Summary of Waiver Criteria**

	<b>Cities/Towns/ Counties</b>	<b>Population (2010 US Census)</b>	<b>Population within an UA</b>	<b>Interconnected to Regulated MS4s</b>	<b>List impairments if discharging to a 303(d) stream</b>
1	Cleveland County	255,755	0	Cities of Norman, Noble, and Moore	None
2	Collinsville, City of	5,606	998	City of Owasso,	None
3	Forest Park, Town of	998	<998	City of Oklahoma	None
4	Goldsby, Town of	1,801	140	City of Norman	<b>Canadian River:</b> lead, sediment/siltation, turbidity, thallium
5	Moffett, Town of	128	<128	None	<b>Arkansas River:</b> Thallium, total dissolved solid, enterococcus
6	Newcastle, City of	7,685	23	City of Oklahoma, City of Norman	None
7	Pocola, Town of	4,056	862	None	None
8	Sequoyah County	42,391	0	None	None
9	Smith Village, Town of	66	<66	City of Oklahoma, city of Del City	None
10	Sperry, Town of	1,206	946	None	<b>Delaware Creek:</b> Chloride, Dissolved Oxygen, enterococcus
11	Valley Brook, Town of	765	<765	City of Oklahoma,	<b>Crooked Oak Creek:</b> Fecal Coliform, , Dissolved Oxygen, Oil/Grease, Total Dissolved Solids, Escherichia Coli, Enterococcus, and Chloride
12	Woodlawn Park, Town of	153	<153	City of Oklahoma, City of Warr Acres	None

## 2. Justification for Small MS4 Waiver under 40 CFR 122.32(d)

### a. Cleveland County

All of the UA in Cleveland County are located within the city limits of Norman, Noble and Moore. DEQ estimates that there is no population existing in the UA of Cleveland County.

Thus, Cleveland County qualifies for a waiver under 40 CFR 122.32(d).

### b. Collinsville, City of

Total population is 5,606 according to 2010 US census. DEQ estimates that the UA contains a population of 998, which is less than population of 1,000 to be considered for a waiver.

Collinsville's MS4 is interconnected with the City of Owasso and Tulsa County, which are regulated MS4s. Collinsville's UA discharges into the Blackjack Creek and East Creek, which aren't listed on 303(d) impaired streams. DEQ believes that the discharges from the Collinsville's UA are unlikely to cause or contribute to any impairment.

Thus, the City of Collinsville qualifies for a waiver under 40 CFR 122.32 (d).

**c. Forest Park, Town of**

Total population is 998 according to 2010 US census. DEQ believes that the Town of Forest Park's UA population is less than 1,000 to be considered for a waiver.

The Town of Forest Park is interconnected to the City of Oklahoma City's MS4, which has been a Phase I MS4 permittee for over ten (10) years. Forest Park's UA discharges into the Forest Park Creek, which isn't included on 303(d) list as an impaired stream. From history it is apparent that the Town of Forest Park does not significantly contribute to Oklahoma City's MS4 and has not had a violation that could be in any way linked to the Town of Forest Park.

Thus, the Town of Forest Park qualifies for a waiver under 40 CFR 122.32(d).

**d. Goldsby, Town of**

Total population is 1,801 according to 2010 US census. The Town of Goldsby has an UA population of 140, which is less than 1,000 to be considered for a waiver.

The Town of Goldsby is interconnected to the City of Norman, which is a small MS4 permittee for over five (5) years. Goldsby UA discharges into Canadian River, a 303(d) listed stream for impairments of lead, sediment/siltation, turbidity and thallium. However, DEQ believes that the discharges from the Goldsby's UA are unlikely to cause or contribute to these impairments.

The Town of Goldsby qualifies for a waiver under 40 CFR 122.32 (d).

**e. Moffett, Town of**

Total Population is 128 and The town of Moffett has an UA population of less than 1,000 to be considered for a waiver.

Moffett's MS4 is not interconnected with any regulated MS4s. Moffett's UA discharges into the Arkansas River, which is listed on the 303(d) list for impairments of thallium, total dissolved solids and enterococcus. However, DEQ believes that the discharges from the Moffett's UA are unlikely to cause or contribute to any impairment.

Thus, the Town of Moffett qualifies for a waiver under 40 CFR 122.32(d).

**f. Newcastle, City of**

Total Population is 7,685 and the City of Newcastle has an UA population of 23 which is less than 1,000 to be considered for a waiver.

Newcastle's MS4 is interconnected with two (2) regulated MS4s: the City of Oklahoma City and City of Norman. Newcastle's UA discharges into the Canadian River, which is not listed on the 303(d) impaired streams. DEQ believes that the discharges from the Newcastle's UA are unlikely to cause or contribute to any impairment.

Thus, the City of Newcastle qualifies for a waiver under 40 CFR 122.32 (d).

**g. Pocola, Town of**

Total population is 4,056 according to 2010 US census. DEQ estimates that the UA contains a population of 862 which is less than 1,000 to be considered for a waiver.

Pocola's MS4 is not interconnected with any regulated MS4s. Pocola's UA discharges into Cedar Creek that is not listed as the 303(d) impaired streams for any pollutant.

Thus, the Town of Pocola qualifies for a waiver under 40 CFR 122.32(d).

**h. Sequoyah County**

All of the UA in Sequoyah County are located within city limits of Sallisaw, Muldrow and Roland. DEQ estimates that there is no population existing in the UA of Sequoyah County.

Thus, Sequoyah County qualifies for a waiver under 40 CFR 122.32 (d).

**i. Smith Village, Town of**

Total Population is 66 according to 2010 US Census.

Smith Village has a corporate area of 0.029 square miles. This area is completely developed and surrounded on all sides by the City of Oklahoma City and City of Del City, which are regulated MS4s. DEQ believes that the discharges from the Smith Village's UA are unlikely to cause or contribute to any impairment.

Thus, the City of Smith Village qualifies for a waiver under 40 CFR 122.32 (d).

**j. Sperry, Town of**

The Town of Sperry has a total Population of 1,206 and an UA population of 946 which is less than 1,000 to be considered for a waiver.

The Town of Sperry is not interconnected to any regulated MS4s. The Sperry's UA discharges directly into Delaware Creek, which is listed on the 303(d) impaired streams for impairments of enterococcus, chloride, and dissolved oxygen. However, DEQ believes that the discharges from the Town's UA are unlikely to cause or contribute to any impairment.

The Town of Sperry qualifies for a waiver under 40 CFR 122.32(d).

**k. Valley Brook, Town of**

Total Population is 765 according to 2010 US census. The Town of Valley Brook has a population of less than 1,000 to be considered for a waiver.

The Town of Valley Brook is interconnected to the City of Oklahoma City's MS4 and has been for over 20 years. The Valley Brook's UA discharges directly into Crooked Oak Creek, which is listed on the 303(d) impaired stream for impairments of fecal coliform, Escherichia coli, enterococcus, dissolved oxygen, oil/grease, total dissolved solids, and chloride. However, DEQ believes that the discharges from the Valley Brook's UA are unlikely to cause or contribute to any impairment.

Thus, the Town of Valley Brook qualifies for a waiver under 40 CFR 122.32 (d).

**l. Woodlawn Park, Town of**

Total Population is 153 according to 2010 US census. The Town of Woodlawn Park has a population of less than 1,000 to be considered for a waiver.

The Town of Woodlawn Park has a corporate area of less than 0.1 square miles. This area is completely developed and surrounded on all sides by the City of Bethany.

The Town of Woodlawn Park is interconnected to the City of Bethany. The City of Bethany is a regulated MS4. DEQ believes that the discharges from the Woodlawn Park's UA are unlikely to cause or contribute to any impairment.

Thus, the Town of Woodlawn Park qualifies for a waiver under 40 CFR 122.32 (d).

## T. DEFINITIONS

All definitions contained in Section 502 of the Act and 40 CFR §122 shall apply to this Fact Sheet and are incorporated herein by reference. For convenience, simplified explanations of some regulatory/statutory definitions have been provided, but in the event of a conflict, the definition found in the Statute or Regulation takes precedence.

**Best Management Practices (BMPs)** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

**Construction Site Operator** means the party, or parties, that meet one or more of the following descriptions:

1. Have operational control over plans and specifications, including the ability to make modifications to those plans and specifications or
2. Has day-to-day operational control of those activities at a project that are necessary to ensure compliance with a Stormwater Pollution Prevention Plan (SWP3) for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWP3 or comply with other permit conditions).

In addition, "owner" refers to the party that owns the structure being built. Ownership of the land where construction is occurring does not necessarily imply the property owner is an operator (e.g., a landowner whose property is being disturbed by construction of a gas pipeline or a landowner who allows a mining company to remove dirt, shale, clay, sand, gravel, etc. form a portion of his property).

This definition is provided to inform permittees of DEQ's interpretation of how the regulatory definitions of "operator" are applied to discharges of stormwater associated with construction activity.

**Control Measure** as used in this permit refers to any Best Management Practice (BMP) or other method used to prevent or reduce the discharge of pollutants to waters of the State.

**CWA or The Act** means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub.L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483 and Pub. L. 97-117, 33 U.S.C. 1251 et.seq.

**Director** means the Executive Director or chief administrator of the Department of Environmental Quality or an authorized representative.

**Discharge**, when used without a qualifier, refers to "discharge of a pollutant" as defined at 40 CFR §122.2.

**Impaired Water (or Water Quality Impaired Water)** is identified by a State, or EPA pursuant to Section 303(d) or the Clean Water Act as not meeting applicable State water quality standards. Impaired waters include both waters with approved or established TMDLs, and those for which a TMDL has not yet been approved or established.

**Illicit Discharge** is defined at 40 CFR §122.26(b)(2) and refers to any discharge to a municipal separate storm sewer that is not entirely composed of stormwater, except discharges authorized under an OPDES or NPDES permit (other than the OPDES permit for discharges from the MS4) and discharges resulting from firefighting activities.

**LID** is an acronym for "Low Impact Development," an approach to land development (or re-development) that works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product.

**MEP** is an acronym for "Maximum Extent Practicable," the technology-based discharge standard for Municipal Separate Storm Sewer Systems (MS4s) to reduce pollutants in stormwater discharges that was established by CWA §402(p). A discussion of MEP as it applies to MS4s is found at 40 CFR § 122.34.

**MS4** is an acronym for "Municipal Separate Storm Sewer System" and is used to refer to a either Large, Medium, or Small Municipal Separate Storm Sewer System (e.g. "the Dallas MS4"). The term is used to refer to either the system operated by a single entity or a group of systems within an area that are operated by multiple entities (e.g., the Oklahoma City MS4 includes MS4s operated by Oklahoma City, the Oklahoma Department of Transportation, and others).

**Municipal Separate Storm Sewer System** is defined at 40 CFR § 122.26(b)(8) and means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man made channels, or storm drains):

1. Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States.
2. Designed or used for collecting or conveying stormwater.
3. Which is not a combined sewer.
4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR §122.2.

**Newly Regulated Small MS4** refers to a small MS4 newly designated as a result of 2010 US census data or other new information, and required to be covered under an OPDES permit.

**NOI** is an acronym for "Notice of Intent" to be covered by this permit and is the mechanism used to "register" for coverage under a general permit.

**Outstanding Resource Waters** means those waters of the State which are designated as such in Oklahoma's Water Quality Standards OAC 785:45

**Small Municipal Separate Storm Sewer System** is defined at 40 CFR §122.26(b)(16) and refers to all separate storm sewers that are owned or operated by the United States, a state, city, town, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the State, but is not defined as “large” or “medium” municipal separate storm sewer system. This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

**Small MS4 Newly Designated after the Date of Permit Issuance** refers a small MS4 newly designated by EPA or DEQ after the date of this permit issuance.

**Stabilization** is the process of covering exposed ground surfaces with vegetative or non-vegetative practices that reduce erosion and prevent sediment discharge from occurring.

- “**Temporary stabilization**” refers to the stabilization of exposed portions of the site in order to provide temporary cover (1) during the establishment and growth of vegetation, and/or (2) in areas where earth-disturbing activities will occur again in the future.
- “**Final stabilization**” refers to the stabilization of exposed portions of the site using practices that provide permanent cover and qualify the permittee for permit termination.

All soil disturbing activities at the site have been completed and either of the two following criteria is met:

1. A uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70% of the native background cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or
2. Equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

When background native vegetation covers less than 100% of the ground (e.g., arid areas, and beaches), establishing at least 70% of the natural cover of the native vegetation meets the vegetative cover criteria for final stabilization (e.g., if the native vegetation covers 50% of the ground, 70% of 50% would require 35% total cover for final stabilization. On a beach with no natural vegetation, no vegetation is required.

**Stormwater** is defined at 40 CFR §122.26(b)(13) and means stormwater runoff, snow melt runoff, and surface runoff and drainage.

**Stormwater Management Program (SWMP)** refers to a comprehensive program to manage the quality of stormwater discharged from the municipal separate storm sewer system(MS4).

**SWMP** is an acronym for “Stormwater Management Program.”

**Total Maximum Daily Load or TMDL** means the sum of the individual waste load allocations (WLAs) for point sources, safety, reserves, and loads from nonpoint sources and natural background.

**“You” and “Your”** as used in this fact sheet is intended to refer to the permittee, the operator, or the discharger as the context indicates and that party’s responsibilities (e.g., the city, the country, the flood control district, the U.S. Air Force, etc.).

**Waters of the State** means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, storm sewers and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion thereof, and shall include under all circumstances the waters of the United States which are contained within the boundaries of, flow through, or border upon this state or any portion thereof. Provided waste treatment systems, including treatment ponds or lagoons designed to meet federal and state requirement other than cooling ponds as defined in the Clean Water Act or rules promulgated thereto, and prior converted cropland are not waters of the State. (27A O.S. §1-1-201).