

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
GENERAL PERMIT NUMBER OKR10
STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY ON
SITES OF ONE ACRE OR MORE UNDER THE CONSTRUCTION GENERAL PERMIT
OKR10 WITHIN THE STATE OF OKLAHOMA

RESPONSE TO COMMENTS

Prepared by Karen Milford, P.E. and Mark Derichsweiler, P.E.

The Department of Environmental Quality (DEQ), Water Quality Division received one (1) oral comment from the Department of Transportation (ODOT) at the DEQ public meeting on July 30, 2012. DEQ also received fifty-five (55) written comments from seven (7) parties concerning the draft general permit OKR10.

After reviewing the comments and considering the issues raised, changes were made to the draft permit. A copy of the final permit, fact sheet, and response to comments has been posted on DEQ's website at <http://www.deq.state.ok.us/WQDnew/stormwater/index.html>.

DEQ's responses to comments were provided to all parties that submitted comments within the thirty (30) day public comment period. The permit will become effective on September 13, 2012. This will be the DEQ's final permit decision.

A summary of the comments received, DEQ's responses, any resulting modifications to the draft permit, and staff-identified changes are listed below.

PART I Comments Received Pertaining to the General Permit with DEQ's Responses

The majority of the comments were requesting clarification. All comments were fully considered and changes were made where appropriate.

A. Oral Comment submitted by George T. Raymond, P.E. from Oklahoma Department of Transportation (ODOT) dated July 31, 2012.

1. GEORGE RAYMOND: -- with the Oklahoma Department of Transportation.

I have a comment specifically the steep slope definition shown in Section 3.3.1.F. The draft permit defines steep slopes as all slopes greater than 15 percent. If the definition of a steep slope remains at 15 percent the specialized measures required by the permit would be more costly and in many cases infeasible. It is our understanding that EPA allows each state to establish their own definition for a steep slope and has already approved the Kansas Department of Health and Environment Permit that contains their definition that establishes a steep slope of 40 percent or greater. It appears that this draft permit being proposed by Oklahoma is more stringent than the EPA requires or more stringent than EPA has allowed to our neighbors to the north, Kansas, in their definition. So ODOT specifically requests that this definition be changed to state that a steep slope is any slope occurring on a construction site that is 40 percent or greater.

DEQ Response: 15% was changed to 40%. Part 3.3.1.F was revised as follows:

3.3.1.F Minimize the Disturbance of Steep Slopes. You must minimize the disturbance of steep slopes (i.e., slopes of 40% or greater).

B. Written Comments submitted by George T. Raymond, P.E. from Oklahoma Department of Transportation (ODOT) dated July 31, 2012.

1. A 15% slope is not considered steep by most industry standards. EPA's Permit only designates the 15% slope if the State does not have its own definition for a steep slope. The specialized measures required to address these gradual slopes during design and construction would be infeasible in many instances. The Kansas Department of Health and Environment (KDHE) has designated a steep slope as 40% or greater in their permit which has been approved by EPA. Oklahoma should not be more stringent than EPA requires and we should adopt the definition for a steep slope of 40% or greater, like the State of Kansas has used.

DEQ Response: See Response number A.1 above.

2. Bales of hay are the source of vegetative mulching in many cases which is itself a Best Management Practice. EPA's 2012 CGP does not include banning Hay Bales. In fact, Page 15, Section 2.1.2.4.b., footnote 11 refers to straw bales as temporary perimeter sediment barriers. Additionally, Hay Bales are listed on the NPDES Construction Site Stormwater Runoff Control BMP's National Menu. DEQ should not be prescriptive in directing applicants for coverage under this permit what BMP's are allowed or disallowed. Request that DEQ remove the language prohibiting the use of Hay Bales in the State of Oklahoma.

DEQ Response: The permit proposes no change or restriction on the use of straw or hay for vegetative mulching. It has been widely noted that use of straw and hay bales for erosion and sediment control is proving ineffective, maintenance-intensive and expensive. While it is true that straw or hay bales are listed on the EPA Menu of BMPs, the entry notes that "Many applications of straw bales for erosion and sediment control are proving ineffective due to the nature of straw bales, inappropriate placement, inadequate installation, or a combination of all three factors" and EPA recommends that alternatives to straw or hay bales should be used whenever possible. Several such alternatives are identified on the BMP menu. No changes were made as a result of this comment.

3. **Part 4.5.15.** This part is confusing, unorganized and is unclear when the burden of the additional documentation as specified in Part 4.5.15.C would be required. In Part 4.5.15.B. it refers to "... the following corrective actions ..." which actually precedes the statement in 4.5.15.A. The conditions that would trigger this Part listed in 4.5.15.B.1. b, c and d are all specific conditions that are easily identified; however, 4.5.15.B.1.a is too vague and generalized and could be interpreted to cover almost any scenario as it

references the requirements in Parts 3 and/or 4 which contains over 50% of the entirety of the OKR10 permit. A clarification on 4.5.15.B.1.a or its deletion would make this Part more clear and more meaningful for those instances that really need to be emphasized. And, switching parts A and B might alleviate confusion.

DEQ Response: In general, Part 4.5.15.B includes the requirements for taking corrective action and specifies the site conditions that trigger a corrective action. For example, if an operator fails to install a sediment trap which is required by the SWP3, he must take corrective action to install the sediment trap by no later than 7 calendar days from the time of discovery. The proposed language of Part 4.5.15 is consistent with EPA's 2012 CGP. No changes were made to the proposed permit as a result of this comment.

C. Written Comments submitted by Dawn R. Sullivan, P.E. from Oklahoma Department of Transportation (ODOT) dated July 31, 2012.

1. As currently proposed in the Draft Permit, "Minimize Disturbance of Steep Slopes" is a non-numeric technology based effluent limitation called for in Section 3.3.1.F.. While ODOT agrees that minimizing disturbance of steep slopes is a good practice, the Draft Permit defines steep slopes as all slopes greater than 15%. As proposed, any slope on a construction project that exceeds 15% would require specialized erosion and sediment controls and stabilization methods according to the permit requirements. Please be aware that for linear construction projects, highway projects in particular, 15% slopes are not considered steep.

DEQ Response: See Response number A.1 above.

2. Electronic NOI's must be enabled. Electronic submissions would reduce costs to both DEQ and the regulated industries, and would speed the whole permitting process. EPA requires electronic submittals. Texas Commission on Environmental Quality encourages permittees by discounting the fee. This process must be modernized.

DEQ Response: An electronic NOI filing system may be considered in the future but resource limitations have precluded development of such a system. No changes were made as a result of this comment.

3. The Department advocates DEQ implement measures to implement automatic authorizations similar to other states and EPA. EPA general Construction Permit coverage begins 14 calendar days after EPA has acknowledged receipt of an NOI on the Agency's website, unless EPA notifies you that your authorization has been delayed or denied. ODOT projects are continually delayed waiting written authorization.

DEQ Response: Obtaining a written authorization prior to coverage under a permit is required by the DEQ statutes. No changes were made as a result of this comment.

4. DEQ's new Flex Viewer Map online refers to the Sensitive Waters list. Please consider updating this system to match the permit language of Aquatic Resources of Concern.

DEQ Response: DEQ plans to update the mapping system to reflect the new requirements of the proposed permit and the new maps. No changes were made as a result of this comment.

5. Page 7, Part 1.5.3.” DEQ will schedule an inspection and provide any assistance necessary within 30 days of receipt of the written request.” Currently, the time frame for terminating a permit is four to six months. ODOT requests that DEQ audit this process to determine why this is taking much longer than stated in OKR10. This delay causes real costs to ODOT, the Contractor and the citizens of Oklahoma.

DEQ Response: Permits may be terminated at any time by filing an NOT. The pre-termination inspection is provided by DEQ as an optional service to permittees. There is no requirement to complete this inspection before terminating coverage. The operator should rely on self-inspection as the primary means for determining whether final stabilization has been achieved. While DEQ strives to achieve the 30 day target, resource limitations may prevent this in some cases. This comment was referred to the Environmental Complaints and Local Services Division for evaluation. No changes were made as a result of this comment.

6. Page 8, Part 2.1.4. Current Permit holders need to be informed about the new permit requirements and re-application. Please consider waiving the SW3P submission for 40 acres disturbed and/or sensitive Waters locations for re-applications. The Department is concerned that the current time frame for processing NOT’s combined with the anticipated delays in issuing re-applications and new applications will cost time and money. A permit holder waiting four to six months to process the paper work from Inspection report to Termination letter, could be technically required to reapply after the 90 day time period in the new permit. Please consider a mechanism to allow those in the NOT process to be waived from reapplication until DEQ completes the inspection.

DEQ Response: SWP3 submission for 40 acres disturbed and/or sensitive waters locations for re-application is necessary due to new requirements of the permit. The intent of this provision is to ensure the SWP3 is appropriate to address all new conditions and new requirements. There are no provisions for waiver of these requirements. Termination inspections are addressed in response number C.5 above. No changes were made to the proposed permit as a result of this comment.

7. Page 12, Part 3.3.1.F. Consider adding a section under SWPPP Requirements, contents of the Plan. *“Steep Slope Stabilization Requirements. When construction activities on steep slopes (slopes of forty(40) percent or greater, see definitions) cannot be avoided, the SWPPP plan must require the contractor to immediately initiate placement of appropriate erosion control BMP’s in any exposed steep slope areas where construction activities have been permanently or temporarily ceased, and will not resume for a period exceeding 7 calendar days. Diversion of concentrated or channelized storm water flows around steep slopes or slope drains shall be utilized, where feasible.”*

DEQ Response: Regarding the definition of steep slopes, see Response number A.1 above. Stabilization and diversion requirements are already addressed in Parts 3.3.2 and 3.3.1.F respectively.

8. Page 19, Part 3.5.1 Language currently states “If you discharge to impaired water that is impaired for sediment within one mile, you are required...” Please consider inserting “stream mile” for clarification. Please add waters impaired for sediment to DEQ’s map viewer to aid applicants.

DEQ Response: Regarding the map viewer, see Response number C.4 above. DEQ has modified the proposed permit as follows:

3.5.1 If you discharge to an impaired water that is impaired for sediment within one (1) stream mile, you are required to comply with the additional requirement in this part.

9. Page 19, Part 3.5.2.A. Add verbiage for bridge construction, i.e. “unless authorized by the CWA Section 404 permit”.

DEQ Response: Part 3.5.2.A has been modified as follows:

In order to minimize sediment discharges, if any ORW or ARC is located on or immediately adjacent to your site, you must ensure that a vegetated buffer zone of at least 100 feet is retained or successfully established/planted between the area disturbed and all perennial or intermittent streams. A vegetated buffer zone of at least 50 feet must be retained or successfully established/planted between the areas disturbed during construction and all ephemeral streams or drainages. If the nature of the construction activity or the construction site makes a buffer impossible, you must provide equivalent controls. Use Addendum I (Buffer Guidance) for information to assist you in developing equivalent controls. There are exceptions from this requirement for water crossings, limited water access, and stream restoration authorized under a CWA Section 404 permit.

10. Page 20, Part 3.5.2.B. For linear construction projects, requiring sediment basins for sites that disturb 5 acres or more in the Outstanding Resource Waters will require additional land disturbance, actually increasing the project’s environmental footprint and impact. ODOT requests that this remain at 10 acres disturbed, draining to a common location will require a sediment basin or equivalent measures for linear construction projects.

DEQ Response: The use of sediment basins is widely recognized as one of the most effective sediment control measures available. There is no evidence that requiring sediment basins would increase the impact. No changes were made as a result of this comment.

11. Page 26, Part 4.5.3. Linear construction projects like highways may have fifteen to twenty different types of construction contractors on a project site, performing different elements of a construction project. Does this requirement want every company,

personnel, where they are working? ODOT requests that this be revised to identify all contractors involved with pollution prevention activities.

DEQ Response: Part 4.5.3 requires the identification of “other operators who will be engaged in construction activities at your site.” “Operator” is a defined term (See Part 9) and refers to other parties that have permit coverage, not all contractors that may be active at a site. No changes were made as a result of this comment.

- 12.** Page 26, Part 4.5.5.B. Due to the nature of linear construction projects, which for highway construction can be as long as 8 miles, listing all the Waters of the State within one mile from a Highway project is an unnecessary burden. This information is readily accessible to DEQ through their own data viewer with the latitude and longitude provided by the applicant. Additionally, consider only requiring applicants to list those waters impaired for sediment only, in addition to the Aquatic Resources of Concern and Outstanding Resource Waters.

DEQ Response: The proposed permit requires a site map that identifies waters of the State to be included with the SWP3 to better assure protection of receiving waters by the operator. This is not a new requirement. The impairment language in this part was modified as follows:

B. Locations of all waters of the state within one mile of the site, including wetlands that exist within or in the immediate vicinity of your site. Indicate which waterbodies are listed as impaired for sediment, and which are identified by the state as Aquatic Resources of Concern or Outstanding Resource Water.

- 13.** Page 27, Part 4.5.5.E. This section is not considering the highway projects that are in themselves constructing inlets. Highway projects can potentially have hundreds of storm drain inlets/outfalls that eventually drain to Waters of the State. Consider eliminating this requirement for highway construction projects, but instead use the existing summary for Disturbed Acres draining to a Common Location for this purpose.

DEQ Response: This sub-section specifies that discharge locations are to be identified on the site map. If storm water is to be discharged to storm drain inlets, even inlets that are constructed as part of the project, they should be identified. Those storm drain inlets/outfalls may require installation of appropriate sediment controls. The “disturbed acres” summary does not serve this purpose. No changes were made as a result of this comment.

- 14.** Page 28, Part 4.5.10. *“Monitoring and reporting of discharge quality may also be required if necessary to ensure compliance with an approved TMDL or watershed plan.”* This section should explicitly apply to TMDL’s for Sediment only.

DEQ Response: While TMDLs for sediment are most likely to include requirements related to construction sites, it is possible that TMDLs for other sediment-related

pollutants could, in some cases, include such requirements. No changes were made as a result of this comment.

15. Page 29, Part 4.15.11.A.g. Hay bales are ineffective in certain applications but it ODOT opposes the DEQ ban. There are uses for Hay Bales where they can be very effective. Bales of hay are also the source of vegetative mulching, which is itself a Best Management Practice. EPA's 2012 CGP does not include banning Hay Bales. In fact, the EPA CGP Page 15, Part 2.1.2.4.b., footnote 11 refers to straw bales as temporary perimeter sediment barriers. DEQ should not be directing Contractors what BMP's are allowed or disallowed. ODOT requests that DEQ remove the language prohibiting the use of Hay Bales in the State of Oklahoma.

DEQ Response: See Response number B.2 above.

16. Page 30, Part 4.5.11.A.3.c. Consider changing this language to "Velocity dissipation devices shall be placed at discharges locations when necessary to provide a non-erosive flow velocity..." The current language could be read to require velocity dissipation at every outfall, to which the department objects.

DEQ Response: The proposed permit has been modified to read as the following:

4.5.11.A.3.c Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel when necessary to provide a non-erosive flow velocity from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected (e.g. no significant changes in the hydrological regime of the receiving water)

17. DEQ uses the terms log, record and report inconsistently throughout the Permit. ODOT requests that one term be used throughout the permit for clarity.

DEQ Response: Use of these terms is consistent with EPA's 2012 CGP. No changes were made as a result of this comment.

18. Page 34, Part 4.5.15. This part is confusing, unorganized and is unclear when the additional burden of documentation as specified in Part 4.5.15.C would be required. In Part 4.5.15.B. it refers to "... the following corrective actions..." which actually precede the statement in 4.5.15.A. the conditions that would trigger this Part listed in 4.5.15.B.1.b,c, and d are all specific conditions that are easily identified; however, 4.5.15.B.1.a is too vague and generalized and could be interpreted to cover almost any scenario as it references the requirements in Part 3 and/or 4 which contains over 50% of the entirety of the OKR10 permit. Please clarify 4.5.15.B.1.a or delete it.

DEQ Response: See Response number B.3 above. No changes were made as a result of this comment.

- 19.** Page 35, Part 4.5.15.C. Appears to require burdensome reporting and paperwork that is duplicative of records maintained within the SWPPP. ODOT requests that the “Corrective Action Records” requirement be removed, but remain part of the inspection and SWPPP documentation process, instead of an additional record to be maintained.

DEQ Response: This provision requires that records of actions taken in response to certain specified deficiencies identified on the site be maintained. There is no reporting requirement. These records may be maintained with the SWP3 if that would avoid duplicative records. No changes were made as a result of this comment.

- 20.** Page 46, 24.1.B. Native background cover has always been a problem in the Panhandle and far western Oklahoma. Some DEQ Inspectors hold a higher standard than natural cover, native background of sagebrush and cactus. Consider explicitly identifying predominant native sagebrush and cactus as “arid areas”.

DEQ Response: This comment has been referred to the Environmental Complaints and Local Services Division and the Industrial Wastewater Enforcement Section of Water Quality Division for consideration. No changes were made as a result of this comment.

- 21.** Page 77, Addendum I, I.1.B. Second paragraph; to ensure that ...add”, *unless permitted by a CWA Section 404 permit*”.

DEQ Response: Parts 3.3.1.A and 3.5.2.A of the proposed permit provide exceptions to the buffer requirement for projects with a 404 permit. No changes were made as a result of this comment.

- 22.** Page 77, Addendum I, I.1.D. Last line, Step 2. Step is misspelled.

DEQ Response: The misspelled word has been corrected.

- 23.** Page 78, Addendum I, I.2.B. “Design Controls that Provide equivalent Sediment reduction as 100-foot or 50-foot buffer”, the last sentence is unclear, as it refers to both 100 and 50 feet. Please clarify.

DEQ Response: Required buffer size in ORW and ARC areas is determined by the stream type, ephemeral (50 feet) or intermittent/perennial (100 feet) as specified in Part 3.5.2. No changes were made as a result of this comment.

D. Written Comments submitted by David B. Hall, Ph.D., Manager Water & Ecological Resource Services, from American Electric Power on July 31, 2012.

1. General Comments

AEP-PSO requests that ODEQ delete the proposed language in this version of the draft permit. While AEP-PSO supports meaningful changes in environmental regulations, these new requirements will be burdensome for industry to implement. Much of the new language in the revised storm water permit are redundant to SPCC, FRP, pesticide, and

solid and hazardous waste regulations, and ODEQ appears to be writing vague regulations for these areas within the permit. The storm water permit should only refer that the construction site must be in compliance with those regulations.

DEQ Response: The proposed changes are necessary to comply with the EPA's National Effluent Limitation Guidelines and New Source Performance Standards (ELGs) found at 40 CFR Part 450. Also the proposed permit with SWP3 requirements was reorganized and modified to be consistent with the EPA 2012 CGP. The Clean Water Act and its implementing rules require these changes. Re-issuing the 2007 version of the permit with no changes would not be accepted by EPA. No changes were made as a result of this comment.

2. Section 3.3.1, Second Bullet ii – Erosion and Sediment Control Requirements

New language in this section indicates that site management is required to design storm water controls based upon runoff and runoff storm water at the site. Industries can not possibly to predict the volume of storm water that may impact a construction site over a short-term or long-term due to the weather conditions that vary widely across the State of Oklahoma. AEP-PSO requests this paragraph be deleted.

DEQ Response: This section does not require any calculations of runoff or runoff volume. Section 3.3.1 of the proposed permit is required by the EPA ELG rules. No changes were made as a result of this comment.

3. Section 3.3.1, Second bullet iii – Erosion and Sediment Control Requirements

New language in this section indicates the operator identify the size of soil particles across the site during construction. The effort to comply with this requirement creates an additional burden on the operator in time and costs to collect a variety of soil samples for analyses, and then attempting to estimate the size of particles that may be released from a construction site. AEP-PSO believes this requirement is of no real value for controlling storm water at a construction project. AEP-PSO also believes installation of the proper storm water controls nullifies the usefulness of this requirement. AEP-PSO requests this paragraph be deleted.

DEQ Response: This section does not require any soil sampling or analysis. Section 3.3.1 of the proposed permit is required by the EPA ELG rules. No changes were made as a result of this comment.

4. Section 3.3.1.B.1 – Install Perimeter Controls

Language in this section indicates the operator must document why storm water controls are not practicable in some areas of a linear construction project. Linear projects may cross many streams during construction where storm water controls are not practicable. Documentation in the storm water plan for each crossing is excessive. AEP-PSO requests this language be deleted.

DEQ Response: Section 3.3.1 of the proposed permit is an implementation of the EPA's ELG rules. No changes were made as a result of this comment.

5. Section 3.3.1.C.4 – Minimize sediment Track-out

New language states that sediment that is tracked out into a street must be removed by the end of the same working day. AEP-PSO believes this requirement is excessive. Small quantities of sediment tracked onto a street do not need to be removed daily. AEP-PSO requests this paragraph be modified to state that the operator will clean the street on a basis specified in the SWPPP.

DEQ Response: Section 3.3.1 of the proposed permit is an implementation of the EPA's ELG rules. No changes were made as a result of this comment.

6. Section 3.3.1.D.5 – Control discharges from stockpiled Sediment or soil

New language indicates the operator is to cover stockpiles of soil to protect it from the wind. AEP-PSO believes that most of the time, this is not practicable. AEP-PSO's practice has been to install a sediment fence downhill from the stockpile, which is adequate to prevent sediment runoff. AEP-PSO requests this paragraph be deleted.

DEQ Response: Section 3.3.1 of the proposed permit is an implementation of the EPA's ELG rules. No changes were made as a result of this comment.

7. Section 3.3.1.H.1 – Minimize Soil Compaction

New language indicates the operator is to restrict use of vehicle and equipment at a construction site to minimize soil compaction. AEP-PSO is aware that useless operation of equipment increases the quantity of fuel consumption and unnecessary maintenance. Therefore, this requirement is not necessary. AEP-PSO is concerned that this requirement will be incorrectly interpreted by ODEQ inspectors who are not familiar with engineering construction techniques and project management. AEP-PSO requests this paragraph be deleted.

DEQ Response: Section 3.3.1 of the proposed permit is an implementation of the EPA's ELG rules. No changes were made as a result of this comment.

8. Section 3.3.1.H.2 – Minimize Soil Compaction

New language in this section states the operator should use soil condition techniques prior to re-vegetating an area. This language is very vague and open to a variety of interpretations. AEP-PSO requests this paragraph be deleted.

DEQ Response: Section 3.3.1 of the proposed permit is an implementation of the EPA's ELG rules. No changes were made as a result of this comment.

9. Section 3.3.1.I.1 – Protect Storm Drain Inlets

New language in this section indicates the operator should, "clean, or remove and replace the protection measures as sediment accumulates, the filter becomes clogged,..." this section is not necessary as other language in the general permit indicates when sediment should be removed when operational controls have a buildup of sediment. Additionally,

the interpretation of term, “clogged...” is too vague to be useful. AEP-PSO requests this paragraph be deleted.

DEQ Response: Section 3.3.1 of the proposed permit is an implementation of the EPA’s ELG rules. No changes were made as a result of this comment.

10. Section 4.5.1 – Storm Water Team

Language in this section indicates the operator must assemble a storm water team; however, language earlier in the permit indicates that the operator must identify the individual or operator responsible for inspections and maintaining the plan. Assembling a storm water team for the purpose of addressing storm water at construction sites is not necessary, and increases the cost of compliance without increasing the environmental benefit. AEP-PSO requests this paragraph be deleted.

DEQ Response: The storm water team is responsible for a broader range of activities that inspections and maintaining the SWP3. Assembling a storm water team is necessary for overseeing the development and implementation of the SWP3 at the site. This provision is consistent with the EPA 2012 CGP. No changes were made as a result of this comment.

11. Section 4.5.4 – Sequence and Estimated Dates of Construction Activities

Language in this section indicates the operator is supposed to develop a schedule for installation of storm water control measures. This language is not necessary as the operator is required to implement controls as necessary. Changes in a construction plan should not subsequently require modification of the SWPPP. Additionally, should a project be completed well ahead of the construction schedule, the permit indicates the operator will have to modify the SWPPP in order to initiate installation of the final stabilization measures. This additional maintenance of a SWPPP project schedule is unnecessary and time consuming. AEP-PSO requests this paragraph be deleted.

DEQ Response: This is not a new requirement. Developing a schedule for installation of storm water control measures is necessary to meet erosion and sediment control requirements specified in EPA’s ELG rules. This provision is consistent with the EPA 2012 CGP. No changes were made as a result of this comment.

12. Section 4.5.5.A.2 – Site Map

Language in this section indicates the SWPPP map must show slopes greater than 15%. Documenting this information is not necessary. AEP-PSO requests this paragraph be deleted.

DEQ Response: Documenting this information is necessary due to the steep slope requirements (see Part 3.3.1.F). Also see Response number A.1. No changes were made as a result of this comment.

13. Section 4.5.5.C – Site Map

This section indicates the boundary lines of natural buffers must identified on the map. This requires surveying the entire project site to accurately place this information on the map. This is burdensome and not necessary. AEP-PSO requests this paragraph be deleted.

DEQ Response: This provision does not require surveying the entire project site. Where natural buffers are used or required, their location must be shown on the site map. No changes were made as a result of this comment.

14. Section 4.5.5.D – Site Map

This section indicates the topography of the site, such as pastures, forests, drainage patterns, etc., must be identified on the map. Often, this requires detailed surveying of the site and is burdensome. AEP-PSO requests this paragraph be deleted.

DEQ Response: Again, the proposed permit does not require surveying the entire project site. The existing vegetative cover and drainage patterns should be included with the topography of the site on the site map. This information is available from site observations or standard topographic maps. It is necessary to know storm water flow patterns in order to implement effective erosion controls. No changes were made as a result of this comment.

15. Section 4.5.11 – Controls to reduce pollutants

This section requires each operator to specifically identify the control measures that shall be used for each of the construction activities on the site. This is burdensome and requires the SWPPP to be modified and reflect changes to the construction project. AEP-PSO requests this paragraph be deleted.

DEQ Response: This is not a new requirement. Identifying the control measures that will be implemented is at the heart of the SWP3. Without identifying these measures the SWP3 would be worthless. Specifying the measures to be used is necessary to meet erosion and sediment control requirements in EPA's ELG rules. No changes were made as a result of this comment.

16. Section 4.5.11.B – Pollution Prevention

This section is redundant to the EPA SPCC regulations and the ODEQ solid and hazardous waste regulations. Industry is aware that they must be in compliance with these regulations at all sites, and these new requirements do not add value to the storm water permit. AEP-PSO requests this paragraph be deleted.

DEQ Response: The SPCC regulations address only spills of oil. The pollution prevention provision is broader. This provision is also broader than the solid and hazardous waste regulations. This provision does not have reference to your SPCC plan or other documents is acceptable provided you keep a copy onsite. Section 4.5.11.B of the proposed permit is an implementation of the pollution prevention requirements specified in EPA's ELG rules. No changes were made as a result of this comment.

17. Section 4.5.11.C – Inspection, Maintenance, Corrective Action

This section is redundant to other sections of the permit, and requires documentation of unnecessary information. AEP-PSO requests this paragraph be deleted.

DEQ Response: Section 4.5.11.C of the proposed permit is necessary for developing your SWP3 and requires specific items that are not required elsewhere in the permit. No changes were made as a result of this comment.

18. Section 4.5.14 – Staff Training Requirements

- Bullets #1 and #4 are essentially redundant. AEP-PSO recommends combining these bullets.
- Bullets #2 and #5 are essentially redundant. AEP-PSO recommends combining these bullets.

DEQ Response: The first 3 bullets in this section identify the personnel who are to attend staff training. The second 3 bullets identify topics to be included in the training. These are different topics which are not redundant and combining these bullets is not necessary. No changes were made as a result of this comment.

19. Section 4.5.15.C – Corrective Action Records

AEP-PSO does not believe excessive documentation of corrective actions required by this subsection is beneficial towards compliance with the permit. A large quantity of time will be used to complete this documentation unnecessarily. AEP-PSO requests this entire subsection be deleted from the permit.

DEQ Response: See Response number C.19. No changes were made to the proposed permit as a result of this comment.

20. Addendum H – Annual Comprehensive Site Compliance Evaluation Report

Review of Appendix G states that those specific facilities identified in that addendum must complete the annual Comprehensive Site evaluation in Addendum H. However, the instructions on page 73 of the permit indicate that all facilities are required to complete this evaluation annually. AEP-PSO requests the instruction on page 73 reflect that only those facilities in Addendum G are required to complete the evaluation.

DEQ Response: Addendum H of the proposed permit has been modified for clarification. The title of Addendum H is revised as follows:

*ADDENDUM H – ANNUAL COMPREHENSIVE SITE COMPLIANCE
EVALUATION REPORT FOR CONCRETE AND ASPHALT BATCH PLANTS*

21. Addendum I – Buffer Guidance

This new addendum requires the operator to either measure the distance from the edge of a stream to establish an effective vegetative buffer, or if this can not be established and the operator must employ a smaller buffer, the addendum requires the operator to determine the soil type and vegetation. A set of tables is then used to determine the

“...reduced effective buffer...” Finally the operator must then use a set of tables to determine the effective controls that will provide the equivalent sediment reduction lost due to the reduction of the buffer size. The addendum requires extensive documentation in the SWPPP to explain the results.

AEP-PSO believes this approach is not practicable to use. This approach requires training to identify grasses and other vegetation, and collection of soil samples to identify soil types, specifically for the construction area. The extensive identification of vegetation and soil types will be costly and require time to complete. Finally, extensive documentation of required results in the SWPPP is completely unnecessary. Therefore, AEP-PSO requests Addendum I be deleted.

DEQ Response: Use of natural buffers, or an equivalent control when buffers are not feasible, is required to comply with EPA’s ELG rules and is also required for projects located in ARC or ORW areas. The calculations and tables in Addendum I were developed for DEQ by OSU and are provided to simplify the process of determining equivalent controls when buffers are not feasible. Use of these tables is not required and another approach for developing equivalent controls can be used. Several options are listed on page 79 but use of the provided tables will be the simplest approach. No changes were made as a result of this comment.

E. Written Comments submitted by Gayle Ward, Executive Director, Oklahoma Association of County Commissioners and Randy Robinson, P.E., Executive Director Oklahoma Cooperative Circuit Engineering Districts Board, received July 31, 2012.

1. Identical letters were received from these commenters expressing concerns about the definition of steep slopes in Part 3.3.1F.

DEQ Response: See Response number A.1.

F. Email Comments submitted by Kelly Danner, Municipal Inquiry Specialist, Oklahoma Municipal League, received July 31, 2012.

1. The proposed “steep slope” language in regards to anything in excess of 15 degrees causes us great concern.

DEQ Response: See Response number A.1.

G. Written Comments Submitted by Melissa Vaught, P.E., Cardinal Engineering, Inc., received July 25, 2012.

1. On the NOI form:

- The fact sheet says the NOI form was revised to add an indication of whether your site is a part of the common plan of development or sale. This question was already on the current NOI form.

- Also, the NOI form no longer includes a blank for the start/completion date of the project. If this information is no longer needed, the instructions for the NOI form should be updated to eliminate this reference.

DEQ Response: The fact sheet has been revised. Also the instructions for the NOI have been updated to eliminate the reference.

2. Could Appendix H be revised to discuss that is it for concrete or asphalt batch plants, rather than for industrial facilities?

DEQ Response: See Response number D.20.

3. Could the map of OK ARCs for Federal and State Listed Species be revised to label the counties?

DEQ Response: County name labels were added to the map in the permit. See also Response number C.4.

4. For the frequency of inspections

It is my understanding that the EPA 2012 Construction General Permit was revised to require inspections every 7 calendar days or every 14 calendar days and within 24 hours of a storm event 0.25 inches or greater. Is the ODEQ permit able to have a less stringent inspection frequency at every 14 calendar days and within 24 hours of a storm event 0.5 inches or greater?

DEQ Response: EPA reviewed the proposed permit and did not object to the inspection frequency provisions. No changes were made as a result of this comment.

H. Written Comments Submitted by Bobby Stem, Executive Director, Association of Oklahoma General Contractors, received July 31, 2012.

1. It is our understanding that the Department of Environmental Quality (DEQ) is currently reviewing rules that would affect the Oklahoma construction industry. The recent changes to water runoff and definitions of slope would be detrimental to Oklahoma's road and bridge building plan. It is our understanding that your agency is proposing rules and regulations that far exceed those coming from Washington D.C. During the last legislative session, Oklahoma policy makers made great strides in funding Oklahoma's future infrastructure. Onerous rules and regulations, such as these, will only cost our state progress. I highly encourage you to withdraw these additional regulations from the new rule revisions.

DEQ Response: ODEQ is not proposing any rule and regulation changes at this time. Most of the changes that have been proposed in the permit are required by the EPA's ELG rules and the proposed new language is consistent with the EPA 2012 Construction General Permit. Also see Response number D.1. Concerning the definition of steep slopes, see Response number A.1.

PART II Staff Identified Changes

During review of the draft permit, a few grammatical and typographical errors were identified and corrected.

2. Page 10, Part 3.3.1.ii has been modified to correct a grammatical error as follows:

*ii. The nature of stormwater runoff and run-on at the site, including factors such as expected flow from impervious surfaces, slopes, and site drainage features. If any stormwater flow will be channelized at your site, you must design stormwater **controls to** control both peak flowrates and total stormwater volume to minimize erosion at outlets and to minimize downstream channel and streambank erosion; and*

3. Page 11, Part 3.3.1.B.1
“right-of-ways” was corrected to rights-of-way.

4. Page 12, Part 3.3.1.F.3
The ending colon was changed to a period.

5. Page 14, Part 3.3.2.A.2 has been modified to be consistent with other permit provisions as follows:

*If you discharge to an **impaired water**, or Outstanding Resource Water (ORW), or Aquatic Resource of Concern (ARC), you are required to complete the stabilization activities specified in Part 3.3.2.A.2.a and b. within 7 calendar days after the temporary or permanent cessation of earth-disturbing activities.*

6. Page 19, Part 3.5.1.D
“cassation” was corrected to cessation.

7. Page 77, Addendum I, Part I.1.D
“Sept 2” was corrected to Step 2.