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**12/16/15**

**Fact Sheet**

**General NPDES Permit Authorizing**

**Small Municipal Separate Storm Sewer System Discharges**

**Entire State of Nebraska**

**NPDES General Permit Number NER310000**

**Table of Contents**

[A. General Information 2](#_Toc317251564)

[B. Authority and Purpose 2](#_Toc317251565)

[C. Description of the Discharges 2](#_Toc317251566)

[D. Area of Application or General Permit Program Area (GPPA) 2](#_Toc317251567)

[E. Permit Term 3](#_Toc317251568)

[F. Anti-degradation Review 3](#_Toc317251569)

[G. Existing General Permit 3](#_Toc317251570)

[H. Permit Requirements and Conditions 4](#_Toc317251571)

[I. Supporting Documentation 7](#_Toc317251572)

[J. Information Requests 7](#_Toc317251573)

[K. Submission of Formal Comments or Requests for Hearing 8](#_Toc317251574)

# A. General Information

This permit authorizes Small Municipal Separate Storm Sewer System (sMS4) discharges from a municipality sMS4 as defined in NDEQ Title 119, Chapter 10 002.10A to waters of the state. The Bureau of Census latest Decennial Census was used to identify the eligible municipalities.

# B. Authority and Purpose

1. This draft general permit was developed according to the Nebraska Department Environmental Quality Title 119 – *Rules and Regulations Pertaining to the Issuance of Permits Under the National Pollutant Discharge Elimination System*. This regulation was promulgated pursuant to the Nebraska Environmental Protection Act (Neb. Rev. Stat. §§ 81-1501 et seq.) and the Federal Clean Water Act (33 U.S.C. §§ 1251 et seq.). The National Pollutant Discharge Elimination System (NPDES) is authorized in Section 402 of the Federal Clean Water Act.
2. The NPDES permit contains required “best management practices” (BMPs) to regulate the pollutant discharges from a sMS4. These BMPs are intended to enable the municipality to improve water quality from sMS4 discharges. The water quality improvements will be measured using the standards established in NDEQ Title 117 – *Nebraska Surface Water Quality Standards* and Title 118 – *Ground Water Standards*.

# C. Description of the Discharges

The primary function of this permit is to reduce and/or control pollutant discharges from a sMS4. The development and implementation of BMPs accomplishes the reduction/control of pollutant discharges. These BMPs are to be designed to prevent and reduce the amount of pollutants entering the storm water drainage system. The following pollutants, among others, may be present in storm water discharges:

1. Suspended solids (sediment and other sources) from home and industrial sites, municipal infrastructure maintenance and construction sites;
2. Fertilizer (primarily phosphorus and nitrogen compounds) and pesticides from lawns, parks, golf courses, and similar green spaces;
3. Salt, oil and grease from parking lots and streets;
4. A variety of pollutants from the improper storage and disposal of waste material;
5. Bacteria from the improper storage and disposal of pet wastes, sanitary excursions, and other sources;
6. Floatables including litter, plastic bags, cigarette refuse, and other debris;
7. Temperature or thermal pollution;
8. Oxygen Demand from organic materials such as grass clippings, leaves, etc.; and
9. Metals from roof surfaces, vehicles, galvanized surfaces, etc.

# D. Area of Application or General Permit Program Area (GPPA)

Application is appropriate for municipalities located within the State of Nebraska because it encompasses all municipalities with small Municipal Separate Storm Sewer Systems (sMS4) as defined in NDEQ Title 119, Chapter 10 002.10A. This permit would cover the urbanized areas as determined by the latest Decennial Census by the Bureau of Census or the extent of the sMS4 on a jurisdiction wide basis or the area determined during the application process. The permit proposes coverage for storm water discharges and certain authorized dry weather discharges from these sMS4s.

# E. Permit Term

The draft permit is to be issued for a five-year term. This is the maximum time period allowed pursuant to NDEQ Title 119, Chapter 16 002. Part VII sets forth procedures for the municipality to propose amendments to the Storm Water Management Plan (SWMP), monitoring requirements, and reporting requirements.

# F. Anti-degradation Review

An anti-degradation review was performed for purposes of developing the permit pursuant to 40 CFR § 130.12. The results of the evaluation indicate that the receiving water bodies for the discharges addressed by the permit likely have habitat for aquatic life. The designated uses of the receiving water bodies were considered during permit development. The limitations in the draft permit are protective of the Clean Water Act § 101(a)(2) goals, and will ensure the existing quality of water in the receiving streams is not lowered.

# G. Proposed Changes Between This Permit and Existing Permit

This permit replaces an existing NPDES permit for sMS4 discharges, NPDES General Permit NER300000. The format of the reissued General Permit for sMS4 discharges in the State of Nebraska has been modified to align more closely with the USEPA MS4 Permit Improvement Guidance [EPA 833-R-10-001, April 2010]. Significant changes to the permit include:

1. Part I.B.1. clarifies the minimum required conditions for applying for coverage under the terms of the General Permit.
2. Part II.A.2. clarifies the Notice of Intent information required for MS4s electing to partner with each other.
3. Part III.B. is revised to reflect the EPA guidance issued November 11, 2002 – Establishing TMDL Wasteload Allocations for Storm Water Sources and NPDES Permit Requirements Based on those WLAs. The revisions clarify how MS4s may use BMPs to address water quality based effluent limitations when required.
4. Part IV. clarifies the following requirements of the SWMP
   1. The revision and submittal timelines are clarified
   2. Adequate legal authority requirements as well as enforcement measures and tracking requirements for all MCMs are centralized in one location.
   3. Minimum Control Measures requirements are brought up to date with recommended enforceable language recommendations in EPA 833-R-10-001, April 2010.
5. Part VI. Updates the minimum Annual Reporting requirements in order to improve consistency of reported information provided to the NDEQ. Semi-annual reporting requirements have been removed. The reporting requirements will include:
   1. A summary report on a template provided by NDEQ
   2. A detailed report of descriptive SWMP compliance information.
6. Part VIII. Evaluation and Assessment Requirements have been added to be consistent with EPA 833-R-10-001, April 2010. MS4s will utilize evaluation and assessment information through performance and effectiveness measures to evaluate overall program effectiveness. This replaces wet weather monitoring requirements which have been removed. Wet weather monitoring requirements were added in error originally and have not proven to be beneficial to water quality standards or the MS4 requirements. The evaluation and assessment requirements are designed to better meet water quality and MS4 requirements.

# H. Permit Requirements and Conditions

The content of each section is summarized in the following paragraphs. An explanation of the basis is provided when appropriate. The draft permit consists of authorization page, table of contents, main parts, two Appendices, and seven attachments.

1. Permit Authorization Page

This is the first page of the permit has the following information:

1. The Federal and Nebraska State laws that authorize sMS4 discharges under this NPDES permit;
2. The NPDES Permit Number;
3. The potential permittees;
4. The Small Municipal Separated Storm Sewer Systems locations;
5. The issuance and expiration dates; and
6. The Director or a delegated representative prior to permit issuance shall sign this page.
7. Table of Content

This is a list of the individual Parts, Appendices, and Attachments of the permit. This is intended as an aid in reviewing and using the permit.

1. Part I - Applicability
2. This part describes the eligible sMS4 discharges authorized to discharge under the terms and conditions of this permit. This permit has applicability to sMS4s located within the State of Nebraska.
3. This portion explains those discharges that are authorized by this permit.
4. The limitations on coverage are set forth in this part of permit.
5. Part II – Notice Intent Requirements

This part sets forth the following procedures:

a. How to obtain a discharge authorization (Section A);

1. Any facility wishing authorization to discharge under the terms and conditions of this general permit must submit a Notice of Intent (NOI). The permit specifies minimum and additional information requirements for potential applicants. This permit section specifically spells out what is required in an NOI. It also contains information that may aid applicants in completing and submitting the NOI.
2. With certain exceptions, authorization to discharge is automatically granted within 30 days after the Department has received the complete NOI (Permit Part II. D). The following list contains these exceptions:
3. The discharge is authorized prior to the end of the 30 day period (written authorization is required); and
4. The review period is extended (The extension period is specified or written authorization is required).
5. NOI is received prior to authorization of this permit. In this case authorization to discharge is granted upon authorization of this permit.

b. Allows the NDEQ to designate other eligible cities after the permit has been issued (Section B);

c. Outlines the contents of the Notice of Intent for existing dischargers/previously permitted entities (Section C)

d. Outlines the contents of the Notice of Intent for new dischargers/previously unpermitted entities (Section D)

e. informs the applicant where to submit the Notice of Intent (Section E)

1. Part III - Special Conditions

Changes to the Storm Water Management Plan may be required:

1. If the sMS4 discharges into impaired waters or are a potential threat to protect threatened and endangered species and their habitats.
2. Where a Total Maximum Daily Load has been developed for sMS4 receiving waters. Guidance is included for how to achieve Water Quality Based Effluent Limitation requirements in TMDLs using BMPs.
3. Part IV - Storm Water Management Plan Requirements

This part of the permit contains the following provisions taken from 40 CFR Part 122:

1. The permittee must meet the six minimum control measure requirements;
2. The permittee must develop, implement, and enforce a storm water management plan;
3. Implement best management practices for each of the six minimum control measures.
4. Implement measurable goals for each of the best management practices.
5. Develop or maintain adequate legal authority, enforcement tools, and tracking mechanisms to enforce local compliance with SWMP requirements
6. Minimum Control Measures - This part outlines the permit requirements for each of the six minimum control measures. In addition, it outlines the decisions that are required to implement these requirements. The six minimum control measures are:
7. Public Education and Outreach on Storm Water Impacts;
8. Public Involvement/Participation;
9. Illicit Discharge Detection and Elimination;
10. Construction Site Storm Water Runoff Control;
11. Post- Construction Site Storm Water Management in New Development and Redevelopment; and
12. Pollution Prevention/Good Housekeeping for Municipal Operations.
13. Part V - Sharing Responsibility

These are provisions that allow a municipality to share responsibilities with another municipality.

1. Part VI - Reporting Requirements
2. This part of the draft permit sets forth the reporting requirements.
3. Annual Report meets the requirements of NDEQ Title 119, Chapter 10 002.12K2 and is intended to include an annual review and assessment of the SWMP. The Annual Reports would be due on or before April 1st of each year.
4. Amendment of Reporting Requirements - There are provisions included in the draft permit for making changes to Reporting Requirements (Also see NPDES Permit Part VII. - Amendment Procedures and Requirements).
5. Immediate Reporting Requirements - There are also some immediate, non-routine reporting requirements for event-related circumstances.
6. Part VII. - Amendment Procedures and Requirements
7. Amendment Procedures - This part contains provisions for making mutually agreeable (i.e., to the NDEQ and the Municipality) changes to the SWMP, the monitoring requirements, and/or reporting requirements. It is anticipated that improvements will be recognized as implementation experience is gained. This part would allow efficient implementation of such changes.
8. Endangered or Threatened Species **-** This part also recognizes the possible need to change or modify provisions of the SWMP, the monitoring requirements, and/or reporting requirements to address endangered and threatened species.
9. Total Maximum Daily Loads (TMDL) - This part also recognizes the possible need to change or modify provisions of the SWMP, the monitoring requirements, and/or reporting requirements to address TMDL issues.
10. Part VIII. - Evaluation and Assessment Requirements
11. Comprehensive Evaluation and Assessment Program – MS4 compliance will be evaluated using narrative effluent limitations requiring implementation of BMPs. The evaluation and assessment program is intended to assess compliance with the permit, measure effectiveness of the SWMP using performance and effectiveness measures, evaluate appropriateness of identified BMPs using appropriate assessment indicators, and assess progress towards achieving measurable goals.
12. Evaluation of Overall Program Effectiveness - On an annual basis permittees will evaluate the SWMP as a whole using appropriate environmental and administrative indicators in addition to documenting progress towards achieving stated measureable goals. This information is intended to provide rationale for modifications and improvement to the SMWP.
13. MS4s are encouraged to utilize shared information when available to help support the Evaluation and Assessment program.
14. Appendix A - Standard Conditions - This part presents the General Conditions and includes the requirements set forth in NDEQ Title 119. These are standard conditions which must be included in all NPDES permits.
15. Signatory Requirements are explained in this section. It includes the requirements set forth in NDEQ Title 119. These are standard requirements for NPDES permits.
16. Monitoring and Records keeping requirements are explained in this section. It includes the requirements set forth in NDEQ Title 119. These are standard conditions for all NPDES permits.
17. Reporting requirements, these are standard conditions for all NPDES permits.
18. Bypass, these are standard conditions for all NPDES permits.
19. Upset, these are standard conditions for all NPDES permits.
20. Operation and Maintenance, these are standard conditions for all NPDES permits.
21. Definitions - This part sets forth definitions for terms used (or potentially used) in the permit. Some of the definitions may be part of a list included in all NPDES permits**.**
22. Abbreviations – Numerous acronyms and abbreviations are used throughout the permit and associated documents. This section provides definitions for those acronyms and abbreviations. Some of the acronyms and abbreviations may be part of a list included in all NPDES permits**.**
23. Appendix B – This Storm Water Management Plan, its six Minimum Control Measures and associated Best Management Practices are included as examples to assist the applicant in the development and implementation of their program specific Storm Water Management Plan.
24. Attachments

There are seven documents and forms which are included as attachments to this permit. These attached documents and forms are subject to modification by the Department.

1. Notice of Intent (sMS4 - NOI) for previously unpermitted sMS4s;
2. Notice of Intent (sMS4 – NOI-Reapplication) for previously permitted sMS4s;
3. 40 CFR Part 122.34(b), Explanation of Minimum Control Measures;
4. Physical Characteristics Examination Report (PCE); and
5. Discharge Monitoring Report (sMS4-SEMR).
6. NPDES/NPP Signatory Authorization Form
7. sMS4 Report Form

# I. Supporting Documentation

1. NDEQ Title 117 - Nebraska Surface Water Quality Standards (Revised December 13, 2014);
2. NDEQ Title 118 - Ground Water Quality Standards and Use Classifications (Revised March 26, 2006);
3. NDEQ Title 119 - Rules and Regulations Pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System (Revised May 16, 2005);
4. Technical Support Document for Water Quality-based Toxic Control (EPA 505/2-90-001 PB91-127415, March, 1991);
5. NDEQ “NPDES Permitting Procedure” document;
6. 40 CFR, Part 122, 124, and 125, NPDES Regulations; and
7. Nebraska Non-game and Endangered Species Conservation Act (Neb. Rev. Stat. §§ 37-430 through 317 – 438);
8. USEPA MS4 Permit Improvement Guidance [EPA 833-R-10-001, April 2010]
9. USEPA Memorandum – Establishing TMDL Wasteload Allocations for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs, November 11, 2002
10. NDEQ Water Quality Integrated Report

# J. Information Requests

Inquiries concerning the draft permit, its basis or the public comment process may be directed to:

NPDES Permits Unit Tel. 402/471-8830 or 402/471-4220 Fax: 402/471-2909

A TDD operator is available at 711.

Copies of the application and other supporting material used in the development of the permit are available for review and copying at the Department’s office between 8:00 a.m. and 5:00 p.m. on weekdays.

Office Location:

The Atrium, Suite 400

1200 N Street

Lincoln, NE

Mailing Address:

NPDES Permits Unit

Nebraska Department of Environmental Quality

PO Box 98922

Lincoln, Nebraska 68509-8922

# K. Submission of Formal Comments or Requests for Hearing

The date on which the public notice period ends is specified in the public notice. During the public notice period, the public may submit formal comments or objections, and/or petition the Department to hold a public hearing concerning the issuance of the draft permit. All such requests need to be; submitted in written form, state the nature of the issues to be raised, and present arguments and factual grounds to support them. The Department shall consider all written comments, objections and/or hearing petitions, received during public comment period, in making a final decision regarding permit issuance.

Formal comments, objections and/or hearing requests need to be submitted to:

NPDES Permits Unit

Mailing Address:

Nebraska Department of Environmental Quality

P.O. Box 98922

Lincoln, Nebraska 68509-8922

Location Address:

Nebraska Department of Environmental Quality

The Atrium, Suite 400

1200 N Street

Lincoln, Nebraska