

Bryan W. Shaw, Ph.D., P.E., *Chairman*  
Toby Baker, *Commissioner*  
Jon Niermann, *Commissioner*  
Richard A. Hyde, P.E., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

March 21, 2016

Water Docket  
U.S. Environmental Protection Agency  
Mail Code: 4203M  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

Re: Docket ID No. EPA-HQ-OW-2015-0671

The Texas Commission on Environmental Quality (TCEQ) is providing comments on the U.S. Environmental Protection Agency (EPA) proposed rulemaking for the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) General Permit Remand (40 CFR Part 122). The TCEQ welcomes the opportunity to comment.

The TCEQ appreciates EPA's recognition that states are implementing their Small MS4 programs differently and that it will cause less disruption to state programs if states have the flexibility to choose which approach they want to use. The proposed rulemaking includes proposed rule language only for Option 1 (Traditional General Permit Approach) and describes in the preamble the concepts, *without* proposed rule language, for Option 2 (Procedural Approach) and Option 3 (State Choice Approach). The TCEQ recommends Option 3 and that EPA maintain as much flexibility as possible with the final approaches selected as well as within each of the approaches included in the final rule.

The proposed rulemaking is of interest to TCEQ because the agency regulates almost 600 entities under its Small MS4 General Permit TXR040000. The TCEQ has developed a permitting program that is similar to the Procedural Approach (Option 2) described in the proposed rulemaking, which fits the Texas small MS4 regulated community well. The TCEQ prefers to continue implementing its small MS4 program in this manner, due to the flexibility it provides to the regulated entities, by allowing them to develop effective stormwater management programs that meet the general permit requirements, while taking into consideration their unique communities, environmental concerns, and resources. Comments on the proposed rulemaking are included in Attachment 1.

If you have questions concerning the comments, please contact Mr. David W. Galindo at (512) 239-0951 or by e-mail at [David.Galindo@tceq.texas.gov](mailto:David.Galindo@tceq.texas.gov).

Sincerely,

A handwritten signature in black ink that reads "Richard A. Hyde".

Richard A. Hyde, P.E.  
Executive Director