

Texas Pollutant Discharge Elimination System  
(TPDES)  
Small Municipal Separate Storm Sewer Systems  
(MS4) General Permit TXR040000

TCEQ Stormwater Stakeholder Meeting  
March 21, 2016

Stormwater & Pretreatment Team  
(512) 239-4671



Renewal of TPDES Small Municipal Separate  
Storm Sewer Systems (MS4) General Permit  
TXR040000



Existing Permit:  
Issued on December 13, 2013  
Expires on December 13, 2018



## TXR040000 Renewal Timeline

| Date                | Activity   |
|---------------------|--|
| Feb. 2017           | TCEQ staff was asked for comments                    |
| Feb. and March 2017 | Outreach letters and emails sent                     |
| March 2017          | Renewal announced on TCEQ website and in news letter |
| March 21, 2017      | Stakeholder meeting                                  |
| April 4, 2017       | Stakeholder comments due                             |
| April – June 2017   | Prepare draft permit and fact sheet                  |



## TXR040000 Renewal Timeline

| Date            | Activity   |
|-----------------|--|
| July 2017       | Internal Reviews   |
| August 2017 *   | Management Briefings   |
| September 2017* | EPA review (90 days)   |
| March 2018*     | Management Briefings   |
| April 2018*     | Public notice in Texas Register and newspapers (30 day comment period) |
| May 2018*       | Public meeting   |
| November 2018*  | Agenda for Adoption  |
| Dec. 13, 2018   | Permit Effective Date  |

\* Dates are tentative



## New National Pollutant Discharge Elimination System Rules – Phase II MS4 Remand Rule

- Phase II MS4 Remand Rule – Published in Fed. Reg. December 9, 2016 with an effective date of Jan. 9, 2017
- The regulations are revised to ensure that:
  - States determine the adequacy of best management practices (BMPs) and permit requirements
  - States provide public notice and opportunity for the public to request a public hearing



## New National Pollutant Discharge Elimination System Rules – Phase II MS4 Remand Rule

- This is a procedural rule – no substantive changes are made to the Phase II MS4 requirements
- Includes two options for states to administer their Phase II MS4 programs
  - Option 1: Comprehensive general permit approach
    - The general permit needs to include all requirements necessary to meet the MS4 permit standard “to reduce pollutants to the maximum extent practicable” (MEP).
  - Option 2: Two-step General Permit
    - The general permit includes some requirements for all MS4s
    - The state established additional requirements and BMPs for individual MS4s (this is in the SWMPs).



## New National Pollutant Discharge Elimination System Rules – Phase II MS4 Remand Rule

- All permits must be written with terms that are “clear, specific, and measurable”
- EPA is publishing examples of provisions from general permits across the country  
<https://www.epa.gov/npdes/stormwater-discharges-municipal-sources#resources>
- The general permits need to use “mandatory” terms and cannot use terms such as:
  - as practicable, should, encouraged, etc.
  - *if feasible*, cannot be used unless it is defined
- The permit language needs to be worded in a manner that will help assess compliance and track whether measurable goals have been met



## New National Pollutant Discharge Elimination System Rules – Phase II MS4 Remand Rule

- **Clear** – Certainty in specific actions and requirements
  - Avoid words such as “if practicable”, “as necessary”, “should”
- **Specific** – Provide level of detail in requirements that portray level of efforts needed to comply
- **Measurable** – Requirement needs to be articulated in a manner to assess compliance in a straightforward way



## New National Pollutant Discharge Elimination System Rules – Electronic Reporting Rule

- NPDES Electronic Reporting Rule – effective Dec. 21, 2015
  - Requires electronic submittal of applications and reports.
    - Phase 1 of Rule: DMRs need to be submitted electronically by Dec. 21, 2016
    - Phase 2 of Rule: Applications and reports need to be submitted electronically by Dec. 21, 2020
  - Appendix A of 40 CFR 127 list elements that need to be reported electronically
  - Waiver options are available from eReporting (permanent and temporary)
    - Religious beliefs
    - No internet access
    - Training needed



## What does the Permit Regulate?

- Stormwater discharges from publicly owned or operated “Small” MS4s located in urbanized areas (UAs)
- Population based the 2000 and 2010 Censuses
- Renewed December 13, 2013 – 5 year permit term

|              | General Permit 2007<br>Authorizations Issued | General Permit 2013<br>Applications Received |
|--------------|--|--|
| NOIs         | 406  | 539  |
| Waivers      | 66   | 78   |
| <b>Total</b> | <b>472</b>                                   | <b>617</b>                                   |

12 have not renewed yet



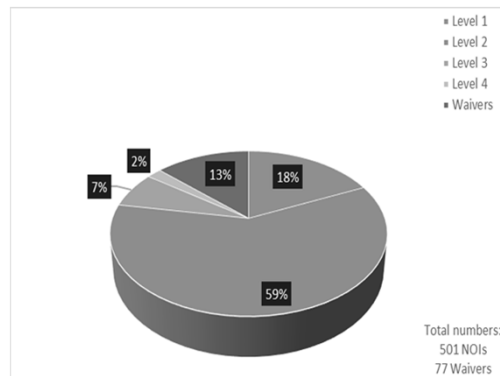
## Phase II MS4 General Permit

- Tiered Permitting Approach - based on population in the UA
  - Level 1 - Up to 10,000
  - Level 2 - 10,000 to 40,000
    - includes non-traditional MS4s
  - Level 3 - 40,000 to 100,000
  - Level 4 - More than 100,000
  
- Waiver option for population less than 1,000

*\*Based on the 2000 and 2010 Censuses*



## Phase II MS4s Active Authorizations



| Level        | Active Authorizations |
|--------------|-----------------------|
| 1            | 107                   |
| 2            | 340                   |
| 3            | 43                    |
| 4            | 11                    |
| Waivers      | 77                    |
| <b>Total</b> | <b>578</b>            |

## Requirements of Phase II MS4

- Stormwater Management Program (SWMP)
  - Six Minimum Control Measures (MCMs) operators must address to reduce pollutants from the MS4 to the MEP
  - List of BMPs and measurable goals
  - Schedule for implementation
  
- Submit annual report
  - Calendar year
  - Fiscal year
  - Permit year



## Requirements of Phase II MS4

- Minimum Control Measures (MCMs)
  1. Public Education, Outreach, and Involvement
  2. Illicit Discharge Detection and Elimination
  3. Construction Site Stormwater Runoff Control
  4. Post-Construction Stormwater Management in New Development and Redevelopment
  5. Pollution Prevention and Good Housekeeping for Municipal Operations
  6. Industrial Stormwater Sources (*Level 4 only*)
  7. *Optional* MCM for Construction done by the Permittee (MS4)
  
- Additional requirements for discharges into impaired waterbodies



## Proposed Changes to Existing Permit Consistency with other TPDES General Permits

- Part I – Definitions
  - Define “Infeasible” - not technologically possible or not economically practicable and achievable in light of best industry practices
  - Modify “Construction Activity” to include stockpiling of fill material and demolition
  - Modify “Waters of U.S.” to remove “cooling ponds”
- Part I and Part II.D.4 – Impaired Water Bodies
  - Add reference to Texas Integrated Report of Surface Water Quality for CWA Sections 305(b) and 303(d) when identifying an impaired water body.
- Part VI. – MCM 7
  - Lower benchmark value for TSS to 50 mg/L from 100 mg/L
  - Analysis must be done by NELAP certified laboratories



## Proposed Changes to Existing Permit Consistency with NPDES Rules

- Electronic Reporting Rule
  - Add permit language to include eReporting rule – no details yet since TCEQ is still working on this.
  - EPA will develop tools to accept applications and reports for small MS4s
- Phase II MS4 Remand Rule
  - Modify permit so language becomes clear, specific and measurable
  - Avoid words such as: if practicable, as necessary, should, encouraged to
  - Use mandatory words such as: must and shall





## Proposed Changes to Existing Permit Examples of clear, specific, and measurable

➤ Example MCM 1. Public Education, Outreach, and Involvement

If feasible, ~~consider using~~ use public input (for example, the opportunity for public comment, or public meetings) in the implementation of the program

➤ Example MCM 2. IDDE

Inspections – The permittee shall conduct inspections ~~as determined appropriate~~, in response to complaints, and shall conduct follow-up inspections ~~as needed~~ to ensure that corrective measures have been implemented by the responsible party.

The permittee shall develop written procedures describing the basis for conducting inspections in response to complaints



## Proposed Changes to Existing Permit For all MS4s

➤ Part II.A.5 Categories of Regulated MS4s

- Annexation of land resulting in a level change:
  - New requirement to submit an Notice of Change
  - Update the SWMP within 90 days
  - Start to implement program in new areas within 9 months.

➤ Part II.D.4 Impaired water bodies and TMDL Requirements

- Clarify terms – benchmarks, decorative ponds, pet waste
- New requirement to check if a water body within the MS4s permitted area has been added to the latest 305(b)/303(d) list.
- Newly impaired waterbodies must be addressed in the SWMP



## Proposed Changes to Existing Permit For all MS4s

- Part II.E.3 Stormwater Management Program
  - New requirement to review the SMWP once a year in conjunction with completion of the annual report.
  - Annexing or de-annexing land will require an NOC
- Part III.A. (2) Content of the SWMP
  - New requirement that measurable goals selected must be “clear, specific and measurable”
- Part III.B. MCM 1
  - Publish SWMP and annual report on MS4s public website – if MS4 has one



## Proposed Changes to Existing Permit For Level 4 MS4s only

- Part III. B. 2 MCM 2. Illicit Discharge Detection and Elimination
  - Clarify that MS4s identify priority areas likely to have illicit discharges
  - Add a program to control the discharge of floatables into the MS4
- Part III.B. 5. MCM 5. Pollution Prevention and Good Housekeeping for Municipal Operations
  - Add a program to evaluate new and existing flood management projects for their water quality impact
- Part III.B.6. MCM 6. Industrial Stormwater Sources
  - Include priorities and procedures for inspections to existing program



## TPDES Stormwater Program Contacts

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