

The EPA Region 6 Water Quality Director, William Honker, signed this proposed rule on 12/11/14, and EPA is submitting it for publication in the Federal Register (FR). While we have taken steps to ensure the accuracy of this version of the rule, it is not the official version of the rule. Please refer to the official version in a forthcoming FR publication, which will appear on the Government Printing Office's FDsys website (<http://fdsys.gpo.gov/fdsys/search/home.action>) and on Regulations.gov <http://www.regulations.gov>.

ENVIRONMENTAL PROTECTION AGENCY

Final National Pollutant Discharge Elimination System (NPDES) General Permit for Municipal Separate Storm Sewer Systems in the Middle Rio Grande Watershed in New Mexico (NMR04A000)

AGENCY: Environmental Protection Agency (EPA)

ACTION: Final NPDES General Permit Issuance

SUMMARY: EPA Region 6 Water Quality Protection Division, today announces issuance of the National Pollutant Discharge Elimination System (NPDES) general permit for storm water discharges from municipal separate storm sewer systems (MS4s) located in the Middle Rio Grande Watershed in the State of New Mexico. The permit offers discharge authorization to regulated MS4s within the boundaries of the Bureau of the Census-designated 2000 and 2010 Albuquerque Urbanized Areas and any other MS4s in the watershed designated by the Director as needing a MS4 permit. This permit is intended to replace both the individual NPDES Permit NMS000101 issued on January 31, 2012, and the expired general permits NMR040000 and NMR04000I for dischargers in this watershed area.

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EPA Region 6 proposed the draft permit in the Federal Register on May 1, 2013. EPA Region 6 has considered all comments received and has made changes to the proposed permit. A copy of the EPA Region 6's response to comments, a final fact sheet, and the final permit may be obtained from the EPA Region 6 internet site:

<http://epa.gov/region6/water/npdes/sw/ms4/index.htm>

FOR FURTHER INFORMATION CONTACT: Ms. Evelyn Rosborough, Region 6, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202-2733. Telephone: (214) 665-7515.

DATES: This permit is effective on, and is deemed issued for the purpose of judicial review, **[INSERT DATE OF FR PUBLICATION DATE]** and expires December 19, 2019. Under section 509(b) of the CWA, judicial review of this general permit can be held by filing a petition for review in the United States Court of Appeals within 120 days after the permit is considered issued for judicial review. Under section 509(b)(2) of the CWA, the requirements in this permit may not be challenged later in civil or criminal proceedings to enforce these requirements. In addition, this permit may not be challenged in other agency proceedings.

SUPPLEMENTARY INFORMATION:

Highlights of changes from the proposed permit include the following. All changes are discussed in the response to comments documents.

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- If seeking alternative sub-measurable goals for TMDL controls, the permit requires permittees to submit a preliminary proposal with the Notice of Intent (NOI).
- Added a polychlorinated biphenyl (PCB) strategy requirement in Bernalillo County drainage areas.
- Incorporated requirements resulting from the Endangered Species Act (ESA) consultation in Part I.C.3 of the permit.
- Revised schedules in Activity Tables 1.a through 10.
- Clarified and revised the language related to post construction runoff and stormwater quality design standards.
- Added an option, Ground Water Replenishment Project, to provide an opportunity to replenish regional ground water supplies when infeasible to implement storm water quality design standards.
- Clarified seasonal monitoring periods and sampling methodology.
- Included information for electronic submittal of NOI and revised Annual Report deadline.
- Other minor changes and clarifications.

OTHER LEGAL REQUIREMENTS

A. State and Tribal Certification

Under section 401(a)(1) of the CWA, EPA may not issue a NPDES permit until the State or Tribal authority in which the discharge will occur grants or waives certification to ensure

compliance with appropriate requirements of the CWA and State law. The New Mexico Environment Department issued the 401 certification on September 13, 2013. The Pueblo of Sandia issued the 401 certification on July 1, 2013. The Pueblo of Isleta issued the 401 certification on October 29, 2014

B. Other Regulatory Requirements

The Endangered Species Act (ESA) of 1973 requires Federal Agencies such as EPA to ensure, in consultation with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) (also known collectively as the “Services”), that any actions authorized, funded, or carried out by the Agency (e.g., EPA issued NPDES permits authorizing discharges to waters of the United States) are not likely to jeopardize the continued existence of any Federally-listed endangered or threatened species or adversely modify or destroy critical habitat of such species (see 16 U.S.C. 1536(a)(2), 50 CFR 402 and 40 CFR 122.49(c)). The scope of today’s permit action is consistent with U.S. FWS Biological Opinion dated August 21, 2014.

Dated: December 11, 2014
WK Honker

William K. Honker, P.E

Water Quality Protection Division

EPA Region 6