



Phase II Municipal Separate Storm Sewer System (MS4): Proposed 2024 General Permit Overview and Renewal Update

2024 Water Quality/Stormwater Seminar

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Presentation Outline

- Basic Overview of the Existing TXR040000 General Permit
- Timeline for the 2024 Renewal of TXR040000
- Proposed Changes for the 2024 Renewal
- Public Comments and Adoption
- Net-MS4 System
- Additional Resources






Existing TXR040000 General Permit Overview

Existing Phase II MS4 General Permit

- **TXR040000, also referred to as the Small MS4 General Permit**
- Effective January 24, 2019
- Expires January 24, 2024
- Authorizes stormwater and certain non-stormwater discharges from small MS4s to surface water in the state
 - Small MS4 - A publicly owned *or* operated conveyance or system of conveyances designed or used for collecting or conveying stormwater discharges to Waters of the U.S.

Texas Commission on Environmental Quality
P.O. Box 13087, Austin, Texas 78711-3087



GENERAL PERMIT TO DISCHARGE UNDER THE
TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM
under provisions of
402 of the Clean Water Act
and Chapter 26 of the Texas Water Code


This permit supersedes and replaces
TPDES General Permit No. TXR040000, issued December 13, 2013

Small Municipal Separate Storm Sewer Systems
located in the state of Texas
may discharge directly to surface water in the state

only according to requirements and conditions set forth in this general permit, as well as the rules of the Texas Commission on Environmental Quality (TCEQ or Commission), the laws of the State of Texas, and other orders of the the TCEQ. The issuance of this general permit does not grant to the permittee the right to use private or public property for conveyance of stormwater and certain non-stormwater discharges along the discharge route. This includes property belonging to but not limited to any individual, partnership, corporation or other entity. Neither does this general permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary to use the discharge route.

This general permit and the authorization contained herein shall expire at midnight, five years after the permit effective date.

EFFECTIVE DATE: 1-24-19
ISSUED DATE: 1-24-19


For the Commission

Tiered Permitting Approach

Level 1

- Up to 10,000*

Level 2

- 10,000 to 40,000*
- Includes non-traditional MS4s
- Additional Requirement in MCM 2

Level 3

- 40,000 to 100,000*
- Additional Requirements in MCMs 2, 3, and 5

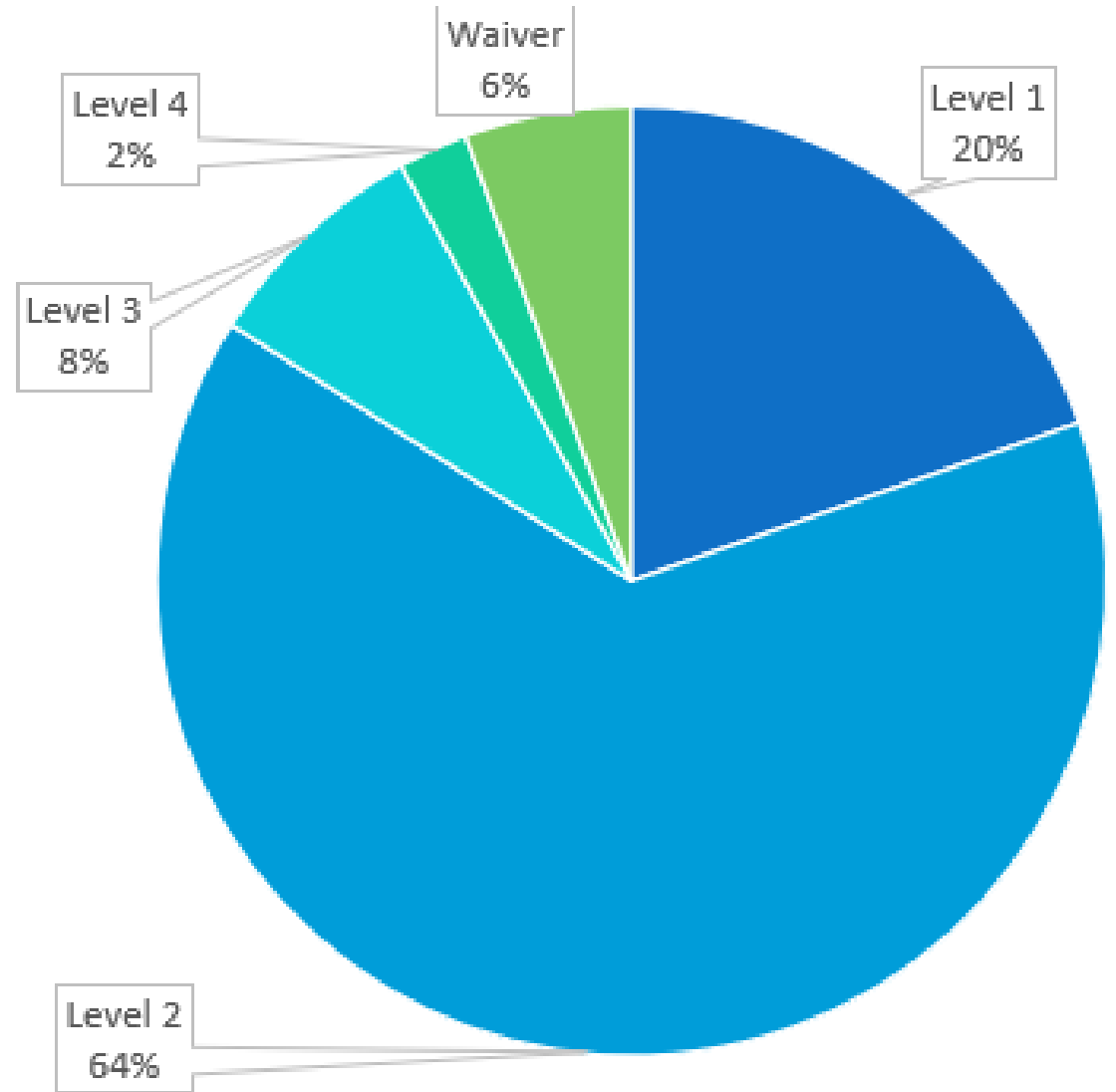
Level 4

- More than 100,000*
- Additional Requirements in MCMs 2, 3, 4, and 5
- Required to implement MCM 6

* *Population in UA based on 2010 U.S. Census*
- *Waiver option available for population less than 1,000*



Current TXR040000 Authorizations



Federal MS4 General Permit Remand Rule

- Rule published in *Federal Register* - Dec. 9, 2016, Effective on Jan. 9, 2017
- 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 best management practices (BMPs) for individual MS4s in the stormwater management programs (SWMPs).



Texas Currently Implements Option 2

Two-Step Permitting Process:

1. TCEQ issues statewide “base” general permit
2. MS4s write their own SWMP – with enforceable permit requirements
 - TCEQ and EPA review each MS4’s NOI/SWMP
 - MS4s publish notice of NOI/SWMP in newspaper
 - 30-day public comment period and opportunity for public meeting
 - TCEQ responds to public comments and/or holds public meeting
 - TCEQ approves NOI/SWMP to authorize the MS4 under the general permit
 - MS4s implement public notice process for NOCs that are not considered minor modifications
 - MS4 publishes notice of the NOC on its website, or
 - TCEQ posts notice of NOC on its website if the MS4 does not have a website





Timeline for the 2024 Renewal of TXR040000

TXR040000 Renewal Timeline



*Dates subject to change, additional information located at <https://www.tceq.texas.gov/permitting/stormwater/ms4>





Proposed Changes for 2024 Renewal

Proposed Changes for 2024 MS4 General Permit Renewal

Move from Two-Step to Comprehensive Permit Type

- Revise general permit to meet the Comprehensive Permit standard under the federal 2017 *MS4 General Permit Remand Rule*
- Prescribe specific requirements/BMPs for each MS4 to implement in their SWMP
 - Remain flexible for MS4s to address local concerns
 - Provide public notice of the defined terms and conditions that will determine compliance for each permittee during the master general permit public notice
- Remove public notice requirements for NOIs and NOCs
 - Reduce costs of up to \$5,000 for MS4s



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Proposed Changes for 2024 MS4 General Permit Renewal

Move from Two-Step to Comprehensive Permit Type

- Base or master general permit includes all the “clear, specific, and measurable” requirements for MS4s
 - List of target audiences and pollutants or sources
 - Table of Activities/BMPs and associated Measurable Goals for each MCM
 - Specify frequency and minimum to pick from
- Based on MS4s in Texas and other EPA approved state permits
- Maintain flexibility for MS4s
 - “Menu” of BMPs for select MCMs
 - Ability to address local concerns and resources
- Requirements and level of effort increase with MS4 Level



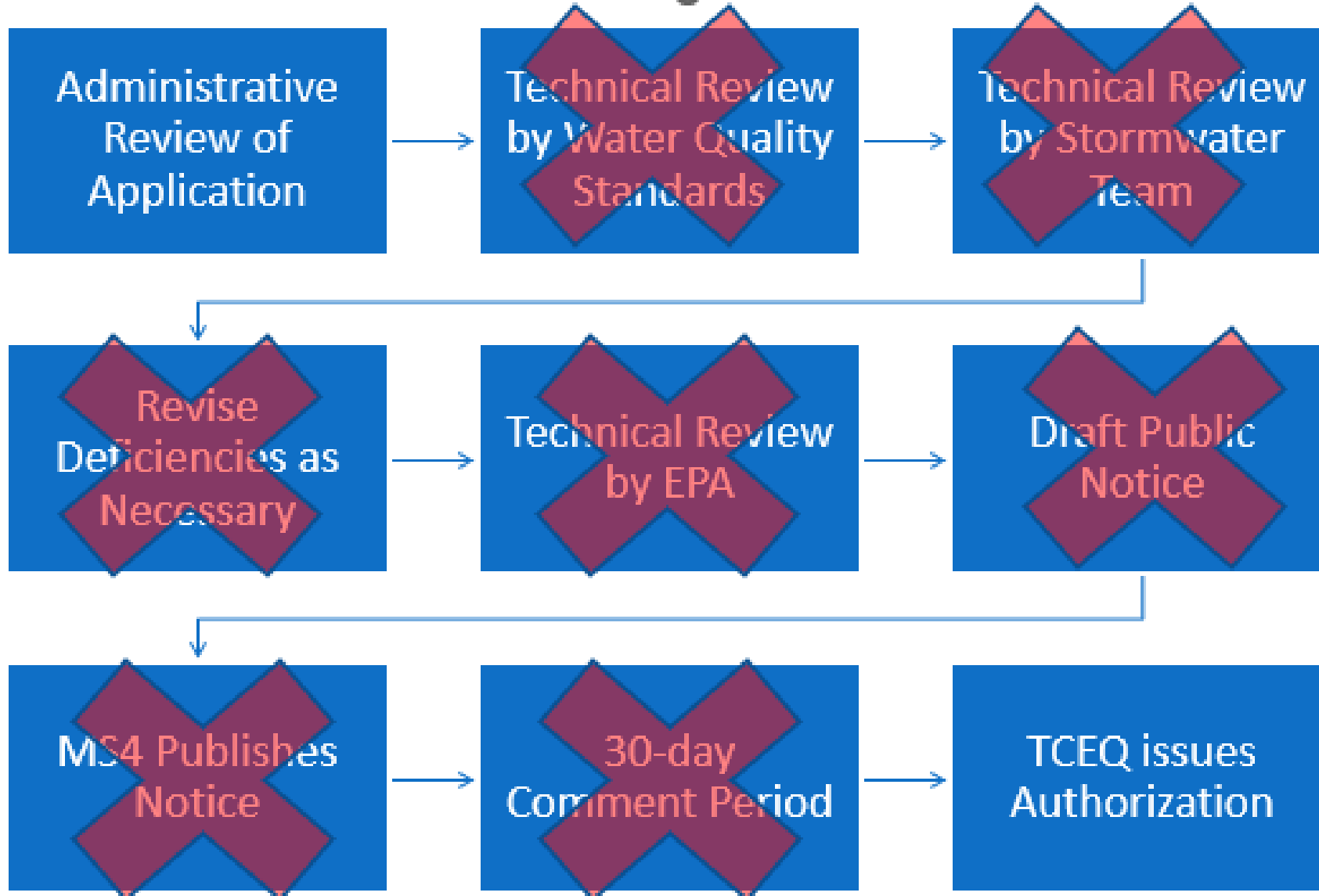
Proposed Changes for 2024 MS4 General Permit Renewal

Move from Two-Step to Comprehensive Permit Type

- Remove requirement to submit a SWMP with the NOI
- Remove TCEQ and EPA NOI/SWMP technical review requirements
 - Conducting technical reviews are lengthy and resource intensive
- Only require administrative review of NOIs which can be done much more quickly
- MS4s will identify in the NOI which BMPs listed in the permit they plan to implement
- Create streamlined Annual Reporting based on NOI submittal
 - Annual Report will pull BMP information from the NOI for the MS4s to report



Phase II MS4 General Permit Application Review Process



Proposed Changes for 2024 MS4 General Permit Renewal

Revisions for Electronic Applications and Reports

- Electronic applications and reporting required for general permits by December 2025, per federal *NPDES Electronic Reporting Rule* (40 CFR Part 127)
 - TCEQ will use EPA's electronic application and reporting system (Net-MS4) for the 2024 general permit renewal
 - No *paper* applications or annual reports under the renewed general permit
 - Changes to the general permit are necessary to fit into EPA's system
 - TCEQ and EPA have started setting up the Texas Phase II MS4 General Permit in Net-MS4
 - Later in the process, beta testing will be available to Texas MS4s



Proposed Changes for 2024 MS4 General Permit Renewal

Revisions for Electronic Applications and Reports

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

Current General Permit	Proposed Change
<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

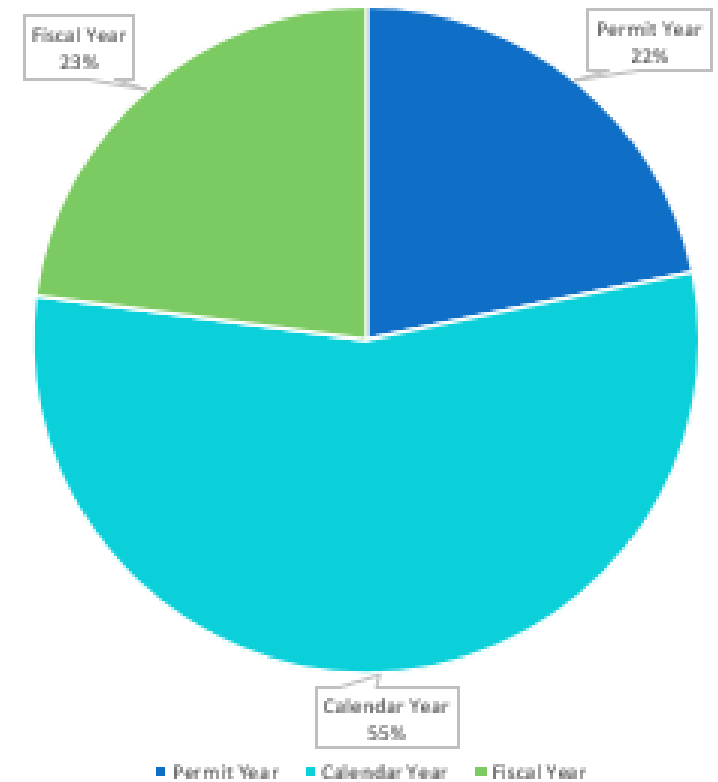
- Necessary for consistency across nation and implementation into EPA's electronic application and reporting system
- Remaining MCMs become renumbered, for eight total MCMs

Proposed Changes for 2024 MS4 General Permit Renewal

Revisions for Electronic Applications and Reports

- Reduce annual report year options to only one schedule for all MS4s
 - Calendar Year
 - Necessary to fit into EPA's electronic reporting system
- Current permit allows 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



Proposed Changes for 2024 MS4 General Permit Renewal

Revisions for Electronic Applications and Reports

- Require Coalitions to designate in the NOI the coalition member responsible for submitting Annual Reports
 - Allows for shared annual reports to be submitted in the electronic system
 - Designated member:
 - submits the report information for the entire coalition and
 - signs and certifies that the information is true and accurate
 - All other members submit a signature and certification that the information is being submitted by the designated member and that it is true and accurate



Proposed Changes for 2024 MS4 General Permit Renewal

2020 Decennial Census

- Add to applicability criteria MS4 operators located within the “2020 Urban Areas with a population of 50,000 or more people” to replace the term “urbanized area” throughout the permit
 - Necessary to comply with the federal *NPDES Small MS4 Urbanized Area Clarification* rule
 - Extend coverage to some new MS4 operators
 - Will not de-regulate any MS4 operators
 - Once regulated, always regulated



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Proposed Changes for 2024 MS4 General Permit Renewal

2020 Decennial Census

- Clarify that MS4 levels are determined based on the 2020 Decennial Census urban areas and population data
 - *“This general permit defines small MS4 operators by the following categories, or levels, based on the population served by the MS4 within the 2020 urban area with a population of at least 50,000 people. 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.”*



Proposed Changes for 2024 MS4 General Permit Renewal

Other Modifications and Clarifications

- Clarify 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.”*
- Clarify 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



Proposed Changes for 2024 MS4 General Permit Renewal

Other Modifications and Clarifications

- Modify 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
- Clarify that MS4s which failed to apply for permit coverage in the 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 at least 50,000 people shall submit an NOI immediately.”

- Miscellaneous and editorial changes
 - Reorganizing similar information under the same sections
 - Correct typos, clarify unclear language, etc.



Proposed Changes for 2024 MS4 General Permit Renewal

Optional MCM for Municipal Construction Activities

- Add requirement to 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
- For a complete list of changes, see pages 24-27 of the proposed Fact Sheet



Example Proposed BMPs and Measurable Goals Table

MCM 4: Construction Site Stormwater Runoff Control

Activity/BMP	Measurable Goals
<p>Develop and maintain an ordinance or other regulatory mechanism as described in Part IV.D.4.(a).</p>	<p>Review and update the ordinance or other regulatory mechanism at least one time during the permit term to address changes and make improvements to the ordinance where applicable.</p>
<p>Conduct construction site inspections as described in Part IV.D.4.(b)(4).</p>	<p>Conduct inspections at 80% of active construction sites annually according to the established procedures (or some Level 2b small MS4s must notify the appropriate agency with the authority to act).</p> <p>Each year, conduct follow up inspections in 100% of cases where necessary as described in the established procedures (except for some Level 2b small MS4s without the appropriate authority to act).</p>
<p>Develop, implement, and maintain procedures for receipt and consideration of information submitted by the public as described in Part IV.D.4.(b)(5).</p>	<p>Review and update procedures for the receipt and consideration of information submitted by the public at least one time annually to address changes and make improvements to the established procedures where applicable.</p> <p>Maintain one webpage, hotline, or similar method for receipt of information submitted by the public throughout the permit term.</p>

New or Renewal Applications and Deadline

- Deadline: electronic applications will be due in NeT-MS4 180 days from permit issuance.
- New and existing small MS4 operators will need to develop or update their SWMP and submit an application to TCEQ for permit coverage within the renewal period.
- Necessary updates to existing SWMPs may include:
 - reorganizing to separate existing MCM 1 into MCMs 1 and 2 as defined in the draft general permit,
 - updating activities/BMPs and measurable goals, as appropriate for consistency with the draft comprehensive general permit, and
 - Including new regulated MS4 areas based on the 2020 Decennial Census.



After Issuance

- Outreach and Workshops
 - After the 2024 general permit is issued on January 24, 2024, TCEQ is planning to hold:
 - One virtual workshop on how to prepare and submit applications in Net-MS4 and the final changes to the issued permit
 - Exploring the option of hosting in-person workshops
 - More information will be forthcoming
- **Tentative Deadline:** Authorizations must be renewed by **July 22, 2024**



After Issuance Continued

- Currently identifying newly regulated small MS4 operators
 - Will send notification letters to each
- Renewal reminder postcards will be sent out to existing small MS4 operators
- Developing SWMP template
 - Will be an official Regulatory Guidance Document on the TCEQ webpages
 - Will be made available after permit issuance





Public Comments and Adoption

Public Comments

- Notice was published in the Houston Chronicle and *Texas Register* for a 30-day public comment period which ended on September 25, 2023
- About 100 individual comments were received from 15 entities
 - Similar comments will be combined in the final Executive Director's Response to Comments
- Currently preparing responses to the comments and revisions to the permit and fact sheet to address comments as appropriate



General Permit Adoption

- Commissioners Agenda for Adoption
 - Tentatively scheduled for January 24, 2024
- Backup Agenda Documents
 - Available for public viewing at least eight days prior to the scheduled Agenda
 - Public can view:
 - Proposed 2024 General Permit,
 - Fact Sheet, and
 - Executive Director’s Response to Comments





Net-MS4 System

Net-MS4 Application and Report System

- Developed for Texas by EPA as part of the Central Data Exchange (CDX) system
 - Not associated with the TCEQ STEERS system
- Will be available for application submittal by March 1, 2024
 - CDX accounts for Net-MS4 can be set up on or after this date
- Applications will be submitted electronically for review and approval by TCEQ staff
 - Staff will review administrative items such as compliance history, application fee payment, delinquent fees, etc.



Net-MS4 Applications

- Applications will require applicants to provide:
 - the same customer, site, and contact information as the existing NOI under the 2019 general permit
 - indication of which BMPs and measurable goals are being implemented in the SWMP
 - The SWMP must be prepared before completing the application
 - The SWMP does not need to be submitted to TCEQ
 - receiving water body information
 - Etc.



Net-MS4 Annual Reports

- The first annual report will be due in Net-MS4 on March 31, 2025
- Annual reporting process will be streamlined
 - The annual report form will be generated to include the BMPs and measurable goals selected in each permittee's NOI or NOCs
 - Will allow you to report progress for each BMP and measurable goal identified
- Signatory for annual reports can be delegated in CDX





Additional Resources

Resources

- The 2024 proposed general permit and fact sheet located 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>



Stormwater Team Contacts

Stormwater Team



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Questions?
