TPDES Draft Small MS4 Permit, Questions and Comparison to NPDES

Part I. Definitions

Daily Maximum

The term *Daily Maximum* used to describe sampling requirements at Part IV. (Numeric Effluent Limitations) and at Part VII. D. (Authorization for Municipal Construction Activities) seems subject to interpretation. A clear definition should be included in the permit.

Industrial Activity

The term *Industrial Activity* as used at Part III. A. 4. (e) (Good Housekeeping minimum measure) is subject to interpretation. A clear definition should be included in the permit.

Major Waters

The term *Major Waters* as used at Part II. D. 4. (b) (9) (contents of NOI, site information) is subject to interpretation. A clear definition should be included in the permit.

Part II. Permit applicability and Coverage

II. A. 1. and Cover Page

Do permit requirements apply to the entire system of an affected MS4? Federal NPDES permit requirements are specific to the designated urbanized area and do not apply to all of the affected MS4. The TPDES permit specifies that "*Small municipal separate storm sewer systems located in the state of Texas may discharge directly to surface water in the state only according to monitoring requirements and other conditions set forth in this general permit...*". This seems to intend that an MS4 meeting the eligibility requirement at Part II. A. 1. (*An MS4 that is fully or partially located within an urbanized area...*) must apply permit requirements to all discharges of the MS4, whether in the urbanized area or not.

II. B. Allowable Non-Storm Water Discharges

Essentially the same list of allowable discharges as the NPDES with the exception that the TPDES permit specifies pavement and exterior building wash water is allowable if it does not contain detergents or other chemicals.

II. C. 1. Discharges Authorized by Another TPDES Permit

The NPDES permit requires that an MS4 covered by an individual permit provide the total square miles of the system [122.33 (b)(2)(i)] if seeking coverage under the general permit - TPDES does not.

The TPDES does require for individually permitted MS4s seeking coverage under the general permit' a determination by the executive director taking into consideration TMDLs, anti-backsliding policy, history of non-compliance, and other considerations, where the NPDES does not.

II. C. 4. Discharges to Water-Quality Impaired Receiving Waters

Allows for discharges to 303(d) listed waters through the general permit by requiring that TMDL conditions be included in the MS4 SWMP.

II. C. 6. Discharges to Specific Watersheds and Water Quality Areas

Unique to the TPDES, discharges to watershed protection areas are allowed only as described for the individual watershed or water quality area.

II. C. 7. Protection of Streams and Watersheds by Other Governmental Entities
Unique to the TPDES, allowing for more stringent requirements. In particular, to allow for the home rule municipality.

II. D. 1. Application for Coverage
Permittees get provisional authorization 2 days after the NOI is postmarked for delivery to TCEQ (24 hrs after confirmation receipt for electronic NOI). When it is reviewed (note that NO Timeframe GIVEN for review) then it is determined that:
A) NOI is complete --> notification and authorization #
B) NOI is incomplete --> request more info
C) Deny coverage --> need individual permit
This section is fairly consistent with (40 CFR 122.33(b)(1))

II. D. 1. a) MS4s Located in an Urbanized Area
First part says that if permit becomes effective before Dec. 9, still have until March 10, 2003; after Dec 9, you have 90 days, so presumably the final compliance date could go past March 10?

II. D. 1. b) Designated MS4s
Designated MS4s - same 180 days from notification as NPDES.

II. D. 2. Late Submittal of NOI
- new concept, not specifically found in 40 CFR but do refer to 122.36
- can submit NOI late, will be accepted, but run risk of enforcement action (as usual)

II. D. 3. Storm Water Management Program (SWMP)
"must include a time line that demonstrates a schedule..." = 122.34(d)(1)(ii)
"alterations can be made so long as the revisions are summarized in the annual report" = 122.34(g)(3)- annual report; 122.34(g)(3)(iv) - changes

II. D. 4. Contents of the Notice of Intent
Section 4 appears new but nothing noteworthy, just detailing general info for NOI.
(4) this section only place that requires boundary info, so presume not need otherwise?
(8) requires certification of SWMP but not identify who until later (see Signatory requirement, Sec 8).

II. D. 5. Notice of Change (NOC)
- new section; phrasing seems redundant; submit changes within 30 days of discovery.

II. D. 8. Signatory Requirement for NOI, NOT, and NOC Forms
- presumably this is who certifies SWMP?

Ref. 30 TAC § 305.44
3) For a municipality, state, federal, or other public agency, the application shall be signed by either a principal executive officer or a ranking elected official...
(b) A person signing an application shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and

complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

II. D. 9. Fees

NOI fee of $100, none for NOT or NOC
Requires an annual fee of $100 for wastewater inspection
May require an annual watershed monitoring and assessment fee

II. D. 10. Permit Expiration

- general permit only lasts 5 years then must be renewed by Commission, if not, then all permittees must get an individual permit.

II. E. 1. Authorizations Under the General Permit

MS4s must get either a general permit or an individual permit. If MS4s are interconnected but with multiple operators, each must get own permit. Can combine or share efforts but still need own SWMP.

II. E. 1. (a) Participants

Need to identify co-participants and provide **confirmation** of participation

II. E. 1. (b) Responsibilities

each permittee responsible for SWMP within boundaries of MS4; if sharing responsibility for SWMP, must clearly define contribution and by whom.

II. E. 2. Alternative Coverage under an Individual TPDES Permit

- gives reasons why may be required to obtain an individual permit but doesn't give any specific requirements about the individual permit; not know if it is better or worse?

II. F.

Are waiver forms available yet? Note that it is the responsibility of the potential permittee to request the waiver and there is a deadline of March 10, 2003, after which you must get a permit.

The specific waiver requirements are verbatim NPDES requirements except that it did not include the definition of pollutants of concern that EPA included. These were appropriately moved to the definitions section at the beginning.

II. F. 1.(b) Waivers

What will be he status of an MS4 that intends to apply for waiver option 1 if the EPA has not approved or established a TMDL for the pollutant of concern.

II. G. Designation Criteria

EPA required the regulatory authority to develop designation criteria and gave some general requirements and a few more specific suggestions. TCEQ incorporated the general suggestions in # 1-3 and #6 to protect sensitive waters and designated uses. They added #4 that specifically addressed 303(d) segments with a TMDL and expanded in #5 regarding adjacent small MS4s contributing pollutants to a regulated MS4 that a request for designation had to be made. TCEQ is applying the designation criteria to ALL entities and not limiting it to EPA's suggestion of entities with a population of at least 10,000 and 1,000 persons per square mile, nor to consideration of high growth potential or contiguity to an urbanized area.

Part III. Storm Water Management Program

This section addresses the Minimum Control Measures (MCMs) and provides statements in the first paragraph that cover all the MCMs.

- Development and implementation of the MCM must be done to the extent allowable by state and local law, such that entities without the authority to create and enforce ordinances are not required to do so.
- Applicability of the MCM is for storm water discharges that reach Waters of the United States as opposed to surface water in the state.
- Existing programs or BMPs may be used in the MCMs.

Minimum Control Measure:
III. A. 1. PUBLIC EDUCATION

Comparison of federal (NPDES) and state (TPDES) draft general permits

NPDES	DRAFT TPDES (Differences noted in bold)
Public education and outreach on storm water impacts. (i) You must implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and the steps that the public can take to reduce pollutants in storm water runoff.	1. Public Education and Outreach on Storm Water Impacts (a) A public education program to distribute educational materials to the community or conduct equivalent outreach activities that will be used to inform the following groups within the MS4 area: **(1) residents;** **(2) visitors;** **(3) public service employees;** **(4) businesses;** **(5) commercial and industrial facilities; and** **(6) construction site personnel.** The outreach must inform the public about the impacts polluted storm water run-off can have on water quality, hazards associated with illegal discharges and improper disposal of waste, and ways they can minimize their impact on storm water quality. **(b) Via documentation, the MS4 operator must ensure that a reasonable attempt was made to reach all constituents within the MS4 area to meet this measure.**

Notes:
1. NPDES language is very general in regards to identifying any targeted audiences for public education and outreach. NPDES does recommend reaching out to diverse audiences in the guidance section, whereas TPDES specifies the audiences that must be targeted.
2. TPDES goes a step further in requiring effort be demonstrated to conduct outreach to all constituents, and that documentation be kept to that effect.

Minimum Control Measure:
III. A. 2. PUBLIC INVOLVEMENT

Comparison of federal (NPDES) and state (TPDES) draft general permits

NPDES	DRAFT TPDES (Differences noted in bold)
Public involvement/participation. (i) You must, at a minimum, comply with State, Tribal and local public notice requirements when implementing a public involvement/ participation program.	Public Involvement/Participation (a) **Identify and implement a public involvement and participation program. This must include provisions to allow opportunities for all constituents within the MS4 area to participate in the storm water management program development and implementation.** (b) The MS4 operator must, at a minimum, comply with State and local public notice requirements when implementing a public involvement/participation program. (c) **The MS4 operator must, via documented efforts, ensure that sufficient opportunities were allotted to involve all constituents interested in participating in the program process to meet this measure. Correctional facilities will not be required to implement this MCM.**

Notes:
1. NPDES rule language provides minimal requirements. The guidance section of the NPDES does recommend that the public be included in developing, reviewing, and implementing the storm water management program. TPDES specifies that the MS4 create opportunities for public involvement.
2. TPDES goes a step further in requiring documentation that sufficient effort was made to ensure public participation.

Minimum Control Measure:
III. A. 3. Illicit Discharges

Comparison of federal (NPDES) and state (TPDES) draft general permits

NPDES	Draft TPDES (Differences noted in bold)
Sec. 122.34 (b) (3)Illicit discharge detection and elimination. (i) You must develop, implement and enforce a program to detect and eliminate illicit discharges (as defined at Sec. 122.26(b)(2)) into your small MS4. (ii) You must: (A) Develop, if not already completed, a storm sewer system map, showing the location of all outfalls and the names and location of all waters of the United States that receive discharges from those outfalls; (B) To the extent allowable under State, Tribal or local law, effectively prohibit, through ordinance, or other regulatory mechanism, non-storm water discharges into your storm sewer system and implement appropriate enforcement procedures and actions; (C) Develop and implement a plan to detect and address non-storm water discharges, including illegal dumping, to your system; and (D) Inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste. (iii) You need address the following categories of non-storm water discharges or flows (i.e., illicit discharges) only if you identify them as significant contributors of pollutants to your small MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 5.2005(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (discharges or flows from fire fighting activities are excluded from the effective	Part III. A. 3. Illicit Discharge Detection and Elimination (a) Illicit Discharges A section within the SWMP must be developed to establish a program to detect and eliminate illicit discharges to the MS4. The SWMP must include the **manner, ordinance or other regulatory mechanism**, used to effectively prohibit illicit discharges. (1) Detection The SWMP must list the techniques used for detecting illicit discharges. (2) Elimination The SWMP must include appropriate enforcement procedures and actions for removing the source of an illicit discharge. (b) Non-Storm Water Discharges A section within the SWMP must be developed to establish a program to detect and address non-storm water discharges and illegal dumping to the MS4. **All non-storm water flows, including those listed in Part II.B. and Part VII.B., must be considered by the permittee to determine if they are a significant contributor of pollutants to the MS4.** All non-storm water discharges that **significantly contribute** pollutants to the MS4 must be effectively prohibited. The prohibition must be done through an ordinance, or other regulatory mechanism **unless the MS4 operator does not have the authority** to develop ordinances or other regulatory mechanisms. The regulations must include appropriate enforcement procedures and actions. Fire fighting activities are excluded from being prohibited and only need to be addressed if they are determined to be a significant contributor of pollutants to the MS4. (c) Incidental Non-Storm Water Discharges A list of occasional incidental non-storm water discharges that will not be addressed as illicit discharges may also be developed. If developed, the listed discharges must not be reasonably expected to be significant sources of

prohibition against non-storm water and need only be addressed where they are identified as significant sources of pollutants to waters of the United States).	pollutants, because of either the nature of the discharge or the conditions that have been established for allowing these discharges to the MS4. Any local controls or conditions placed on these discharges must be documented in the SWMP. **The SWMP must also include a provision prohibiting any individual non-storm water discharge that is determined to be contributing significant amounts of pollutants to the MS4** (d) Storm Sewer Map (1) A map of the storm sewer system must be developed and must include the following: (i) **the location of storm sewer pipes, ditches, and other conveyances owned by the permittee, or at a minimum, the drainage area for each outfall;** (ii) **the location of all major outfalls**; and (iii) the names and locations of all waters of the U.S. that receive discharges from the outfalls. (2) **The SWMP must include the source of information used to develop the storm sewer map, including how the outfalls were verified and how the map will be regularly updated.**

Notes:

- Where the NPDES specifies a program must prohibit non-storm water discharges through ordinance, or other regulatory mechanism to the extent allowable under State, Tribal or local law, the TPDES language allows for other mechanisms in paragraph "(b) Non-Storm Water Discharges", but not in "(a) Illicit Discharges"
- The NPDES requirements list non-storm water discharges that should be addressed only if determined to contribute pollutants (also referred to as allowable discharges). In Part II. B. the TPDES permit states that these same discharges are not required to be addressed provided they have not been determined to substantial sources of pollutants. However, in paragraph a) 2. above the TPDES permit states that these discharges "must be considered by the permittee to determine if they are a significant contributor of pollutants to the MS4".
- The only reference to *individual* non-storm water discharges in the above NPDES text is "individual residential car washing" found in the list of allowable non-storm water discharges. The TPDES permit has a specific requirement for "a provision prohibiting any individual non-storm water discharge that is determined to be contributing significant amounts of pollutants to the MS4"
- NPDES mapping requirements are only for the outfalls of the MS4 system and naming the receiving waters. TPDES requires a map of "storm sewer pipes, ditches, and other conveyances" or at a minimum "the drainage area for each outfall". TPDES also requires the location of all major outfalls and the source of information used to develop the storm sewer map, including how the outfalls were verified and how the map will be regularly updated.

Minimum Control Measure:
III. A. 4. Pollution Prevention/Good Housekeeping for Municipal Operations

Comparison of federal (NPDES) and state (TPDES) draft general permits

NPDES	Draft TPDES (Differences noted in bold)
Sec. 122.34 (b) (6) Pollution prevention/good housekeeping for municipal operations. (i) You must develop and implement an operation and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations. Using training materials that are available from EPA, your State, Tribe, or other organizations, your program must include employee training to prevent and reduce storm water pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and storm water system maintenance.	Part III. A. 4. Pollution Prevention/Good Housekeeping for Municipal Operations A section within the SWMP must be developed to establish an operation and maintenance program. The operation and maintenance program must have the ultimate goal of identifying methods and practices for conducting municipal operations in a manner to prevent or reduce pollution in storm water runoff. **(a) Good Housekeeping and Best Management Practices** Controls must be used to reduce or eliminate the discharge of pollutants when runoff from municipal operations is determined to be a significant contributor of pollution to the MS4. Examples of municipal operations and municipally owned areas include, but are not limited to: (1) park and open space maintenance; (2) street, road, or highway maintenance; (3) fleet and building maintenance; (4) storm water system maintenance; (5) new construction and land disturbances. (6) municipal parking lots; (7) vehicle and equipment maintenance and storage yards; (8) waste transfer stations; and (9) salt/sand storage locations. (b) Training A training program must be developed for all employees responsible for municipal operations subject to the pollution prevention/good housekeeping program. The training program must include training materials directed at preventing and reducing storm water pollution from municipal operations. Examples or descriptions of training materials being used must be included in the SWMP. (c) **Structural Control Maintenance** **If best management practices include structural controls, maintenance of the**

	controls must be performed at a frequency determined by the MS4 operator and consistent with maintaining the effectiveness of the BMP. The SWMP must list all of the following: (1) maintenance activities; (2) maintenance schedules; and **(3) long-term inspection procedures for controls used to reduce floatables and other pollutants.** (d) **Disposal of Waste** Waste removed from the MS4, from structural controls, or collected as a result of municipal operations and maintenance activities must be properly disposed. A section within the SWMP must be developed to include procedures for the proper disposal of waste, including: (1) dredge spoil; (2) accumulated sediments; and floatables. (e) **Municipal Operations and Industrial Activities** The SWMP must include a list of all: (1) municipal operations that are subject to the operation, maintenance, or training program developed under the conditions of this section; and (2) municipally owned or operated industrial activities that are subject to TPDES storm water regulations. The SWMP must include a individual permit number, general permit authorization number, or a copy of a signed NOI or NEC (no exposure certification form for TPDES General Permit TXR050000) for each industrial activity conducted by the MS4 and subject to TPDES storm water regulations. If an NOI or NEC has been submitted, but an acknowledgment has not yet been received from the TCEQ, a copy of the submitted NOI or NEC Form may be made readily available.

Notes:

- The TPDES permit substantially expands on the NPDES language, specifying four areas of a pollution prevention program that are not specifically presented in the NPDES:
  - **Good Housekeeping and Best Management Practices**
  - **Structural Control Maintenance**
  - **Disposal of Waste**
  - **Municipal Operations and Industrial Activities**

  These requirements can be considered as practices, or BMPs, obviously applicable to achieving the intent of the NPDES language. The TCEQ appears to view these as basic pieces of a management plan, and critical enough to warrant making them requirements.

Minimum Control Measure:
III. A. 5. Construction Site Storm Water Runoff Control

Comparison of federal (NPDES) and state (TPDES) draft general permits

NPDES	Draft TPDES
(i) You must develop, implement, and enforce a program to reduce pollutants in any storm water runoff to your small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of storm water discharges from construction activity disturbing less than one acre must be included in your program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. (ii) Your program must include the development and implementation of, at a minimum: (A) An ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under State, Tribal, or local law; (B) Requirements for construction site operators to implement appropriate erosion and sediment control best management practices [BMPs]; (C) Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality; (D) Procedures for site plan review which incorporate consideration of potential water quality impacts; (E) Procedures for receipt and consideration of information submitted by the public; (F) Procedures for site inspection and enforcement of control measures.	The MS4 operator must develop, implement, and enforce a program to reduce pollutants in any storm water runoff to the MS4 from construction activities that result in a land disturbance of greater than or equal to one acre or if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. The MS4 operator is not required to develop, implement, and/or enforce a program to reduce pollutant discharges from sites that the TCEQ has waived the permitting requirements for storm water discharges associated with small construction activities. (a) The program must include the development and implementation of, at a minimum, an ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under State and local law. (b) Requirements for construction site contractors to, at a minimum: (1) implement appropriate erosion and sediment control best management practices; and (2) control waste such as discarded building materials, concrete truck washout water, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality; (c) The MS4 operator must develop procedures for: (1) site plan review which incorporate consideration of potential water quality impacts; (2) receipt and consideration of information submitted by the public; and (3) site inspection and enforcement of control measures.

Notes:

- The permit conditions between the NPDES and Draft TPDES permits appear to be identical.
- Slight variation exists between the two versions in organizational structure.

Minimum Control Measure:
III. A. 6. Post-Construction Storm Water Management in New Development and Redevelopment

Comparison of federal (NPDES) and state (TPDES) draft general permits

NPDES	Draft TPDES
You must develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into your small MS4. Your program must ensure that controls are in place that would prevent or minimize water quality impacts. You must: • Develop and implement strategies which include a combination of structural and/or non-structural best management practices (BMPs) appropriate for your community; • Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under State, Tribal or local law; • Ensure adequate long-term operation and maintenance of BMPs.	The MS4 operator must develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale that will result in disturbance of one or more acres, that discharge into the small MS4. The program must ensure that controls are in place that would prevent or minimize water quality impacts; (a) Develop and implement strategies which include a combination of structural and/or non-structural BMPs appropriate for your community; (b) Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under State and local law; and (c) Ensure adequate long-term operation and maintenance of BMPs.

Notes:

- The permit conditions between the NPDES and Draft TPDES permits appear to be identical.

Minimum Control Measure:
III. A. 7. (and Part VII.) Authorization for Municipal Construction Activities

Comparison of federal (NPDES) and state (TPDES) draft general permits

NPDES	Draft TPDES
There is no similar provision in the NPDES Final Rule for authorization of municipal construction activities. Local governments would be required to obtain coverage under a separate permit for each of their public construction projects that disturb greater than one acre.	The development of a MCM for municipal construction activities is an optional measure and is an alternative to the MS4 operator seeking coverage under TPDES general permit TXR150000. Additionally, contractors working for the permittee are not required to obtain a separate authorization as long as the permittee meets the status of "construction site operator" and remains compliant with the conditions of this of this general permit. Permittees that choose to develop this measure will be authorized to discharge storm water and certain non-storm water from construction activities where the permittee can meet the definition of "construction site operator" in Part I of this general permit. This MCM must be developed as a part of the SWMP that is submitted with the initial NOI for permit coverage. If this MCM is developed after submittal of the initial NOI, a NOC must be submitted notifying the executive director of this change, and identifying the geographical area or boundary where the activities will be conducted under the provisions of this permit. (a) The MCM must include: (i) a description of how construction activities will generally be conducted by the permittee so as to take into consideration local conditions of weather, soils, and other site specific considerations; (ii) a description of the area that this MCM will address and where the permittees construction activities are covered (e.g. within the boundary of the urbanized area, the corporate boundary, a special district boundary, an extra territorial jurisdiction, or other similar jurisdictional boundary); and (iii) either a description of how the permittee will supervise or maintain oversight over contractor activities to ensure that the SWP3 requirements are properly implemented at the construction site; or how the permittee will make certain that contractors have a separate authorization for storm water discharges. (b) The MCM must include a general description of how a SWP3 shall be developed, according to Part VII.E. of this general permit, for each construction site.

Explanation

All construction activities disturbing greater than 5 acres have been regulated by the EPA since 1993. Cities under 100,000 in population have been exempt from the NPDES requirement for their own public construction activities (40 CFR 122.26(e)(1)(ii) and (g)). The NPDES regulations stipulated that municipalities with a population of less than 100,000 were exempt from requirements to apply for or obtain a permit for any storm water discharge associated with an "industrial" activity until August 7, 2001 (construction activities disturbing 5 or more acres is defined as an industrial activity under the NPDES regulations). The Phase II Final Rule extended the August 7, 2001 expiration of the exemption to March 10, 2003. Also after March 10, 2003, small construction activities (those that disturb between one and five acres) will also be regulated.

This means that after March 10, 2003 all local governments will be required to obtain coverage for their own public construction projects that disturb greater than one acre. Section III.A.7. of the TPDES MS4 permit contains provisions whereby the MS4, where it is the construction site operator, may obtain coverage for discharges associated with their own construction activities. Contractors on municipal projects also would not have to be covered under a separate permit where the MS4 is the operator under conditions established by this provision. **

Section VII. contains the requirements that local governments must comply with in order to obtain permit coverage under this provision. These requirements are nearly identical to those found in TPDES General Permit TXR150000 (General Permit to Discharge Waste from Construction Sites). The primary advantage for local governments is that there is no need to submit an NOI and pay permit fees to the state for coverage under the construction permit for each construction activity. A Storm Water Pollution Prevention Plan for each small and large construction activity must still be prepared and implemented. MS4s are required to summarize in the annual report pertinent information related to the construction activities performed in the previous year.

Local governments that choose not to include this component in their storm water management plans must obtain separate coverage for their construction activities that disturb greater than one acre under TPDES General Permit TXR150000 (General Permit to Discharge Waste from Construction Sites).

* other than an airport, power plant, or uncontrolled sanitary landfill owned or operated by such municipality

** **Construction Site Operator** - The MS4 operator associated with a construction project that meets all of the following criteria:

(a) the operator has operational control over construction plans and specifications to the extent necessary to meet the requirements and conditions of this general permit; and

(b) the operator has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a storm water pollution prevention plan for the site or other permit conditions (e.g. they are authorized to direct workers at a site to carry out activities required by the Storm Water Pollution Prevention Plan or comply with other permit conditions).

Part IV. Numeric Effluent Limitations

Applies specifically to concrete batch plants. No reporting is required, yet a discharge monitoring report (DMR) is attached to the permit. Note that *Daily Maximum* is not defined.

Part V. Recordkeeping and Reporting

V. A.1. Recordkeeping

TPDES will require records be kept for a minimum of three years and./or for the duration of the permit term, whichever is longer.

V. A.3. Open Records

The public must request copies of the NOI and SWMP in writing. Those documents must be made available within 2 working days of receiving the request. Requests for other supporting records must be provided within 10 working days, or within a reasonable and lawful amount of time as stipulated by the Public Information Act. Nominal charges to research and reproduce records, may be applied to the public.

V. B.1. (a) Noncompliance Notification

TPDES stipulates that Noncompliance Notification must be given to the TCEQ regional office in the event of a situation that endangers public health or safety, or the environment. Notification must be made 24 hrs. after discovery of noncompliance via phone or in person (orally) or via FAX. A written report must be sent to the TCEQ regional office and to the TCEQ Enforcement Division (MC-224) within five days of discovery of noncompliance. Report must state the noncompliance situation (exactly when, where, how, and duration) and its potential danger to public health or safety, or the environment. The report must state whether or not the noncompliance has been corrected. If no corrective steps have been taken, the report must state the anticipated duration of the situation and must lay out a plan to mitigate, reduce, eliminate and prevent recurrence of the noncompliance.

V. B. 2. Annual Report

TPDES will require a concise annual report be submitted by March 31st of the following year for the duration of the permit term. NPDES states that annual reports must be made for the first permit term; however, for subsequent permit terms reports are due years 2 & 4 unless the permitting authority specifies otherwise. Draft TPDES does not specify provisions for annual reporting in subsequent permit terms.

V.B.2. (c) BMP Credits

If an activity (or BMP) was effective three years prior to permit issuance, the permittee can take credit for that in the first annual report.

V.B.2. (g - h) Construction Activities

Annual report must state the total number of municipal construction activities and the total number of acres disturbed. The total number of non-municipal

construction activities that took place within the permittee's jurisdiction must also be reported.

V.B.2. (j-k) Co-permitting Responsibilities

TPDES states that all co-permittees must collaborate in producing a system-wide report. NPDES states that if your co-permittee agrees to file annual reports on your behalf, you must state that in the NOI and you are not required to file annual reports; however, you are still liable for compliance. NPDES strongly encourages that co-permittees enter into a legally binding agreement. TPDES states that each permitee must sign and certify the annual reports according to stipulations in Part VII.E.1.(a) [p. 32]. Note that this reference appears to be a typo the reference probably was intended to Part VI. 6. [p. 30].

Part VI. Standard Permit Conditions

VI. 3.

This section needs more clarification: "It is not a defense for a discharger in an enforcement action that it would have been necessary to halt or reduce the permitted activity to maintain compliance with the permit conditions.

VI. 4.

Provisions for inspections are stipulated under Texas Water Code, Health and Safety Code, and Code of Federal Regulations. Entry cannot be denied or restricted on the basis of safety, internal security, and fire protection. Inspectors will observe appropriate rules and regulations during an inspection.

VI. 5. (a).

Administrative, civil and criminal penalties stipulated by Texas Water Code will apply for negligently and knowingly violating the CWA, the TPDES permit, or any requirement imposed in a pre-treatment program approved under the CWA.

VI.7.

Obtaining a TPDES permit does not authorize any exclusive privilege, property or water rights to the permittee.

TPDES GENERAL PERMIT
No. TXR040000

This is a new general permit issued pursuant to Section 26.040 of the Texas Water Code and Section 402 of the Clean Water Act.

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

GENERAL PERMIT TO DISCHARGE WASTE
under provisions of
Section 402 of the Clean Water Act
and Chapter 26 of the Texas Water Code

Small municipal separate storm sewer systems

located in the state of Texas

may discharge directly to surface water in the state

only according to monitoring requirements and other conditions set forth in this general permit, as well as the rules of the Texas Commission on Environmental Quality (TCEQ), the laws of the State of Texas, and other orders of the Commission of the TCEQ (Commission). The issuance of this general permit does not grant to the permittee the right to use private or public property for conveyance of storm water and certain non-storm water discharge 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 date of issuance.

ISSUED AND EFFECTIVE DATE:

For the Commission

TCEQ GENERAL PERMIT NUMBER TXR040000

RELATING TO STORM WATER DISCHARGES ASSOCIATED WITH SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS

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Part I. Definitions

Best Management Practices (BMPs) - schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Clean Water Act (CWA) - The Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Pub.L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483 and Pub. L. 97-117, 33 U.S.C. 1251 et.seq.

Construction Site Operator - The MS4 operator associated with a construction project that meets all of the following criteria:

(a) the operator has operational control over construction plans and specifications to the extent necessary to meet the requirements and conditions of this general permit; and

(b) the operator has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a storm water pollution prevention plan for the site or other permit conditions (e.g. they are authorized to direct workers at a site to carry out activities required by the Storm Water Pollution Prevention Plan or comply with other permit conditions).

Control Measure - any Best Management Practice or other method used to prevent or reduce the discharge of pollutants.

Conveyance - Curbs, gutters, man-made channels and ditches, drains, pipes, and other constructed features designed or used for flood control or to otherwise transport storm water runoff.

Discharge - when used without a qualifier, refers to the discharge of storm water runoff or certain non-storm water discharges as allowed under the authorization of this general permit.

Final Stabilization - A construction site status where either of the following two conditions are met:

1. All soil disturbing activities at the site have been completed and a uniform (e.g, evenly distributed, without large bare areas) perennial vegetative cover with a density of 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

2. For construction projects on land used for agricultural purposes (e.g. pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to a surface water and areas that are not being returned to their preconstruction agricultural use must meet the final stabilization conditions of condition 1 above.

Illicit Connection - any man-made conveyance connecting an illicit discharge directly to a municipal separate storm sewer.

Illicit Discharge - any discharge to a municipal separate storm sewer that is not entirely composed of storm water, except discharges authorized under this general permit or a separate TPDES permit and discharges resulting from fire fighting activities.

Indian Country - defined in 18 USC Section 1151, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. This definition includes all land held in trust for an Indian tribe.

Infiltration - water other than wastewater that enters a sewer system, including sewer service connections and foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes.

Large Construction Activity - Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than five (5) acres of land. Large construction activity also includes the disturbance of less than five (5) acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than five (5) acres of land. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of a ditch, channel, or other similar storm water conveyance.

Major Outfall - an outfall that discharges from a single pipe with an inside diameter of 36 inches or more or its equivalent (discharge from a single conveyance other than circular pipe which is associated with a drainage area of more than 50 acres); or for municipal separate storm sewers that receive storm water from lands zoned for industrial activity (based on comprehensive zoning plans or the equivalent), an outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other than a circular pipe associated with a drainage area of 2 acres or more).

Maximum Extent Practicable (MEP) - the technology-based discharge standard for municipal separate storm sewer systems to reduce pollutants in storm water discharges that was established by CWA §402(p). A discussion of MEP as it applies to small MS4s is found at 40 CFR 122.34.

Small Municipal Separate Storm Sewer System (MS4) - a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) Owned or operated by the United States, a state, city, town, borough, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the CWA; (ii) Designed or used for collecting or conveying storm water; (iii) Which is not a combined sewer; and (iv) Which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR Section 122.2; (v) Which was not previously authorized under a NPDES or TPDES individual permit as a medium or large municipal separate storm sewer system; (vi) Which does not include very discrete systems such as those serving individual buildings.

Notice of Intent (NOI) - A written submission to the executive director from an applicant requesting coverage under this general permit.

MS4 Operator - the owner or public entity that is responsible for the management and operation of the municipal separate storm sewer system and is subject to the provisions of this general permit.

Permittee - the MS4 operator authorized under this general permit.

Permitting Authority - for the purposes of this general permit, the TCEQ.

Pollutant(s) of Concern - include biochemical oxygen demand (BOD), sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation), pathogens, oil and grease, and any pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from an MS4. (Definition from 40 CFR Section 122.32(e)(3)).

Redevelopment - alterations of a property that changes the "footprint" of a site or building in such a way that there is a disturbance of equal to or greater than 1 acre of land. This term does not include such activities as exterior remodeling.

Small Construction Activity - Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one (1) acre and less than five (5) acres of land. Small construction activity also includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one (1) and less than five (5) acres of land. Small

construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of a ditch, channel, or other similar storm water conveyance.

Small Municipal Separate Storm Sewer System (small MS4, MS4 or System) - a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) Owned or operated by the United States, a state, city, town, borough, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the CWA; (ii) Designed or used for collecting or conveying storm water; (iii) Which is not a combined sewer; and (iv) Which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR Section 122.2; (v) Which was not previously authorized under a NPDES or TPDES individual permit as a medium or large municipal separate storm sewer system; (vi) Which does not include very discrete systems such as those serving individual buildings.

Storm Water - storm water runoff, snow melt runoff, and surface runoff and drainage.

Storm Water Associated with Construction Activity - Storm water runoff from an area where there is either a large construction activity or a small construction activity.

Storm Water Management Program (SWMP) - a comprehensive program to manage the quality of storm water discharged from the municipal separate storm sewer system.

Surface Water in the State - Lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state (from the mean high water mark (MHWM) out 10.36 miles into the Gulf), and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all water-courses and bodies of surface water, that are wholly or partially inside or bordering the state or subject to the jurisdiction of the state; except that waters in treatment systems which are authorized by state or federal law, regulation, or permit, and which are created for the purpose of waste treatment are not considered to be water in the state.

Total Maximum Daily Load (TMDL) - the maximum amount of a pollutant that a lake, river, stream, or estuary can receive and still maintain Texas Surface Water Quality Standards.

Urbanized Area (UA) - an area of high population density that may include multiple MS4s as defined and used by the U.S. Census Bureau in the 1990 and 2000 decennial census.

Waters of the United States - (from 40 CFR Section 122.2) Waters of the United States or waters of the U.S. means:

(a) all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(b) all interstate waters, including interstate wetlands;

(c) all other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds that the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(1) which are or could be used by interstate or foreign travelers for recreational or other purposes;

(2) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(3) which are used or could be used for industrial purposes by industries in interstate commerce;

(d) all impoundments of waters otherwise defined as waters of the United States under this definition;

(e) tributaries of waters identified in paragraphs (a) through (d) of this definition;

(f) the territorial sea; and

(g) wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

Part II. Permit Applicability and Coverage

This general permit provides authorization for storm water and certain non-storm water discharges from small municipal separate storm sewer systems (MS4) to surface water in the state. The permit contains requirements applicable to all MS4s that are eligible for coverage under this general permit.

A. MS4s Eligible for Authorization by General Permit

1. MS4s Located in an Urbanized Area

   An MS4 that is fully or partially located within an urbanized area, as determined by the 1990 or 2000 Decennial Census by the U.S. Bureau of Census, must obtain authorization for the discharge of storm water runoff and is eligible for coverage under this general permit.

2. Designated MS4s

   An MS4 that is designated as requiring authorization based on the criteria in Part II.G of this general permit, and is notified by the TCEQ of the need to obtain permit coverage, is eligible for coverage under this general permit.

B. Allowable Non-Storm Water Discharges

The following non-storm water sources may be discharged from the MS4 and are not required to be addressed in the MS4s Illicit Discharge and Detection, or other minimum control measures, provided that they have not been determined by the permittee to be substantial sources of pollutants to the MS4:

(a) water line flushing;

(b) runoff or return flow from landscape irrigation, lawn irrigation, and other irrigation utilizing potable water, groundwater, or surface water sources;

(c) discharges from potable water sources;

(d) diverted stream flows;

(e) rising ground waters and springs;

(f) uncontaminated ground water infiltration;

(g) uncontaminated pumped ground water;

(h) foundation and footing drains;

(i) air conditioning condensate;

(j) water from crawl space pumps;

(k) individual residential vehicle washing;

(l) flows from wetlands and riparian areas;

(m) dechlorinated swimming pool discharges;

(n) pavement and exterior building wash water conducted without the use of detergents or other chemicals; and

(o) discharges or flows from fire fighting activities.

C. Limitations on Permit Coverage

1. Discharges Authorized by Another TPDES Permit

Discharges authorized by an individual or other general TPDES permit may only be authorized under this TPDES general permit if the following conditions are met:

(a) the discharges meet the applicability and eligibility requirements for coverage under this general permit;

(b) a previous application or permit for the discharges has not been denied, terminated, or revoked by the Executive Director as a result of enforcement or water quality related concerns. The Executive Director may provide a waiver to this provision based on new circumstances at the regulated small MS4; and

(c) the executive director has not determined that continued coverage under an individual permit is required based on consideration of an approved total maximum daily loading (TMDL) model and implementation plan, anti-backsliding policy, history of substantive non-compliance or other TAC 205 considerations and requirements, or other site-specific considerations.

2. Discharges of Storm Water Mixed with Non-Storm Water

Storm water discharges that combine with sources of non-storm water are not eligible for coverage by this general permit, unless either the non-storm water source is described in Part II.B or Part VII.B. of this permit or the non-storm water source is authorized under a separate TPDES permit.

3. Compliance With Water Quality Standards

Discharges to surface water in the state that would cause or contribute to a violation of water quality standards or that would fail to protect and maintain existing designated uses are not eligible for coverage under this general permit. The executive director may require an application for an individual permit or alternative general permit to authorize discharges to surface water in the state from any activity that is determined to cause a violation of water quality standards or is found to cause, or contribute to, the impairment of a designated use of surface water in the state. The executive director may also require an application for an individual permit considering factors described in Part II. E.2.

4. Discharges to Water Quality-Impaired Receiving Waters

New sources or new discharges of the constituent(s) of concern to impaired waters are not authorized by this permit unless otherwise allowable under 30 TAC, Chapter 305 and applicable state law. Impaired waters are those that do not meet applicable water quality standard(s) and are listed on the Clean Water Act Section 303(d) list. Constituents of concern are those for which the water body is listed as impaired.

Discharges of the constituent(s) of concern to impaired water bodies for which there is a TMDL implementation plan are not eligible for this permit unless they are consistent with the approved TMDL and the implementation plan. Permitted MS4 operators must incorporate the limitations, conditions and requirements applicable to their discharges, including monitoring frequency and reporting required by TCEQ rules, into their SWMP in order to be eligible for permit coverage. For discharges not eligible for coverage under this permit, the discharger must apply for and receive an individual permit prior to discharging.

5. Discharges to the Edwards Aquifer Recharge Zone

Discharges of storm water from regulated small MS4s, and other non-storm water discharges, can not be authorized by this general permit where those discharges are prohibited by 30 Texas Administrative Code (TAC) Chapter 213 (relating to Edwards Aquifer). New discharges located within the Edwards Aquifer Recharge

Zone, or within that area upstream from the recharge zone and defined as the Contributing Zone, must meet all applicable requirements of, and operate according to, 30 TAC Chapter 213 (Edwards Aquifer Rule) in addition to the provisions and requirements of this general permit.

For existing discharges the requirements of the agency-approved Water Pollution Abatement Plan under the Edwards Aquifer Rules are in addition to the requirements of this general permit. BMPs and maintenance schedules for structural storm water controls, for example, may be required as a provision of the rule. All applicable requirements of the Edwards Aquifer Rule for reductions of suspended solids in storm water runoff are in addition to the effluent limitation requirements and benchmark goals in this general permit for this pollutant. A copy of the agency-approved Water Pollution Abatement Plans that are required by the Edwards Aquifer Rule must be attached as a part of the SWMP. For discharges located on or within ten stream miles upstream of the Edwards Aquifer recharge zone, applicants must also submit a copy of the NOI to the appropriate TCEQ regional office.

Counties:	Contact:
Comal, Bexar, Medina, Uvalde, and Kinney	TCEQ Water Program Manager San Antonio Regional Office 14250 Judson Road San Antonio, Texas 78233-4480 (210) 490-3096
Williamson, Travis, and Hays	TCEQ Water Program Manager Austin Regional Office 1921 Cedar Bend Drive, Suite 150 Austin, Texas 78758-5336 (512) 339-2929

6. Discharges to Specific Watersheds and Water Quality Areas

Discharges of storm water from regulated small MS4s, and other non-storm water discharges, can not be authorized by this general permit where prohibited by 30 TAC Chapter 311 (relating to Watershed Protection) for water quality areas and watersheds.

7. Protection of Streams and Watersheds by Other Governmental Entities

This 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, discharges from construction activities, or other storm water discharges. For example, this permit does not limit the authority of a home-rule municipality provided by Section 401.002 of the Texas Local Government Code.

8. Indian Country Lands

Storm water runoff from MS4s or construction activities occurring on Indian Country lands are not under the authority of the TCEQ and are not eligible for coverage under this general permit. If discharges of storm water require authorization under federal NPDES regulations, authority for these discharges must be obtained from the U.S. Environmental Protection Agency (EPA).

D. Obtaining Authorization

1. Application for Coverage

Applicants seeking authorization to discharge under this general permit must submit a completed NOI, on a form approved by the Executive Director, with a Storm Water Management Program as described in Part II.D.3. Provisional authorization begins two days after a completed NOI is postmarked for delivery to the TCEQ. If TCEQ provides for electronic submission of NOIs during the term of this permit, authorization to discharge begins 24 hours following confirmation of receipt of the electronic NOT form by the TCEQ. Following review of the NOI, the Executive Director may determine the NOI is complete and confirm coverage by providing a notification and an authorization number, determine the NOI is incomplete and deny coverage until a completed NOI is submitted, or deny coverage and require an application for an individual permit be submitted. Application deadlines are as follows:

(a) MS4s Located in an Urbanized Area

Operators of MS4s described in Part II.A.1 must submit an NOI within 90 days following the effective date of this general permit. If the effective date of this general permit is on or before December 9, 2002, the deadline for submitting an NOI will be extended to March 10, 2003.

(b) Designated MS4s

Operators of MS4s described in Part II.A.2 must submit an NOI within 180 days of being notified in writing by the TCEQ of the need to obtain permit coverage.

2. Late Submittal of NOI

An NOI is not prohibited from being submitted late or after the deadlines provided. If a late NOI is submitted, authorization is only for discharges that occur after permit coverage is obtained. The TCEQ reserves the right to take appropriate enforcement actions for any unpermitted discharges.

3. Storm Water Management Program (SWMP)

An initial storm water management program must be developed for eligible discharges that reach Waters of the United States according to the requirements of Part III of this permit and submitted with the NOI. The SWMP must include a time line that demonstrates a schedule for implementation of the program throughout the permit term. The program must be completely implemented by the expiration date of this general permit. If a permittee determines changes to the plan are needed, alterations can be made so long as the revisions are summarized in the annual report.

4. Contents of the Notice of Intent

The NOI must contain the following minimum information:

(a) Owner Information

(1) the name, mailing address, telephone number, and fax number of the MS4 operator; and

(2) the legal status of the owner (e.g., federal government, state government, county government, city government, or other government).

(b) Site Information

(1) the name, physical description, and latitude and longitude of the approximate center of the MS4;

(2) county or counties where the MS4 is located;

(3) an indication if all or a portion of the MS4 is located on Indian Country Lands;

(4) if the permittee develops a seventh minimum control measure to obtain authorization for construction activities, the boundary within which those activities will occur;

(5) the name, mailing address, telephone number, and fax number of any person(s) responsible for implementing or coordinating the SWMP;

(6) the name and physical address of the location of the SWMP;

(7) the name and the physical address of the location where the general public can view all applicable records, including the NOI and the SWMP;

(8) a certification that a SWMP has been developed according to the provisions of this permit;

(9) the name of all major water(s) receiving discharges from the MS4;

(10) and the name of all major water(s) receiving discharges from the MS4 that are on the latest CWA § 303(d) list of impaired waters.

5. Notice of Change (NOC)

If the owner becomes aware that any relevant information submitted in the NOI has changed, the correct information must be provided to the Executive Director in a NOC within30 days after discovery. If relevant information provided in the NOI changes (for example, phone number or P.O. Box number) a NOC must be submitted within 30 days of the change.

6. Change in Operational Control of an MS4

If the operational control of the MS4 activity changes, the present operator must submit a Notice of Termination (NOT) and the new operator must submit a NOI and SWMP. The NOT and NOI must be submitted concurrently no greater than 10 days after the change occurs.

7. Terminating Coverage

A permittee may terminate coverage under this general permit by providing a Notice of Termination (NOT) on a form approved by the Executive Director. Authorization to discharge terminates at midnight on the day that an NOT is postmarked for delivery to the TCEQ. If TCEQ provides for electronic submission of NOTs during the term of this permit, authorization to discharge terminates 24 hours following confirmation of receipt of the electronic NOT form by the TCEQ. An NOT must be submitted within 30 days after the MS4 operator obtains coverage under an individual permit.

8. Signatory Requirement for NOI, NOT, and NOC Forms

NOI, NOT, and NOC forms must be signed consistent with 30 TAC § 305.44 (relating to Application for Permit).

9. Fees

An application fee of $100 must be submitted with each NOI. A fee is not required for submission of an NOT or NOC.

A permittee authorized under this general permit must pay an annual waste treatment inspection fee of $100 under Texas Water Code, Section 26.0291; and may be subject to an annual watershed monitoring and assessment fee under Texas Water Code, Section 26.0135(h) consistent with 30 TAC Section 220.21 of this title (relating to Water Quality Assessment Fees).

10. Permit Expiration

This general permit must be issued for a term not to exceed five years. Following public notice and comment, as provided by 30 TAC Section 205.3 (relating to Public Notice, Public Meetings, and Public Comment), the Commission may amend, revoke, cancel, or renew this general permit. If the TCEQ publishes a notice of its intent to renew or amend this general permit before the expiration date, the permit will remain in effect for existing, authorized, discharges until the commission takes final action on the permit. Upon issuance of a renewed or amended permit, permittees may be required to submit an NOI within 90 days following the effective date of the renewed or amended permit.

In the event that the general permit is not renewed, discharges that are authorized under the general permit must obtain a TPDES individual permit. Applications for

an individual permit must be submitted at least 180 days before the expiration date of the general permit.

E. Permitting Options

1. Authorization Under the General Permit

An MS4 operator is required to obtain authorization either under this general permit, or under an individual TPDES permit if it is located in an urbanized area or if it is designated by the TCEQ. Multiple MS4s with separate operators must individually submit a notice of intent to obtain coverage under this general permit regardless if the systems are physically interconnected, located in the same urbanized area, or are located in the same watershed. Each MS4 will be issued a distinct permit number. These MS4 operators must develop and submit separate SWMPs, but may combine or share efforts in meeting the SWMP requirements stated in Part II.D.3 or Part III of this general permit. MS4 operators that share SWMP development and implementation must meet the following conditions:

(a) Participants

The SWMP must clearly list the name and permit number for each MS4 operator that contributes to development or implementation of the SWMP, and provide confirmation that the contributing MS4 operator has agreed to contribute. If a contributing MS4 has submitted an NOI to TCEQ, but has not yet received an acknowledgment and accompanying permit authorization number, a copy of the submitted NOI form may be made readily available.

(b) Responsibilities

Each permittee is entirely responsible for meeting SWMP requirements within the boundaries of their MS4. Where a separate MS4 operator is contributing to implementation of the SWMP, the SWMP must clearly define the contribution and clearly identify the contributing MS4 operator.

2. Alternative Coverage under an Individual TPDES Permit

An MS4 operator eligible for coverage under this general permit may alternatively be authorized under an individual TPDES permit according to 30 TAC Chapter 305 (relating to Consolidated Permits). The Executive Director may require an MS4 operator, authorized by this permit, to apply for an individual TPDES permit because of: the conditions of an approved TMDL or TMDL implementation plan; a history

of substantive non-compliance; or other 30 TAC Chapter 205 considerations and requirements; or other site-specific considerations.

F. Waivers

The TCEQ may waive permitting requirements for small regulated MS4 operators if the criteria are met for waiver option 1 or 2. To obtain waiver option 1, the MS4 operator must submit the request on a waiver form provided by the Executive Director. To obtain waiver option 2, the MS4 operator must contact the Executive Director and coordinate the activities required to meet the waiver conditions.

If the conditions of either waiver are not met by the MS4 operator, and the waiver has not been obtained by March 10, 2003, the MS4 operator must submit an application for coverage for this general permit or a separate TPDES permit.

The TCEQ can, at any time, require a previously waived small MS4 operator to comply with this permit or another TPDES permit if circumstances change so that the conditions of the waiver are no longer met. Changed circumstances can also allow a regulated small MS4 operator to request a waiver at any time.

1. The system serves a population of less than 1,000 within an urbanized area and meets the following criteria:

   (a) the system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the NPDES / TPDES storm water program (40 CFR Chapter 123.35(b)(4)); and

   (b) if the system discharges any pollutant(s) that have been identified as a cause of impairment of any water body to which the MS4 discharges, storm water controls are not needed based on wasteload allocations that are part of an EPA approved or established "total maximum daily load" (TMDL) that addresses the pollutant(s) of concern.

2. The system serves a population under 10,000 and meets the following criteria:

   (a) the TCEQ has evaluated all waters of the United States, including small streams, tributaries, lakes, and ponds, that receive a discharge from the MS4;

   (b) for all such waters, the TCEQ has determined that storm water controls are not needed based on wasteload allocations that are part of an EPA approved or established TMDL that addresses the pollutant(s) of concern or, if a

TMDL has not been developed or approved, an equivalent analysis that determines sources and allocations for the pollutant(s) of concern; and

(c) the TCEQ has determined that future discharges from the MS4 do not have the potential to exceed Texas water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts.

G. Designation Criteria

The Executive Director may designate any small MS4 operator as being required to submit an application for authorization to discharge storm water from the system. Following designation and notification, operators of small MS4s must obtain authorization under this general permit, or alternatively apply for coverage under an individual TPDES storm water permit, within 180 days. The designation of a small MS4 must occur following a finding that controls are necessary to protect water quality with consideration for the following factors:

1. Controls for discharges are determined to be necessary for source water protection of public drinking water resources based on the results of source water assessments by the TCEQ.

2. Controls for discharges are necessary to protect sea grass areas of Texas bays as delineated by the Texas Parks & Wildlife Department.

3. Controls for discharges are necessary to protect receiving waters designated as having an exceptional aquatic life use.

4. Controls are required for pollutants of concern expected to be present in discharges to a receiving water listed on the Clean Water Act Section 303(d) list based on an approved total maximum daily loading plan.

5. Following a request from a regulated MS4 operator, discharges from an adjacent small MS4 are determined by TCEQ to be significantly contributing pollutants to the regulated MS4.

6. Additional factors may be considered relative to the environmental sensitivity of receiving watersheds.

Part III. Storm Water Management Program

To the extent allowable under state and local law, an SWMP must be developed and implemented according to the requirements of Part III of this general permit, for storm water discharges that reach Waters of the United States. The storm water management program must be developed to prevent pollution in storm water to the maximum extent practicable, effectively prohibit illicit discharges to the system. Existing programs or BMPs may be used to fulfill the requirements of this general permit.

A. Minimum Control Measures (MCM)

1. Public Education and Outreach on Storm Water Impacts

   (a) A public education program to distribute educational materials to the community or conduct equivalent outreach activities that will be used to inform the following groups within the MS4 area:

   (1) residents;

   (2) visitors;

   (3) public service employees;

   (4) businesses;

   (5) commercial and industrial facilities; and

   (6) construction site personnel.

   The outreach must inform the public about the impacts polluted storm water run-off can have on water quality, hazards associated with illegal discharges and improper disposal of waste, and ways they can minimize their impact on storm water quality.

   (b) Via documentation, the MS4 operator must ensure that a reasonable attempt was made to reach all constituents within the MS4 area to meet this measure.

2. Public Involvement/Participation

   (a) Identify and implement a public involvement and participation program. This must include provisions to allow opportunities for all constituents within

the MS4 area to participate in the storm water management program development and implementation.

(b) The MS4 operator must, at a minimum, comply with State and local public notice requirements when implementing a public involvement/participation program.

(c) The MS4 operator must, via documented efforts, ensure that sufficient opportunities were allotted to involve all constituents interested in participating in the program process to meet this measure. Correctional facilities will not be required to implement this MCM.

3. Illicit Discharge Detection and Elimination

(a) Illicit Discharges

A section within the SWMP must be developed to establish a program to detect and eliminate illicit discharges to the MS4. The SWMP must include the manner, ordinance or other regulatory mechanism, used to effectively prohibit illicit discharges.

(1) Detection

The SWMP must list the techniques used for detecting illicit discharges.

(2) Elimination

The SWMP must include appropriate enforcement procedures and actions for removing the source of an illicit discharge.

(b) Non-Storm Water Discharges

A section within the SWMP must be developed to establish a program to detect and address non-storm water discharges and illegal dumping to the MS4. All non-storm water flows, including those listed in Part II.B. and Part VII.B., must be considered by the permittee to determine if they are a significant contributor of pollutants to the MS4. All non-storm water discharges that significantly contribute pollutants to the MS4 must be effectively prohibited. The prohibition must be done through an ordinance, or other regulatory mechanism unless the MS4 operator does not have the

authority to develop ordinances or other regulatory mechanisms. The regulations must include appropriate enforcement procedures and actions.

Fire fighting activities are excluded from being prohibited and only need to be addressed if they are determined to be a significant contributor of pollutants to the MS4.

(c) Incidental Non-Storm Water Discharges

A list of occasional incidental non-storm water discharges that will not be addressed as illicit discharges may also be developed. If developed, the listed discharges must not be reasonably expected to be significant sources of pollutants, because of either the nature of the discharge or the conditions that have been established for allowing these discharges to the MS4. Any local controls or conditions placed on these discharges must be documented in the SWMP. The SWMP must also include a provision prohibiting any individual non-storm water discharge that is determined to be contributing significant amounts of pollutants to the MS4.

(d) Storm Sewer Map

(1) A map of the storm sewer system must be developed and must include the following:

(i) the location of storm sewer pipes, ditches, and other conveyances owned by the permittee, or at a minimum, the drainage area for each outfall;

(ii) the location of all major outfalls; and

(iii) the names and locations of all waters of the U.S. that receive discharges from the outfalls.

(2) The SWMP must include the source of information used to develop the storm sewer map, including how the outfalls were verified and how the map will be regularly updated.

4. Pollution Prevention/Good Housekeeping for Municipal Operations

A section within the SWMP must be developed to establish an operation and maintenance program. The operation and maintenance program must have the

ultimate goal of identifying methods and practices for conducting municipal operations in a manner to prevent or reduce pollution in storm water runoff.

(a) Good Housekeeping and Best Management Practices

Controls must be used to reduce or eliminate the discharge of pollutants when runoff from municipal operations is determined to be a significant contributor of pollution to the MS4. Examples of municipal operations and municipally owned areas include, but are not limited to:

(1) park and open space maintenance;

(2) street, road, or highway maintenance;

(3) fleet and building maintenance;

(4) storm water system maintenance;

(5) new construction and land disturbances.

(6) municipal parking lots;

(7) vehicle and equipment maintenance and storage yards;

(8) waste transfer stations; and

(9) salt/sand storage locations.

(b) Training

A training program must be developed for all employees responsible for municipal operations subject to the pollution prevention/good housekeeping program. The training program must include training materials directed at preventing and reducing storm water pollution from municipal operations. Examples or descriptions of training materials being used must be included in the SWMP.

(c) Structural Control Maintenance

If best management practices include structural controls, maintenance of the controls must be performed at a frequency determined by the MS4 operator

and consistent with maintaining the effectiveness of the BMP. The SWMP must list all of the following:

(1) maintenance activities;

(2) maintenance schedules; and

(3) long-term inspection procedures for controls used to reduce floatables and other pollutants.

(d) Disposal of Waste

Waste removed from the MS4, from structural controls, or collected as a result of municipal operations and maintenance activities must be properly disposed. A section within the SWMP must be developed to include procedures for the proper disposal of waste, including:

(1) dredge spoil;

(2) accumulated sediments; and

(3) floatables.

(e) Municipal Operations and Industrial Activities

The SWMP must include a list of all:

(1) municipal operations that are subject to the operation, maintenance, or training program developed under the conditions of this section; and

(2) municipally owned or operated industrial activities that are subject to TPDES storm water regulations.

The SWMP must include a individual permit number, general permit authorization number, or a copy of a signed NOI or NEC (no exposure certification form for TPDES General Permit TXR050000) for each industrial activity conducted by the MS4 and subject to TPDES storm water regulations. If an NOI or NEC has been submitted, but an acknowledgment has not yet been received from the TCEQ, a copy of the submitted NOI or NEC Form may be made readily available.

5. Construction Site Storm Water Runoff Control

The MS4 operator must develop, implement, and enforce a program to reduce pollutants in any storm water runoff to the MS4 from construction activities that result in a land disturbance of greater than or equal to one acre or if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. The MS4 operator is not required to develop, implement, and/or enforce a program to reduce pollutant discharges from sites that the TCEQ has waived the permitting requirements for storm water discharges associated with small construction activities.

(a) The program must include the development and implementation of, at a minimum, an ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under State and local law.

(b) Requirements for construction site contractors to, at a minimum:

(1) implement appropriate erosion and sediment control best management practices; and

(2) control waste such as discarded building materials, concrete truck washout water, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;

(c) The MS4 operator must develop procedures for:

(1) site plan review which incorporate consideration of potential water quality impacts;

(2) receipt and consideration of information submitted by the public; and

(3) site inspection and enforcement of control measures.

6. Post-Construction Storm Water Management in New Development and Redevelopment

The MS4 operator must develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale that will result in disturbance of one or

more acres, that discharge into the small MS4. The program must ensure that controls are in place that would prevent or minimize water quality impacts;

(a) Develop and implement strategies which include a combination of structural and/or non-structural BMPs appropriate for your community;

(b) Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under State and local law; and

(c) Ensure adequate long-term operation and maintenance of BMPs.

7. Authorization for Municipal Construction Activities

The development of a MCM for municipal construction activities is an optional measure and is an alternative to the MS4 operator seeking coverage under TPDES general permit TXR150000. Additionally, contractors working for the permittee are not required to obtain a separate authorization as long as the permittee meets the status of "construction site operator" and remains compliant with the conditions of this of this general permit. Permittees that choose to develop this measure will be authorized to discharge storm water and certain non-storm water from construction activities where the permittee can meet the definition of "construction site operator" in Part I of this general permit. This MCM must be developed as a part of the SWMP that is submitted with the initial NOI for permit coverage. If this MCM is developed after submittal of the initial NOI, a NOC must be submitted notifying the executive director of this change, and identifying the geographical area or boundary where the activities will be conducted under the provisions of this permit.

(a) The MCM must include:

(i) a description of how construction activities will generally be conducted by the permittee so as to take into consideration local conditions of weather, soils, and other site specific considerations;

(ii) a description of the area that this MCM will address and where the permittees construction activities are covered (e.g. within the boundary of the urbanized area, the corporate boundary, a special district boundary, an extra territorial jurisdiction, or other similar jurisdictional boundary); and

(iii) either a description of how the permittee will supervise or maintain oversight over contractor activities to ensure that the SWP3

requirements are properly implemented at the construction site; or how the permittee will make certain that contractors have a separate authorization for storm water discharges.

(b) The MCM must include a general description of how a SWP3 shall be developed, according to Part VII.E. of this general permit, for each construction site.

B. General Requirements

Permittees must provide documentation of the development, implementation, and evaluation of the SWMP. The documentation must be included in the SWMP and may be required to be submitted in the annual report. At a minimum, the documentation must include:

1. a list of any public or private entities assisting with the development or implementation of the SWMP;

2. a list of all best management practices (BMPs) and measurable goals for each of the six MCMs;

3. a schedule for the implementation of all SWMP requirements;

4. a description of how each measurable goal will be evaluated;

5. a rationale statement that addresses the overall program, including how the BMP's and measurable goals were selected;

6. if applicable, a list of all MS4 operators contributing to the development and implementation of the SWMP, including a clear description of the contribution.

Part IV. Numeric Effluent Limitations

All discharges of storm water runoff from concrete batch plants must be monitored at the following monitoring frequency and comply with the following numeric effluent limitations:

	Limitations	Monitoring
Parameter	Daily Maximum	Frequency
Total Suspended Solids	65 mg/l	1/Year
Oil and Grease	15 mg/l	1/Year
pH	between 6 and 9 standard units	1/Year

Part V. Recordkeeping and Reporting

A. Recordkeeping

1. The permittee must retain all records, a copy of this TPDES general permit, and records of all data used to complete the application (NOI) for this permit, for a period of at least three years, or for the term of this permit, whichever is longer. This period may be extended by request of the Executive Director at any time.

2. The permittee must submit the records to the Executive Director only when specifically asked to do so. The Storm Water Management Program (SWMP) required by this permit (including a copy of the permit language) must be retained at a location accessible to the permitting authority.

3. The permittee must make the records, including the notice of intent (NOI) and the SWMP, available to the public if requested to do so in writing. The SWMP must be made available within 2 working days following the request from the public. Other records must be provided within 10 working days, unless the request requires an unusual amount of time or effort to assemble. In which case, Texas law regarding the Public Information Act will be followed. Reasonable charges, in accordance with Texas law, may be levied by the permittee for researching and preparing any requested materials.

4. The period during which records are required to be kept shall be automatically extended to the date of the final disposition of any administrative or judicial enforcement action that maybe instituted against the permittee.

B. Reporting

1. General Reporting Requirements

   (a) Noncompliance Notification

   According to 30 TAC Chapter 305.125(9) any noncompliance which may endanger human health or safety, or the environment, must be reported by the permittee to the TCEQ. Report of such information must be provided orally or by electronic facsimile transmission (FAX) to the TCEQ regional office within 24 hours of becoming aware of the noncompliance. A written report must be provided by the permittee to the TCEQ regional office and to the TCEQ Enforcement Division (MC-224) within five working days of becoming aware of the noncompliance. The written report must contain:

(1) a description of the noncompliance and its cause;

(2) the potential danger to human health or safety, or the environment;

(3) the period of noncompliance, including exact dates and times;

(4) if the noncompliance has not been corrected, the anticipated time it is expected to continue; and

(5) steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.

(c) Other Information

When the permittee becomes aware that it either submitted incorrect information or failed to submit any relevant facts in an NOI, NOT, or NOC, or any other report, it must promptly submit the facts or information to the Executive Director.

2. Annual Report

The MS4 operator must submit a concise annual report to the Executive Director by March 31 (of the following year) for each year of the permit term. The MS4 operator must also have a copy of the annual report readily available for review by authorized TCEQ personnel upon request. The report must include:

(a) The status of the compliance with permit conditions, an assessment of the appropriateness of the identified BMPs, progress towards achieving the statutory goal of reducing the discharge of pollutants to the MEP, the measurable goals for each of the MCMs, and an evaluation of the success of the implementation of the measurable goals;

(b) Status of any additional control measures implemented by the permittee (if applicable);

(c) Any MCM activities initiated before permit issuance (up to three years) may be included, under the appropriate headings, as part of the first year's annual report;

(d) A summary of the results of information collected and analyzed, if any, during the reporting period, including monitoring data used to assess the success of the program at reducing the discharge of pollutants to the MEP;

(e) A summary of the storm water activities the MS4 operator plans to undertake during the next reporting cycle (including an implementation schedule);

(f) Proposed changes to the storm water management program, including changes to any BMPs or any identified measurable goals that apply to the program elements;

(g) The number of municipal construction activities authorized under this general permit and the total number of acres disturbed;

(h) The number of non-municipal construction activities that occurred within the jurisdiction of the permittee (as noticed to the permittee by the construction operator);

(i) Notice that the MS4 operator is relying on another government entity to satisfy some of your permit obligations (if applicable);

(j) If co-permitting, all permittees must contribute to a system-wide report (if applicable);

(k) Each permittee must sign and certify the annual report in accordance with Part VII.E.1.(a) of this permit; and

(l) The annual report must be submitted to the following address:

Texas Commission on Environmental Quality
Storm Water & General Permits Team; MC - 148
P.O. Box 13088
Austin, Texas 78711-3088

If available, electronic submittal of annual reports is encouraged. The Federal Waste Reduction Act and the Government Paperwork Elimination Act encourages governmental agencies to use electronic submittal. See the TCEQ website at, www.tnrcc.state.tx.us, for additional information and instructions.

Part VI. Standard Permit Conditions

1. The permittee has a duty to comply with all permit conditions. Failure to comply with any permit condition is a violation of the permit and statutes under which it was issued, and is grounds for enforcement action, for terminating coverage under this

general permit, or for requiring a discharger to apply for and obtain an individual TPDES permit.

2. Authorization under this general permit may be suspended or revoked for cause. Filing a notice of planned changes or anticipated non-compliance by the permittee does not stay any permit condition. The permittee must furnish to the executive director, upon request and within a reasonable time, any information necessary for the executive director to determine whether cause exists for revoking, suspending, or terminating authorization under this permit. Additionally, the permittee must provide to the executive director, upon request, copies of all records that the permittee is required to maintain as a condition of this general permit.

3. It is not a defense for a discharger in an enforcement action that it would have been necessary to halt or reduce the permitted activity to maintain compliance with the permit conditions.

4. Inspection and entry shall be allowed under Texas Water Code Chapters 26-28, Health and Safety Code §§ 361.032-361.033 and 361.037, and 40 Code of Federal Regulations (CFR) §122.41(i). The statement in Texas Water Code § 26.014 that commission entry of a facility shall occur according to an establishment's rules and regulations concerning safety, internal security, and fire protection is not grounds for denial or restriction of entry to any part of the facility or site, but merely describes the commission's duty to observe appropriate rules and regulations during an inspection.

5. The discharger is subject to administrative, civil, and criminal penalties, as applicable, under Texas Water Code §§ 26.136, 26.212, and 26.213 for violations including but not limited to the following:

   a. negligently or knowingly violating CWA, §§ 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under CWA, § 402, or any requirement imposed in a pretreatment program approved under CWA, §§ 402(a)(3) or 402(b)(8);

   b. knowingly making any false statement, representation, or certification in any record or other document submitted or required to be maintained under a permit, including monitoring reports or reports of compliance or noncompliance.

6. All reports and other information requested by the executive director must be signed by the person and in the manner required by 30 TAC § 305.128 (relating to Signatories to Reports).

7. Authorization under this general permit does not convey property or water rights of any sort and does not grant any exclusive privilege.

Part VII. Authorization for Municipal Construction Activities

The MS4 operator may apply under TPDES general permit TXR150000 for authorization to discharge storm water runoff from each construction activity performed by the MS4 operator that results in a land disturbance of one (1) or more acres of land. Alternatively, the MS4 operator may develop the Storm Water Management Program to include this optional seventh (7^{th}) storm water minimum control measure if the eligibility requirements in Part VII.A are met. If the MS4 operator includes this minimum control measure within the SWMP that is initially submitted with the NOI, and meets the terms and requirements of this permit, discharges from these construction activities may be authorized under this general permit.

A. Eligible Construction Sites

Discharges from construction activities in which the MS4 operator is the construction site operator are eligible for authorization under this general permit.

B. Discharges Eligible for Authorization

1. Storm Water Associated with Construction Activity

   Discharges of storm water runoff from small and large construction activities may be authorized under this general permit.

2. Discharges of Storm Water Associated with Other Industrial Activities

   Discharges of storm water runoff from concrete batch plants, asphalt batch plants, equipment staging areas, material storage yards, material borrow areas, and excavated material disposal areas may be authorized under this general permit provided:

   (a) the activity is located at, adjacent to, or in close proximity to the permitted construction site and directly supports the construction activity;

   (b) a storm water pollution prevention plan is developed according to the provisions of this general permit and includes appropriate controls and measures to reduce erosion and discharge of pollutants in storm water runoff from the supporting industrial activity site; and

(c) the industrial activity either does not operate beyond the completion date of the construction activity or obtains separate TPDES authorization for discharges.

3. Non-storm Water Discharges

The non-storm water discharges described in Part II.B of this general permit may also be authorized from construction sites under this general permit.

4. Other Permitted Discharges

Any discharge authorized under a separate TPDES or TCEQ permit may be combined with discharges from construction sites operated by the MS4.

C. Limitations on Permit Coverage

Discharges that occur after construction activities have been completed, and after the construction site and any supporting activity site have undergone final stabilization, are not eligible for coverage under this general permit.

D. Numeric Effluent Limitations

All discharges of storm water runoff from concrete batch plants must be monitored at the following monitoring frequency and comply with the following numeric effluent limitations:

	Limitations	Monitoring
Parameter	Daily Maximum	Frequency
Total Suspended Solids	65 mg/l	1/Year
Oil and Grease	15 mg/l	1/Year
pH	between 6 and 9 standard units	1/Year

E. Storm Water Pollution Prevention Plan (SWP3)

Operators of municipal construction activities that qualify for coverage under this general permit and that discharge storm water associated with construction activities that reach waters of the U.S. must:

1. develop a SWP3 according to the provisions of this general permit that covers the entire site and implement that plan prior to commencing construction activities;

2. post a signed copy of the notice contained in Attachment 1 of this general permit in a location at the construction site where it is readily available for viewing prior to

commencing construction activities and maintain the notice in that location until completion of the construction activity and final stabilization of the site;

3. implement the SWP3 prior to beginning construction activities;

4. ensure the project specifications allow or provide that adequate BMPs may be developed and modified as necessary to meet the requirements of this general permit and the SWP3;

5. ensure all contractors are aware of the SWP3 requirements, are aware that municipal personnel that are responsible for the day-to-day operations of the SWP3, and who to contact concerning SWP3 requirements; and

6. ensure that the SWP3 identifies the municipal personnel responsible for implementation of control measures described in the plan;

F. Effective Date of Coverage

Operators of construction activities eligible for coverage under this general permit are authorized to discharge storm water associated with construction activity from a site two (2) days from the date that the signed notice is posted at the site.

G. Deadlines for SWP3 Preparation and Compliance

The SWP3 must be:

1. completed and implemented prior to commencing construction activities that result in soil disturbance;

2. updated as necessary to reflect the changing conditions of new operators, new areas of responsibility, and changes in best management practices; and

3. provide for compliance with the terms and conditions of this general permit.

H. Plan Review and Making Plans Available

The SWP3 must be retained on-site at the construction site or made readily available at the time of an on-site inspection to: the Executive Director; a federal, state, or local agency approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; and the operator of a municipal separate storm sewer receiving discharges from the site.

I. Keeping Plans Current

The permittee must amend the SWP3 whenever:

1. there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants and that has not been previously addressed in the SWP3; or

2. results of inspections or investigations by site operators, operators of a municipal separate storm sewer system receiving the discharge, authorized TCEQ personnel, or a federal, state or local agency approving sediment and erosion plans indicate the SWP3 is proving ineffective in eliminating or significantly minimizing pollutants in discharges authorized under this general permit.

J. Contents of SWP3

The SWP3 must include, at a minimum, the information described in this section.

1. A site description, or project description must be developed to include:

   (a) a description of the nature of the construction activity, potential pollutants and sources;

   (b) a description of the intended schedule or sequence of major activities that will disturb soils for major portions of the site;

   (c) the number of acres of the entire construction site property and the total number of acres of the site where construction activities will occur, including off-site material storage areas, overburden and stockpiles of dirt, and borrow areas;

   (d) an estimate of the runoff coefficient of the site for both the pre-construction and post-construction conditions, data describing the soil type, and the quality of any discharge from the site;

   (e) a map showing the general location of the site (e.g. a portion of a city or county map);

   (f) a detailed site map indicating the following:

      (1) drainage patterns and approximate slopes anticipated after major grading activities;

(2) areas where soil disturbance will occur;

(3) areas which will not be disturbed;

(4) locations of all major structural controls either planned or in place;

(5) locations where stabilization practices are expected to be used;

(6) locations of off-site material, waste, borrow or equipment storage areas;

(7) surface waters (including wetlands) either adjacent or in close proximity; and

(8) locations where storm water discharges from the site directly to a surface water body.

(g) the location and description of asphalt plants and concrete plants (if any) providing support to the construction site and that are also authorized under this general permit;

(h) the name of receiving waters at or near the site that will be disturbed or that will receive discharges from disturbed areas of the project; and

(i) a copy of Part VII of this TPDES general permit.

2. The SWP3 must describe the structural and the non-structural controls (best management practices) that will be used to minimize pollution in runoff. The description must identify the general timing or sequence for implementation and the party responsible for implementation. At a minimum, the description must include the following components:

(a) Erosion and Sediment Controls

(1) Erosion and sediment controls must be designed to retain sediment on-site to the maximum extent practicable with consideration for local topography and rainfall.

(2) Control measures must be properly selected, installed, and maintained according to the manufacturer's or designer's specifications. If periodic inspections or other information indicates

a control has been used incorrectly, or that the control is performing inadequately, the operator must replace or modify the control.

(3) Sediment must be removed from sediment traps and sedimentation ponds no later than the time that design capacity has been reduced by 50%.

(4) If sediment escapes the site, accumulations must be removed at a frequency to minimize further negative effects and, whenever feasible, prior to the next rain event.

(5) Controls must be developed to limit offsite transport of litter, construction debris, and construction materials by storm water runoff.

3. Stabilization Practices

The SWP3 must include a description of interim and permanent stabilization practices for the site, including a schedule of when the practices will be implemented. Site plans should ensure that existing vegetation is preserved where it is possible.

(a) Stabilization practices may include but are not limited to: establishment of temporary vegetation, establishment of permanent vegetation, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of existing trees and vegetation and other similar measures.

(b) The following records must be maintained and either attached to or referenced in the SWP3 and made readily available upon request to the parties in Part VII.H. of this general permit:

(1) the dates when major grading activities occur;

(2) the dates when construction activities temporarily or permanently cease on a portion of the site; and

(3) the dates when stabilization measures are initiated.

(c) Stabilization measures must be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, and except as provided in (i) through (iii) below, must be initiated no more than fourteen (14) days after the construction activity in that portion of the site has temporarily or permanently ceased.

(1) Where the initiation of stabilization measures by the 14th day after construction activity temporarily or permanently ceased is precluded by snow cover or frozen ground conditions, stabilization measures must be initiated as soon as practicable.

(2) Where the initiation of stabilization measures by the 14th day after construction activity has temporarily or permanently ceased is precluded by seasonably arid conditions, stabilization measures must be initiated as soon as practicable. These conditions exist in arid areas (areas with an average rainfall of 0 to 10 inches), semiarid areas (areas with an average annual rainfall of 10 to 20 inches), and other areas experiencing droughts.

(3) Where construction activity on a portion of the site is temporarily ceased and earth disturbing activities will be resumed within twenty-one (21) days, temporary stabilization measures do not have to be initiated on that portion of site.

4. Structural Control Practices

The SWP3 must include a description of any structural control practices used to divert flows away from exposed soils, to limit the contact of runoff with disturbed areas, or to lessen the off-site transport of eroded soils.

(a) Sediment basins are required, where feasible, for common drainage locations that serve an area with ten (10) or more acres that remain disturbed at any one time. Sediment basins may be either temporary or permanent, but must be designed to store either the calculated volume of runoff from a 2 year, 24 hour storm from acreage drained, or designed to provide 3,600 cubic feet of storage per acre drained. When calculating the volume of runoff from a 2-year, 24-hour storm event, it is not required to include the flows from offsite areas and flow from onsite areas that are either undisturbed or have already undergone final stabilization, if these flows are diverted around both the disturbed areas of the site and the sediment basin. In determining whether installing a sediment basin is feasible, the permittee may consider factors such as site soils, slope, available area on site, public safety, and other similar considerations. Where sediment basins are not feasible, alternative sediment controls, which may include a series of smaller sediment basins, must be used. At a minimum, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries (and for those

side slope boundaries deemed appropriate as dictated by individual site conditions) of the construction area.

(b) Sediment traps and sediment basins may be used to control solids in storm water runoff for drainage locations serving less than ten (10) acres. At a minimum, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries (and for those side slope boundaries deemed appropriate as dictated by individual site conditions) of the construction. Alternatively, a sediment basin providing storage for a calculated volume of runoff from these areas for a 2-year, 24- hour storm or 3,600 cubic feet of storage per acre drained may be provided.

5. Permanent Storm Water Controls

A description of any measures that will be installed during the construction process to control pollutants in storm water discharges that will occur after construction operations have been completed must be included in the SWP3. Permittees are only responsible for the installation and maintenance of storm water management measures prior to final stabilization of the site and prior to submission of an NOT.

6. Other Controls

(a) Off-site vehicle tracking of sediments and the generation of dust must be minimized.

(b) The SWP3 must include a description of construction and waste materials expected to be stored on-site and a description of controls to reduce pollutants from these materials.

(c) The SWP3 must include a description of pollutant sources from areas other than construction (including storm water discharges from dedicated asphalt plants and dedicated concrete plants), and a description of controls and measures that will be implemented at those sites to minimize pollutant discharges.

7. Approved State and Local Plans

(a) Permittees must ensure the SWP3 is consistent with requirements specified in applicable sediment and erosion site plans or site permits, or storm water management site plans or site permits approved by federal, state, or local officials.

(b) SWP3s must be updated as necessary to remain consistent with any changes applicable to protecting surface water resources in sediment erosion site plans or site permits, or storm water management site plans or site permits approved by state or local official for which the permittee receives written notice.

8. Maintenance

All erosion and sediment control measures and other protective measures identified in the SWP3 must be maintained in effective operating condition. If through inspections the permittee determines that BMPs are not operating effectively, maintenance must be performed before the next anticipated storm event or as necessary to maintain the continued effectiveness of storm water controls. If maintenance prior to the next anticipated storm event is impracticable, maintenance must be scheduled and accomplished as soon as practicable.

9. Inspections of Controls

(a) Personnel provided by the permittee and familiar with the SWP3 must inspect disturbed areas of the construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site, at least once every fourteen (14) calendar days and within twenty four (24) hours of the end of a storm event of 0.5 inches or greater. Where sites have been finally or temporarily stabilized, where runoff is unlikely due to winter conditions (e.g. site is covered with snow, ice, or frozen ground exists), or during seasonal arid periods in arid areas (areas with an average annual rainfall of 0 to 10 inches) and semi-arid areas (areas with an average annual rainfall of 10 to 20 inches), inspections must be conducted at least once every month.

(b) Personnel, familiar with all structural and non-structural controls described in the SWP3 and utilized at the site, must inspect disturbed areas of soil and areas used for storage of materials that are exposed to precipitation for evidence of, or the potential for, pollutants entering the drainage system. Sediment and erosion control measures identified in the SWP3 must be inspected to ensure that they are operating correctly. Locations where vehicles enter or exit the site must be inspected for evidence of off-site sediment tracking. These inspection must be conducted at least once every fourteen (14) calendar days and within twenty four (24) hours of the end of a storm event of 0.5 inches or greater.

Discharge locations or points from the site that are accessible must be inspected to determine if erosion control measures are effective in preventing visually noticeable changes to receiving waters, including persistent cloudy appearance in water color and noticeable accumulation of sediments. Where discharge locations are inaccessible, nearby downstream locations must be inspected to the extent that such inspections are practicable. The frequency for these inspections must be established by the permittee in the SWP3 with consideration for local rainfall and soil, but must occur at least once during the construction activity if a discharge occurs.

(c) The SWP3 must be modified based on the results of inspections, as necessary, to better control pollutants in runoff. Revisions to the SWP3 must be completed within seven (7) calendar days following the inspection. If existing BMPs are modified or if additional BMPs are necessary, an implementation schedule must be described in the SWP3 and wherever possible those changes implemented before the next storm event. If implementation before the next anticipated storm event is impracticable, these changes must be implemented as soon as practicable.

(d) A report summarizing the scope of the inspection, names and qualifications of personnel making the inspection, the dates of the inspection, and major observations relating to the implementation of the SWP3 must be made and retained as part of the SWP3. Major observations should include: The locations of discharges of sediment or other pollutants from the site; locations of BMPs that need to be maintained; locations of BMPs that failed to operate as designed or proved inadequate for a particular location; and locations where additional BMPs are needed.

(e) Actions taken as a result of inspections must be described within, and retained as a part of, the SWP3. Reports must identify any incidents of non-compliance. Where a report does not identify any incidents of non-compliance, the report must contain a certification that the facility or site is in compliance with the SWP3 and this permit.

10. The SWP3 must identify and ensure the implementation of appropriate pollution prevention measures for all eligible non-storm water components of the discharge.

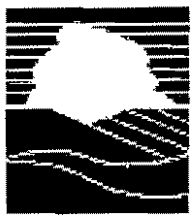
K. Additional Retention of Records Requirements

The permittee must retain the following records for a minimum period of three (3) years from the date that final stabilization has been achieved on all portions of the site. Records include:

1. a copy of the SWP3; and

2. all reports and actions required by this permit, including a copy of the site notice.

Attachment 1



CONSTRUCTION SITE NOTICE

FOR THE
Texas Commission on Environmental Quality
Storm Water Program

TPDES GENERAL PERMIT TXR040000

The following information is posted in compliance with Part VII. of the Texas Commission on Environmental Quality (TCEQ) General Permit Number TXR040000 for discharges of storm water runoff from construction sites that are operated by small municipal separate storm sewer system operators. Additional information regarding the TCEQ storm water permit program may be found on the internet at:

www.tnrcc.state.tx.us/permitting/waterperm/wwperm/tpdestorm.html

Permit Number	TXR04_____
Contact Name and Phone Number	
Project Description (Including estimated start date and either the projected end date, or date that disturbed soils will be finally stabilized)	
Location of Storm Water Pollution Prevention Plan	

I _____ (Typed or Printed Name Person Completing This Certification) certify under penalty of law that I have read and understand the eligibility requirements for claiming an authorization under Part VII. of TPDES General Permit TXR040000. A storm water pollution prevention plan has been developed and implemented according to permit requirements. I am aware there are significant penalties for providing false information or for conducting unauthorized discharges, including the possibility of fine and imprisonment for knowing violations.

_____ _____

Signature and Title Date

CONCRETE BATCH FACILITIES

STW/ TXR15_____/ CO

PERMITTEE NAME/ADDRESS (Include Facility Name/Location, If Different)

NAME

ADDRESS

FACILITY LOCATION

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)

DISCHARGE MONITORING REPORT (DMR)

(2-16)	(17-19)
PERMIT NUMBER	N/A DISCHARGE NUMBER

MONITORING PERIOD					
YEAR	MO	DAY	YEAR	MO	DAY
	01	01		12	31
(20-21)	(22-23)	(24-25)	(26-27)	(28-29)	(30-31)

NOTE: Enter your permit number in the underlined space in the upper right hand corner of this page. Example:STW/ TXR15 00123/ CO

Only If required, mail to: TCEQ (MC 212)
P.O. Box 13087
Austin, TX 78711-3087

☐

PARAMETER (32-37)		(3 Card Only) QUANTITY OR LOADING (46-53) AVERAGE	(54-61) MAXIMUM	UNITS	(4 Card Only) QUALITY OR CONCENTRATION (38-45) MINIMUM	(46-53) AVERAGE	(54-61) MAXIMUM	UNITS	NO. EX (62-63)	FREQUENCY OF ANALYSIS (64-68)	SAMPLE TYPE (69-70)
Total Suspended Solids	SAMPLE MEASUREMENT	*******	*******	*******	*******	*******					
	SAMPLE REQUIREMENT			*******			65 Daily Max	mg/l		1/Year	Grab
Oil & Grease	SAMPLE MEASUREMENT	*******	*******	*******	*******	*******					
	SAMPLE REQUIREMENT			*******			15 Daily Max	mg/l		1/Year	Grab
pH	SAMPLE MEASUREMENT	*******	*******	*******	*******	*******					
	SAMPLE REQUIREMENT			*******			6.0 - 9.0 Range	S.U.		1/Year	Grab

NAME/TITLE PRINCIPAL EXECUTIVE OFFICER			TELEPHONE		DATE		
	I CERTIFY UNDER PENALTY OF LAW THAT THIS DOCUMENT AND ALL ATTACHMENTS WERE PREPARED UNDER MY DIRECTION OR SUPERVISION IN ACCORDANCE WITH A SYSTEM DESIGNED TO ASSURE THAT QUALIFIED PERSONNEL PROPERLY GATHER AND EVALUATE THE INFORMATION SUBMITTED. BASED ON MY INQUIRY OF THE PERSON OR PERSONS WHO MANAGE THE SYSTEM, OR THOSE PERSONS DIRECTLY RESPONSIBLE FOR GATHERING THE INFORMATION, THE INFORMATION SUBMITTED IS, TO THE BEST OF MY KNOWLEDGE AND BELIEF, TRUE, ACCURATE, AND COMPLETE. I AM AWARE THAT THERE ARE SIGNIFICANT PENALTIES FOR SUBMITTING FALSE INFORMATION, INCLUDING THE POSSIBILITY OF FINE AND IMPRISONMENT FOR KNOWING VIOLATIONS.						
		SIGNATURE OF PRINCIPAL EXECUTIVE OFFICER OR AUTHORIZED AGENT	AREA CODE	NUMBER	YEAR	MO	DAY
TYPED OR PRINTED							

COMMENTS AND EXPLANATION OF ANY VIOLATIONS (Reference all attachments here)

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

September 19, 2001

Dear Permit Holder:

RE: General Permit for Discharges of Storm Water Associated With Industrial Activities - Permit Number TXR050000

Our records indicate that you previously held permit coverage for storm water discharges under the National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit from the U.S. Environmental Protection Agency (EPA). The Texas Natural Resource Conservation Commission (TNRCC) now has the permitting authority for this storm water general permit, and has prepared a Texas Pollutant Discharge Elimination System (TPDES) general permit to replace the expiring NPDES permit. This TPDES permit, TXR050000, was issued and effective on August 20, 2001.

Current permit holders will have ninety (90) days from the August 20, 2001 to revise their storm water pollution prevention plan, according to the conditions of this permit, and to submit a notice of intent (NOI) for continued permit coverage. Certain facilities may qualify for exclusion from permit application requirements if there is no exposure of industrial activities to storm water. The NOI application form, other necessary forms, and a copy of the general permit is available on the TNRCC's internet website (http://home.tnrcc.state.tx.us/permitting/waterperm/wwperm/industry.html#general).

You may obtain additional information on the TPDES storm water permit program viewing the TNRCC website, calling the TNRCC Storm Water Hotline at (512) 239-3700, contacting the Storm Water & General Permits Team at (512) 239-4433, or contacting the TNRCC's Small Business and Local Government Assistance Division at (800) 447-2827.

Sincerely,

Stephen M. Ligon, Team Leader
Storm Water & General Permits Team
Water Permits & Resource Management Division

SML/mm

Industrial Stormwater Permits

- Transition From the NPDES Permit to the TPDES Permit
- Agency Permitting Authority
- Industrial Permit Coverage
- Industrial Permit Compliance

See Also:

EPA's NPDES Storm Water Program For Industrial Activity Exit...

The EPA's NPDES storm water Multi-Sector General Permit (MSGP) Exit...

NPDES Stormwater Program For Industrial Activity Exit...

NPDES Storm Water Multi-Sector General Permit (MSGP) Exit...

Transition From the NPDES Permit to the TPDES Permit

The current National Pollutant Discharge Elimination System (NPDES) permit for discharges of storm water associated with industrial activities is the federal multi-sector general permit (MSGP). TNRCC will reissue and begin to administer the NPDES MSGP following the permit's expiration on September 29, 2000. Facilities that discharge under authority of this general permit may obtain continued coverage either by applying for the Texas Pollutant Discharge Elimination System (TPDES) MSGP permit, or by applying for an individual permit TPDES stormwater permit.

Obtaining Coverage Under the TPDES MSGP

TNRCC will not have a TPDES MSGP issued and effective prior to the expiration of the current MSGP permit. Shortly before September 29, 2000, TNRCC will accept administration of the federal MSGP and propose to reissue the permit as a TPDES permit. This action will allow facilities permitted under the expiring MSGP to continue to discharge storm water until the TPDES MSGP is issued. During this period the TNRCC can not accept and process any additional notices of intent (NOIs) for permit coverage. When the TPDES permit is issued there will be a time frame (90 days is anticipated) for permittees to make any necessary changes to storm water pollution prevention plans (SWP3s) and to submit NOIs for permit coverage. TNRCC will not provide NOIs until the permit is issued.

Please continue to monitor this web page to obtain the latest information on issuance of the TPDES MSGP, or you may call the TNRCC's Storm Water Permits Team at (412) 239-4433.

Obtaining Coverage Under a TPDES Individual Permit

Applications for an individual permit should have been received by TNRCC at least 180 days prior to September 29, 2000. To apply for an individual stormwater permit, contact the TNRCC's Storm Water Permits Team at

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(512) 239-4433.

Agency Permitting Authority

Storm Water Permit	Permitting Authority	
	EPA (NPDES)	TNRCC (TPDES)
Multi-Sector **General** Permit (MSGP)	Until the current MSGP expires (9/29/00) or until the TNRCC issues a new permit. If the TNRCC hasn't issued its permit by 9/29/00, the current MSGP will remain in effect until the TNRCC's permit is issued.	Upon issuance of the TNRCC's general permit for industrial activities.
Individual Permit		Existing and new permits.

Industrial Storm Water Permit Coverage

- Industrial Activities Requiring Coverage
- Steps for Determining Permit Applicability
- No Exposure Exclusion
- Municipal Industrial Sources Exempted by ISTEA
- Transition From the NPDES Permit to the TPDES Permit
- Obtaining Coverage Under the TPDES MSGP
- Obtaining Coverage Under a TPDES Individual Permit

Industrial Activities Requiring Coverage

Facilities that meet the definition of storm water discharges associated with industrial activity [found in the Code of Federal Regulations (CFR), Part 40, Section 122.26(b)(14)(i)-(xi)] must be covered under a TPDES industrial storm water discharge permit.

Facilities that are described by one or more of the 11 categories of industrial activities defined by federal regulations and that discharge storm water through a municipal seperate storm sewer system (MS4) or directly to waters of the state, will need to obtain coverage under, and comply with, a TPDES industrial storm water discharge permit. The only exception is for Category (x), construction activities, which is addressed separately.

Steps for Determining Permit Applicability