

Renewal of TPDES Phase II MS4 General Permit TXR040000 Summary of Preliminary Draft of Proposed Permit

Storm Water Stakeholders Group
TCEQ Central Office, Austin
Building E, Room 201S

June 13, 2011 – revised June 29, 2011

The Storm Water program area is currently renewing the TPDES Phase II MS4 General Permit No. TXR040000, which expires August 13, 2012. The background for drafting the permit includes the EPA *MS4 Permit Improvement Guide* from April 2010, the current Phase II general permit and comments provided by the Storm Water Stakeholders Group (SWSG).

A preliminary draft of the proposed permit was made available to the SWSG on the TCEQ website the week of June 6th, 2011. Provided below is a brief summary of the preliminary draft of the proposed permit and a description of some of the main changes being proposed in the permit.

Definitions

Added definitions of:

- Arid Areas;
- Construction Activity;
- Control Measure;
- Edwards Aquifer;
- Edwards Aquifer Recharge Zone;
- General Permit;
- Impaired Water;
- Indicator Pollutant;
- Municipal Separate Storm Sewer System (MS4);
- Traditional MS4;
- Non-traditional MS4; and
- Semiarid Areas.

Commonly Used Acronyms

This section was removed.

Permit Applicability and Coverage

- Operators of small MS4s, fully or partly located within an urbanized area, as determined by the 2000 or 2010 Decennial Census must obtain coverage.
- Operators that had previously been covered must reapply or must obtain a waiver if applicable.
- Operators outside an urbanized area that are designated by TCEQ must obtain coverage.

- Operators are categorized in four levels:
 - Level 1: Operators of small MS4s that serve a population less than 10,000
 - Level 2: Operators of small MS4s that serve a population of 10,000 up to 40,000
 - Level 3: Operators of small MS4s that serve a population of 40,000 to 100,000 and includes transportation authorities
 - Level 4: Operators of small MS4s that serve a population of more than 100,000
- Maintained Waiver Option 1 and Waiver Option 2.
 - MS4s within an urbanized area serving a population of less than 1,000 can obtain Waiver Option 1 and MS4s serving a population of less than 10,000 can obtain Waiver Option 2 when certain criteria are met.

Allowable Non-Storm Water Discharges

Added discharges that are authorized by a TPDES or NPDES permit or that are not required to be permitted.

Impaired Water Bodies and Total Maximum Daily Load (TMDL)

Added requirements for discharges to impaired water bodies

- Discharges to impaired water bodies **with a TMDL** where the impairment is **caused by storm water** are required to comply with additional controls described in the TMDL or Implementation Plan.
- Discharges to impaired water bodies **without a TMDL**, where the discharge contains a pollutant of concern at a level of concern being **contributed by storm water**, are required to implement a Pollution Reduction Plan (PRP). The PRP must identify measures that will be used to try to eliminate the pollutant of concern from the discharge. The permittee must monitor for the pollutant of concern at least once per quarter by grab samples and develop a sampling plan to help identify outfalls responsible for the discharge of the pollutant of concern.

Application Deadlines for Coverage

- Operators of MS4s previously regulated are required to submit a NOI and a SWMP within **180 days** following the effective date of the general permit.
- Operators of MS4s not previously regulated are required to submit a NOI and a SWMP within **180 days** following the effective date of the general permit.
- If an operator selects to apply for an individual permit, the application must be submitted within **90 days** of the effective date of the general permit.

Storm Water Management Program (SWMP)

Clarified how changes can be made to the SWMP.

- TCEQ may notify the MS4 operator of the need to modify the SWMP, in which case the operator has 90 days to make the changes.
- Some changes can be made to the SWMP without the approval by TCEQ. For example, adding requirements to the SWMP or replacing a BMP with an equivalent BMPs and non-substantive changes (for example administrative).
- Some changes need the approval of TCEQ. For example, a NOC needs to be submitted for replacing or removing a BMP. The changes are considered approved by the TCEQ unless notified in writing within 60 days.

SWMP Development

- SWMPS must, at a minimum, include ordinances or other regulatory mechanisms necessary to enforce the SWMP;
- The permit describes what the legal authority must address to implement the SWMP;
- SWMPS must include written procedures describing how the operator will implement the program;
- The permit provides guidance to non-traditional MS4s (for example counties, drainage districts and DOTs) that do not have the authority to develop ordinances, on how they can meet the goals of the permit;
- Operators are required to secure and track funding, personnel resources, and other resources necessary to meet all requirements of the permit. Operators are required to submit a fiscal report summary with the annual report.
- Operators must develop a plan for how to respond to repeat violations through increasingly stricter responses.
- Operators have five years from the permit effective date to implement the program.

Minimum Control Measures (MCM)

1. Public Education, Outreach, and Public Involvement

The permit would require the operator to:

- Define goals of the program;
- Target different groups in the MS4 area;
- Distribute educational material and involve the public such as by stream clean ups;
- Evaluate the effectiveness of the program by, for example, conducting phone surveys;
- Facilitate and use public input.

2. Illicit Discharge Detection and Elimination (IDDE)

The permit would require the operator to detect, investigate and eliminate illicit discharges and require MS4 operators to:

- Maintain a MS4 map;
- Identify priority areas – areas where there are increased risks of illicit discharges; (Level 3 and Level 4 MS4s);
- Investigate and track sources of illicit discharges;
- Facilitate public reporting of illicit discharges;
- Respond to public complaints about illicit discharges;
- Implement a training program for municipal staff; and
- Implement a dry weather screening program to perform (1) dry weather field screening, and (2) monitoring of dry weather flow as determined by the MS4 operator. (Required only for Level 3 and Level 4 MS4s).

3. Construction

The permit would require MS4 operators to require construction site operators of sites larger than one acre to implement storm water controls measures that comply with state and local laws. The permit would require the MS4 operator to:

- Assure site owners implement erosion and sediment control measures according to 40 CFR Part 450 (ELGs);
- Maintain an inventory of construction sites;
- Review construction plans;

- Inspect construction sites; and
- Train MS4 inspectors and educate construction site personnel.

4. *Post-Construction in New Development and Redevelopment*

This MCM addresses post-construction sites that are one acre or more in size as well as smaller projects that are part of a common plan of development.

The permit would require MS4 operators to:

- Develop a program to control storm water discharges;
- Assure site owners meet site performance standards appropriate for the community;
- Ensure long term maintenance;
- Add watershed protection elements in watershed protection plans (Only Level 3 and Level 4 MS4s); and
- Maintain an inventory of sites and inspect the sites (Only Level 3 and Level 4 MS4s).

5. *Pollution Prevention and Good Housekeeping for Municipal Operations*

The permit would require the MS4 operator to:

- Maintain a list of municipally owned facilities, including storm water controls;
- Evaluate and prioritize facilities based on the potential discharge of pollutants (Only Level 2, Level 3 and Level 4 MS4s);
- Develop SOPs of storm water control measures for high priority facilities (Only Level 2, Level 3 and Level 4 MS4s);
- Implement inspections of facilities (Only Level 2, Level 3 and Level 4 MS4s);
- Maintain catch basins (Only Level 2, Level 3 and Level 4 MS4s);
- Assess municipal operation and maintenance (O&M) activities and develop measures to reduce the discharge of pollutants to storm water;
- Evaluate and optimize street sweeping (Only Level 3 and Level 4 MS4s);
- Evaluate pesticide, herbicide and fertilizer application for pollution prevention opportunities;
- Train MS4 employees;
- Require contractors hired to perform O&M activities to comply with all storm water measures.

6. *Industrial Storm Water Sources*

The permit would require that Level 4 MS4 operators implement the industrial storm water MCM. Level 3 MS4 operators would be required to:

- Maintain an inventory of industrial sites;
- Perform inspections; and
- Train MS4 staff.

Authorization for Municipal Construction Activities

The optional MCM is being proposed to be maintained in the permit – This MCM is described in Part VI of the permit. Requirements for concrete batch plants have been modified to correspond to language in the CGP TXR150000.

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- Non-traditional MS4; and
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 - Level 2: Operators of small MS4s that serve a population of 10,000 to 100,000
 - Level 3: Operators of small MS4s that serve a population of more than 100,000

- Maintained Waiver Option 1 and Waiver Option 2.

MS4s within an urbanized area serving a population of less than 1,000 can obtain Waiver Option 1 and MS4s serving a population of less than 10,000 can obtain Waiver Option 2 when certain criteria are met.

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Application Deadlines for Coverage

- Operators of MS4s previously regulated are required to submit a NOI and a SWMP within **120 days** following the effective date of the general permit.
- Operators of MS4s not previously regulated are required to submit a NOI and a SWMP within **180 days** following the effective date of the general permit.
- If an operator selects to apply for an individual permit, the application must be submitted within **90 days** of the effective date of the general permit.

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Clarified how changes can be made to the SWMP.

- TCEQ may notify the MS4 operator of the need to modify the SWMP, in which case the operator has 90 days to make the changes.
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- SWMPS must include written procedures describing how the operator will implement the program;
- The permit provides guidance to non-traditional MS4s (for example counties, drainage districts and DOTs) that do not have the authority to develop ordinances, on how they can meet the goals of the permit;
- Operators are required to secure resources and conduct an annual fiscal analysis which must be submitted with the annual report;
- Operators must develop a plan for how to respond to repeat violations through increasingly stricter responses.
- Operators have five years from the permit effective date to implement the program;

Minimum Control Measures (MCM)

1. Public Education, Outreach, and Public Involvement

The permit would require the operator to:

- Define goals of the program;
- Target different groups in the MS4 area (residents, visitors, public service employees, businesses, construction site personnel);
- Distribute educational material and involve the public such as by stream clean ups;
- Evaluate the effectiveness of the program by, for example, conducting phone surveys;
- Facilitate and use public input.

2. Illicit Discharge Detection and Elimination (IDDE)

The permit would require the operator to detect, investigate and eliminate illicit discharges and require MS4 operators to:

- Maintain a MS4 map;
- Identify priority areas – areas where there are increased risks of illicit discharges;
- Investigate and track sources of illicit discharges;
- Facilitate public reporting of illicit discharges;
- Respond to public complaints about illicit discharges;
- Implement a training program for municipal staff; and
- Implement a dry weather screening program to perform (1) field observations, and (2) field screening monitoring. (This would only be required for Level 2 and Level 3 MS4s).

3. Construction

The permit would requires MS4 operators to require construction site operators of sites larger than one acre to implement storm water controls measures that comply with state and local laws. The permit would require the MS4 operator to:

- Assure site owners implement erosion and sediment control measures according to 40 CFR Part 450 (ELGs);
- Maintain an inventory of construction sites;
- Review construction plans;
- Inspect construction sites; and
- Train MS4 inspectors and educate construction site personnel.

4. Post-Construction in New Development and Redevelopment

This MCM addresses post-construction sites that are one acre or more in size as well as smaller projects that are part of a common plan of development.

The permit would require MS4 operators to:

- Develop a program to control storm water discharges;
- Assure site owners meet site performance standards;
- Ensure long term maintenance;
- Add watershed protection elements in watershed protection plans (Only Level 2 and Level 3 Operators); and
- Maintain an inventory of sites and inspect the sites.

5. *Pollution Prevention and Good Housekeeping for Municipal Operations*

The permit would require the MS4 operator to:

- Maintain a list of municipally owned facilities, including storm water controls;
- Evaluate and prioritize facilities based on the potential discharge of pollutants;
- Develop SOPs of storm water control measures for high priority facilities;
- Conduct inspections of facilities – monthly and an annual comprehensive inspections;
- Maintain catch basins;
- Assess municipal operation and maintenance (O&M) activities and develop measures to reduce the discharge of pollutants to storm water;
- Evaluate and optimize street sweeping;
- Evaluate pesticide, herbicide and fertilizer application for pollution prevention opportunities;
- Train MS4 employees;
- Require contractors hired to perform O&M activities to comply with all storm water measures.

6. *Industrial Storm Water Sources*

The permit would require that Level 3 MS4 operators implement the industrial storm water MCM. Level 3 MS4 operators would be required to:

- Maintain an inventory of industrial sites;
- Perform inspections; and
- Train MS4 staff.

Authorization for Municipal Construction Activities

The optional MCM is being proposed to be maintained in the permit – This MCM is described in Part VI of the permit. Monitoring requirements for concrete batch plants have been modified to correspond to parameters in the CGP TXR150000.