Authorization to Discharge Under the
National Pollutant Discharge Elimination System
(NPDES)

General NPDES Permit Number NER220000 Authorizing Storm Water Discharges to waters of the State from Small Municipal Separate Storm Sewer Systems Located in Douglas and Sarpy Counties in the State of Nebraska

In compliance with the provisions of the Federal Water Pollution Control Act (33 U.S.C. Sections. 1251 et. seq. as amended to date), the Nebraska Environmental Protection Act (Neb. Rev. Stat. Sections 81-1501 et. seq. as amended to date), and the Rules and Regulations promulgated pursuant to these Acts, the Director of the Nebraska Department of Environmental Quality is hereby issuing this general permit authorizing the discharge of pollutants to waters of the State and excluding tribal lands within the State of Nebraska. This general permit establishes prohibitions, limitations and other conditions pertaining to these discharges. This general permit does not relieve permittees of other duties and responsibilities under the Nebraska Environmental Protection Act, as amended, or established by regulations promulgated pursuant thereto.

NPDES Permit No.:	**NER220000**
Permittee:	**Small Municipal Separate Storm Sewer Systems (sMS4) as defined in the NDEQ Title 119, Chapter 10 002.10 within the Douglas and Sarpy Counties of the State of Nebraska**
Facility Location:	**Within the Douglas and Sarpy Counties of Nebraska**
Effective Date:	**July 1, 2017**
Expiration Date:	**June 30, 2022**

Pursuant to a Delegation Memorandum dated August 22, 2016, and signed by the Director, the undersigned hereby executes this document on behalf of the Director.

Signed this _____ day of _____, _____

_____
Shelley Schneider
Water Permits Division Administrator

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Part I. Applicability

A. General Permit Program Area

This permit has application to the discharges from Small Municipal Separate Storm Sewer System (sMS4) waters within the Douglas and Sarpy Counties in the State of Nebraska. A sMS4 is owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity.

B. Authorized Discharges

1. This permit shall authorize discharges of storm water from sMS4s designated for coverage in accordance with the criteria defined in NDEQ Title 119, Chapter 10 002.10. Regulation of discharges under the terms and conditions of this general permit shall apply to those located fully or partially within an urbanized area as determined by the most current Decennial Census by the Bureau of Census, or are designated by the permitting authority pursuant to NDEQ Title 119, Chapter 10 002.06, and are located within Douglas and Sarpy Counties.
2. This permit authorizes point-source discharges of municipal storm water and other authorized flows from within the sMS4. The discharges provided coverage under this permit are limited to the following:
   a. Municipal storm water that originates from within the General Permit Program Area;
   b. Storm water from areas outside the General Permit Program Area that flows into and through the sMS4;
   c. Storm water discharges associated with industrial activity as defined in NDEQ Title 119, Chapter 1 117 and 118 that are authorized under a separate NPDES permit or that are in compliance with the No Exposure Certification requirements;
   d. Non-storm water discharges that are either;
      1) Authorized under a separate NPDES permit;
      2) Being addressed in accordance with the Illicit Discharge Identification procedures set forth in the municipal entity's Storm Water Management Plan (SWMP); or
      3) Other allowable non-storm water discharges (**See Part IV.B.2.e**).

C. Limitations on Authorization

This permit does not authorize:

1. Discharges that are mixed with sources of non-storm water unless such non-storm water discharges are:
   a. In compliance with a separate NPDES permit (e.g. non-contact cooling water);
   b. Storm water discharges currently covered under another permit;
   c. Determined not to be a substantial contributor of pollutants to waters of the State of Nebraska as determined by the Nebraska Department of Environmental Quality (hereafter referred to as the Department).
2. Storm water discharges associated with industrial activity as defined in NDEQ Title 119, Chapter 1 117.
3. Storm water discharges associated with construction activity as defined in NDEQ Title 119, Chapter 1 118.
4. Storm water discharges that may impact threatened or endangered species or their habitat.
5. Discharges that do not comply with the state's anti-degradation policy for water quality standards. State anti-degradation policies can be obtained from the NDEQ web site.

D. Compliance to the Maximum Extent Practicable

Pursuant to state regulation Title 119, Chapter 10 002.12A and federal regulation 40 CFR 122.34(a) this permit requires implementation of control measures and other management practices to reduce pollutants in storm water discharges to the maximum extent practicable. Narrative effluent limitations (a narrative description of the program elements and measurable Best Management Practices (BMP) goals) requiring implementation of BMPs will be used to reduce pollutants and protect water quality to the maximum extent practicable. Program elements will include management practices, control techniques, and system design and engineering methods and such other provisions that are appropriate.

E. Reopener Clause

This permit may be modified during the course of the permit cycle by the Department.

Part II. Notice of Intent Requirements

A. Obtaining Authorization

1. To be authorized to discharge storm water from sMS4, you must submit a Notice of Intent (NOI) and your SWMP in accordance with the deadlines presented in this permit. Each currently-permitted sMS4 must fill out the sMS4 NOI (Attachment #1 – Notice of Intent). New sMS4 permittees which currently do not have a sMS4 permit must fill out the sMS4 NOI for new permittees (Attachment 2).
2. Permittees have the following options for authorization under this permit:
   a. Individual sMS4 permit authorization under this general permit;
   b. Co-permittees with one or more MS4 programs under this general permit; or
   c. Coordinated permittees with one or more MS4 programs under this general permit.
3. Individual: A permittee may obtain authorization by filling out an NOI and receiving approval of the NDEQ. This permittee is responsible for the implementation of the SWMP and BMPs in its jurisdiction.
4. Co-permittee: A MS4 may be covered under this general permit as a co-permittee with one or more other neighboring MS4 programs. In order to be permitted as co-permittees, the original permittee and the other MS4 jurisdictions must submit an NOI with a set of BMPs for all co-permittees. Responsible officials of each participating jurisdiction must sign a single NOI. If measurable goals and implementation milestones vary, each co-permittee must submit its own goals and milestones as part of the SWMP. The description of permittee's Stormwater Management Program must clearly describe which permittees are responsible for implementing each of the control measures.
   a. Each co-permittee is liable for:
      (1) Permit compliance for discharges within its legal jurisdiction;
      (2) Implementing the six minimum measures in portions of the jurisdiction where it is the operator and in areas within its legal jurisdiction; and
      (3) If any permit conditions are established for specific portions of the MS4, co-permittees need only comply with the permit conditions relating to those portions of the MS4 for which they are the operator.
   b. Each co-permittee is responsible as a group for compliance with the annual reporting requirements set forth in **Part VII** of this permit, though they are individually liable for parts of the annual report that exclusively deal with portions of the MS4 where it has jurisdiction.
   c. Co-permittees are jointly liable for MS4 permit compliance:
      (1) Where operational or Stormwater Management Program implementation authority over portions of the MS4 has been transferred from one co-permittee to another in accordance with legally binding interagency agreements, both the owner and operator may be jointly liable for permit compliance on those portions of the MS4; and
      (2) Where one or more co-permittees jointly own or operate a portion of the MS4, each MS4 program is jointly liable for compliance with permit conditions on the shared portion of the MS4.
5. Coordinated permittees: MS4 programs may jointly fill out an MS4 NOI as coordinated permittees. They may share in the implementation of one or more control measures set forth in **Part IV** of the permit. One permittee may fully take over the measure for other permittees as a coordinated program, though this is only allowed if:
   a. The particular control measure, or component of that measure, is at least as stringent as the corresponding permit requirement; and
   b. The other entity agrees to implement the control measure on the permittee's behalf. Written acceptance of this obligation is required and must be detailed and managed in the SWMP. If the other entity agrees to report on the minimum measure, the permittee must supply the other entity with the reporting requirements contained in **Part VI** of this permit. If the other entity fails to implement the control measure on the permittee's behalf, then the permittee remains liable for any discharges due to that failure to implement the control measure or management practice.
6. You may partner with another MS4 program or programs to develop and implement your SWMP(s) as

coordinated permittees. You may also jointly submit NOIs with one or more MS4s, though each MS4 program must have its own certifying official. The description of your SWMP must clearly describe which permittees are responsible for implementing each Minimum Control Measure (MCM) BMP.

7. Unless notified by NDEQ to the contrary, dischargers who submit a NOI in accordance with the requirements of this permit are authorized to discharge storm water from SMS4s under the terms and conditions of this permit after public notice of the SWMP has been completed, and the SWMP has been approved by the Department. The Department may deny coverage under this permit and require submittal of an application for an individual NPDES permit based on a review of the NOI or other information (**See Appendix A, Part A.15**).
8. Where the operator changes, or where a new operator is added after submittal of a NOI, a new Signatory Authorization Form must be submitted (**See Appendix A, Part B**).

B. Designation after Permit Issuance

If the NDEQ determines that a sMS4 meets the applicability requirements of this part and sends notice after this permit issuance date, the sMS4 must seek coverage under this permit by submitting a NOI and the SWMP to the NDEQ within 180 calendar days after receipt of the notice.

C. Contents of the Alternative Notice of Intent for Existing Dischargers/Previously Permitted Entities

Entities which have previously been permitted under either a general or individual permit for sMS4 discharges may submit an alternate Notice(s) of Intent in compliance with Interpretive Policy Memorandum on Reapplication for Municipal Storm Sewer Systems (FR Vol.61, No. 155, Friday, August 9, 1996 (pg. 41698)). The alternate notice shall be included within the fourth year annual report and must include:

1. The name of your municipal entity/state agency/federal agency, mailing address, and telephone number:
2. The names and title of the primary administrative and technical contacts for the municipal permittee(s):
3. A brief summary of major planned program changes for the next five year permit cycle. These summaries need not include extensive details. (Example: The city will be shifting responsibility for construction to the planning and zoning department and implementing a local permit.):
4. A map with sufficient detail to display: the known receiving waters, sMS4 permitted area, and all currently known major outfalls.

D. Contents of the Notice of Intent for Existing and New Dischargers

The Notice(s) of Intent must be signed in accordance with the signatory requirements (**See Appendix A, Part B**). The following information about the permittee must be included:

1. The name of your municipal entity/state agency/federal agency, mailing address, and telephone number:
2. The names and titles of the primary administrative and technical contacts for the municipal permittee(s):
3. Information on the Municipal Separate Sewer System:
4. The Urbanized Area or Core Municipality (if you are not located in an Urbanized Area) where your system is located, the name of your organization, county where your sMS4 is located, and the latitude and longitude of an approximate center for your Small Municipal Storm Sewer System(sMS4):
5. The name of the major receiving water(s) and an indication of whether any of your receiving waters are on the latest CWA §303(d) list of impaired waters. If you have discharges to 303(d) waters, a certification that your SWMP complies with the requirements of **Part III**:
6. Information on your chosen best management practices (BMPs) and the measurable goals for each of the storm water MCM (**See Part IV.B**). Your time frame for implementing each of the BMPs, and the person(s) or job position(s) responsible for implementing or coordinating your SWMP.
7. If you are relying on another governmental entity regulated under the storm water regulations NDEQ Title 119, Chapter 10 002.11C to satisfy one or more of your permit obligations, the entity identity and the element(s) they will be implementing shall be identified (**See Part V**): and
8. Current permittees must submit the previous five years of annual expenditures on the sMS4 program. This data will be utilized by the NDEQ to determine the maximum extent practicable for the best management practices of the permittee. New permittees must submit anticipated annual expenditures of the first 12 months after approval of NOI and SWMP, if available.
9. Certification of whether you have met eligibility criteria for protection of threatened or endangered species, critical habitat, and historic properties.

E. Where to Submit

Authorization to discharge under this general permit may be applied for by submitting a Notice of Intent (NOI) using sMS4-NOI, or an equivalent format approved by the Department. Your NOI must be signed in accordance with the signatory requirements (**See Appendix A, Part B.**). The sMS4-NOI can be obtained by contacting the NDEQ. The current addresses and telephone number at the time of permit issuance are:

Wastewater Section
Nebraska Department of Environmental Quality
1200 N Street, The Atrium, Suite 400
P.O. Box 98922
Lincoln, Nebraska 68509-8922
Telephone 402-471-4220

Part III. Program and Resource Requirements

A. Legal Authority

1. The permittee must enact relevant ordinances or other regulatory mechanisms that provide it with adequate legal authority to control pollutant discharges into and from its MS4, and to meet the requirements of this permit. The permittee must specifically develop ordinances or mechanisms to address the following SWMP components:
   a. Illicit discharge and detection and elimination;
   b. Construction requirements and control measures; and
   c. Post-construction storm water management program(s).
2. Non-traditional permittees must consider the appropriateness and feasibility of the requirements in **Part III.A.3** of this permit. As a permittee, the non-traditional MS4 must have the legal authority to develop, implement, and enforce the program. Non-traditional MS4s must implement an adequate legal authority framework subject to review by the NDEQ.
3. To be considered adequate, this legal authority must, at a minimum, address the following:
   a. Authority to prohibit illicit discharges
   b. Allowable non-storm water discharges
   c. Authority to prohibit spills or other releases
   d. Authority to require compliance
   e. Authority to require installation, implementation, and maintenance of control measures
   f. Authority to receive and collect information
   g. Authority to inspect
   h. Time-specific response to violations
   i. Interagency agreements where MS4 boundaries intersect

B. Enforcement Measures and Tracking

1. The permittee must develop and implement an Enforcement Response Plan (ERP), which sets out the permittee's potential responses to violations and addresses repeat and continuing violations through progressively stricter responses as needed to achieve compliance. The permittee must consider the local feasibility and appropriateness of the following enforcement measures when developing the local ERP:
   a. Verbal warnings
   b. Written Notices of Violation
   c. Escalated enforcement measures including:
      1) Citations (with fines);
      2) Stop work orders;
      3) Withholding of plan approvals or other authorizations;
      4) Payment against bonds;
      5) Assessment for work and materials against property.
   d. The permittee must track instances of non-compliance either in hard-copy files or electronically. For each violation, the enforcement case documentation must include, at a minimum, the following:
      1) Name of owner/operator of facility or site of violation;
      2) Location of storm water source and type (i.e., construction project, industrial facility);

3) Description of violation;
4) Required schedule for returning to compliance;
5) Description of enforcement response used, including escalated responses if repeat violations occur, if violations are not resolved in a timely manner;
6) Accompanying documentation of enforcement response (e.g., notices of noncompliance, notices of violations);
7) Any referrals to different departments or agencies; and
8) Date violation was resolved.

C. Discharges to Water Quality Impaired Waters

The following conditions may be required; if the sMS4 discharges into impaired receiving waters or to protect threatened or endangered species or their habitat (impaired waters are identified within the latest Surface Water Quality Integrated Report, available through the Department):

1. SWMP changes;
2. Monitoring requirements; and
3. Reporting requirements.

D. Total Maximum Daily Load (TMDL) Allocations

1. If a TMDL has been approved for the sMS4 receiving waters, the SWMP must address the Waste Load Allocation (WLA) for the pollutants of concern. All actions taken to meet TMDL requirements shall conform to the Federal Clean Water Act and the November 26, 2014 Memorandum published by EPA establishing guidance for TMDL WLAs for storm water sources and NPDES permit requirements based on those WLAs.
2. To comply with any TMDL requirements, the sMS4 must address Water Quality Standards or implement BMPs under conditions in **Part IV** for the SWMP. If BMPs alone, selected in accordance with 40 CFR 122.44(k)(2) & (3), adequately meet the WLAs, then additional controls are not necessary.
   a. When a permittee elects to achieve Water Quality Standards in the form of BMPs, the permittee shall also specify BMP performance evaluation necessary to assess if the expected load reductions attributed to the BMPs implementation are achieved. Unless specified by NDEQ, the Evaluation and Assessment Plan developed according to **Part VI.A.4** shall satisfy this monitoring requirement.
   b. When a permittee elects or NDEQ requires that Water Quality Standards are achieved in the form of mass or volume discharge reductions, the permittee shall submit the details of the monitoring plan as an attachment to the Evaluation and Assessment Plan specified in **Part VI.A.4** for approval by NDEQ.
3. Each annual review of the MS4 permit shall consider any adjustments to the required BMPs implemented to achieve Water Quality Standards as necessary to ensure their adequate performance. If an impairment of a receiving waterbody is introduced during the permit term, the permittee shall evaluate their SWMP and its effectiveness in the annual report to determine if the existing BMPs or standards are adequate to meet the TMDL.

Part IV. Storm Water Management Plan (SWMP)

A. Requirements

1. The permittee must develop and implement a SWMP within 180 calendar days of permit issuance for existing permittees or from the date of designation notice as described in **Part II.B**. Existing permittees must continue to implement their existing SWMP until a revised SWMP is issued and approved.
2. New permittees designated in accordance with **Part II.B** shall include a development and implementation schedule (not to exceed five (5) years) for all requirements within this part while existing permittees shall continue to implement and improve their SWMP and include a development and implementation schedule for all SWMP provisions that were not previously required.
3. The NDEQ may notify the permittee of the need to modify the SWMP document to comply with the permit, in which case the permittee will have 90 calendar days to submit such changes to the SWMP.
4. The permittee is required to keep the SWMP document up to date during the term of the permit. Where the permittee determines that modifications are needed to address any procedural, protocol, or

programmatic change, such changes must be made as soon as practicable following the requirements set forth in **Part VII.A** of this permit.

5. The SWMP shall reduce pollutants in storm water runoff to the maximum extent practicable (MEP) to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act, and include management practices, control techniques and system design, and engineering methods for each of the MCMs of the SWMP described in this permit (**See Part IV.B**) including:
   a. The best management practices (BMPs) that you or another entity will implement for each of the storm water MCM.
   b. The SWMP must detail how the MS4 program will evaluate and assess its effectiveness at implementing and maintaining BMPs. An effectiveness assessment must be submitted with the MS4 annual report as detailed in **Part VI.A.4**.
   c. The measurable goals for each of the BMPs including, as appropriate; the months and years in which you will undertake required actions; this includes interim milestones and the frequency of the action.
   d. The rationale for the selection of each storm water management program BMPs and its measurable goals.
   e. The person(s) or job position(s) responsible for implementing or coordinating the BMPs for SWMP.
6. To support and add detail to BMPs described in the SWMP, permittees may utilize or reference existing storm water documents such as a Standard Operations and Procedures manual, Operation and Maintenance Plan, Spill Response Plan, or Storm Water Pollution Prevention Plan if that document includes the necessary information required to comply with the corresponding SWMP requirement(s). The permittee must submit supporting documents referenced in the SWMP with the sMS4 NOI. Supporting documents which describe specific BMPs, milestones, and schedules may be incorporated into the SWMP and may be publically noticed.
7. For existing permittees, unless otherwise specified, all written procedures required in this section shall be completed no later than one year after the approval of the permittee NOI and SWMP, or as provided by the schedule implemented above. New permittees must have completed the requirements of this section within five (5) years.

B. Minimum Control Measures

The minimum control measures (MCM) that must be included in your SWMP are:

1. **Public Education, Outreach and Involvement (MCM 1 & 2)**
   a. Comprehensive Storm Water Public Education, Outreach, and Involvement Program
      1) The permittee must develop and implement a comprehensive storm water education and outreach program for the MS4. The SWMP must, at a minimum:
         (a) Define the goals and objectives of the program based on defined high priority, community-wide issues;
         (b) Define the target audience(s);
         (c) Maintain and update appropriate messages for targeted residential, construction, industrial, and commercial issues;
         (d) Define methods and process of distribution; and
         (e) Distribute appropriate educational materials and media to the target audience each year, using whichever methods and procedures determined appropriate by the permittee.
      2) The permittee must provide a storm water public involvement program that involves the public in the planning and implementation of programs and activities related to the development and implementation of the SWMP. At a minimum, the permittee must:
         (a) Provide public notice of opportunities to review and comment on all new rules, ordinances, regulations and SWMP revisions drafted by the MS4;
         (b) Create opportunities for citizens to participate in the implementation of storm water controls; and
         (c) Ensure the public can easily find information about the permittee's SWMP.
2. **Illicit Discharge Detection and Elimination (MCM 3)**
   a. Illicit Discharge Detection and Elimination Program
      1) The permittee must develop (or maintain), implement, and enforce an Illicit Discharge Detection

and Elimination (IDDE) Program to detect, investigate, and eliminate non-storm water discharges, including illegal dumping, into its system for the MS4. The IDDE program must include or address the following:

(a) The permittee must, as part of the IDDE program, develop an enforcement plan or mechanism following the requirements of **Parts III.A** and **B** of this permit.

(b) A storm sewer system map showing the location of all outfalls and the names and location of all waters of the state that receive discharges from those outfalls. If the sMS4 system connects to another MS4 system, the outfall drainage areas can be limited to those that drain only to the permittee's system. Connections and interactions to other MS4 systems need to be delineated;

(c) Outfall field screening procedures and priority locations to investigate for detecting illicit discharges;
    (i) The permittee must document written dry weather field screening and analytical monitoring procedures which are to be used at a number of outfall locations specified in the SWMP each year to detect discharges to the MS4;
    (ii) The screening procedures must identify the minimum staff, equipment, and discharge evaluation process used by the permittee; and
    (iii) The permittee must document the basis for its selection of each priority location and maintain a current list of all priority locations identified in the system.

(d) Procedures, staff, and equipment required for investigating and tracing the source of all identified illicit discharge;
    (i) The permittee must report immediately the occurrence of any dry weather flows believed to be an immediate threat to human health or the environment to NDEQ by calling (402) 471-2186 or (402) 471-4545 after business hours, weekends, and holidays; and
    (ii) The permittee must document all investigations to track at a minimum the date(s) the illicit discharge was observed; the results of the investigation; any follow-up of the investigation; and the date the investigation was closed.

(e) Procedures for removing the source of the discharge using the Enforcement Response Plan in **Part III.B**:
    (i) Once the source of the illicit discharge has been determined, the permittee must take immediate action so the responsible party of the problem can be notified, and require the responsible party to conduct all necessary corrective actions to eliminate the non-storm water discharge as soon as practicable;
    (ii) The permittee must document all interactions with potentially responsible parties as well as follow-up investigations to confirm illicit discharges have been removed.

(f) The following categories of non-storm water discharges or flows (i.e., illicit discharges) shall be addressed only if they are identified as significant contributors of pollutants to your sMS4: routine water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined in 40 CFR 35.2005(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (discharges from emergency firefighting activities are excluded from the effective prohibition against non-storm water and need only be addressed where they are identified as significant sources of pollutants to waters of the State of Nebraska).
    (i) The permittee may also provide a list of other similar, occasional, and incidental non-storm water discharges that will not be addressed as illicit discharges (these incidental discharges are similar to those listed above in **Part IV.B. 2.e**). These non-storm water discharges must not be reasonably expected to be significant

sources of pollutants to the MS4, because of either the nature of the discharges or conditions you have established for allowing these discharges to your MS4.

(ii) You must document in your SWMP any local controls or conditions placed on additional exempt non-storm water discharges. You must include a provision prohibiting any individual non-storm water discharges that is determined to be contributing significant amounts of pollutants to your MS4.

2) If illicit connections or illicit discharges are observed related to an adjacent MS4 operator's municipal storm sewer system then the permittee must notify the other operator within 48 hours of discovery or as soon as practicable.
3) If another operator notifies the permittee of an illegal connection or illicit discharge to the municipal separate storm sewer system then the permittee must follow the requirements specified in **Part IV.B.2.a.1.b-d**.
4) Written procedures for implementing the IDDE Program, including those components described in **Part IV.B.2.a.1.b-d** must be incorporated into the SWMP document.

b. Public Reporting of Non-Storm Water Discharges and Spills
1) The permittee must promote, publicize, and facilitate public reporting of illicit discharges or water quality impacts associated with discharges into or from MS4s.
2) The permittee must develop a written spill/dumping response procedure, and a flow chart or phone tree, or similar list for internal use, that shows the procedures for responding to notification regarding illicit discharges, the various responsible agencies and their contacts, and who would be involved in illicit discharge incidence response, even if it is a different entity other than the permittee.
3) The permittee must conduct inspections in response to complaints and follow-up inspections as needed to ensure that corrective measures have been implemented by the responsible party to achieve and maintain compliance.

c. Illicit Discharge Education and Training
1) The permittee must develop and implement a training program for all municipal field staff, which, as part of their normal job responsibilities, may come into contact with or otherwise observe an illicit discharge or illicit connection to the storm sewer system. Training program documents must be available for review by the permitting authority.
2) The SWMP must identify the frequency or implement a strategy for training staff identified in **Part IV.B.2.c.1** above on the identification of an illicit discharge or connection. The permittee must document and maintain records of the training provided and the staff trained.

3. **Construction Requirements and Control Measures (MCM 4)**

a. The permittee must develop (or maintain), implement, and enforce a program which requires operators of public or private "construction activities" to select, install, implement, and maintain storm water control measures that comply with local erosion and sediment control, pollution prevention, and other storm water requirements, including applicable construction storm water general permit, state, and local requirements. "Construction activity" for this permit includes, at a minimum, all public and private construction sites that result in a total land disturbance of one or more acres or that result in a total land disturbance of less than one acre if part of a larger common plan of development or sale. The permittee's construction program must ensure the following minimum requirements are effectively implemented for all construction activity discharging to its MS4:
1) **Erosion and Sediment Controls.** Design, install, and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants.
2) **Soil Stabilization.** Temporary and permanent stabilization must be completed within a period of time determined by the permittee in accordance with 40 CFR Part 450 – Construction and Development Point Source Category.
3) **Dewatering.** Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls.
4) **Pollution Prevention Measures.** Design, install, implement, and maintain effective pollution

prevention measures to minimize the discharge of pollutants from all sources found on the construction sites that pose a threat to water quality.

5) **Prohibited discharges.** The permittee shall define all prohibited discharges that are considered a violation of local regulations.
6) **Surface Outlets.** When discharging from basin and impoundments, utilize outlet structures that withdraw water from the surface, unless infeasible (as defined in 40 CFR Part 450.11(b)).

b. The permittee must, as part of the construction requirements and control measures, develop an enforcement plan or mechanism following the requirements of **Parts III.A** and **B** of this permit.
c. The permittee must require each operator of a construction activity described in **Part IV.B.3.a** to prepare and submit for review an erosion and sediment control plan prior to the disturbance of land for the permittee's review and written authorization (operator must submit Part III.B.2 of the NDEQ NPDES General Permit Number NER160000 for Storm Water Discharges from Construction Sites to Waters of the State of Nebraska). The permittee must implement site plan review procedures that meet the following minimum requirements:
   1) The permittee must not approve any erosion and sediment control plan unless it contains appropriate site-specific construction site control measures that meets the minimum local requirements for storm water protection of construction activity.
   2) The permittee must use qualified individuals, knowledgeable in the technical review of erosion and sediment control plans to conduct such reviews.
   3) The permittee must document its review of erosion and sediment control plan using a checklist or similar process.
   4) The permittee must maintain an inventory that is continually updated of all active public and private construction sites authorized by the permittee within the MS4 boundary.
d. Construction Site Inspection and Enforcement
   1) The permittee must inspect public and private construction activity according to local procedures with a strategy documented in the SWMP.
   2) The permittee must provide trained and qualified inspectors for municipal inspections. The permittee must also develop and implement written procedures outlining the local inspection and enforcement procedures. Inspections of construction sites must, at a minimum:
      (a) Check for coverage under the NDEQ NPDES general construction permit by requesting a copy of any application or Notice of Intent (NOI) or other relevant application form during initial inspections;
      (b) Review the applicable erosion and sediment control plan and conduct a thorough site inspection to determine if control measures have been selected, installed, implemented, and maintained according to the plan;
      (c) Assess compliance with the permittee's ordinances and permits related to storm water runoff, including the implementation and maintenance of designated MCM;
      (d) Visually observe and record non-storm water discharges, potential illicit connections, potential discharge of pollutants in storm water runoff, and the receiving stream to determine if sediment has moved offsite;
      (e) Provide education and outreach on storm water pollution prevention, as needed; and
      (f) Provide a written or electronic inspection report generated from findings in the field.
   3) The permittee must track the number of inspections for the inventoried construction sites throughout the reporting period. Inspection findings must be documented and maintained for review by the permitting authority.
   4) Based on site inspection findings, the permittee must take all necessary follow-up actions (i.e., re-inspection, enforcement) to ensure compliance in accordance with the permittee's Enforcement Response Plan required in **Part III.B**. These follow-up and enforcement actions must be tracked and maintained for review by the permitting authority.
e. The permittee must ensure that the staff whose primary job duties are related to implementing the construction storm water program, including permitting, plan review, construction site inspections, and enforcement, are trained to conduct these activities. Training must be made available, sponsored,

or required in a strategy established in the SWMP for erosion and sediment control/storm water inspectors, plan reviewers, and third-party inspectors and plan reviewers.

f. Construction Site Operator Education and Public Involvement
   1) The permittee must make publically available educational materials to construction site operators in a strategy outlined in the SWMP.
      (a) The permittee must either provide information on existing training opportunities or develop new training for construction operators on control measure selection, installation, implementation, and maintenance as well as overall program compliance.
      (b) The permittee must develop or utilize existing outreach tools (i.e., brochures, posters, website, plan notes, manuals etc.) aimed at educating construction operators on installation, implementation and maintenance of storm water controls, as well as overall program compliance.
      (c) The permittee must make available appropriate outreach materials to all construction operators who will be disturbing land within the MS4 boundary.
      (d) The permittee must provide information on the installation and maintenance of controls on the permittee's website or made publically accessible by whichever methods and procedures are determined appropriate by the permittee and approved by the NDEQ.
   2) Public Involvement – The permittee must have procedures for tracking complaints and submitting information by the public regarding construction projects and must also provide the permittee's response if a response is given.

4. **Post-Construction Storm Water Management Program (MCM 5)**
   a. Post-Construction Storm Water Management Program Requirements
      1) The permittee must develop (or maintain), implement, and enforce program(s) to control storm water discharges from new development and redeveloped sites that result in a total land disturbance of one or more acres or that result in a total land disturbance of less than one acre if part of a larger common plan of development or sale that discharge into the MS4. The program(s) must apply to private and public development sites, including roads.
      2) The permittee must, as part of the post-construction management programs, develop an enforcement plan or mechanism following the requirements of **Parts III.A** and **B** of this permit.
      3) The permittee may develop divergent standards for distinct categories of development (i.e., infrastructure projects, redevelopment, greenfield development, etc.), divergent standards are allowable but not required.
      4) Written procedures for implementing or maintaining the program(s) must be incorporated into the SWMP. New permittees must incorporate procedures in the SWMP within the permit term.
   b. Site Performance Standards
      1) Within the permit term, new permittees must adopt local post construction storm water standards for designing, installing, implementing, and maintaining storm water control measures which include BMPs that infiltrate, evapotranspire, harvest, and/or use storm water discharges. Existing permittees must review their current ordinances to ensure compliance with the permit in one year.
      2) Within the permit term, new permittees must adopt local storm water discharge design standards that consider parameters such as site discharge volume, rate, duration, and frequency for new development and redevelopment sites. The local storm water discharge design standards must describe the site design strategies, control measures, and other practices deemed necessary by the permittee to protect pre-development hydrology to the maximum extent practicable. Existing permittees must review their current ordinances to ensure compliance with the permit in one year.
   c. Post-Construction Site Plan Review
      1) To ensure that all applicable new development and redeveloped sites conform to the performance standards required in **Part IV.B.4.b** the permittee must conduct project review, approval, and enforcement procedures that include:
         (a) Procedures for the site plan review and approval process(es) and modification when changes to an approved plan are desired; and
         (b) A requirement for submittal of "as-built" certifications in a schedule defined in the SWMP

and approved by the NDEQ.

d. Long-Term Maintenance of Post-Construction Storm Water Control Measures
   1) Procedures must be established to assure all structural storm water control measures installed and implemented meet the approved plans and are maintained in perpetuity.
   2) The permittee must establish procedures to respond to complaints and notifications to ensure the long-term maintenance of structural controls.

e. Tracking Post-Construction Storm Water Control Measures
   1) The permittee must maintain a current inventory of certified post-construction structural storm water control measures installed and implemented at new development and redeveloped sites, including both public and private sector sites located within the permit area.
   2) A survey or number of new post-construction BMPs sorted by type (bio-retention, catch basins, etc.) must be included in the annual report.
   3) Based on inspections conducted under **Part IV.B.4.f**, the permittee must update the inventory as appropriate where changes occur in property ownership or the specific control measures implemented at the site. This inventory must be maintained and available for review by the permitting authority.

f. Post- Construction Storm Water Inspection and Enforcement
   1) The permittee must conduct post-construction inspections for completed project sites covered under **Part IV.B.4** to verify that performance standards have been met, in a strategy defined in the SWMP. A description of inspection and reporting procedures be developed and kept of file for review.
   2) The permittee must document and maintain records of inspection findings and any enforcement actions taken and make them available for review by the permitting authority.

5. **Pollution Prevention and Good Housekeeping (MCM 6)**

a. Municipal Facility and Control Inventory
   1) The permittee must develop and maintain an inventory of municipally-owned or operated facilities and storm water controls that is available for review by the permitting authority.
   2) The permittee must identify on a map where the municipally-owned or operated facilities are located within the MS4. The map must be maintained and updated regularly and be available for review by the permitting authority.

b. Municipally-Owned or Operated Facility Assessment
   1) The permittee must maintain current assessments of all municipally-owned or operated facilities identified in **Part IV.B.5.a**. The strategy and description of the assessment procedure must be included in the annual report.
   2) The permittee must identify "high-priority" facilities that have a high potential to generate storm water pollutants. High priority facilities are facilities which have the high potential to generate storm water pollutants. A description of the evaluation criteria for determining "high-priority" must be included in the annual report.
   3) The permittee must document the results of the assessments and maintain copies of all site evaluation documents used to conduct the assessment.

c. Development of Facility-Specific Storm Water Management Standard Operating Procedures and Implementation of Facility Storm Water Controls (Runoff Control Plans, or RCPs)
   1) The permittee must develop and maintain facility-specific Runoff Control Plans for "high priority" facilities to control the contribution of pollution in storm water runoff.
      (a) For each "high priority" facility or operation identified in **Part IV.B.5.b**, the permittee must develop or maintain a site-specific RCP that identifies storm water control measures, inspection strategy, and visual monitoring procedures.
      (b) A copy of the facility-specific Runoff Control Plan must be maintained and be available for review by the permitting authority. The RCP must be kept on-site at each of the municipally owned or operated facilities' offices for which it was completed. The RCP must be updated as necessary.
   2) All "high priority" municipally-owned or operated facility Runoff Control Plans must include

provisions for general good housekeeping practices, storage of de-icing materials, fueling operations, vehicle maintenance, and equipment and vehicle washing.

d. Storm Sewer Maintenance Activities
   1) MS4 storm water inlets and catch basin maintenance
      (a) The permittee must develop a strategy to inspect and clean storm water inlets as needed in the SWMP. The results of the implementation of this strategy shall be included in the annual report.
      (b) The permittee must have a plan to label inlets with a legible storm water awareness message.
      (c) The permittee must visually monitor permittee-owned open channels and other drainage structures for debris and evidence of ongoing dumping in a strategy defined in the SWMP.
      (d) The permittee shall include a plan for the removal of trash and debris from permittee-owned open channels and other drainage structures. The plan shall be detailed in the SWMP and approved by the NDEQ. The permittee must document drainage structure maintenance activity in a log that is to be made available for review by the permitting authority upon request.
      (e) The permittee must develop a procedure to dewater and dispose of materials extracted from catch basins so that water removed during the catch basin cleaning process and waste material will not reenter the MS4.
   2) Municipal activities and operations
      (a) The permittee must implement a set of pollution prevention measures that, when applied during municipal O&M activities, will reduce the discharge of pollutants in storm water.
      (b) All pollution prevention measures implemented at municipal facilities must be visually inspected in a strategy defined in the SWMP to ensure they are working properly; a log of inspections must be maintained and made available for review by the permitting authority upon request.
   3) Street Sweeping and Cleaning
      (a) The permittee must sweep municipally-owned and maintained streets, roads, and public parking lots in accordance with a strategy defined in the SWMP.
      (b) The permittee must provide a procedure to dewater and dispose of street sweeper waste material. This procedure must ensure that water and material will not reenter the MS4.
   4) Maintenance of Municipally-Owned and/or Maintained Structural Storm Water Controls
      (a) The permittee must inspect and maintain if necessary municipally-owned or maintained structural storm water controls in accordance with a frequency provided in the SWMP.
      (b) The permittee must also maintain municipally-owned or maintained green infrastructure practices through regularly scheduled maintenance activities.

e. Training and Education
   The permittee must develop and implement an employee training program for employees involved in implementing pollution prevention and good housekeeping practices in this part. The permittee must also identify and track all personnel requiring training and records must be maintained. The training program and target audience must be described in the SWMP.

f. Contractor Requirements and Oversight
   Any contractors hired by the permittee to perform municipal maintenance activities that have the potential to impact storm water quality must be contractually required and overseen by the permittee to ensure compliance with all of the storm water control measures, good housekeeping practices, and facility-specific Runoff Control Plans described above. The contract must also state who is responsible for overall management and implementation of your pollution prevention/good housekeeping program and, if different, who is responsible for each of the BMPs identified for this program.

Part V. Sharing Responsibility

A. Implementation of the Minimum Measures

Implementation of one or more of the minimum measures may be shared with another entity, or the entity may fully take over the measure. You may rely on another entity only if:

1. The other entity, in fact, implements the control measure;
2. The particular control measure, or component of that measure, is at least as stringent as the corresponding permit requirement.

B. The Other Entity Responsibility

The other entity agrees to implement the control measure on your behalf. Written acceptance of this obligation is expected. This obligation must be maintained as part of the description of your SWMP. If the other entity agrees to report on the minimum measures, you must supply the other entity with the reporting requirements contained in **Part IV.A** of this permit. If the other entity fails to implement the control measure on your behalf, then you remain liable for any discharges due to that failure to implement.

Part VI. Reporting Requirements

A. Annual Report

The Permittee shall submit an annual report no later than April 1 of each year. The annual report period will cover January 1 to December 31 of the previous year. The annual report will at a minimum include:

1. The status of implementing and maintaining the components of the SWMP that are established as permit conditions;
2. Proposed changes to the SWMP programs that are established as a permit condition;
3. Any changes in legal authority or jurisdiction;
4. If available, a summary of data, including any monitoring and quantitative data, that is accumulated throughout the reporting year including wet weather monitoring information;
5. An evaluation of program effectiveness. This evaluation will assess the effectiveness of each minimum control measure in the SWMP and the implementation of the SWMP as a whole. The evaluation will use appropriate environmental and administrative indicators to the maximum extent practicable as described below:
    a. Environmental Indicators: If available, the permittee must use any monitoring data or data collected by other parties to evaluate the impact of the MS4 program on physical, hydrological, biological, and water quality indicators;
    b. Administrative Indicators: The permittee must evaluate the effectiveness of the MS4 program using data such as social, programming, and website indicators; and
    c. Any other indicators that assess a BMP's effectiveness at maintaining water quality and complying with permit requirements.
6. Document the MS4 permittee's compliance with permit conditions and progress towards achieving measurable goals in the SWMP. This compliance report may be used in conjunction with the evaluation assessment to identify modification and improvements needed to maximize SWMP effectiveness. If a permittee is not in compliance with the sMS4 SWMP and/or permit, they must detail the reasons for this deficiency in the annual report;
7. A summary describing the number and nature of enforcement actions, inspections, and public education programs; and
8. A summary of proposed storm water activities that the permittee will undertake in the next year.

Part VII. Amendment Procedures and Requirements

A. Amendment Procedures

1. Either the Department or the municipal entity may propose amendments to the SWMP, monitoring requirements and reporting requirements. Amendments may be proposed either formally or informally. Proposed amendments shall not be implemented without agreement from both the permittee and the Department. If requested by the NDEQ, the permittee must submit an amendment or SWMP modification within 90 days.
2. Any such amendments must comply with the applicable Federal requirements set forth in NDEQ Title 119, Chapter 24 006.
3. Amendments that are mutually agreeable shall be implemented in accordance with written Department approval.
4. To further pursue proposed amendments that are not mutually agreeable, a written amendment request shall be forwarded to the other party. A reasonable time of at least 30 days shall be provided for the other party to review the proposals, and prepare comments, alternatives, and/or objections. A written response shall be provided within 90 calendar days. If a final opinion is not possible during that time frame, preliminary comments will be provided.
5. After a period of at least 90 calendar days from receipt of a written amendment request, either party may request or initiate a permit modification to resolve any SWMP amendment proposals that cannot be resolved by the procedure set forth above. The original permit and SWMP requirements are effective until changes are approved by the Department, and if deemed major, through public notice.

B. Endangered and Threatened Species

Changes to the SWMP, monitoring requirements and reporting requirements may be required to protect threatened or endangered species or their habitat.

C. Total Maximum Daily Loads (TMDLs)

Changes to the SWMP, monitoring requirements and reporting requirements may be required to comply with any future TMDL requirements that may be established pursuant to the requirements of the Federal Clean Water Act.

D. Coordination of Information

The permittee and NDEQ shall share and coordinate relevant monitoring data. Data collected by other governmental entities can be used by the permittee to help assess the effectiveness of BMPs. The data may be used to meet the evaluation and assessment requirements of this permit.

E. Additional Monitoring by Permittee

1. The permittee may request to use analytical monitoring to supplement the comprehensive evaluation and assessment program where practical. Nothing in this section shall be construed to preclude the use of analytical monitoring as an evaluation and assessment method.
2. If the permittee seeks to use analytical monitoring, the procedures set forth in **Part VII** shall be used for the approval of a monitoring program.

F. Electronic Reporting

The National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule requires electronic reporting of NPDES information rather than the currently required paper based reports from the permitted facilities. To comply with the federal rule, permittees will be required to submit reports and monitoring data electronically by December 21, 2020.