

## **Texas Commission on Environmental Quality (TCEQ) Funded Watershed Protection Plans (WPPs)**

### **Arroyo Colorado**

- The WPP was developed in 2006
- Arroyo Colorado Watershed Partnership has grown to over 700 members
- The Partnership tracks activities from 16 projects (\$3.9 million federal and \$2.2 million local funds)
- The “Arroyo Colorado Watershed: Construction of Wetland” project provided financial assistance to the cities of San Juan, San Benito, and La Feria to improve water quality through wetlands- Completed
- The “Arroyo Colorado Agricultural Nonpoint Source Assessment” project characterizes agricultural runoff in the watershed, assesses edge-of-field effectiveness of Best Management Practice (BMP) implementation, investigates the attenuation of pollutants in agricultural drainage ditches, and calibrates the SWAT model to estimate total pollutant loading and simulate a suite of BMPs (funded by TSSWCB)
- The “Implementing the Arroyo Colorado WPP by Providing Technical and Financial Assistance to Reduce Agricultural NPS Pollution” project provides technical and financial assistance to agricultural producers for the development of WQMPs and implementation of BMPs on irrigated cropland (funded by TSSWCB)
- The “Implementing Educational Components of the Arroyo Colorado WPP Focused on Agricultural NPS Pollution” project will develop a focused education effort on financial assistance programs and BMPs that protect water quality and educate agricultural producers on how to better manage their acreage to reduce the potential for NPS pollution (funded by TSSWCB)
- The “Pesticide Education in the Coastal Zone of the Arroyo Colorado Watershed” project is funded to provide landowners with accurate, technically sound information that they can use to reduce Nonpoint Source (NPS) pollution through pesticide application training and soil testing Campaign
- Agricultural Initiative Program and the Integrated Farm Management Education Program are also working on an Integrated Pest Management Program and implementing education program
- The Public Service Announcements (PSAs) for the Arroyo Colorado Watershed is a project that supports the development and distribution of PSAs which will educate watershed residents about local water quality and NPS pollution issues
- “Enhancing Water Quality and Dredged Material for the Port of Harlingen (Phase I) will focus efforts in the heart of the impaired tidal segment

- Water quality issues associated with the Arroyo Colorado and Lower Laguna Madre are being addressed through the construction of an approximately 35 acre wetland to protect critical habitat and provide nutrient removal

### **Bastrop Bayou**

- The Galveston Bay Estuary Program (GBEP), and the Houston-Galveston Area Council (H-GAC) began the WPP in 2006
- In 2010, modeling of bacteria loading and tidal dynamics was completed
- Draft WPP currently under review

### **Brady Creek**

- In FY 2009, Upper Colorado River Authority (UCRA) completed the initial watershed characterization
- A new project to complete the WPP was initiated in Fiscal Year (FY) 2010
- The plan is scheduled to be submitted to TCEQ for review and approval in FY 2013

### **Caddo Lake**

- The WPP project encompasses the Caddo Lake and its contributing watershed (except the Lake O' the Pines)
- Modeling activities were performed to predict pollutant loadings but additional work will be required before the analysis can be used as a guide for BMP implementation and water quality restoration
- The plan is scheduled to be completed in FY 11

### **Cypress Creek**

- Through a series of 58 meetings, stakeholders worked to help identify concerns and set priorities
- Their efforts are documented within the *Cypress Creek Characterization Report*
- The WPP is scheduled to be completed in FY 2013

## **Dickinson Bayou**

- The WPP was completed in the spring of 2009 but is under revision to incorporate information from a draft Total Maximum Daily Load (TMDL) bacteria
- TCEQ and Texas AgriLife Extension Service facilitated the formation of a watershed Partnership through which a series of BMP are being developed
- Four fact sheets were developed on Dickinson Bayou -Pet Waste and Water Quality, Dickinson Bayou WPP at a glance, Stormwater Runoff Pollution, and Neighborhood Friendly Landscapes
- Pet waste education campaign was initiated
- AgriLife worked with elementary school students using a watershed model. Lesson plans were also developed
- AgriLife also began working with Clear Creek Independent School District on a stormwater retrofit project which retrofits an existing detention basin into a stormwater wetland
- Low Impact Development (LID) demonstration projects are also going on which will develop BMPs for the area and the planning and ordinance tools to be used by local officials to implement these practices within the watershed

## **Halls Bayou- Westfield Estates**

- The WPP was developed through a Stakeholders Advisory Group to reduce bacteria level, institute BMPs to maintain improved water quality, and raise awareness
- The draft plan is currently under Environmental Protection Agency ( EPA) review

## **Lake Granbury**

- Finalization of the plan occurred in FY 2010 with a highly defined plan of stakeholders
- The WPP has been reviewed by EPA, TCEQ and Brazos River Authority (BRA) are currently revising the plan to address EPA's comments

## **San Bernard River**

- The H-GAC is guiding the WPP process for the rural and developing watershed
- The project was initiated in September 2009
- The plan is scheduled to be completed in FY 2011

## **Upper Cibolo Creek**

- The City of Boerne started to develop a WPP in August 2009

- Work on the WPP will continue through FY 2011 with a primary focus on data collection and modeling
- The plan was scheduled to be completed in FY 2012

### **Upper San Antonio River**

- The WPP was completed in 2006
- One of the BMP identified in the WPP document was to reduce wildlife (mainly birds) in the river walk
- San Antonio River Authority (SARA) received a grant from TCEQ to reduce bacteria in the River Walk portion of the Upper San Antonio River by 50%
- The River Walk Watershed Alliance was formed to address the problem
- Through education and outreach to the community, new signs were posted with maps and the statement with “Don’t feed the ducks, pigeons and other wildlife”
- With the new signage and additional outreach, it is anticipated that (*Escherichia Coli*) *E.coli* levels will be further reduced
- Recent comparisons of *E.coli* data indicated that greater than 25% reduction has been attained

### **Texas State Soil and Water Conservation Board (TSSWCB) Funded WPPs**

- **Attoyac Bayou**
- **Buck Creek**
- **Cedar Bayou**
- **Concho River**
- **Geronimo Creek**
- **Granger Lake**
- **Lampasas River**
- **Leon River**
- **Pecos River**
- **Plum Creek**

For further information, please visit TSSWCB website at-  
<http://www.tsswcb.state.tx.us/wpp>

# Water Quality Advisory Workgroup

## Storm Water Topics

January 25, 2011

### Implementation of EPA's Construction Effluent Guidelines

#### *40 CFR Part 450*

-**On December 1, 2009**- EPA finalized new effluent limitations guidelines ("ELGs") in 40 CFR Part 450 that set specific requirements for regulated construction sites.

#### BMPs-

All regulated construction activity (disturbing at least one acre or part of a larger plan of development or sale) to meet a series of non-numeric effluent limitations. These BMP requirements comprise the Best Practicable Technology (BPT) and Best Conventional Technology (BCT).

#### Effluent limits-

Numeric effluent limit for turbidity of 280 NTU (daily average) for sites disturbing more than 10 acres, and provides for a phased implementation.

**In March 2012**, large sites > 20 acres must meet the limit; and by **February 2, 2014**, the limit will apply to sites disturbing over 10 acres. The limit would apply to portions of these sites that are being disturbed, even if the entire area is not disturbed at one time. This effluent limit addresses the Best Available Technology (BAT) requirements.

Court challenges- Soon after the new rules were finalized, the turbidity limit was challenged in court.

**September 20, 2010**, the U.S. Court of Appeals, at the request of EPA, **remanded the administrative record and is holding the case in abeyance**. The remand is to allow EPA time to reconsider the rule and to fully respond to comments received during its rulemaking that related to the turbidity limit of **280 NTU**. The court did not vacate the actual limit of 280 NTU, but allowed EPA to revise the limit through rulemaking.

**January 4, 2011**- EPA issued a direct final rule staying the effluent limit ( *See: <http://edocket.access.gpo.gov/2010/2010-28033.htm>* ) EPA has stated it will propose a revised numeric limit in a future rulemaking.

TCEQ adoption- The Commission adopted the EPA rule on **November 3, 2010** by reference, so when EPA adopts a new limit, it may be automatically adopted by TCEQ; however, the TCEQ may also elect to pursue separate rulemaking to address the change.

### ***Effect on Permits***

The TPDES Construction General Permit (CGP), TXR150000, will be reissued in March 2013 and will include the revised limits (if EPA has issued revised limits by that time).

For any individual permits that include construction storm water outfalls, TCEQ will evaluate the need to include the turbidity limit in the permit. The BMPs required under the BPT/BCT standards will be included in all permits.

# Water Quality Advisory Workgroup

## Storm Water Topics

January 25, 2011

### Status of MSGP Renewal

#### *Summary and Background*

- MSGP is a statewide general permit that authorizes the discharge of storm water associated with industrial activity.
- Applicability- regulates storm water runoff from industrial activities based on Industrial Activity codes and primary Standard Industrial Classification (SIC) codes 40 CFR §122.26).
- TCEQ adopted these regulations by reference at 30 TAC §281.25.
- The current permit was issued on August 14, 2006 and will expire on August 14, 2011. Adoption Agenda is tentatively scheduled for July 27, 2011.
- Fees and Renewal- We will send renewal notification letters to inform permittees that the \$200 annual fee will be assessed if the permit is not terminated prior to 9/1/2011. The permit effective date will be August 14, 2011, but that we will try to issue it in July so that the letters can go out and give permittees time to submit NOTs to avoid the annual fee. Since it will be effective August 14, the renewal NOIs will be accepted from August 14, 2011 for up to 90 days.
- Stakeholder process/public involvement
  - a. No formal stakeholder process is being conducted outside of meetings and updates such as this one, since this is the second renewal of the TPDES MSGP and the proposed changes are not significant.
  - b. A public meeting will be held in Austin at the close of the comment period, which is estimated to last through **February/March 2011**.

#### *Proposed Schedule – Key Dates*

1. EPA Review – Completed, Possible Additional Coordination Following Comment Period
2. Management Briefings - December 2010 through January 2011
3. Public Notice and Public Meeting - February through March 2011
4. Prepare Response to Comments - March through April 2011
5. Internal Briefings - May 2011

6. Commission Agenda - July 27, 2011 (tentative)

***Proposed Changes***

1. EPA approved the draft permit on **December 13, 2010**
2. Provided one formal comment but did not object to the draft permit
  - a. Develop a web-based NOI system such that the public would be able to access NOIs as soon as they are submitted to improve transparency in the permitting process.
  - b. We have immediate availability for NOIs that are processed by the STEERS system, but do not currently have the capability of "posting" paper forms online prior to final processing.
  - c. We do not expect significant changes to be made based on this comment.
3. The following informal EPA comments and possible objections were resolved during the EPA review period:
  - a. Discharges to water quality impaired water bodies- EPA stated that the draft permit needed to better address discharges to water quality impaired receiving waters. TCEQ staff responded to the EPA's concern by adding language requiring an applicant to determine if the discharge is to an impaired receiving water and to determine if the water body has an approved TMDL.
    - i. Discharges to water bodies with an approved TMDL- EPA requested that the permit include the same language as the TPDES Construction General Permit that states new permits covering discharges addressed by a TMDL must require consistency with the TMDL (40 CFR 122.44(d)(1)(vii)(B)). Based on this comment, staff made the requested change to the draft permit.
    - ii. Monitoring- EPA also stated that the permit must include a mechanism to allow the permittee to know how to comply with the permit when discharge is to an impaired water body, or must allow TCEQ/EPA to determine if the discharge meets appropriate standards. EPA specifically stated that monitoring for pollutant(s) of concern is required. TCEQ added
    - iii. In response, new discharges to impaired waters would be allowed under the MSGP if one of the following are met
      1. there is no exposure of the pollutant of concern (POC);
      2. the POC is not (or will not be) present at the site;
      3. sampling of the discharge shows that the POC is not present in the discharge at a level of concern (for example, the draft permit would

make it clear that if the presence of a pollutant is specifically due to background concentrations from situations such as the presences of wildlife, then it is not present at a level of concern); or

4. the permittee conducts ongoing sampling to monitor the level of the POC in the discharge (once per year, and may discontinue if not present or below level of concern). If present, must implement a pollutant mitigation plan.
- iv. Existing discharges for which there is not yet a final TMDL may be authorized if either of items (1), (2), or (3) above applies. Alternatively, the SWP3 would need to include a section that addresses the POC to insure that specific controls that will be used to minimize the discharge of the POC (e.g., through a pollutant reduction plan developed by the permittee).
- b. Logging Roads- EPA commented that a recent Court decision has made logging roads subject to NPDES permitting, and that the agency is considering opening the NPDES MSGP to this activity (40 CFR §122.27). TCEQ responded that at this time we would not include logging roads in the MSGP because of the questions that still remained as to when the discharge from these roads is considered a point source.
  - c. Non compliance reporting- EPA pointed out that federal rules require permittees to report, as least annually, all instances of noncompliance with a permit. TCEQ revised the existing language to expand on the current statement that reports of noncompliance with effluent limits must be reported. The general noncompliance reports could mean submittal of the annual comprehensive site compliance evaluation, a letter, or even a form that TCEQ develops.
  - d. Construction for Mining Sectors- The initial draft permit that was submitted to the EPA included an option for mining sectors to include construction authorizations in the MSGP; however, EPA pointed out that ongoing developments related to the numeric effluent limitation for turbidity were occurring in the Courts that may not be fully resolved before the permit is issued. In response, TCEQ removed the construction elements to the mining sectors and may look into this during the next permit renewal.
4. Automatic designation- The draft permit would designate the following additional facilities as covered under the general permit without submitting an NOI, nor having to implement a SWP3, as long as there is no exposure of industrial activity (this is in addition to general warehousing and storage facilities that are currently designated under a similar provision):
    - a. Operators of regulated facilities that occur within a residential home, shopping mall, or office building, and that have no exposure of any regulated activity to storm water.

- b. Operators of publishing and designing companies that do not perform printing activities and that do not have exposure of any regulated activity to storm water.

These facilities will be notified of their coverage under the general permit as part of the public notice for the draft permit, per the requirements of 40 CFR §122.28(b)(2)(vi), related to General Permits.

5. Materials Handling and Storage- Storm water runoff from material handling and storage areas from transportation facilities (land transportation and warehousing in **Sector P**, water transportation in **Sector Q**, and air transportation in **Sector S**) is now included in the MSGP. This will help facilities obtain coverage through the MSGP instead of individual permits, as previously handled because the MSGP did not include these areas. This change does not revise the definition of storm water associated with industrial activity, and does not require permitting for new areas.
6. Active landfill cells- Added contaminated storm water discharges from active landfill cells described by industrial activity codes HZ (hazardous waste treatment, storage, and disposal) and LF (landfills and land application sites) that are subject to effluent limitation guidelines (ELGs) under 40 CFR Part 445, Subparts A and B. This is consistent with the EPA's 2008 MSGP.
7. Paper Forms (NOIs and NECs): The draft permit extends the period of time required to await provisional coverage after submitting a paper NOI or NEC form from two (2) to seven (7) days, in order to ensure that TCEQ receives the NOI. This is the same change that was made in the reissuance of the Construction General Permit (CGP) in March 2008.
8. Benchmark Changes
  - a. Values changed-Several changes to benchmark levels based on data that was submitted during calendar years 2007 and 2008,
  - b. Added benchmark sampling requirements to Sector AD (Miscellaneous Industrial Activities) for pollutants commonly regulated in individual storm water permits: **pH, chemical oxygen demand, total suspended solids, and oil and grease**. Also added a **waiver option** for Years 3 and 4 if sampling results during Years 1 and 2 are below the benchmark levels and required data from Years 3 and 4 to be retained on site.
  - c. Data Review- In developing the benchmark levels for the renewal permit, TCEQ staff reviewed benchmark sampling results on an industry-by-industry basis to determine if different benchmark levels could be established for different SIC codes based on the levels reported by each industry. While it was initially thought that this may be feasible, detailed review of the data showed that there were very few cases that would actually warrant a different benchmark level. As such, **all benchmark pollutants except for total suspended solids (TSS) were revised across the board**. For TSS, two levels were developed: 50 mg/l for all industrial sectors that reported a median concentration consistently below 50

mg/l, and 100 mg/l (i.e., no change) for all other SIC codes.

9. Clarifications in sector specific applicability language- The draft permit includes revised conditions within several specific industries in Part V of the draft MSGP to provide additional clarity and to be consistent with provisions in the 2008 EPA MSGP.
10. Clarifications of coverage for discharges subject to categorical effluent guidelines- Clarified that any discharge subject to EPA categorical guidelines would need to obtain permit coverage, and could be covered under the MSGP, **even if the primary industrial activity is not regulated.**

***Proposed Application Fees (current fee is \$100 for all applications)***

*NOI or NEC:* \$100 if electronic; \$200 for paper

*Annual Fee (no change proposed):* NOI submitted: \$200; NEC submitted: no annual fee