



## **ENVIRONMENTAL PROTECTION AGENCY**

**[FRL-9931-44-Region 6]**

### **Draft National Pollutant Discharge Elimination System (NPDES) General Permit for Small Municipal Separate Storm Sewer Systems in New Mexico (NMR040000)**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed permit reissuance and notice of public meetings.

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**SUMMARY:** The Environmental Protection Agency (EPA) Region 6 Water Quality Protection Division, today is proposing for public comment the reissuance of a National Pollutant Discharge Elimination System (NPDES) general permit for storm water discharges from small municipal separate storm sewer systems (MS4s) located within the State of New Mexico except MS4s located in Indian lands, Los Alamos County, the Middle Rio Grande Sub-Watersheds described in Appendix A of the NPDES permit No NMR04A000, or within the area of another MS4 permit. This proposed permit offers discharge authorization to regulated small MS4s within the boundaries of the Bureau of the Census-designated 2000 and 2010 Farmington, Santa Fe, Los Lunas, Las Cruces and El Paso Urbanized Areas and any other small MS4s in the State of New Mexico designated by the Director as needing a MS4 permit, other than those primarily located in

Los Alamos. This permit is intended to replace the expired general permit NMR040000. The Director is also providing notice of public meetings to be held regarding today's proposed general permit reissuance.

The Region is also providing notice that general permits NMR04000I and OKR04000I (MS4s on Indian Country lands in New Mexico and Oklahoma, respectively) are not being reissued and are considered terminated by expiration.

**DATES:** Comments must be submitted in writing to EPA on or before (90 DAYS AFTER PUBLICATION)

**PROPOSED DOCUMENTS:** The proposed general permit and fact sheet which sets forth principal facts and the significant factual, legal, and policy questions considered in the development of the proposed general permit, may be obtained via the Internet at <http://epa.gov/region6/water/npdes/sw/sms4/index.htm>

To obtain hard copies of these documents or any other information in the administrative record, please contact Ms. Evelyn Rosborough using the contact information provided below.

How do I comment on this proposal?

**COMMENT SUBMITTALS:** Submit your comments, by one of the following methods:

- Email: [rosborough.evelyn@epa.gov](mailto:rosborough.evelyn@epa.gov)

- Mail: Ms. Evelyn Rosborough, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733.

*ADMINISTRATIVE RECORD:* The proposed general permit and other related documents in the administrative record are on file and may be inspected any time between 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding legal holidays, at the addresses listed for submission of comments. It is recommended that you write or call to the contact above for an appointment, so the record(s) will be available at your convenience.

*PUBLIC MEETINGS AND PUBLIC HEARING:* EPA will be holding five informal public meetings in the Santa Fe, Farmington, Los Lunas, Las Cruces and El Paso urbanized areas. The public meetings will include a presentation on the proposed general permit and a question and answer session. Written, but not oral, comments for the official permit record will be accepted at the public meetings. Public notice of these meetings will be provided in The Sun News, Albuquerque Journal, The Santa Fe New Mexican, and The Farmington Daily Times.

El Paso Urbanized Area Meeting:

Date and Time: Monday September 14, 2015 from 1:00 pm – 2:30 pm MST

Location: New Mexico State University

Dona Ana Community College-Sunland Park Campus

Room 102 - Auditorium

3365 McNutt Rd

Sunland Park, NM 88063

Las Cruces Urbanized Area Meeting:

Date and Time: Monday September 14, 2015 from 6:00 pm – 7:30 pm MST

Location: New Mexico State University

Dona Ana Community College-East Mesa Campus

Student Resource Building

2800 N. Sonoma Ranch Blvd.

Las Cruces, NM 88003

Los Lunas Urbanized Area Meeting:

Date and Time: Tuesday September 15, 2015 from 6:00 pm – 7:30 pm MST

Location: Holiday Inn Express Belen

2110 Camino del Llano

Belen, NM 87002

Farmington Urbanized Area Meeting:

Date and Time: Wednesday September 16, 2015 at 6:00 pm – 7:30 pm MST

Location: Courtyard by Marriott Farmington

560 Scott Ave

Farmington, NM 87401

Santa Fe Urbanized Area Meeting:

Date and Time: Thursday September 17, 2015 from 6:00 pm – 7:30 pm MST

Location: The Lodge at Santa Fe

750 N. St. Francis Dr.

Santa Fe, NM 87501

**FOR FURTHER INFORMATION CONTACT:** Ms. Evelyn Rosborough, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. Telephone: (214) 655- 7515. E-mail address: [rosborough.evelyn@epa.gov](mailto:rosborough.evelyn@epa.gov).

**SUPPLEMENTAL INFORMATION:**

*A. General Information* - This permit authorizes stormwater discharges to waters of the United States from small MS4s within the State of New Mexico except MS4s located in Indian lands, Los Alamos County, the Middle Rio Grande Sub-Watersheds described in Appendix A of the NPDES permit No NMR04A000, or within the area of another MS4 permit provided the MS4 is located fully or partially within an urbanized area as determined by the 2000 and 2010 Decennial Census; is designated as a regulated MS4 pursuant to 40 CFR 122.32; or this permit may also authorize an operator of a MS4 covered by this permit for discharges from areas of a regulated small MS4 located outside an Urbanized Areas or areas designated by the Director provided the permittee complies with all permit conditions in all areas covered under the permit. Maps of 2010 Census urbanized areas are available online at:

<http://water.epa.gov/polwaste/npdes/stormwater/Urbanized-Area-Maps-for-NPDES-MS4-Phase-II-Stormwater-Permits.cfm>.

At the time the general permit NMR040000 was issued, permit coverage was actually provided by three legally separate and distinctly numbered permits (NMR040000, NMR04000I, OKR04000I). NMR04000I was issued for MS4s on Indian Country in New Mexico, general permit OKR04000I was issued for MS4s on Indian Country lands in Oklahoma. MS4 General Permit OKR04000I expired June 30, 2012, without any MS4s submitting a Notice of Intent to be covered. Since no MS4 operators took advantage of the authorization offered by that permit during its five year term and there are no administratively continued permittees covered by the permit, EPA Region 6 considers the permit terminated as of the expiration date and is not proposing to reissue MS4 General Permit OKR04000I at this time. Any MS4 operators on Indian Country lands in Oklahoma requiring permit coverage should contact EPA Region 6 for information on how to obtain permit coverage.

*B. Statutory and Regulatory History* - The overall intent of the permit conditions is to support the statutory goals of Section 101 of the Clean Water Act (CWA) to restore and maintain the chemical, physical and biological integrity for the Nation's waters. The 1987 Water Quality Act (WQA) amended the CWA by adding section 402(p) which requires that NPDES permits be issued for various categories of storm water discharges. Section 402(p)(2) requires permits for five categories of storm water discharges, commonly referred to as Phase I of the NPDES Storm Water Program. Included in Phase I are discharges from large municipal separate storm sewer systems

(MS4s) (systems serving a population of 250,000 or more). Phase I regulations published November 16, 1990 (55 FR 47990) addressed discharges from large MS4s.

Section 402(p)(6) of the CWA requires permitting for certain additional storm water discharges (Phase II of the storm water program) to protect water quality. EPA promulgated final Phase II storm water regulations on December 8, 1999 (64 FR. 68722). These regulations set forth the additional categories of discharges to be permitted and the requirements of the program. The additional discharges to be permitted included small MS4s located in Urbanized Areas designated by the Bureau of the Census and those designated by the Director on a case-by-case basis to protect water quality. This proposed permit offers coverage to Phase II regulated MS4s in the Farmington, Santa Fe, Los Lunas, Las Cruces, and El Paso UAs into a single general permit.

The discharge control conditions established by this permit are based on Section 402(p)(3)(B) of the Act which mandates that a permit for discharges from Phase II 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 management practices, control techniques and system design and engineering methods, and such other provisions as the Administrator deems appropriate for the control of pollutants. MS4 permits requiring implementation of Best Management Practices (BMPs) addressing the Six Minimum Control Measures at 40 CFR 122.34(b) are generally deemed to be an appropriate means of meeting the MEP standard. Protection of water quality and compliance with Total Maximum

Daily Loads (TMDLs) are addressed through the CWA 402(p)(3)(B)(iii) authority for “other such provisions as the Administrator deems appropriate for the control of pollutants.”

**PAPERWORK REDUCTION ACT:** The information collection required by this permit will reduce paperwork significantly by implementation of electronic reporting requirements. EPA is working on an electronic notice of intent (eNOI) system so applicants will file their NOI's online. EPA estimates that it takes 10 to 15 minutes to fill up all information required by eNOI for each lease block. And it takes much less time to add, delete, or modify eNOI. EPA will also incorporate an electronic discharge monitoring report (NetDMR) requirement in the permit. The time for NetDMR preparation will be much less than that for paper DMR. The electronic filing systems will also significantly reduce the mailing cost.

**REGULATORY FLEXIBILITY ACT:** The Regulatory Flexibility Act, 5 U.S.C. 601 et seq, requires that EPA prepare a regulatory flexibility analysis for regulations that have a significant impact on a substantial number of small entities. As indicated below, the permit reissuance proposed today is not a “rule” subject to the Regulatory Flexibility Act.

Dated: July 20, 2015.

William K. Honker, P.E

Director, Water Quality Protection Division

EPA Region 6

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