



Changes in the 2024 MS4 General Permit Renewal

Monica Alba Garcia
TCEQ Stormwater Team, Water Quality Division

November 12, 2024

Presentation Outline

Significant Changes in the 2024
Renewal of TXR040000



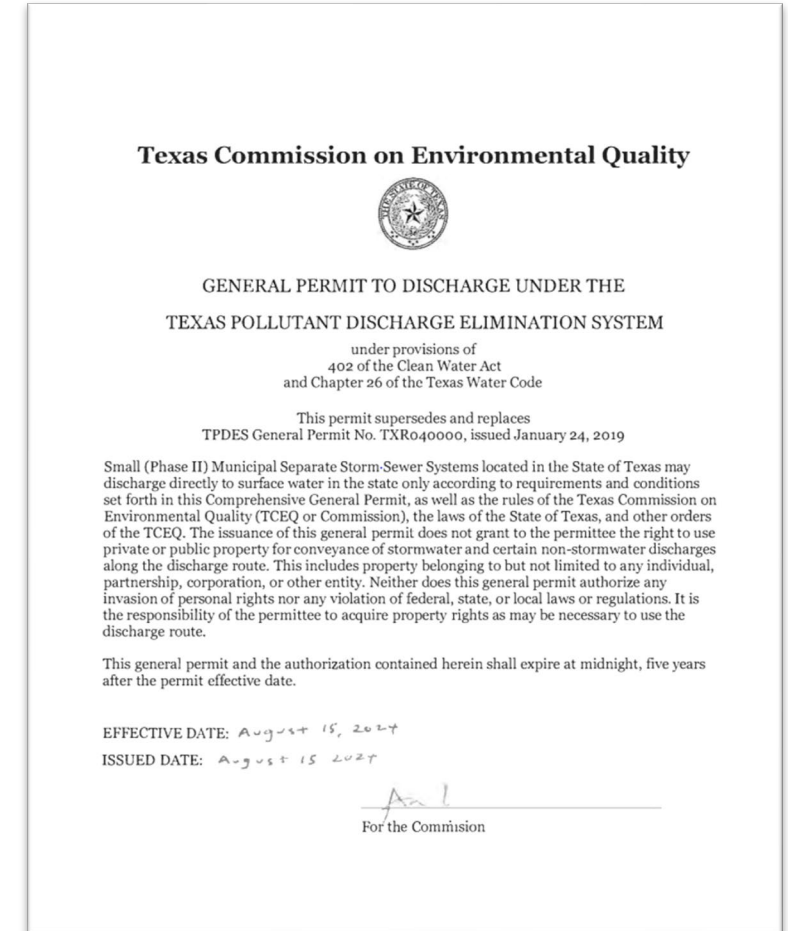
Reading the Comprehensive
General Permit



Phase II MS4 General Permit

TXR040000, also known as the *Small* MS4 General Permit

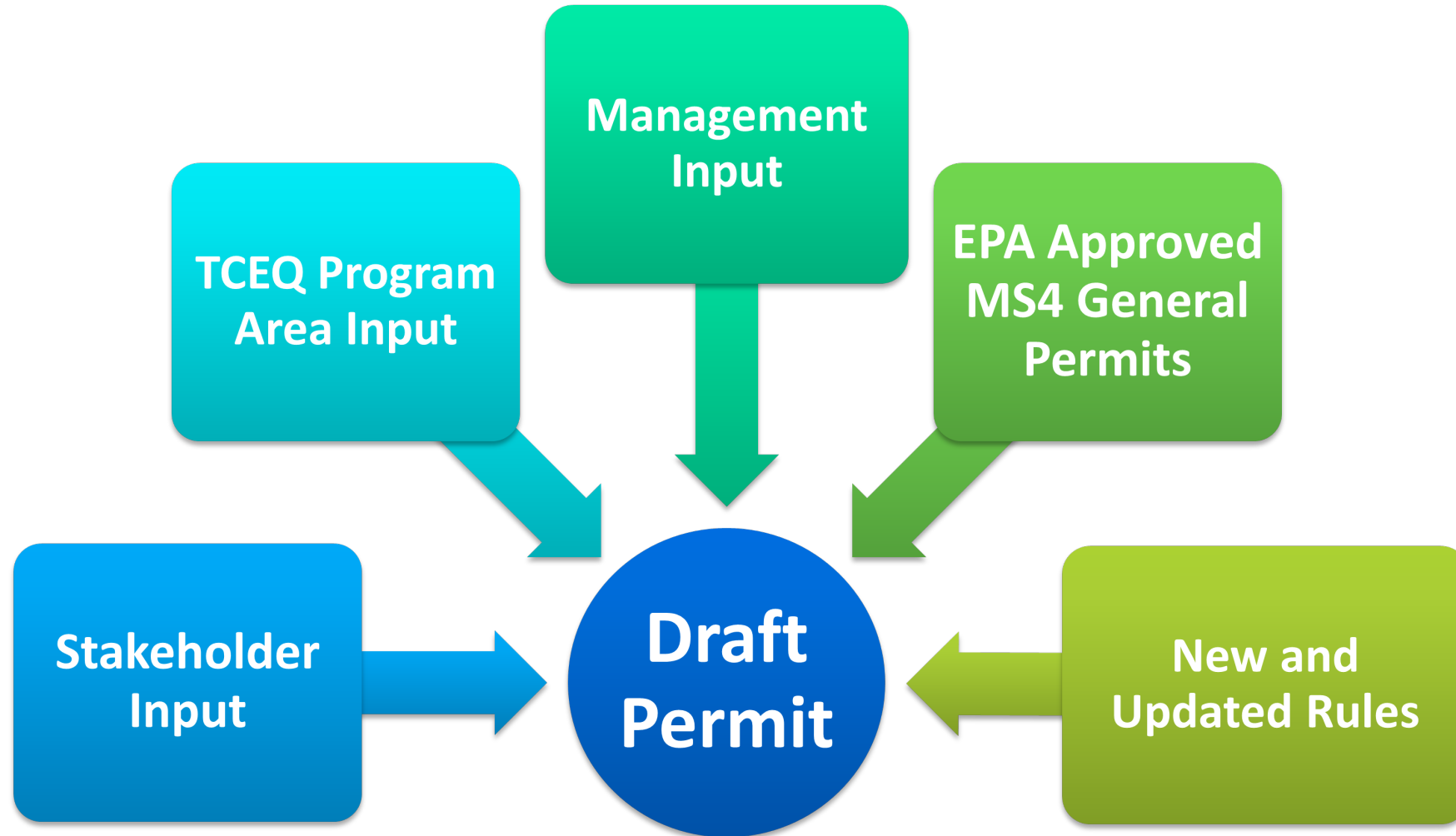
- Effective on August 15, 2024
- Expires on August 15, 2029
- Authorizes stormwater and certain non-stormwater discharges from small MS4s to surface water in the state.
- All authorizations approved under the 2019 – 2024 general permit term received administrative continuance until the issuance of the 2024 general permit.
- We are currently in the 180-day renewal period that ends on February 11, 2025.





Significant Changes for 2024 Renewal of TXR040000

How Are Permit Renewal Changes Determined?



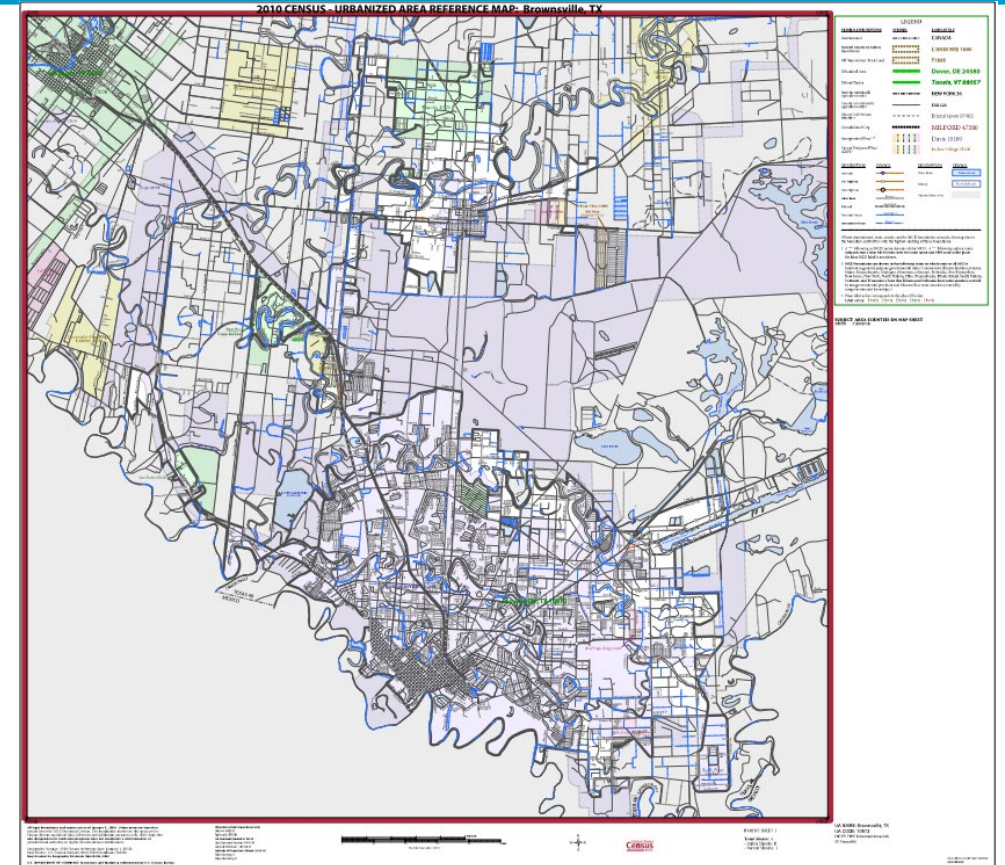
Permit Changes Based on Public Comments

- TCEQ received over 100 individual comments from 19 comment submissions
 - The comments addressed concerns about the Comprehensive General Permit option, specific measurable goals, BMPs/activities for addressing bacteria impairments, NeT-MS4, certain MCMs, enforcement authority, target audiences, terminology, treatment standards, etc.
 - Other comments included editorial suggestions, clarifications, and grammatical errors
- TCEQ revised the permit documents in response to comments received and compiled these comments in the permit package (Permit and Fact Sheet)



Terminology in the 2000 and 2010 U.S. Decennial Censuses

- The Census Bureau's general definition of an urban area is based on **population** and **population density**.
- The Census Bureau delineated these densely populated urban areas into two categories:
 - **"Urbanized Areas (UAs)"** of 50,000 or more people;
 - **"Urban Clusters (UCs)"** of at least 2,500 and less than 50,000 people.



U.S. Census (2010). 2010 Census – Urbanized Area Reference Map: Brownsville, TX.

https://www2.census.gov/geo/maps/dc10map/UAUC_RefMap/ua/ua10972_brownsville_tx/DC10UA10972.pdf



Terminology Changes in the 2020 Decennial Census

- As of March 24, 2022, the Census Bureau stopped distinguishing *urbanized areas* and *urban clusters* and only identified *urban areas*.
- In response, EPA published a final rule on June 12, 2023, which replaced the term “urbanized area” in federal Phase II MS4 regulations with “**urban areas with a population of at least 50,000**”
 - This change requires permitting authorities to use 2020 Census and future census data consistent with existing longstanding regulatory practice.
- The Census Bureau will no longer publish PDF maps of each area like in the past. Instead, they have published the following resources:
 - **Shapefiles of the urban areas** across the nation for mapping purposes
 - <https://www.census.gov/programs-surveys/geography/guidance/geo-areas/urban-rural.html>
 - **Interactive web map with the 2020 urban areas** - TIGERweb
 - <https://tigerweb.geo.census.gov/tigerweb/>



Federal 2017 MS4 General Permit Remand Rule

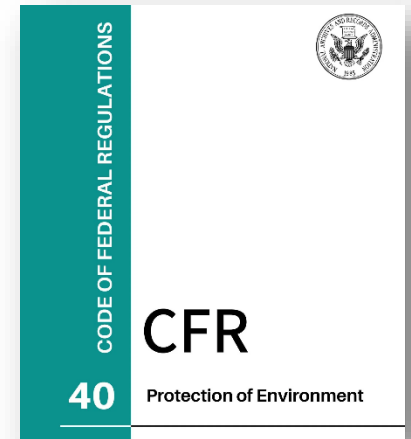
Includes options for states to administer their Phase II MS4 program,
40 CFR §122.28(d)

Option 1: Comprehensive General Permit Approach

- The general permit includes all “clear, specific, and measurable” requirements necessary to meet the MS4 permit standard “to reduce pollutants to the maximum extent practicable” (MEP)
- No additional requirements are established after permit issuance

Option 2: Two-Step General Permit (Procedural Approach)

- *First Step:* The general permit includes “clear, specific, and measurable” requirements for some program areas for all MS4s
- *Second Step:* The state establishes additional requirements and BMPs for individual MS4s (this is in the SWMPs)



Previous Texas Phase II MS4 General Permit

Two-Step Permitting:

1. TCEQ issued statewide “base” general permit
 - Three permit cycles - 2007, 2013, 2019
2. MS4s wrote their own SWMP – with enforceable permit requirements
 - TCEQ and EPA reviewed each MS4’s NOI/SWMP
 - MS4s published notice of NOI/SWMP in newspaper
 - 30-day public comment period and opportunity for public meeting
 - TCEQ responded to public comments and held public meetings
 - TCEQ approved NOI/SWMP to authorize the MS4 under the general permit
 - MS4s implemented public notice process for NOCs that are not considered minor modifications



Texas Two Step by Texas Lottery Logo PNG Vector



Changes for 2024 MS4 General Permit Renewal

Move from Two-Step to Comprehensive Permit Type (1)

- Revised general permit to meet the Comprehensive General Permit standard under the federal 2017 *MS4 General Permit Remand Rule*
- Master general permit includes all the “clear, specific, and measurable” requirements for MS4s to implement in their SWMP
 - List of target audiences and pollutants or sources
 - Table of Activities/BMPs and associated Measurable Goals for each MCM
 - Specify frequency and minimum to select from
 - Based on activities from MS4s in Texas and other EPA approved state permits
 - Requirements and level of effort increase with MS4 Level
- Removed public notice requirements for NOIs and NOCs
 - During the master general permit public notice process, TCEQ provides public notice of the defined terms and conditions that will determine compliance for each MS4



Changes for 2024 MS4 General Permit Renewal

Move from Two-Step to Comprehensive Permit Type (2)

- Removed requirement to submit a SWMP with the NOI
- Removed TCEQ and EPA NOI/SWMP *technical* review requirements
- Only require *administrative* review of NOIs
 - MS4s will identify in the NOI which activities/BMPs listed in the permit they plan to implement based on their level
- Created a streamlined Annual Reporting process based on NOI submittal
 - Annual Report will pull the MS4's selected activities/BMPs from the submitted NOI application



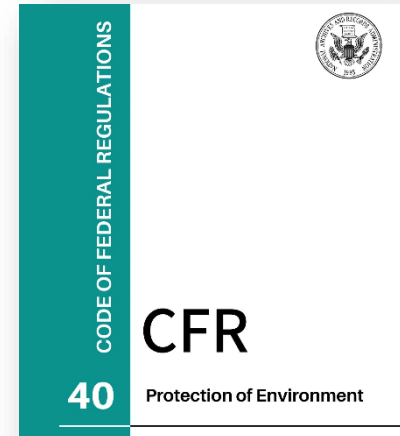
Phase II MS4 General Permit

Application Review Process *Before* and *After*



Federal *Electronic Reporting Rule*

- Per the NPDES Federal Electronic Reporting Rule, electronic applications and reporting are required for general permits by December 2025 (40 CFR Part 127)
 - TCEQ uses EPA's electronic application and reporting system (NeT-MS4) for the 2024 general permit renewal
 - In production since August 2024
 - NOI/Waiver applications and annual reports
 - No more *paper* applications or reports*
 - *Annual reports that fall under the 2019 permit cycle do not fall under the federal electronic reporting rule
 - Changes to the general permit are necessary to fit EPA's system



Changes for 2024 MS4 General Permit Renewal

Revisions for Electronic Applications and Reports (1)

- Split previous MCM 1 into MCMs 1 and 2 for consistency with federal rules (40 CFR §122.34(b))

2019 General Permit	2024 General Permit
<ul style="list-style-type: none">• MCM 1: Public Education, Outreach, and Involvement	<ul style="list-style-type: none">• MCM 1: Public Education and Outreach• MCM 2: Public Involvement/Participation

- Remaining MCMs become renumbered, for eight total MCMs
- Necessary for consistency across nation and implementation into EPA's electronic application and reporting Net-MS4 system

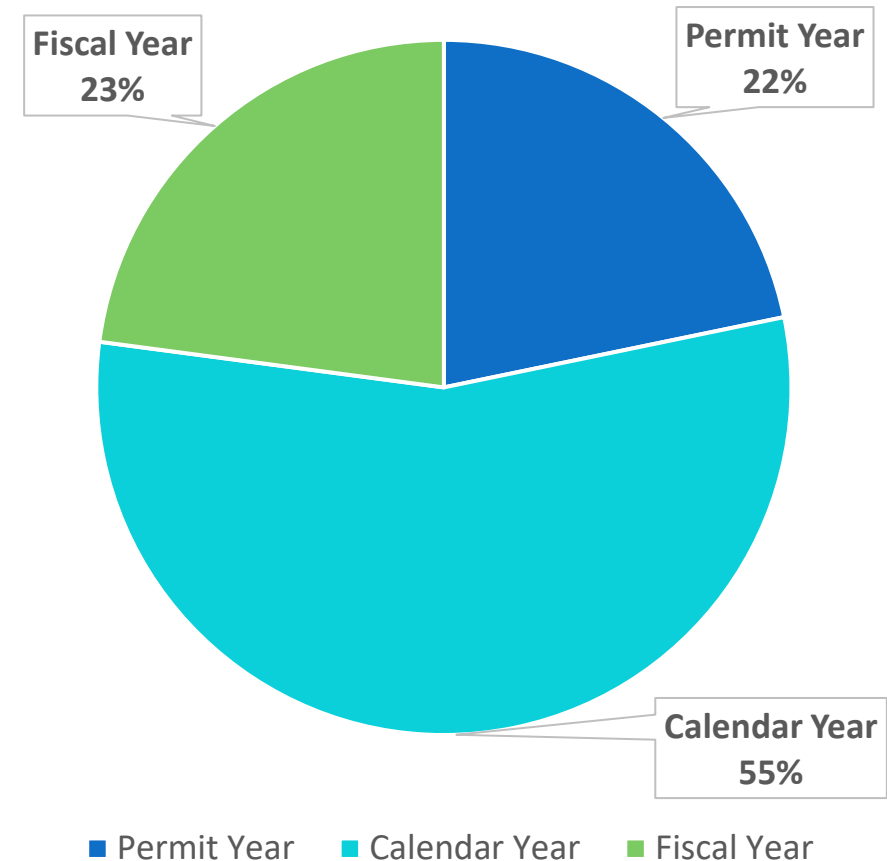


Changes for 2024 MS4 General Permit Renewal

Revisions for Electronic Applications and Reports (2)

- Reduce annual report year options to only one schedule for all MS4s
 - Calendar Year
 - Necessary to fit into EPA's electronic reporting system
- Previous permit allowed MS4s to select one of three options:
 - Permit Year (January 24 – January 23)
 - Calendar Year (January 1 – December 31)
 - Fiscal Year (*e.g.*, October 1 – September 30)
- Added language to explain how MS4s will address the change during the first reporting year

Phase II MS4 Annual Reporting Periods



Changes for 2024 MS4 General Permit Renewal

Other Modifications and Clarifications

- Clarified what is considered a shared MS4 program and that shared programs are coalitions
 - *“Multiple small MS4s that are physically interconnected, located in the same urban area with a population of at least 50,000 people, or are located in the same watershed may combine or share efforts as a coalition in meeting one or more of the BMP requirements described in the general permit.”*
- Clarified required actions when TCEQ lowers a TMDL waste load allocation (WLA) during the permit term
 - Affected MS4 operators must update their SWMP and submit an NOC



Changes for 2024 MS4 General Permit Renewal

Optional MCM for Municipal Construction Activities

- Add requirement to *optional* MCM 8 for operators to
 - Conduct an observation and evaluation of dewatering controls on the days where dewatering discharges occur
 - Consistent with the TPDES Construction General Permit (TXR150000), issued on March 5, 2023
 - Submit Delegation of Signatory forms electronically
 - Electronic submittal must be done using TCEQ's online State of Texas Environmental Electronic Reporting System (STEERS)
 - Required for compliance with federal NPDES Electronic Reporting Rule



Urbanized Areas and the 2020 Decennial Census

- The Decennial Census, starting in 2020 and into the future, no longer identifies “urbanized areas.”
- As of July 12, 2023, the federal Phase II MS4 Regulations are revised to remove references to “urbanized areas” and instead include the “**urban area with a population of 50,000 or more people**” phrasing
 - Revised permit language in the same way to refer to “2020 urban areas with a population of 50,000 or more people”
 - See *NPDES Small MS4 Urbanized Area Clarification* rule

United States®
Census
2020

This Photo by Unknown Author is licensed under [CC BY-SA-NC](#)

The MS4 must be fully or partially located within an [urban area with a population of at least 50,000 people](#) as determined by the 2000, 2010, or [2020](#) Decennial Censuses



Changes for 2024 MS4 General Permit Renewal

Other Modifications and Clarifications (1)

- Clarified that MS4 levels are determined based on the 2020 Decennial Census population data
 - *“The level of an MS4 is based on population in the most recent Decennial Census at the time of permit issuance. A national Census held during a permit term will not affect the level of an MS4 until the next permit renewal.*
- For the purpose of this section, “serve a population” means the residential population within the regulated portion of the small MS4 based on the population data from the 2020 Decennial Census, except for non-traditional small MS4s listed in Level 2b below.”*
- Modified MS4 Level 2 to separate non-traditional MS4s from traditional MS4s:
 - Level 2a: Operators of **traditional** MS4s that serve a population of 10,000 to < 40,000
 - Level 2b: Operators of all **non-traditional** MS4s



Changes for 2024 MS4 General Permit Renewal

Other Modifications and Clarifications (2)

- Modified definition of *Waters of the U.S.* to reference definition in federal rules

“Waters of the United States or waters of the U.S. means the term as defined in 40 CFR § 122.2”

- Clarified that MS4s which *failed* to apply for permit coverage in a *previous* permit term are not eligible for the 180-day renewal application grace period

“Operators of small MS4s described in Part II.A.1 that did not submit an application for authorization under the 2019 TPDES General Permit TXR040000 and were required to obtain permit coverage based on the 2000 and 2010 urban areas with a population of 50,000 or more shall submit an NOI immediately.”



Changes for 2024 MS4 General Permit Renewal

Other Modifications and Clarifications (3)

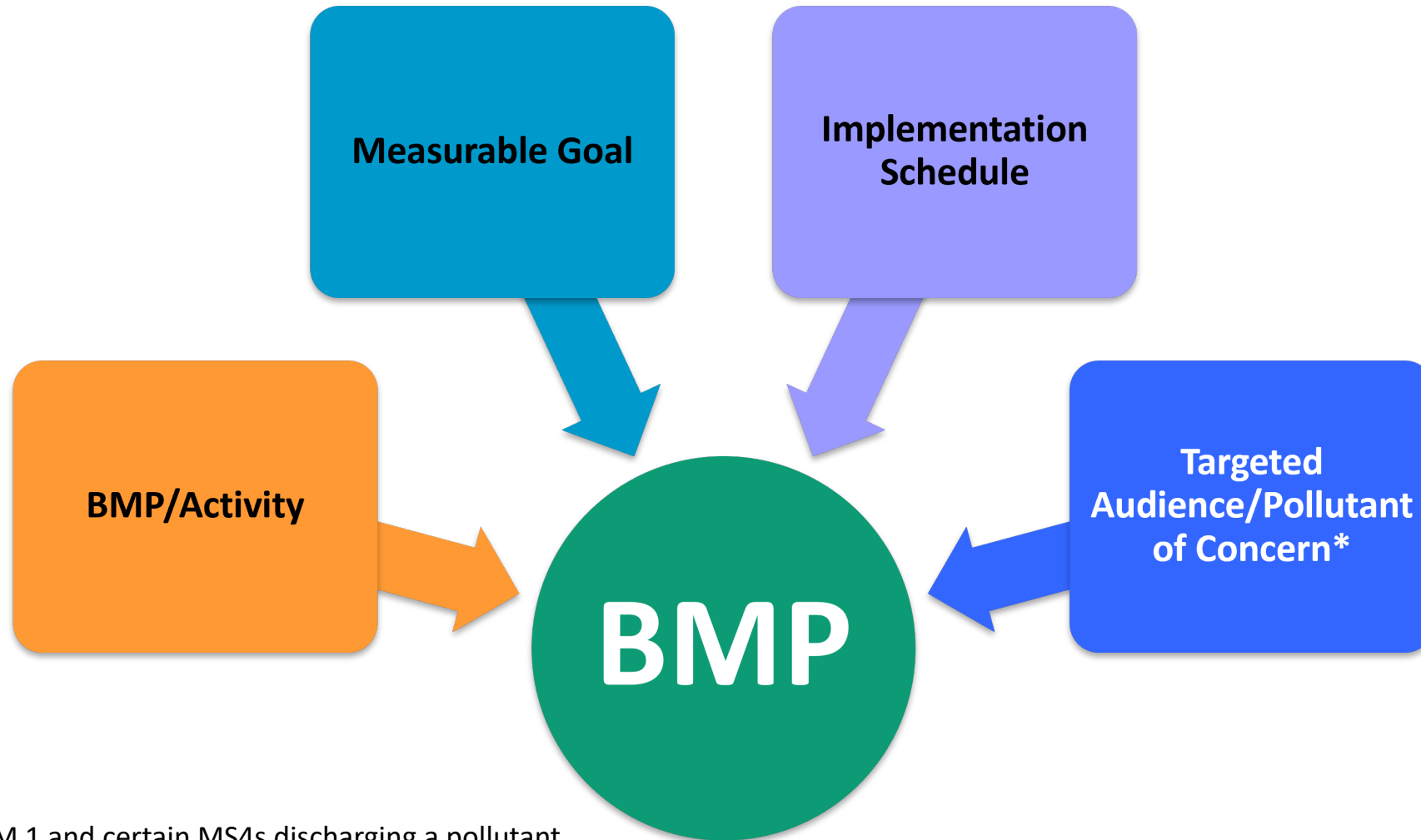
- Added permit language to list the federal rule criteria for designating MS4s
 - *“The criteria that the executive director may consider is as follows:*
 - *The location of the discharge with respect to waters of the United States as defined at 40 CFR §122.2.*
 - *The size of the discharge;*
 - *The quantity and nature of the pollutants discharged to waters of the United States;*
and
 - *Other relevant factors.*
- Miscellaneous and editorial changes
 - Reorganized similar information under the same sections
 - Correct typos, clarify unclear language, etc.





Reading the General Permit

Components of Best Management Practices



*Required for MCM 1 and certain MS4s discharging a pollutant of concern



Understanding the General Permit

- Once you have determined your MS4 is eligible for coverage, a SWMP must be developed prior to the submission of a NOI.
 - Read and understand the requirements for a SWMP
 - Outlined in **Part IV** of the General Permit
 - Develop the SWMP
 - General required elements of **Part IV, Section C**
 - Select appropriate BMPs
 - Implement the SWMP once coverage has been approved



MCM 1: Public Education and Outreach

(a) – General description of the MCM

(1) - Requirement for MCM 1

- Target audiences
- Additional Target Audiences for Levels 3 and 4:
 - Schools, businesses, industrial facilities, visitors (Table 2*)

(2) – Targeted Pollutant Sources

- Listed in Table 3*

1. Public Education and Outreach

- (a) The small MS4 operator shall implement a public education and outreach program to distribute educational materials to the community and conduct equivalent outreach about the impacts of stormwater discharges on water bodies and the steps that the public can take to reduce pollutants in stormwater runoff.
- (1) The public education and outreach program shall at a minimum include the following target audiences, as applicable:
 - a. *Traditional MS4s* and counties shall address the residents being served;
 - b. *Non-traditional MS4s* (other than counties) shall address the community served by the MS4 as listed below:
 - (i) Universities shall target the faculty, other staff, and students;
 - (ii) Military bases shall target military personnel (and dependents), and employees (including contractors);
 - (iii) Prison complexes or other multi-building complexes shall target staff and contractors;
 - (iv) Municipal Utility Districts and other special districts shall target residents served, staff, and contractors; and
 - (v) Transportation authorities shall address staff, contractors, and users.
 - c. Small MS4 operators shall address additional target audiences within the small MS4 service area (such as but not limited to, those listed in Table 2) as listed below:
 - (i) Levels 1, 2a, and 2b: No requirement for additional audiences;
 - (ii) Level 3: A minimum of one additional audience; or
 - (iii) Level 4: A minimum of two additional audiences.

MCM 1: Public Education and Outreach Cont.

(3) – Requirement for MCM 1 - BMP description

- Describes the intention for BMPs

(a) – Posting of SWMP and Annual Report

- Required for all MS4s with a public website

(b) – Additional BMPs required dependent on MS4 Level

- Listed on table 4

- (3) Small MS4 operators must use appropriate educational resources as BMPs (materials, events, activities, etc.) in conjunction with the selected pollutants for the selected audiences. The message delivered by these BMPs must be applicable to the target audience and relate to the target pollutant (such as a newsletter article about updated illegal dumping and discharge ordinances distributed to auto mechanic businesses or a hazardous household waste disposal flyer when applying for trash or recycling services). BMPs which are ongoing throughout the year or permit term may be counted as one annual BMP. Permittees shall explain how each BMP relates to the target pollutant and target audience. Small MS4 operators may change BMPs during the permit cycle if determined appropriate through annual reviews and a different BMP may be more effective for the small MS4's target pollutant or target audience. Any changes shall be reflected in the SWMP and explained in the annual report.
 - a. If the permittee has a public website, the permittee shall post its SWMP and the annual reports required under Part V.B.2 or a summary of the annual report on the permittee's website.
 - (i) The SWMP must be posted no later than 30 days after the NOI or NOC approval date; and
 - (ii) The annual report no later than 30 days after the due date.
 - b. Over the permit term, small MS4 operators shall implement a minimum number of public education and outreach BMPs from Table 4, as follows:
 - (i) Level 1: three BMPs;
 - (ii) Levels 2a and 2b: four BMPs; or
 - (iii) Levels 3 and 4: five BMPs.

MCM 1: Public Education and Outreach

(Example)

Table 4: Required Public Education and Outreach BMPs

Activity/BMP	Measurable Goals
Information on the MS4 operator's website.	Maintain a webpage with current and accurate information and working links. <ul style="list-style-type: none"> All links shall be checked, and the page shall be updated as necessary at a minimum of once annually. Must be maintained for the full year, each year.
Social media posts, social media campaign.	Post a minimum of four times each year on a minimum of one social media platform. <ul style="list-style-type: none"> The message shall address ways attendees can minimize or avoid adverse stormwater impacts or practices to improve the quality of stormwater runoff. The messages shall be seasonally appropriate. Must make a minimum of one post per quarter and all quarterly posts must be visible by attendees for the full year, each year.

Activity

Implementation Schedule

Activity Requirements



MCM 3: Illicit Discharge Detection and Elimination (IDDE)

a) Program Development

- 1) All permittees shall develop, implement, and enforce a program to investigate, detect, and eliminate illicit discharges into the small MS4. The program must include a plan to detect and address non-stormwater discharges, including illegal dumping to the small MS4.*

b) Allowable Non-Stormwater Discharges

c) Requirements for all Permittees

- Details of BMP requirements



MCM 3: Illicit Discharge Detection and Elimination (IDDE)

(Example)

Activity/BMP	Measurable Goals
Inspections in response to complaints as described in Part IV.D.3.(c)(6).	<p>Conduct inspections in response to 100% of complaints each year according to the established procedures (or some Level 2b MS4s must notify the appropriate agency with the authority to act).</p> <p>Conduct follow up inspections in 100% of cases each year where necessary as described in the established procedures (except for some Level 2b MS4s without the appropriate authority to act).</p>



MCM 3: IDDE

(Example)

(6) Inspections – The permittee shall conduct inspections, in response to complaints, and shall conduct follow-up inspections to ensure that corrective measures have been implemented by the responsible party.

The permittee shall develop written procedures describing the basis for conducting inspections in response to complaints and conducting follow-up inspections.



Resources

- The 2024 general permit, fact sheet, and response to comments can be found at:
https://www.tceq.texas.gov/permitting/stormwater/ms4/WQ_ms4_small_TXRO4.html
- Final *NPDES Small MS4 Urbanized Area Clarification Rule*
<https://www.govinfo.gov/content/pkg/FR-2023-06-12/pdf/2023-12494.pdf>
- 2020 Census and Urban Areas, new TCEQ webpage:
<https://www.tceq.texas.gov/permitting/stormwater/ms4/urbanareas>



Questions?



This Photo by Unknown Author is licensed under [CC BY-SA-NC](#)