

# OKR04: What's Changed/What's New

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WATER QUALITY  
DIVISION

# Outline

- 💧 What's changed?
- 💧 What's new?
- 💧 What does this mean for you?

# Proposed Changes

1. I.B.2 Authorized Non-Stormwater Discharges
2. I.C.5 Limitations on Coverage
3. I.C.6 Discharges not Consistent with a TMDL
4. I.F.4 Application and Annual Permit Fee
5. II Notice of Intent Requirements
6. III Special Conditions
7. IV Stormwater Management Program

# Proposed Changes

8. V.C Annual Reports
9. VI Standard Permit Conditions
10. VII Definitions
11. VIII Optional Permit Requirements for Municipal Construction Activities
12. Exhibit 1 Endangered Species and Their Critical Habitat
13. Exhibit 2 Notice of Intent
14. Exhibit 4 Buffer Guidance

# Authorized Non-Stormwater Discharges

- ◆ I.B.2.w – Non-stormwater Discharges
  - ◆ Authorized discharges now include gray water from municipal splash pads (aka, spray parks or spray grounds)
  - ◆ Discharges from recirculating systems shall be de-chlorinated prior to discharge
- ◆ Include location, receiving waters and determination that discharge is not a substantial contributor of pollutants to MS4

# Limitations on Coverage

- ◆ Discharges Exceeding Water Quality Standards:
  - ◆ Your SWMP must include a description of all necessary BMPs and other measures that you will be using to ensure that discharges, or future discharges, will not cause, or have the reasonable potential to cause, or contribute to an exceedance of water quality standards.
  
- ◆ Language added to be consistent with 40CFR 122.44(d)(1)(j)

# Limitations on Coverage

- ◆ Discharges not consistent with a Total Maximum Daily Load (TMDL):
  - ◆ Discharge of a pollutant into any water for which a TMDL, or watershed plan in lieu of a TMDL, for that pollutant has been either established or approved by DEQ or EPA is prohibited unless your discharge is consistent with that TMDL, or watershed plan.
- ◆ Language added to include instances when a watershed plan is developed instead of a TMDL

# Annual Permit Fee

- 💧 Application fee = \$100
- 💧 Annual permit fee = \$748.11
  
- 💧 Fees will coincide with state fiscal year
- 💧 New MS4s - first year's permit fee will be prorated
- 💧 Fee schedule can be found in Section 252:606-3-4(D)(1):  
<http://www.deq.state.ok.us/rules/606.pdf>
  
- 💧 Invoice will be sent after NOI received



# Part II NOI Requirements

- II.A.1 - Application deadlines:
  - Renewal permittee: 90 days
  - Newly regulated small MS4s: 180 days
  - Small MS4s newly designated after the date of permit issuance: 180 days
  
- Clarified application deadlines for 3 types of permittees

# Part II NOI Requirements

- II.B.2.b. – Description or map that defines the boundaries or extent of your jurisdiction.
  - Extended jurisdiction for those MS4s not located entirely within a UA to corporate boundaries of municipality
- MS4 program will need to cover entire MS4 not just the area located within UA

# Part II NOI Requirements

- II.B.2.c – Name(s) of major receiving water(s)
  - Modified the list of major receiving waters to include ORW or water with TMDL
- Include indication of receiving waters that are designate as an ORW or have a TMDL in addition to waters on latest CWA §303(d) list on NOI
  - 2012 303(d) list is official list until the 2014 303(d) list is approved
    - [http://www.deq.state.ok.us/wqdnew/305b\\_303d/2012IRReport/2012%20Appendix%20C%20-%20303d%20List.pdf](http://www.deq.state.ok.us/wqdnew/305b_303d/2012IRReport/2012%20Appendix%20C%20-%20303d%20List.pdf)

# Part II NOI Requirements

- II.B.2.d – Supporting documentation addressing special conditions of permit required by Part III.B and C.
  - Added a new provision to include documentation addressing special conditions in Part III.B (TMDL) and Part III.C (ORW)
- SWMP must address TMDL or watershed plan requirements
- Must adopt any WLAs or similar targets as measurable goals in SWMP

# Part II NOI Requirements

- II.B.2.e – Optional MCM #7
  - If selected, include description of optional permit requirements or an outline of SWP3
- Include this additional information with NOI

# Part III Special Conditions

- ◆ III.A.1 – Discharges to water listed on latest 303(d) list
  - ◆ Added new provisions for the discharge of any pollutants in a 303(d) impaired water. If you discharge into a 303(d) impaired water you must:
    - a) Develop a plan of BMPs you have/will implement and describe how each BMP will reduce the pollutant load
    - b) Use your outreach programs to target entities likely to have significant impacts
    - c) Identify significant pollutant contributors
    - d) Locate and inspect areas likely to have illicit discharges

# Part III Special Conditions

- e) Include operation and maintenance procedures for structural and non-structural controls to reduce pollutants
  - ☒ Ensure that new flood management projects assess the impacts on water quality
  - ☒ Examine existing projects to determine if additional controls are necessary
- f) Choose BMPs that can be used for managing the identified pollutants in your discharge. EPA's menu of BMPs can be found here:

<http://water.epa.gov/polwaste/npdes/swbmp/index.cfm>

# Part III Special Conditions

g) If the pollutant of concern is bacteria, you must submit your proposed BMPs to the DEQ for review. Your proposed BMPs must address:

1. Sanitary sewer systems
2. On-site sewage facilities
3. Illicit discharges and dumping
4. Animal sources
5. Residential education



# Part III Special Conditions

- III.B – TMDL or Watershed Plan
  - Added a new provision to adopt any WLA in TMDL or similar targets in watershed plan as measurable goals in your SWMP
- Include WLA as measureable goals in SWMP
- Modify SWMP to implement TMDL or watershed plan within the established timeframe

# Part IV Stormwater Management Program

- ◆ IV.A.1 – Renewal Permittees
  - ◆ Added new requirements for existing MS4 permittees to revise and update existing, and/or develop new BMPs and measurable goals
  - ◆ Modifications should be implemented within one year of effective date of permit
- ◆ Program should have been developed and implemented during previous permit cycle
- ◆ Modifications should be to strengthen program

# Part IV Stormwater Management Program

- IV.A.2 – Newly regulated MS4s
  - Added new requirements for new MS4 permittees to develop a written SWMP
- IV.A.3 – Newly designated MS4s after permit issued
  - Added new requirements for new MS4 permittees designated after the date of permit issuance
- First 5-year permit cycle should focus on program development and implementation

# Part IV Stormwater Management Program

- ◆ IV.A.5.c - Sharing Responsibility:
  - ◆ 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.
- ◆ Added language to require SWMP modification if co-permittee or other entity responsible for implementing BMP or MCM fails to meet permit obligations

# Part IV Stormwater Management Program

- Reorganized the 7 MCMs into 2 sections:
  - Permit requirements
  - Recommendations
- Reminder: existing permittees are required to revise their SWMP within the first year
- Both sections were changed to be consistent with 40 CFR and MS4 Permit Improvement Guide

# Part IV Stormwater Management Program

- ◆ IV.C.4.a.1 – Construction Site Stormwater Runoff Control
  - ◆ 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
  
- ◆ DEQ can assist with enforcement if continued non-compliance is encountered

# Part IV Stormwater Management Program

- ◆ IV.C.5.a.3 – Post-Construction Stormwater Management
  - ◆ Added a new provision to review local ordinances and regulations to:
    - ◆ Identify any legal/regulatory barriers to LID
    - ◆ Develop a schedule to remove these barriers, or
    - ◆ Provide a justification for each barrier not removed

# Part IV Stormwater Management Program

- ◆ IV.C.6.a – Pollution Prevention/Good Housekeeping
  - ◆ Added a new provision to implement a municipal employee training and education program for your Pollution Prevention/Good Housekeeping for MS4 Operations
  - ◆ Added a new requirement to maintain a list of industrial facilities owned or operated by MS4 that are subject to the MSGP or individual OPDES/NPDES permits



# Part V Monitoring, Recordkeeping, & Reporting

## 💧 V.C.1 – Annual Reports

- 💧 Submit via mail or email to DEQ by March 1<sup>st</sup>

- 💧 Will cover calendar year during this permit cycle

- 💧 Include a description and schedule for implementation of any additional BMPs or monitoring that may be necessary to:

1. Reduce/eliminate the discharges of the pollutant of concern into impaired waters on the 303(d) list
2. Ensure compliance with any applicable TMDL or watershed plan in lieu of a TMDL

# Part VI Standard Permit Conditions

- ◆ VI.A – Duty to Comply
  - ◆ Updated permit language of “Duty to Comply” to be consistent with OPDES Act
- ◆ VI.S – Compliance Schedules
  - ◆ Added a new provision to submit reports in any compliance schedules no later than 14 days following each schedule date and
- ◆ VI.T – Twenty-Four (24) Hour Reporting
  - ◆ Added a new provision to orally report any noncompliance which may endanger health or the environment within 24 hours from the time you become aware of the circumstances

# Part VII Definitions

- Updated definition of “Construction Site Operator” to be consistent with construction general permit OKR10:
  - “Owner/Operator” replaced with “Operator”
    - Clarified use of term
  - “Owner” = individual who owns structure or land
    - Doesn’t necessarily imply operational control of construction activities
  - Established “primary operator” and “secondary operator”
    - Primarily for use with larger common plans of development with multiple parties meeting definition of “operator”

# Part VII Definitions

- Added new definitions of:
  - Impaired Water
  - LID
  - Newly regulated small MS4
  - Small MS4 newly designated after the date of permit issuance
  - Stabilization
  - Total Maximum Daily Load
  - Waters of the State

# Part VII Definitions

- ◆ Impaired Water (or Water Quality Impaired Water)
  - ◆ Identified by State or EPA pursuant to Section 303(d) or the Clean Water Act as not meeting applicable State water quality standards
  - ◆ Includes
    - ◆ Waters with approved or established TMDLs, and
    - ◆ Waters for which a TMDL has not yet been established or approved



# Part VII Definitions

- 💧 LID (or Low Impact Development)
  - 💧 An approach to land (re)development that works with nature to manage stormwater as a resource rather than a waste product. LID employs principles such as:
    - 💧 Preserve and recreate natural landscape features
    - 💧 Minimize effective imperviousness
    - 💧 Create functional and appealing site drainage
    - 💧 Treats stormwater as a resource

# Part VII Definitions

- ◆ Newly Regulated Small MS4
  - ◆ MS4 newly designated as a result of 2010 US census data or other new information and required to be covered under an OPDES permit
- ◆ Small MS4 Newly Designated after the Date of Permit Issuance
  - ◆ MS4 newly designated by EPA or DEQ after the date of this permit issuance

# Part VII Definitions

## 💧 Stabilization

- 💧 Process of covering exposed ground surfaces with vegetative or non-vegetative practices to reduce erosion and prevent sediment discharge

### 1. Temporary stabilization

- 💧 Stabilization of exposed portions of the site in order to provide temporary cover:

- 💧 During the establishment and growth of vegetation, and/or
- 💧 In areas where earth-disturbing activities will occur again in the future

### 2. Final stabilization

- 💧 Stabilization of exposed portions of the site using practices that provide permanent cover and qualify the permittee for permit termination



# Part VII Definitions

- Total Maximum Daily Load or TMDL
  - Refers to the sum of the individual waste load allocations (WLA) for point sources, safety, reserves, and loads from nonpoint sources and natural background

# Part VII Definitions

- ◆ Waters of the State (27A O.S. §1-1-201)
  - ◆ Refers to 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.

# Part VII Optional Permit Requirements for Municipal Construction Activities

- Updated the requirements to be consistent with OKR10
- Includes:
  - Erosion and sediment controls
  - Stabilization requirements
  - Pollution prevention requirements
  - Corrective actions
  - More stringent requirements for stabilization, inspections, buffers, etc. if discharging to ORW or ARC

# Exhibits 1, 2, and 4

- ◆ 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 the NOI according to the new requirements of this permit
- ◆ 14. Exhibit 4 “Buffer Guidance”:
  - ◆ Added this new exhibit to be consistent with OKR10

# Buffer Requirements

- ◆ Two (2) buffer requirements

1. Discharging into receiving water located on or immediately adjacent to your site
  - ◆ Provide **50 feet** of natural buffer as measured from the top of the bank to disturbed portions of the site
2. Discharging to the watershed of ARC and/or ORW
  - ◆ Provide **100 feet** of vegetated buffer between area disturbed and all perennial or intermittent streams; or 50 feet of vegetated buffer between area disturbed and all ephemeral streams or drainages.

# Buffer Requirements

## 💧 Types of Streams

### 1. Perennial

- 💧 Flow year-round

### 2. Intermittent

- 💧 Flow periodically/seasonally when there is enough water from various sources

### 3. Ephemeral

- 💧 Exist for short periods of time, usually during a rainy period
- 💧 May have defined channels even when they are dry

# Buffer Requirements

## 💧 Three compliance alternatives

- 💧 Alternative 1: Provide and maintain a 50/100-foot natural buffer
- 💧 Alternative 2: Provide and maintain >50/100-foot buffer and install additional erosion and sediment controls
- 💧 Alternative 3: Implement equivalent erosion and sediment controls to achieve the same sediment load reduction as provided by a 50/100 foot natural buffer if natural buffer of any size is infeasible

# Buffer Requirements

- Natural buffers and equivalent sediment controls don't apply when:
  - Water crossings, limited water access, and stream restoration authorized under a Clean Water Act (CWA) Section 404 permit exist
  - No natural buffer exists due to preexisting development disturbances (e.g., structures, impervious surfaces)





# The DEQ Office Contacts

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# Questions?