

FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

For proposed Texas Pollutant Discharge Elimination System (TPDES) Multi Sector General Permit (MSGP) No. TXR050000 to discharge to surface water in the state.

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Permit Action: Reissuance of a General Storm Water Permit for Industrial Activities

I. Summary

The Texas Commission on Environmental Quality (TCEQ) is proposing a renewal of TPDES Multi Sector General Permit (MSGP), Permit No. TXR050000, issued August 20, 2001, which authorizes the discharge of storm water associated with industrial activity. The general permit specifies which facilities must obtain permit coverage, which are eligible for exclusion from permit requirements, and which may be required to obtain individual permit coverage.

The principal changes to the existing MSGP include:

- A. Removal of the requirement for a facility owner to sign the application for permit coverage;
- B. Revisions to the annual discharge monitoring report (DMR) requirements to report results of compliance with numeric effluent limits;
- C. Revisions to benchmark reporting requirements;
- D. Addition of requirement to maintain a rain gauge for determination of representative storm events;
- E. Revision of Sector J, related to Mineral Mining and Processing Facilities, to require alternative permit coverage for certain quarries that are addressed in the Texas Water Code, at § 26.553; and
- F. Revisions to provide additional technical and administrative clarifications.

II. Executive Director's Recommendation

The Executive Director has made a preliminary decision that this general permit, if reissued, meets all statutory and regulatory requirements. It is proposed that the general permit be reissued to expire five years from date of issuance in accordance with the requirements of 30 TAC § 205.5(a).

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III. Permit Applicability and Coverage

- A. This general permit would authorize the discharge of storm water associated with industrial activities into or adjacent to surface water in the state from the regulated facilities. The draft general permit specifies which facilities may be authorized under this general permit and those which must be authorized by individual permit.

Permit applicability is based on a facility's primary SIC code or Industrial Activity Code, and is consistent with the federal definition of "storm water associated with industrial activity" in 40 CFR § 122.26(b)(14). Industrial facilities that are required to obtain authorization to discharge storm water runoff are grouped into 30 sectors, Sectors A through AD, and each sector consists of a group of similar industrial activities. For this reason, the permit is referred to as the "multi-sector general permit," or MSGP. Most sectors of activity are further divided into more specific subsectors of industrial activities through the use of standard industrial classification (SIC) codes. Sector AD is reserved and will be used to provide permit coverage for facilities that are designated by the Executive Director as needing a permit to control pollution related to storm water discharges and that are not described by Sectors A-AC.

Military installations and other federal facilities are also regulated under the MSGP. These facilities are regulated if they discharge storm water that is described by any of the SIC codes listed in the MSGP.

- B. No Exposure: Facilities regulated under the MSGP may be excluded from permit requirements if they certify and can demonstrate that there is no exposure of industrial materials or activities to rainfall or runoff. The MSGP requires that in order to qualify for this conditional exclusion from permitting requirements, the facility operator must certify that all industrial activities and materials are isolated from storm water and storm water runoff by storm resistant shelters; with the following exceptions:
- (1) drums, barrels, and similar containers that are tightly sealed, in good structural condition, without operational valves, and storage tanks in good structural condition without leaking valves;
 - (2) vehicles used in material handling that are adequately maintained to prevent leaking fluids
 - (3) pallets used to store or transport final products intended for outdoor use, if the pallets are new or do not contain pollutants; and
 - (4) final products, produced by the operator, that are designed for outdoor use, except products that could be transported by storm water runoff.
 - (a) Examples of final products that would meet the definition of no exposure include products that are in their final state of completion, such as an assembled swing set, an assembled vehicle, or a wooden bench.
 - (b) Examples of products that are considered "intermediate" rather than "final" products, may include: metal poles (such as those that may be put together to form a swing set), roofing material (except as part of a completed structure such as a storage building), planks that are used to assemble a bench or other structure, or window glass that will be installed on a vehicle or on a building.
 - (c) Examples of final products that could contain pollutants which would be transported by

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storm water runoff include, but are not limited to: rock salt, wood chips, plastic pellets, and bricks.

The EPA developed a guidance document for determining when a facility may claim a conditional exclusion based on "no exposure," and the TCEQ may provide additional guidance on the subject.

A facility which is able to meet the condition of no exposure is not prohibited from obtaining permit coverage.

C. The draft general permit includes a list of non-storm water sources that may be discharged under this general permit:

- (1) discharges from fire fighting activities and uncontaminated fire hydrant flushings (excluding discharges of hyperchlorinated water, unless the water is first dechlorinated and discharges are not expected to adversely affect aquatic life);
- (2) potable water sources (excluding discharges of hyperchlorinated water, unless the water is first dechlorinated and discharges are not expected to adversely affect aquatic life);
- (3) lawn watering and similar irrigation drainage;
- (4) water from the routine external washing of buildings, conducted without the use of detergents or other chemicals;
- (5) water from the routine washing of pavement conducted without the use of detergents or other chemicals and where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed);
- (6) air conditioner condensate, compressor condensate, and steam condensate that has not contacted a material, intermediate, or final product associated with industrial activity;
- (7) water from foundation or footing drains where flows are not contaminated with pollutants (e.g., process materials, solvents, and other pollutants);
- (8) springs and other uncontaminated ground water; and
- (9) other discharges described in Part V of the general permit that are subject to effluent guidelines and effluent limitations (for example, wet decking water is listed under Sector A - Timber Products Facilities).

The purpose of this list is to clarify that certain non-storm water discharges that may occur during normal operations of an industrial facility or a commercial facility, and these discharges do not require additional permit coverage. Inclusion of this list in the draft general permit is not meant to prohibit the above discharges that would otherwise be allowed without a TPDES permit.

D. The following storm water discharges are not eligible for general permit coverage:

- (1) Discharges prohibited by 30 TAC Chapter 311 (relating to Watershed Protection) and 30 TAC

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Chapter 213 (relating to the Edwards Aquifer).

- (2) Discharges of the constituent(s) of concern to impaired water bodies for which there is a TMDL implementation plan are not eligible for this permit unless they are consistent with the approved TMDL and the implementation plan. The Executive Director may amend this general permit or develop a separate general permit for discharges to these water bodies. For discharges not eligible for coverage under this permit, the discharger must apply for and receive an individual or other applicable general permit prior to discharging.
 - (3) Discharges into or adjacent to water in the state from facilities that are regulated by the Railroad Commission of Texas, including crude oil facilities.
 - (4) Discharges determined by the Executive Director that do not maintain existing uses of receiving waters.
 - (5) Discharges that would adversely affect a listed endangered or threatened species or its critical habitat as determined by the Executive Director. Federal requirements related to endangered species apply to all TPDES permitted activities, and site-specific controls may be required to ensure that protection of endangered species is achieved requiring authorization via individual permit.
 - (6) Contact storm water that is specifically prohibited in Part V of the MSGP, under sector-specific requirements.
- C. Facilities that dispose of storm water by any of the following practices would not be required to obtain coverage under this general permit nor under an individual permit:
- (1) Recycling of the storm water with no resulting discharge into or adjacent to surface water in the state;
 - (2) Pumping and hauling of the storm water to an authorized disposal facility;
 - (3) Discharge of the storm water to a publicly-owned treatment works (POTW);
 - (4) Underground injection of the storm water in accordance with 30 TAC Chapter 331;
 - (5) Discharge to above ground storage tanks with no resulting discharge into or adjacent to water in the state;
 - (6) Containment of all storm water within property boundaries, with no discharge into surface water in the state during any rain event.

The operator of the industrial activity may be required to demonstrate, using engineering calculations or other appropriate methods, that no discharge would occur from the industrial site as a result of any storm event(s).

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IV. Permit Conditions and Effluent Limitations

A. Federal Categorical Numeric Effluent Limitations: The renewed permit would require all permittees with discharges subject to numeric effluent limitations based on categorical guidelines (40 Code of Federal Regulations, or 40 CFR, Subchapter N) to submit DMRs on an annual basis. This requirement is based on 40 CFR § 122.44 (i)(3), as adopted by reference by TCEQ in 30 TAC § 281.25. The requirement would apply only to those facilities described in the permit under the following sectors of industrial activity that are subject to categorical effluent limitations:

1. Sector A, Timber Products Facilities: 40 CFR Part 429, Subpart I (40 CFR § 429.103), "Timber Products Processing Point Source Category, Wet Storage Subcategory."

Effluent Limitations for Discharges of Wet Decking Water

<u>Parameter</u>	<u>Limitation</u>	<u>Frequency</u>
Debris	Less than 1 inch diameter	1/Year
pH	6 - 9 standard (std.) units	1/Year

2. Sector C, Chemical and Allied Products Manufacturing Facilities: 40 CFR Part 418, Subpart A (40 CFR § 418.13), "Fertilizer Manufacturing Point Source Category, Phosphate Subcategory"

Effluent Limitations for Discharges of Storm Water Runoff from Facilities that Manufacture Phosphatic Fertilizers:

<u>Parameter</u>	<u>Limitations (mg/L)</u>		<u>Monitoring</u>
	<u>Daily Avg</u>	<u>Daily Max</u>	<u>Frequency</u>
Total Phosphorus (as P)	35	105	1/Year
Fluoride	25	75	1/Year

3. Sector D, Asphalt Paving and Roofing Materials and Lubricant Manufacturing Facilities: 40 CFR Part 443, Subpart A (40 CFR § 443.13), "Paving and Roofing Materials (Tars and Asphalt) Point Source Category, Asphalt Emulsion Subcategory"

Storm Water Runoff from Facilities that Manufacture Tars and Asphalt:

<u>Parameter</u>	<u>Limitations (mg/L)</u>		<u>Monitoring</u>
	<u>Daily Avg</u>	<u>Daily Max</u>	<u>Frequency</u>
Total Suspended Solids	15	23	1/Year
Oil and Grease	10	15	1/Year
pH	6 - 9 std. units		

4. Sector E, Glass, Clay, Cement Concrete, and Gypsum Product Manufacturing Facilities: 40 CFR Part 411, Subpart C (40 CFR § 411.32), "Cement Manufacturing Point Source Category, Materials Storage Piles Runoff Subcategory"

Discharges of Storm Water Runoff from Material Storage Piles from Facilities that Manufacture Cement:

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<u>Parameter</u>	<u>Limitations (mg/L)</u>		<u>Monitoring</u>
	<u>Daily Max</u>		<u>Frequency</u>
Total Suspended Solids	50		1/Year
pH	6 - 9 std. units		1/Year

5. Sector J, Mineral Mining and Processing Facilities: 40 CFR Part 436, Subparts B, C, and D (40 CFR §§ 436.22, 436.32, and 436.42), “Mineral Mining and Processing Point Source Category: Crushed Stone Subcategory, Construction Sand and Gravel Subcategory, and Industrial Sand Subcategory”

Discharges of Storm Water and Ground Water Seepage from Mine Dewatering Activities at Construction Sand and Gravel, Industrial Sand, and/or Crushed Stone Mining Facilities:

<u>Parameter</u>	<u>Limitations (mg/L)</u>		<u>Monitoring</u>
	<u>Daily Avg</u>	<u>Daily Max</u>	<u>Frequency</u>
Total Suspended Solids	25	45	1/Year
pH	6 - 9 std. units		1/Year

6. Sector K, Hazardous Waste Treatment, Storage, or Disposal Facilities: 40 CFR Part 445, Subpart A (40 CFR § 445.11), “Landfills Point Source Category, RCRA Subtitle C Hazardous Waste Landfill Subcategory”

Discharges of Contaminated Storm Water from a RCRA Subtitle C Hazardous Waste Landfill:

This general permit does not regulate contaminated runoff from these landfills. Uncontaminated storm water runoff may be discharged under the MSGP, but it is not subject to numeric effluent limits under this subcategory.

7. Sector L, Landfills and Land Application Sites: 40 CFR Part 445, Subpart B (40 CFR § 445.21), “Landfills Point Source Category, RCRA Subtitle D Non-Hazardous Waste Landfill Subcategory”

Discharges of Contaminated Storm Water from a RCRA Subtitle D Non-Hazardous Waste Landfill:

This general permit does not regulate contaminated runoff from these landfills. Uncontaminated storm water runoff may be discharged under the MSGP, but it is not subject to numeric effluent limits under this subcategory.

8. Sector O, Steam Electric Generating Facilities: 40 CFR Part 423, Subpart (40 CFR §§ 423.12(b)(1) and (9)), “Steam Electric Power Generating Point Source Category”

Discharges of Storm Water Runoff from Coal Pile Storage Areas:

<u>Parameter</u>	<u>Limitations (mg/L)</u>		<u>Monitoring</u>
	<u>Daily Max</u>		<u>Frequency</u>
Total Suspended Solids	50		1/Year
pH	6 to 9 S.U.		1/Year

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B. Other Numeric Effluent Limitations:

- Hazardous Metals: The renewed permit would require facilities that discharge in excess of the following numeric effluent limitations for hazardous metals to submit DMRs on an annual basis. This requirement is according to 40 CFR § 122.44 (i)(5), as adopted by reference by TCEQ, and would apply to facilities described in the permit under any of the sectors of industrial activity. The levels are continued from the existing permit, and are consistent with TCEQ rules at 30 TAC Chapter 319, Subchapter B (related to Hazardous Metals):

Hazardous Metal (Total)	Daily Average (mg/L)	Daily Composite (mg/L)	Daily Max (mg/L)	Daily Monitoring Frequency
Arsenic	0.1	0.2	0.3	1/Year
Barium	1.0	2.0	4.0	1/Year
Cadmium (discharge to inland)	0.05	0.1	0.2	1/Year
Cadmium (discharge to tidal)	0.1	0.2	0.3	1/Year
Chromium	0.5	1.0	5.0	1/Year
Copper	0.5	1.0	2.0	1/Year
Lead	0.5	1.0	1.5	1/Year
Manganese	1.0	2.0	3.0	1/Year
Mercury	0.005	0.005	0.01	1/Year
Nickel	1.0	2.0	3.0	1/Year
Selenium (discharge to inland)	0.05	0.1	0.2	1/Year
Selenium (discharge to tidal)	0.1	0.2	0.3	1/Year
Silver	0.05	0.1	0.2	1/Year
Zinc	1.0	2.0	6.0	1/Year

- Discharges of Storm Water Runoff from Coal Pile Storage Areas, except for facilities subject to categorical effluent limitations at 40 CFR Part 423 as discussed above in Part III.A. of this fact sheet:

<u>Parameter</u>	<u>Limitations (mg/L)</u> <u>Daily Max</u>	<u>Monitoring</u> <u>Frequency</u>
Total Suspended Solids	50	1/Year
pH	6 to 9 std. units	1/Year

C. Storm Water Pollution Prevention Plan (SWP3, or plan):

The draft general permit continues the existing requirement to develop and implement a SWP3 to control discharges of storm water associated with industrial activities, in accordance with NPDES storm water regulations at 40 CFR Part 122.26 (b)(14)(viii), and as adopted by reference in 30 TAC Chapter 281 (relating to Applications Processing). The draft permit includes specific provisions which must be incorporated into facility SWP3s. These include, at a minimum, the following elements:

- Establish a Storm Water Pollution Prevention Team
- Inspect facility for non-storm water flows

Examples of non-storm water flows may include, but are not limited to, the following sources: process wastewater, vehicle or equipment cleaning water, contact or noncontact cooling water,

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boiler blowdown, cooling tower blowdown, compost leachate, hydrostatic testing water, groundwater.

3. Describe potential pollutant sources:
 - (a) List an inventory of exposed materials.
 - (b) Develop a narrative description of activities and sources that may contribute to storm water pollution.
 - (c) Develop a site map.
 - (d) List historical spills and leaks (including reportable quantity spills required by 30 TAC Chapter 327), and keep log of any additional spills and leaks.
 - (e) Summarize all sampling data.

4. Describe pollution prevention measures and controls, including:
 - (a) Good housekeeping,
 - (b) Spill Prevention/Response,
 - (c) Erosion Control,
 - (d) Maintenance program for structural controls,
 - (e) Best management practices (BMPs) used to reduce pollutants in runoff,
 - (f) Employee training and education programs,
 - (g) Monitoring activities, and
 - (h) Records of above.

D. Additional Monitoring and Reporting: The draft general permit continues the following monitoring requirements from the existing general permit, with revisions as noted:

1. Benchmark Monitoring: The draft permit continues the requirement for certain industrial sectors to collect discharge samples for comparison to benchmark levels. The draft permit contains changes to the sampling and reporting frequency, revises the levels of some certain benchmark parameters, and adds benchmark parameters for a few industrial sectors. These changes are listed below, and are further described in Part X.C. and in Appendix A of this fact sheet:
 - (a) The draft permit requires sampling once per six months for the term of the permit. Results will be reported each year of the permit term.
 - (b) The draft permit includes revised benchmark levels for the following pollutants, which were established based on data evaluated during the 2003 collection year:

<u>Benchmark Parameter</u>	<u>Level in 2001 MSGP (mg/l)</u>	<u>Proposed Level (mg/l)</u>
Chemical Oxygen Demand (COD)	120	52
Phosphorous	2.0	1.25
Aluminum, total	0.75	1.2
Ammonia-Nitrogen	19	0.19
Copper, total	0.0636	0.027
Iron, total	1.0	1.3
Lead, total	0.0816	0.013
Mercury, total	0.0024	0.0019

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Selenium, total	0.2385	0.05
Zinc, total	0.117	0.16

(c) Sector-Specific Changes:

Sector C (Chemical and Allied Products): Added TSS to SIC 2812-2819 (Basic Industrial Inorganic Chemicals)

Sector E (Glass, Clay, Cement, Concrete, and Gypsum Products): Added pH (all SIC codes) and TSS (SIC 3251-3259 and 3262-3269)

Sector F (Primary Metals): Added TSS to SIC 3312-3317

Sector G (Metal Mining - Ore Mining and Dressing): Removed the section entitled "Additional Requirements to Benchmark Monitoring," which includes biannual sampling requirements for runoff from waste rock and overburden piles from active mining and dressing operations for specific metal ores.

Sector J (Mineral Mining and Dressing Facilities): Added pH to SIC 1411, 1422-29, and 1481

Sector O (Steam Electric Generating Facilities): Added TSS

Sector Q (Water Transportation): Added TSS

Sector T (Treatment Works): Added biochemical oxygen demand (BOD), 5-day

Sector AA (Fabricated Metal Products Facilities): Added TSS (except for SIC 3479)

The above changes to benchmark sampling are further described and explained in Part X.C. of this fact sheet.

2. Quarterly visual monitoring of discharges: The draft permit continues the existing requirement to conduct visual sampling of the discharge during daylight hours a minimum of once per quarter.
3. Quarterly inspections of structural controls: The draft permit continues the existing requirement to inspect the structural controls used to control the discharge of pollutants in storm water.
4. Annual Comprehensive Site Compliance Investigation and Report: The draft permit continues the existing requirement to perform a comprehensive site compliance evaluation and to prepare a report detailing the findings.

V. Changes From Existing General Permit:

- A. Removed the requirement for the facility owner to obtain permit coverage. This is consistent with federal rules at 40 CFR § 122.21(b), which were adopted by the TCEQ at 30 TAC § 281.25, and which require the operator to obtain coverage if the owner and operator are different.

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- B. Revised the reporting requirements for discharges subject to federal categorical effluent limits under 40 CFR Parts 400-474. Results of analyses of these discharges must be reported to the TCEQ on an annual basis.
- C. Revised the benchmark monitoring and reporting as described in Part X.C. of this fact sheet.
- D. Removed the “Additional Benchmark Requirements” from Sector G of the existing permit, which applied to waste rock and overburden piles from certain metal mining facilities. These requirements were required at a frequency of once every two years, and were listed as “report” only. The TCEQ believes that the initial benchmark sampling required for waste rock and overburden piles from all active ore mining or dressing operations are sufficient, because continued sampling is required twice per year for the term of the permit for any listed pollutant that exceeds the listed benchmark value during the first sampling event. This list is more comprehensive, and it is appropriate to direct ongoing sampling based on the results of the initial event.
- E. Revised Part V of the general permit regarding which facilities are subject to permit requirements:
- Added a provision in Sector J addressing the discharge of storm water runoff from certain quarries that are described in the Texas Water Code, Section 26.553 (located in the John Graves Scenic Riverway, in the Brazos River Basin), where TCEQ rules require coverage under an individual permit or alternative general permit. If TCEQ rules are promulgated after issuance of this general permit, these quarries may obtain coverage under the MSGP until a rule is promulgated or an alternative general permit is issued to address the discharges. Coverage under the general permit would expire 90 days following issuance of the rule, or following the time frame specified in the rule or an alternative general permit.
 - Added SIC codes 4221-4225 (Public Warehousing and Storage) to Sector P: Land Transportation And Warehousing in Part V.P.1 of the permit, because this industry group is listed separately in the federal regulations at 40 CFR § 122.26(b) that define storm water discharges associated with industrial activity. The draft permit clarifies that facilities described by SIC codes 4221-4225 must obtain coverage for the entire site, rather than only those facilities with areas for vehicle and equipment maintenance activities, vehicle and equipment rehabilitation, mechanical repairs, painting, fueling and lubrication, and cleaning activities. Further, the general permit states that general warehousing and storage facilities (SIC Code 4225) without those areas are covered under the general permit without submitting an NOI, provided that certain conditions are met. These facilities will be notified of their coverage under the general permit as part of the public notice for the draft permit, which is appropriate based on EPA rules at 40 CFR § 122.28(b)(2)(vi), related to General Permits.

The draft general permit states that these facilities must comply with the following permit requirements only, and are not subject to additional requirements that are listed in the general permit:

- (a) The facility must maintain a condition which ensures that there is no exposure of industrial activities to storm water;
- (b) The facility operator must comply with the applicable requirements of Part III.E. of this permit, related to Standard Permit Conditions (except that references to the submittal of an NOI are not applicable); and

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- (c) The site must not contain any areas that are used for vehicle and equipment maintenance activities, vehicle and equipment rehabilitation, mechanical repairs, painting, fueling and lubrication, and cleaning.

The facility operator must apply for coverage if any of the requirements listed above in Part V.P.1.(a) through (c) are not met. If the TCEQ determines that additional controls are required other than those listed above, or that there is a concern regarding the discharge of elevated levels of pollutants, then the TCEQ may require a facility operator to meet all permit conditions and obtain coverage through submittal of an NOI or an individual permit application. This change is appropriate for general warehousing and storage facilities described by SIC code 4225, because the facilities typically operate in such a way that industrial materials are not exposed to storm water, and storm water discharges are not expected to contain pollutants of concern. These facilities are also unique, because similar facilities in Sector P, those which may be expected to have more exposure of industrial activities to storm water, are not required to obtain coverage unless vehicle and equipment maintenance, fueling, etc. occurs. Facilities included under SIC code 4225 are expected to contribute even less pollutant loading than other facilities described under Sector P; and it is appropriate for the TCEQ to authorize these facilities only, without requiring submittal of an NOI as prescribed in 40 CFR § 122.28(b)(2)(vi). However, the TCEQ also recognizes that activities may occur at the site that do cause a water quality concern, and an individual permit can be required by the TCEQ at any time.

- Added SIC code 3297 - Non-Clay Refractories to Sector E: Glass, Clay, Cement, Concrete, and Gypsum Products in Part V.E.1 of the permit which is consistent with federal regulations 40 CFR § 122.26(b) that define storm water discharges associated with industrial activity.
 - Added Treatment and Disposal to Hazardous Waste description for Sector K: Hazardous Waste Storage Facilities. This is consistent with the EPA's definition of storm water associated with industrial activity.
 - Revised Sector E: Glass, Clay, Cement, Concrete, and Gypsum - to include SIC codes 3271-3275 (Concrete, Gypsum and Plaster Products) in Part V.E.1 of the permit which is consistent with federal regulations 40 CFR § 122.26(b)(14) that define storm water discharges associated with industrial activity.
 - Made clarifications as to who can obtain coverage under Sector I: Oil and Gas Extraction Facilities.
 - In Parts V.P., Q., and S. of the general permit, clarified that the general permit only applies to portions of Sector P, Q, and S sites where vehicle or equipment maintenance, cleaning, repairing, or fueling occurs. This is consistent with federal regulations 40 CFR § 122.26(b) that define storm water discharges associated with industrial activity.
 - Added clarification in Sector Q, Water Transportation, that boat rinse water may be discharged under the MSGP where the rinse water does not contain surfactants, chemicals, or elevated temperatures. Also clarified that wastewater resulting from the pressure washing of boats is not authorized under the general permit.
- F. Revised the language regarding "Representative Storm Events" to require a rain gauge on site. Also revised the language to clarify that a dry weather discharge of storm water, such as collected storm water from a detention pond, can be monitored under this provision.

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- G. Revised the hazardous metals monitoring exclusion to allow a facility to obtain an exclusion if the analytical results are below the MAL.
- H. Added or updated definitions for the following terms, in Part I of the draft general permit: “composite sample,” facility,” “owner,” and “MS4.”
- I. Added certain sector-specific definitions to Part V of the general permit, including: “inactive mining facilities” in Sector J; and “landfill,” “land application site,” “land application unit,” “industrial waste,” and “open dumps” in Sector L.
- J. Added a provision to Sector L related to closed landfills, which clarifies that landfills which have achieved final regulatory closure are not considered industrial activities and are not required to obtain coverage under the MSGP.
- K. Added provisions to Part V of the general permit allowing waivers from numeric effluent limits for the following discharges, as allowed under federal categorical guidelines:
- Storm water runoff from Coal Pile Runoff for certain facilities with appropriately sized ponds (consistent with 40 CFR Part 423);
 - Storm water runoff from materials storage piles at cement manufacturing facilities in Sector E (consistent with 40 CFR Part 411).
- Also clarified that numeric effluent limitations do not apply to those facilities in Sector J: Mineral Mining and Processing, that are not subject to 40 CFR Part 436.
- L. Added a list of SIC codes to Part II.A.1 of the general permit to provide a clear reference as to which types of facilities are regulated.
- M. Clarified the descriptions of the Industrial Activity Codes (HZ, LF, SE, and TW) in Part II.A.1 of the permit.
- N. Added clarification regarding in Part II.A.5 of the general permit, related to Military Installations.
- O. Clarified that representative discharge from substantially similar outfalls may be collected for both quarterly visual monitoring and hazardous metal monitoring.
- P. Clarified requirements related to application forms:
- Added clarifying language regarding notice of change (NOC) requirements (including signatory requirements, and the procedure for completing an NOC if no form is available), in Part II.C.5 of the permit.
 - Clarified that a notice of termination (NOT) must be submitted to change from a condition of exposure (which required submittal of an NOI) to the conditional exclusion based on no-exposure; and that an NOT is required to cancel a no-exposure exclusion.
- Q. Clarified Item No. 8 under “Pollution Prevention Measures and Controls” to state that a copy of the MSGP must be included in the SWP3 in Part III.A.8 of the permit.

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- R. Added a requirement for operators to submit a copy of their NOI to the appropriate TCEQ regional office if the discharge is located within ten stream miles upstream of the Edwards Aquifer Recharge Zone.
- S. In Part V of the general permit related to sector-specific requirements, clarified that those facilities which must sample for hazardous metals as a part of their benchmark sampling are subject to the effluent limits and reporting requirements for the hazardous metals for which they are sampling under benchmark requirements.

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VI. Addresses

Questions concerning this draft general permit should be directed to:

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Comments regarding this general permit should be sent to:

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Supplementary information on this fact sheet is organized as follows:

- VII. Legal Basis
- VIII. Regulatory Background
- IX. Permit Coverage
- X. Technology-based Requirements
- XI. Water Quality-based Requirements
- XII. Monitoring
- XIII. Procedures for Final Decision
- XIV. Administrative Record

VII. Legal Basis

Section (§) 26.121 of the Texas Water Code (TWC) makes it unlawful to discharge pollutants into or adjacent to water in the state in the absence of authorizing permits. TWC § 26.027 authorizes the commission to issue permits and amendments to permits for the discharge of waste or pollutants into or adjacent to water in the state. TWC §26.040 provides the commission with authority to amend rules adopted under § 26.040 prior to amendment of the statute by House Bill (H.B.) 1542 in 1997, and to authorize waste discharges by general permit. On September 14, 1998, the TCEQ received authority from the U.S. Environmental Protection Agency (EPA) to administer the Texas Pollutant Discharge Elimination System (TPDES). The TCEQ and the United States Environmental Protection Agency (EPA) have signed a Memorandum of Agreement that authorizes the administration of the Texas Pollutant Discharge Elimination System (TPDES) program by the TCEQ as it applies to the State of Texas.

Clean Water Act (CWA) Sections 301, 304, and 401 (33 United States Code 1331, 1314 and 1341) include provisions which state that TPDES permits must include effluent limitations requiring authorized discharges to: (1) meet standards reflecting levels of technological capability, (2) comply with EPA-approved state water quality standards and (3) comply with other state requirements adopted under authority retained by states under CWA § 510, 33 U.S.C. § 1370.

Two types of technology-based effluent limitations must be included in the proposed general permit. With regard to conventional pollutants, CWA §301 (b)(1)(E) requires effluent limitations based on "best conventional

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pollution control technology” (BCT). With regard to nonconventional and toxic pollutants, CWA § 301(b)(2)(A), (C), and (D) require effluent limitations based on “best available pollution control technology economically achievable” (BAT), a standard which generally represents the best performing existing technology in an industrial category or subcategory. BAT and BCT effluent limitations may never be less stringent than corresponding effluent limitations based on best practicable control technology (BPT), a standard applicable to similar discharges before March 31, 1989 under CWA § 301(b)(1)(A).

VIII. Regulatory Background

The 1972 amendments to the Federal Water Pollution Control Act, later referred to as the Clean Water Act (CWA), prohibit the discharge of any pollutant to navigable waters of the United States from a point source unless the discharge is authorized by a National Pollutant Discharge Elimination System (NPDES) permit. Efforts to improve water quality under the NPDES program traditionally have focused on reducing pollutants in industrial process wastewater and municipal sewage treatment plant discharges. Over time, it has become evident that more diffuse sources of water pollution, such as storm water runoff from construction sites, are also significant contributors to water quality problems.

EPA promulgated rules establishing requirements for discharges of storm water runoff associated with industrial activities, at 40 CFR § 122.26. These rules were subsequently adopted by reference in TCEQ rules at 30 TAC § 281.25 and are being implemented in part through issuance of the MSGP.

TCEQ received authority to administer the Texas Pollutant Discharge Elimination System (TPDES) permit program in Texas, for those discharges under the regulatory authority of the agency, on September 14, 1998. Under a memorandum of agreement (MOA) between the two agencies, EPA agreed to continue to administer the multi-sector general permit (MSGP) permit until the September 29, 2000 expiration date. The original TPDES permit was issued on August 20, 2001, and included the Phase II rules for the NPDES storm water permit program which were finalized on December 8, 1999. The existing permit expires on August 20, 2006, and this renewed general permit would continue the authorization for industrial facilities in Texas for five years from date of issuance. The TCEQ expects to reissue this general permit prior to the expiration date, in which case the renewed permit would supersede and replace the existing TPDES permit.

IX. Permit Coverage

A. Scope of Permit Coverage

This general permit applies to discharges of storm water runoff associated with industrial activity, and certain non-storm water discharges, into surface water in the state. The general permit specifies which particular industrial facilities are eligible for authorization by the general permit, which must be authorized by a separate permit, and the specific conditions that must be met in order to receive an exclusion from requirements to develop a SWP3 and to submit a notice of intent. The proposed general permit would provide authority for any facility currently authorized under the TPDES permit to continue to discharge. The general permit would also continue the requirements for certain oil exploration, production, processing, or treatment operations that are controlled under the authority of the Railroad Commission of Texas (RCT) to apply to EPA and the RCT for authorization to discharge storm water runoff associated with industrial activities.

The proposed permit does not provide coverage for discharges of “contaminated storm water” from landfills for which the EPA has established effluent limitations guidelines at 40 CFR Par 445. The

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guidelines, and the definition of “contaminated storm water,” were published in the *Federal Register (FR)* on January 19, 2000 (65 FR 3007).

Permit applicability is based on the facility’s primary SIC code or by an Industrial Activity Code. Industrial facilities that are required to obtain authorization to discharge storm water runoff are grouped into 30 sectors, Sectors A through AD. A facility’s primary SIC Code is that SIC code which best describes the main activity occurring at the site. EPA provided information regarding the primary SIC code by referencing the SIC manual. According to the EPA, the SIC Manual recommends using the value of receipts or revenues to determine the primary activity. If such information is not available for a particular facility, then number of employees or production rate for each process may be compared. The operation that generates the most revenue or employs the most personnel is the operation in which the facility is primarily engaged. In the case of industrial activity codes, a facility is subject to permitting requirements regardless of whether the Industrial Activity Code describes the primary activity or only a minor activity occurring at the site.

The following industrial activities are proposed to be eligible for authorization under the draft general permit:

SECTOR A: TIMBER PRODUCTS	
SIC Code	Description of Industry Sub-sector
2411	Log Storage and Handling (Wet deck storage areas where no chemical additives are used in the spray water or applied to the logs)
2421	General Sawmills and Planning Mills
2426	Hardwood Dimension and Flooring Mills
2429	Special Product Sawmills, Not Elsewhere Classified
2431-2439 (except 2434)	Millwork, Veneer, Plywood, and Structural Wood (2434 - Wood Kitchen Cabinets, see Sector W)
2441-2449	Wood Containers
2451,2452	Wood Buildings and Mobile Homes
2491	Wood Preserving
2493	Reconstituted Wood Products
2499	Wood Products Not Elsewhere Classified
SECTOR B: PAPER AND ALLIED PRODUCTS	
SIC Code	Description of Industry Sub-sector
2611	Pulp Mills
2621	Paper Mills
2631	Paperboard Mills
2652 - 2657	Paperboard Containers and Boxes
2671 - 2679	Converted Paper and Paperboard Products, Including Plastic Bags Produced from Plastics Film

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SECTOR C: CHEMICAL AND ALLIED PRODUCTS	
Sic Code	Description of Industry Sub-sector
2812 - 2819	Basic Industrial Inorganic Chemicals
2821 - 2824	Plastic Materials, Synthetic Resins, Non-vulcanizable Elastomers (Synthetic Rubber), Cellulose Plastics Materials, and Other Manmade Fibers Except Glass
2833 - 2836	Medicinal Chemicals and Botanical Products, Pharmaceutical Preparations, In Vitro and In Vivo Diagnostic Substances, Biological Products (Except Diagnostic Substances).
2841 - 2844	Soaps and Detergents; Specialty Cleaning, Polishing, and Sanitation Preparations; Surface Active Agents, Finishing Agents, Sulfonated Oils, and Assistants; Perfumes, Cosmetics, and Other Toilet Preparations;
2851	Paints, Varnishes, Lacquers, Enamels, and Allied Products
2861 - 2869	Industrial Organic Chemicals
2873 - 2879	Agricultural Chemicals (Including Fertilizers, Pesticides and Fertilizers Solely from Leather Scraps and Leather Dust)
2891 - 2899	Miscellaneous Chemical Products (Including Adhesives and Sealants, Explosives, Printing Ink, and Carbon Black)
3952 (Limited to List)	Inks and Paints, including: China Painting Enamels; India Ink; Drawing Ink; Platinum Paints for Burnt Wood or Leather Work; Paints for China Painting; Artist's Paints; and Artist's Watercolors

SECTOR D: ASPHALT PAVING AND ROOFING MATERIALS AND LUBRICANTS	
SIC Code	Description of Industry Sub-sector
2951,2952	Asphalt Paving and Roofing Materials, Portable Asphalt Plants
2992,2999	Miscellaneous Products of Petroleum and Coal Including Oils and Greases
SECTOR E: GLASS CLAY, CEMENT, CONCRETE, AND GYPSUM PRODUCTS	
SIC Code	Description of Industry Sub-sector
3211	Flat Glass
3221,3229	Glass and Glassware, Pressed or Blown
3231	Glass Products Made of Purchased Glass
3241	Hydraulic Cement
3251-3259	Structural Clay Products
3261	Vitreous China Plumbing Fixtures and China Earthenware Fittings and Bathroom Accessories
3262-3269	Pottery and Related Products
3281	Cut Stone and Stone Products
3297	Non-Clay Refractories
3271- 3275	Concrete, Gypsum and Plaster Products
3291, 3292	Asbestos Products
3295	Minerals and Earth's, Ground, or Otherwise Treated

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3296	Mineral Wool
3299	Nonmetallic Mineral Products, Not Elsewhere Classified
SECTOR F: PRIMARY METALS	
SIC Code	Description of Industry Sub-sector
3312-3317	Steel Works, Blast Furnaces, and Rolling and Finishing Mills
3321-3325	Iron and Steel Foundries
3331-3339	Primary Smelting and Refining of Nonferrous Metals
3341	Secondary Smelting and Refining of Nonferrous Metals
3351-3357	Rolling, Drawing, and Extruding of Nonferrous Metals
3363-3369	Nonferrous Foundries (Castings)
3398,3399	Miscellaneous Primary Metal Products
SECTOR G: METAL MINING (ORE MINING AND DRESSING)	
SIC Code	Description of Industry Sub-sector
1011	Iron Ores
1021	Copper Ore Mining and Dressing
1031	Lead and Zinc Ores
1041,1044	Gold and Silver Ores
1061	Ferro alloy Ores, Except Vanadium
1081	Metal Mining Services
1094,1099	Miscellaneous Metal Ores
SECTOR H: COAL MINES AND COAL MINING RELATED FACILITIES	
SIC Code	Description of Industry Sub-sector
1221-1241	Coal Mines and Coal Mining-Related Facilities
SECTOR I: OIL AND GAS EXTRACTION FACILITIES	
SIC Code	Description of Industry Sub-sector
1311	Crude Petroleum and Natural Gas
1321	Natural Gas Liquids
1381-1389	Oil and Gas Field Services
2911	Petroleum Refineries
SECTOR J: MINERAL MINING AND DRESSING FACILITIES	
SIC Code	Description of Industry Sub-sector
1411	Dimension Stone
1422-1429	Crushed and Broken Stone, Including Rip Rap
1442,1446	Sand and Gravel Mining
1455,1459	Clay, Ceramic, and Refractory Materials
1474-1479	Chemical and Fertilizer Mineral Mining

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1481	Nonmetallic Minerals, Except Fuels
1499	Miscellaneous Nonmetallic Minerals, Except Fuels
SECTOR K: HAZARDOUS WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITIES	
Activity Code	Description of Industry Sub-sector
HZ	Limited to Hazardous Waste Storage or Disposal
SECTOR L: LANDFILLS AND LAND APPLICATION SITES	
Activity Code	Description of Industry Sub-sector
LF	Limited to Landfills, Land Application Sites , and Open Dumps that Receive or Have Previously Received Industrial Waste, including sites subject to regulation under Subtitle D of the Resource Conservation and Recovery Act (RCRA).
SECTOR M: AUTOMOBILE SALVAGE YARDS	
SIC Code	Description of Industry Sub-sector
5015	Automobile Salvage Yards
SECTOR N: SCRAP AND WASTE RECYCLING FACILITIES	
SIC Code	Description of Industry Sub-sector
5093	Scrap Recycling Facilities (Scraps include metals, paper, plastic, cardboard, glass, animal hides, used oil, antifreeze, mineral spirits, industrial solvents and other materials)
SECTOR O: STEAM ELECTRIC GENERATING FACILITIES	
Activity Code	Description of Industry Sub-sector
SE	Limited to Steam Electric Generating Facilities
SECTOR P: LAND TRANSPORTATION AND WAREHOUSING	
Sic Code	Description of Industry Sub-sector
4011,4013	Railroad Transportation
4111-4173	Local and Highway Passenger Transportation
4212-4231	Motor Freight Transportation and Warehousing
4311	United States Postal Service
5171	Petroleum Bulk Stations and Terminals
SECTOR Q: WATER TRANSPORTATION	
Sic Code	Description of Industry Sub-sector
4412-4499	Water Transportation
SECTOR R: SHIP AND BOAT BUILDING OR REPAIRING YARDS	
SIC Code	Description of Industry Sub-sector
3731,3732	Ship and Boat Building or Repairing Yards
SECTOR S: AIR TRANSPORTATION	
SIC Code	Description of Industry Sub-sector

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4512-4581	Air Transportation Facilities
SECTOR T: TREATMENT WORKS	
Activity Code	Description of Industry Sub-sector
TW	Treatment Works
SECTOR U: FOOD AND KINDRED PRODUCTS FACILITIES	
SIC Code	Description of Industry Sub-sector
2011-2015	Meat Products
2021-2026	Dairy Products
2032-2038	Canned, Frozen and Preserved Fruits, Vegetables and Food Specialties
2041-2048	Grain Mill Products
2051-2053	Bakery Products
2061-2068	Sugar and Confectionery Products
2074-2079	Fats and Oils
2082-2087	Beverages
2091-2099	Miscellaneous Food Preparations and Kindred Products
2111-2141	Tobacco Products
SECTOR V: TEXTILE MILLS, APPAREL, AND OTHER FABRIC PRODUCT MANUFACTURING FACILITIES	
SIC Code	Description of Industry Sub-sector
2211-2299	Textile Mill Products
2311-2399	Apparel and Other Finished Products Made From Fabrics and Similar Materials
3131-3199	Leather and Leather Products, except Leather Tanning and Finishing
SECTOR W: FURNITURE AND FIXTURES	
SIC Code	Description of Industry Sub-sector
2434	Wood Kitchen Cabinets
2511-2599	Furniture and Fixtures
SECTOR X: PRINTING AND PUBLISHING	
SIC Code	Description of Industry Sub-sector
2711-2796	Printing, Publishing, and Allied Industries
SECTOR Y: RUBBER, MISC. PLASTIC PRODUCTS, AND MISC. MANUFACTURING FACILITIES	
SIC Code	Description of Industry Sub-sector
3011	Tires and Inner Tubes
3021	Rubber and Plastics Footwear
3052,3053	Gaskets, Packing, and Sealing Devices and Rubber and Plastics Hose and Belting
3061,3069	Fabricated Rubber Products, Not Elsewhere Classified

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3081-3089	Miscellaneous Plastics Products
3931	Musical Instruments
3942-3949	Dolls, Toys, Games and Sporting and Athletic Goods
3951-3955 (except 3952)	Pens, Pencils, and Other Artists' Materials SIC 3952 See Sector C
3961, 3965	Costume Jewelry, Costume Novelties, Buttons, and Miscellaneous Notions, Except Precious Metal
3991-3999	Miscellaneous Manufacturing Industries
SECTOR Z: LEATHER TANNING AND FINISHING	
SIC Code	Description of Industry Sub-sector
3111	Leather Tanning and Finishing
SECTOR AA: FABRICATED METAL PRODUCTS FACILITIES	
SIC Code	Description of Industry Sub-sector
3411-3499	Fabricated Metal Products, Except Machinery and Transportation Equipment
3911-3915	Jewelry, Silverware, and Plated Ware

SECTOR AB: TRANSPORTATION EQUIPMENT, INDUSTRIAL OR COMMERCIAL MACHINERY MANUFACTURING FACILITIES	
SIC Code	Description of Industry Sub-sector
3511-3599 (except 3571- 3579)	Industrial and Commercial Machinery (except Computer and Office Equipment, see Sector AC)
3711-3799 (except 3731,3732)	Transportation Equipment (except Ship and Boat Building and Repairing, see Sector R)
SECTOR AC: ELECTRONIC, ELECTRICAL, PHOTOGRAPHIC, AND OPTICAL GOODS	
SIC Code	Description of Industry Sub-sector
3571-3579	Computer and Office Equipment
3612-3699	Electronic, Electrical Equipment and Components, except Computer Equipment
3812-3873	Measuring, Analyzing and Controlling Instrument; Photographic and Optical Goods
SECTOR AD: MISCELLANEOUS INDUSTRIAL ACTIVITIES	
SIC Code	Description of Industry Sub-sector
Not applicable	Miscellaneous Industrial Activities Designated by the Executive Director

B. Procedures for Obtaining Permit Coverage

Facilities eligible for coverage under the proposed general permit would apply for coverage through submission of a notice of intent (NOI) to the Executive Director. Facilities seeking to obtain an exclusion from permit requirements based on a condition of no exposure would notify the TCEQ through submission of a No Exposure Certification (NEC) form to the Executive Director. The NOI or NEC must

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be signed in accordance with 30 TAC § 305.44 (relating to Signatories to Application). Provisional authorization to discharge would begin 48 hours after a completed NOI or NEC is postmarked for delivery to the TCEQ. If the NOI or NEC is submitted electronically through the STEERS system or other approved electronic means, then provisional authorization would begin 24 hours following confirmation of receipt of the electronic NOI form by the TCEQ.

Following an administrative review of an NOI or NEC, the Executive Director will either confirm coverage (or conditional exclusion, as applicable) by providing a notification and an authorization number to the applicant; or will deny coverage. If coverage is denied, then the operator must either submit an application for an individual permit or obtain coverage under an alternative general permit, if applicable. Submittal of the NOI or NEC is an acknowledgment by the applicant that the general permit applies to the proposed discharges and that the applicant agrees to comply with the terms of the permit.

(1) Deadlines for Obtaining Coverage:

- (a) Existing Facilities: Facilities that have coverage under the existing TPDES general permit must re-apply within 90 days of permit issuance to maintain continued coverage under the renewed general permit, or within 120 days of permit issuance for facilities seeking authorization using electronic NOI forms.

Existing facilities that were not provisionally authorized by the existing TPDES MSGP must apply immediately upon becoming aware of the permit requirements.

Existing facilities that do not submit NOIs within 90 days of permit issuance, or electronic NOIs within 120 days of permit issuance, will automatically be cancelled.

- (b) New Facilities: Facilities which are new or which were not previously authorized under the existing MSGP must submit an NOI (or an NEC, if applicable) prior to the initiation of industrial activity that could result in a discharge of regulated storm water runoff.

(2) Information to be Submitted on an NOI

The NOI form would require, at a minimum, the following information:

(a) Operator Information

- (i) The name, address, and telephone number of the operator filing the NOI for permit coverage.
- (ii) The legal status of the operator (e.g. federal, state, private or public entity).

(b) Site Information

- (i) The name, address, county, and latitude/longitude of the site.
- (ii) A determination of whether the site is located on Indian Land.
- (iii) The name of the receiving waters.
- (iv) The name of the municipal operator, if the discharge is through an MS4.
- (v) A certification that a SWP3 has been developed and implemented according to the provisions of this permit.

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- (vi) The primary SIC code or Industrial Activity Code that best describes the industrial activity of the facility, and any other SIC codes that describe additional activities that are identified in the permit as requiring permit coverage.
 - (vii) The industrial sector(s) of the general permit for which the applicant requests coverage.
 - (c) The existing TPDES authorization number for currently-permitted facilities seeking to renew coverage.
 - (d) An original signature, signed according to 30 TAC § 305.44 (relating to Signatories to Application).
- (4) Information to be Submitted on an NEC

The NEC form would require, at a minimum, the following information:

- (a) Operator Information
 - (i) The name, address, and telephone number of the operator filing the NOI for permit coverage.
 - (ii) The legal status of the operator (e.g. federal, state, private or public entity).
 - (b) Site Information
 - (i) The name, address, county, and latitude/longitude of the site.
 - (ii) A determination of whether the site is located on Indian Land.
 - (iii) The name of the receiving waters.
 - (iv) The name of the municipal operator, if the discharge is through an MS4.
 - (v) A certification that the facility meets a condition of no exposure as required in the MSGP.
 - (vi) The primary SIC code or Industrial Activity Code that best describes the industrial activity of the facility, and any other SIC codes that describe additional activities that are identified in the permit as requiring permit coverage.
 - (vii) The industrial sector(s) of the general permit that would be applicable to the facility.
 - (c) The existing TPDES authorization number, if known, for existing facilities seeking to renew the conditional exclusion.
 - (d) An original signature, signed according to 30 TAC § 305.44 (relating to Signatories to Application).
- C. Terminating Permit Coverage

A permittee may terminate coverage under the proposed permit by submitting a notice of termination (NOT) form to the Executive Director. The NOT must be signed in accordance with 30 TAC § 305.44 (relating to Signatories to Application). Authorization to discharge terminates at midnight on the day that a NOT is postmarked for delivery to the TCEQ. If TCEQ provides for electronic submission of NOTs during the term of this permit, then authorization to discharge terminates 24 hours following confirmation of receipt of the electronic NOT form by the TCEQ. An NOT must be submitted within 10 days prior

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to the time that a facility ceases discharging storm water associated with industrial activity, obtains coverage under an individual permit, or obtains coverage under an alternative general permit.

An NOT must also be submitted in order to terminate coverage or to terminate a conditional exclusion based on no exposure. If a facility changes operations such that a condition of no exposure is obtained, then the permittee must submit an NOT to terminate the original NOI before submitting an NEC. If a facility which changes conditions such that a condition of no exposure no longer exists, the permittee must submit an NOT to terminate the conditional exclusion, and must obtain coverage before discharge occurs. The only exception to this is within the first 90 days of permit issuance. If a permittee does not submit an NOT within the first 90 days of permit issuance, then the existing NOI or NEC will automatically be terminated, as stated above in Part IX.B.(1) of this fact sheet.

D. Transfer of Permit Coverage

Permit coverage may not be transferred. When a new operator assumes responsibility for a facility, a new NOI must be submitted at least 48 hours before taking operational control of the facility. The previous owner or operator must terminate permit coverage within 10 days following the transfer of ownership or responsibility.

X. Technology-Based Requirements

A. Storm Water Pollution Prevention Plan (SWP3)

The draft general permit continues the requirement to develop and implement a SWP3 to control discharges of contact storm water and storm water associated with industrial activities, in accordance with NPDES storm water regulations at 40 CFR Part 122.26 (b)(14)(viii), and as adopted by reference in 30 TAC Chapter 281 (relating to Applications Processing).

A SWP3 is required to be prepared and implemented for each facility covered by this permit. The plan must identify potential sources of pollution that may reasonably be expected to affect the quality of the discharge of contact storm water and storm water associated with industrial activity. The plan shall describe the practices that are used to reduce the pollutants in discharges of contact storm water and storm water associated with industrial activity, and ensure the implementation of these practices, and to assure compliance with the terms and conditions of the general permit. Facilities must implement the provisions of the SWP3 as a condition of this general permit.

The draft general permit also requires that the permittees amend the plan whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the potential for the discharge of pollutants to water in the state, or if the SPW3 proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified in the contents of the SWP3, or in otherwise achieving the general objectives of controlling pollutants in the storm water discharges.

The draft permit includes specific provisions which must be incorporated into facility SWP3s. These include, at a minimum, the following elements:

- (1) Establishing a pollution prevention team to oversee development and implementation of the storm water pollution prevention plan;

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- (2) Investigating and eliminating non-storm water discharges that are not covered under the authority of the proposed general permit or a separate individual permit;
- (3) Identifying potential pollutants and sources of pollution to storm water runoff;
- (4) Establishing pollution prevention measures and controls, including good housekeeping measures and best management practices;
- (5) Considering the management of runoff by structural controls and discharge minimization to protect the natural physical characteristics of receiving waters; and
- (6) Evaluating the effectiveness of the storm water pollution prevention plan through inspections.

B. Numeric Effluent Limitations

The draft general permit would continue the numeric effluent limitations of the current permit. The current general permit includes technology-based numeric effluent limitations, based on federally established guidelines delineated in the Code of Federal Regulations, for discharges from certain industrial activities. The proposed permit also includes technology-based numeric effluent limitations based on state rules. The technology-based numeric effluent limitations are proposed as follows:

- (1) For All Discharges - Limitations delineated at 30 TAC Chapter 319 (relating to General Regulations Incorporated into Permits).
- (2) For Discharges of Storm Water Runoff from Coal Pile Storage Areas Associated with Steam Electric Power Generating Facilities - Limitations delineated at 40 CFR § 423.12 (b)(9).
- (3) For Discharges of Storm Water Runoff from Facilities that Manufacture Phosphatic Fertilizers - Limitations delineated at 40 CFR § 418.13.
- (4) For Discharges of Storm Water Runoff from Facilities that Manufacture Paving and Roofing Materials (Tars and Asphalt) - 40 CFR § 443.13.
- (5) For Discharges of Storm Water Runoff from Material Storage Piles from Facilities that Manufacture Cement - 40 CFR § 411.32.
- (6) For Discharges of Storm Water and Ground Water Seepage from Mine Dewatering Activities at Construction Sand and Gravel, Industrial Sand, or Crushed Stone Mining Facilities - 40 CFR § 436.

Specific information on the effluent limits proposed in the draft MSGP are included at Part IV.A. and B. of this fact sheet.

C. Benchmark Monitoring Requirements

The current TPDES MSGP contains a requirement for certain industries to monitor for pollutants that the EPA had previously identified as associated with those industries. The results of analytical analyses must then be compared to a set of benchmark values to determine the relative effectiveness of the facility's

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SWP3. The draft general permit retains this requirement as a method for evaluating the facility's SWP3, but includes some modification.

(1) Monitoring Frequency

The current MSGP requires permittees to conduct quarterly benchmark monitoring in the second and third years of the permit term, with waivers available if results in the second year were all below benchmark levels. The proposed TPDES general permit requires this monitoring to be conducted twice per year throughout the permit term, and reported during the third year of the permit term. The proposed requirements would not include a waiver option, so that all facilities subject to benchmark monitoring could use the data throughout the permit term to ascertain whether their BMPs are continuing to be effective.

The revised benchmark monitoring requirements may be beneficial to the permittee. For example, SWP3s must be evaluated on a regular basis and revised as necessary. Monitoring throughout the permit term may better assist a permittee in assessing the effectiveness of a SWP3 by providing a more continuous source of analytical data that can be compared to revisions of the SWP3. Also, it is less likely that a facility will overlook any of the benchmark monitoring requirements if there is not a suspension of the monitoring requirements.

(2) Levels for Specific Pollutants

In addition to the change in monitoring periods, other revisions were made to the benchmark monitoring requirements. The benchmark levels established in the original TPDES MGSP were established based on the levels that were included in EPA's original MSGP of 1995. Many of the levels originally required by the EPA were established using criteria that were not necessarily applicable to discharges in Texas. The TCEQ compiled all of the benchmark data that was reported during calendar year 2003, and the information is described in Appendix A of this fact sheet. Based on the results, changes were made to the benchmark levels of the following pollutants: chemical oxygen demand (COD), phosphorous, total aluminum, ammonia-nitrogen, total copper, total iron, total lead, total mercury, total selenium, and total zinc. While some changes could not be made, the TCEQ expects to refine these revisions in subsequent permit renewals. However, the changes discussed below should provide permittees with levels that will be helpful in determining whether their BMPs are effectively reducing the level of pollutants in runoff from the industrial sites.

Explanation of Revisions to Benchmark Monitoring Levels:

- (a) Levels for the following pollutants were lowered from the 2001 levels based on the results of the benchmark monitoring:

COD: lowered to 52 mg/l, which was the average result of the values reported in 2003. .

Phosphorous: lowered to 1.25 mg/l, which was the maximum level reported of all samples in 2003. While only 25 samples were provided, all were reported well below the current benchmark, and it is appropriate to decrease the level.

Ammonia-Nitrogen: lowered to 0.19 mg/l, which is the median result of the values reported in 2003. While only 32 samples were reported in 2003, it is appropriate to lower the existing

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level from 19 mg/l, which was originally established based on EPA-recommended ambient acute freshwater water quality criteria for the protection of aquatic life, and which exceeds the maximum level reported for all samples.

Copper, total: lowered to 0.027 mg/l, which is the median of all results reported for 2003.

Lead, total: lowered to 0.013 mg/l, which is the median of the results reported for 2003.

Mercury, total: lowered to 0.0019 mg/l, which was the maximum level reported of all samples in 2003. While only 31 samples were provided, all were reported well below the current benchmark, and it is appropriate to revise the level.

Selenium, total: lowered to 0.05 mg/l, which was the maximum level reported of all samples in 2003. While only 31 samples were provided, all were reported well below the current benchmark, and it is appropriate to revise the level. In addition, the existing benchmark level, which was based on the highest method detection limit times a factor of 3.18, exceeds the numeric effluent limit described in Part IV.B.1. of this fact sheet.

- (b) Levels for the following pollutants were raised based on the mean or median results of benchmark sampling:

Aluminum, total: raised to 1.2 mg/l, which is the median result reported for 2003.

Iron, total: raised to 1.3 mg/l, which is the median result reported for 2003.

Zinc, total: raised to 0.16, which is the median of the results reported for 2003.

- (c) Levels for the following pollutants were revised to reflect two significant figures: total arsenic, total cadmium, total cyanide, total magnesium, and total silver. Additional changes to these levels were not made, because the data set was too small.
- (d) There were no changes to the following pollutants, either because the original benchmark is appropriate to continue based on storm water runoff data, or sufficient benchmark data was not available to justify a change: BOD, TSS, nitrate-nitrite N, pH.

(3) New Sectors to Monitor Benchmark Pollutants

The draft permit includes changes to sector-specific benchmark sampling requirements.

Sectors C, E, F, O, Q, AA: Added TSS to the benchmark sampling requirements for those portions of the listed sectors that are currently required to sample for total aluminum and/or total iron. This revision was made because of the high levels of total iron and total aluminum were reported in the 2003 benchmark reports. There may be a relationship between TSS and the metals, particularly where native soils may contain iron or aluminum, and the combined results should provide information to determine how well the existing best management practices (BMPs) are working to reduce the level of pollutants in runoff.

Sectors E and J: Added pH sampling based on the nature of the pollutants present at the site.

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Sector G: Removed the biannual sampling requirements for runoff from waste rock and overburden piles from active mining and dressing operations for specific metal ores. The information obtained from this sampling requirement is adequately addressed in the one-time benchmark sampling that is required of all waste rock and overburden piles. Discharges above those benchmark levels must continue sampling for the list throughout the permit term, and the list of pollutants is equivalent or more stringent than the biannual requirements that were removed.

Sector T: Added benchmark sampling for Sector T, which was not previously subject to benchmark sampling. Based on the nature of the pollutants at wastewater treatment plants, a benchmark sampling requirement for BOD (5-day) was added.

XI. Water Quality-Based Requirements

The Texas Surface Water Quality Standards found at 30 TAC Chapter 307 state that “surface waters will not be toxic to man, or to terrestrial or aquatic life.” The methodology outlined in the “Implementation of the Texas Natural Resource Conservation Commission Standards via Permitting” is designed to ensure compliance with 30 TAC Chapter 307. Specifically, the methodology is designed to ensure that no source will be allowed to discharge any wastewater which: (1) results in instream aquatic toxicity; (2) causes a violation of an applicable narrative or numerical state water quality standard; (3) results in the endangerment of a drinking water supply; or (4) results in aquatic bioaccumulation which threatens human health.

TPDES permits contain technology-based effluent limits reflecting the best controls available. Where these technology-based permit limits do not protect water quality or the designated uses, additional conditions are included in the TPDES permits, which may include discharge limitations. State narrative and numerical water quality standards are used in conjunction with EPA criteria and other toxicity data bases to determine the adequacy of technology-based permit limits and the need for additional water-quality based controls.

TPDES storm water permits generally do not contain water-quality-based effluent limits (WQBELs). As stated in 30 TAC § 307.8(e), controls on the quality of permitted storm water discharges are largely based on implementing best management practices and/or technology-based limits in combination with instream monitoring to assess standards attainment and to determine whether additional controls on storm water are needed. It has been preliminarily determined that if permit requirements are properly implemented, no significant degradation is expected and existing uses will be maintained and protected.

The revisions to the benchmark monitoring include some increases in the benchmark values. Benchmark levels are not effluent limits, and are established as a tool for permittees to determine whether BMPs are properly functioning; however, the levels must be established with consideration given to applicable water quality standards. The following pollutants are proposed to be increased, and water quality standards are expected to be met or exceeded:

Aluminum, total: The level of 1.2 mg/l is expected to meet or exceed the TSWQS for the acute protection of aquatic life, as the criteria of 0.91 mg/l for low flow conditions would result in a calculated effluent limit of 1.8 mg/l for a continuous discharge.

Iron, total: The level of 1.3 mg/l is expected to meet or exceed the TSWQS because there are currently no water quality criteria for iron.

Zinc, total: The level of 0.16 mg/l is expected to meet or exceed the TSWQS because the standards are calculated using a low flow condition and a continuous flow, rather than an intermittent flow that generally

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occurs in wet weather. In addition, the proposed level is 16% of the daily average level, and 3% of the daily maximum level, required in TCEQ rules at 30 TAC Chapter 319. All facilities which are required to conduct benchmark sampling for total zinc are also subject to the numeric effluent limits in this rule, which are described in Part IV.B. of this fact sheet and Part III.D. of the draft general permit.

XII. Monitoring

Monitoring requirements were established based on TCEQ rules, TCEQ practice, existing NPDES general permit TXR050000, and BPJ. Federal rules 40 CFR § 122.44(i) require monitoring to be conducted for each pollutant limited in a permit to assure compliance with the permitted effluent limitations. The frequency of this monitoring may be established on a case-by-case basis, but must not be less than once per year.

The renewed permit would include a change in the requirements to report compliance with numeric effluent limits. The draft general permit incorporates the requirements of federal rules at 40 CFR § 122.44(i)(3), which require annual reporting of sampling results for discharges that are subject to categorical effluent limits at 40 CFR Subpart N. In addition, the draft general permit would incorporate the requirements of 40 CFR § 122.44(i)(4), which requires annual reporting of *violations* of non-categorical effluent limits. For the MSGP, this would apply principally to the hazardous metals that are regulated based on 30 TAC Chapter 319. Results of analyses would be completed on Discharge Monitoring Report Forms (DMRs), and submitted to the TCEQ as discussed above.

XIII. Procedures for Final Decision

The memorandum of agreement between the EPA and TCEQ provides that EPA has no more than 90 days to comment, object, or make recommendations to the draft general permit before it is published in the *Texas Register*. According to 30 TAC Chapter 205, when the draft general permit is proposed, notice must be published, at a minimum, in at least one newspaper of statewide or regional circulation. The commission may also publish notice in additional newspapers of statewide or regional circulation. Mailed notice must also be provided to the following:

- A. the county judge of the county or counties in which the discharges under the general permit could be located;
- B. if applicable, state and federal agencies for which notice is required in 40 CFR § 124.10(c);
- C. persons on a relevant mailing list kept under 30 TAC § 39.407, relating to Mailing Lists; and
- D. any other person the Executive Director or chief clerk may elect to include.

After notice of the general permit is published in the *Texas Register* and the newspaper(s), the public will have 30 days to provide public comment on the proposed permit.

Any person, agency, or association may make a request for a public comment hearing on the proposed general permit to the Executive Director of the TCEQ before the end of the public comment period. A public comment hearing will be granted when the Executive Director or commission determines, on the basis of requests, that a significant degree of public interest in the draft general permit exists. A public comment hearing is intended for the taking of public comment, and is not a contested case proceeding under the Administrative Procedure Act. The Executive Director may call and conduct public meetings in response to public comment.

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If the Executive Director calls a public meeting, the commission will give notice of the date, time, and place of the meeting, as required by commission rule. The Executive Director shall prepare a response to all significant public comments on the draft general permit raised during the public comment period. The Executive Director shall make the response available to the public. The general permit will then be filed with the commission to consider final authorization of the permit. The Executive Director's response to public comment shall be made available to the public and filed with the chief clerk at least ten days before the commission acts on the general permit.

Once the draft permit is completed, it is sent to the Office of the Chief Clerk of the TCEQ. The notice is published in the Texas Register, and the draft permit is placed on the Commission's or the Executive Director's agenda. For additional information about this application contact Cynthia Hooper at (512) 239-4671.

XIV. Administrative Record

The following section is a list of the fact sheet citations to applicable statutory or regulatory provisions and appropriate supporting references.

A. 40 CFR Citations

40 CFR Part 122
40 CFR Part 124
40 CFR § 423.12 (b)(9)
40 CFR § 418.13
40 CFR § 443.13
40 CFR § 411.32
40 CFR § 436.40
40 CFR § 443.13
40 CFR Subchapter N (Parts 400-471)

B. Records of Communication

Letter from U.S. EPA Region 6, dated March 13, 2002, finding the previous draft proposed minor amended TPDES general permit TXR050000 as conforming to the guidelines and requirements of the Clean Water Act.

C. Miscellaneous

Quality Criteria for Water (1986), EPA 440/5-86-001, 5/1/86.

The State of Texas Water Quality Inventory, 13th Edition, Publication No. SFR-50, Texas Natural Resource Conservation Commission, December 1996.

Texas Surface Water Quality Standards - 30 TAC Sections 307.1-307.10, effective August 17, 2000.

"Procedures to Implement the Texas Surface Water Quality Standards," Texas Commission on Environmental Quality, Publication RG-194, January 2003.

"Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits," TCEQ Document No. 98-001.000-OWR-WQ, May 1998.

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"General Guidance Industrial Permits for Storm water Runoff Associated With Industrial Activity," EPA Region 6, March 22, 1999.

General Regulations Incorporated into Permits, 30 TAC Chapter 319.

TCEQ Rules, including: 30 TAC Chapters 39, 50, 205, 213, 281, 305, 307, 309, 311, 319, 327, 330, 332, and 335.

DRAFT 2004 Texas 303(d) List," Texas Commission on Environmental Quality, January 15, 2004.

2002 Texas 303(d) List," Texas Commission on Environmental Quality, October 1, 2002 (approved by EPA on February 3, 2005).

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Appendix A

Benchmark Sampling

Pollutant	2001 Benchmark Level {Source}	Sectors Required to Sample	2003 Results	Proposed Level {Justification of change}	Proposed Sector(s) to Sample {Explanation of change}
BOD	30 mg/l {Secondary treatment levels for domestic wastewater treatment plants}	S, U	Total No. Samples: 17 Average: 1062 mg/l Median: 24 mg/l Maximum: 14,230 mg/l (2 samples >1,000; one at 103; 15 at <50 mg/l). Minimum: 2 mg/l	30 mg/l {No change, based on limited number of samples. Level appears to be appropriate based on median sample results.}	S, T, U {Added Sector T based on likely pollutants at wastewater treatment plants}.
COD	120 mg/l {Factor of 4 times the BOD5 benchmark concentration; North Carolina (NC) Benchmark}	A, B, K, N, S, U	Total No. Samples: 237 Average: 107 mg/l Median: 52 mg/l Maximum: 1,220 mg/l Minimum: 0 mg/l	52 mg/l {Lowered to median result}.	A, B, K, N, S, U {No change}
TSS	100 mg/l {National Urban Runoff Program (NURP) Median Concentration}	A, D, E (partial), F (partial), H, J, L, M, N, U	Total No. Samples: 817 Average: 815 mg/l Median: 59 mg/l Maximum: 94,100 mg/l Minimum: 0 mg/l	100 mg/l {No change since original level is based on storm water data, and level is consistent with TCEQ practice for permitting storm water outfalls.}	A, C, D, E (all), F (3312-17, 3321-25), H, J, L, M, N, O, Q, U, AA {Added TSS to the following activities which are also sampling for Iron and Aluminum: <u>Iron:</u> C, O, Q, AA (3411-3471, 3482-3499, and 3911-15) <u>Aluminum:</u> E (3251-9, 3262-9), F (3312-17), Q, AA (3411-3471, 3482-3499, and 3911-15)}
Nitrate + Nitrite N	0.68 mg/l {NURP Median Concentration}	C, J, U, AA	Total No. Samples: 481 Average: 5.4 mg/l Median: 0.61 mg/l Maximum: 1,010 mg/l (3 samples over 100 mg/l; rest under 35 mg/l) Minimum: 0 mg/l	0.68 mg/l {No change since original level is based on storm water data, and level is very similar to reported median level.}	C, J, U, AA {No change}
Phosphorous	2.0 mg/l {NC storm water benchmark based on NC water quality standards}	C	Total No. Samples: 25 Average: 0.29 mg/l Median: 0.22 mg/l Maximum: 1.25 mg/l Minimum: 0 mg/l	1.25 mg/l {Lowered to maximum level. Although few samples are available, all were reported below current benchmark}	C {No change}

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pH	6-9 std. units {Secondary treatment levels for domestic wastewater treatment plants}	S	Total No. Samples: 13 Maximum: 8.4 S.U. Minimum: 5.3 S.U.	6-9 std. units {Consistent with TCEQ practice for permitting storm water outfalls}	E, J, S, AA {For E, and J, added based on BPJ and TCEQ practice for permitting similar facilities; For AA, added pH because of presence of aluminum, which may be affected by pH levels.}
Aluminum	0.75 mg/l {EPA-recommended ambient water quality criteria for acute aquatic life, freshwater (FW)}	C, E, F, H, M, N, Q, AA	Total No. Samples: 746 Average: 5.2 mg/l Median: 1.2 mg/l Maximum: 360 mg/l Minimum: 0 mg/l	1.2 mg/l {Increased to median result.}	C, E (3251-9, 3262-9), F (3312-17, 3321-25), H, M, N, Q, AA {Added a benchmark for TSS to the portions of Sector E required to sample for Aluminum because elevated levels of aluminum may be related to elevated TSS. This may help to evaluate the effectiveness of BMPs.}
Ammonia	19 mg/L {EPA-recommended ambient water quality criteria for acute aquatic life, FW}	K, S	Total No. Samples: 32 Average: 0.53 mg/l Median: 0.19 mg/l Maximum: 8.11 mg/l Minimum: 0 mg/l	0.19 mg/l {Although small number of samples, lowered to median result because existing benchmark far exceeds the maximum level reported.}	K, S {No change.}
Arsenic	0.16854 mg/L {Minimum level based on highest method detection limit (MDL) times (*) a factor of 3.18}	A, K	Total No. Samples: 35 Average: 0.024 mg/l Median: 0.01 mg/l Maximum: 0.276 mg/l Minimum: 0 mg/l	0.17 mg/l {No change because small data set, but rounded value to achieve two significant figures.}	A, K {No change}
Cadmium	0.0159 mg/L {Highest MDL * 3.18}	K	Total No. Samples: 30 Average: 0.32 mg/l Median: 0.002 mg/l Maximum: 3.84 mg/l Minimum: 0 mg/l	0.016 mg/l {No change because small data set, but rounded value to achieve two significant figures.}	K {No change}
Copper	0.0636 mg/L {Highest MDL * 3.18}	A, F, N	Total No. Samples: 228 Average: 0.25 mg/l Median: 0.027 mg/l Maximum: 11.38 mg/l Minimum: 0 mg/l	0.027 mg/l {Decreased to median result.}	A, N, F {No change}
Cyanide	0.0636 mg/L {Highest MDL * 3.18}	K	Total No. Samples: 29 Average: 0.0072 mg/l Median: 0.002 mg/l Maximum: 0.02 mg/l Minimum: 0 mg/l	0.064 mg/l {No change because small data set, but rounded value to achieve two significant figures.}	K {No change}

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Iron	1.0 mg/L {EPA-recommended ambient water quality criteria for acute aquatic life, freshwater}	C, E (3271-5 only), F, H, L, M, N, O, Q, AA	Total No. Samples: 1,188 Average: 13.7 mg/l Median: 1.3 mg/l Maximum: 2,705 mg/l Minimum: 0 mg/l	1.3 mg/l {Increased to median result.}	C, E (3271-5 only), F (3321-5 only), H, L, M, N, O, Q, AA (3411-3471, 3482-3499, and 3911-15) {Also added TSS to those sectors not already required to sample - see TSS above.}
Lead	0.0816 mg/L {EPA-recommended ambient water quality criteria for acute aquatic life, FW}	C, F, K, M, N, Q	Total No. Samples: 386 Average: 0.094 mg/l Median: 0.013 mg/l Maximum: 7.07 mg/l Minimum: 0 mg/l	0.013 mg/l {Decreased to median result.}	C, F, K, M, N, Q {No change}
Magnesium	0.0636 mg/L {Highest MDL * 3.18}	K	Total No. Samples: 30 Average: 4.9 mg/l Median: 3.6 mg/l Maximum: 17.3 mg/l Minimum: 0 mg/l	0.064 mg/l {No change because small data set, but rounded value to achieve two significant figures.}	K {No change}
Mercury	0.0024 mg/L {EPA-recommended ambient water quality criteria for acute aquatic life, FW}	K	Total No. Samples: 31 Average: 0.00017 mg/l Median: 0.00006 mg/l Maximum: 0.0019 mg/l Minimum: 0 mg/l	0.0019 mg/l {Lowered to the maximum level reported in 2003.}	K {No change}
Selenium	0.2385 mg/L {Highest MDL * 3.18}	K	Total No. Samples: 31 Average: 0.0064 mg/l Median: 0.0025 mg/l Maximum: 0.05 mg/l Minimum: 0 mg/l	0.05 mg/l {Lowered to the maximum level reported in 2003. The existing benchmark level exceeds the maximum level in 30 TAC Chapter 319.}	K {No change}
Silver	0.0318 mg/l {Highest MDL * 3.18}	K	Data Not Available.	0.032 mg/l {No change because no data set to review, but rounded value to achieve two significant figures.}	K {No change}
Zinc	0.117 mg/L {EPA-recommended ambient water quality criteria for acute aquatic life, FW}	A, C, E, F, M, N, O, Q, Y, AA, AB	Total No. Samples: 769 Average: 0.78 mg/l Median: 0.16 mg/l Maximum: 37.3 mg/l Minimum: 0 mg/l	0.16 mg/l {Increased to median level.}	A, C, E, F, M, N, O, P, Y, AA, AB {No change.}