

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT**  
**ON TCEQ's CONSTRUCTION GENERAL PERMIT NO. TXR150000**

The Executive Director of the Texas Commission on Environmental Quality (commission or TCEQ) files this Response to Public Comment (Response) on Texas Pollutant Discharge Elimination System (TPDES) General Permit No. TXR150000, the Construction General Permit for Stormwater Discharges (CGP). As required by Texas Water Code (TWC), (Section) § 26.040(d) and Title 30 Texas Administrative Code (TAC), § 205.3(e), before a general permit is issued, the Executive Director must prepare a response to all timely, relevant and material, or significant comments. The response must be made available to the public and filed with the Office of the Chief Clerk at least ten days before the commission considers the approval of the general permit. This response addresses all timely received public comments, whether or not withdrawn.

Timely public comments were received from the following entities: American Electric Power (AEP), Bexar County (Bexar), Compliance Resources Inc (CRI), Earth Works Environmental LLC (EWE), Bowman Engineering Consulting Inc (BEC), Cardinal Strategies Environmental Services, LLC (CSES), Lennar, Lower Colorado River Authority (LCRA), Merit Professional Services (Merit), New Mexico Environmental Department (NMED), Texas Association of Builders (TAB), Terradyne Group LLC (TERRADYNE), Texas Department of Transportation (TxDOT), Marty Savage (Mr. Savage), and Stormcon LLC (STORMCON).

**PERMIT BACKGROUND**

The 2023 CGP renewal with changes authorizes the discharge of stormwater runoff associated with regulated large and small construction sites and certain non-stormwater discharges into surface water in the state. Regulated large construction activities are those disturbing five acres or more. Regulated small construction activities are those disturbing at least one acre up to five acres. Construction activities are also grouped, and their total land area disturbance used, if they are part of a common plan of development. This general permit identifies the sites that may be authorized under the permit, as well as the construction activities that may obtain waivers and that may be eligible for coverage without submitting a Notice of Intent (NOI). The CGP also identifies the conditions when a construction activity must obtain individual permit coverage. The CGP also authorizes the discharge of stormwater associated with industrial activities, at construction sites, that directly support the construction activity and are located at, adjacent to, or in close proximity to the permitted construction site.

On September 14, 1998, TCEQ received delegation authority from the United States Environmental Protection Agency (EPA) to administer the National Pollutant Discharge Elimination System (NPDES) program under the TPDES program. As part of that delegation, TCEQ and EPA signed a Memorandum of Agreement (MOA) that authorizes the administration of the NPDES program by TCEQ as it applies to the State of Texas. The previous version of the TPDES general permit was issued on March 5, 2018, and expires on March 5, 2023. The amended and renewed general permit will continue to authorize discharges from regulated construction activities in Texas for five years from the date it is issued.

The CGP is issued under the statutory authority of the TWC: 1) TWC § 26.121, which makes it unlawful to discharge pollutants into or adjacent to water in the state except as authorized by a rule, permit, or order issued by the commission, 2) TWC § 26.027, which 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, 3) TWC § 26.040, which provides the commission may authorize waste discharges by general permit, and 4) TWC § 26.131, which authorizes the commission to issue permits for discharges into surface water in the state of produced water, hydrostatic test water, and gas plant effluent resulting from the exploration, production and development of oil, natural gas, or geothermal resources.

The federal stormwater regulations, Phase I, for discharges from large construction activities are located in the federal rules at Part 40 Code of Federal Regulations (CFR) § 122.26, which were adopted by reference by TCEQ in 30 TAC § 281.25(a). The Phase II small construction site regulations are located in the federal rules at 40 CFR § 122.26(a)(9)(i)(B) and (c), which were adopted by reference by TCEQ at 30 TAC § 281.25(a)(4). Subsequently, effluent guidelines for construction activities were adopted in 40 CFR Part 450 and adopted by TCEQ by reference in 30 TAC § 305.541 and were incorporated starting with the 2013 CGP.

## PROCEDURAL BACKGROUND

TCEQ published notice of the draft general permit to solicit public comment in the *Houston Chronicle*, and the *Texas Register* on September 17, 2022. The public comment period ended on October 17, 2022, and a public meeting was held on the same date.

## COMMENTS AND RESPONSES

Comments and responses are organized by section. Some comments have resulted in changes to the general permit. Those comments resulting in changes were identified in the respective responses. All other comments resulted in no changes. Some separate comments are combined with other related comments.

### General Comments

1. **Comment:** NMED comments that the State of New Mexico water quality standards are applicable for construction projects where the State of New Mexico is downstream of the discharge. For example, New Mexico may be downstream of discharges into the Rio Grande and the Delaware River.

NMED also identifies requirements that apply to these construction site operators in New Mexico regulations including: 1) reporting to NMED all spills to a waterbody where New Mexico is downstream of the spill as required by the New Mexico Water Quality Control Commission Regulations, 2) for sites with dewatering, maintain a list of potential pollutants and contaminants located within a noted distance from the project in the Stormwater Pollution Prevention Plan (SWP3), 3) provide information on the flow rate and potential to encounter contaminated groundwater, subsurface water, spring water, or dewatering water directly to NMED for dewatering activities, 4) characterize the quality of the groundwater and subsurface water, spring water, or dewatering water being considered for discharge with analytical results reported to EPA Region 6 Stormwater contact and NMED and results and correspondence documented in the SWP3.

**Response:** TCEQ appreciates the comment and information from the State of New Mexico. NMED has not demonstrated how the CGP, TXR150000, will not ensure compliance with the applicable water quality standards of the State of New Mexico. Further, Part II.C.7 of the CGP states, “[t]his general permit does not limit the authority or ability of federal, other state, or local governmental entities from placing additional

or more stringent requirements on construction activities or discharges from construction activities.” No changes were made in response to this comment.

2. **Comment:** TxDOT comments they appreciate TCEQ’s efforts to make the permit more readable but notes that it is still “convoluted and verbose in various places.” TxDOT recommends that TCEQ look for areas of the permit where wording can be simplified, and paragraphs shortened and suggests TCEQ look at the structure of the EPA CGP as an example.

TxDOT comments that TCEQ moved Part III.G. to a new section entitled Part IV. Erosion and Sediment Control Requirements Applicable to All Sites which is an improvement but feels this section should come before Part III.F. TxDOT suggests it would be better to integrate Part III.F and Part IV, along with Part VI into a single Section.

TxDOT notes that Part II.E.8, *Contents of the NOI*, comes after Part II.E.6. *Notice of Change (NOC)* while it seems that *Contents of the NOI* should come before the section on NOC as the NOI is filed before a NOC is filed. TxDOT comments that the new dewatering section in Part III.F.7 and Part III.F.8 have repeating information about inspection personnel and inspection documentation requirements which could be combined. TxDOT comments that Part VI Concrete Truck Washout Requirements appear completely disjunct from the SWP3 even though an entity should be incorporating that information into a SWP3 and, therefore, should be included in Part III.F. TxDOT recommends that TCEQ include footnotes to reference documents and additional clarifying items which would be very helpful for the reader to understand the intent of certain sections.

**Response:** TCEQ moved the *Contents of the NOI* section (Part II.8) before the NOC section (Part II.6). The remaining TxDOT suggestions are considered substantive revisions that would require additional public review and input. TCEQ appreciates this input and will make efforts to improve the CGP structure, with EPA’s CGP as a guide, for the next renewal.

3. **Comment:** Bexar comments that the CGP is based on the Clean Water Act and soil disturbance factor and during their reviews for a CGP, they noticed construction activities such as clearing and grading, temporary access roads, etc., are involved in the disturbance of potential Waters of the U.S. (WOTUS), and, therefore, may require 404 permits. Bexar comments that they are committed to protecting the surface water quality in the County and the lack of directions in the CGP on how to deal with this scenario make it difficult to address. Bexar requests that TCEQ address this concern in the 2023 renewal and provide guidance on how to deal with these scenarios.

**Response:** The CGP only authorizes stormwater discharges from construction activities and construction support activities. The CGP is separate from Section 404 permits issued by the United States Army Corps of Engineers (USACE). Concerned parties should contact USACE regarding projects that require a Section 404 permit. No changes were made in response to this comment.

4. **Comment:** TxDOT requests that TCEQ clarify in the CGP that an NOI and SWP3 as described in Part III.F are not required for emergency firefighting activities, such as emergency firebreaks/fireguards as interpreted by TCEQ (April 2021). TxDOT staff discussed this with TCEQ and were told that an SWP3 is not required, but post-emergency notification to TCEQ is required. TxDOT comments that should be clarified

in the CGP itself and email and phone call communications should not be the only way policy is documented.

**Response:** Part II.A.3 provides the non-stormwater discharges from sites authorized under the CGP. This general permit does not cover discharges from non-emergency fire-fighting activities or firefighting activities occurring outside of a regulated construction site. Discharges from emergency firefighting activities occurring at a regulated construction sites are automatically covered under the operator's existing authorization and no additional application is required. No changes were made in response to this comment.

5. **Comment:** CRI recommends that TCEQ include the associated authorization number in the auto-generated "State of Texas Environmental Electronic Reporting System (STEERS) Construction General Permit Application Notification of Final Action" emails. CRI comments this will allow for easier tracking of STEERS actions by applicants and preparers with multiple authorizations.

**Response:** TCEQ agrees with CRI and confirms that the authorization numbers will be included in the automated email notifications for all applications under the renewed 2023 CGP.

6. **Comment:** TAB comments that they appreciate the timely renewal of this permit and the opportunity to provide comments.

**Response:** TCEQ acknowledges TAB's comment.

7. **Comment:** TxDOT recommends that TCEQ communicate with Municipal Separate Storm Sewer System (MS4) operators regarding TCEQ's pending amendment of the CGP to cover stormwater discharges from oil and gas activities. TxDOT recommends that TCEQ make readily available the list of impacted sites and ensure MS4 operators impacted by the changes are adequately notified by TCEQ and that TCEQ also develop guidance to communicate any other additional relevant information that MS4 operators need to know regarding these sites.

**Response:** TCEQ appreciates the comment from TxDOT regarding the oil and gas activities covered under this permit. TCEQ communicated about the January 28, 2022 CGP Amendment to include oil and gas activities through the public notice process and during several stakeholder meetings.

The online TCEQ Water Quality General Permits Search Engine is available to the public and MS4 operators to identify construction projects within their jurisdiction. The search engine is available at [https://www2.tceq.texas.gov/wq\\_dpa/index.cfm](https://www2.tceq.texas.gov/wq_dpa/index.cfm). TCEQ encourages MS4 operators to utilize the EPA resources currently available at:

<https://www.epa.gov/npdes/stormwater-discharges-municipal-sources> to learn more about regulating construction sites, including oil and gas construction sites. In addition, TCEQ has online resources for construction operators, which may also be helpful for MS4 operators, currently at:

<https://www.tceq.texas.gov/assistance/water/stormwater/sw-construction.html>. No changes were made in response to this comment.

8. **Comment:** TxDOT requests that TCEQ separate "highway/road" and "utility" as separate types of activities on the NOI and Low Rainfall Erosivity Waiver (LREW) forms.

**Response:** TCEQ appreciates the feedback from TxDOT and confirms that the CGP application forms have been developed to allow applicants to select either “highway/road” or “utility” as separate options.

9. **Comment:** CRI recommends that the approved TCEQ paper forms referenced throughout the proposed CGP be made available as soon as possible to facilitate their review and allow for feedback.

**Response:** The application and site notice forms are updated by TCEQ staff to reflect changes in the CGP but are not made available to the public for formal review and comment with the proposed permit and Fact Sheet. TCEQ welcomes feedback at any time on how these forms can be improved by contacting TCEQ staff by email at [SWPermit@TCEQ.Texas.gov](mailto:SWPermit@TCEQ.Texas.gov). No changes were made in response to this comment.

### **Part I.B.**

10. **Comment:** TxDOT suggests that TCEQ revise the proposed definition of “dewatering.” TxDOT recommends that the definition be revised to match language in other sections of the permit and proposes the term “excavations” be included in the definition as follows:

“the act of draining accumulated stormwater or groundwater from building foundations, vaults, trenches, excavations and other similar points of accumulation.”

**Response:** The proposed definition for dewatering is consistent with the definition in EPA’s 2022 CGP and the phrase “and other similar points of accumulation” is intended to encompass excavations. To clarify, the Fact Sheet, Part IV.C. of the CGP, and 40 CFR §450.21 indicate dewatering discharges, including dewatering from excavations, are permissible under the permit if managed with appropriate controls. No changes were made in response to this comment.

### **Part II.A.**

11. **Comment:** TxDOT comments that the definition for non-stormwater discharges originating from routine washing activities is inconsistent. TxDOT comments that Part II.A.3.b of the proposed permit and Part III.C.3. of the Fact Sheet and Executive Director’s Preliminary Decision document provide inconsistent definitions for non-stormwater discharges originating from routine washing activities. TxDOT requests that if TCEQ’s intent is to no longer allow pressure washing under the CGP, then the Fact Sheet be revised to describe the available permitting mechanism to authorize pressure washing activities. TxDOT comments that TCEQ needs to define what would be considered pressure washing (e.g., specify a PSI level).

**Response:** TCEQ acknowledges the feedback provided by TxDOT and the Fact Sheet has been revised to remove the “where pressure washing is not conducted” language to establish consistency with the proposed permit.

Pressure washing is an allowable non-stormwater discharge. Pressure washing is not defined, as it is not a term used in this permit. No changes were made to the CGP in response to this comment.

12. **Comment:** AEP comments that the allowable non-stormwater discharge list combined existing bullets point b.) and c.). AEP recommends that TCEQ expand the consolidated list in order to improve readability.

**Response:** TCEQ agrees and Part II.A.3 of the CGP has been revised to separate the combined items b.) and c.) noted by AEP.

#### Part II.C.

13. **Comment:** TxDOT comments that the requirement for operators to submit a copy of the NOI to the regional office for sites within ten miles upstream of the Edwards Aquifer is redundant and unnecessary. TxDOT comments that TCEQ receives the NOI through STEERS and it would be more efficient for TCEQ to handle these intra-agency communications internally. TxDOT requests that TCEQ remove the requirement to submit a copy of the NOI to the TCEQ regional office for discharges within ten stream miles upstream of the Edwards Aquifer recharge zone.

**Response:** 30 TAC § 213.5 requires notification of construction activities to the TCEQ regional office and the requirement is included in all stormwater general permits. This notification ensures that the TCEQ regional office is notified of new construction stormwater discharges in the Edwards Aquifer Recharge Zone and in most of the Edwards Aquifer Contributing Zone. No changes were made in response to this comment.

#### Part II.E.

14. **Comment:** LCRA and AEP recommend that submittal of the Delegation of Signatories forms be submitted by corporation/business or Customer Number (CN) and not per project. Additionally, AEP requests that TCEQ allow Delegation of Signatories forms be submitted either via STEERS or the TCEQ approved form, irrespective of project size. AEP comments that submitting Delegation of Signatories forms per project will complicate and delay the permitting process for their company.

AEP comments that they anticipate a delay in coverage for automatic authorizations in order to accommodate time to prepare and submit the TCEQ Delegation of Signatories form via mail and that additional time and coordination will be required if a “wet ink signature” is required on the TCEQ submittal. AEP comments that with the added delays and coordination requirements, the benefits of obtaining automatic coverage for small projects becomes obsolete.

**Response:** The new Delegation of Signatories form in the STEERS system must be applied to a specific authorization. The STEERS Delegation of Signatories form allows searches by CN and the option to apply the form to either all authorizations or individual authorizations associated to the CN. This allows operators to easily submit one Delegation of Signatories form for all authorizations associated with a specific CN. No changes were made in response to this comment.

15. **Comment:** LCRA requests a STEERS option for submitting the Delegation of Signatories for small sites. LCRA comments that the permittee could submit the STEERS Delegation of Signatory form associated with a CN number, and keep a copy of the delegation form in the SWP3. This would allow TCEQ to have an electronic copy of all delegation forms for small construction activities without the burden on the permittee to mail a paper copy for each small construction activity.

AEP comments that requiring different submittals for large and small projects will require AEP to submit identical delegations via two different platforms.

CSES requests clarification if Delegation of Signatories forms must be submitted on paper forms for small sites. CSES comments that they hope for all electronic submittals this permit cycle.

**Response:** At this time, TCEQ cannot accept Delegation of Signatories for small construction site authorizations through STEERS. Small construction site operators are not required to submit an NOI to TCEQ; therefore, they do not have an authorization number and may not be associated to a CN, or regulated entity number to identify the site in STEERS. TCEQ will continue research efforts to determine the feasibility of electronic Delegation of Signatories form submissions for small construction sites. Small construction site operators must continue to submit a Delegation of Signatories form via mail with a “wet” signature as required in 30 TAC § 305.128 (relating to Signatories to Reports). No changes were made in response to this comment.

16. **Comment:** TxDOT urges TCEQ to not add a requirement to submit a delegation of signature authority with every NOI in STEERS and a paper copy for every small construction site. TxDOT also comments that it is not clear how TCEQ plans to manage the Delegation of Signatories submittals for small construction sites if they are not already collecting relevant site information and creating regulated entity numbers.

TxDOT comments that it is redundant to require the submittal of the Delegation of Signatories form and require a copy to be kept in the SWP3, when TCEQ theoretically would already have a copy of it. If TCEQ insists that a copy of the Delegation of Signatories form be submitted to the agency, TxDOT requests the requirement that it be kept with the SWP3 be removed.

**Response:** TCEQ acknowledges TxDOT’s feedback, however, 30 TAC § 305.128 (relating to Signatories to Reports) requires that reports be signed by the appropriate signatory and if signatory authority is delegated by an authorized representative, then a copy of the formal notification must be submitted to TCEQ. For those small sites without an associated RN or CN, TCEQ currently associates the form to the customer by the name provided on the form for physical document filing.

The Delegation of Signatories form is required to be kept in the SWP3 so that on-site staff know that a Delegation of Signatories form for the site was submitted to TCEQ and to determine who has been delegated to sign the reports. Records are required to be maintained on-site to demonstrate compliance with the CGP during inspections by any local, state, or federal agency. No changes were made in response to this comment.

17. **Comment:** Lennar and Merit comment that the language in Part II.E.3.(b) repeats “prior to,” and should be revised as follows: “...at least seven (7) days ~~prior to~~ prior to commencing construction activity...”

**Response:** TCEQ has made the necessary revisions in the CGP as requested.

18. **Comment:** TxDOT requests that TCEQ consider an exemption to the proposed requirement for site notices to remain in place until final stabilization is achieved in arid, semi-arid, and drought-stricken regions that are having issues achieving final stabilization. TxDOT comments that the requirement to maintain a posting in a location where no active construction activities are ongoing becomes burdensome and

nonsensical. TxDOT also comments that it can pose a safety issue in the long term as it continues to be a freestanding object within the right-of-way that can be impacted during a collision.

TxDOT comments that TCEQ has the location for all sites that have filed NOIs as GPS coordinates and site location information are submitted to create the Regulated Entity Number (RN), so TCEQ can use internal databases to locate responsible parties if there are erosion and maintenance issues.

TxDOT recommends the following modification be made to the proposed new requirement in all sections of the permit where TCEQ proposes to add the requirement to maintain the site notice until final stabilization:

“The site notice must be located where it is safely and readily available for viewing by the general public, local, state, and federal authorities prior to commencing construction activities, and must be maintained in that location until completion of the construction site final stabilization has been achieved, or in arid, semi-arid, and drought-stricken regions until the completion of the construction at the site.”

**Response:** Operators of small construction activities, as defined in Part I.B of this general permit, are not required to submit an NOI for coverage, unless otherwise required by the Executive Director. Posting the Small Construction Site Notice provides the general public, local, state, and federal authorities assurance that the construction site has permit coverage, provides information on who to contact if there is a problem, may facilitate reporting by the public, and is consistent with the requirements of the EPA CGP.

Final stabilization must be achieved for all authorization types prior to either submitting Notice of Termination (NOT) for large construction site operators or prior to removal of a site notice for small construction site operators.

Operators can claim final stabilization for arid, semi-arid, and drought-stricken sites when both criteria outlined in the “final stabilization” definition in Part I, Section B of the CGP are met. No changes were made in response to this comment.

19. **Comment:** TxDOT requests that TCEQ revise its construction site notice templates as the current templates for large and small construction sites do not designate whether the operator is Primary with “day-to-day” operational control, or “control of plans and specifications,” or both.

**Response:** The control type for each primary operator may be described in the SWP3 for the project and made available to inspectors. TCEQ notes that the purpose of the site notice is to provide the public and inspectors who drive past the site, in one easy to read page, assurance that the construction site has permit coverage, provide information on who to contact if there is a problem, and to identify the operator. The inclusion of the requested information in the TCEQ Site Notice form goes beyond the intent of the site notice and adding the additional information to the site notice template would make the site notice harder for the public or inspectors to read.

20. **Comment:** TxDOT comments that in Part II.E.8.e. of the proposed permit, TCEQ added a requirement to include in an NOI the estimated construction project start date and end



date. TxDOT requests that TCEQ provide clarification regarding whether an NOC will be required for NOIs if the project start or end date changes.

**Response:** Operators are not required to submit an NOC if the estimated start or end dates for the project change after submittal of the NOI. TCEQ notes that these dates are estimates only and may be changed. If changes occur due to unforeseen circumstances or for other reasons, the requirement to include this information in the NOI is not meant to lock in the operator to meeting these projections. Departures from initial projections should be documented in the SWP3 or in associated records, as appropriate. No changes were made in response to this comment.

21. **Comment:** TxDOT comments that TCEQ needs to provide more clarification about what requires an NOC. TxDOT requests that TCEQ remove “may include, but not limited to” in Part II.E.6.b. of the CGP and replace it with a specific list of requirements. TxDOT comments that NOCs are generally administrative in nature and TCEQ should be able to set specific administrative requirements and provide an inclusive list, with little to no interpretation needed on the part of the regulated party.

**Response:** TCEQ application forms are not described in detail as this allows for flexibility for TCEQ to improve the forms during the permit term, as needed, in response to feedback from stakeholders, changes in rules, or changes in TCEQ policy. Operators should refer to the NOC form in STEERS or for paper applications TCEQ-20391 for instructions and guidance on what changes are necessary to submit to TCEQ. No changes were made in response to this comment.

22. **Comment:** TxDOT requests that TCEQ clarify the meaning of the phrase, “any MS4 receiving the discharge” for the purposes of the notification requirements outlined in Part II Sections E.1.e; E.2.d; E.3.d; E.3.g. E.6; F.1.12. TxDOT comments that the CGP does not provide any guidance regarding how to determine whether an MS4 “receives the discharge” from a construction site, and if so, which MS4(s) “receive the discharge.”

TxDOT urges TCEQ to develop a publicly accessible geospatial database where MS4 operator boundaries are documented, as well as contact information for those boundaries. TxDOT comments that there is a database called the “Water Quality Search Engine,” to search regulated entities within the MS4 operators’ boundaries, but this search engine does not contain contact information for the entity. TxDOT comments that TCEQ staff has stated that the only way to obtain that information is with an open records request which is inefficient when there are technologically advanced options available that many MS4 operators themselves have already implemented. TxDOT comments that if TCEQ expects the regulated community to follow permit requirements, then they need to make available the necessary information to do so.

TxDOT also comments that TCEQ should work towards a technological solution that automatically notifies MS4 operators when an applicant has determined a discharge from their site will go to an MS4.

**Response:** The CGP requires each construction site operator to notify the operator of any MS4 receiving the stormwater discharge from the construction site, regardless of whether the MS4 is regulated by TCEQ or not. TCEQ has information for regulated MS4s including mailing address that may be used for notification purposes. Contact information for TCEQ MS4 permit authorizations may be obtained from Central Registry currently at [https://www.tceq.texas.gov/permitting/central\\_registry](https://www.tceq.texas.gov/permitting/central_registry).

Not all MS4s in Texas are regulated and TCEQ does not maintain information on MS4s that are not regulated. Construction site operators should contact the nearest city, county, or drainage district to their project to identify the MS4 receiving their discharge. Operators may find the appropriate MS4 by reviewing the water and sewer provider information for the site or other similar resources. Many MS4s maintain webpages that provide contact information for this purpose.

TCEQ appreciates the suggestion for a publicly accessible geospatial database of MS4 operators and automatic notification to MS4 operators of CGP sites. These solutions cannot currently be implemented for a variety of reasons, for example, TCEQ does not receive:

- geospatial information from any MS4s,
- contact information for non-regulated MS4s, and
- applications from small construction site operators.

TCEQ updated the Stormwater Construction Webpages currently accessed at <https://www.tceq.texas.gov/permitting/stormwater/construction> to assist operators in identifying the appropriate MS4 operators and their contact information.

No changes were made in response to this comment.

#### **Part II.F.**

23. **Comment:** Bexar comments that for several projects the primary and secondary operators filed a Notice of Termination (NOT) when the 70% stabilization was not achieved and that the temporary BMPs were not removed from the site.

Bexar comments that this creates several issues, including but not limited to sediment runoff issues and injuries for the citizens. Bexar recommends adding language to the CGP that a verification letter from the local MS4 indicating that the permittee is ready to file the NOT be required before TCEQ accepts the NOT application request. Bexar comments that this verification letter may be uploaded to STEERS which will help TCEQ staff reviewer to verify if the NOT request can be granted or not.

**Response:** TCEQ requires operators to certify that final stabilization has been achieved to submit the NOT. This certification is used by TCEQ to ensure that operators comply with final stabilization. It is not within TCEQ's authority to require documentation from local authorities to approve an NOT. An additional form is not necessary as MS4s may use the certification to address operators that have terminated prematurely. MS4s may file a complaint with TCEQ to address these situations, if the MS4's enforcement authority is limited. No changes were made in response to this comment.

#### **Part III.A.**

24. **Comment:** TxDOT requests that TCEQ not include the requirement for a shared SWP3 to include the signature of each operator participating in the shared SWP3 in the renewed version of the CGP. TxDOT comments that the requirement is redundant, unnecessary, and burdensome, especially for a large state agency like TxDOT that coordinates many site operations with many different contractors operating under the CGP. TxDOT also comments that TCEQ should consider this similar to the administrative burden TCEQ recognizes to allow for small site operators to not submit NOIs.

TxDOT comments that when they, and similar agencies, hire a contractor to construct a highway project, both TxDOT and the contractor are primary operators. This means both TxDOT and the contractor must already:

- Sign and file separate NOIs and therefore must confirm that an SWP3 has been developed in accordance with the CGP, and that it will be implemented prior to commencement of construction activities.
- Post their own separate site notices as required by the CGP, including identifying the respective operator's location of the SWP3, and signed certification that the SWP3 will be implemented prior to construction.

TxDOT comments that by referencing the SWP3, the signed certification in the NOI or site notice already shows that each operator is aware of and agrees to the specific items regarding who is responsible for what in the SWP3 and there is no reason to also require signatures of both operators on the SWP3 itself. TxDOT comments that there is no such requirement for SWP3s developed by a single operator.

TxDOT also comments that TCEQ's rule requiring signatures applies only to "applications." TxDOT notes that in 30 TAC § 305.44, an "application" is defined as "a formal written request for commission action relative to a permit or a post-closure order, either on commission forms or other approved writing, together with all materials and documents submitted to complete the application." TxDOT comments that an SWP3 is not a document that is submitted with an application that is submitted to TCEQ and the rule requiring a signature does not apply to an SWP3.

TxDOT comments that the burden associated with collecting signatures on the SWP3 from both TxDOT personnel and contractors is substantial, especially when considering all the other administrative requirements in the CGP, and the number of highway projects being undertaken across the state at any given time.

**Response:** Certification from each operator participating in the shared SWP3 is necessary and ensures that all parties acknowledge and are held responsible to ensure compliance with the CGP and the contents of the shared SWP3. The shared SWP3 signatures also demonstrate to the participating operators the commitment of each operator to implement the SWP3 requirements. Operators may elect to develop and implement individual SWP3s, which do not require a signature, instead of a shared SWP3. TCEQ agrees that the signature of each operator in the SWP3 is not subject to 30 TAC § 305.44. No changes were made in response to this comment.

### **Part III.D**

25. **Comment:** TxDOT, EWE, CRI, Mr. Savage, Lennar, Merit, and Terradyne comment that TCEQ should modify the CGP to allow for operators to maintain an electronic SWP3. Terradyne and Lennar and Merit comment that digital documents are widely accepted and that technological platforms and devices are available for this purpose. Specifically, Lennar and Merit recommend revising the permit language to specify that the use of an electronically available SWP3 in lieu of a paper copy is allowed.

TxDOT and Mr. Savage recommend that TCEQ include similar language to the footnotes included in EPA's CGP regarding electronic SWP3s.

CRI recommends the CGP specify that if the SWP3 is maintained electronically, a notice must be posted with a Uniform Resource Locator (URL) of the SWP3.

**Response:** In response to these comments, the permit language in Part III.D.1. of the CGP has been revised as follows to add the following note:

“NOTE: The SWP3 may be prepared and kept electronically, rather than in paper form, if the records are: (a) in a format that can be read in a similar manner as a paper record; (b) legally valid with no less evidentiary value than their paper equivalent; and (c) immediately accessible to the inspector during an inspection to the same extent as a paper copy stored at the site would be, if the records were stored in paper form.”

TCEQ also notes that although the CGP SWP3 may be prepared and kept electronically, all reports requested by this permit must be either signed in “wet ink” in accordance with 30 TAC § 305.128 and § 305.44 or submitted online in the STEERS/ePermitting system provided by TCEQ. The STEERS/ePermitting system does not require “wet ink” signatures as this system is approved and Cross-Media Electronic Reporting Rule (CROMERR) compliant which ensures the same enforceability and legal sufficiency of information collected electronically as the corresponding paper submittal.

### **Part III.F.1**

26. **Comment:** TxDOT comments that the requirement for operators to maintain a copy of the CGP in the SWP3 should be removed. TxDOT comments that if TCEQ would not remove the requirement, operators should be able to instead include a link to the CGP. TAB, Lennar, and Merit also comments that TCEQ should allow for operators to maintain an electronic copy of the CGP such as adding the language “an electronic copy easily available to the stormwater team is also acceptable” or “an electronic copy that is readily accessed and available is also acceptable” to the requirement in Part III.F.1(j).

**Response:** TCEQ notes that the purpose of the requirement to include a copy of the CGP in the SWP3 is that it ensures operators have a copy of the CGP for reference, particularly in the event changes occur at the construction site that requires revision of the SWP3. Additionally, if there are multiple operators at the site, having the CGP as part of the SWP3 helps ensure that each operator understands their responsibilities under the permit. TCEQ declines to remove the permit requirement to include a copy of the CGP in the SWP3.

TCEQ agrees that an electronic copy of the CGP referenced in the SWP3 is acceptable and the language in Part III.F.1.(j) of the CGP has been revised as follows:

“a copy of this TPDES general permit (an electronic copy of this TPDES general permit or a current link to this TPDES general permit on the TCEQ webpage is acceptable);”

27. **Comment:** CRI comments that TCEQ should clarify Part III.F.1.(g)i. as to whether property boundaries required for site maps must include the entire extent of any property within the boundaries of the construction site or just what is in the disturbed area within the boundaries of construction. CRI recommends that alternatively, TCEQ provide specific guidance for linear projects where only a small portion of the property will be disturbed and providing the entirety of the property boundary provides little to no value.

**Response:** Site maps are intended to depict the area where construction will occur. Site maps must include the property boundaries for the intended project area and can be updated during construction if information changes. Where the inclusion of the property boundaries for a linear project would result in a single map being difficult to read and interpret, the operator is required to develop a series of maps that collectively include the required information for site maps. No changes were made in response to this comment.

28. **Comment:** Bexar recommends that TCEQ add a definition of the property boundary(ies), (i.e., plat, parcel, lot boundaries) referenced in Part III.F.1.(g)i.

**Response:** TCEQ did not define property boundary(ies) because TCEQ means the common use of the term. No changes were made in response to this comment.

29. **Comment:** Bexar comments that for Part III.F.1.(g)vii, regarding surface waters identified in the site map, the requirement to display surface waters at the site is clear; however, surface waters adjacent to the site or in close proximity of the site is always a debate between the consulting engineers and the regulatory agencies.

Bexar recommends replacing the “adjacent to or in close proximity” language with a specific distance such as X feet from the property boundary identified in (g)(i).

**Response:** Surface waters adjacent to or in close proximity to the site means any receiving waters within the site and all receiving waters within one mile downstream of the site’s discharge point(s). The clarification to display surface waters within one mile downstream of the site’s discharge is consistent with EPA’s 2022 CGP. TCEQ has added this clarification as a note to the permit in response to this comment.

#### **Part III.F.2.**

30. **Comment:** TxDOT comments that TCEQ added a clarification in Part III.F.2.(c).i.(A).(1) of the proposed permit that existing retention/detention ponds may not be appropriate for use as a sedimentation basin and TCEQ should provide written guidance on how this clarification will be interpreted in the design and field application. TxDOT comments that the word “may” is ambiguous and asks if this means TCEQ is allowing the use of existing detention/retention ponds or that in no case “may” an operator use an existing detention/retention pond.

**Response:** TCEQ notes that the design of sedimentation basins is not specified by the CGP. TCEQ will update the existing CGP guidance currently at <https://www.tceq.texas.gov/assistance/water/stormwater/sw-construction.html> to describe how sedimentation basins are expected to work to assist operators in determining how to implement them at their site.

The use of the word “may” in Part III.F.2.(c)i(A)(1) of the CGP is intended to describe that operators have the option to use existing detention or retention ponds in cases where it is appropriate for the site. No changes were made in response to this comment.

#### **Part III.F.4.**

31. **Comment:** TxDOT comments that in Part III.F.4.a. of the proposed permit, TCEQ attempted to clarify the intent to minimize dust by using similar language from EPA’s CGP, however for the regulated community this makes things less clear than the original permit language. TxDOT requests that TCEQ provide updated guidance on how the new

language will be interpreted by TCEQ regional investigators as the language makes it seem that only dust that ends up in stormwater is required to be considered in the SWP3 and not air pollutants.

**Response:** The proposed change is to clarify this general permit is only regulating sediments in stormwater from dust and not the generation of dust. The CGP only regulates discharges of stormwater. To comply with this permit operators must implement best management practices to reduce dust in stormwater. No changes were made in response to this comment.

### **Part III.F.7**

32. **Comment:** TxDOT comments that it is unclear why the added dewatering inspection requirements to Part III.F.7. of the proposed permit are needed and why the current inspection schedules in Part III.F.810 are insufficient. TxDOT also comments that the daily inspection requirement would create a burden on the construction workforce. TxDOT comments that TCEQ should not add this requirement unless there is data establishing that current inspection schedules are insufficient.

**Response:** TCEQ recognizes that dewatering activities represent a potentially significant source of pollutants at a construction site. For example, the high rate of flow from dewatering activities creates the potential for significant pollutant discharge if the controls are not working effectively or designed properly when compared to other controls such as silt fences. In response to other comments, TCEQ revised the permit language in this section to refer to “observations and evaluations” instead of “inspections.” Increased observation and evaluation give operators the opportunity to identify issues sooner and to respond with the appropriate urgency for the situation. Requiring increased evaluation of dewatering activities will be especially effective given the operator’s control over the discharge, including the ability to immediately shut off the discharge if necessary to evaluate and fix a problem on the site. No changes were made in response to this comment.

33. **Comment:** Lennar and Merit comment that the requirement in Part III.F.7 would require daily inspections, even if the water remains completely on the project site and does not enter a surface water of the State and is unnecessarily burdensome for the regulated community.

Lennar and Merit comment that trench and excavation dewatering generally: do not occur on a fixed schedule; is dependent on precipitation and site conditions; and availability of contractors at the site. Lennar and Merit comment that it is overly burdensome to monitor subcontractors and schedule dewatering times; sometimes they may only run the dewatering pumps for short periods of time.

Lennar and Merit comment that many operators in the State employ the use of third-parties to conduct and document regular and post-storm inspections. Many local agencies require inspectors to hold other qualifying certifications such as Certified Inspector of Sediment and Erosion Control (CISEC) or Certified Erosion, Sediment, and Stormwater Inspector (CESSWI). Third-party inspectors would be required to return to the site each day in the event there could be dewatering activities, or risk missing a dewatering event creating an undue economic burden for the permittees and the inspectors in the form of additional time, fuel, and labor.

CRI comments that they conduct over 800 stormwater inspections each week throughout Texas and any daily inspection requirement for dewatering would lead to widespread and unnecessary non-compliance due to the inability of operators and consultants to provide enough qualified personnel for dewatering inspections.

TAB comments that daily inspections present many burdens especially for qualified personnel where required by many municipalities.

Lennar and Merit comment that the intent of Part III, Section F.7 can be better addressed by requiring the Operator in control of the dewatering activities to provide daily monitoring of the dewatering operations and control measures and the qualified BMP inspector would still provide a thorough BMP inspection during the regular and post-storm inspections. Lennar and Merit recommend revising several parts of Part III.F.7., including changing “inspections” to “monitoring,” removing the reporting requirements, as well as several other changes.

TAB and CRI comment that instead of inspections, dewatering operations should be monitored daily by any operator conducting dewatering operations.

**Response:** TCEQ agrees with the commenters regarding inspections for dewatering discharges not leaving the site. The language in Part III.F.7.(a) of the CGP has been revised to clarify that the additional inspections are only required for dewatering discharges leaving the site.

TCEQ does not require inspectors to have specific certifications, however, TCEQ understands that municipalities often require inspectors identified in the CGP to hold specific certifications. To address these concerns, TCEQ revised Part III.F.7. to replace “inspect” with “observe and evaluate.”

Part III.F.7.(b)i.(C) was revised as follows:

“(C) approximate times that the dewatering discharge began and ended on the day of evaluation, or if the dewatering discharge is a continuous discharge that continues after normal business hours, indicate that the discharge is continuous inspection (this information can be reported by personnel initiating the dewatering discharge);”

Operators would still be required to provide daily oversight of the dewatering controls and document the observation and evaluation of these controls in a written report to be maintained in the SWP3.

34. **Comment:** Lennar and Merit comment that water pumps are rated for a specific maximum discharge rate but do not frequently operate at their maximum rate due to varying factors such as hose diameter, engine efficiency, length of suction and discharge hoses, topography (pumping up or downhill), and many other factors. Therefore, it is impracticable for a BMP inspector to provide estimates of daily pump rates. Lennar and Merit comment that BMP inspectors may not observe the times that the dewatering discharge began and ended on the day of inspection. If the dewatering activities are continuous (i.e., lasts for multiple days or weeks), this would require daily inspections throughout the entire dewatering event.

**Response:** TCEQ understands that it is not possible for operators to know the exact discharge rate during dewatering events and only requires that an estimate be provided

based on best professional judgment given the equipment and site conditions for the dewatering event. In response to other comments TCEQ revised this permit language to refer to observations and evaluations instead of inspections. TCEQ also acknowledges that the individuals performing the observation and evaluation of controls may not witness the start and end of dewatering activities but can obtain this information from other personnel on site to include in the written report. To clarify, Part III.F.7.(b)i.(C) of the CGP has been revised as follows:

“approximate times that the dewatering discharge began and ended on the day of evaluation, ~~inspection~~ or if the dewatering discharge is a continuous discharge that continues after normal business hours, indicate that the discharge is continuous (this information can be reported by personnel initiating the dewatering discharge);”

#### **Part III.F.8.**

35. **Comment:** TxDOT comments that they support the addition of Part III.F.8.e and Part III.F.8.f. relating to adverse conditions that impact inspections to the proposed permit.

**Response:** TCEQ acknowledges TxDOT’s comment in support of the new language allowing temporary suspension of inspections in adverse conditions.

36. **Comment:** Stormcom comments that there is not an exemption if an inspection day falls on a federal holiday such as Christmas, Thanksgiving, 4th of July, MLK Day, etc., and requests that the CGP include a federal holiday inspection exemption.

TAB comments that there are many burdens and impracticalities with conducting inspections during rain events as described in Part III.F.8.(c)i.(B) and, therefore, TAB requests that inspections be conducted on the last day of a multi-day rain event that exceeds 0.5 inches during the extended period.

Lennar and Merit comment that it is impractical and burdensome to permittees to require multiple inspections during a multiple-day rain event. Lennar and Merit also comment that multiple inspections may not result in timely correction of a problem during a multiple-day storm event. Construction sites are more likely to be inaccessible by workers or machinery during a prolonged rain event; and maintenance operations can only occur after areas where BMPs are installed have dried sufficiently to allow access. In many cases, corrective actions could not occur until after the last inspection of the multiple-day storm event is completed.

Lennar and Merit also comment that in addition to the 14-day inspection with post-storm inspections schedule proposed in the draft permit, many MS4 and Edwards Aquifer Protection Program entities already require BMP inspections to occur every seven days and within 24 hours of a half inch or greater rain event which already increases the number of inspections that are required to occur at sites within these respective jurisdictions. Lennar and Merit comment that the addition of another inspection frequency for multiple-day rain events will cause redundant inspections to occur.

Lennar and Merit also comment that accessing the site during saturated conditions could place the inspector in additional danger due to increased risk of slipping and falling, exposure to lightning and flooding, and the possibility of vehicles getting stuck or causing accidents due to reduced traction.



Lennar and Merit request that Part III, Section F. 8.(c)i.(B) of the draft permit be modified to remove the requirement to inspect within 24 hours after the last day of the storm.

TAB comments that the restriction to change inspections schedules only in the first five days of the calendar month appears to have no clear reasoning and no environmental benefit. TAB requests that TCEQ remove this requirement.

Lennar and Merit comment that this limited timeframe does not recognize the dynamic changes that can occur on a project site where site conditions that would trigger the ability of the permittee to change their inspection frequencies — such as frozen conditions, arid, semi-arid, or drought-stricken areas, etc. — occur indiscriminately and not on schedule. Lennar and Merit recommend that Part III, Section F.8(c)vi of the draft permit be modified as follows:

“the inspection procedures described in Part III.F.8.(c)i. - v above can be performed at the frequencies and under the applicable conditions indicated for each schedule option, provided that the SWP3 reflects the current schedule ~~and that any changes to the schedule are made in accordance with the following provisions: the inspection frequency schedule can only be changed within the first five (5) calendar days of a calendar month;~~ and the reason for the schedule change documented in the SWP3 (e.g., end of “dry” season and beginning of “wet” season).”

**Response:** TCEQ agrees with Stormcon’s suggestion to clarify when inspections must occur if the inspection-triggering storm event occurs outside of normal working hours, such as on a federal holiday. TCEQ added language to Part III.F.8.(c) of the CGP clarifying that when the 24-hour inspection time frame occurs entirely outside of normal working hours, the operator must conduct an inspection by no later than the end of the next business day.

The added language in Part III.F.8.(c)i. is included to clarify the inspection requirement when storm events span multiple days. During Stakeholder meetings, stakeholders indicated to TCEQ that this has been the more common interpretation of the 24-hour deadline rather than daily inspections during multi-day storm events. If problems are identified during a multi-day rain event, and if the rain prevents operators from correcting problems right away, the early detection allows for corrections to be prepared for on the first available day to implement them. Inspections are not required during adverse conditions.

Part III.F.8.(c).vi. of the existing CGP restricts changes of an inspection frequency to once per calendar month and requires implementation at the beginning of a calendar month. The specification of the first five calendar days was included in the proposed CGP to clarify the intent of this section. The TCEQ finds that this limitation to changes in inspection frequencies prevents operators from changing inspection frequencies too often which can lead to inconsistency in the implementation of inspections at the site. However, TCEQ agrees that the limit of the first five calendar days may be challenging for operators to implement in cases where a holiday falls in the first five calendar days of the calendar month. Therefore, this section of the CGP has been revised as follows:

“the inspection frequency schedule can only be changed a maximum of once per calendar month and implemented within the first five (5) business ~~calendar~~-days of a calendar month”

#### Part IV.C.

37. **Comment:** Lennar and Merit recommend that Part IV, Section C of the draft permit be modified to read:

“Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited, unless managed by appropriate controls to address sediment and prevent erosion. Operators in control of the dewatering activities must ~~perform an inspection of~~ monitor the dewatering controls once per day while the dewatering discharge occurs as described in Part III.F.7. of this general permit

**Response:** TCEQ partially agrees with this comment and Part IV.C of the CGP has been modified to replace “perform an inspection” with “observe and evaluate.”

38. **Comment:** Terradyne comments that after heavy rain events, sites may have numerous contractors dewatering different areas of the site and capturing data such as start/end time, rate of discharge seems impractical. Terradyne asks the following questions: “What constitutes dewatering activity? Should there not be a minimal amount in gallons defined? Any suggestions as to how to accomplish this? Is cleaning a clogged rock filter dam or storm drain inlet protector that’s holding water considered de-watering?”

**Response:** TCEQ acknowledges that the individuals performing the observation and evaluation of controls may not witness the start and end of dewatering activities but can obtain this information from other personnel on site to include in the written report. In response to this comment and other similar comments, Part III.F.7.(b)i.(C) of the CGP has been revised as follows:

“approximate times that the dewatering discharge began and ended on the day of evaluation, inspection or if the dewatering discharge is a continuous discharge that continues after normal business hours, indicate that the discharge is continuous (this information can be reported by personnel initiating the dewatering discharge);”

The term dewatering is defined in Part I, Section B of this permit as “the act of draining accumulated stormwater or groundwater from building foundations, vaults, trenches, and other similar points of accumulation.” All discharges described by the dewatering definition included in this permit are subject to the terms and requirements of Part IV, Section C. Cleaning a clogged rock filter dam or storm inlet protector is not considered dewatering. No changes were made in response to this comment.

#### Part IV.D.

39. **Comment:** TAB, Lennar, and Merit recommend that TCEQ revise the language in Part IV.D.3 of the draft permit to better align with the waste container requirements prescribed in Part 2.3.3.e(ii) of the EPA CGP. TAB, Lennar, and Merit request that Part IV.D.3 of the draft permit be modified to include additional language about how minimizing exposure is not required when exposure will not result in a discharge of pollutants or poses little risk of contamination.

**Response:** TCEQ agrees with the commenters and Part IV.D.3 of this permit has been modified to add the following language:

“Minimization of exposure is not required in cases where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use);”

40. **Comment:** BEC comments that the current permit language utilizing the definition of “infeasible” for the exception to surface withdrawal does not clearly include utilizing a control device to simultaneously address both sediment and floatable materials. BEC comments that adding an option to utilize a near surface withdrawal structure control measure would provide a greater protection of water quality discharge at sites with existing less-dense-than water material storage or contamination, particularly sites near petroleum storage facilities. BEC also comments that utilizing near surface withdrawal also contributes to better compliance with Parts IV.D.5 and IV.E of the general permit by controlling discharges from spills, leaks, and prohibited discharges. BEC comments that this item was addressed in a previous response to comments and inclusion of this topic within the actual permit language is much easier for permittees to find and understand.

BEC recommends that Part III.F.2.c.i.4 and Part IV.F. be revised to add language about how operators are required to utilize an outlet structure that withdraws water from the surface unless infeasible or necessary to capture sediment and address contamination at the surface of the water.

**Response:** Consistent with EPA’s 2022 CGP, Part IV.F. of this permit includes, “[w]hen discharging from basins and impoundments, utilize outlet structures that withdraw water from the surface, unless infeasible.” This permit allows enough flexibility for the use of near-surface withdrawal structures to prevent the discharge of petroleum or other pollutants floating at the surface. The operator would be required to document the reasons for the location of the withdrawal structure in their SWP3. No changes were made in response to this comment.

41. **Comment:** Lennar and Merit comment that to meet the requirement in Part IV, Section F. to withdraw water from the surface of any impoundment, many regulatory agencies allow for floating skimmer devices, floating pump intake hoses, weir overflow devices, among others. Lennar and Merit comment that some agencies restrict the use of these methods in favor of devices that provide filtration, such as perforated riser pipes wrapped with filter fabric which are included in TCEQ regulatory guidance, *Complying with the Edwards Aquifer Rules* (RG-348) as a discharge method.

Lennar and Merit comment that clay particles stay in suspension for long periods of time and therefore, requiring the outlet structure to withdraw of water from the surface will still allow the discharge of turbid water offsite. Lennar and Merit comment that there are municipalities in other States that prefer the use of a perforated riser pipe with a sediment filter media (e.g., filter fabric, stone, etc.) to reduce the potential for discharging turbid water offsite.

Lennar and Merit recommend providing the permittees with greater flexibility on implementing appropriate outlet structure types by modifying Part IV, Section F. of the draft permit to specify that outlet structures can include surface skimmers or

perforated riser pipes rather than specify that they must utilize outlet structures that withdraw water from the surface.

**Response:** This section of the CGP is consistent with EPA’s 2022 CGP. The language “unless infeasible” allows for operators to modify the device to comply with local or state rules. The operator would be required to document the reasons for the location of the withdrawal structure in their SWP3. No changes were made in response to this comment.

42. **Comment:** TAB requests that TCEQ provide more guidance to permittees on the allowable outlet structure types and, if applicable, how to determine the infeasibility of using allowable outlet structures in basins and impoundments.

**Response:** TCEQ appreciates the input from TAB requesting additional information. TCEQ will provide additional information about how operators can document infeasibility in the existing CGP guidance currently on the *Assistance Tools For Construction Stormwater General Permits* webpage at: <https://www.tceq.texas.gov/assistance/water/stormwater/sw-construction.html>.

### **Appendices**

43. **Comment:** TxDOT requests that TCEQ improve the CGP appendices to make them more user-friendly. TxDOT comments that the tables in Appendix A “Automatic Authorization” and Appendix D “Erosivity Indices for EI Zones in Texas” are a little difficult to read and interpret. TxDOT also comments that some counties, for example El Paso, have multiple eligible date ranges that run together, and the maps (Appendix B and C) are blurry and difficult to read and interpret as well.

**Response:** Appendices A, B, C, and D are adapted from Chapter 2 of USDA Agriculture Handbook 703: “Predicting Soil Erosion by Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation (RUSLE),” U.S. Department of Agriculture, Agricultural Research Service, originally published in 1997. Agricultural Handbook 703 is currently available online at <https://handle.nal.usda.gov/10113/11126> for further interpretation. Minor modifications to the appendices were made to improve interpretation. Use of these referenced materials will continue until the U.S. Department of Agriculture, Agricultural Research Service publishes updated guidance.