



Fact Sheet

NPDES Permit Number: IDS028053
Public Comment Period Start Date: October 30, 2020
Public Comment Period Expiration Date: November 30, 2020
Technical Contact: Misha Vakoc
(206) 553-6650 or (800) 424-4372
vakoc.misha@epa.gov

**U.S. Environmental Protection Agency (EPA) Proposes to Modify
the National Pollutant Discharge Elimination System (NPDES) Permit
for Stormwater Discharges Issued to:**

**City of Pocatello, City of Chubbuck,
Bannock County, Idaho Transportation Department-District #5, and
Idaho State University**

EPA Region 10 proposes to modify the NPDES permit reissued on June 11, 2019 for discharges from the municipal separate storm sewer systems (MS4s) owned and/or operated by the entities listed above. These entities are referred to collectively in this document as “the Permittees.” Specifically, EPA proposes to modify Permit Parts 4 and 6.2 to require implementation of the Permittees’ Stormwater Monitoring Plan and Quality Assurance Project Plan as submitted on June 30, 2020.

EPA will accept public comment only on the modified provisions described in this document.

This Fact Sheet includes:

- Information on public comment, public hearing, and appeal procedures, and
- A description and rationale for the modifications proposed.

State CWA Section 401 Certification

The Idaho Department of Environmental Quality (IDEQ) certified Permit #IDS028053 on May 20, 2019 pursuant to CWA Section 401; a copy of the final certification is included in the Administrative Record for this action. On August 17, 2020, IDEQ confirmed to EPA that it does not need to recertify the Permit in light of this modification.

Public Comment and Opportunity for Public Hearing

Because of the COVID-19 virus, access to the Region 10 EPA building is limited. Therefore, EPA requests that all comments on the proposed permit modification or requests for a public hearing be submitted via email to Misha Vakoc (vakoc.misha@epa.gov). If you are unable to submit comments via email, please call 206-553-6650.

Persons wishing to comment on, or request a Public Hearing for, the proposed permit modification must do so in writing by the expiration date of the Public Comment period. A request for Public Hearing must state the specific NPDES permit, the nature of the issues to be raised as well as the requester's name, address and telephone number. All comments and requests for Public Hearings must be in writing and should be submitted to EPA as described in the Public Comments Section of the attached Public Notice.

After the comment period ends, and all comments have been considered, EPA's Regional Director for the Water Division will make a final decision regarding permit reissuance. If EPA receives no comments, the conditions in the proposed permit will become final, and the permit will become effective upon issuance. If comments are submitted, EPA will prepare an individual response to comments document and, if necessary, will make changes to the Permit. After making any necessary changes, EPA will issue the Permit with its response to comments document, unless issuance of a new draft Permit is warranted pursuant to 40 CFR § 122.14. The Permit modification will become effective no earlier than thirty (30) days after the issuance date, unless the Permit is appealed to the Environmental Appeals Board pursuant to 40 CFR § 124.19.

Documents Available for Review

The draft Permit, fact sheet and other information is available on EPA Region 10 website at: <https://www.epa.gov/npdes-permits/stormwater-discharges-municipal-sources-idaho-and-washington> OR <https://www.epa.gov/npdes-permits/idaho-npdes-permits>.

Because of COVID-19 response, there is no public access to the Region 10 EPA buildings at this time. Therefore, EPA cannot make hard copies available for viewing at our offices.

For technical questions regarding the Permits listed above or this Fact Sheet, contact Misha Vakoc at the phone number or E-mail listed above. Services for persons with disabilities are available by contacting Audrey Washington at (206) 553-0523.

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Acronyms

CFR	Code of Federal Regulations
CWA	Clean Water Act
CZARA	Coastal Zone Act Reauthorization Amendments
EFH	Essential Fish Habitat
ESA	Endangered Species Act
EPA	United States Environmental Protection Agency, Region 10
IDEQ	Idaho Department of Environmental Quality
MS4	Municipal Separate Storm Sewer System
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NOAA	National Oceanic and Atmospheric Administration
NPDES	National Pollutant Discharge Elimination System
PUA	Pocatello, ID Urbanized Area
QAPP	Quality Assurance Project Plan
US	United States
USC	United States Code
USFWS	U.S. Fish and Wildlife Service

1 Facility Information

The City of Pocatello, City of Chubbuck, Bannock County, Idaho Transportation Department - District #5, and Idaho State University each own and/or operate regulated small municipal separate storm sewer systems (MS4s) located in the Pocatello Urbanized Area (PUA).

These entities cooperate as co-permittees under NPDES Permit #IDS028053 and are referred to collectively in this document as “the Pocatello Urbanized Area (PUA) MS4s” and/or “the Permittees.”

EPA reissued the PUA MS4 Permit on June 10, 2019; the Permit subsequently became effective on October 1, 2019 and will expire on September 30, 2024. The Permit authorizes the PUA MS4 discharges to waters of the United States that include the Portneuf River and Pocatello Creek, and defines stormwater management control measures to reduce pollutants to the maximum extent practicable (MEP), protect water quality, and comply with other provisions of the Clean Water Act (CWA).

A map of the PUA MS4 Permit Area is provided in Appendix 3. Detailed description of the PUA MS4s, and other background information regarding the PUA MS4 Permit, can be found in EPA’s Fact Sheet, dated November 2018, and other materials in the Administrative Record for this modification.

2 Cause for Modification

PUA MS4 Permit Part 4 (*Special Conditions for Discharges to Impaired Waters*) requires the Permittees to submit a Monitoring/Assessment Plan no later than October 1, 2021. Permit Part 2.6 identifies the required content of such submittal.

On June 30, 2020, the City of Pocatello submitted the following documents on behalf of the PUA Permittees: the *Stormwater Monitoring Plan for the Pocatello Urbanized Area NPDES Phase II Stormwater Permit Version 1.0* (Stormwater Monitoring Plan) and the *Quality Assurance Project Plan for the Pocatello Urbanized Area NPDES Phase II Stormwater Permit Stormwater Monitoring Program Version 1.0* (QAPP). Both documents are available for public review as part of this Permit modification.

The Permittees noted in their transmittal correspondence that before submitting the documents to EPA, the Permittees had shared drafts of both documents with members of the Portneuf Watershed Partnership; the Partnership is comprised of stakeholder representatives from the Idaho Department of Environmental Quality (IDEQ), the Shoshone-Bannock Tribes, Idaho Department of Fish and Game, U.S. Fish and Wildlife Service, U.S. Forest Service, Bureau of Land Management, the Portneuf Resource Council, Natural Resource Conservation Service, the Portneuf Soil and Water Conservation District, and Idaho State University, among others. IDEQ submitted comments on the draft documents, which the Permittees addressed and incorporated into the final documents.

EPA reviewed the submitted materials and consulted with IDEQ in July and August 2020. Consistent with Permit Part 2.6.4, EPA determines that the Stormwater Monitoring Plan and the QAPP meet the requirements of the Permit, and that it is necessary to modify the text of the PUA MS4 Permit to require the Permittees to conduct such monitoring by incorporating both documents by reference. The following sections provide a brief explanation for the proposed modification.

3 Modified Permit Provisions

3.1 Cover Page

EPA issued the Permit on June 11, 2019, with an effective date of October 1, 2019. The cover page has been revised to include an effective date for any modified permit provisions, of at least 30 days after the modified Permit's issuance date.

3.2 Permit Part 4 Special Conditions for Discharges to Impaired Waters

Permit Part 4.1 required the submittal of both a Monitoring/Assessment Plan and a description of Pollutant Reduction Activities no later than October 1, 2021.

As previously noted, on June 30, 2020, the Permittees submitted the Stormwater Monitoring Plan and associated Quality Assurance Plan; however, the Permittees have not yet submitted the required description of their intended pollutant reduction activities.

EPA proposes to revise the text in Permit Parts 4, 4.1, and 4.2 in order to require the Permittees to conduct monitoring according to the Stormwater Monitoring Plan and QAPP submitted on June 30, 2020 and to preserve the original requirement for the submittal of additional documentation regarding pollutant reduction activities no later than October 1, 2021.

3.3 Permit Part 6.2 - General Requirements for Monitoring/Assessment Activities

Permit Part 6.2.1 describes the option of cooperative monitoring efforts among the Permittees. The provision requires notification to EPA and IDEQ regarding such plans. Permit Part 6.2.2 directs the submittal of the monitoring/assessment plan and identifies EPA actions resulting from such submittal.

EPA proposes to modify the Permit by deleting Permit Part 6.2.1 in its entirety, and revise/renumber subsequent sections in Part 6.2, in recognition of the cooperative Stormwater Monitoring Plan and QAPP as submitted on June 30, 2020, and to clarify that the Permittees must maintain an up-to-date Quality Assurance Project Plan during the term of the Permit.

3.4 Other Editorial Changes

EPA proposes minor editorial changes to the Table of Contents and Permit Part 6.4.3 to acknowledge the Stormwater Monitoring Plan and QAPP submitted June 30, 2020.

4 Other Legal Requirements

4.1 Environmental Justice

As part of the permit development process, EPA Region 10 conducted a screening analysis to determine whether this permit action could affect overburdened communities. "Overburdened" communities can include minority, low-income, tribal, and indigenous populations or communities that potentially experience disproportionate environmental harms and risks. EPA used a nationally consistent geospatial tool that contains demographic and environmental data for the United States at the Census block group level. This tool is used to identify permits for which enhanced outreach may be warranted.

Based on this screening, the PUA is identified as an area where potentially overburdened communities reside. To ensure that individuals in this area are able to participate meaningfully in the NPDES permit process, EPA will work to ensure that interested stakeholders in these areas, and throughout the state, are informed and able to provide their input on appropriate local stormwater management activities.

EPA encourages MS4 Permittees to review (and to consider adopting, where appropriate) *Promising Practices for Permit Applicants Seeking EPA-Issued Permits: Ways To Engage Neighboring Communities* as described in the EPA document available at <https://www.federalregister.gov/articles/2013/05/09/2013-10945/epa-activities-to-promote-environmental-justice-in-the-permit-application-process#p-104>.

For more information, see <https://www.epa.gov/environmentaljustice> and Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*.

4.2 Endangered Species Act

The Endangered Species Act (ESA) Section 7(a)(2) requires federal agencies to consult with the National Oceanic and Atmospheric Administration – National Marine Fisheries Service (NOAA Fisheries) and the U.S. Fish and Wildlife Service (USFWS) regarding potential effects an action may have on listed endangered species.

There are no listed endangered or threatened species under the jurisdiction of either NOAA Fisheries or USFWS within the Permit Area. Therefore, EPA has determined that modification of the PUA MS4 Permit will have *no effect* on any threatened or endangered species.

4.3 Essential Fish Habitat

Essential Fish Habitat (EFH) is the waters and substrate necessary for fish spawning, breeding, feeding, or growing to maturity. The Magnuson-Stevens Fishery Conservation and Management Act requires EPA to consult with the NOAA-Fisheries if a proposed action has the potential to adversely affect (by reducing the quality and/or quantity of) EFH. EPA has determined that the modification of the PUA MS4 Permit does not affect any EFH species; therefore, consultation is not required for this action.

4.4 National Historic Preservation Act

Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to take into account the effects of federal undertakings on historic properties listed on, or eligible for listing on, the National Register of Historic Places. The term federal “undertaking” in NHPA regulations to include a project, activity, or program of a federal agency that can result on changes in the character or use of historic properties, if any historic properties are located in the area of potential effects for that project, activity or program. See 36 CFR § 802(o) and 36 CFR §802(e). Federal undertakings include EPA’s issuance of a NPDES permit.

EPA determined that the reduction of pollutants in runoff through compliance with a MS4 discharge permit will not result in the disturbance of any site listed or eligible for listing in the National Historic Register. Therefore, EPA believes that the actions associated with the Permit are also in compliance with the terms and conditions of the National Historic Preservation Act.

Pursuant to Permit Part 8.10, Permittees are reminded that they must comply with applicable state, Tribal and local laws, including those concerning protection of historic properties. If any permitted entity engages in any activity which meets all of the following criteria, then they must consult with and obtain approval from the State Historic Preservation Office prior to initiating the activity:

- The permitted entity is conducting the activity in order to facilitate compliance with the MS4 Permit;
- The activity includes excavation and/or construction; and
- The activity disturbs previously undisturbed land.

Examples of actions may include construction of a retention/detention basin, storm drain line, or infiltration basin; dredging; and stabilization projects (e.g., retaining walls, gabions). The requirement to submit information on future earth disturbing does not include activities such as maintenance and private development construction projects.

4.5 National Environmental Policy Act and Other Federal Requirements

Regulations at 40 CFR §122.49, list federal laws that may apply to the issuance of permits i.e., ESA, NHPA, the Coastal Zone Act Reauthorization Amendments (CZARA), NEPA, and Executive Orders, among others. The NEPA compliance program requires analysis of potential impacts, options to avoid or minimize impacts; and development and analysis of measures to mitigate adverse impacts.

EPA has not promulgated effluent limitation guidelines or new source performance standards specific to MS4 discharges. MS4 permits are not subject the NEPA.

Idaho is not located in the U.S. coastal zone, so CZARA does not apply to issuance of the Permit. In addition, the Permit will not authorize the construction of a water resources facility or the impoundment of any waterbody. No regulated small MS4s are located in designated Wild and Scenic River areas. Therefore, EPA determines that the Fish and Wildlife Coordination Act, 16 USC § 661 et seq., and Wild and Scenic Rivers Act, 16 USC § 470 et seq., do not apply to issuance of the Permit.

4.6 Permit Dates

The PUA MS4 Permit was reissued on June 11, 2019, and effective on October 1, 2019. The Permit's expiration date is September 30, 2024. EPA is not proposing to revise these dates. See Section 3.1.

4.7 State Certification of the Draft Permit

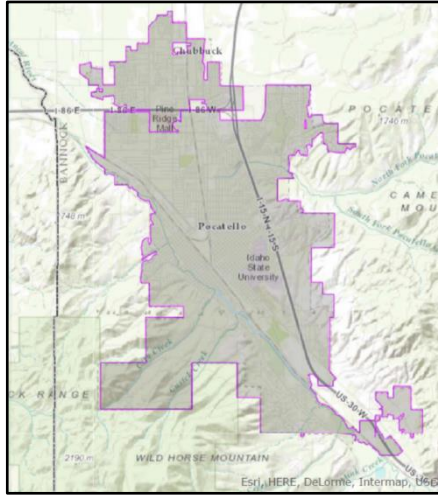
Section 401 of the CWA required EPA to seek State certification before issuing a final permit. As a result of the certification, the State may require more stringent permit conditions or additional monitoring requirements to ensure that the permit complies with water quality standards, or treatment standards established pursuant to any State law or regulation.

As previously noted, IDEQ certified the PUA MS4 Permit on May 20, 2019. On August 17, 2020, IDEQ confirmed to EPA that it does not need to recertify the PUA MS4 Permit in light of the pending modification.

APPENDIX 1 – PERMIT AREA MAPS: POCATELLO URBANIZED AREA



Figure 3.A: City Boundaries for the City of Pocatello and City of Chubbuck



Pocatello UA Maps	Census 2000	http://www2.census.gov/geo/maps/urbanarea/uaoutline/UA2000/ua70426/ua70426_01.pdf
	Census 2010	http://www2.census.gov/geo/maps/dc10map/UAUC_RefMap/ua/ua70426_pocatello_id/

Figure 3.B: City and Year 2000 UA Boundaries for the Pocatello Urbanized Area

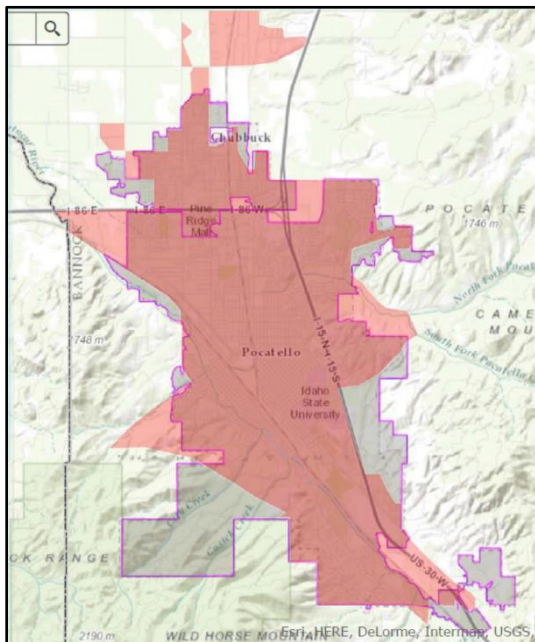


Figure 3.C: Combined City, Year 2000 UA, and Year 2010 UA Boundaries for the Pocatello Urbanized Area

