



STATE OF NEVADA

Department of Conservation & Natural Resources

DIVISION OF ENVIRONMENTAL PROTECTION

Jim Gibbons, Governor

Allen Biaggi, Director

Leo M. Drozdoff, P.E., Administrator

FACT SHEET (pursuant to NAC 445A.236)

Permit Name: This National Pollutant Discharge Elimination System Permit (“NPDES”) Authorizes Discharges from Nevada Department of Transportation (“NDOT”) Municipal Separate Storm Sewer Systems (“MS4”) to Waters of the United States.

Permit Number: NV0023329

Location: This permit will immediately affect all or portions of the State of Nevada (excluding tribal lands).

Background Relating to the General Permit

In 1972, The Federal Water Pollution Control Act [also referred to as the Clean Water Act (“CWA”)] was amended to provide that the discharge of pollutants to waters of the United States from any point source is unlawful, unless the discharge is in compliance with an NPDES permit. The 1987 amendments to the CWA added section 402(p), which directs that stormwater discharges are point source discharges and establishes a framework for regulating municipal and industrial storm water discharges under the NPDES program. On November 16, 1990, the U.S. Environmental Protection Agency (“EPA”) promulgated final regulations that established the stormwater permit requirements.

Pursuant to these regulations, stormwater permits were required for discharges from an MS4 serving a population of 100,000 or more. EPA defined an MS4 to also include road systems owned by states which are in areas with populations greater than 100,000. The regulations also specified a requirement for stormwater permits from 11 categories of industry, including construction activities where the construction activity disturbed five acres or more. NDEP issued individual large MS4 permits to the Las Vegas Valley and the Truckee Meadows that included NDOT as a co-permittee.

On March 10, 2003, Phase II of the Stormwater Program took effect. The Stormwater Phase II Rule extended coverage of the NPDES stormwater program to certain “small” MS4s but it took a slightly different approach on how the stormwater management program was developed and implemented. A small MS4 was defined as any MS4 not already covered by the Phase I program as a medium or large MS4. A small MS4 could also be designated by the permitting authority as a *regulated* small MS4 in one of three ways: Automatic Nationwide Designation; Potential Designation by NDEP – Required evaluation; or, Potential Designation by NDEP – Physically Interconnected. Under the final rule, NDEP was required to designate any small MS4 located

outside of a UA that contributed substantially to the pollutant loadings of a *physically interconnected* MS4 to be regulated by the NPDES Stormwater Program.

Under the Small MS4 permit option, NDOT would have been required to be a co-permittee on each separate small MS4 permit, so, in 2003, NDOT requested NDEP to issue them a separate MS4 permit. The Federal regulations allow issuance of a system-wide MS4 NPDES permit. NDOT submitted an application for a permit with a draft Stormwater Management Program (“SWMP”) as part of the original permit conditions with both Clark and Washoe Counties. Since NDEP had already issued NPDES stormwater permits to all of the areas requiring a permit, the original NDOT permit was not considered a new stormwater permit, and Part I and Part II applications were not required. The original NDOT MS4 Permit was issued in February 2004.

This permit covers all municipal stormwater activities on all highways and rights-of-ways by NDOT throughout the State of Nevada that discharge to waters of the United States. This includes areas that cover areas both inside and outside large and small MS4s, and areas that do not currently require a permit. NDEP believes stormwater discharges from all highways are a significant source of pollutants and the requirements outlined in this permit will help mitigate the effects of uncontrolled stormwater discharges into waters of the U.S. This permit does not cover NDOT construction or industrial activities that require a permit under Federal regulations since those activities are covered under other NDEP General Permits.

Aside from general requirements, the re-issuance of this Large MS4 permit addresses several areas that are discussed in more detail in the following section. This permit also requires that NDOT comply with all applicable Federal, State, or local laws, regulations, or ordinances.

What’s New with This General Permit

New language and information that has been added to this General Permit is discussed in the following paragraphs:

Reorganized Format. This permit contains much of the same information as that of the previous permit that was issued in 2004. The format has been reorganized slightly to make it easier to follow;

SWMP Revision. NDOT shall review its existing SWMP to determine whether its current programs need revising to meet the requirements of this permit. NDOT shall submit the revised SWMP to NDEP no later than 18 months after the effective date of this permit. The revised SWMP shall include, at a minimum, information about the following programs:

- NDOT’s Legal Authority;
- NDOT’s Stormwater Education Program;
- NDOT’s MS4 Maps and Outfalls;
- Discharges to Water Quality Impaired Waters and Sanitary Sewers;
- Construction Site Best Management Practices (“BMPs”) Program;
- New Development and Redevelopment Planning Program;

NDOT's Illicit Discharge Detection and Elimination ("IDDE") Program;
Industrial Facility Monitoring and Control;
Stormwater Discharges from NDOT Maintenance Facilities;
Public Street Maintenance Program; and
Herbicide, Pesticide and Fertilizer Application Program

NDOT shall fully implement all program elements outlined in the revised SWMP before the expiration date of this permit, unless other dates are specified. NDOT shall provide a list of narrative and/or numerical measurable goals for each program. At a minimum, the revised SWMP shall include any measurable goals identified in this permit. NDOT may also identify additional measurable goals, as appropriate, priorities, frequencies, amounts, time-frames, or steps toward development of a program. Dates shall also be provided, including the month and year, in which NDOT will achieve each measurable goal.

Discharges to Water Quality-Impaired Waters. When discharges to water quality-impaired waters that are contained in the current 303(d) Impaired Water Body listing issued by the Nevada Division of Environmental Protection, Bureau of Water Quality Planning, NDOT must investigate whether discharges from NDOT's site will contribute significantly to any 303(d) listing. When the Permittee discharges into a water body with an established Total Maximum Daily Load ("TMDL"), NDOT shall comply with all applicable TMDL requirements. Information concerning the 303(d) list can be found on NDEP's website.

When a TMDL has not been established as described in paragraph above, NDOT must include a section in the Stormwater Pollution Prevention Plan ("SWPPP") for the site describing the condition for which the water has been listed. The SWPPP must also include a demonstration that the Best Management Practices ("BMPs") that are selected for implementation will be sufficient to ensure that the discharges will not cause or contribute to an exceedance of an applicable State water quality standard;

Waste Load Allocations for Stormwater. Currently, Nevada has not established any wasteload allocations ("WLAs") which for stormwater discharges covered by the permit. However, a TMDL for fine sediments with a corresponding WLA for stormwater will be approved for Lake Tahoe during the life of this permit.

When the TMDL and WLA for stormwater discharges are established, NDEP will review the permit requirements, including monitoring requirements, concerning this issue and may, as appropriate, reopen the permit to include new requirements pertaining to WLAs for stormwater. An individual permit application may also be required in accordance with 40 CFR 128(b)(3) if NDEP determines that the requirements of the general permit are not appropriate for a particular discharger;

Salt Stockpiles. For storage piles of salt or piles containing salt used for deicing or other commercial or industrial purposes, the permittee must enclose or cover these piles to prevent exposure to precipitation. The permittee must implement appropriate measures (e.g., good housekeeping, diversions, containment) to minimize exposure resulting from

adding to or removing materials from the pile. Piles do not need to be enclosed or covered only if stormwater from the pile is not discharged directly or indirectly to Waters of the U.S. or discharges from the piles are authorized and controlled under another NPDES permit.

Receiving Water Characteristics:

Varies depending on location.

Permit Requirements:

This permit is in response to requirements of the CWA and implementing federal regulations, and is based on BMPs such as education, diversion, detention, covered storage, spill response, and good housekeeping. The permittee selects the BMPs subject to NDEP approval. This is a continuation of a program begun in 2004 under the previous Large MS4 permit NV023329. Like the previous permit, this permit authorizes stormwater discharges from NDOT's MS4 to Waters of the U.S.

NDEP requires NDOT to add a separate section in its SWMP that deals with the Clear Creek watershed and the Lake Tahoe watershed. Discharges from different roads and highways covered under this permit have the potential to enter the watershed. NDOT applies salt and sand to the roads and highways during the winter months and uncontrolled discharges of stormwater into Clear Creek or Lake Tahoe could have devastating effects on the fish and wildlife in the area. Addressing the requirements in this section will hopefully prevent any uncontrolled discharges of stormwater in the creek.

Rationale for Permit Requirements:

The conditions set in permit language are the minimum requirements to maintain and implement an effective stormwater program within the confines of USEPA-published rules (40CFR Part 122) for use in stormwater permits.

Noticing Requirements:

Pursuant to NRS 445A.590, NDEP shall notify each interested person and appropriate governmental agency of each complete application for a permit, and shall provide them an opportunity to submit their written views and recommendations thereon. Persons wishing to comment upon the proposed general permit must submit their comments no later than **5:00 P.M. on July 6, 2010**, to:

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NDEP Guidance Materials

NDEP has various guidance materials on its website concerning the different stormwater programs and information about BMPs.

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