



## FACT SHEET

# ISSUANCE OF DRAFT GENERAL PERMIT OKR10 FOR STORMWATER DISCHARGES FROM CONSTRUCTION ACTIVITIES WITHIN THE STATE OF OKLAHOMA

July 31, 2017

The Oklahoma Department of Environmental Quality (DEQ) has issued the “General Permit OKR10 for Stormwater Discharges from Construction Activities within the State Of Oklahoma”. This permit will replace Construction General Permit (CGP) OKR10, which will expire on September 12, 2017. Both new operators and existing permittees must obtain coverage under this new permit in order to discharge stormwater from construction activities.

### 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 lands, or construction activity associated with oil & gas extraction and agricultural purposes (See Part 1.1.1 of the CGP OKR10).

DEQ issued its first CGP GP-005A on September 9, 1997 and amended it on February 1, 1999. Currently DEQ is proposing the 2017 CGP OKR10 to replace the 2012 CGP OKR10 which will expire on September 12, 2017. The issuance procedure for the permit is based on the Oklahoma Environmental Code found in Title 27A of the Oklahoma Statutes §27A-2-14-101, et seq, and the rules found in Oklahoma Administrative Code (OAC) 252:004-7.<sup>1</sup>

The proposed permit will have a fixed term of 5 years from the effective date of DEQ’s issuance. Each authorization to discharge issued under this permit will expire at the same time, and all authorizations to discharge will be required to be renewed on the same date. Discharges will be covered under the CGP once the authorization to discharge is issued by DEQ.

The permit authorizes stormwater discharges associated with construction activities that result in land disturbance of equal to or greater than 1 acre, or less than 1 acre if they are part of a larger common plan of development or sale that disturbs 1 acre or more (See Part 1.2.1.A of the CGP OKR10).

The permit also authorizes stormwater discharges from support activities (e.g. concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, and borrow areas) that are directly related to a construction site which is required to have permit coverage. Those support activities are not commercial operations that serve unrelated different sites (see Part 1.2.1.B of the CGP OKR10).

However, the permit does not authorize any stormwater discharges from support activities within the Outstanding Resource Waters (ORW) as defined in Oklahoma Water Quality Standards (see OAC 785:45-5-25).<sup>2</sup>

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<sup>1</sup> DEQ Chapter 4. Rules of Practice and Procedure: <http://www.deq.state.ok.us/rules/004.pdf>

<sup>2</sup> Title 785, Chapter 45 Oklahoma’s Water Quality Standards 785:45-5-25.(a)(1) The limitations contained in 785:45-5-25(c)(1) for additional protection of Outstanding Resource Waters shall apply to all discharges from point sources except such limitations do not apply to discharges of stormwater from temporary construction activities. Discharges of stormwater from point sources existing as of June 25, 1992, are also excepted from the 785:45-5-25(c)(1) rule prohibiting any new point source

You must receive an authorization to discharge from DEQ prior to commencing your construction activities with stormwater discharges. In order to receive an authorization, you must file a Notice of Intent (NOI) with DEQ and pay the applicable application fee and annual permit fee<sup>3</sup>. Also, you must develop and implement a storm water pollution prevention plan (SWP3) in accordance with the requirements in Part 4 of this permit.

You must submit a copy of your SWP3 to DEQ for review, along with your NOI, if any of the following site conditions applies:

- (1) If the stormwater runoff from your construction site discharges into an ORW and you have specified the receiving water as an ORW in the SWP3 and implemented additional site requirements specified in Part 3.5.2 of the CGP;
- (2) If your stormwater runoff discharges into an Aquatic Resource of Concern (ARC) as identified by the U.S. Fish and Wildlife Service and the Oklahoma Department of Wildlife Conservation (see Addendum A of this CGP OKR10) and you have implemented additional site requirements specified in Part 10 of the CGP OKR10;
- (3) If your construction site is subject to an approved Total Maximum Daily Load (TMDL) and you have incorporated and implemented the limitations, conditions, or requirements applicable to your SWP3. You must ensure that the waste load allocations (WLAs) or load allocations (LAs) and/or the TMDL's associated implementation plan will be met within any timeframe established in the TMDL report or watershed plan or local compliance plan. You also note the monitoring and reporting of the discharges may also be required as appropriate to ensure compliance with the TMDL or watershed plan; or
- (4) If the areas to be disturbed at your construction site is forty (40) acres or more.

You must submit a completed Notice of Termination (NOT) if you wish to terminate the coverage under this permit. Your authorization to discharge will terminate when DEQ's termination letter has been issued (see also Part 2.2 of this CGP OKR10).

## **B. Public Participation and Comment Period**

A public notice will be published in State newspapers announcing the new proposed CGP OKR10 on July 31, 2017. The comment period will be open until August 29, 2017.

Pursuant to OPDES Act, Title 27A O.S. § 2-14-302, persons wishing to make comments concerning the proposed permit may do so by sending the comments in writing to the contact person for DEQ, at the address listed below, within 30 days after the date of publication or mailing. Comments should include: (1) name and address of the interested person, (2) the permit name to which the request relates, (3) the nature and basis of the interest of the person affected, and (4) a statement of the objection or comment, the basis of the objection or comment, and any requested action by DEQ. The contact person for DEQ, to schedule a date and time to review the proposed permit at the office of DEQ is:

Tammi L. Johnson  
Water Quality Division  
Oklahoma Department of Environmental Quality  
P.O. Box 1677, Oklahoma City, OK 73101-1677

DEQ will also be conducting a public meeting which will consist of a short presentation to help foster understanding of the proposed changes to the new CGP. This will be followed by an informal question and answer session with DEQ staff. The public meeting will be held:

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discharges, but such stormwater discharges are prohibited from increased load of any pollutant.

<sup>3</sup> See OAC 252:606: [http://www.deq.state.ok.us/eclsnew/fees/252606\\_StormWater.pdf](http://www.deq.state.ok.us/eclsnew/fees/252606_StormWater.pdf)

**2:00 P.M., Friday, August 23, 2017**  
**Department of Environmental Quality, 1<sup>st</sup> Floor Multipurpose Room**  
**707 North Robinson, Oklahoma City, OK**

Copies of the CGP and supporting documents are available on the DEQ web site <http://www.deq.state.ok.us/WQDnew/stormwater/>. A copy of the proposed CGP can be reviewed at the DEQ Water Quality Division at 707 North Robinson in Oklahoma City<sup>4</sup> or at 9933 East 16<sup>th</sup> Street, Tulsa from 8:00am - 4:30pm, Monday through Friday.

**C. Summary of Changes and Additions to the Proposed 2017 CGP OKR10**

This proposed CGP will replace the current CGP OKR10, which expires on September 12, 2017. Following is a list of the most significant changes from the proposed permit as compared to the previous permit issued on September 13, 20012.

1. *Streamlining of the Proposed Permit:* DEQ streamlined and simplified language throughout the proposed CGP to present requirements in a generally more clear and readable manner. This should enhance operators/permittees understanding of and compliance with the permitting requirements. Although the permit has been streamlined from the prior permit, many of the requirements remain unchanged.
2. *Permit Area:* DEQ clarifies those areas of coverage where DEQ is not the permitting authority by moving current language in Table 1-1 into Parts 1.1.1 and 1.1.2 of the proposed permit.
3. *Authorized Discharge:* DEQ made revisions to be consistent with EPA's 2017 CGP and include two new authorized discharges that currently regulated under OPDES Act. Those revisions are the following:
  - a. the proposed permit prohibited non-stormwater discharges of routine external building wash-down containing hazardous substances, such as paint or caulk containing polychlorinated biphenyls (PCBs) in Part 1.2.1.C.5 of the proposed permit;
  - b. the proposed permit included a site condition for discharge or flows from emergency firefighting activities in Part 1.2.1.C.11 of the proposed permit; and
  - c. the proposed permit includes two new authorized discharges associated with construction activities from the facilities that are currently regulated under OPDES Act, such as Natural Gas Liquid Extraction Plants, and Oil and Gas Field Services for Company Base Operating Stations in Part 1.2.1.D of the proposed permit.
4. *Terminating Coverage:* DEQ made revisions according to the suggestions submitted by DEQ's Work Group and Stakeholder Advisory Committee. The revisions are the following:
  - a. Permittee's authorization to discharge under this proposed permit will not terminate until DEQ's final inspection has been conducted and the termination letter has been issued in accordance with Part 1.4.1 of the proposed permit; and
  - b. The language for residential subdivision construction has been updated to include a site condition that the permittee has to meet before submitting a NOT in Part 1.4.2.B of the proposed permit.
5. *Notice of Intent:* Contents of NOI have been updated and added a list of new information required by EPA's eReporting Rules as followings:
  - a. Included the operator's point of contact (see Part 2.1.6.C of the proposed permit);
  - b. Included the site/project's point of contact (see Parts 2.1.6.D and E of the proposed permit);

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<sup>4</sup> Directions to DEQ in Oklahoma City can be found at <http://www.deq.state.ok.us/mainlinks/map2deq.pdf>

- c. Included the estimated construction project starting date and ending date (see Part 2.1.6.H of the proposed permit);
  - d. Included total area of construction site and estimated area to be disturbed in acres(see Part 2.1.6.I of the proposed permit);
  - e. Included total impervious area (pre-construction) and total impervious area construction completed (post-construction) in acres (see Part 2.1.6.J of the proposed permit);
  - f. Included post-construction runoff coefficient of the site( see Part 2.1.6.K of the proposed permit);
  - g. Included a description of the nature of fill material and existing data describing soils (see Part 2.1.6.L of the proposed permit);
  - h. Included an indication whether this site or project discharges stormwater to a Municipal Separate Storm sewer System (MS4) (see Part 2.1.6.O of the proposed permit);
  - i. Included a description of the proposed measures to control pollutants in stormwater discharges during construction (see Part 2.1.6.U of the proposed permit); and
  - j. Included a description of the proposed measures to control pollutants in stormwater discharges that will occur after construction has been completed (see Part 2.1.6.V of the proposed permit).
6. *Modification of an NOI:* DEQ made a revision to modification of an NOI. An amended NOI shall not be submitted to DEQ for approval if the area to be disturbed has decreased (see Part 2.1.7 of the proposed permit).
  7. *NOT Requirement:* DEQ revised the NOT requirements and moved the Part 8 of current 2012 CGP to the Part 2.2 of the proposed permit according to the suggestions provided by DEQ Work Group and Stakeholder Advisory Committee. In this proposed permit, authorizations will not be terminated until DEQ has issued a termination letter to the permittees that all termination requirements have been met and their complete NOTs have been processed by DEQ. Permittees are also required to prepare an NCO if permittees have sold a portion of the site (see Part 2.2 of the proposed permit);
  8. *SWP3 Submittal:* DEQ updated the language of the SWP3 Submittal to require permittee to submit a SWP3 to DEQ for review if his/her construction site discharges into a watershed which is subject to an approved TMDL or watershed plan or local compliance plan (see Part 2.4.3 of the proposed permit);
  9. *Electronic Reporting Deadline:* DEQ included an electronic reporting deadline in the Part 2.5 of the proposed permit;
  10. *Special Conditions and Effluent Limitation:* DEQ made the following changes to be consistent with EPA's C & D rules and 2017 CGP:
    - a. DEQ added a list of examples for erosion and sediment controls required by the C &D rule's non-numeric effluent limits (see 40 CFR 450.21). These examples are consistent with EPA 2017 CGP (see Part 3 of the proposed permit);
    - b. DEQ added a new requirement for controlling stormwater volume according to EPA's comments and to be consistent with EPA's C & D rules (see Part 3.3.1.ii of proposed permit);
    - c. DEQ added a new implementation for track-out controls prior to vehicle exit to be consistent with EPA's 2017 CGP (see Part 3.3.1.D.4 of the proposed permit);
    - d. DEQ also added a new maintenance requirement for sediment basin or impoundment to be consistent with EPA's 2017 CGP (see Part 3.3.1.L.5 of the proposed permit);
    - e. The proposed permit now requires operators to keep waste container lids closed when not in use, when there is a significant chance of precipitation and/or the site is inactive or work is not in progress. Those waste containers must be covered at the end of daily work shifts and when workers

are not present. For waste containers that do not have lids, operators are required to provide cover or similarly effective means to minimize the discharge of pollutants. These changes are consistent with EPA's 2017 CGP (see Part 3.3.3.B.3.e.(1) of the proposed permit);

- f. For clarification purpose, a reference was added to "large bare area" in Parts 3.3.2.B.1.a and 8 of the proposed permit;
- g. DEQ changed the requirement for temporary stabilization for stockpiles or land clearing debris piles from "where practicable" to requiring cover or appropriate temporary stabilization for all inactive piles that will be not used for 14 or more days. This change is consistent with EPA2017 CGP (see Part 3.3.1.E of the proposed permit);
- h. DEQ included new sufficiently sensitive method requirements for test procedure approved under 40 CFR Part 136 (see Part 3.4.1 of proposed permit)
- i. DEQ will require that operators implement additional control measures if operators discharge to impaired water for turbidity as the impairment identified by DEQ. The additional requirements are provided in Part 3.5.1 of this proposed permit;

11. *Storm Water Pollution Prevention Plan:*

- a. DEQ updated the SWP3 to include the requirements for "On-site availability of the SWP3" and "SWP3 Modification" in the proposed permit. these additions are consistent with EPA's 2017 CGP; and
- b. DEQ updated the TMDL requirements in Part 4.1.5 of the proposed permit. Permittees are required to incorporate any limitations, conditions, or requirements applicable to their discharges in the SWP3. Permittees must ensure that the waste load allocations or load allocations and/or the TMDL's associated implementation plan will be met within any timeframe established in the TMDL report or watershed plan or local compliance plan. Monitoring and reporting of the discharges may also be required as appropriate to ensure compliance with the TMDL or watershed plan or local compliance plan.
- c. DEQ also included fertilizer application requirements to be consistent with Part 3.3.3.D of the proposed permit.

12. *Definitions:*

- a. The terms "Construction Activities", Construction Site or Site or Development or Project or Construction", "Construction Support Activity", "Corrective Actions", "Hazardous Substances or Hazardous or Toxic Waste", "Large Common Plan of Development or Sale", and "Non-Process Water" were added for clarification purposes in Par 8 of the proposed permit; and
- b. DEQ updated the terms of "Dewatering Activities" and "Impaired Water (or Water Quality Impaired Water)", and "Stabilization" in Part 8 of the proposed permit.

13. *Addendum B "Notice of Intent":* DEQ updated this Addendum to be consistent with Part 2.1.6 of the proposed permit;

14. *Addendum C "Notice of Termination":* DEQ updated this Addendum to be consistent with Part 2.2.1 of the proposed permit;

15. *Existing Addendum E of "Inspection Request":* DEQ deleted this Addendum that was not necessary in this proposed permit;

16. *Addendum F "Additional Requirements for Concrete and Asphalt Batch Plants" and Addendum G "Annual Comprehensive Site Compliance Evaluation Report":* Addendums G and F have been updated according to DEQ's 2017 MSGP.

17. *Addendum H “Buffer Requirements”*: DEQ updated this Addendum in accordance with OSU’s recommendations;
18. *Addendum I “Stormwater Runoff Coefficients”*: DEQ included this new Addendum to assist permittees in compliance with the requirements in this proposed permit; and
19. *Addendum J: “Notification of Changing Ownership”* DEQ included this new Addendum to assist permittees in compliance with the requirements in this proposed permit.

#### **D. Questions and Answers Concerning the Permit Requirements**

In an effort to alleviate misunderstandings concerning various requirements (i.e. development of acreage that is part of a larger common plan of development, endangered species, historic preservation, filing an NOI, filing an NOT, etc.), the following answers are provided by DEQ:

##### **1. What types of construction activities may be covered under this stormwater Construction General Permit (CGP)?**

Any construction activity that will disturb 1 or more acres and has the potential to discharge pollutants from stormwater runoff into waters of the State of Oklahoma must have permit coverage. These regulated construction activities also include those activities that result in land disturbance less than 1 acre if they are part of a larger common plan of development or sale that totals at least 1 acre.

Construction and construction-related activities refer to the actual land-disturbing construction activities and those activities supporting the construction project such as construction materials, equipment storage, maintenance (e.g., fill piles, borrow area, concrete truck washout, fueling), measures used to control the quality for stormwater associated with construction activity, or other industrial stormwater directly related to the construction process (e.g., concrete or asphalt batch plants). It does not refer to routine construction activities that are part of the normal day-to-day operation of a completed facility (e.g., daily cover for landfills, maintenance of gravel roads or parking areas, landscape maintenance, etc). Also, it does not include any construction activities on Indian Country lands in Oklahoma, or any construction activities associated with Oil & Gas extraction [Standard Industrial Classification (SIC Group 13, 46 and 492] and Agricultural production and services (SIC Group 01, 02, 07, 08 and 09). However, any construction activities from the facilities associated with SIC 1321 (Natural Gas Liquid Extraction Plans) and SIC 1389 (Oil & Gas Field Services for Company Base Operating Station) are currently regulated by DEQ, and will be required to be covered under this CGP.

Construction support activity that has been covered under an individual permit or which requires coverage under an alternative general permit is not covered under this permit. Only concrete and asphalt batch plants defined as support activities are regulated and covered under this permit.

##### **2. How can I obtain the permit authorization if I am building on a construction site with 1 or more acres?**

A construction activity, which includes sites disturbing 1 or more acres, or less than 1 acre of total land area that is part of a larger common plan of development or sale cumulatively disturbing 1 or more acres, is required to receive a permit authorization before you start grading the site. In order to receive a permit authorization, you must:

- a. Develop a Storm Water Pollution Prevention Plan (SWP3) according to the requirements in Part 4 of the CGP prior to submitting your NOI. You are required to submit a copy of your complete SWP3 to DEQ for review if your stormwater discharges into an ORW or ARC or watershed with an approved TMDL or watershed plan or local compliance plan. You are also required to submit a copy of your complete SWP3 to

the DEQ for review if you will disturb 40 or more acres of land at the site. If your discharges do not meet these special conditions, you don't need to submit your SWP3 when you submit your NOI;

- b. Complete all the blanks on the NOI form and submit it to DEQ for review. A copy of the NOI form can be found in Addendum B of this CGP. It is also available on-line at <http://www.deq.state.ok.us/WQDnew/stormwater/> );
- c. Pay the applicable application and permit fees.<sup>5</sup> If the fee is not received, an invoice will be sent to you after DEQ has completed their review of your NOI; and
- d. Receive an authorization from DEQ. Once an authorization is issued by DEQ, you may discharge from your site under the terms and conditions of this CGP.

**3. What must I do if my construction project will disturb less than 1 acre and is part of a larger common plan of development or sale exceeding 1 acre?**

If your smaller project is part of a larger common plan of development or sale that collectively will disturb 1 or more acres (e.g., you are building on 6 half-acre residential lots in a 10-acre development or are putting in a parking lot in a large retail center), you will need permit coverage. The “plan” in a common plan of development or sale is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. You must still meet the definition of operator in order to be required to get permit coverage, regardless of the acreage you personally disturb. As a subcontractor, you are unlikely to need a permit.

If you are the developer of a 10-acre housing project and you sell 3 acres to a homebuilder, you are required to prepare a Notification of Change of Ownership (NCO) and included the NCO in your SWP3. You will retain responsibility of the remaining 7 acres, and the homebuilder who bought 3 acres of the housing project must obtain an authorization by submitting a new NOI for the 3 acre development.

**4. When can I consider future construction on a property to be part of a separate plan of development or sale?**

In many cases, a common plan of development or sale consists of many small construction projects that collectively add up to 1 or more acres of total disturbed land. For example, an original common plan of development for a residential subdivision might lay out the streets, house lots, and areas for parks, schools and commercial development that the developer plans to build or sell to others for development. All these areas would remain part of the common plan of development or sale until the intended construction is completed.

After the initial “common plan” construction activity is completed for a particular parcel, any subsequent development or redevelopment of that parcel would be regarded as a new plan of development. For example, after a house is built and occupied, future construction on that lot (e.g., reconstructing after a fire, adding a pool or parking area, etc.) would stand alone as a new “common plan” for purposes of calculating acreage disturbed to determine if a permit was required. This would also apply to similar situations at an industrial facility, such as adding new buildings, a pipeline, a new wastewater treatment facility, etc. that were not part of the original plan.

**5. With all the people involved in a construction project, how do I know if I am the one that needs to**

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<sup>5</sup> A total fee is \$447.7 for year 2017, including \$100 application fee. But in future years, you shall verify the fees in Title 252, Chapter 606 of the DEQ regulations from DEQ's website at [http://www.deq.state.ok.us/eclsnew/fees/252606\\_StormWater.pdf](http://www.deq.state.ok.us/eclsnew/fees/252606_StormWater.pdf) .

## **apply for the permit?**

You must apply for the permit if you meet one or both components of the definition of “operator” as given in Parts 3.6.2 and 8.22 of this CGP. This means you have operational control over either the construction plans and specifications, including the ability to make modifications to those plans and specifications (e.g., owner or developer of project), or you have day-to-day operational control of these activities at a project which are necessary to ensure compliance with a SWP3 for the site or permit conditions (e.g., general contractor, or utility contractor). In situations where your activity is part of a large common plan of development or sale, you are only responsible for the portions of the project for which you meet the definition of “operator”.

If you have operational control over utility installation (e.g., telephone, electric, gas, cable TV, etc.), you may need permit coverage. Your activities must be covered under an SWP3 (either a “joint SWP3” for the larger common plan of development or sale, or your own SWP3). You are responsible for maintenance of the SWP3 on the areas disturbed by your activities. You must ensure the protection of endangered species, incorporation of any requirements of a TMDL or watershed plan or local compliance plan if necessary, implementation of Best Management Practices (BMPs), and final stabilization requirements. This applies to utility companies and their contractors. However, you are probably not an operator and subsequently do not need permit coverage if you are a subcontractor hired by, and under the supervision of, the owner or a general contractor. You must sign a “contractor certification” or similar arrangement.

## **6. What is the difference between “Primary Operators” and “Secondary Operators”?**

First of all, all operators must meet the definition of “operator” (see previous questions and answers #5). For a construction project that has multiple operators, the Primary Operator is the one who is ultimately responsible for controlling stormwater runoff from all the earth-disturbing activities at the entire construction site. The Primary Operator is also responsible for obtaining permit coverage for the entire development and for developing and maintaining a SWP3 for the entire development.

For a construction project with multiple operators, a Secondary Operator is one who has operational control of stormwater discharges from earth-disturbing activities on a portion of the construction site. Secondary Operators must be thoroughly familiar with and adhere to provisions of the permit, the NOI, the SWP3, all BMPs, and all control measures which apply to their areas of activity. Secondary Operators must notify the Primary Operator prior to beginning any earth-disturbing activity and execute any written notification required by the Primary Operator. They must also avoid damaging or interfering with the effectiveness of any control measure on the construction site and notify the Primary Operator if such damage occurs.

Primary Operators have to ensure that the Secondary Operators are aware of all these control measures and must document this notification. This is one of the requirements that must be met under Contractor Certification (Part 4.4 of the CGP). An example of a Contractor Certification form can be found in Addendum D of the CGP.

## **7. How many Notices of Intent (NOIs) must I submit? Where and when are they sent?**

You may submit a NOI to cover all your activities on the lots in a larger common plan of development or sale, or a NOI for each individual lot. For example, you can submit an NOI for each separate lot in a residential subdivision, for two (2) separate buildings being constructed at a manufacturing facility. However, you must develop the site map for the SWP3 to identify those areas of the overall project that are under your control.

You must sign the NOI and send it to the following address: Stormwater Unit of Environmental Complaints and Local Services (ECLS), Oklahoma Department of Environmental Quality (DEQ), P.O. Box 1677, Oklahoma City, OK 73101-1677, or FAX it to (405) 702-6226 or email it to [ecls-stormwaterpermitting@deq.ok.gov](mailto:ecls-stormwaterpermitting@deq.ok.gov) .

You may submit a new NOI at least 30 days prior to commence of your construction activity. You must receive DEQ’s authorization to discharge before starting your construction.

## **8. If I am currently permitted on an ongoing construction project, do I have to submit a new NOI to be covered by the new permit?**



Yes. If you are the operator of an on-going construction project or a construction project that started prior to the effective date of this permit, you must complete a new NOI form within 90 days of the effective date of this permit. If you are eligible to submit an NOT before the 90<sup>th</sup> day (e.g., construction is finished and final stabilization has been achieved), a new NOI is not required to be submitted. You must remain in compliance with existing requirements of the CGP OKR10 issued September 13, 2012 until a new authorization is received or an NOT is submitted. Also, you must update your SWP3 to comply with any new requirements within 90 days after the effective date of this permit.

**9. Can I modify the NOI that I have submitted to DEQ previously?**

Yes. After issuance of an authorization, an amended NOI may be submitted by a permittee if circumstances change (e.g. the area to be disturbed has changed from 20 acres to 40 acres). However, an amended NOI should not be submitted if the area to be disturbed has decreased (e.g., changed from 40 acres to 20 acres).

The amended NOI shall include the facility's assigned permit number and a description of the requested change. The original authorization number will be retained. DEQ will provide you an acknowledgement by mail or e-mail that the amended NOI has been received and processed. You must update the SWP3s to reflect the modification.

**10. If a utility company provides services inside a new development, does that company need to obtain permit coverage?**

If the utility company has operational control over the construction site and/or has day-to-day supervision and control over a specific phase of construction activities occurring at the construction site, the utility company or its contractor could be considered a "Secondary Operator". They need to be covered by either the Primary Operator's authorization and complied with the Primary Operator's SWP3, or they need to obtain their own separate permit coverage. If the utility subcontractor cannot be considered an operator and obtain permit coverage, the subcontractor must sign the "Contractor Certification" which says he/she agrees to comply with the terms and conditions of the SWP3 and this CGP.

**11. Do permittees have their own separate SWP3 or is a "joint plan" allowed?**

A permittee is required to submit one SWP3 for a site that incorporates the required elements. A "joint" SWP3 may be developed and implemented as a cooperative effort where there is more than one operator at a site. Permittees shall develop their SWP3s to cover either the entire site or all portions of the site where they have operational controls. Permittees are required to submit a copy of the complete SWP3 if their discharges meet the following conditions:

1. Any area of your construction site is located within the watershed of an ORW identified in Addendum E of the CGP;
2. Any area of your construction site is located within an ARC water or watershed identified in Addendum A of the CGP;
3. The area which is subject to approved TMDL (or watershed plan or local compliance plan); or
4. The area to be disturbed on your construction site is 40 acres or more.

**12. Do I have flexibility in preparing the SWP3 and selecting BMPs for my site?**

SWP3 requirements were designed to allow maximum flexibility to develop effective stormwater controls that minimize the discharge of pollutants from construction activities based on the specifics of the sites. Some of the factors to consider include:

- a. More stringent local development requirements and/or building codes;
- b. Precipitation patterns for the area when the project will be underway;

- c. Soil types and characteristics;
- d. Slopes;
- e. Layout of structures for the site;
- f. Nearby water bodies (are they ORW or ARC or waters with an approved TMDL or Watershed Plan or Local compliance plan);
- g. Safety concerns (e.g., potential hazards of water in stormwater retention ponds such as the safety of children; the potential of drawing birds to retention ponds which can pose a hazard to aircraft); and
- h. Coordination with other site operators.

The approach and BMPs used for controlling stormwater volume and velocity to minimize soil erosion and pollutants in stormwater discharges from small construction sites may vary from those used for large sites since their characteristics can differ in many ways. Operators of small sites may have more limited access to qualified design personnel and technical information. Small sites may also have less space for installing and maintaining certain BMPs. A number of structural BMPs (e.g., use of inlet protection, or silt fence) and non-structural BMPs (minimizing disturbance, good housekeeping) have shown to be efficient, cost effective, and versatile for small construction site operators to implement. As with large construction sites, erosion and sediment controls at small construction sites is best accomplished with proper planning, installation, and maintenance of controls.

### **13. What must I do to satisfy the permit requirements related to Federal and State listed endangered species?**

Applicants are required to evaluate the potential effects of the stormwater discharges and stormwater discharge-related activities on listed endangered species prior to submitting their NOIs. The first thing you must do is determine whether your project area drains to ARC (see Addendum A of the CGP). These are watersheds containing endangered species or their designated critical habitat. If the proposed construction site or land disturbing activity is not located within any of the corridors of the ARC, no further investigation is required.

If your construction site is located within a corridor of an ARC, you have several options:

- a. Complete the measures specified in Parts 3.5.2 and 10.2 Step 2 of the CGP.
- b. If those measures cannot be met (see Part 1.2.2.E.2.c of the CGP), applicants may use Addendum H of this CGP to evaluate alternatives of buffer requirements and select equivalent sediment controls or contact DEQ for further consultation.
- c. The applicant's Federally-approved construction activities are authorized by an appropriate Federal or State agency, and that authorization addresses Section 7 of the Endangered Species Act (ESA).<sup>6</sup> Applicants selecting this option (see Part 1.2.2.E.2.d of the CGP) must include documentation from USFWS or a qualified biologist that demonstrates a Section 7 consultation has been completed. The SWP3 must comply with any conditions resulting from that consultation.
- d. If the applicant's stormwater discharges are addressed in another operator's certification of eligibility (see Part 1.2.2.E.2.b, c, or d) that includes the applicant's project area., the applicant agrees to comply with applicable measures or controls upon which the other operator's certification was based (Part 1.2.2.E.2.e).

You must check the appropriate box on the NOI under "ENDANGERED SPECIES" and include the documentation how the control measures selected protect endangered species in your SWP3, including any conditions that were incorporated in correspondence among the USFWS, ODWC and others.

### **14. What does the permit require regarding historic preservation?**

This permit does not currently impose special requirements related to historic preservation, though DEQ may modify the permit at a later date. The absence of permit provisions related to historic preservation in no way

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<sup>6</sup> Regulations outlining the process for ESA Section 7 consultation and conference are codified in 50 CFR part 402: <http://www.gpo.gov/fdsys/pkg/CFR-2011-title50-vol9/pdf/CFR-2011-title50-vol9-part402.pdf>

relieves applicants and permittees of their obligations to comply with applicable State or local laws for the preservation of historic properties. The applicants and permittees must comply with the State Antiquities Act (Title 53, Chapter 20, Section 361), where applicable, and Burial Desecration 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 National Historic Preservation Act<sup>7</sup> may apply.

**15. What does the permit require if my construction site drains to Waters of the State that are identified as impaired by either “Sediment” or “Turbidity\*”?**

If your construction site discharges into an impaired waterbody within one mile from your site, and that impairment is either sediment (see the following table 15.1) and/or turbidity, you must include this information of the impairment in your NOI and comply with the following requirements in Part 3.5.1.B, C and D of this CGP:

- a. Site inspection requirements. You are required to conduct site inspection once every 7 calendar days at a minimum, and within 24-hours of a storm event of 0.5 inches or greater or within 24-hours of a discharge caused by snow melt;
- b. Corrective actions. If the inspection or visual examination results indicate any permit violations, you must implement the corrective actions required in Part 4.3.14. However, a violation would result if you fail to implement the required corrective actions. If you are subject to the numeric limit in Part 3.4 (Table 3.1 Numeric Effluent Limitations for Asphalt Batch Plant) you must implement the monitoring requirement according to Addendum F of this CGP; and
- c. Stabilization requirements. You are required to comply with the stabilization requirements as specified in Parts 3.3.2.A.1 and 2 within 7 calendar days after the temporary or permanent cessation of earth-disturbing activities.

Table 15.1 List of Sediment Impaired Streams

	<b>Waterbody ID</b>	<b>Waterbody Name</b>	<b>Impairments</b>
1	OK121600040220_00	Neosho River	Sedimentation/Siltation
2	OK121700060080_00	Sager Creek	Sedimentation/Siltation
3	OK220600010119_10	Canadian River	Sedimentation/Siltation
4	OK310830010010_00	Washita River	Sedimentation/Siltation
5	OK310830020010_00	Washita River	Sedimentation/Siltation
6	OK311310010010_00	Washita River	Sedimentation/Siltation
7	OK311310010010_00	Red River	Sedimentation/Siltation
8	OK410400030010_00	Clear Boggy Creek	Sedimentation/Siltation

<sup>7</sup> Regulations outlining the Protection of Historic Properties through the 106 Process can be found at: <http://www.achp.gov/regs-rev04.pdf>

9	OK520700020010_10	Canadian River, Deep Pork	Sedimentation/Siltation
10	OK620920030010_00	Cimarron River	Sedimentation/Siltation
11	OK720500010010_00	Canadian River, North	Sedimentation/Siltation
12	OK720500020140_00	Beaver River (North Canadian)	Sedimentation/Siltation
13	OK720500020290_00	Beaver River (North Canadian)	Sedimentation/Siltation
14	OK720500020450_00	Beaver River (North Canadian)	Sedimentation/Siltation

\*Sediment and Turbidity's information may be found in Appendix C – 303d List of the 2014 Integrated Report at [http://www.deq.state.ok.us/wqdnew/305b\\_303d/index.html](http://www.deq.state.ok.us/wqdnew/305b_303d/index.html)

**16. Are any non-stormwater discharges associated with the construction activities allowed under this CGP?**

Yes. You may find a list of allowable non-stormwater discharges covered under this CGP (see Part 1.2.1.C of the CGP). Any unauthorized non-stormwater discharges must be covered under an individual permit or alternative general permit.

You must identify a list of non-stormwater discharges expected to occur from your site and document them in your SWP3. This list will help you minimize non-stormwater associated pollutant discharges and ensure that only allowable non-stormwater discharges occur. Routine external building wash-down associated with your construction activities is allowed under this CGP. However, any soaps, solvent and detergents cannot be used and/or external surfaces not contain leachable hazardous substances (e.g. paint or caulk containing polychlorinated biphenyls (PCBs)). DEQ does not require sampling and other analysis to determine whether the wash down flow is or would be hazardous. Knowledge-of- process determination of a non-hazardous discharge can be made by the operators (i.e., property owner and project manager). However, DEQ retains the right to require the chemical analysis of wash down flow if they suspect pollutants may be present in harmful concentrations.

**17. Am I required to manage construction and domestic waste on site?**

Yes. You must provide waste containers to manage construction and domestic waste on your site, including packaging materials, scrap construction materials, masonry products, timber, pipe and electrical cuttings, plastics, Styrofoam, concrete, and other trash or building materials ( see Part 3.3.3.B.3.e of this CGP). Those containers (e.g., dumpster or trash receptacle) shall be sufficient to contain all the wastes. In addition, you shall:

- a. Keep waste lids closed during precipitation events, when not in use, when there is a significant chance of precipitation (forecasted), the site is inactive or work is not in progress. Waste containers must be covered at the end of daily work shifts and when workers are not present. For waste containers that do not have lids and could leak, provide either (a) cover (e.g., a tarp, plastic sheeting, temporary roof) to minimize exposure of wastes to precipitation, or (b) a similarly effective means designed to minimize the discharge of pollutants (e.g., secondary containment);
- b. On work days, clean up and dispose of waste in designated waste containers; and
- c. Clean up immediately if containers overflow.

**18. If a project will not be completed before this permit expires, how can I keep permit coverage?**

If the permit is reissued or replaced with a new one before the current one expires, you must comply with

whatever conditions the new permit requires in order to transition coverage from the old permit. This includes revising your existing SWP3 and submitting a new NOI within 90 days of the effective date of the new permit. If the permit expires before a replacement permit can be issued, the permit will be administratively “continued.” You are automatically covered under the continued permit, without needing to submit a new NOI to DEQ, until the earliest of:

1. The permit being reissued or replaced;
2. Issuance of an individual permit for your activity; or
3. DEQ issues a formal decision not to reissue the permit, at that time you must seek coverage under an alternative permit.

**19. When can I terminate permit coverage? Can I terminate coverage (i.e., Liability for Permit Compliance) before the entire project is finished?**

You can submit a NOT for your portion of a site providing:

1. You have achieved final stabilization of all portions of the site for which you are the responsible permittee;
2. If you operate a residential subdivision, final stabilization has been completed and the ownership of all lots has been transferred to new owners. You are no longer responsible for the construction activities on the subdivision. You have signed Notifications of Change of Ownership (NCO) and included them with your SWP3 (see also Part 2.2.3 of this CGP).
3. When another operator has assumed control over all areas of the site that have not been finally stabilized for which you are the responsible permittee. You must submit a NOT with the new operator’s NOI;

You must provide the information pertaining to the new operators in your NOT, including the name, street address, phone number, and email address of each of new owners. A copy of the NCO (also see Part 2.2.3 of this permit) for each new owner is also required to be prepared and submitted to DEQ for review. If applicable, the Permittee may provide all NCOs to DEQ at the time of the sale, or submit the NOT along with all NCOs that have been prepared during the ownership transition.

Any permittee signing NCO in Addendum J of this permit shall make the following notification:

“I, [Name of Permittee], operator of a larger common plan of development or sale, located at [Subdivision Name] and authorized under DEQ Construction General Permit (CGP) OKR10,

have notified the new owner/operator, [Name of new owner/operator], who can be reached at [Phone Number] and [Email Address], of an individual lot # [Lot Number], Block # [Block Number] of [Subdivision Name] of the stormwater permitting requirements for his/her construction site(s).

DEQ CGP OKR10 requires the new owner/operator to submit a NOI and prepare a SWP3 prior to commencement of any construction activity for the lot(s). I understand that with the sale of the lot(s) to the new owner(s)/operator(s); I must notify the new owner(s)/operator(s) of their obligation to obtain their own permit coverage with DEQ prior to commencement of construction activity.”

**Note:** Final stabilization includes either vegetative or non-vegetative practices. Vegetative final stabilization requires 70% or more of the cover that was provided by vegetation native to local undisturbed areas. If the natural vegetation in your area covers 50% of the land, final stabilization is achieved when coverage of 35% or more of the land is achieved (70% of 50%). Non-vegetative stabilization could include riprap, gravel, etc. Impervious cover such as concrete or asphalt should be avoided as a final stabilization technique.

**20. If I operate a construction site associated with oil and gas operation and pipelines, am I required to file an NOI?**

The Energy Policy Act of 2005 amends the Clean Water Act with regard to oil and gas exploration, production, processing, and treatment activities. The June 12, 2006 final rule also exempts the oil and gas industry, including associated construction activities, from NPDES stormwater permits. DEQ is not the permitting authority for any construction activities associated with oil and gas extraction under standard industrial classification (SIC) group 13. However, Facilities that are currently regulated under DEQ's permit, such as Natural Gas Liquid Extraction Plants (CIS code 1321) and Oil and Gas Field Services for Company Base Operating Stations (SIC code 1389), are required to obtain the coverage of this CGP. You must file an NOI and obtain the permit coverage under this CGP if you operate a construction site associated with such facilities regulated by DEQ.

## **21. How do I use the estimated buffer performance guidance and Sediment Removal Efficiency Tables (H-1 through H-4) in Addendum H?**

### *A. What if my specific buffer vegetation is not represented in Tables H -1 through H - 4?*

Tables H - 1 through H - 4 provide a wide range of factors affecting buffer performance. However, there may be instances where the specific buffer vegetation type on your site is not listed. If you do not see a description of the type of vegetation present at your site, you should choose the vegetation type that most closely matches that found on your site. You can contact your local Oklahoma Conservation Commission District Office or your Natural Resources Conservation Field Service Centers (NRCS) for assistance in determining the vegetation type from Tables H-1 through H-4 that most closely match your site-specific vegetation.

### *B. What if there is high variability in local soils?*

DEQ recognizes that there may be a number of different soil type(s) on any given construction site. General soil information can be obtained from USDA's Web Soil Survey reports<sup>8</sup> (<http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm>) or from individual site assessments performed by a certified soil expert. Tables H-1 through H-4 present 11 generic soil texture classes, grouping individual textures where DEQ has determined that performance is similar. If your site contains different soil texture classes, you should use the soil type that best approximates the predominant soil type at your site.

### *C. What if my site slope is greater than 9% after final grade is reached?*

As indicated in the buffer performance tables, the estimated sediment removal efficiencies are associated with disturbed slopes of up to 9% grade. Where your graded site has an average slope of greater than 9%, you should calculate a site-specific buffer performance.

### *D. How do I calculate my own estimates for sediment reduction at my specific site?*

If you determine that it is necessary to calculate your own sediment removal efficiency using site specific conditions (e.g., slopes at your site are greater than 9%), you can do so by choosing from available mathematical models that are available to facilitate this calculation, including USDA's RUSLE-series programs, USDA's WEPP erosion model, SEDIMOT, or other equivalent models.

### *E. What is my estimated buffer performance if my site location is not represented by Tables H-1 through H-4?*

If your site is located in an area not represented by Tables H-1 through H-4, you should use the table that most closely approximates conditions at your site. You may also choose to conduct a site-specific calculation of the buffer performance.

### *F. What if only a portion of my site drains to the buffer area?*

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<sup>8</sup> The Web Soil Survey is unavailable nightly between 12am - 5am for soil survey data updates. It may also be unavailable on Tuesdays and Thursdays between 7pm - 9:30pm, the 3<sup>rd</sup> weekend of each month, and the 2<sup>nd</sup> Sunday of each month for scheduled maintenance and software updates.

If only a portion of your site drains to surface water, where that water is within 50 feet of your construction activities, you are only required to meet the equivalency requirement for the stormwater flows corresponding to those portions of the site.