Texas Pollutant Discharge Elimination System
Stormwater Phase II MS4 General Permit

City of Texarkana, Texas
Stormwater Management Program

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Fact Sheet and Executive Director's Preliminary Decision

For proposed Texas Pollutant Discharge Elimination System (TPDES) General Permit No. TXR040000 for discharges from small municipal separate storm sewer systems (MS4s) into surface water in the state.

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Permit Action:	Amendment and Reissuance of a General Stormwater Permit for Phase II (Small) Municipal Separate Storm Sewer Systems (MS4s)

I. Summary

The Texas Commission on Environmental Quality (TCEQ) is proposing to amend and renew the TPDES general permit for phase II (small) municipal separate storm sewer systems (MS4s), TXR040000. This general permit was first issued and effective on August 13, 2007, and authorizes discharges from small MS4s into surface water in the state. The general permit specifies which small MS4s must obtain permit coverage, which are eligible for waivers, and which must obtain individual permit coverage. The permit also specifies that where discharges will reach waters of the U.S., a stormwater management program (SWMP) must be developed and implemented, and includes the minimum requirements for the SWMP.

The principal changes to the existing general permit include the following:

1. Permit coverage

    a. Operators of small MS4s that are fully or partly located within an urbanized area, as determined by the 2000 or the 2010 Decennial Census, must obtain authorization for the discharge of stormwater runoff, and are eligible for coverage under the general permit unless otherwise specified. (Permit Part II.A.1).

    b. Operators of small MS4s that were previously authorized under the general permit must reapply for coverage under the reissued general permit. (Permit Part II.A.3).

    c. Regulated small MS4s are categorized into four levels in the permit, with different permit requirements applied to each level for some of the program elements. For the purpose of this section, the level of a small MS4 is based on the population served by the small MS4 within the 2010 UA, except for non-traditional MS4s such as transportation entities (Permit Part II.A.5):

        (1) Level 1 serves a population of less than 10,000 within a UA;

        (2) Level 2 serves a population of at least 10,000 but less than 40,000 within a UA. This category also includes all non-traditional small MS4s such as counties, drainage districts, transportation entities, military bases, universities, colleges, correctional institutions, municipal utility districts, and other special districts (regardless of population served in the UA);

        (3) Level 3 serves a population of at least 40,000 but less than 100,000 within a UA; and

        (4) Level 4 serves a population of 100,000 or more within a UA.

2. Impaired Water Bodies and Total Maximum Daily Load (TMDL)

    a. Revised the section entitled "Impaired Water Bodies and Total Maximum Daily Load Requirements" to address discharges to impaired water bodies listed in accordance with Section 303(d)(1) of the federal Clean Water Act (CWA). (Permit Part II.D.4).

3. Stormwater Management Program (SWMP)

    a. Minimum Control Measures (MCMs) - The current permit includes six (6) required MCMs in the SWMP. The permit revises and to some extent,

reorganizes, the existing MCMs to include additional controls and details where appropriate. The revised list of MCMs includes (1) Public Education, Outreach, and Involvement; (2) Illicit Discharge Detection and Elimination; (3) Construction Site Stormwater Runoff Control; (4) Post-Construction Stormwater Management in New Development and Redevelopment; (5) Pollution Prevention and Good Housekeeping for Municipal Operations; and (6) Industrial Stormwater Sources. Portions of these MCMs are required only for certain levels of small MS4s; for example, MCM (6), related to Industrial Stormwater Sources, is required only for Level 4 permittees, as they are similar in populations to Phase I MS4s, which this MCM is based on. The permit maintains the optional 7th MCM, related to construction activities where the small MS4 is the site operator (Permit Part III.B).

b. Added a section describing the kind of legal authority a small MS4 is required to have in order to develop and implement the SWMP. The section divides small MS4s up into traditional small MS4s (for example, cities) and non-traditional small MS4s (for example, counties, drainage districts, transportation entities, and municipal utility districts). Non-traditional small MS4, which might lack the enforcement authority and be unable to meet the goals in the permit, must either enter into interlocal agreements or notify the TCEQ as needed to report incidences of noncompliance.

c. Added a section requiring small MS4s to ensure resources and funding necessary to meet all requirements of the permit (Permit Part III.A.4).

d. Added a section requiring small MS4s to develop enforcement measures to respond to violations (Permit Part III.A.6).

4. MS4-operated construction sites (Optional 7th MCM)

a. Stormwater Runoff from Concrete Batch Plants

Updated language describing stormwater runoff from concrete batch plant at construction sites where the MS4 operator is the construction site operator and the MS4 operator elects to utilize the optional 7th MCM related to municipal construction. The language was updated to correspond to the TPDES construction general permit (CGP) TXR150000, March 5, 2008 (Permit Part VI.E).

b. Effluent Limits

Added effluent limits for regulated construction sites based on the federal Effluent Limitation Guidelines (ELGs) at 40 CFR Part 450, and consist of a series of Best Management Practices (Permit Part VI.J.7). No numeric effluent limits are included at this time.

II. Executive Director's Recommendation

The executive director has made a preliminary decision that this general permit, if reissued, meets all statutory and regulatory requirements. It is proposed that the general permit be issued to expire five years from date of issuance following the requirements of 30 TAC § 205.5(a).

III. Permit Applicability and Coverage

There are two ways in which a small MS4 would be required to obtain permit coverage. First, the federal NPDES Phase II stormwater rules at 40 CFR § 122.32(a)(1) require authorization for the discharge of stormwater from small MS4s located fully or partially within an urbanized area (UA) as defined by the U.S. Bureau of the Census (Census). These small MS4s are often referred to as *regulated* small MS4s. In addition, TCEQ can *designate* a small MS4 as requiring coverage (see federal Phase II rules at 40 CFR §§ 122.32(a)(2) and 123.35(b)). There are two groups that fall into this category. First, the rules require that TCEQ develop and apply designation criteria to small MS4s located outside of a UA which serve a jurisdiction with 10,000 or more people, and that have an average density of 1,000 or more people/square mile (see 40 CFR § 123.35(a)(2)). This assessment was required to be conducted before December 9, 2002, and the TCEQ assessed those small MS4s meeting this criteria by the required deadline (none were designated at that time). Secondly, the rules require TCEQ to designate any small MS4 as a regulated small MS4 where the small MS4 substantially contributes pollutants to a physically interconnected regulated MS4. Small MS4s meeting either of these criteria would be referred to as *designated* small MS4s. The rules also allow the TCEQ to designate additional small MS4s at any time. The portion of the small MS4 required to meet the conditions of the proposed general permit is that portion located within a UA, as well as any portion that is individually designated by the TCEQ. Maps detailing UAs is available at: http://www.census.gov/geo/www/ua/2010urbanruralclass.html

The UA maps were updated by the U.S. Census Bureau during 2012 based on the results of the 2010 U.S. Census. Newly identified UAs on the updated maps will also be regulated under the general permit.

In the preamble to the Phase II rules (See Federal Register (FR) 64, Number 235, page 68749), the EPA discusses instances where a municipal separate storm sewer may not be considered a system. The TCEQ agrees that certain complexes may have storm drainage structures that operate independently of each other (such as roof top drains flowing to the city street) rather than as a system. The TCEQ believes that most elementary and secondary schools do not operate a system, and that each school building would normally drain to a city's MS4 rather than to a system of drains operated by a school district. Similarly, a public office building complex may include roof and parking lot drains that flow to another entity's system. Universities, federal facilities, and many other public complexes do have a constructed drainage system, which would be defined as a small MS4, even if the drains eventually reached another MS4. In this general permit, the definition for small MS4 excludes storm drains associated with municipal (publicly owned) office and education complexes, where the complexes serve a nonresidential population, and where the buildings are not part of a larger MS4.

A. Regulated Small MS4s Subject to Permitting

The proposed general permit would authorize the discharge of stormwater runoff and certain non-stormwater discharges from the following small MS4s:

1. Small MS4s located wholly or partially within an urbanized area (UA) as defined by the U.S. Census Bureau in the 2000 or 2010 Census, and
2. Small MS4s individually designated by the TCEQ as described in Section III.B of this fact sheet.

B. Designated Small MS4s Subject to Permitting

Certain small MS4s may be designated by the TCEQ as requiring permit coverage based on federal requirements at 40 CFR § 122.32(a)(2). The TCEQ has developed the following criteria, one or more of which may be considered in designating a small MS4:

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 CWA § 303(d) list based on an approved total maximum daily loading plan.
5. Discharges from an adjacent small MS4 are determined by TCEQ to be significantly contributing pollutants to the regulated MS4. The TCEQ would make this determination after receiving a written request by a regulated adjacent MS4 operator.
6. Additional factors relative to the environmental sensitivity of receiving watersheds.

Specific thresholds are not established for each of the designation criteria. Instead, designation must occur following a case-by-case consideration and is based on a finding that controls are necessary to protect water quality. If designated, the MS4 operator will be notified by the executive director and allowed to apply for authorization under either the proposed general permit or an individual TPDES stormwater permit. The application for either permit must be submitted within 180 days of the notice.

In 2002, the TCEQ applied these designation criteria to the small MS4s located outside of a UA which served a jurisdiction with 10,000 or more people, and which had an average density of 1,000 or more people per square mile. At that time, the TCEQ did not designate any small MS4 or portion of a small MS4 that was not located within a UA. The TCEQ may evaluate small MS4s again that meet these criteria, as well as other small MS4s. Small MS4s that are not located within a UA may be designated by TCEQ at any time in the future, and will be required to develop and submit an NOI and SWMP within 180 days of being notified in writing by TCEQ of that designation. TCEQ may also designate small MS4s as a result of a petition received based on 40 CFR §123.35(c). According to the regulations, a determination would need to be made within 180 days of receiving such a written petition.

C. Permit Waivers

Two possible waivers from permitting requirements are provided in the federal rules at 40 CFR §122.32, and are continued in the proposed permit.

1. Waiver Option No. 1 - A small MS4 may qualify for a waiver if it serves a total population of less than 1,000 within a UA or UAs, and:

a. The small MS4 is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the TPDES or NPDES stormwater program (40 CFR § 122.32(d)); and

b. If the small MS4 discharges any pollutant(s) that have been identified as a cause of impairment of any water body to which the small MS4 discharges, stormwater 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;

In order to meet this waiver, the small MS4 operator must submit a letter requesting the waiver including the certifying statement that the above-described criteria for Waiver Option No. 1 are met. This waiver request must be submitted on a form approved by the TCEQ.

2. Waiver Option No. 2 – A small MS4 may qualify for a waiver if it serves a total population of less than 10,000 within a UA or UAs and meets all of the following criteria:

a. The TCEQ has evaluated all waters of the U.S., including small streams, tributaries, lakes, and ponds, that receive a discharge from the small MS4;

b. For all such waters, the TCEQ has determined that stormwater 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 small MS4 do not have the potential to exceed Texas surface water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts.

The receiving waters evaluation for Waiver Option 2 is a TMDL-equivalent evaluation that may be performed by the small MS4 using TCEQ protocol with appropriate guidance from the TCEQ. The evaluation would need to include the pollutants of concern, including at a minimum: biochemical oxygen demand (5-day); sediment (or a parameter that addresses sediment such as total suspended solids, turbidity, or siltation); pathogens; oil and grease; and any other pollutant that has been identified as a cause of impairment of any receiving water body. The small MS4 must coordinate with TCEQ Wastewater Permitting staff and Water Quality Assessment staff prior to initiating such a study.

Because of the comprehensive nature of the required receiving water evaluation, and the necessary finding that future discharges from the small MS4 could not potentially exceed water quality standards, Waiver Option No. 2 will be difficult to obtain. However, this option is allowed by federal rules and is therefore included in the proposed general permit and made available to certain small MS4s. The small MS4 would need to first coordinate with the TCEQ to determine if a waiver is attainable under this option, and must complete a TCEQ waiver form after completing all of the necessary studies.

D. Ineligible Discharges

The following discharges are not eligible for permit coverage under the proposed general permit and must obtain coverage under either an individual or an alternative general TPDES permit:

1. Discharges from Phase I (medium and large) MS4s (Phase I MS4s are those that are located in a city or county with a residential population of 100,000 or more based on the 1990 Census);
2. Discharges from small MS4s that would cause or contribute to a violation of water quality standards or that would fail to protect and maintain existing designated uses of receiving waters;
3. New sources or new discharges of the pollutant(s) of concern to impaired waters, unless otherwise allowable under TCEQ rules, applicable state law, and any TMDL and TMDL Implementation Plan (I-Plan) that exists for the applicable receiving water;
4. Stormwater discharges that combine with sources of non-stormwater, unless the non-stormwater source is an allowable non-stormwater discharge described in the proposed general permit, or the non-stormwater source is authorized under a separate TPDES permit; and
5. Discharges otherwise prohibited under existing state rules.
6. Discharges that would adversely affect a listed endangered or threatened species or its critical habitat are not authorized by this permit. Federal requirements related to endangered species apply to all TPDES permitted activities, and site-specific controls may be required to ensure that protection of endangered or threatened species is achieved.

E. Allowable Non-stormwater Discharges

The following non-stormwater sources may be discharged from the small MS4 and are not required to be addressed in the small MS4's Illicit Discharge and Detection measure, or other minimum control measures (MCMs), provided that they have not been determined by the MS4 operator or the TCEQ to be substantial sources of pollutants to the small MS4:

1. Water line flushing (excluding discharges of hyperchlorinated water, unless the water is first dechlorinated and discharges are not expected to adversely affect aquatic life);
2. Runoff or return flow from landscape irrigation, lawn irrigation, and other irrigation utilizing potable water, groundwater, or surface water sources;
3. Discharges from potable water sources that do not violate Texas surface water quality standards;
4. Diverted stream flows;
5. Rising ground waters and springs;
6. Uncontaminated ground water infiltration;
7. Uncontaminated pumped ground water;
8. Foundation and footing drains;
9. Air-conditioning condensation;
10. Water from crawl space pumps;
11. Individual residential vehicle washing;
12. Flows from wetlands and riparian habitats;
13. Dechlorinated swimming pool discharges;
14. Street wash water excluding street sweeper waste water;

15. Discharges or flows from emergency fire fighting activities (fire fighting activities do not include washing of trucks, run-off water from training activities, test water from fire suppression systems, and similar activities);
16. Other allowable non-stormwater discharges listed in 40 CFR § 122.26 (d)(2)(iv)(B)(1);
17. Non-stormwater discharges that are specifically listed in the TPDES Multi Sector General Permit (MSGP) TXR050000 or the TPDES Construction General Permit (CGP) TXR150000;
18. Discharges that are authorized by a TPDES or National Pollutant Discharge Elimination System (NPDES) permit or that are not required to be permitted; and
19. Other similar occasional incidental non-stormwater discharges, such as spray park water, unless the TCEQ develops permits or regulations addressing these discharges.

Discharge of the waters listed above may contain pollutants that would need to be addressed by the small MS4. For example, discharges from water line flushing could contain levels of chlorine that could have an impact on aquatic life, in which case the small MS4 may need to require that controls be put on the discharge of chlorinated water line flushing.

F. Discharges from Small MS4 Construction Activities

The proposed general permit provides small MS4 operators an option to discharge stormwater runoff, and certain non-stormwater runoff, from construction sites under the authority of the small MS4 general permit, where the small MS4 is the operator of the construction activity.

In order for the MS4 operator to cover these activities under this general permit, an optional stormwater MCM must be developed and implemented to address these activities. The MCM must describe the general procedures the MS4 operator will develop to implement a stormwater pollution prevention plan (SWP3), with consideration for local weather and soil conditions, and the steps to be taken to meet and maintain the status as operator at small MS4 construction sites. The MS4 operator must also describe in the MCM the area within which construction related discharges will be authorized under this general permit. The permittee may choose to cover activities exclusively within the UA boundary, within corporate limits or extra territorial jurisdiction (ETJ), within special districts, or within other similar jurisdictional boundaries of the permittee. However, discharges from construction activities outside of the regulated area, such as outside of the UA or outside of the area(s) designated by TCEQ, are only eligible for authorization under this general permit for those areas where the MS4 operator meets the requirements of Parts III.B.1. through III.B.6 of the general permit, related to MCMs. The notice of intent (NOI) will require the permittee to provide information or a description on the boundary of coverage.

A separate detailed SWP3 must be developed and implemented for each regulated construction site. Contractors at a construction site where the small MS4 is the sole operator are not required to obtain separate authorization for stormwater discharges, provided the MS4 operator can meet and maintain the status of sole operator for the site, where the contractor does not meet the definition of operator for the site, and where the SWP3 is developed to address the activities of the contractor. If the contractor meets the definition of construction site operator, then the contactor would need to obtain authorization under the TPDES CGP or an individual permit.

40 CFR § 122.28(b)(2)(i), as adopted by reference in Title 30, Texas Administrative Code (TAC) § 205.7, requires the submittal of an NOI to authorize certain discharges under a general permit. While 40 CFR § 122.28(b)(2)(v) allows some exceptions to this requirement, it does not exclude the permittee from the requirement to submit an NOI for authorization of discharges of stormwater runoff associated with industrial activity. Because federal rules at 40 CFR § 122.26(b)(14)(x) includes large construction sites in its definition of industrial activity, discharges of construction activity of five or more acres (including activities which are part of a larger common plan of development) are required to submit an NOI. Therefore, if an MS4 operator seeks to obtain coverage for these discharges under this proposed general permit, then the MS4 operator must include information on the construction activities on its NOI required under this general permit. The applicant must develop site-specific information on how construction activities will be conducted and SWP3s developed to control pollution. This information must be formalized as an MCM and incorporated as a part of the MS4 operator's stormwater management program (SWMP).

The SWMP that is submitted with the NOI must include this optional MCM in order for the permittee's construction activities to be eligible for authorization under this general permit. The NOI will include a certification statement that the small MS4 must sign, in which the MS4 operator agrees to comply with the conditions and requirements of this general permit for its construction activities. This certification on the NOI will satisfy the previously cited regulatory requirement regarding the NOI. Separate NOIs for each construction activity would not be required, provided that the appropriate information is included in the optional control measure. The MS4 operator must subsequently develop a separate SWP3 for each large and small construction activity, and must post a construction site notice that includes a signed certification that a SWP3 was developed and is implemented according to the conditions and requirements of this general permit. The site notice would be considered a "report" for the purposes of this general permit, and therefore may be signed by a person properly authorized by the MS4 operator under 30 TAC § 305.128, regarding delegation of signatory authority for reports.

If the MS4 operator determines that it does not wish to implement the optional seventh MCM at the time of original application under this general permit, and at a later date does choose to utilize this option, then a notice of change (NOC) will be equivalent to the NOI required under the rules.

If this optional MCM is not developed by the MS4 operator, then discharges of stormwater runoff from large and small construction activities must be authorized under a separate TPDES stormwater permit. Additionally, if the MS4 operator either cannot or chooses not to meet and maintain the status as the sole operator for any specific construction activity, then authorization under a separate TPDES permit must be obtained for the additional operators, during construction activities at that specific site. Finally, if the MS4 operator chooses not to utilize this optional MCM for one or more construction activities, then the MS4 operator must obtain separate authorization for the site(s) under the CGP or individual TPDES permit.

IV. Permit Conditions and Effluent Limitations

A. Notice of Intent

The proposed permit would require small MS4s to submit to the TCEQ a notice of intent (NOI) to comply with the conditions of the general permit, along with an attached Stormwater Management Program (SWMP).

B. Public Notice and Public Participation

An applicant under the proposed general permit would be subject to the following procedures:

1. The applicant must submit the NOI and attached SWMP to the executive director. TCEQ staff will review the application for administrative and technical completeness.
2. After the applicant receives written instructions from the TCEQ's Office of Chief Clerk, the applicant must publish notice of the executive director's preliminary determination on the NOI and SWMP.
3. The notice will be provided to the applicant, and will include, at a minimum:
   a. The legal name of the applicant;
   b. An indication whether the NOI is for a new small MS4 or is a renewal of an existing authorization;
   c. The address of the applicant;
   d. A brief summary of the information included in the NOI, such as the general location of the small MS4 and a description of the classified receiving waters that receive the discharges from the small MS4;
   e. The location and mailing address where the public may provide comments to the TCEQ;
   f. The public location where copies of the NOI and SWMP, as well as the executive director's general permit and fact sheet, may be reviewed; and
   g. If required by the executive director, the date, time, and location of the public meeting.
4. This notice must be published at least once in a newspaper of general circulation in the municipality or county where the small MS4 is located. If the small MS4 is located in multiple municipalities or counties, the notice must be published at least once in a newspaper of general circulation in the municipality or county containing the largest resident population for the regulated portion of the small MS4. This notice must provide opportunity for the public to submit comments on the NOI and SWMP. In addition, the notice must allow the public to request a public meeting. A public meeting will be held if the TCEQ determines that there is significant public interest.
5. The public comment period begins on the first date the notice is published and ends 30 days later, unless a public meeting is held. If a public meeting is held, the comment period will end at the closing of the public meeting. The public may submit written comments to the TCEQ Office of Chief Clerk during the comment period detailing how the NOI or SWMP for the small MS4 fails to meet the technical requirements or conditions of this general permit.

6. If significant public interest exists, the executive director will direct the applicant to publish a notice of the public meeting and to hold the public meeting. The applicant must publish notice of a public meeting at least 30 days before the meeting and hold the public meeting in a county where the small MS4 is located. TCEQ staff will facilitate the meeting.
7. If a public meeting is held, the applicant must describe the contents of the NOI and SWMP. The applicant must also provide maps and other data on the small MS4. The applicant must provide a sign in sheet for attendees to register their names and addresses and furnish the sheet to the executive director. A public meeting held under this general permit is not an evidentiary proceeding.
8. The applicant must file with the Chief Clerk a copy and an affidavit of the publication of notice(s) within 60 days of receiving the written instructions from the Chief Clerk.
9. The executive director, after considering public comment, will either approve, approve with conditions, or deny the NOI based on whether the NOI and SWMP meet the requirements of this general permit.
10. Persons whose names and addresses appear legibly on the sign in sheet from the public meeting and persons who submitted written comments to the TCEQ will be notified by the TCEQ's Office of Chief Clerk of the executive director's decision regarding the authorization.

C. Stormwater Management Program (SWMP)

The proposed SWMP requirements were developed based on:

1. The existing Phase II MS4 general permit TXR040000 issued August 13, 2007;
2. Input from the Stormwater Stakeholder Work Group;
3. Federal Phase II rules of 40 CFR §122.34; and

EPA guidance document of April 2010, entitled MS4 Permit Improvement Guide.The proposed general permit allows small MS4s to share resources in meeting the responsibilities of the SWMP with other regulated MS4s that are either physically interconnected or that are located in the same watershed. This allowance will help to foster a more coordinated approach to resolving local water quality issues and to provide a more efficient use of local MS4 resources. MS4s may combine or share efforts necessary to meet the SWMP requirements of the permit, but each MS4 must be separately authorized (individual NOIs are required). Additionally, individual SWMPs must be developed and maintained by each of the MS4s. Each operator is separately responsible for compliance with the conditions of the general permit and the SWMP, even if efforts are combined or shared between the MS4s.

Small MS4s must develop a SWMP, according to the provisions of this general permit, to the extent allowable under state and local law, to address the portions of the small MS4 that are either located within the UA or that are designated by the TCEQ, with discharges that reach waters of the U.S.. Waters of the U.S. are defined in the general permit. Waters of the U.S. do not include waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR § 423.11(m) which also meet the criteria of this definition). This exclusion applies only to manmade bodies of water that neither were originally created in waters of the U.S. (such as disposal area in wetlands) nor resulted from the impoundment of waters of the U.S. Waters of the U.S. do not include prior converted cropland.

The SWMP is a comprehensive document that details the steps that the small MS4 will take to reduce or eliminate pollutants in stormwater discharges to the maximum extent practicable (MEP). The phrase "to the extent allowable under local law," as used in the paragraph above, means that small MS4s must develop any necessary ordinances, regulations, or other regulatory controls to meet the general permit requirements to the extent that their authority to make such ordinances is not prohibited by state or federal statutes or regulations.

Operators of non-traditional small MS4s, such as counties, drainage districts, and transportation entities, may lack the authority to develop ordinances or to implement enforcement actions. For these MS4 operators, the proposed general permit requires the permittee to enter into inter-local agreements with municipalities in which the small MS4 is located. These inter-local agreements must include procedures for enforcement and inspections to the extent necessary to meet the goals of the general permit. Where the permittee is unable to enter into an inter-local agreement, the permittee may report instances of non-compliance or possible illicit discharges to the TCEQ's Field Operations Division for possible follow-up investigations or enforcements.

The permit requires the small MS4 to ensure that is has adequate resources and funding necessary to meet all requirements of the permit.

The small MS4s must develop a SWMP to include the MCMs described below, which are based on federal rules at 40 CFR §122.34(b) and 40 CFR §122.26(d)(2)(iv). The permit introduces a tiered approach to meeting the MCM requirements such that some categories, or Levels, of MS4 operators are not required to implement all or all parts of the MCMs. The small MS4s are categorized by the following four Levels:

Level 1: Operators of small MS4s that serve a population less than 10,000 within a UA;

Level 2: Operators of small MS4s that serve a population of at least 10,000 but less than 40,000 within a UA. This category also includes all non-traditional small MS4s such as counties, drainage districts, transportation entities, universities, colleges, correctional institutions, municipal utility districts and other special districts regardless of the population served within a UA or UAs;

Level 3: Operators of small MS4s that serve a population of at least 40,000 but less than 100,000 within a UA;

Level 4: Operators of small MS4s that serve a population of 100,000 or more within a UA.

The six MCMs are separately described below and include:

1. Public Education, Outreach, and Involvement

The federal Phase II rules require regulated small MS4 operators to implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of stormwater discharges on water bodies and the steps that the public can take to reduce pollutants in stormwater runoff (see 40 CFR §122.34(b)(1)). The rules also require a public involvement and participation program that, at a minimum, complies with state and local public notice requirements (see 40 CFR § 122.34(b)(2)).

The draft general permit requires small MS4s to educate the public about the impact of stormwater discharges on receiving water bodies and what steps they can take to reduce the contamination of stormwater. The small MS4s are encouraged to use existing public materials in their program, such as using examples from the EPA's Nonpoint Source Outreach Toolbox (www.epa.gov/nps/toolbox) or from other agencies and municipalities with similar public education goals.

Stormwater management programs (SWMPs) can be greatly improved by involving the community throughout the entire process of developing and implementing the program. Involving the community will benefit the permitttee itself as well as the community. By listening to the public's concern and coming up with solutions together, the permittee will gain the support of the public and the community will become invested in the program. The permittee will likewise gain even more insight into the most effective ways to communicate its messages.

The permit requires the permittee to involve the public (for example, provide opportunities for public comment or public meeting) in the development of the program. Public input and involvement can include many different activities such as meeting with local land planners and provide input on land use code or ordinance updates, stream clean-ups, storm drain marking, and volunteer monitoring.

Permittees are encouraged to work together with other entities that have an impact on stormwater to implement this MCM.

The permit includes the following proposed language under this MCM:

(a) Public Education and Outreach

(1) All permittees shall develop, implement, and maintain a comprehensive stormwater education and outreach program to educate public employees, businesses, and the general public of hazards associated with the illegal discharges and improper disposal of waste and about the impact that stormwater discharges can have on local waterways, as well as the steps that the public can take to reduce pollutants in stormwater.

Existing permittees shall assess program elements that were described in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the program fully implemented by the end of this permit term. The program must, at a minimum:

a. Define the goals and objectives of the program based on high priority community-wide issues (for example, reduction of nitrogen in discharges from the small MS4, promoting previous techniques used in the small MS4, or improving the quality of discharges to the Edwards Aquifer);

b. Identify the target audience(s);

c. Develop or utilize appropriate educational materials, such as printed materials, billboard and mass transit advertisements, signage at select locations, radio advertisements, television advertisements, and websites;

d. Determine cost effective and practical methods and procedures for distribution of materials;

(2) Throughout the permit term, all permittees shall make the educational materials available to convey the program's message to the target audience(s) at least annually.

(3) All permittees shall review and update as necessary, the SWMP and MCM implementation procedures required by Part III.A.2.. Any changes must be reflected in the annual report. Such written procedures must be maintained, either on site or in the SWMP and made available for inspection by the TCEQ.

(4) MS4 operators may partner with other MS4 operators to maximize the program and cost effectiveness of the required outreach.

(b) Public Involvement

All permittees shall involve the public, and at minimum comply with any state and local public notice requirements in the planning and implementation activities related to developing and implementing the SWMP, except that correctional facilities are not required to implement this portion of the MCM.

Existing permittees shall assess program elements that were described in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the program fully implemented by the end of this permit term. At a minimum, all permittees shall:

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

(2) If feasible, create opportunities for citizens to participate in the implementation of control measures, such as stream clean-ups, storm drain stenciling, volunteer monitoring, volunteer "Adopt-A-Highway" programs, and educational activities;

(3) Ensure the public can easily find information about the SWMP.

2. Illicit Discharge Detection and Elimination (IDDE)

The Phase II regulations require regulated small MS4 operators to develop, implement, and enforce a program to detect and eliminate illicit discharges into the MS4 (see 40 CFR §122.34(b)(3)). Through the IDDE MCM the permittee is required to respond to complaints about illicit discharges or spills and to actively seek out illicit discharges and behaviors that could result in illicit discharges such as illegal connection to the small MS4, improper disposal of wastes, or dumping of used motor oil or other chemicals.

The permit requires the permittee to have an up-to-date MS4 map. Level 4 permittees would be required to identify areas with a high risk for illicit discharges, and these areas must be prioritized for more frequent investigations. Priority areas could include: (1) Areas with older infrastructure that are more likely to have illicit discharges; (2) Industrial, commercial, or mixed use areas; (3) Areas with a history of illegal dumping; (4) Areas with a history of illegal discharges; (5) Areas with onsite sewage disposal systems; (6) Areas with older sewer lines or with a history of sanitary sewer overflows (SSOs) or cross-connections; (7) Areas that discharge to sensitive waterbodies; and (8) Areas within sensitive watersheds.

The CWA § 402(p)(3)(B)(ii), requires MS4 permits to "effectively prohibit non-stormwater discharges into the storm sewers." The permit implements this requirement, in part by requiring the development of procedures to investigate and

eliminate illicit discharges. Standard operating procedures (SOPs) with necessary forms provide guidance to investigators and ensure that consistent investigations occur of every illicit discharge incident.

The public must have a central contact point, such as a stormwater hotline, to report observed illicit incidents. An incident could be anything from an overturned gasoline tanker to sediment leaving a construction site or a sanitary sewer overflow entering the storm drain.

The permit requires the permittee to implement a method for informing or training field staff, who may come into contact or observe illicit discharges, on the identification and proper procedures for reporting illicit discharges. Field staff to be trained may include, but are not limited to, municipal maintenance staff, inspectors, and other staff whose job responsibilities regularly take them out of the office and into areas within the MS4 area. Permittee field staff is out in the community on a day-to-day basis and are in the best position to locate and report spills, illicit discharges, and potentially polluting activities. With proper training and information on reporting illicit discharges easily accessible, these field staff can greatly expand the reach of the IDDE program.

The permit requires MS4s serving a population more than 100,000 (Level 4 MS4s) to develop a dry weather screening program. The program consists of field observations and field screening monitoring. Visually screening outfalls during dry weather and conducting field tests, where flow is occurring, will assist permittees in determining the source of illicit discharge. For example, the presence of surfactants is an indicator that sewage could be present in the discharge and the parameters specific conductivity, ammonia, surfactant, pH and other chemicals may similarly be indicative of industrial sources.

The permit includes the following proposed language under the MCM:

(a) Program Development

(1) All permittees shall develop, implement and enforce a program to detect, investigate, and eliminate illicit discharges into the small MS4. The program must include a plan to detect and address non-stormwater discharges, including illegal dumping to the MS4 system.

Existing permittees must assess program elements that were described in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the program fully implemented by the end of this permit term. See also Part III.A.1(c).

The Illicit Discharge Detection and Elimination (IDDE) program must include the following:

a. An up-to-date MS4 map (see Part III.B.2.(c)(1));

b. Methods for informing and training MS4 field staff (See Part III.B.2.(c)(2));

c. Procedures for tracing the source of an illicit discharge (see Part III. B.2.(c)(5));

d. Procedures for removing the source of the illicit discharge (see Part III.B.2.(c)(5));

e. *For Level 2, 3 and 4 small MS4s, if applicable, procedures to prevent and correct any leaking on-site sewage disposal systems that discharge into the small MS4;*

f. *For Level 4 small MS4s, procedures for identifying priority areas within the small MS4 likely to have illicit discharges, and a list of all such areas identified in the small MS4 (See Part III.B.2.(g)(1));*

g. *For Level 4 small MS4s, field screening to detect illicit discharges (See Part III.B.2.(g)(2)).*

(2) *For non-traditional small MS4s, if illicit connections or illicit discharges are observed related to another operator's MS4, the permittee shall notify the other MS4 operator within 48 hours of discovery. If notification to the other MS4 operator is not practicable, then the permittee shall notify the appropriate TCEQ regional office of the possible illicit connection.*

(3) *If another MS4 operator notifies the permittee of an illegal connection or illicit discharge to the small MS4, then the permittee shall follow the requirements specified in Part III.B.2.(c)(3).*

(4) *All permittees shall review and update as necessary, the SWMP and MCM implementation procedures required by Part III.A.2.. Any changes must be reflected in the annual report. Such written procedures must be maintained, either on site or in the SWMP and made available for inspection by the TCEQ.*

(b) *Allowable Non-Stormwater Discharges*

Non-stormwater flows listed in Part II.C do not need to be considered by the permittee as an illicit discharge requiring elimination unless the permittee or the TCEQ identifies the flow as a significant source of pollutants to the small MS4.

(c) *Requirements for all Permittees*

All permittees shall include the requirements described below in Parts III.B.2(c)(1)-(6)

(1) *MS4 mapping*

All permittees shall maintain an up-to-date MS4 map, which must be located on site and available for review by the TCEQ. The MS4 map must show at a minimum the following information:

a. *The location of all small MS4 outfalls that are operated by the permittee and that discharge into waters of the U.S;*

b. *The location and name of all surface waters receiving discharges from the small MS4 outfalls;*

c. *Priority areas identified under Part III.B.2.(e)(1) if applicable.*

(2) *Education and Training*

All permittees shall implement a method for informing or training all the permittee's field staff that may come into contact with or otherwise observe an illicit discharge or illicit connection to the small MS4 as part of their normal job responsibilities. Training program materials and attendance lists must be maintained on site and made available for review by the TCEQ.

(3) *Public Reporting of Illicit Discharges and Spills*

To the extent feasible, all permittees shall publicize and facilitate public reporting of illicit discharges or water quality impacts associated with

discharges into or from the small MS4. The permittee shall provide a central contact point to receive reports; for example by including a phone number for complaints and spill reporting.

(4) All permittees shall develop and maintain on site procedures for responding to illicit discharges and spills.

(5) Source Investigation and Elimination

a. Minimum Investigation Requirements – Upon becoming aware of an illicit discharge, all permittees shall conduct an investigation to identify and locate the source of such illicit discharge as soon as practicable.

(i) All permittees shall prioritize the investigation of discharges based on their relative risk of pollution. For example, sanitary sewage may be considered a high priority discharge.

(ii) All permittees shall report to the TCEQ immediately upon becoming aware of the occurrence of any illicit flows believed to be an immediate threat to human health or the environment.

(iii) All permittees shall track all investigations and document, at a minimum, the date(s) the illicit discharge was observed; the results of the investigation; any follow-up of the investigation; and the date the investigation was closed.

b. Identification and Investigation of the Source of the Illicit Discharge –All permittees shall investigate and document the source of illicit discharges where the permittees have jurisdiction to complete such an investigation. If the source of illicit discharge extends outside the permittee's boundary, all permittees shall notify the adjacent permitted MS4 operator or TCEQ's Field Operation Support Division according to Part III.A.3.b.

c. Corrective Action to Eliminate Illicit Discharge

(i) If and when the source of the illicit discharge has been determined, all permittees shall immediately notify the responsible party of the problem, and shall require the responsible party to perform all necessary corrective actions to eliminate the illicit discharge.

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

(d) Additional Requirements for Level 3 and 4 small MS4s

In addition to the requirements described in Parts III.B.2(c)(1)-(6) above, permittees who operate level 3 and 4 small MS4s shall meet the following requirements:

(1) Source Investigation and Elimination

Permittees who operate level 3 and 4 small MS4 shall upon being notified that the discharge has been eliminated, conduct a follow-up investigation or field screening, consistent with Part III.B.2.(g)(2), to verify that the discharge has been eliminated. The permittee shall document its follow-up investigation. The permittee may seek recovery and remediation costs from responsible parties consistent with Part III.A.3., and require compensation related costs. Resulting enforcement actions must follow the procedures for enforcement action in Part III.A.3. If the suspected source of the illicit discharge is authorized under an NPDES/TPDES permit or the discharge is listed as an

authorized non-stormwater discharge, as described in Part III.C, no further action is required.

(e) Additional Requirements for Level 4 small MS4s

In addition to the requirements described in Parts III.B.2(c)-(d) above, permittees who operate level 4 small MS4s shall meet the following requirements:

(2) Identification of Priority Areas

Permittees who operate level 4 small MS4s shall identify priority areas and shall document the basis for the selection of each priority area and shall create a list of all priority areas identified. This priority area list must be available for review by the TCEQ.

(3) Dry Weather Field Screening

By the end of the permit term, permittee who operate level 4 small MS4s shall develop and implement a written dry weather field screening program to assist in detecting and eliminating illicit discharges to the small MS4. Dry weather field screening must consist of (1) field observations; and (2) as needed, field screening.

If dry weather field screening is necessary, at a minimum, the permittee shall:

a. Conduct dry weather field screening in priority areas as identified by the permittee in Part III.B.2(g)(1). By the end of the permit term, all of those priority areas, although not necessarily all individual outfalls must be screened.

b. Field observation requirements – The permittee shall develop written procedures for observing flows from outfalls when there has been at least 72 hours of dry weather. The written procedures should include the basis used to determine which outfalls would be observed. The permittee shall record visual observations such as odor, color, clarity, floatables, deposits or stains.

c. Field screening requirements – The permittee shall develop written procedures to determine which dry weather flows will be screened, based on results of field observations or complaint from the public or the permittee's trained field staff. At a minimum, when visual observations indicate a potential problem such as discolored flows, foam, surface sheen, and other similar indicators of contamination, the permittee shall conduct a field screening analysis for selected indicator pollutants as determined by the permittee. Screening methodology may be modified based on experience gained during the actual field screening activities. The permittee shall document the method used.

3. Construction Site Stormwater Runoff Control

The Phase II regulations require regulated small MS4s to develop, implement, and enforce a program to reduce pollutants in stormwater runoff to the MS4 from construction activities that result in a land disturbance of one acre or greater (see 40 CFR § 122.34(b)(4)). The permit requires the permittee to ensure that construction site operators use appropriate erosion and sediment controls to reduce or eliminate impacts on receiving water bodies.

The permittee is required to implement procedures to conduct inspections of large and small construction projects, and Level 3 and4 MS4s are further required to

maintain an inventory of construction sites in their area. This will help the permittee to effectively know where the construction activities are occurring. A construction site inventory could track information such as project size, disturbed area, distance to any water body or flow channel, when the erosion and sediment control or stormwater plan was approved by the permittee, and whether the project is covered by the TCEQ's CGP. Such information will help the permittee to track and target its inspection.

The permit requires the permittee to develop and implement site plan review procedures, which describes which plans will be reviewed as well as when an operator may begin construction. The permittee is required to develop SOPs to perform the site plan reviews to ensure that the review process is consistent. The site plan review also provides the permittees with a way to track construction sites.

The permit requires the permittee to implement procedures for performing inspections of construction sites. Inspection frequencies are determined by the permittee and based on the evaluation of factors that are a threat to water quality such as soil erosion potential, site slope, proximity to receiving waters and water quality status of the receiving water. The sites must be inspected during the active construction phase, to ensure that stormwater controls are maintained.

For inspections to be successful the permittee is required to develop inspection and enforcement procedures. The permit language includes minimum requirements that construction site inspections must include. Also, the permittee must ensure MS4 staff is trained to perform the inspections.

The permit includes the following proposed language under the MCM:

(a) Requirements and Control Measures

(1) All permittees shall develop, implement and enforce a program requiring operators of small and large construction activities, as defined in Part I of this general permit, to select, install, implement, and maintain stormwater control measures that prevent illicit discharges to the MEP. The program must include the development and implementation of an ordinance or other regulatory mechanism, as well as sanctions to ensure compliance to the extent allowable under state, federal, and local law, to require erosion and sediment control.

Existing permittees shall assess program elements that were described in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the the progam fully implemented by the end of this permit term.

If TCEQ waives requirements for stormwater discharges associated with small construction from a specific site(s), the permittee is not required to enforce the program to reduce pollutant discharges from such site(s).

(b) Requirements for all Permittees

All permittees shall include the requirements described below in Parts III.B.3(b)(1)-(7)

(1) All permittees shall review and update as necessary, the SWMP and MCM implementation procedures required by Part III.A.2.. Any changes must be

included in the annual report. Such written procedures must be maintained on site or in the SWMP and made available for inspection by the TCEQ.

(2) All permittees shall require that construction site operators implement appropriate erosion and sediment control BMPs. The permittee's construction program must ensure the following minimum requirements are effectively implemented for all small and large construction activities discharging to its small MS4.

a. Erosion and Sediment Controls - Design, install and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants.

b. Soil Stabilization - Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. Stabilization must be completed within a period of time determined by the permittee. In arid, semiarid, and drought-stricken areas, as determined by the permittee, where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the permittee.

c. BMPs – Design, install, implement, and maintain effective BMPs to minimize the discharge of pollutants to the small MS4. At a minimum, such BMPs must be designed, installed, implemented and maintained to:

(i) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters;

(ii) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater; and

(iii) Minimize the discharge of pollutants from spills and leaks.

d. As an alternative to (a) through (c) above, all permittees shall ensure that all small and large construction activities discharging to the small MS4 have developed and implemented a stormwater pollution prevention plan (SWP3) in accordance with the TPDES CGP TXR150000. In arid, semiarid, and drought-stricken areas, as determined by the permittee, where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the permittee. As an alternative, vegetative stabilization measures may be implemented as soon as practicable.

(3) Prohibited Discharges - The following discharges are prohibited:

a. Wastewater from washout of concrete and wastewater from water well drilling operations, unless managed by an appropriate control;

b. Wastewater from washout and cleanout of stucco, paint, from release oils, and other construction materials;

c. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and,

d. Soaps or solvents used in vehicle and equipment washing;

e. *Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, unless managed by appropriate BMPs.*

(4) *Construction Plan Review Procedures*

To the extent allowable by state, federal, and local law, all permittees shall maintain and implement site plan review procedures, that describe which plans will be reviewed as well as when an operator may begin construction. For those permittees without legal authority to enforce site plan reviews, this requirement is limited to those sites operated by the permittee and its contractors and located within the permittee's regulated area. The site plan procedures must meet the following minimum requirements:

a. *The site plan review procedures must incorporate consideration of potential water quality impacts.*

b. *The permittee may not approve any plans unless the plans contain appropriate site specific construction site control measures that, at a minimum, meet the requirements described in Part III.B.3.(a) or in the TPDES CGP, TXR150000.*

The permittee may require and accept a plan, such as a SWP3, that has been developed pursuant to the CGP, TXR150000.

(5) *Construction Site Inspections and Enforcement*

To the extent allowable by state, federal, and local law, all permittees shall implement procedures for inspecting large and small construction projects. Permittees without legal authority to inspect construction sites shall at a minimum conduct inspections of sites operated by the permittee or its contractors and that are located in the permittee's regulated area.

a. *Inspections must occur at a frequency determined by the permittee, based on the evaluation of factors that are a threat to water quality, such as: soil erosion potential; site slope; project size and type; sensitivity of receiving waterbodies; proximity to receiving waterbodies; non-stormwater discharges; and past record of non-compliance by the operators of the construction site.*

b. *Inspections must occur during the active construction phase.*

(i) *All permittees shall develop, implement, and revise as necessary, written procedures outlining the inspection and enforcement requirements. These procedures must be maintained on site or in the SWMP and be made available to TCEQ.*

(ii) *Inspections of construction sites must, at a minimum:*

1. *Determine whether the site has appropriate coverage under the TPDES CGP, TXR150000. If no coverage exists, notify the permittee of the need for permit coverage.*

2. *Conduct a site inspection to determine if control measures have been selected, installed, implemented, and maintained according to the small MS4's requirements.*

3. *Assess compliance with the permittee's ordinances and other regulations.*

4. *Provide a written or electronic inspection report.*

c. *Based on site inspection findings, all permittees shall take all necessary follow-up actions (for example, follow-up-inspections or enforcement) to ensure compliance with permit requirements and the SWMP. These follow-up and enforcement actions must be tracked and maintained for review by the TCEQ.*

For non-traditional small MS4s with no enforcement powers, the permittee shall notify the adjacent MS4 operator with enforcement authority or the TCEQ's Field Operations Support Division according to Part III.A.3(b).

(6) Information submitted by the Public

All permittees shall develop, implement and maintain procedures for receipt and consideration of information submitted by the public.

(7) MS4 Staff Training

All permittees shall ensure that all staff whose primary job duties are related to implementing the construction stormwater program (including permitting, plan review, construction site inspections, and enforcement) are informed or trained to conduct these activities. The training may be conducted by the permittee or by outside trainers.

(c) Additional Requirements for Level 3 and 4 small MS4s

In addition to the requirements described in Parts III.B.3(b)(1)-(7) above, permittees who operate level 3 and 4 small MS4s shall meet the following requirements:

(1) Construction Site Inventory

Permittees who operate level 3 and 4 small MS4s shall maintain an inventory of all permitted active public and private construction sites, that result in a total land disturbance of one or more acres or that result in a total land disturbance of less than one acre if part of a larger commom plan or development or sale. Notification to the small MS4 should be made by submittal of a copy of an NOI or a small construction site notice. The permittee shall make this inventory available to the TCEQ upon request.

4. Post-Construction Stormwater Management in New Development and Redevelopment

The Phase II stormwater regulation requires regulated small MS4s to develop, implement, and enforce a program to address stormwater discharges from new development and redevelopment sites that disturb one acre or more, and requires that the program ensure controls are in place that would prevent or minimize water quality impacts (see 40 CFR §122.34(b)(5)).

Developed land changes the hydrology of sites, leading to higher stormwater discharge volume and higher pollutant loads. Frequently, the volume, duration, and velocity of stormwater discharges can cause degradation to aquatic systems.

The permit requires that MS4 operators have owners and developers install and maintain stormwater control measures appropriate for the community. In addition, permittees are required to maintain all long term post-construction stormwater controls measures. In many cases, controls will be located on private property, and it will be necessary to establish some provisions to assure the responsibility and accountability for the operation and maintenance of these controls.

Structural controls may include practices such as rainwater harvesting, rain gardens, permeable pavement, and vegetated swales; many of which are considered to be low impact development practices, or green infrastructure BMPs.

The permittees are required to inspect post-construction controls to ensure that control measures are operating correctly and are being maintained. Without maintenance stormwater controls will not be able properly to protect water quality.

For the purpose of the permit "Redevelopment" does not include routine maintenance activities and linear utility installation. Examples of linear utility installation are construction activities that maintain the original line, grade, and hydraulic capacity of the surrounding areas, such as the installation of underground gas lines, fiber-optic cable, cable TV, electric, telephone, sewer mains and water mains. Routine maintenance activities are construction activities that are performed to maintain the original line and grade, hydraulic capacity, or original purpose of a facility, including but not limited to: (1) Re-grading of gravel roads or parking lots; (2) stream bank restoration projects (does not include the placement of spoil material);(3) Cleaning and shaping of existing roadside ditches and culverts that maintains the approximate original line and grade, and hydraulic capacity of the ditch; (4) Placement of aggregate shoulder backing that makes the transition between the road shoulder and the ditch or embankment; (5) Full depth milling and filling of exiting asphalt pavements, replacement of concrete pavements slabs, and similar work that does not expose soil or disturb the bottom six inches of subbase material; (6) Long-term use of equipment storage areas at or near highway maintenance facilities; (7) Removal of sediment from the edge of the highway to restore a previously existing sheet-flow drainage connection from the highway surface to the highway ditch or embankment; and (8) Replacement of curbs, gutters, sidewalk and guide rail posts.

The permit includes the following proposed language under this MCM:

(a) Post-Construction Stormwater Management Program

(1) All permittees shall develop, implement and enforce a program, to the extent allowable under state, federal, and local law, to control stormwater discharges from new development and redeveloped sites that discharge into the small MS4 that disturb one acre or more, including projects that disturb less than one acre that are part of a larger common plan of development or sale. The program must be established for private and public development sites. The program may utilize an offsite mitigation and payment in lieu components to address this requirement.

Existing permittees shall assess program elements that were described in the previous permit, modify as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the program fully implemented by the end of the permit term.

(2) All permittees shall use, to the extent allowable under state, federal, and local law and local development standards, an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects. The permittees shall establish, implement, and enforce a requirement, that owners or operators of new development and redeveloped sites design, install, implement, and maintain a combination of structural and non-structural BMPs appropriate for the community and that protects water quality. If the construction of permanent structures is not feasible due to space limitations, health and safety concerns, cost

effectiveness, or highway construction codes, the permittee may propose an alternative approach to TCEQ. Newly regulated permittees shall have the program element fully implemented by the end of the permit term.

(b) Requirements for all Permittees

All permittees shall include the requirements described below in Parts III.B.4.(b)(1)-(3)

(1) All permittees shall review and update as necessary, the SWMP and MCM implementation procedures required by Part III.A.2.. Any changes must be included in the annual report. Such written procedures must be maintained either on site or in the SWMP and made available for inspection by TCEQ.

(2) All permittees shall document and maintain records of enforcement actions and make them available for review by the TCEQ.

(3) Long-Term Maintenance of Post-Construction Stormwater Control Measures

All permittees shall, to the extent allowable under state, federal, and local law, ensure the long-term operation and maintenance of structural stormwater control measures installed through one or both of the following approaches:

a. Maintenance performed by the permittee. See Part III.B.5

b. Maintenance performed by the owner or operator of a new development or redeveloped site under a maintenance plan. The maintenance plan must be filed in the real property records of the county in which the property is located. The permittee shall require the owner or operator of any new development or redeveloped site to develop and implement a maintenance plan addressing maintenance requirements for any structural control measures installed on site. The permittee shall require operation and maintenance performed is documented and retained on site, such as at the offices of the owner or operator, and made available for review by the small MS4

(c) Additional Requirements for Level 4 small MS4s

In addition to the requirements described in Parts III.B.5(b)(1)-(3) above, permittees who operate level 4 small MS4s shall meet the following requirements:

(1) Inspections - Permittees who operate level 4 small MS4s shall develop and implement an inspection program to ensure that all post construction stormwater control measures are operating correctly and are being maintained as required consistent with its applicable maintenance plan. For small MS4s with limited enforcement authority, this requirement applies to the structural controls owned and operated by the small MS4 or its contractors that perform these activities within the small MS4's regulated area.

a. Inspection Reports - The permittee shall document its inspection findings in an inspection report and make them available for review by the TCEQ.

5. Pollution Prevention and Good Housekeeping for Municipal Operations

The stormwater Phase II regulations require operators of regulated MS4s to 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 (see 40 CFR §122.34(b)(6)).

The permit requires the MS4 operator to maintain an inventory of municipal facilities and of stormwater controls. Municipally-owned facilities serve as hubs of activity for a variety of municipal staff from many different departments. Some municipalities will have one property at which all activities take place (for example, the municipal maintenance yard), whereas others will have several specialized facilities. An inventory of facilities will help staff responsible for stormwater compliance build a better awareness of their locations within the small MS4 service area and their potential to contribute stormwater pollutants. The facility inventory will also serve as a basis for setting up periodic facility assessments and developing, where necessary, facility stormwater pollution plans.

The permit requires Level 3 and Level 4 permittee to perform, once per permit term, an assessment of its facilities to identify which of the facilities are most likely to contribute stormwater pollutants and which are in need in stormwater controls. Those facilities with a high potential to generate stormwater pollutants must be described as *high priority* facilities and this category of facilities are required to have facility specific stormwater management standard operating procedures (SOPs) developed. Developing and maintaining site-specific SOPs for each facility will help ensure that employees responsible for facility operation are aware of the stormwater controls required for the site.

The permit requires Level 3 and Level 4 permittees to develop an inspection program to perform inspections of, at a minimum, high priority municipal facilities and to document the results of the inspections. Regular inspections will allow inspectors to observe different types of operations that occur at different times of the year (e.g. landscape maintenance crews are less active in the winter) and ensure that corrective action can be taken where necessary to improve stormwater controls.

The permit includes requirements for MS4 operation and maintenance activities, such as maintaining the storm sewer system, maintaining roads and managing chemical applications. Level 3 and Level 4 small MS4s are required to develop an O&M program to reduce the collection of pollutants in catch basins and other surface drainage structures. Catch basins collect and trap stormwater pollutants such a as sediments, metals, hydrocarbons, bacteria, pesticides, trash, and other pollutants. Because they collect solids they need to be cleaned out on a regular basis to prevent those pollutants being discharges to water bodies. The materials removed from catch basins need to treated and disposed off in a way such it does not reenter the small MS4.

Operation and maintenance of roads may, for Level 3 and Level 4 small MS4s, include a street sweeping program. Street sweeping removes both fine and large particles from streets and has thereby a positive effect on water quality. Some small MS4s have roads without a curb and gutter, and they are therefore not suitable for street sweeping. In these cases source controls or inlet protection measures, to minimize pollutant discharges to storm drains and creeks, can be used in place of sweeping.

The permit includes requirements for Level 4 small MS4s for managing public spaces, such as by addressing the application of pesticides, herbicides, and fertilizers. The permit language encourages non-chemical solutions, such as using native plants to minimize fertilization and replace pesticide use with manual insect and weed removal thereby reducing chemical exposure to stormwater.

The Phase II regulation found at 40 CFR §122.34(b)(6) specifically requires that the permittee develop a "training component" that trains employees "to prevent and reduce stormwater pollution from activities such as park and open space

maintenance, fleet and building maintenance, new construction and land disturbances, and stormwater system maintenance. The permit requires the permittee to develop a training program and to train all appropriate employees involved in implementing pollution prevention and good housekeeping practices.

The permit includes language for situations where permittees use third-party contractors to conduct municipal maintenance activities. Contractors must be held to the same standards as the permittee.

The permit language proposed under this MCM is included below:

(a) Program development

(1) All permittees shall develop and implement an operation and maintenance program, including an employee training component that has the ultimate goal of preventing or reducing pollutant runoff from municipal activities and municipally owned areas including but not limited to park and open space maintenance; street, road, or highway maintenance; fleet and building maintenance; stormwater system maintenance; new construction and land disturbances; municipal parking lots; vehicle and equipment maintenance and storage yards; waste transfer stations; and salt/sand storage locations.

Existing permittees shall assess program elements that were described in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharges of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the program fully implemented by the end of this permit term. See also Part III.A.1.(c))

(b) Requirements for all Permittees

All permitees shall include the requirements described below in Parts III.B.5.(1)-(6) in the program:

(1) Permittee-owned Facilities and Control Inventory

All permittees shall develop and maintain an inventory of facilities and stormwater controls that it owns and operates within the regulated area of the small MS4. If feasible, the inventory may include all applicable permit numbers, registration numbers, and authorizations for each facility or controls. The inventory must be available for review by TCEQ and must include, but is not limited, to the following, as applicable:

a. Composting facilities;

b. Equipment storage and maintenance facilities;

c. Fuel storage facilities;

d. Hazardous waste disposal facilities;

e. Hazardous waste handling and transfer facilities;

f. Incinerators;

g. Landfills;

h. Materials storage yards;

i. Pesticide storage facilities;

j. Buildings, including schools, libraries, police stations, fire stations, and office buildings;

k. Parking lots;

l. Golf courses;

m. Swimming pools;

n. Public works yards;

o. Recycling facilities;

p. Salt storage facilities;

q. Solid waste handling and transfer facilities ;

r. Street repair and maintenance sites;

s. Vehicle storage and maintenance yards;

t. Structural stormwater controls.

(2) Training and Education

All permittees shall inform or train appropriate employees involved in implementing pollution prevention and good housekeeping practices. All permittees shall maintain a training attendance list for inspection by TCEQ when requested.

(3) Disposal of Waste Material - Waste materials removed from the small MS4 must be disposed of in accordance with 30 TAC Chapters 330 or 335, as applicable.

(4) Contractor Requirements and Oversight

a. Any contractors hired by the permittee to perform maintenance activities on permittee-owned facilities must be contractually required to comply with all of the stormwater control measures, good housekeeping practices, and facility-specific stormwater management operating procedures described in Parts III B.5.(2)-(6).

b. All permittees shall provide oversight of contractor activities to ensure that contractors are using appropriate control measures and SOPs. Oversight procedures must be developed before the end of the permit term and maintained on site and made available for inspection by TCEQ.

(5) Municipal Operation and Maintenance Activities

a. Assessment of permittee-owned operations

All permittees shall evaluate operation and maintenance (O&M) activities for their potential to discharge pollutants in stormwater, including but not limited to:

(i) Road and parking lot maintenance may include such areas as pothole repair, pavement marking, sealing, and re-paving;

(ii) Bridge maintenance may include such areas as re-chipping, grinding, and saw cutting;

(iii) Cold weather operations, including plowing, sanding, and application of deicing and anti-icing compounds and maintenance of snow disposal areas;

(iv) Right-of-way maintenance, including mowing, herbicide and pesticide application, and planting vegetation;

b. All permittees shall identify pollutants of concern that could be discharged from the above O&M activities (for example, metals; chlorides; hydrocarbons such as benzene, toluene, ethyl benzene, and xylenes; sediment; and trash).

c. All permittees shall develop and implement a set of pollution prevention measures that will reduce the discharge of pollutants in stormwater from the above activities. These pollution prevention measures may include the following examples:

(i) Replacing materials and chemicals with more environmentally benign materials or methods ;

(ii) Changing operations to minimize the exposure or mobilization of pollutants to prevent them from entering surface waters;

(iii) Placing barriers around or conducting runoff away from deicing chemical storage areas to prevent discharge into surface waters.

d. Inspection of pollution prevention measures - All pollution prevention measures implemented at permittee-owned facilities must be visually inspected at a frequency determined by the permittee to ensure they are working properly. A log of inspections must be maintained and made available for review by the TCEQ upon request.

(6) Structural Control Maintenance

If BMPs include structural controls, maintenance of the controls must be performed at a frequency determined by the permittee and consistent with maintaining the effectiveness of the BMP.

(c) Additional Requirements for Level 3 and 4 small MS4s:

In addition to the requirements described in Parts.B.5.(b)(1)-(6) above, permittees who operate level 3 or 4 small MS4s shall meet the following requirements:

(1) Storm Sewer System Operation and Maintenance

a. Permittees who operate level 3 or 4 small MS4s shall develop and implement an O&M program to reduce to the maximum extent practicable the collection of pollutants in catch basins and other surface drainage structures.

b. Permittees who operate level 3 or 4 small MS4s shall develop a list of potential problem areas. The permittees shall identify and prioritize problem areas for increased inspection (for example, areas with recurrent illegal dumping).

(2) Operation and Maintenance Program to Reduce Discharges of Pollutants from Roads

Permittees who operate level 3 or 4 small MS4s shall implement an O&M program that includes, if feasible and practicable, a street sweeping and cleaning program, or an equivalent BMP such as an inlet protection program, which must include an implementation schedule and a waste disposal procedure. The basis for the decision must be included in the SWMP. If a street sweeping and cleaning program is implemented, the permittee shall evaluate the following permittee-owned and operated areas for the program: streets, road segments, and public parking lots including, but not limited to, high

traffic zones, commercial and industrial districts, sport and event venues, and plazas, as well as areas that consistently accumulate high volumes of trash, debris, and other stormwater pollutants.

a. *Implementation schedules – If a sweeping program is implemented, the permittee shall sweep the areas in the program (for example, the streets, roads, and public parking lots) in accordance with a frequency and schedule determined in the permittee's O&M prgram.*

b. *For areas where street sweeping is technically infeasible (for example, streets without curbs), the permittee shall focus implementation of other trash and litter control procedures, or provide inlet protection measures to minimize pollutant discharges to storm drains and creeks.*

c. *Sweeper Waste Material Disposal – If utilizing street sweepers, the permittee shall develop a procedure to dewater and dispose of street sweeper waste material and shall ensure that water and material will not reenter the small MS4.*

(3) *Mapping of Facilities*

Permittees who operate level 3 or 4 small MS4s shall, on a map of the area regulated under this general permit, identify where the permittee-owned and operated facilities and stormwater controls are located.

(4) *Facility Assessment*

Permittees who operate level 3 or 4 small MS4s shall perform the following facility assessment in the regulated portion of the small MS4 operated by the permittee:

a. *Assessment of Facilities' Pollutant Discharge Potential - The permittee shall review the facilities identified in Part III.B.5.(b) once per permit term for their potential to discharge pollutants into stormwater.*

b. *Identification of high priority facilities - Based on the Part III.B.5.(c)(2)a. assessment, the permittee shall identify as high priority those facilities that have a high potential to generate stormwater pollutants and shall document this in a list of these facilities. Among the factors that must be considered in giving a facility a high priority ranking are the amount of urban pollutants stored at the site, the identification of improperly stored materials, activities that must not be performed outside (for example, changing automotive fluids, vehicle washing), proximity to waterbodies, proximity to sensitive aquifer recharge features, poor housekeeping practices, and discharge of pollutant(s) of concern to impaired water(s). High priority facilities must include, at a minimum, the permittee's maintenance yards, hazardous waste facilities, fuel storage locations, and any other facilities at which chemicals or other materials have a high potential to be discharged in stormwater.*

c. *Documentation of Assessment Results - The permittee shall document the results of the assessments and maintain copies of all site evaluation checklists used to conduct the assessments. The documentation must include the results of the permittee's initial assessment, and any identified deficiencies and corrective actions taken.*

(5) Development of Facility Specific SOPs

Permittees who operate level 3 or 4 small MS4s shall develop facility specific stormwater management SOPs. The permittee may utilize existing plans or documents that may contain the following required information:

a. For each high priority facility identified in Part III.B.5.(c)(4)b., the permittee shall develop a SOP that identifies BMPs to be installed, implemented, and maintained to minimize the discharge of pollutants in stormwater from each facility.

b. A hard or electronic copy of the facility-specific stormwater management SOP (or equivalent existing plan or document) must be maintained and be available for review by the TCEQ. The SOP must be kept on site when possible and must be updated as necessary.

(6) Stormwater Controls for High Priority Facilities

Permittees who operate level 3 or 4 small MS4s shall implement the following stormwater controls at all high priority facilities identified in Part III.B.5.(c)(4)b.. A description of BMPs developed to comply with this requirement must be included in each facility specific SOP:

a. General good housekeeping – Material with a potential to contribute to stormwater pollution should be sheltered from exposure to stormwater when feasible.

b. De-icing and anti-icing material storage - The permittee shall ensure, to the MEP, that stormwater runoff from storage piles of salt and other de-icing and anti-icing materials is not discharged; or shall ensure that any discharges from the piles are authorized under a separate discharge permit.

c. Fueling operations and vehicle maintenance - The permittee shall develop SOPs (or equivalent existing plans or documents) which address spill prevention and spill control at permittee-owned and operated vehicle fueling, vehicle maintenance, and bulk fuel delivery facilities.

d. Equipment and vehicle washing - The permittee shall develop SOPs that address equipment and vehicle washing activities at permittee-owned and operated facilities. The discharge of equipment and vehicle wash water to the small MS4 or directly to receiving waters from permittee-owned facilities is not authorized under this general permit. To ensure that wastewater is not discharged under this general permit, the permittee's SOP may include installing a vehicle wash reclaim system, capturing and hauling the wastewater for proper disposal, connecting to sanitary sewer (where applicable and approved by local authorities), ceasing the washing activity, or applying for and obtaining a separate TPDES permit.

(7) Inspections

Permittees who operate level 3 or 4 small Ms4s shall develop and implement an inspection program, which at a minimum must include periodic inspections of high priority permittee-owned facilities. The results of the inspections and observations must be documented and available for review by the TCEQ.

(d) Additional Requirements for Level 4 small MS4s:

In addition to all the requirements described in Parts III.B.5(b) and III.B.5.(c) above, permittees who operate level 4 small MS4s shall meet the following requirements:

(1) Pesticide, Herbicide, and Fertilizer Application and Management

a. Landscape maintenance - The permittee shall evaluate the materials used and activities performed on public spaces owned and operated by the permittee such as parks, schools, golf courses, easements, public rights of way, and other open spaces for pollution prevention opportunities. Maintenance activities for the turf landscaped portions of these areas may include mowing, fertilization, pesticide application, and irrigation. Typical pollutants include sediment, nutrients, hydrocarbons, pesticides, herbicides, and organic debris.

b. The permittee shall implement the following practices to minimize landscaping-related pollutant generation with regard to public spaces owned and operated by the permittee:

(i) Educational activities, permits, certifications, and other measures for the permittee's applicators and distributors.

(ii) Pest management measures that encourage non-chemical solutions where feasible. Examples may include:

(a) Use of native plants or xeriscaping;

(b) Keeping clippings and leaves out the small MS4 and the street by encouraging mulching, composting, or landfilling;

(c) Limiting application of pesticides and fertilizers if precipitation is forecasted within 24 hours, or as specified in label instructions;

(d) Reducing mowing of grass to allow for greater pollutant removal, but not jeopardizing motorist safety.

c. The permittee shall develop schedules for chemical application in public spaces owned and operated by the permittee that minimize the discharge of pollutants from the application due to irrigation and expected precipitation.

d. The permittee shall ensure collection and proper disposal of the permittee's unused pesticides, herbicides, and fertilizers.

5. Industrial Stormwater Sources

The Phase I stormwater regulation, found at 40 CFR §§122.26(d)(2)(i)(B, C,E, and F), 122.26(d)(2)(iv), and 122.26(d)(2)(iv)(A), requires permittees to develop and implement an inspection and oversight program to monitor and control pollutants in stormwater discharges from industrial facilities.

The permit includes a new Industrial Stormwater Sources MCM for small MS4s that serve a population of 100,000 or more within a UA. EPA's MS4 Improvement Guide recommends this MCM be included in Phase II permits, and TCEQ believes that it is appropriate to include it for those Phase II MS4s that have similar populations as the Phase I MS4s. Phase I" medium" MS4s are defined as *MS4s located in an incorporated place with a population of 100,000 or more but less than 250,000 as determined by the 1990 Decennial Census by the Bureau of the Census.* (40 CFR § 122.26(b)(7)(i)).

The permit requires the permittee to identify and control pollutants in stormwater discharges to the small MS4 from industrial or commercial sites that contributes a substantial pollutant loading to the small MS4. The permit language under this MCM is similar to language in some Phase I MS4 individual permits.

The permit language proposed under this MCM is included below:

(a) *Permittees operating a level 4 small MS4 shall include the requirements described below in Part III. B.6.(1) – this requirement is only applicable to level 4 MS4s*

(1) *Permittees who operate level 4 small MS4s shall identify and control pollutants in stormwater discharges to the small MS4 from permittee's landfills; other treatment, storage, or disposal facilities for municipal waste (for example, transfer stations and incinerators); hazardous waste treatment, storage, disposal and recovery facilities and facilities that are subject to Emergency Planning and Community Right-to-Know Act (EPCRA) Title III, Section 313; and any other industrial or commercial discharge the permittee determines are contributing a substantial pollutant loading to the small MS4. The program must include priorities and procedures for inspections and for implementing control measures for such discharges.*

6. Authorization for Construction Activities Where the MS4 is the Site Operator

The MS4 operator may develop an optional seventh MCM for discharges from construction activities, and may obtain authorization under the general permit for discharges from construction activities where the MS4 is the operator. In order to qualify for this provision, MS4 operators must maintain control over the plans and specifications of the construction activity, or must maintain the status of the operator with day-to-day operational control over the construction site, to the extent necessary to meet the requirements of the SWP3 for that site. Implementation of this minimum measure allows the small MS4 to obtain this necessary authorization under the terms of this five-year term permit and replaces the requirement to seek separate permit coverage for each construction activity that it conducts. Where the small MS4 is able to demonstrate itself to be the sole operator for these activities, by meeting both criteria listed in the definition of "construction site operator," contractors would not have to seek separate authorization. This provision is allowed for construction activities located in the regulated area, such as within a UA or within an area designated by TCEQ, small MS4s are required to summarize in the annual report pertinent information related to the construction activities performed in the previous year. Small MS4s electing this provision must notify the TCEQ upon submittal of the NOI form, along with an attached SWMP that includes this measure. Utilization of the optional seventh MCM does not preclude a small MS4 from obtaining coverage under the TPDES Construction General Permit, TXR150000, or under an individual TPDES permit.

7. SWMP Implementation.

The SWMP may be implemented on a scheduled stepwise basis throughout the term of the general permit. If full development and implementation of the SWMP is not practicable, then the program must be developed with targeted milestones establishing a schedule that represents the maximum extent practicable (MEP) standard. Implementation must be initiated upon receipt of written approval from the TCEQ of the NOI and SWMP. The general permit contains provisions that allow revisions to the SWMP throughout the term of the permit, without immediate notification to the TCEQ, so that SWMPs can be adjusted based on experiences and findings to become more effective and efficient. Schedules for SWMP

implementation, the status of the implementation schedules, and modifications to the SWMP must be summarized in the annual report. These permit provisions allow small MS4s to develop and implement SWMPs according to available funding, manpower, and ability and allow for revisions where more efficient or effective BMPs are identified. Complete implementation of the SWMP is required within five years from the date of issuance of the general permit.

MS4 operators who were permitted under the existing Phase II MS4 general permit must implement the SWMP that was approved during the application process during the first permit term; however, they will have five years to implement new portions of the SWMP. MS4 operators that were not regulated under the existing permits based on the 2000 UA maps will have a total of five years from the date this general permit is reissued to fully implement their SWMP.

Federal rules at 40 CFR § 123.35(g) require permitting authorities to issue a menu of BMPs to assist small MS4s in complying with the Phase 2 regulations. During the development of the existing general permit, the TCEQ had adopted the EPA menu of BMPs by including that menu as a resource to small MS4s through a link on the TCEQ stormwater web page at:

http://cfpub.epa.gov/npdes/stormwater/menuofbmps/index.cfm

The TCEQ may develop additional guidance during the term of this permit and will make any guidance available on the TCEQ's web page at:

http://www.tceq.texas.gov/permitting/stormwater/sw_permits.html

D. Reporting Requirements

1. The proposed general permit requires small MS4s to provide documentation on the development, implementation, and evaluation of the SWMP. The documentation must be included as a part of the SWMP and may be required to be submitted in the annual report. The preparation and review of the annual report by the small MS4 may ensure progressive improvement of stormwater controls and reduce pollutants to the maximum extent practicable. At a minimum, the documentation must include:

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

    b. If applicable, a list of MS4 operators contributing to the development and implementation of the SWMP, including a clear description of the contribution;

    c. A list of all BMPs and measurable goals for each of the MCM;

    d. A schedule for the implementation of all SWMP requirements;

    e. A description of how each measurable goal will be evaluated; and

    f. A rationale statement that addresses the overall program, including how the BMPs and measurable goals were selected.

2. Additionally, the small MS4 must evaluate the following items and must include the information in an annual report:

a. Program compliance;

b. The appropriateness of the chosen BMPs;

c. Progress toward achieving identified measurable goals.

V. Changes From Existing General Permit:

The major changes to the permit include the following:

1. Added definitions of:

   Arid Areas;
   Catch basins;
   Construction Activity,
   Control Measure;
   Edwards Aquifer;
   Edwards Aquifer Recharge Zone;
   General Permit;
   High Priority Facitities:
   Hyperchlorinated Water;
   Illegal Dumping;
   Impaired Water;
   Indicator Pollutant;
   Major Outfall;
   Municipal Separate Storm Sewer System (MS4);
   Non-traditional Small MS4;
   Semiarid Areas; and
   Traditional Small MS4

2. Removed definition of:

   Daily Maximum

3. Removed the Section entitled "Commonly Used Acronyms."

4. Added that operators of small MS4s, fully or partly located within a UA, as determined by the 20000 or 2010 Decennial Census, are regulated. (Part II.A.1 in the permit). This change is in addition to the current requirement that operators of small MS4s fully or partially located within a UA as defined under the 2000 Census, which is being continued from the existing permit based on the Phase II regulations.

5. Added that operators of previously permitted small MS4s must reapply or obtain a waiver if applicable. (Part II.A.3 in the permit).

6. Categorized regulated small MS4s into 4 levels (Part II.A.5 in the permit):

   a. Level 1: Operators of small MS4s that serve a population less than 10,000 within a UA;

   b. Level 2: Operators of small MS4s that serve a population of at least 10,000 but less than 40,000 within a UA. This category also includes all non-traditional small MS4s such as counties, drainage districts, transportation entities, universities, colleges, correctional institutions, municipal utility districts and other districts regardless of population served within the UA,

unless the non-traditional small MS4 can demonstrate that is meets the criteria for a waiver form permit coverage based on the population served.

c. Level 3: Operators of small MS42 that serve a population of at least 40,000 but less than 100,000 within a UA;

d. Level 4: Operators of small MS4s that serve a population of 100,000 or more within a UA.

7. Added a statement that discharges authorized by a TPDES or NPDES permit or that are not required to be permitted may be included in the list of Allowable of Non-Stormwater Discharges (Part II.C in the permit).

8. Expanded the language in the section Impaired Water Bodies and Total Maximum Daily Load (TMDL) Requirements. Small MS4s discharging to a water quality impaired waterbody with an approved TMDL, where the impairment is caused or contributed to by stormwater, shall include in the SWMP controls targeting the pollutant(s) of concern along with controls required in the TMDL or Implementation Plan (IP) plan. For each targeted control the SWMP must include a measurable goal and an implementation schedule describing BMPs to be implemented. A benchmark must be determined based on a Waste Load Allocation (WLA) for the small MS4. Benchmarks are designed to assist in determining if the BMPs established are effective in addressing the pollutant(s) of concern in stormwater discharge(s) from the MS4 to the maximum extent practically (MEP). The BMPs would need to be evaluated and modified as necessary within an adaptive management framework during the permit term. Adaptive management requires the permittee to assess and modify, as necessary, any or all existing BMPs to optimize reduction in stormwater pollutants through an iterative process. These benchmarks are not numeric effluent limitations or permit conditions but intended to be guidelines. The exceedance of a benchmark is not a permit violation and does not of itself indicate a violation of instream water quality standards. If the pollutant of concern is bacteria the SWMP must include focused BMPs targeting those sources. The SWMP and annual report must include information on implementing any focused controls and must include monitoring or assessment of progress in achieving benchmarks. If the permittee reduces applicable pollutant discharges for the pollutants listed in the TMDL to the MEP, this reduction is deemed to be adequate progress toward achieving assigned TMDL WLAs during this five year permit period. Small MS4s discharging directly to water quality impaired water bodies without an approved TMDL shall determine if the discharge contains the pollutant(s) of concern, and if so the small MS4 shall implement focused BMPs along with corresponding measurable goals that will eliminate the discharge of the pollutant(s) of concern. (Part II.D.4 of the permit).

9. Added the NOI also must include an electronic mail address of the MS4 operator. (Part II.D.4 of the permit).

10. Clarified that the public notice must be published at least once in a newspaper of *general* circulation in the municipality or county where the small MS4 is located (Part II.D.12 in the permit).

11. Added a section to describe modifications to the SWMP. TCEQ can require the permittee to update its SWMP in which case the modifications have to be done within 90 days. If the permittee determines modifications are needed, such changes must be made as soon as practicably, but not later than 60 days (Permit Part II.E.3).

12. Added that non-substantive changes such as minor clarifications to the SWMP, correctional or typographical errors or other similar administrative comments does not require submittal of a NOC.

13. Added a section to require permittees to develop or update their SWMP, as applicable and submit it to SWMP to the TCEQ as part of the application process. Permittees who were not previously regulated and existing permittees must submit their SWMP within 180 days following the issue date of the permit (Permit Part III.A.1).

14. Added a section entitled *Developing a Stormwater Management Program* (Part III.A in the permit). The section describes that, at a minimum, a SWMP must include ordinances or other regulatory mechanisms necessary to enforce the SWMP, including what the legal ordinance must address to implement the SWMP. The permit provides guidance to non-traditional small MS4s (for example counties, drainage districts, municipal utility districts, and transportation entities) that do not have the authority to develop ordinances, on how they can meet the goals of the permit. The section describes that operators are required to ensure that it has adequate resources and funding to implement the program, and have a plan for how to respond to violations.

15. Added a section describing the six MCMs, all of which have been expanded from the original general permit, based on the EPA MS4 Improvement Guide, with consideration from the stormwater stakeholder workgroup: (1) Public Education, Outreach and Involvement; (2) Illicit Discharge Detection and Elimination; (3) Construction Site Stormwater Runoff Control; (4) Post Construction Stormwater Management in New Development and Redevelopment; (5) Pollution Prevention and Good House Keeping for Municipal Operations; and (6) Industrial Stormwater Sources (Part IV.C of this fact sheet and Part III.B in the permit).

16. Removed the requirement to consider specific groups (residents, visitors, public service employees, business, commercial and industrial facilities, and construction site personnel) in the Public Education, Outreach and Involvement MCM (Part III.B.(1) in the permit). This is consistent with the Phase II regulations at 40 CFR § 122.34(b)(1) and should allow MS4 operators to streamline this MCM.

17. Made several minor changes to the Standard Permit Conditions in Part V of the general permit.

18. Added that the permittee must submit annual reports at the end of each reporting year, and provided the flexibility for each MS4 to have a different reporting year. In the permit, the permittee may choose its reporting year based on the permit year, the permittee's fiscal year, or the calendar year. This information will need to be provided to the TCEQ during the NOI submittal.

19. Added language under the optional 7th MCM, related to small MS4 Construction Activities, to correspond to requirements in the Construction General Permit (CGP) TXR150000 effective on March 5, 2008 (Part VI in the permit).

20. Added that that the permittee must make the NOI and the SWMP available to the public at reasonable times during business hours (Part IV.A.(c) in the permit).

21. Added the limitation that discharges that would adversely affect a listed endangered or threatened aquatic or aquatic-dependent species or its critical habitat are not authorized by the general permit, and site-specific controls may be

required to ensure that protection of endangered or threatened species is achieved. This change is consistent with other water quality general permits.

22. Pursuant to the October 23, 2013 Commissioner's Order on the Livestock Manure Composting General Permit, WQG200000, the draft permit was similarly revised to clarify that an applicant who owns or operates a facility classified as an "unsatisfactory performer" is entitled to a hearing before the commission prior to denial or suspension of authorization.

VI. Addresses

Questions concerning this proposed draft general permit should be sent to:

TCEQ, Stormwater & Pretreatment Team Leader
Wastewater Permitting Section (MC-148)
P.O. Box 13087
Austin, Texas 78711-3087
(512) 239-4671
swgp@tceq.texas.gov

Comments regarding the proposed draft general permit during the public comment period must be submitted either by mail to the following address, by facsimile (fax) followed by mail, or electronically as described below (please refer to the public notice for official instructions):

By Mail:
TCEQ, Chief Clerk's Office (MC-105)
P.O. Box 13087
Austin, Texas 78711-3087

By fax: (512) 239-3311*

*Fax must be followed by hard copy in mail to CCO at address above within three days of fax date.

Electronically: www10.tceq.state.tx.us/epic/ecmnts/

Questions Regarding Public Comments Should Be Directed to CCO: (512) 239-3300

Supplementary information on this Fact Sheet is organized as follows:

VII. Legal Basis

Section (§) 26.121 of the Texas Water Code (TWC) makes it unlawful to discharge pollutants into or adjacent to water in the state except as authorized by a rule, permit, or order issued by the commission. TWC, § 26.027 authorizes the commission to issue permits and amendments to permits for the discharge of waste or pollutants into or adjacent to water in the state. TWC, § 26.040 provides the commission with authority to amend rules adopted under TWC § 26.040 prior to amendment of the statute by House Bill (HB) 1542 in 1997, and to authorize waste discharges by general permit. On September 14, 1998, the TCEQ received authority from the United States Environmental Protection Agency (EPA) to administer the Texas Pollutant Discharge Elimination System (TPDES). The TCEQ and the EPA have signed a Memorandum of Agreement (MOA) which authorizes the administration of the National Pollutant

Discharge Elimination System (NPDES) program to the TCEQ as it applies to the State of Texas.

CWA, §§ 301, 304, and 401 (33 United States Code (USC), §§ 1331, 1314, and 1341) include provisions which state that NPDES permits must include effluent limitations requiring authorized discharges to: (1) meet standards reflecting levels of technological capability; (2) comply with EPA-approved state water quality standards; and (3) comply with other state requirements adopted under authority retained by states under CWA, § 510, 33 USC, §1370.

VIII. Regulatory Background

The 1972 amendments to the Federal Water Pollution Control Act, later referred to as the Clean Water Act (CWA), prohibit the discharge of any pollutant to navigable waters of the U.S. from a point source unless the discharge is authorized by an NPDES permit. Efforts to improve water quality under the NPDES program traditionally have focused on reducing pollutants in industrial process wastewater and municipal sewage treatment plant discharges. Over time, it has become evident that more diffuse sources of water pollution, such as stormwater runoff from small MS4s, are also significant contributors to water quality problems. EPA developed permit requirements for small MS4s that are intended to improve water quality by reducing the quantity of pollutants that stormwater discharges into storm sewer systems during storm events.

In 1990, EPA promulgated rules establishing Phase I of the NPDES stormwater program. Phase I addresses discharges from medium and large MS4s, which are those MS4s with a population of 100,000 people or more, based on the 1990 Census. Phase I MS4s were required by the EPA to obtain individual NPDES permits. No additional Phase I MS4s will be created by later Census results. The federal Phase II stormwater regulations extended permitting requirements to certain small MS4s, and required that a more general stormwater management program (SWMP) be developed than was required for medium and large MS4s under Phase I. The Phase II regulations were published on December 8, 1999 in the Federal Register, requiring affected small MS4s to obtain permit coverage by March 10, 2003. The Phase II regulations are identified in federal rules at 40 CFR §§ 122.30 through 122.37, which were adopted by the TCEQ at 30 TAC § 281.25(b). This proposed TPDES general permit would offer the necessary authorization for these small MS4 discharges.

IX. Permit Coverage

1. The proposed general permit would apply to discharges of stormwater runoff associated with small MS4s. The guidelines for small MS4s were published in the Federal Register on December 8, 1999 (64 FR 68722).
2. Applicants seeking authorization to discharge stormwater runoff from small MS4s under the conditions and requirements of the proposed general permit must submit a completed Notice of Intent (NOI) on a form approved by the executive director, as well as a description of the SWMP. The NOI form will include at a minimum, the legal name and address of the owner and operator, the facility name and address, specific description of its location (including the street address, if applicable, and county), the type of facility and discharge, the name of the receiving water, information on impaired waters, the boundary of the area where construction activities are covered under the general permit (if the optional MCM is developed), and other information requested by the TCEQ. The NOI must be signed according to TCEQ rules at 30 TAC § 305.44, which establishes

requirements regarding who may sign an application for a permit applicant, and requires that a legal certification be made regarding the permit application. The specific language in this rule can be found at:

http://info.sos.state.tx.us/pls/pub/readtac$ext.viewtac, by searching Title 30, Texas Administrative Code (TAC), Chapter 305, Subchapter C (related to Application for Permit).

MS4 operators can locate information regarding the classified segment(s) receiving the discharges from the MS4 in the "Atlas of Texas Surface Waters" at the following TCEQ web address. This document includes identification numbers, descriptions, and maps:

http://www.tceq.texas.gov/comm_exec/forms_pubs/pubs/gi/gi-316/index.html

MS4 operators can find the latest EPA-approved list of impaired water bodies (the Texas 303(d) List) at the following TCEQ web address:

http://www.tceq.texas.gov/compliance/monitoring/water/quality/data/wqm/305_303.html

3. Submission of an NOI and SWMP is an acknowledgment by the regulated small MS4 that the conditions of this general permit are applicable to the proposed discharges and that the applicant agrees to comply with the conditions of the general permit. Discharge authorization begins when the applicant is notified by TCEQ that the NOI and SWMP have been administratively and technically reviewed, and the applicant has followed the public participation provisions in the general permit. The documents must be submitted by certified mail, return receipt requested, to the address indicated on the NOI form. Following review of the NOI, SWMP, and any public comments received on the application, the executive director will determine that: 1) the submission is complete and confirm coverage by providing a notification and an authorization number, 2) the NOI or SWMP are incomplete and deny coverage until a complete NOI and SWMP are submitted, or 3) approve the NOI and SWMP with revisions and provide a written description of the required revisions along with any compliance schedule(s), or 4) deny coverage and provide a deadline by which the MS4 operator must submit an application for an individual permit. Denial of coverage under the general permit is subject to the requirements of 30 TAC § 205.4(c). After receiving written approval from the TCEQ, the applicant must implement the approved SWMP in accordance with the terms and conditions of the general permit.
4. If the operational control of the small MS4 changes, the present operator must submit an NOT and the new operator must submit an NOI and SWMP to obtain authorization under this general permit. The NOT and NOI must be submitted concurrently no greater than 10 days after the change occurs.
5. A permittee must submit current information to the executive director by submitting a Notice of Change (NOC) no later than 30 days before a change in information previously provided to the executive director within an NOI occurs. An NOC is also required for changes to the SWMP that are made after TCEQ has approved the NOI and SWMP. If changes are proposed before the applicant has received written approval of the NOI and SWMP from the TCEQ, then this information must be submitted in a letter as supplemental application information. An NOC must be signed according to TCEQ rules at 30 TAC § 305.44. The permit includes a list of minor changes that may be made without submitting an NOC, and also includes information regarding time frames for implementing changes requested on an NOC.

6. A discharger may terminate coverage under the general permit by providing a Notice of Termination (NOT) on a form approved by the executive director. The NOT must be signed according to TCEQ rules at 30 TAC § 305.44. 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.

X. Technology-Based Requirements

The conditions established by the general permit are based on Section 402(p)(3)(B) of the Clean Water Act (CWA) which mandates that a permit for discharges from MS4s must:

1. Effectively prohibit the discharge of non-stormwater to the MS4; and
2. Require controls to reduce pollutants in discharges from the MS4 to the maximum extent practicable (MEP) including best management practices (BMPs), control techniques, and system, design and engineering methods, and such other appropriate provisions.

The conditions of the proposed general permit have been developed to comply with the technology-based standards of the Clean Water Act. The draft general permit includes an SWMP requirement that includes MCMs utilizing a series of BMPs, rather than numeric limitations, to address the minimization of pollutants in stormwater discharges to waters of the U.S.. The Federal Phase II regulations define a small MS4 SWMP as a program comprising of at least six MCMs that collectively are expected to result in significant reductions of pollutants discharged into receiving water bodies. Implementation of the MEP standard will typically require the development and implementation of BMPs and the achievement of measurable goals to satisfy each of the six MCMs. TCEQ believes that the requirements of the draft general permit, if properly implemented, will meet the MEP standard required in the federal rules at 40 CFR § 122.34.

A statement is continued in the permit which indicates that the BMPs included in the SWMP constitute effluent limitations for the purposes of compliance with 30 TAC Chapter 319, Subchapter B.

The proposed general permit provides for development of an optional 7th MCM that would authorize a small MS4 to discharge stormwater runoff from construction activities disturbing one or more acres where it is the operator. This provision allows the small MS4 the option of separate coverage for these construction activities under TPDES general permit TXR040000 rather than the CGP, TXR150000. Discharges for stormwater runoff from construction support activities including concrete batch plant, asphalt batch plants, equipment staging areas, material storage yards, material borrow areas, and excavated material disposal areas may be authorized under the general permit. The following proposed limitations and monitoring frequencies are applicable to stormwater discharges from concrete batch plants authorized as a support activity at regulated construction sites:

Table 1: Benchmark Monitoring for Concrete Batch plants

Benchmark Parameters	Benchmark Value	Sampling Frequency	Sample Type
Oil and Grease	15 mg/L	1/Quarter	Grab
Total Suspended Solids	100 mg/L	1/Quarter	Grab

Benchmark Parameters	Benchmark Value	Sampling Frequency	Sample Type
pH	6.0-9.0 S.U.	1/Quarter	Grab
Total Iron	1.3 mg/L	1/Quarter	Grab

XI. Water Quality-Based Requirements

The Texas Surface Water Quality Standards (TSWQS) found at 30 TAC Chapter 307 state that "surface waters will not be toxic to man, or to terrestrial or aquatic life." The methodology outlined in the "Procedures to Implement the Texas Surface Water Quality Standards" is designed to ensure compliance with 30 TAC Chapter 307. Specifically, the methodology is designed to ensure that no source will be allowed to discharge any waste which: (1) results in instream aquatic toxicity; (2) causes a violation of an applicable narrative or numerical state water quality standard; (3) results in the endangerment of a drinking water supply; or (4) results in aquatic bioaccumulation which threatens human health.

TPDES permits contain technology-based effluent limits reflecting the best controls available. Where these technology-based permit limits do not protect water quality or the designated uses, additional conditions are included in the TPDES permits, which may include discharge limitations. State narrative and numerical water quality standards are used in conjunction with EPA criteria and other toxicity databases to determine the adequacy of technology-based permit limits and the need for additional water-quality-based controls.

TPDES stormwater permits do not typically contain water-quality-based effluent limits (WQBELs). As stated in 30 TAC § 307.8(e), controls on the quality of permitted stormwater discharges are largely based on implementing BMPs and/or technology-based limits in combination with instream monitoring to assess standards attainment and to determine whether additional controls on stormwater are needed. Also, according to EPA rules at 40 CFR § 122.34(a), narrative effluent limitations requiring implementation of BMPs are generally the most appropriate form of effluent limitations when designed to satisfy technology requirements (including reductions of pollutants to the MEP) and to protect water quality for small MS4s. It has been preliminarily determined that where permit requirements are properly implemented no significant degradation is expected and existing uses will be maintained and protected.

XII. Monitoring

If the small MS4 discharges stormwater from a construction project authorized under this general permit that includes a supporting concrete batch plant, compliance monitoring is required. Discharges from the batch plant must be sampled at a minimum frequency of once per quarter (1/quarter).

The MS4 operator may additionally sample discharges from the small MS4 in order to assess the effectiveness of stormwater MCMs, measure the effectiveness of BMPs, to detect illicit discharges to the small MS4, or for other similar reasons.

The permittee may also be required to identify sources of pollutant(s) of concern where the small MS4 discharges directly to a water body that is impaired for a pollutant present in the discharge. Examples of pollutants of concern may be bacteria and sediment.

XIII. Procedures for Final Decision

The memorandum of agreement (MOA) between the EPA and TCEQ provides that EPA has no more than 90 days to comment, object, or make recommendations to the draft general permit before it is proposed for consideration by the Commissioners of the TCEQ. According to 30 TAC Chapter 205, when the initial draft general permit is submitted for public comment prior to being proposed to the Commission of the TCEQ, notice must be published, at a minimum, in at least one newspaper of statewide or regional circulation. The commission may also publish notice in additional newspapers of statewide or regional circulation. Mailed notice must also be provided to the following:

1. The county judge of the county or counties in which the discharges under the general permit could be located;

2. If applicable, state and federal agencies for which notice is required in 40 CFR, §124.10(c);

3. Persons on a relevant mailing list kept under 30 TAC § 39.407, relating to Mailing Lists; and

4. Any other person the executive director or chief clerk may elect to include.

After notice of the initial permit is published in the Texas Register and the newspaper, the public will have 30 days to provide public comment on the IDP.

Any person, agency, or association may make a request for a public comment meeting on the proposed general permit to the executive director of the TCEQ before the end of the public comment period. A public comment meeting will be granted when the executive director or commission determines, on the basis of requests, that a significant degree of public interest in the draft general permit exists. A public comment hearing is intended for the taking of public comment, and is not a contested case proceeding under the Administrative Procedure Act. The executive director may call and conduct public meetings in response to public comment.

If the executive director calls a public meeting, the commission will give a minimum of 30 days public notice in the Texas Register of the date, time, and place of the meeting, as required by commission rules. The public notice for the draft general permit and for the public meeting(s) may be combined. The public comment is automatically extended until the conclusion of all public meetings on the draft general permit. The executive director shall prepare a response to all significant public comments on the draft general permit raised during the public comment period. The proposed general permit will then be filed with the commission to consider final authorization of the permit. The executive director's response to public comment will be made available to the public and filed with the chief clerk at least ten days before the commission acts on the proposed general permit.

Once the permit is completed, it is sent to the Office of the Chief Clerk of the TCEQ. The notice is published in the Texas Register, and the permit is placed on the Commission's agenda. For additional information about this general permit, contact the Stormwater & Pretreatment Team at (512) 239-4671.

XIV. Administrative Record

The following section is a list of the fact sheet citations to applicable statutory or regulatory provisions and appropriate supporting references.

A. Code of Federal Regulations (CFR) and Federal Register (FR) Citations:

40 CFR Chapter 122

Federal Register dated February 17, 1998 (Volume 63, No. 31, Pages 7858-2906)

Federal Register dated December 8, 1999 (Volume 64, No. 235, Pages 68722-68851)

B. Letters/Memoranda/Records of Communication:

Memorandum from the U.S. EPA (Hanlon) dated April 16, 2004 from, "Implementing the Partial Remand of the Stormwater Phase II Regulations Regarding Notices of Intent & NPDES General Permitting for Phase II MS4s."

Stakeholder comments provided to the TCEQ in September 2011 and October 2011.

Memo from the Water Quality Standards Team of the Water Quality Assessment Section of the TCEQ.

Comment letters received during the initial public notice period.

C. Miscellaneous:

MS4 Permit Improvement Guide, U.S. EPA, Office of Water. Office of Wastewater Management, Water Permits Division, April 2010 (EPA 833-R-10-001)

U.S. Environmental Protection Agency's Fact Sheet No. 2.0, "Stormwater Phase II Final Rule - Small MS4 Stormwater Program Overview," January 2000 (EPA 833-F-00-002).

U.S. Environmental Protection Agency's Fact Sheet No. 2.1, "Stormwater Phase II Final Rule – Who's Covered? Designation and Waivers of Regulated Small MS4s," January 2000 (EPA 833-F-00-003).

U.S. Environmental Protection Agency's Fact Sheet No. 2.2, "Stormwater Phase II Final Rule - Urbanized Area - Definition and Description," December 1999 (EPA 833-F-00-004).

The Clean Water Act, 33 U.S.C. Chapter 26

Quality Criteria for Water (1986), EPA 440/5 86 001, 5/1/86.

The State of Texas Water Quality Inventory, 13th Edition, Publication No. SFR-50, Texas Natural Resource Conservation Commission, December 1996.

Texas Surface Water Quality Standards, 30 TAC Sections 307.1 307.10 (21 TexReg 9765, 4/30/97).

"Procedures to Implement the Texas Surface Water Quality Standards," Texas Commission on Environmental Quality, January 2003.

TCEQ Rules.

30 TAC Chapters 39, 205, 213, 281, 311, 305, 307, 309, 319, 321, 331

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT ON GENERAL PERMIT NO. TXR040000

The executive director of the Texas Commission on Environmental Quality (commission or TCEQ) files this Response to Public Comment (Response) on Texas Pollutant Discharge Elimination System (TPDES) General Permit No. TXR040000. As required by Texas Water Code (TWC), §26.040(d) and 30 Title Texas Administrative Code (30 TAC) Section §205.3(c), before a general permit is issued, the executive director must prepare a response to all timely, relevant and material, or significant comments. The response must be made available to the public and filed with the Office of the Chief Clerk at least ten days before the commission considers the approval of the general permit. This response addresses all timely received public comments, whether or not withdrawn. Timely public comments were received from the following persons or entities:

Allan Boone Humphries Robinson LLP (Allan Boone), Brazoria County Stormwater Quality Coalition, including the City of Lake Jackson, City of Angleton, City of Alvin, City of Freeport, City of Clute, City of Richwood, Brazoria County, Brazoria Drainage District No. 4, Brazoria County Conservation and Reclamation District No. 3, Velasco Drainage District, and Angleton Drainage District (BCC), Dallas Area Rapid Transit (DART), City of Farmers Branch (Farmers Branch), Fort Bend County Stormwater Quality Coalition, including Fort Bend County Drainage District and Fort Bend County (FBCC), Geosyntec Consultants, Inc. (GCI), Hardin County Stormwater Quality Coalition, including the City of Lumberton and Hardin County (HCC), Jefferson County Stormwater Quality Coalition, including the City of Nederland, City of Groves, City of Port Neches, City of Port Arthur, Jefferson County Drainage District No. 7, and Jefferson County (JCC), City of Lewisville (Lewisville), LRGV Stormwater Task Force, comprised of the City of Brownsville, Cameron County, San Benito, La Feria, Primera, Palm Valley, City of Harlingen, Cameron County Drainage District #1, Weslaco, Donna, Alamo, San Juan, Mission, La Joya, Alton and the City of Edinburg (STF), City of Mansfield (Mansfield), City of McKinney (McKinney), Montgomery County Stormwater Quality Coalition, including the City of Conroe, The Woodlands Joint Powers Agency, and Montgomery County (MCC), Orange County Stormwater Quality Coalition, including the City of Vidor, City of Bridge City, City of Orange, City of Pinehurst, City of West Orange, Orange County, and Orange County Drainage District (OCC), North Austin Stormwater Quality Coalition, including Wells Branch MUD, North Austin MUD, and Williamson County MUD No. 13 (NAC), City of Round Rock (Round Rock), City of Sugar Land (Sugar Land), City of Temple, Tarrant County, Texas Department of Transportation (TXDOT) and Travis County Transportation Natural Resources Department (TCTNR).

Background

This general permit would authorize discharges of stormwater and certain non-stormwater discharges from small municipal separate storm sewer systems (MS4s). Federal Phase II stormwater regulations adopted by TCEQ extend stormwater permitting requirements to small MS4s located in urbanized areas and issuing this

permit provides coverage for regulated small MS4s. Under the permit, small MS4s will only be authorized to discharge following the development and implementation of a comprehensive stormwater management program (SWMP). Each regulated small MS4 operator must develop the six minimum control measures (MCMs) according to the provisions of the permit.

The permit is proposed under the statutory authority of: 1) TWC §26.121, which makes it unlawful to discharge pollutants into or adjacent to water in the state except as authorized by a rule, permit, or order issued by the commission; 2) TWC §26.027, which authorizes the commission to issue permits and amendments to permits for the discharge of waste or pollutants into or adjacent to water in the state; and 3) TWC §26.040, which provides the commission with authority to amend rules to authorize waste discharges by general permit.

On September 14, 1998, the TCEQ received authority from the United States Environmental Protection Agency (EPA) to administer the Texas Pollutant Discharge Elimination System (TPDES) program. TCEQ and EPA have a Memorandum of Agreement (MOA) that authorizes the administration of the National Pollutant Discharge Elimination System (NPDES) program by the TCEQ as it applies to the State of Texas.

The federal Phase II stormwater regulations were published on December 8, 1999 in the Federal Register, requiring regulated small MS4s to obtain permit coverage. TPDES General Permit No. TXR040000 was issued on August 13, 2007. The Phase II small MS4 regulations are in the federal rules at 40 Code of Federal Regulations (C.F.R.) §§122.30 through 122.37, which were adopted by reference by TCEQ at 30 TAC §281.25(b). TCEQ did not adopt by reference the guidance in 40 C.F.R. §122.33 and §122.34.

Stormwater and certain non-stormwater discharges from medium and large MS4s, those operated within cities with a population of 100,000 or more, are currently authorized under individual TPDES stormwater permits. These individual stormwater permits are for terms of five years.

Notice of availability and an announcement of public meetings for this permit were published in the *Austin American Statesman*, *Corpus Christi Daily News*, *Dallas Morning News*, *El Paso Times*, *Houston Chronicle*, *The Monitor*, *San Antonio Express-News*, and the *Texas Register* on August 24, 2012. A public meeting was held in Austin on September 24, 2012 and the comment period ended on that day as well.

General Comments

Comment: McKinney asks why the acronyms section was removed.

Response: This section is not included in other stormwater general permits and the acronyms are defined where necessary throughout the permit.

Comment: GCI notes that the terms "Level" and "Tier" are both used in the draft permit. GCI suggests that the term "Tier" be omitted and the term "Level" be used consistently throughout the permit.

Response: In response to the comment, the term "Tier" was replace with "Level" throughout in the permit.

Comment: TXDOT notes the permit uses both SWPPP and SWP3 as interchangeable acronyms and recommends using one or the other throughout the permit.

Response: In response to the comment, the acronym was standardized throughout the permit to SWP3.

Comment: TXDOT recommends in numerous sections of the permit to add language to address the possible issuance of an alternative general permit.

Response: TCEQ declines to make the requested changes because it has no plans at this time to issue an alternative general permit for any small MS4s during the proposed permit term.

Cover Page

Comment: TXDOT suggests re-wording the first sentence of the cover page as follows: "...only according to requirements and conditions set forth in this general permit..." and re-wording the final phrase of that sentence to: "...other orders of the TCEQ."

Response: In response to the comment, the first sentence of the cover page was changed as recommended to: "Small Municipal Separate Storm Sewer systems located in the state of Texas may discharge directly to surface water in the state only according to requirements and conditions set forth in this general permit, as well as the rules of the Texas Commission on Environmental Quality (TCEQ or Commission), the laws of the State of Texas, and other orders of the TCEQ."

Part I. – Definitions

Comment: TXDOT recommends the following edits in part (a) of the definition of "Construction Site Operator" so that it reads: "...to meet the requirements and conditions of TPDES General Permit TXR150000 – Construction General Permit;..."

Response: TCEQ declines to make the requested change because "Construction Site Operators" as defined in the permit are already required to meet the requirements in the TXR040000 Construction General Permit.

Comment: TXDOT recommends the following edits in part (b) of the definition of "Construction Site Operator" so that it reads: "..."compliance with a Stormwater Pollution Prevention Plan (SWPPP or SWP3)..." and "...to carry out activities required by the SWPPP or comply with other permit conditions."

Response: In response to the comment, part (b) of the definition of "Construction Site Operator" was changed to: "The entity or entities that have day-to-day operational control of those activities at a construction site that are necessary to ensure compliance with a stormwater pollution prevention plan (SWP3) for the site or other permit conditions (for example they are authorized to direct workers at a site to carry out activities required by the SWP3 or comply with other permit conditions)."

Comment: McKinney recommends changing the definition of "Final Stabilization" from: "A construction site where either of the following..." to "A construction site where any of the following are met..."

Response: In response the comment, the definition of "Final Stabilization" was revised as recommended to "A construction site where any of the following are met..."

Comment: McKinney comments that the definition of "Illicit Discharge includes the phrase "...discharges pursuant to this general permit..." McKinney asks whether this is a reference to "allowable discharges" as listed in Part II.C.

Response: TCEQ affirms that the term "discharges pursuant to this general permit" in the definition of "Illicit Discharges" refers to "Allowable Discharges" listed in Part II.C of the permit.

Comment: In reference to the definition of "Non-traditional MS4," McKinney asks whether there are non-traditional MS4s that can pass ordinances and if so, are they really non-traditional.

Response: TCEQ is not aware of all the potential permutations of regulatory authority by MS4s across the state. That is why the definition for non-traditional MS4s in the permit states that it includes small MS4s "that often cannot pass ordinances" and intentionally does not exclude the possibility that a non-traditional MS4, as defined by the permit, could pass ordinances.

Part II.A.

Comment: TXDOT recommends adding "this" to the heading for section A. so that it reads: "Section A. Small MS4s Eligible for Authorization by this General Permit."

Response: In response to the comment, the heading for Part II.A was changed to: "Small MS4s Eligible for Authorization under this General Permit."

Comment: McKinney comments that this section concerns criteria establishing which small MS4s must seek coverage (subsections 1-3). McKinney recommends that subsections 4 and 5 should be separated from subsections 1 to 3.

Response: TCEQ declines to make the requested change because subsections 4 and 5 describe which portions of the MS4s are regulated and their respective four levels of

small MS4s. These subjects are both related to which MS4s are eligible for authorization under this general permit.

Part II.A.4

Comment: TXDOT comments that the second paragraph should be re-worded to read as follows: "For the purpose of this permit, the transportation regulated portion of a small MS4 is the land owned by the transportation authority devoted to highway used by the traveling public and located within the UA. Non-Contiguous property that does not drain into the transportation stormwater drainage system and/or is not part of the existing developed roadway system is not subject to this general permit."

Response: TCEQ declines to make the requested change because the general permit language applies not only to transportation authorities that operate highways, but also to those that operate rail systems and buses.

Part II.A.5.

Comment: TXDOT recommends adding "military bases" to the list of non-traditional MS4s in 5(b) for consistency with the definition of non-traditional MS4.

Response: In response to the comment, "military bases" was added to the list of non-traditional MS4s in Part II.A.5.(b) in the permit and "military bases" was also added to the summary in I.1.c.(2) of the fact sheet.

Comment: Craig Maske and Temple comment that the initial sentence in this paragraph is confusing. Mr. Maske asks whether the MS4 level changes only if a community annexes or de-annexes property. Mr. Maske suggests adding language in this section or in the initial sentence clarifying when an MS4 level might go up or down. Temple comments that later in this section it states that the level is based on operators of traditional small MS4s that serve a population threshold within an urbanized area and that these statements appear contradictory.

Response: The level of an MS4 can change during the permit term only if a community acquires more regulated area by annexing additional land area or if regulated area is given up by de-annexing. The level will not change based on population fluctuation during this permit term because no U.S. Census delineating population changes is scheduled until 2020. No changes were made in response to the comment.

Comment: Sugar Land asks whether, in the event of a shared SWMP between a Level 2 and a Level 3 MS4, the Level 2 MS4 operator is required to meet any or all of the Level 3 requirements.

Response: If a Level 2 MS4 and a Level 3 MS4 share a SWMP, the Level 2 MS4 will not be required to meet Level 3 permit requirements. However, the roles and responsibilities of each MS4 should be clearly defined in the SWMP.

Comment: Craig Maske notes that this section states that the population served by an MS4 is based on either the 2000 or 2010 Census data, whichever is larger. Mr. Maske comments that the population served by the MS4 should be determined by the 2010 census. Mr. Maske recommends changing the permit language so that only the 2010 census data is used to determine the population served in order to determine the MS4's corresponding level.

Response: In response to the comment, the first sentence in Part II.A.5. was changed to " This permit defines MS4 operators by the following categories, or levels, based on the population served within the 2010 UA." and the last paragraph in Part II.A.5. was changed to "For the purpose of this section "serve a population" means the residential population within the regulated portion of the small MS4 based on the 2010 census, except for non-traditional small MS4s listed in (b) above." However, once a Small MS4 is regulated based on the most current census data, it will remain regulated regardless of fluctuation in population. If possible, the MS4 may apply for a waiver for permit coverage.

Comment: Craig Maske comments that the determination of population cutoffs for each of the levels of MS4s seems arbitrary. Mr. Maske notes that there are several components of the MCMs that will require significant budget and staff time where Level 3 and 4 MS4s are treated in the same manner (such as MCM 5). Mr. Maske suggests a 60,000 upper limit on the population served by a Level 2 MS4 would be more appropriate. Mr. Maske comments that this change would decrease the burden on the smaller MS4s. Mr. Maske also requests an explanation or justification on how the various thresholds were determined. GCI asks for the basis and rationale for the small MS4 categories and the population breakpoints.

Response: The determination of population cutoffs for the four levels of MS4s are arbitrary, but are based on discussions and input from stakeholders. Initially, TCEQ had suggested only three levels. Level 1: less than 10,000, Level 2: 10,000 to 100,000, and Level 3: greater than 100.000. However, stakeholders felt that Level 2 should be divided into two levels, because MS4s with a population of 10,000 would be very different from larger MS4s and would have fewer resources than MS4s with populations up to 100,000. No changes were made in response to the comment.

Comment: McKinney comments that by creating additional levels of MS4s, TCEQ is adding layers of bureaucracy requiring additional levels of SWMP, annual report review, and oversight. McKinney also comments that this reduces the ability of MS4s to act and cooperate at a regional or watershed level.

Response: Creating different levels of small MS4s should not add bureaucracy to the MS4 stormwater program. The intent of having different levels for varying populations of small MS4s is to exempt some of the small MS4s from having to comply with some of the additional permit requirements that were added to this version of the permit. For example, only Level 4 MS4s are required to implement MCM 6, Industrial Stormwater Sources. Furthermore, MS4s of various levels could still cooperate at a regional or watershed level as long as their responsibilities are clearly defined in their SWMPs.

Part II.B.

Comment: Sugar Land comments that TCEQ should consider adding a waiver for municipal utility districts (MUDs) that: 1) are established solely as development financing mechanism, 2) are located within the city limits and jurisdiction of a larger MS4, where the larger MS4's SWMP will meet permit requirements for the MUD, 3) do not own and operate drainage or stormwater facilities, or 4) do not own or operate maintenance or operating facilities.

Response: TCEQ declines to add additional waiver options to the permit. However, MUDs meeting the conditions described by the commenter, and that do not own or operate a conveyance or system of conveyances that is designed or used for collecting or conveying stormwater, would not be considered a MS4 operator for the purposes of this permit. Therefore, those MS4s would not be regulated and would neither need to submit a NOI or a waiver.

Part II.C.

Comment: Sugar Land requests adding "sedimentation from water line repairs," to the list of allowable non-stormwater discharges in the general permit.

Response: It is possible that sedimentation from water line repairs could contain organic and inorganic pollutants, such as chemical oxygen demand, biological oxygen demand, fecal coliform bacteria, fecal streptococcus bacteria, total suspended solids, total dissolved solids, and metals. Those pollutants could violate the Texas Surface Water Quality Standards so this discharge was not added to the list of allowable non-stormwater discharges.

Comment: Sugar Land asks for clarification within the allowable non-stormwater discharges section of the meaning of the following phrase: "Dechlorinated swimming pool discharges that do not violate Texas Surface Water Quality Standards;..."

Response: Dechlorinated swimming pool discharges were allowable non-stormwater discharges in the 2007 version of the permit. The last part of the sentence "that do not violate Texas Surface Water Quality Standards" was added to the new permit to emphasize that swimming pool discharges are not allowable under this permit if the contents of the discharge would violate Texas Surface Water Quality Standards.

Part II.D

Comment: GCI asks for the statutory authority to require controls greater than the maximum extent practicable (MEP) standard and to issue a stormwater permit that includes requirements that exceed the MEP standard. GCI comments that the permit includes explicit references to achieving waste load allocations (WLAs) and controlling pollutants so that discharges under the permit don't cause or contribute to violations of in-stream water quality standards. GCI comments that these provisions appear to exceed both the Clean Water Act (CWA) and TWC statutory provisions, which only

authorize municipal stormwater permits to require permit holders to reduce the discharge of pollutants to the MEP.

Response: Requiring consistency with an approved TMDL or TMDL I-Plan does not necessarily exceed the MEP standard. TWC §26.040 authorizes TCEQ to issue general permits for the discharge of stormwater. The general permit rules in 30 TAC §205.4(a) state that a "qualified discharger may obtain authorization to operate under a general permit by complying with the general permit's conditions for gaining coverage." That regulatory language, does not limit the permit from having requirements that go beyond the CWA or other TWC provisions. However, the permit could not be less stringent than other applicable CWA or TWC requirements.

Part II.D.4.

Comment: GCI asks for an explanation why TCEQ chose to provide such a wide range of qualitative BMP descriptions in the permit and how can these terms assist MS4 permit holders select appropriate BMPs.

Response: TCEQ is unclear about what the commenter's concern is. MS4 operators are required to implement controls that specifically address the pollutant of concern that caused the impairments. The permit uses the term "targeted controls" to emphasize that such controls address the specific pollutant of concern. In response to the comment, the term "targeted" was used to describe controls and the term "focused" used to describe BMPs.

Comment: TXDOT comments that since the action plan to address an impairment is detailed in the TMDL I-Plan, the language should include the I-Plan and not just the TMDL. Therefore, TXDOT suggests modifying the first sentence of D.4 to read: "Discharges of the pollutant(s) of concern to impaired water bodies for which there is a TCEQ and EPA approved total maximum daily load (TMDL) are not eligible for this general permit unless they are consistent with the approved TMDL and associated Implementation Plan (I-Plan)."

Response: TCEQ declines to make the suggested change because not all TMDLs have an associated I-Plan and permittees are required to be consistent with the developed TMDLs. TMDLs are values that determine the amount of a particular pollutant a water body can receive and still attain and maintain its applicable water quality standard. A TMDL is commonly expressed as a load, with units of daily mass per unit of time, but may also be expressed in other ways. TMDLs also estimate how much the pollutant load needs to be reduced from current levels in order to achieve water quality.

Comment: TXDOT suggests replacing the word "success" with "progress" in the second paragraph of this section because "progress is the term used in Part II.D.4(a)(6) and the terms should be consistent.

Response: In response to the comment, the word "success" was replaced with the word "progress" in the second paragraph of D.4.

Comment: Allan Boone, Farmers Branch, Mansfield, Tarrant County, and STF comment that the incorporation of TTMDL requirements in MS4 permits will create economic hardships, especially on Level 1 and 2 MS4s, due to onerous new requirements. Farmers Branch notes that historically, TCEQ considered TMDL I-Plans as voluntary and they were not intended to be incorporated into MS4 permits as requirements. However, to satisfy EPA directives, the permit will allow TCEQ or EPA to enforce the "voluntary" requirements upon MS4s and not on other discharges (e.g., agricultural, oil & gas) in order to meet water quality standards on impaired waters. Farmers Branch states that if an impaired water does not meet water quality standards in the future, it is possible that costly, economically infeasible, requirements will be placed upon MS4s since it may be the only enforceable mechanism available to TCEQ or EPA for the many sources of stormwater discharges to an impaired water. Mansfield comments that a statement that "stormwater discharges into a water body with TMDL are not authorized through TXR040000 unless they are in compliance with the TMDL or I-Plan developed for that water body" is sufficient to meet the EPA guideline that permitted discharges meet water quality improvement goals. Mansfield also comments that they think EPA is using this permit process as a back door way to ultimately shift the TPDES MS4 permit from a non-point source permit type to a point source permit type. The language to require the MS4 to develop waste load allocations (WLAs) as a goal is simply an in stream point source measurement. In the opinion of Mansfield, this will ultimately lead to enforcement actions based on self-reported exceedences. Mansfield comments that all future TDMLs developed in the State of Texas by TCEQ, EPA, and stakeholder groups could require a disaggregated WLA for the MS4s discharging to the impaired water body. Mansfield notes that this will place additional workloads on State officials responsible for developing TMDLs, as well as additional work and funding expenditures for local communities, with little to no evidence that it will result in any water quality improvements. Mansfield is of the opinion that the changes being proposed in this section will not lead to improved water quality, but will lead to more stringent requirements that are more expensive to implement and the return on investment of achieving water quality goals will be diminished. McKinney comments that stormwater is a non-point source of pollution, but that the language in this section attempts to place point source requirements on stormwater. McKinney requests that the requirements be practical and attainable to the nature of stormwater and non-point source pollution. Tarrant County does not agree that the small MS4 permit is the appropriate vehicle to address TMDL requirements. Tarrant County's position is that this issue is appropriately addressed through the TMDL and TMDL I-Plan process. Tarrant County strongly objects to these requirements that go above and beyond what is required by the TMDL and I-Plan process. Tarrant County that this section include a statement that stormwater discharges into a water body with an approved TMDL are not authorized through this permit, unless they are in compliant with the TMDL or I-Plan developed for that water body.

Response: Stormwater discharge from MS4s are regulated as point-source discharges (*See* 40 CFR §122. 26) and discharges from all point-sources are required to be in compliance with water quality standards. If the receiving water bodies are impaired the MS4 operators need to implement measures to address both the impairment and the TMDLs. The TMDL I-Plans, if developed, offer additional suggestions on BMPs to

implement to make progress toward the TMDL goals. However, permittees may choose other targeted BMPs not included in the I-Plan, if they consider them more effective. TMDLs establish an aggregated WLA for all stormwater sources that include all permitted municipal, construction, and industrial stormwater sources; and the permit requires MS4 operators to use that WLA as a benchmark so they can evaluate how successful their stormwater management program is in achieving reductions and to continuously improve it, as applicable.

The aggregated WLA provides the MS4 operators and other stakeholders in a TMDL watershed with the flexibility of managing pollutant loads on a watershed wide basis using available resources. This effort is continued through time until the water quality standards are met. Specific measures for BMPs and other approaches to improving water quality with respect to stormwater are identified in the TMDL I-Plans. The I-Plans are reviewed and periodically revised to provide the means to continue the effort to eliminate the impairment and focus on the measures that are most effective in assisting with that goal. Some of these measures will most likely be used to comply with the MS4 permit and therefore, will also be included in the annual report. It is possible to calculate WLAs for the individual sources, but it can be very site specific in areas where sources are separate and distinct; and where the sources are adjacent or where they occur within each other.

Comment: Allan Boone comments that where a small MS4 discharges into an impaired water body without an approved TMDL, the burden is placed on the small MS4 not only to determine whether they may be a source of the pollutant(s) of concern, but also to ensure that the SWMP includes focused BMPs, along with corresponding measureable goals, that the small MS4 will implement, thereby creating its own TMDL I-Plan. Allen Boone comments that it is more logical to utilize the TMDL Program to detect possible concerns and to address those concerns through new or modified I-Plans, as necessary.

Response: TMDLs are conducted on impaired water bodies and because of the large number of water bodies on the Texas §303(d) list, it may take an extended period of time to conduct a TMDL project for a specific water body. The requirements in the permit identify an alternative approach in the absence of an approved TMDL. Once a TMDL and its corresponding I-Plan are under development, MS4 permittees and other stakeholders within the impaired watershed work closely to develop measures that will be implemented to improve water quality.

Comment: GCI comments that the permit appears to require small MS4 operators discharging to impaired waters with a TMDL that contains an aggregated WLA to either accept joint liability for pollutant load reductions (or progress towards load reductions) with the other points sources in the watershed or to jointly conduct the technical analysis necessary to disaggregate the WLA so that each permit holder can implement BMPs to achieve a single WLA. GCI comments that TCEQ and EPA should seek to develop TMDLs with disaggregated WLAs so that small MS4s are not put into the position of determining disaggregated WLAs for themselves and their neighbors.

Response: TMDLs establish an aggregate WLA for all stormwater sources, which includes all permitted municipal, construction, and industrial stormwater sources. The permit provides MS4 operators the option of using the aggregated WLA as their benchmark and then being jointly responsible for progress in meeting that benchmark with other MS4s in the watershed. Alternatively, MS4 operators can combine or share efforts to develop disaggregated WLAs and use that as a sub-benchmark. However, calculating allocations for the individual sources can be very site specific in areas where the individual sources are separate and distinct and where the sources are adjacent to each other or they occur within each other. Based on this, the permit requirements are written in a way to allow maximum flexibility for MS4s within an impaired watershed to develop an approach that meets their specific needs and conditions.

Comment: Farmers Branch comments that a thorough cost/benefit analysis of TMDL I-Plans on impaired waters is needed prior to placing such requirements as an enforceable requirement in MS4 permits. Farmers Branch notes that in other states this regulatory approach has contributed to catastrophic financial hardships for some local and county governments. The STF comments that this section amounts to a SWMP within a SWMP and comments that the STF members do not have the resources to accomplish the tasks outlined in the general permit and requests the removal of this section from the permit. Farmers Branch recommends adding a subsection (3)(d) to allow for cost/benefit analyses of any TMDL requirements. Farmers Branch comments that this additional section should make it the burden of TCEQ to prove that the requirements are cost beneficial and economically feasible.

Response: TCEQ declines to make the suggested change because there are no cost benefit analysis requirements for states when establishing non-numeric effluent limitations (BMPs). However, it should be noted as stakeholders develop TMDL I-Plans, they provide an estimate of financial assistance needed for every management measure and control action that is proposed. In addition, costs and benefits are recognized by the requirement that small MS4s establish BMPs to reduce the discharge of pollutants to the MEP. *See* 40 CFR §122.34.

Comment: GCI asks why bacteria impairments are explicitly mentioned in this section when there are numerous other types of impairments. GCI believes it would be more appropriate for permit holders to be responsible for identifying pollutants of concern and to use site specific knowledge and technical considerations to select appropriate BMPs to address them.

Response: Bacteria impairments are explicitly mentioned in the permit because bacteria impairments are the most common water quality impairment in Texas and throughout the country. The permit provides guidance on addressing bacteria impairments, which are commonly found in urbanized areas and many bacteria TMDLs have been developed or are under development in these areas in Texas. However, besides bacteria, there might be other pollutants of concern that may need to be addressed by the MS4 on a case-by-case basis.

Comment: Sugar Land asks that if a TMDL has been approved, but the TMDL I-Plan approval is still pending, when would the TMDL I-Plan BMPs be required to be included in the permittee's SWMP.

Response: The TMDL I-Plan BMPs may be included in the permittee's SWMP at any time. It is not necessary for the I-Plan to be approved for the MS4 to select targeted BMPs from it. Additionally, permittees may also incorporate other alternative BMPs not listed in the I-Plan into their SWMP.

Comment: The STF comments that since it seems that the language in this section is related to the work associated with watershed protection plans, EPA should consider allowing CWA Chapter 319 non-point source (NPS) grant funding to be used for implementation of this part of the MS4 permit. The STF thinks this would assist MS4s in meeting the requirements, in particular, in areas where bacteria is the pollutant of concern.

Response: CWA Section 319 funds may be used to fund any urban stormwater activities that are not specifically required by a draft or final NPDES/TPDES permit. Urban runoff management activities that could be eligible for Section 319(h) funding includes:

- Technical assistance to State and local stormwater programs;
- Monitoring needed to design and evaluate the effectiveness of implementation strategies;
- BMPs for pollution prevention and runoff control (except for BMPs required by a draft or final NPDES permit);
- Information and education programs,
- Technology transfer and training; and
- Development and implementation of regulations, policies, and local ordinances to address stormwater runoff.

Therefore, CWA Section 319 funds are not available to implement provisions specifically required by this Phase II MS4 general permit, but may be available to implement associated parts of the program that are not required by the permit.

Comment: GCI recommends refining the use of the terms "Benchmark," "Benchmark Goal," "Sub-Benchmark Goal," and "Measureable Goal." GCI notes that the permit uses multiple terms to describe some form of pollutant reduction target that is consistent with the underlying TMDL WLA, but does not impose a strict effluent limit. GCI agrees with this approach, but believe the permit language and terminology used can be improved to provide additional clarity. GCI suggests using the term "Action Level" instead. GCI recommends deleting the terms "Benchmark Goal" and "Sub-Benchmark Goal." GCI comments that "Benchmark Goals" should be reserved for the industrial stormwater permit and the term "Sub-Benchmark Goal" should be omitted, since it appears to refer to a disaggregated WLA used as an "Action Level," which is a more descriptive term. GCI recommends retaining the term "Measureable Goal," but only to describe permitted defined goals related to the implementation of programmatic or administrative BMPs, such as number of sites inspected or the timely adoption of a new ordinance.

Response: TCEQ agrees partly with the comment and substituted the terms "Benchmark Goal" and "Sub-Benchmark Goal" with the terms "Benchmark" and "Sub-Benchmark" respectively, but declines to use the term "Action Level." To further explain the intent of such terms, TCEQ added paragraph (a)(3) which states: "Benchmarks are designed to assist in determining if the BMPs established are effective in addressing the pollutant(s) of concern in stormwater discharge(s) from the MS4 to the maximum extent practicable (MEP). The BMPs addressing the pollutant of concern must be re-evaluated on an annual basis for progress towards the benchmarks and modified as necessary within an adaptive management framework. These benchmarks are not numeric effluent limitations or permit conditions but intended to be guidelines for evaluating progress towards reducing pollutant discharges consistent with the benchmarks. The exceedance of a benchmark is not a permit violation and does not in itself indicate a violation of instream water quality standards."

In addition, TCEQ removed the paragraph (3)(c) that stated: "If the small MS4 is subject to an individual WLA specifically assigned to that MS4, the benchmark goal must be the assigned WLA. Where the WLAs have been individually assigned, or where the small MS4 is the only regulated MS4 within the urbanized area that is discharging into the impaired watershed with an approved TMDL, the permittee is only responsible for progress in meeting its WLA benchmark goal." TCEQ agrees that the term "Measurable Goal" is appropriate when related to the implementation of each of the BMPs.

Part II.D.4(a)

Comment: TXDOT comments that the word "directly" should be added to the heading of (a) so that it is consistent with D.4.(b). The revised heading would read: "Discharges Directly to Water Quality Impaired Water Bodies with an Approved TMDL."

Response: TCEQ declines to make the suggested change. TMDLs for impaired water bodies can impact the entire watershed, so discharges anywhere in the watershed may need to comply with the TMDL or TMDL I-Plan.

Comment: TXDOT requests modifying the language in the first paragraph under (a) to read: "If the small MS4 discharges directly to an impaired water body with an approved TMDL, where stormwater has the potential to cause or contribute to the impairment, the permittee shall include in the SWMP controls targeting the pollutant(s) of concern along with any additional or modified controls (hereafter referred to as "focused controls") required in the approved TMDL or the I-Plan and this section." TXDOT notes there is a reference to "focused controls" in the next paragraph, but with no definition provided and the impairment controls are in the TMDL I-Plan, so it should be referenced with the TMDL.

Response: The word "directly" was not inserted because TMDLs for impaired water bodies can impact the entire watershed as described in a comment above. The term "focused controls" was changed to "targeted controls" throughout the section and "targeted BMPs" were changed to "focused BMPs" throughout the section.

Comment: Mansfield notes that the language in the first sentence of 4(a) that the permittee is required to include in their SWMP controls if "stormwater has the potential to cause or contribute to the impairment,..." Mansfield comments that stormwater nearly always has the "potential" to contribute to water quality impairments. Therefore, Mansfield recommends changing the language to "where stormwater discharges from the MS4 have been determined to contribute to the impairment." Tarrant County requests the word "directly" to be added after the word "discharges" in (a). Also, Tarrant County requests that the word "directly" to be added after the word "MS4" in the first sentence of the first paragraph. Tarrant County believes that change would make the use of the word "directly" consistent with the same use in Part II.D.4(b).

Response: TCEQ declines to make the suggested change. TPDES permits are required to meet conditions set forth in 40 CFR §122.44(d)(1)(i), which states that limitations in permits must control all pollutants that are or may "be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality." TCEQ declines to add the word "directly" to section 4(a) as explained in a previous response.

Comment: Farmers Branch recommends adding subsection 3(e) to account for impairments from bacteria from anthropogenic (naturally occurring) sources (ducks and other wildlife) that contribute bacteria to impaired water bodies with or without an approved TMDL. Farmers Branch comments that it would be anticipated that the bacteria contributions from anthropogenic sources would vary amongst MS4s, depending on the amount of wildlife habitat (e.g., ponds, lakes, bird sanctuaries, wildlife areas, etc.) and they are uncertain whether TCEQ accounts for these sources in determining aggregate or specific waste load allocations for an MS4. Allan Boone comments that with respect to impairment for bacteria, many small MS4s have minimal capacity and resources to address animal sources.

Response: TMDLs acknowledge all known potential sources of bacteria, but do not provide a specific allocation for wildlife sources. Wildlife source loading is included in the WLA for stormwater to account for wildlife sources within the MS4 or is included in the general load allocation (LA) for unregulated sources, depending on the nature of the area involved in the TMDL. Currently, there are no reliable techniques to differentiate the different types of bacteria that make up the loads conveyed to receiving waters. Bacteria source tracking techniques are difficult to interpret and there are no reliable techniques to relate the bacteria source tracking analyses to input loads in a watershed. Managing stormwater loads for the different sources would require MS4 operators to measure the different bacteria loads in runoff. This would be very difficult and resource intensive. Also, to discount the wildlife bacteria, an epidemiological study would need to be conducted. These types of studies have not been successfully conducted because of the extreme difficulty.

Part II.D.4(a)(3)

Comment: Mansfield comments that it understands the intent of this (a)(3) is to allow MS4s the ability to break down an aggregate WLA to an individual WLA. However,

Mansfield comments that the way it is written, it seems the only way to accomplish this is if all affected MS4s decide together to develop individual WLAs. Additionally, Mansfield states that the statement that an MS4 who develops an individual WLA must justify how achieving compliance with the sub-benchmark will lead to compliance with the aggregate WLA is not applicable, provided the methods for determining the sub-benchmark were appropriate (which TCEQ will be able to determine through the review of the SWMP). Mansfield states that if sub-benchmarks are developed, an MS4 discharge that meets that benchmark is by nature supporting the aggregate WLA. McKinney comments that identification of benchmark goals as written is impractical and burdensome. McKinney states that many small MS4s will not have staff trained to determine a WLA, let alone ensure its accuracy. McKinney requests eliminating the requirement and associated references for a benchmark goal and maintain the requirement for a measurable goal, which is included in (a)(2). McKinney comments that the only exception should be in the case where a stormwater WLA has been determined for the associated small MS4 thorough a TMDL or TMDL I-Plan. TxDOT requests that TCEQ delete the WLA requirement and replace the WLA with the BMPs or allowing the use of the TMDL I-Plan or provide a guideline of how to disaggregate the aggregate WLA.

Response: It is not the intent of TCEQ to develop individual WLAs for individual MS4s. The intent of (3)a. is to provide flexibility to the MS4 operator in establishing a benchmark. The MS4 operator can choose to use the aggregate WLA as a benchmark. In that case, then all MS4s in the watershed are jointly responsible for meeting that benchmark. Alternatively, they can share efforts to disaggregate the WLA by MS4 and then each would be responsible for meeting their disaggregated WLA /individual sub-benchmark.

Comment: McKinney asks that since there is no requirement for sampling and that we can assess progress in other ways, why is identifying a benchmark goal necessary.

Response: The benchmark concept is introduced to allow MS4 operators that chose to perform instream monitoring to compare their results to the WLAs developed in TMDLs.

Part II D.4(a)(5)

Comment: Mansfield and Tarrant County strongly disagree with the insertion of additional requirements beyond what would be included in a TMDL or TMDL I-Plan. If the TCEQ or EPA wish to be able to enforce lack of implementation of an I-Plan then it is sufficient to require that MS4s, where an I-Plan has been developed, include those measures in its SWMP. Mansfield and Tarrant County state that there is already a requirement written to provide justification for not implementing a BMP recommended in the I-Plan. McKinney comments that this requirement places an undue cost burden on small MS4s and without effective BMPs this requirement will likely not result in water quality benefits.

Response: If the MS4 discharges into a water body that is impaired for bacteria the MS4 operator is required to locate potential sources of bacteria and implement BMPs to address those sources. The permit provides guidance to the areas the MS4 operator may need to address such as: 1) sanitary sewer systems; 2) onsite sewage facilities; 3) illicit discharges and dumping; 4) animal sources; and 5) residential education. The MS4 would only select the categories that apply. For instance, if the MS4 does not have animal sources, such as a zoo, then BMPs that target zoos would not be applicable for that MS4. If the water body has a TMDL and an I-Plan with specific recommendations, then those BMPs most likely would have been implemented already and if not, their implementation would further strengthen the efforts that the stakeholders are already conducting under the I-Plan to improve water quality. In other words, when an I-Plan is available, the MS4 is encouraged, but not required, to use the BMPs in the I-Plan to satisfy the requirements in the permit. If the MS4 desires to implement alternative BMPs the permit allows for such flexibility. In the absence of an I-Plan, the MS4 can develop site specific BMPs for the areas of concern that apply to that MS4.

Comment: GCI comments that the permit requires permittees discharging to waters with bacteria impairments implement BMPs that shall "make improvements to sanitary sewers," "improve reporting of violations," and "strengthen controls." GCI suggests clarifying these terms by editing them to read as follows: "make improvements to sanitary sewers to reduce overflows," "improve reporting of overflows," and "strengthen sanitary sewer use requirements to reduce blockages from fats, oils, and grease."

Response: In response to the comment, the paragraph in (a)(5)a. was modified as suggested.

Comment: Mansfield asks, regarding (a)(iii) which violations of a sanitary sewer system does TCEQ anticipate will occur.

Response: Examples of violations are sanitary sewer overflows, leakage from sanitary sewers due to rupture, and blockage of sewer lines.

Comment: Tarrant County requests a concise definition for the term "Decorative Pond" used in this section.

Response: Decorative ponds are engineered water features that may contain aquatic plants and animals. The ponds are often located in residential subdivisions, parks, golf courses, office complexes, shopping centers, and new residential developments.

Comment: TCTNR comments that this section talks about addressing bacteria impairments should have a similar qualifier as 4.(a)(2)(b) that states: "Onsite sewage facilities for entities with appropriate jurisdiction;..." TCTNR comments that Travis County does not manage sanitary sewer systems and that TCEQ's intent is probably not to have them addressing a sanitary system that does not belong to them.

Response: MS4s are only required to address sanitary systems that are under their jurisdiction. However, if MS4s observe discharge of any sanitary sewers into their

stormwater system, the MS4 operator should contact the owner of the system to correct the problem.

Part II.D.4(a)(6)

Comment: GCI comments that this section should be revised to refer to "Action Levels," as discussed in a previous comment. GCI also comments that paragraph (6)(a)(i) should be modified to more clearly state the difference between assessing progress towards achievement of measurable goals for BMPs selected to implement the six MCMs using program implementation indicators. GCI recommends modifying paragraph (6)(a)(ii) to acknowledge that monitoring of ambient water quality conditions to assess use attainment is fundamentally different than stormwater discharge monitoring. Stormwater outfall discharge monitoring results, even if they exceed water quality criteria, do not necessarily mean that the receiving water body is impaired or that MS4 programs are not effective. GCI urges TCEQ to provide technical guidance on how to assess progress using monitoring approaches that more holistically integrate urban runoff impacts on receiving water systems than simply end of pipe or instream water column measurements of pollutant concentrations. This guidance should refer to the methods outlined in the "Stormwater Effects Handbook: A Toolbox for Watershed Managers, Scientists, and Engineers."

Response: TCEQ declines to change the term "Benchmark Goal" to "Action Levels" but changed "Benchmark Goal" to "Benchmark" as described in a previous response. TCEQ wants to allow flexibility for MS4 operators to assess progress either via qualitative approaches by using program implementation indicators or via quantitative approaches such as monitoring or using existing data. Monitoring could involve either instream or outfall monitoring. TCEQ's intent is to provide flexibility for the MS4 operators to evaluate progress in a manner that is appropriate for their unique conditions and complexities. A detailed technical guidance is not included in the permit, since it is not the intent of TCEQ to require a specific method to assess progress.

Comment: TXDOT notes that (a)(6)(a)(i) uses "success" in the first paragraph and "progress" in the second paragraph and recommends using "progress" in both places.

Response: TCEQ declines to make the suggested change because the words "success" and "progress" are used to describe different activities. The first paragraph, where the word "success" is used, describes that the MS4 operator can report progress towards the benchmark by evaluating, if there has been success in implementing the measurable goal for the selected BMPs. For example, did the permittee meet the measurable goal by 100% ? The second paragraph, where the word "progress" is used, describes how the MS4 operator can choose to assess progress towards the benchmark. For example, what activities have been completed in order to achieve the benchmark? Assessing progress towards the benchmark can be done by using program implementation indicators such as number of sources identified or eliminated, decrease in number of illegal dumping and so forth.

Comment: TXDOT recommends re-wording the last phrase of (a)(i) to read as follows: "...increase in illegal discharge detection through illicit discharge detection and elimination, etc.; or..." TXDOT notes that only Level 4 MS4s perform dry weather screening.

Response: TCEQ declines to make the suggested change because the permit provides guidance to the MS4 operators on how to monitor progress in meeting benchmarks and determine the effectiveness of BMPs.

Comment: TXDOT recommends re-wording (6)(b) to read as follows: "Monitoring or Assessment of progress towards achieving the benchmark goal shall be reported in the annual report. The annual report shall include the benchmark goal or the measurable goal and the year(s) during the permit term that the MS4 performed either the evaluating program implementation measures option or conducted the assessing improvements in water quality option." TXDOT comments that these changes re-iterate the previous language and provides two options for monitoring or assessment of the progress. TXDOT comments that annual report should include the option that the permittee selected.

Response: Section (6)(a) discusses which methods the permittee may use to evaluate progress towards the benchmark and (6)(b) describes that the progress towards achieving the benchmark needs to be documented in the annual report. From that language, it should be clear that the permittee should document in the annual report the methods chosen pursuant to (6)(a) to determine progress towards the benchmark. No changes were made in response to this comment.

Part II D.4(a)(7)

Comment: Mansfield and Tarrant County request removal of this requirement. Mansfield states that they already must report progress in implementing BMPs to address water quality impairments in previous sections. Mansfield, Tarrant County, TXDOT, and McKinney comment that a three year timeline is too short to see effectiveness of any controls. Tarrant County comments that they must report their progress in implementing BMPs to address water quality impairments in previous sections. Mansfield and Tarrant County also note while this section may be easy to comply with at this time through annual report updates to this permit, they will not necessarily remain so in future permit terms. TXDOT requests that the 3-year timeline be changed to five years. TXDOT comments that if an approved I-Plan has a timeframe to measure specific BMP progress, and asks how the permittee will report this in the third year if progress is measured in 5 or 10 year increments. TXDOT comments that language needs to be inserted in this section that is representative of I-Plan implementation periods for BMP effectiveness assessments. Finally, TXDOT notes that an approved I-Plan could place the permittee in non-compliance with this requirement if progress is measured at time intervals greater than 3 years.

Response: The MS4 operator is required to evaluate program compliance, the appropriateness of identified BMPs, and progress towards achieving identified

measurable goals (*See* 40 CFR § 122.34). This evaluation will help the MS4 operator continuously improve the stormwater management program by identifying ineffective BMPs and selecting more appropriate BMPs. The result of the evaluation will be reported to TCEQ in the annual report. The permit requires the MS4 operator, by the end of the third year, to determine whether there is progress toward meeting the benchmark and the permit provides options on how to make this determination. For example, progress can be evaluated by using program implementation indicators such as: 1) number of sources identified and eliminated; 2) decrease in number of illegal dumping; 3) increase in illegal dumping reporting; 4) number of educational opportunities conducted; 5) reduction in Sanitary Sewer Overflows (SSOs); and 6) increase in illegal discharge detection through dry screening. Alternatively, progress can be evaluated by showing improvement in water quality. If any of those activities/BMPs have not performed as anticipated, the MS4 operator would then replace those with alternative activities/BMPs that would help optimize the stormwater management program both in terms of costs and effectiveness. The three year timeline is to evaluate the progress, so that if no progress is achieved, there is time to identify alternative strategies. This timeline is not necessarily intended to implement all those new strategies. For instance, the MS4 could evaluate progress and determine that more time is needed for a given BMP at the three year mark.

Comment: GCI comments that this section requires permit holders to identify "alternative focused BMPs" if they "observe no progress towards the benchmark goal." GCI suggests that the permit require the MS4 operator to identify additional BMPs to increase effort to achieve progress towards the identified action level. GCI further suggests that the MS4 identify additional BMP's 180 days after the conclusion of the third year of the permit. Finally, GCI recommends that the MS4 operator be required to initiate implementation of the additional BMPs during the fourth year and report on the new BMPs in the annual report due after the completion of the fourth year of the permit.

Response: If the permittee, by the third year from the effective date of the permit, does not observe any progress toward the benchmark goal, the permittee is required to identify alternative BMPs to meet the benchmark goal. The three year deadline was developed in corporation with stakeholders and EPA. TCEQ declines to make the suggested changes because they would make the permit more stringent.

Part II.D.4(b)

Comment: BCC, JCC, OCC, HCC, FBCC, MCC, and NAC are requesting that the development and implementation of focused BMPs related to impaired waters be limited to the permittees that discharge directly to water bodies that have an approved TMDL. BCC, JCC, OCC, HCC, FBCC, MCC, and NAC comment that allowing the TMDL Program to first identify the sources of pollutants and develop an I-Plan, will reduce the risk of permittees spending time and money implementing focused BMPs to address pollutants that their MS4 may not be discharging.

Response: TCEQ declines to make the suggested change. TMDLs for impaired water bodies are based on a watershed approach, so discharges anywhere within the

watershed need to comply with the TMDL. There are numerous impaired water bodies in Texas and it may take an extended period of time before a TMDL project is conducted for a specific water body. The permit provides guidance to MS4 operators on how to develop measures that will improve water quality in impaired waterbodies even if a TMDL and I-Plan have not been developed.

Comment: Mansfield recommends changing the requirement in (b)(1) to within the first two years from one year, after the permit is issued. Mansfield states that the justification for this request is that the MS4 will not have guidance from TCEQ in a timely enough manner to make the determination by the one year deadline. If the deadline to submit an SWMP to TCEQ is 180 days, and the review period is similar to the first permit, then cities will not be informed if their determination procedures meet the maximum extent practicable (MEP) requirement until nearly the end of the first year. Mansfield comments that it is necessary to monitor discharges over an extended period (really more like 3-5 years) in order to make the determination valid. Tarrant County requests the full five year permit term to implement the process to find the information requested in (a), (b), and (c) of this section.

Response: TCEQ declines to make the suggested changes. TCEQ believes that determining whether the small MS4 may be a source of the pollutants(s) of concern by referring to the CWA §303(d) list and then determining if discharges from the MS4 would likely contain the pollutant(s) of concern at levels of concern can be accomplished within one year, regardless of whether TCEQ has provided feedback on the SWMP at that point or not. If the MS4 finds that it discharges the pollutant of concern at levels of concern, it has an additional year to choose and implement BMPs to reduce the discharge of the pollutant of concern to the impaired water body and an additional year to submit the NOC and amend the SWMP to reflect changes.

Part II.D.4(b)(1)

Comment: TXDOT comments that the word "significant" should be added to the phrase in (b)(1)(a) so that it reads: "...may be a source of significant source of pollutant(s)..." TXDOT recommends this change for consistency with the language in D.4(b)(2).

Response: TCEQ declines to make the suggested change. MS4s discharging into impaired water bodies without an approved TMDL need to identify potential sources of the pollutant of concern and then determine which of those sources are likely the most significant. This determination should be done within one year of the permit effective date. The MS4 would address the significant sources first (i.e.,the most relevant and important sources and where the MS4 would get the most benefit) by developing targeted BMPs for these significant sources within two years of the effective date of the permit.

Comment: TXDOT recommends adding the word "approved to the following phrase in (b)(1)(b) so that the phrase reads: "...to an impaired water body without an approved TMDL..." TXDOT also recommends adding "target controls" to the phrase in the same sentence so that it reads: "...along with corresponding target controls, and measurable

goals..." Finally, in the same sentence, TXDOT recommends adding the phrase "to the extent practicable" to a portion of the sentence so that it reads: "...to reduce to the extent practicable, the discharge of pollutants..."

Response: TCEQ partly aggress with the comment and in response (b)(1)b. was changed so that the phrase reads: "...to an impaired water body without an approved TMDL..." The term "target controls" was not added because "focused controls" and "target controls" have an equivalent meaning. TCEQ disagrees that the last change is necessary. The federal rules already require that the permit requires MS4s to "develop, implement, and enforce a stormwater management program designed to reduce the discharge of pollutants" to the MEP standard. So, the MEP standard is already implicit in the language TXDOT references. *See* 40 CFR §122.34(a).

Part II.D.4(b)(2)

Comment: Mansfield and Tarrant County ask what if the MS4 is not able to identify potential "significant" sources. Mansfield comments that this language moves the TPDES MS4 permit program further from a non-point source permit and closer to a point source permit. McKinney comments that this requirement places an undue cost burden on small MS4s and without effective BMPs this requirement will likely not result in water quality benefits. Tarrant County comments that the language proposed in the permit moves the TMDL MS4 program further from a non-point source pollution permit to a point-source permit.

Response: There are many different sources of bacteria that contribute to impairment within urbanized areas. Most of those sources are well documented. These sources are known to include septic systems, sanitary sewer systems, livestock, animal handling facilities, illicit discharges, wastewater treatment plant discharges, regrowth and re-suspension of indicator organisms in receiving waters and storm drains, urban development, pet waste, wildlife, naturalized indicator organism populations, and other sources. MS4 operators must use their knowledge of the MS4 area along with readily available information to identify the main sources of the pollutant of concern (most likely bacteria). Stormwater discharges from MS4s are regulated as point sources. *See* the definition of "point source" in 40 CFR §122. 2 and generally, 40 CFR §122.26.

Comment: GCI comments that this section requires permit holders to "identify potential significant sources" of bacteria. GCI notes that TCEQ adopted bacteria TMDLs and TCEQ I-Plans have identified and documented potential significant sources of bacteria in most urban watersheds. GCI suggests that permittees should be able to use readily available information to identify sources and select BMPs to address those sources.

Response: TCEQ encourage MS4 operators to use current research literature, TCEQ adopted bacteria TMDLs, and TCEQ prepared I-Plans when identifying potential significant sources of bacteria in the MS4. Most potential sources of bacteria are well known as described in the comment above.

Part II.D.4(b)(3)

Comment: TXDOT recommends changing the word "sampling" to "monitoring" in (b)(3).

Response: TCEQ declines to make the suggested change because the two terms are not interchangeable.

Part II.D.5

Comment: Round Rock recommends deletion of the following sentence from the Edwards Aquifer requirements in this section: "Additional agency-approved WPAPs received after the SWMP submittal must be recorded in the annual report for each respective permit year." Round Rock states that TCEQ region offices issue Water Pollution Abatement Plans (WPAP's) and notify MS4s of approval. Round Rock comments that if TCEQ state offices need notification, they could be notified on the initial approval instead of placing an extra burden on the relevant MS4.

Response: MS4s are required to submit information about the number of construction activities that occurred in their areas within the annual reports. If construction activities occur in the Edwards Recharge Zone or in the Contributing Zone, construction activities are required to meet all applicable requirements listed in 30 TAC Chapter 213 (Edwards Aquifer Rule). The rule requires that construction site operators develop WPAPs which include post construction BMPs, such as water quality basins and vegetative filter strips, designed to remove total suspended solids (TSS) loading from stormwater prior to discharge into water in the state. The WPAP is reviewed and approved by TCEQ prior to commencing any construction activities. *See* 30 TAC § 213.4(h). TCEQ also provides copies of the WPAPs to affected incorporated cities, and counties in which the construction activity will be located and receive their input during application review. *See* 30 TAC § 213.4(a)(2).

Comment: TXDOT recommends adding the reference "relating to Edwards Aquifer Rule" after the phrase "...prohibited by 30 TAC Chapter 213" for consistency with other language in this section. TXDOT also recommends adding "relating to" before the second reference to 30 TAC Chapter 213 in that section.

Response: In response to the comment, the last part of the first sentence in Part II.D.5 was changed to "...(Edwards Aquifer Rule)."

Comment: TXDOT recommends deleting the third paragraph of D.5. and replacing it with the following two sentences: "Agency-approved WPAPs that are active for the entire general permit term should be referenced in the MS4 annual report. Copies of the NOIs can be used as references."

Response: TCEQ declines to make the suggested change because the intent of the paragraph is to make the permittee list any TCEQ approved WPAPs it has in their

SWMP. Subsequent WPAPs received after the SWMP is approved by TCEQ will then be reported in the annual report for each respective year.

Comment: TCTNR comments that the address in the draft permit for the Austin Region Office is no longer accurate.

Response: In response to the comment, the address of the Austin regional office was revised to "1200 Park 35 Circle, Bldg. A, Rm 179 Austin TX 78753."

Part II.D.9

Comment: McKinney states that the second sentence beginning with: "Federal requirements related to endangered species apply to all TPDES permitted activities..." should be better refined.

Response: TCEQ declines to make any changes to the sentence in response to this comment. As stated in the noted sentence, the Endangered Species Act (ESA) applies to all TPDES permitted activities. The permit was written in accordance with 30 TAC Chapter 307, which states that surface waters cannot be made toxic to any aquatic or terrestrial organisms. As such, the permit contains safeguards to ensure that permitting activities authorized by TCEQ do not result in a "taking" of any ESA listed species.

Part II.E.

Comment: TXDOT recommends that if a small MS4 operator elects to apply for an individual permit that the application must be submitted within 180 days instead of 90 days following the effective date of this general permit.

Response: TCEQ declines to make the requested change because 40 CFR § 122.28(b)(4)(iii), adopted by reference in 30 TAC § 205.7, requires that an owner or operator that choses to apply for an individual permit rather than continue authorization under a general permit shall submit the application no later than 90 days after publication of the general permit.

Comment: GCI comments that since the U.S. Census published the urbanized area (UA) maps in March 2012, they suggest that compliance deadlines defined relative to the release of the new UA maps should be omitted. GCI asks why TCEQ includes language referencing a future publication and why TCEQ intends to publish its own maps, when the data is publicly available through the U.S. Census website.

Response: TCEQ intends to use the UA maps published by the U.S. Census in March 2012. Therefore, in response to the comment, references to the future release of the UA maps were deleted throughout the permit and in the fact sheet.

Part II.E.3

Comment: Mansfield comments that the first paragraph references notifying TCEQ of implementation schedules including "the months and years in which the permittee will undertake the required actions." Mansfield recommends removing "months" from the sentence and just showing the year on the implementation schedule. Mansfield comments that many BMPs are implemented based on weather or other seasonal variations, and may sometimes be cancelled and rescheduled. Mansfield asks that if the month and year are written into the SWMP that a BMP will be implemented and that changes, that would require the permittee to submit a notice of change (NOC). Mansfield thinks including the month of implementation adds additional, unnecessary complications to an already complicated issue.

Response: TCEQ declines to make the suggested change. The permit states that the SWMP must include, as appropriate, the months and year in which the permittee will undertake the required actions, including interim milestones and the frequency of the action throughout the permit term. Including months and years in the SWMP is consistent with language in 40 CFR §122.34. If a BMP is cancelled or rescheduled, the SWMP would need to be updated as necessary, and a NOC would need to be submitted according to Part II.E.3 of the permit.

Comment: CGI comments that the second paragraph of this section requires permittees to assess their SWMP then modify, select, and implement new elements, as necessary. CGI comments that this appears to duplicate the program evaluation that existing permit holders were required to undertake to support their annual reporting obligations. CGI asks what criteria TCEQ intends for permit holders to use for these assessments and whether this assessment is intended to duplicate the annual report evaluation.

Response: Permittees will need to assess existing program elements when they develop their SWMP for compliance with this permit. Based on the BMP assessment, permittees will be able to identify successful program elements that they may want to continue and less successful elements that they may want to discontinue. This assessment is only done one time when the permittee develops a new SWMP consistent with the newly issued permit that includes elements that the permittee has determined are effective. In addition, permittees will need to submit annual reports reflecting their annual evaluation of their program elements.

Comment: TCTNR comments that E.(3)(a)(3) is about things that can be implemented without submitting a NOC. Additionally, TCTNR notes that this section also talks about adding additional area based on land acquired. TCTNR recommends revising it to say "adding or subtracting area" or something similar. TCTNR comments that in the situation of a county annexation by municipalities within a county decreases the MS4 of the county.

Response: In response to the comment, Part II.E.3.(a)(3) was revised to "Adding or subtracting area(s) during the permit term, such as by annexing land or if land is de-annexed."

Part II.E.4.(b)

Comment: Tarrant County requests deletion of the words "or indirectly" in the last sentence of section (b)(7). Tarrant County comments that this change is necessary to be consistent with previous wording in this permit and because the permittee should only be required to document direct discharges into classified segments of water.

Response: TCEQ declines to make the suggested change. The language is identical to the previous version of the permit issued in 2007.

Comment: Tarrant County requests adding the word "direct" before the word "discharges" in both (b)(8) and (9) of this section to be consistent with prior wording in this permit. TXDOT comments that "discharge" in (b)(8) needs to be more fully defined.

Response: TCEQ declines to make the suggested change. Discharges can be received from other MS4s, such as from an outfall owned by another MS4 or through an interconnection to another MS4.

Part II.E.6

Comment: TXDOT asks whether the ten days referred to in this section is ten calendar days or ten business days. TXDOT recommends increasing the ten days when an operator of a MS4 changes to allow the new operator time to develop the appropriate SWMP.

Response: Allowing ten days to make this change is consistent with the TXR050000 Multi-Sector Industrial Permit and TXR150000 Construction General Permits for stormwater discharges. Unless stated as "business days," the days are calendar days. So, in this case the deadline is ten calendar days. In response to the comment, the second sentence in E.6 was changed to: "The NOT and NOI must be submitted concurrently not more than ten (10) calendar days after the change occurs".

Part II.E.12

Comment: TXDOT recommends adding the phrase "as appropriate" at the end of (a)(1).

Response: In response to the comment, Part II.E.12 (a)(1) was revised to: "BMPs the applicant will implement for each of the six MCMs, as appropriate;..."

Part II.F.1

Comment: GCI comments that this section requires the SWMP to define "each minimum measure and the component(s) each entity agrees to implement." CGI comments that this terminology differs from the prior permit and from 40 CFR Part 122. CGI recommends that the permit clearly refer to the following hierarchy of program elements: MCMs, BMPs, measureable goals, schedules, and responsible parties. CGI comments that jointly implemented SWMPs should specify who will be responsible for all aspects of each MCM and its implementation elements.

Response: TCEQ acknowledges the hierarchy of SWMP components: MCMs, BMPs, measurable goals, schedules, and responsible parties. To clarify this in the permit, subsection (c) which discusses MCMs was moved up before subsection (a) in Part III.A.2.

Also, in response to the comment, second sentence in Part II.F.1.(b) was changed to: "Where a separate MS4 operator is contributing to implementation of the SWMP, the SWMP must clearly define each minimum control measure and the component(s) each entity agrees to implement, within....". The revised language is consistent with the requirements of 40 CFR§ 122.35.

Part III. Stormwater Management Program

Part III.A.2.

Comment: TXDOT recommends adding the phrase "allowed by state, federal, and local law" to (a) so that it reads: "A measurable goal that includes the development of ordinances or other regulatory mechanisms, allowed by the state, federal, and local law, providing the legal authority necessary to implement and enforce the requirements of this permit, including information on any limitations to the legal authority;..."

Response: In response to the comment, Part III.A.2(b), (a) in the draft permit, was revised to: "A measurable goal that includes the development of ordinances or other regulatory mechanisms, allowed by state, federal and local law, providing the legal authority necessary to implement and enforce the requirements of this permit, including information on any limitations to the legal authority."

Comment: Tarrant County believes subsection (b) should be deleted because all information requested in this section will be documented under subsection (c) making this duplication of information.

Response: TCEQ declines to make the requested change because the requirement in subsections (b) and (c) are not identical. Subsection (b) requires a summary of written procedures used to implement the SWMP and subsection (c) requires a description of each MCM with measurable goals, and a schedule and milestones for when the MS4 operator will undertake required actions for each MCM.

Comment: TXDOT recommends adding a section (d) that states: "A description of a program or a plan of compliance with the requirements in Section D.4. (relating to Impaired Water Bodies and Total Maximum Daily Load (TMDL) Requirements)"

Response: In response to the comment, TCEQ added a section (d) that states: "A description of a program or a plan of compliance with the requirements in Part II.D.4. (relating to Impaired Water Bodies and Total Maximum Daily Load (TMDL) Requirements)."

Part III.A.3.

Comment: GCI comments that section (g) requires that permittees have the "authority to respond to violations of the BMPs required by the small MS4." GCI comments that the phrase "BMPs required by the small MS4" appears to refer to such a large number of actions, systems, activities, and controls that a violation does not appear to be manageably defined. For example, the MS4 operator might, by ordinance, require a construction site operator to secure a grading permit prior to initiating construction. This ordinance requirement itself (to secure a grading permit) would not normally be considered a BMP in the context of a SMWP, so the terminology of the provision is unclear. Also, GCI notes that most local ordinances or regulations define violations and penalties explicitly. GCI asks what does TCEQ intend by this inclusion of this provision.

Response: In response to the comment section (a)(2)(g) was revised to: "Authority to respond to non-compliance with BMPs required by the small MS4 through ordinances or other regulatory mechanism(s)."

Part III.A.3(a)

Comment: TXDOT recommends adding the phrase "or other maintenance agreements" to (a)(2)(i) so that the provision reads: "Ability to enter into interagency or interlocal agreements or other maintenance agreements, as necessary."

Response: In response to the comment, TCEQ revised the sentence (a)(2)i. to: "Ability to enter into interagency or interlocal agreements or other maintenance agreements, as necessary."

Part III.A.3(b)

Comment: TXDOT suggests modifying (b) to read: "Non-traditional small MS4s, such as counties, drainage districts, transportation entities, municipal utility districts, military bases, prisons, and universities." TXDOT comments that the proposed revisions are consistent with the non-traditional MS4 definition in the permit.

Response: In response to the comment, subsection (b) was modified to: "Non-traditional small MS4s, such as counties, drainage districts, transportation entities, municipal utility districts, military bases, prisons, and universities."

Part III.A.4.

Comment: TXDOT recommends changing the language in this section so that it reads as follows: "It is the permittee's responsibility to ensure that it has adequate resources and funding, as state tax allocations allow in some cases, to implement the requirements of this permit." TXDOT comments that it cannot operate "without tax dollars being issued by the state legislature, and has no other available means to ensure resources or funding can be made available." TXDOT also notes that it does not have the ability to set up and charge environmental fees or set up a stormwater utility.

Response: TCEQ declines to make the requested change. TCEQ recognizes that different MS4 entities may encounter different challenges in complying with the general permit, so the current more flexible language is considered appropriate.

Part III.A.6.

Comment: DART notes that the draft permit requires that when a permittee does not have enforcement authority over the violator, and the violations continue after the violator is notified by the permittee, the permittee is required to notify either the adjacent MS4 operator with enforcement authority or TCEQ. DART comments that if a violator is causing a discharge to flow onto/into the permitted MS4 from the jurisdiction of an adjacent MS4 the initial action may be to notify the adjacent MS4. DART states that this is a common scenario where a violating entity's property is adjacent to a transportation corridor that receives stormwater from an adjacent MS4.

Response: TCEQ agrees that if a violator is causing a discharge to flow onto/into the permitted MS4 from the jurisdiction of an adjacent MS4, the initial action may be to notify the adjacent MS4 and then notify TCEQ subsequently, if the violation continues.

Part III.B.

Comment: TXDOT recommends adding the phrase "as applicable" to the end of the first sentence.

Response: In response to the comment, TCEQ added the phase "as applicable" at the end of the first sentence. The sentence now reads: "Operators of small MS4s seeking coverage under this general permit shall develop and implement a SWMP that includes the following six minimum control measures (MCMs), as applicable."

Comment: TXDOT comments that it does not have industrial sources located within its MS4s. Therefore, all six MCMs cannot apply to TXDOT.

Response: TCEQ declines to revise the language because in the second sentence it is clearly stated that particular program elements only are applicable for certain levels of small MS4s.

Comment: Lewisville comments that for each of the MCMs, there is a statement in the permit that: "existing permittees shall assess program elements that were described in the previous permit, modify as necessary ..." Lewisville asks whether this language still provides permittees with the ability to remove program elements that were listed in the previous permit term, but are not essential to meet minimum requirements. Lewisville comments that many MS4s inadvertently committed to program elements in excess of the minimum requirements during the first permit term. Considering the numerous additional requirements of this permit, and local funding for stormwater activities that has remained the same, Lewisville comments that MS4s need the ability to discontinue unnecessary, outdated, or inefficient program elements in order to be able to accomplish more with existing funds and personnel.

Response: MS4s are required to develop a new SWMP for this permit term that may include brand new program elements, as applicable. In essence, MS4s either may continue program elements from the previous permit term if those elements were successful or modify or discontinue program elements that were not successful. However, program elements described in the previous permit should be individually evaluated and modified or replaced, as necessary.

Part III.B.1(a)(1)

Comment: Mansfield comments that the following statement in (a)(1) does not flow well: "Existing permittees shall assess program elements that were described in the previous permit, modify as necessary, to continue reducing the discharge of pollutants from the MS4 to MEP." Mansfield recommends replacing this sentence with the following: "Existing permittees shall continue to implement BMPs effective at reducing the discharge of pollutants of concern from the MS4 to the MEP. Modifications to previous permit BMPs or implementation of new BMPs may be necessary to meet the requirements of this permit."

Response: TCEQ declines to make the suggested changes because this language was provided by the EPA during their review of the permit. The intent is that permittees need to evaluate their program elements (i.e. BMPs) used in the previous permit term to be able to identify successful elements they may want to continue, and if necessary modify, and to identify less successful element they may want to discontinue. This is also described in a previous comment in Part II.E.3.

Part III.B.1.(a)(2)

Comment: Tarrant County requests clarification of this item "target" for documentation in the annual report. Tarrant County asks whether each target group should be listed and the amount of materials given to each group or whether the total amount of public information and outreach performed by the permittee should be reported instead.

Response: The term "target" means groups that the MS4 identifies as needing information about the SWMP, such as residents, visitors, public service employees, businesses, commercial and industrial facilities, and construction site personnel. The

annual report should include documentation of the amount of resources used to address each target group.

Part III.B.1.(b)

Comment: TXDOT recommends adding "and" to the first sentence so that the applicable portion of the sentence reads as follows: "All permittees shall involve the public, and, at minimum, comply with any state and local public notice requirements in the planning and implementation..."

Response: In response to the comment TCEQ revised the first sentence in (b) to: "All permittees shall involve the public, and at a minimum comply with any state and local public notice requirements in the planning and implementation activities related to developing and implementing the SWMP, except that correctional facilities are not required to implement this portion of the MCM."

Part III.B.2.(a)(1)

Comment: McKinney asks why only Level 4 MS4s are required to perform field screening.

Response: Field screening is a new requirement of the permit and was discussed with stakeholders when TCEQ developed the permit. Based on stakeholder comments it was introduced to Level 4 MS4s to avoid additional burden on smaller MS4s. If MS4s from Level 1, 2, or 3 chose to perform field screening as part of their Illicit Discharge Elimination programs they may do so, but it is not required.

Comment: McKinney comments that this section requires Level 2, 3, and 4 MS4s to have procedures to prevent and correct any leaking on-site sewage disposal systems. McKinney states that it is Level 1 MS4s that are likely to have a higher number of on-site disposal systems per capita than any other level, but the requirement does not apply to Level 1 MS4s.

Response: Developing procedures to correct any leaking on-site sewage disposal systems is a new requirement of the permit and was discussed with stakeholders when TCEQ developed the permit. Based on stakeholder comments it was introduced to Level 2, 3, and 4 MS4s only to avoid additional burden on Level 1 MS4s.

Comment: GCI comments that this section appears to omit a requirement for all small MS4 permit holders to have a program intended to detect illicit discharges. GCI notes that the federal regulations at 40 CFR §122.34(b)(3) requires that permit holders must "develop, implement and enforce a program to detect and eliminate illicit discharges." GCI states that the proposed permit language appears to impose inconsistent requirements on the various small MS4 Levels. GCI comments that terminology referring to the detection of illicit discharges should be made consistent throughout the permit. GCI also suggests that the permit avoid prescriptive discussion of methods of illicit discharge detection. GCI believes that all levels of small MS4 should have some

program to detect discharges, but the program should be left to the small MS4 permit holder to define using the BMP-Measurable Goal context.

Response: MCM 2. Illicit Discharge Detection and Elimination requires that all permittees, at all levels "develop, implement and enforce a program to detect, investigate, and eliminate illicit discharges into the small MS4." All permittees are required to do the requirements listed in the previous permit and requirements listed in the federal regulations at 40 CFR §122.34(b)(3). In addition to those requirements, Level 3 and 4 small MS4s are required to conduct a follow-up investigation after being notified that the illicit discharge was eliminated. Additionally, Level 4 MS4s are also required to implement a dry weather screening program that will assist the MS4 in detecting illicit discharges. The additional requirements for the various levels of MS4s were developed with input from stakeholders and were introduce to minimize additional requirements in this version of the permit on Level 1 and 2 MS4s.

Part III.B.2.(a)(2)

Comment: TCTNR comments that the first sentence addresses illicit connections or illicit discharges related to other operators of small MS4s. TCTNR comments that in their case, they are adjacent to a large MS4 and several small MS4's. TCTNR thinks the intent of this provision is for small MS4s like TCTNR to address illicit connections or illicit discharges, regardless of whether it was an issue for the small or large MS4.

Response: In response to the comment, the first sentence in (2) was changed to: "For non-traditional small MS4s, if illicit connections or illicit discharges are observed related to another operator's MS4, the permittee shall notify the other MS4 operator within 48 hours of discovery."

Comment: TXDOT questions whether the requirement to "notify the appropriate TCEQ regional office" should be a reference to "TCEQ's Field Operations Support Division."

Response: "TCEQ regional office" is the correct term.

Part III.B.2.(c)(1)

Comment: Tarrant County recommends (c)(1)(c) be deleted because priority areas are for Level 4 MS4's only. Also, Tarrant County notes that the section references Part III.B.2.(g)(1), which does not exist in the permit.

Response: In response to the comment, the sentence in (c)(1)c. was changed to: "Priority areas identified under Part III.B.2.(e)(1), if applicable."

Comment: TXDOT recommends revising the first sentence in (c)(1) to read as follows: "All permittees shall maintain un up-do-date MS4 map, which must be kept on site or at the MS4 Operator's office and available for review by the TCEQ."

Response: TCEQ declines to make the suggested change because "the MS4 Operator's office" is also considered on site.

Part III.B.2(c)(2)

Comment: TXDOT comments that this requirement needs to be more specific and notes that most of their attendance lists are stored at TXDOT's website accessible only to the training coordinator. TXDOT recommends revising this section so that it reads as follows: "All permittees shall implement a method for informing or training all identified field staff that may observe an illicit discharge or illicit connection to the small MS4 as part of their assigned job responsibilities. Training program materials and available attendance lists must be maintained on site or at the MS4 operator's office and made available for review by the TCEQ."

Response: TCEQ declines to make the suggested change. The current language was developed with input from stakeholders when the permit was developed. It allows the permittee to decide who should attend training, but at a minimum, the training should include field staff who could observe an illicit discharge while conducting their normal job responsibilities. Administrative staff that do not have responsibilities in the field and do not work in the stormwater management program would not be expected to attend training. Attendance lists from previous trainings can be kept electronically and the phrase: "or at the MS4 operator's office" was not added because the documentation of the training should be available for review by TCEQ and located "on site." The term "on site" includes the MS4s operator's office.

Part III.B.2(c)(4)

Comment: TXDOT suggests revising this section so that it reads as follows: "All permittees shall develop and maintain on site or at the MS4 operator's office procedures for responding to illicit discharges and spills."

Response: TCEQ declines to make the suggested change because the term "on site" already includes the MS4 operator's office.

Part III.B.2(c)(5)

Comment: McKinney comments that the sentence in (ii) that states: "All permittees shall report to TCEQ immediately upon ...any illicit flows believed to be an immediate threat to human health or the environment" should be better defined or removed because it is extremely broad and vague.

Response: TCEQ declines to make a change to this section because general permits typically use broad terms such as "adversely affecting human health or the environment" or "endanger human health or safety, or the environment." An example can be found in the standard conditions for waste discharge permits in the 30 TAC § 305.125(9) that states: "The permittee shall report any noncompliance to the executive director which may endanger human health or safety, or the environment."

Comment: TXDOT suggests revising (c)(5)(c)(i) to read as follows: "If and when the source of the illicit discharge has been determined, all permittees shall immediately notify the responsible party of the problem, and shall require, through ordinance or other enforcement mechanism such as utilizing the TCEQ's Field Operations Support Division, the responsible party to perform all necessary corrective actions to eliminate the illicit discharge."

Response: TCEQ declines to make the suggested change because TCEQ believes the language is appropriate and furthermore, the language is based on discussions with stakeholders when TCEQ developed the permit.

Part III.B.2.(d)(1)

Comment: McKinney asks why the requirement to conduct a follow-up investigation is not required for Level 1 and 2 MS4s. McKinney notes that at that point, the hard work is completed.

Response: Conducting follow-up investigations is a new requirement of the permit. The language was developed with input from stakeholders when TCEQ developed this permit. Based on stakeholder comments this requirement was introduced to Level 3 and 4 MS4s only to avoid additional burden on Level 1 and 2 MS4s during this permit cycle.

Comment: Tarrant County requests deleting the second paragraph that begins with the word "Operator" in (d)(1). Tarrant County comments that non-traditional small MS4s are Level 2 small MS4's. Therefore, this paragraph should not be in the section that applies to Level 3 and 4 small MS4s.

Response: In response to the comment, the second paragraph that begins with the word "Operator" in (d)(1) was deleted.

Part III B.3(a)(1)

Comment: Mansfield comments that it would be helpful for MS4s if the phrase "but may choose to do so" was added to the last sentence of the 2nd paragraph.

Response: TCEQ declines to make the requested change. The permit requires full implementation of new elements by the end of the permit term and adding the phrase "but may choose to do so" makes full implementation of new elements optional during this permit term.

Comment: Tarrant County requests clarification of the final paragraph of this section. Tarrant County asks how an MS4 will know if TCEQ waives requirements for stormwater discharges associated from a small construction site. Tarrant County also asks whether this paragraph needs to be deleted.

Response: The paragraph is included because its content is similar to language under MCM 4. Construction Site Stormwater Runoff Control in the previous TPDES Phase II

(Small) MS4 General Permit TXR040000. The intent of the language is to explain that MS4 operators are not required to enforce a program to reduce pollutant discharges from small construction sites where the construction site operator has obtained a waiver from permit requirements under the construction general permit (CGP) TXR150000. The CGP does not require a construction site operator to submit the copy of a waiver for stormwater discharges from construction sites. However, the MS4 operator may require the construction site operator to submit a copy of the waiver.

Comment: TXDOT recommends modifying the first paragraph of (a)(1) so that it reads as follows: "All permittees shall develop, implement and enforce a program requiring other operators of small and large construction activities, as defined in Part I of this general permit, who will be performing construction activities on the MS4 regulated areas to select, install, implement, and maintain stormwater control measures that prevent illicit discharges to the MEP. The program must include the development and implementation of an ordinance or other regulatory mechanism, as well as sanctions, if applicable to ensure compliance to the extent allowable under state, federal, and local law, to require erosion and sediment control."

Response: TCEQ agrees in part with the comment, and in response, the last sentence in (a)(1) was revised to: "The program must include the development and implementation of an ordinance or other regulatory mechanism, as well as sanctions to ensure compliance to the extent allowable under state, federal, and local law, to require erosion and sediment control."

Part III.B.3(b)(1)

Comment: Mansfield comments that it is unclear why the MS4 would be required to identify in the annual report changes made to BMPs from a previous permit. Mansfield comments that a new SWMP would have been submitted and the annual report should only include information related to that SWMP implementation. Mansfield recommends removing the sentence requiring submission of changes made from previous permit BMPs in the annual report.

Response: TCEQ disagrees with the comment because changes, such as changing BMPs, needs to be reflected in the annual report. The requirement was not changed from the previous permit term and is consistent with 40 CFR §122.34. Furthermore, explaining changes in BMPs from the previous permit term provide additional documentation that these BMPs were evaluated for inclusion or removal in the new permit term.

Comment: TXDOT suggests changing (b)(1) to read as follows: "All permittees shall review and update as necessary, the SWMP and MCM implementation procedures required by Part III.A.2. Any changes must be included in the annual report. Such written procedures must be maintained on site or at the MS4 operator's office or in the SWMP and made available for inspection by the TCEQ."

Response: TCEQ agrees in part with the comment and in response the second sentence in 3.(b)(1) was changed to: "Any changes must be included in the annual report."

Part III.B.3(b)(4)

Comment: McKinney comments that the language: "...all permittees shall maintain and implement....The site plan procedures must meet the following minimum requirements: ... and c. The permittee may accept a plan ..." are inconsistent. McKinney suggests adding c. as a standalone sentence, or adding the word "one" to the above sentence so that it states "...The site plan procedures must meet one of the following minimum requirements:"

Response: In response to the comment, the last sentence c. was changed to a standalone sentence that reads as follows: "The permittee may require and accept a plan, such as a SWP3, that has been developed pursuant to the CGP, TXR150000."

Comment: Tarrant County comments that the current stormwater construction general permit does not require TCEQ to review a SWP3 before construction begins. Therefore, Tarrant County asks why small MS4s are required to review construction plans in a SWP3 prior to construction. Tarrant County comments that traditional small MS4s have the power to require this type of review, whereas non-traditional MS4s do not have the staff or storage capacity to handle the materials.

Response: The permit requires the MS4 to maintain and implement site plan review procedures; the MS4 is not necessarily required to review all construction site plans. The permit requires the MS4 to conduct periodic construction site inspections and the review of the SWP3 is an important part of the inspection procedure. The MS4 is not required to review all of the SWP3s or to inspect all construction sites.

Comment: TXDOT recommends adding the word "federal" to the first sentence so that the first part reads as follows: "To the extent allowable by state, federal, and local law..."

Response: In response to the comment, the first sentence in (b)(4) was revised to: "To the extent allowable by state, federal, and local law..."

Comment: TXDOT recommends editing the last part of the second sentence so that it reads as follows: "...located in the permittee's regulated portion of small MS4."

Response: TCEQ declines to make the suggested change because the permit uses the phrase: "regulated area" instead of the phrase: "regulated portion" throughout the permit.

Part III.B.3(b)(5)

Comment: TXDOT recommends adding the word "federal" to the first sentence so that the first part reads as follows: "To the extent allowable by state, federal, and local law..."

Response: In response to the comment, the first sentence in (b)(5) was revised to: "To the extent allowable by state, federal, and local law..."

Comment: TXDOT suggests adding the phrase "or at the MS4 operator's office" to the second sentence of (5)(b)(i) so that the sentence reads as follows: "These procedures must be maintained on site or at the MS4 operator's office or in the SWMP and be made available to TCEQ."

Response: TCEQ declines to make the suggested change because the term "on site" already includes "the MS4 operator's office."

Comment: In subsection (5)(b)(ii),Tarrant County requests removing the word "must" from the sentence "Inspections of construction sites must..." and replace with the word "may include." Tarrant County comments that inspections are site specific and the inspector should have the flexibility and discretion to determine the needs at that particular site, which could include a brief reconnaissance visit. TXDOT recommends editing (5)(b)(ii)(2) to read as follows: "If necessary, conduct a thorough site inspection to determine if control measures have been selected, installed, implemented, and maintained to meet the TPDES CGP TXR150000 requirements."

Response: TCEQ agrees in part with the comment and in response the first sentence in (b)(ii)2. was revised to read: "Conduct a site inspection to determine if control measures have been selected, installed, implemented, and maintained according to the small MS4s requirements." However, the remaining language is appropriate in order for the MS4 operator to conduct a proper site inspection according to 40 CFR §122.34(b)(4).

Comment: TXDOT suggests editing (5)(b)(ii)(4) to read as follows: "Record a written or electronic inspection or evaluation report." TXDOT comments that it has an evaluation form for construction site inspections, but does not have a document titled an "inspection report."

Response: TCEQ declines to make the suggested change because TXDOT can use its evaluation form as "inspection reports." There are no requirements to the title of an inspection report as long as it includes, at a minimum, the requirements in subpart (b)(ii).

Part III.B.3.(b)(7)

Comment: TXDOT recommends deleting the word "stormwater" from the first sentence phrase "construction stormwater program." TXDOT comments that it has a construction program separate from a stormwater program.

Response: TCEQ declines to make the suggested change because the intent of the language is to require MS4 operators to train staff whose job duties are related to stormwater discharges from construction sites. Therefore, the permit uses the term: "construction stormwater program."

Part III.B.3.(c)

Comment: TXDOT recommends the first part of (3)(c)(1) so that it reads as follows: "Permittees who operate level 3 and 4 small MS4s shall maintain an inventory of all permitted active public and private construction sites. Notification to the small MS4 should be made by submittal of a copy of an NOI, or a small construction site notice, that result in a total land disturbance of one or more acres, or that result in a total land disturbance of less than one acre..."

Response: In response to the comment, the paragraph in 3(c) was changed to: "Permittees who operate level 3 and 4 small MS4s shall maintain an inventory of all permitted active public and private construction sites, that result in a total land disturbance of one or more acres or that result in a total land disturbance of less than one acre if part of a larger common plan or development or sale. Notification to the small MS4 should be made by submittal of a copy of an NOI or a small construction site notice. The permittee shall make this inventory available to the TCEQ upon request."

Part III.B.4.(a)(1)

Comment: TXDOT recommends adding "federal" to the first part of the first sentence so the applicable phrase reads as follows: "...allowable under state, federal, and local law..."

Response: In response to the comment, the first sentence in (a)(1) was changed to: "All permittees shall develop, implement and enforce a program, to the extent allowable under state, federal, and local law, to control stormwater discharges from new development and redeveloped sites that discharge into the small MS4 that disturb one acre or more, including projects that disturb less than one acre that are part of a larger common plan of development or sale."

Comment: TXDOT comments that it does not establish the stormwater program for private or public development. Therefore, TXDOT recommends editing the second sentence of this section so that it reads as follows: "The program must be established for private, public development sites, or permittees' own development sites, where applicable."

Response: TCEQ declines to make the change because the term: "public development sites" covers the suggested term: "permittees own development sites" since MS4s are public entities.

Part III.B.4.(a)(2)

Comment: Sugar Land asks whether MS4 permittees are required to enforce stormwater controls on all new development and redevelopment or is this optional based on project feasibility.

Response: MS4 operators are required to develop, implement, and enforce a program to assure the proper design, use, and maintenance of stormwater controls in new development and redeveloped sites that disturb one acre or more, including projects that disturb less than one acre, but are part of a common plan of development or sale. However, it is not always possible for an entity, such as a transportation authority, to safely install or operate BMPs. For example, BMPs that retain, detain, or slow down stormwater cannot always be installed, because in the event of a malfunction, the BMP could cause active lanes of traffic to flood and present an unacceptable risk to the traveling public. BMPs encouraging infiltration are not feasible where groundwater may migrate under the pavement section or near bridges and retaining walls. Clear zone requirements may prohibit the placement of trees (which might be planted to increase evapotranspiration), as well as the installation of structures or basins near active lanes of traffic. Additionally, the maintenance of BMPs within the right-of-way may present a safety hazard to personnel, particularly when lane closure or other traffic control is necessary.

Comment: TXDOT recommends re-wording the first sentence of this section so that it reads as follows: "All permittees shall use, to the extent allowable under state, federal, and local law, an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects within the permittees' jurisdictional areas."

Response: In response to the comment, the first sentence in (a)(2) was revised to: "All permittees shall use, to the extent allowable under state, federal, and local law and local development standards, an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects."

Comment: Mansfield recommends removing the phrase "and to" from the second sentence of this section and replacing it with "that" so that the phrase reads "that protect water quality" rather than "and to protect water quality." TXDOT suggests adding the phrase "or entity specific requirements" to the second sentence. TXDOT comments that it does not facilitate community endeavors, but has specific requirements for safe operation of vehicles on roadways.

Response: In response to the comment, the second sentence in (a)(2) was changed to: "The permittees shall establish, implement, and enforce a requirement, that owners or operators of new development and redeveloped sites design, install, implement, and maintain a combination of structural and non-structural BMPs appropriate for the community and that protects water quality." The phrase "or entity specific requirements" was not added because 40 CFR §122.34(b)(5) requires that the permittee use a combination of structural and non-structural BMPs appropriate for the community.

Part III.B.4.(b)(1)

Comment: TXDOT suggests the word "reflected" in the second sentence of this section be changed to "included" so that the applicable section reads as follows: "Any changes must be included in the annual report."

Response: In response to the comment, the second sentence in (b)(1) was changed to: "Any changes must be included in the annual report."

Part III.B.4.(b)(3)

Comment: McKinney notes the following language in this section: "Maintenance performed by the owner or operator of a new development...The permittee shall require operation and maintenance performed is documented and... made available for review by the small MS4" and asks through what means shall this be required and to what degree is considered acceptable operation and maintenance.

Response: The MS4 operators must require, to the extent allowable under state, federal, and local law, that owners of stormwater controls operate and maintain those controls. In many cases the controls may be located on private property and it will be necessary for the MS4 operator to establish some requirements to assure accountability and responsibility for the operation and maintenance of these controls.

Comment: Tarrant County believes this section belongs to Level 3 and 4 small MS4s and that non-traditional MS4s cannot perform these functions under current state and local law.

Response: TCEQ declines to make any changes to this section in response to the comment because it appropriately limits the requirement "to the extent allowable" under state and local law.

Comment: TXDOT suggests adding "federal" to the first sentence of this section so that the phrase now reads as follows: "to the extent allowable under state, federal, and local law."

Response: In response to the comment, the initial phrase of the first sentence in section (b)(3) was changed to: "All permittees shall, to the extent allowable under state, federal, and local law...."

Part III.B.4.(c)

Comment: McKinney comments that this section is overly prescriptive. Additionally, McKinney comments that this subsection is redundant if the permittee is required to ensure the owner or operator is performing acceptable operation and maintenance as described in Part III, Section B. 4.(b)(2).

Response: Inspections of post-construction control measures will help MS4 operators determine if controls are properly functioning and when maintenance is required. The results of inspections will provide a status of control measures and will assist MS4s in prioritizing funding.

Part III.B.5(b)(2).

Comment: Round Rock comments that larger small MS4s may be more apt to keep electronic training records and to train large departments or departments with different work schedules, such as police or fire remotely. The current language in this section significantly limits the options for these entities. Therefore, Round Rock recommends deleting "signature" in the following sentence in the training and education section so that it reads as follows: "All permittees shall maintain a training list for inspection by TCEQ when requested." TXDOT also recommends deleting the word "signature" and replacing it with "attendance" so their proposed revised sentence reads as follows: "All permittees shall maintain a training attendance list for inspection by TCEQ when requested."

Response: In response to the comment, the first sentence of (b)(2) was changed to: "All permittees shall maintain a training attendance list for inspection by TCEQ when requested."

Part III.B.5(b)(5)

Comment: Tarrant County requests removal of the word "operations" and replaced with the word "facilities" in section (b)(5)(d). Tarrant County also requests deleting the last sentence of the section because it would cause undue financial hardship and staffing availability for Level 1 and 2 small MS4s. Tarrant County comments that nowhere else within the permit is a log of inspections required under the Pollution Prevention and Good Housekeeping for Municipal Operations section.

Response: TCEQ agrees in part with the comment and in response, section (5)(d) was changed to: "Inspection of pollution prevention measures - All pollution prevention measures implemented at permittee-owned facilities must be visually inspected at a frequency determined by the permittee to ensure they are working properly."

Comment: BCC, JCC, OCC, HCC, FBCC, MCC, and NAC request removal of the terms "pothole repair" and "saw cutting" from the list of activities identified as a permittee operation/maintenance activity that would represent a significant pollutant source. BCC, JCC, OCC, HCC, FBCC, MCC, and NAC comment that the requirements under this section should be reserved for major roadway maintenance activities, such as an overlay or grinding. BCC, JCC, OCC, HCC, FBCC, MCC, and NAC comment that requiring permittees to address pothole repair and saw cutting with pollution prevention measures could result in unnecessary delays of minor municipal repairs, which are not a major contributor to stormwater pollution.

Response: In response to the comment, section (b)(5)(i) was revised to clarify that addressing pollution prevention measures when performing pothole repair and saw cutting were options the MS4 could pursue. The statement in section (b)(5)(i) was revised to read: "Road and parking lot maintenance may include such areas as pothole repair, pavement marking, sealing, and re-paving; and section (b)5(ii) was revised to read: "Bridge maintenance may include such areas as re-chipping, grinding, and saw cutting."

Part III.B.5(c)(1)

Comment: TXDOT recommends removal of the word "or" just before "reduce" in (c)(1)(a) so that the revised phrase reads as follows: "...develop and implement an O&M program to reduce, to the maximum extent practicable..."

Response: In response to the comment, the phrase in (1)(a) was changed to: "Permittees who operate level 3 or 4 small MS4s shall develop and implement an O&M program to reduce to the maximum extent practicable..."

Part III.B.5(c)(2)

Comment: TXDOT suggests replacing the acronym "SOP" at the end of (c)(2)(a) with "O&M program."

Response: In response to the comment (2)a. was changed to: "..... in accordance with a frequency and schedule determined in the permittee's O&M program."

Part III.B.5(c)(3)

Comment: TXDOT asks whether the phrase "facilities and stormwater controls" used in this section include inlets.

Response: The term "stormwater controls" includes structural controls on the facility such as detention facilities and infiltration facilities. There is no requirement to include the location of inlets on the MS4's map.

Part III.B.5(c)(5)

Comment: Craig Maske comments that this section refers to high priority facilities, but refers to Part III.B.5.(c)(2)b., which refers to street sweeping. Mr. Maske believes the proper reference should be to Part III.B.5.(c)(4)b.

Response: In response to the comment, the reference in (5)(a) was changed to: "Part III.(c)(4)b".

Part III.B.5(c)(6)

Comment: Sugar Land asks for a definition of the term "high priority facility" used in this section.

Response: High priority facilities are facilities with a high potential to generate stormwater pollutants. These facilities must include, at a minimum, the MS4 operator's maintenance yards, hazardous waste facilities, fuel storage locations, and other facilities where chemicals or other materials have a high potential to be discharged in stormwater. Among the factors that must be considered when giving a facility a high priority ranking are: the amount of urban pollutants stored at the site, the identification of improperly stored materials, activities that must not be performed outside (for example, changing automotive fluids, vehicle washing), proximity to waterbodies, proximity to sensitive aquifer recharge features, poor housekeeping practices, and discharge of pollutant(s) of concern to impaired water(s).

The definition of high priority facilities was added to Part I of the permit, and is based on the EPA's " MS4 Improvement Guide" from April 2010. The definition is as follows: "High priority facilities are facilities with a high potential to generate stormwater pollutants. These facilities must include, at a minimum, the MS4 operator's maintenance yards, hazardous waste facilities, fuel storage locations, and other facilities where chemicals or other materials have a high potential to be discharged in stormwater. Among the factors that must be considered when giving a facility a high priority ranking are: the amount of urban pollutants stored at the site, the identification of improperly stored materials, activities that must not be performed outside (for example, changing automotive fluids, vehicle washing), proximity to waterbodies, proximity to sensitive aquifer recharge features, poor housekeeping practices, and discharge of pollutant(s) of concern to impaired water(s)."

Part III.B.5(c)(7)

Comment: BCC, JCC, OCC, HCC, FBCC, MCC, and NAC note that this section addresses inspections and requires permittees who operate a Level 3 or 4 small MS4 to implement an inspection program for high-priority permittee-owned facilities. BCC, JCC, OCC, HCC, FBCC, MCC, and NAC are requesting that this requirement be removed from the permit. They comment that municipally owned facilities that would be considered "high priority" (municipal transit facilities, municipal airports, landfills, and wastewater treatment facilities) are already regulated under the Multi-Sector General Permit (MSGP) No. TXR050000. The MSGP requires these facilities to develop a stormwater pollution prevention plan, implement BMPs, conduct employee training, develop an annual comprehensive site evaluation, and conduct routine facility inspections or discharge visual monitoring on a quarterly basis. BCC, JCC, OCC, HCC, FBCC, MCC, and NAC comment that requiring these facilities to conduct additional periodic inspections under the Phase II MS4 permit is duplicative and not cost effective.

Response: High priority facilities will typically include facilities permitted under the MSGP. However, there are other types of high priority facilities, such as maintenance

yards and chemical storage facilities that are not necessarily permitted under the MSGP. As a result, TCEQ considers it appropriate to maintain the requirement to inspect high-priority permittee-owned facilities. However, MS4 operators may combine inspections of facilities subject to the MSGP and those subject to this permit, as appropriate.

Part III.B.7

Comment: Mansfield comments that the second paragraph should read "...projects where the MS4 is a construction site operator..." rather than "...projects where the MS4 operator is a construction site operator..."

Response: In response to the comment, the second paragraph in B.7 was changed to: "This MCM is only available for projects where the small MS4 is a construction site operator or owner, and the MCM does not provide any authorization for other construction site operators at a municipal project."

Comment: Mansfield comments that the second paragraph seems to indicate that when the MS4 is the owner, and another operator has day-to-day control, the MS4 must still submit an individual NOI instead of being covered under MCM 7. Mansfield asks for clarification regarding whether MCM 7 applies only when the MS4 is both the day-to-day operator and the owner.

Response: The optional MCM 7 may authorize only the construction activities performed by the MS4 operator and those performed by contractors for the small MS4, where the small MS4 operator continues to meet the definition of construction site operator.

Comment: TXDOT comments that the phrase "...unless less stringent than the requirements of Part III.B.7" in the third sentence of this section should be more fully developed or better specified.

Response: In response to the comment, TCEQ removed the phrase "unless less stringent than the requirements of Part B.7", so the sentence now reads as follows: "When developing this measure, permittees are required to meet all requirements of, and be consistent with, applicable effluent limitation guidelines for the Construction and Development industry (40 CFR Part 450), TPDES CGP TXR150000, and Part III.B.3 of this permit."

Part III.C.6

Comment: Tarrant County requests deletion of the phrase: "A rationale statement that addresses the overall program, including how the BMPs and measurable goals were selected..." because the general information required from this statement can be found under section (c)(1)-(5).

Response: TCEQ disagrees and declines to make the suggested change. Sections (c)(1)-(5) requires a list of entities assisting with the development of the SWMP, a list of MS4

operators contributing to the development of the SWMP, a list of BMPs and measurable goals for each MCM, a schedule for the implementation of the SWMP requirements and a description of how each measurable goal will be evaluated. Section (c)(6) requires the permittee to provide a rationale statement that addresses the overall SWMP and includes an explanation of how the BMPs and measurable goals were selected.

Part IV.B.2.(i)

Comment: TXDOT comments that this section should be re-worded as follows: "The number of construction activities, greater than one (1) acre of disturbed area, that occurred within the jurisdictional area of the small MS4 (as noticed to the permittee by the construction operator), and that were not authorized under the 7th MCM."

Response: TCEQ declines to make the suggested change because only construction sites greater than 5 acres, unless they are part of a common plan of development, are required to send a site notice to the MS4 operator receiving the stormwater discharge from the construction activity.

Part VI.D.2.

Comment: TXDOT asks whether the requirement to post a construction site notice for regulated construction activities is still a requirement.

Response: It is still a requirement under this permit to post a construction site notice for regulated construction activities under MCM 7.

Additional Miscellaneous TXDOT Comments

Comment: TXDOT made a number of editorial suggestions to the draft permit without any explanation regarding why they thought the changes were appropriate. The other silent changes are listed below followed by a single response.

TXDOT recommends re-wording section (e) of the definition of "Small MS4" to read as follows: "Which was not previously identified under a National Pollutant Discharge Elimination System (NPDES) or a Texas Pollutant Discharge Elimination System (TPDES) as requiring an individual permit by meeting the definition of a medium or large municipal separate storm sewer system, as defined in 40 CFR §§122.26(b)(4) and (b)(7),unless the subject individual permit has been rescinded by TCEQ."
TXDOT recommends adding the following phrase at the end of the last sentence in the last paragraph before Part II.B.1.: "that conduct ordinary living, recreational, or industrial activities."

TXDOT recommends adding "/alternative focused BMPs" after "sub-benchmark goals" where it occurs in Part II.D.4(a)(7).

TXDOT recommends adding the phrase "separate MS4 operator" in second sentence in Part II.F.1(b) after the initial reference to the term at the beginning of the sentence so

that it reads as follows: "Where a separate MS4 operator is contributing to implementation of the SWMP, the SWMP must clearly define each minimum measure and the component(s) each separate MS4 operator agrees to implement, within which MS4 area(s) each separate MS4 operator agrees to implement, and clearly identify the separate MS4 operator."

TXDOT recommends adding the phrase "or other maintenance agreements (e.g. Municipal Maintenance Agreement)" to Part III.A.3.(b)(2)(a.) so that the first sentence reads: "Enter into interlocal agreements or other maintenance agreements (e.g., Municipal Maintenance Agreement) with municipalities where the small MS4 is located. TXDOT also recommends deleting the word "interlocal" from the second sentence.

TXDOT recommends editing the second sentence of Part III.A.3.(b)(2)(b.) to read: "In determining feasibility for entering into any agreements, the permittee shall consider all factors, including, but are not limited to, financial considerations, the willingness of the municipalities in which the small MS4 is located, and the total number of agreements needed where the small MS4 is located." TXDOT all recommends replacing the word "interlocal" with "any" in the first sentence.

TXDOT recommends adding "or obtain" and "as applicable" to the first sentence in Part III.B.1(a)(1) so that it reads: "All permittees shall develop or obtain, implement, and maintain a comprehensive stormwater education and outreach program to educate public employees, businesses, and the general public, as applicable, of hazards associated with the illegal discharges..."

TXDOT recommends revising Part III.B.2(c)(6) to read as follows: "The permittee shall conduct inspections, as determined appropriate and under their jurisdiction, in response to complaints, and shall conduct follow-up inspections as needed and appropriate to ensure that corrective measures have been implemented by the responsible party."

TXDOT recommends modifying the first sentence of Part III.B.3(b)(2) so that it reads as follows: "All permittees shall require that construction site operators implement appropriate erosion and sediment control BMPs to the extent allowable under state, federal, and local law."

TXDOT recommends editing the first sentence of Part III.B.3(b)(2)(d) to read as follows: "As an alternative to (a) through (c) above, all permittees shall ensure to the extent allowable under state, federal, and local law that all small and large construction activities on the permittees's MS4 and discharging to the small MS4 have developed and implemented a stormwater pollution prevention plan (SWP3) in accordance with the TPDES CGP TXR150000."

TXDOT recommends editing the last part of the second sentence in Part III.B.3(b)(5) so that it reads as follows: "...located within the permittee's regulated portion of small MS4."

TXDOT recommends adding the phrase "if applicable" at the end of Part III.B.3.(5)(b)(ii)(3).

TXDOT recommends adding "or evaluation" to the first sentence of Part III.B.3.(5)(c) so that it reads as follows: "Based on site inspection or evaluation findings, all permittees shall take all necessary follow-up actions..."

TXDOT recommends adding the phrase "to the extent allowable under state, federal and local law" to the end of the first sentence of the second paragraph in Part III.B.4.(a)(1)

TXDOT recommends adding the phrase "if any" to the second sentence of the second paragraph in Part III.B.4.(a)(1) so that it reads as follows: "New elements, if any, must be fully implemented..."

TXDOT recommends adding the phrase "or at the MS4 operator's office" to the third sentence in Part III.B.4.(b)(1) so that the sentence reads as follows: "Such written procedures must be maintained either on site or at the MS4 operator's office or in the SWMP and made available for inspection by TCEQ."

TXDOT recommends removing the word "assessment" in the first sentence of Part III.B.5(c)(4)(b).

Response: TCEQ declines to make any of the suggested changes because, in our opinion, they do not improve the understanding, readability, or clarity of the permit language. However, where TXDOT provided a comment with editorial suggestions or where TCEQ made changes in response to TXDOT's editorial suggestions, those comments can be found in the main body of the response to comment under the appropriate section.

STORMWATER MANAGEMENT PROGRAM (SWMP) COVER SHEET

Confirm Each Minimum Control Measure (MCM) Below is Included in the SWMP

This cover sheet MUST be completed by indicating the page number where the requested item will be found in the SWMP. Provide the page number to the left of each item.

This cover sheet MUST be attached to the front of the SWMP.

Operator:

Operator name on NOI: City of Texarkana

Assessment of program elements:

☑ Program elements that were described in the previous permit have been assessed and modified as necessary. New elements have been developed and implemented as necessary.

☐ N/A, If newly regulated MS4.

MCM 1: Public Education, Outreach, and Involvement

Page # (s) – Provide the page number (s) to the left of each item.

The SWMP includes the following required elements:

Requirements for all MS4s:

7	1. SWMP includes a stormwater education and outreach program to educate public employees, business, and the general public about hazards associated with the illegal discharges and improper disposal of waste and about the impacts stormwater can have on water quality, and steps they can take to reduce pollutants in stormwater.
7	2. Defines the goals and objectives of the program based on high-priority community-wide issues.
7	3. Identifies the target audiences.
7	4. Appropriate educational material is developed or used.
7	5. Education material is distributed.
9-14	SWMP Lists Best Management Practices (BMPs) used to fulfill this MCM. Examples of possible BMPs include, but are not limited to, the following: • Classroom Education • Use of media • Education/Outreach for Commercial Activities • Lawn and garden activities • Promotional giveaways • Water conservation practices for homeowners • Outreach programs tailored to specific communities and children • Stormwater educational materials • Educational displays, pamphlets, booklets, and utility stuffers • Webpage • Storm drain stenciling • Speakers to community groups • Encouragement of proper lawn and garden care • Encouragement of low impact development • Support of pollution prevention for businesses

9-14

- Encouragement of water conservation practices
- Encouragement of pet waste management
- Stormwater hotlines

8 6. SWMP includes a program that complies with state and local public notice requirements.

8 7. May include using public input in the implementation of the program.

8 8. May include opportunities for citizen to participate in implementation of control measures.

8 9. Ensure the public easily can find information about the SWMP.

15-18 SWMP Lists Best Management Practices (BMPs) used to fulfill this MCM. Examples of possible BMPs include, but are not limited to, the following:

- Stakeholder meetings
- Community hotline
- Coordination with school groups/scouting
- Listserver
- Stream cleanup and monitoring
- Adopt-A-Stream programs
- Incentives for businesses to participate, such as web links
- Volunteer monitoring
- Watershed Organization
- Storm drain stenciling programs
- Advisory/partner committees
- Mailing list development and use
- Reforestation programs
- Wetland plantings
- Coordinate volunteer programs.

9-18 SWMP includes measureable goals, and the method of measurement, for addressing stormwater quality

9-18 SWMP has been fully implemented, or includes a schedule of implementation not to exceed five (5) years from permit issuance date.

MCM 2: Illicit Discharge Detection and Elimination

Page # (s) – Provide the page number (s) to the left of each item.

The SWMP includes the following required elements:

Requirements for all MS4s:

23 1. Description of program that will be used to detect, investigate and eliminate illicit discharges

25 2. MS4 map:
   a. Location of all small MS4 outfalls operated by the MS4 and that discharge into waters of the U.S.
   b. Location and name of all surface waters receiving discharge from the MS4s outfalls.
   c. Priority areas, if applicable.

43-44 3. Methods for informing and training MS4 field staff.

23-24 4. Procedures for tracing the source of an illicit discharge.

23-24 16	5. Procedures for removing the source of the illicit discharge. 6. Facilitate public reporting of illicit discharges of water quality impacts associated with discharges into or from the small MS4.
12 16	7. Procedures for responding to illicit discharges and spills. 8. Inspections in response to complaints.
24	**Additional Requirements for Level 2, 3, and 4 small MS4s:** For Level 2, 3, and 4 small MS4, procedures to prevent and correct leaking on-site sewage disposal systems.
N/A	**Additional Requirements for Level 3 and 4 small MS4s:** Follow-up investigation after the illicit discharge has been eliminated.
N/A	**Additional Requirements for Level 4 small MS4s:** 1. Procedures for identifying and creating a list of priority areas within the small MS4s likely to have illicit discharges. 2. Implement a dry weather field screening program to assist in detecting and eliminating illicit discharges to the small MS4.
21-27	SWMP Lists Best Management Practices (BMPs) used to fulfill this MCM. Examples of possible BMPs may include the following: • List of non-stormwater discharges that will not be considered illicit • Procedures to address illegal dumping • Hazardous materials disposal opportunities • Industrial/Business connections • Addressing wastewater connections to MS4 • Addressing recreational sewage (boats/camping/etc.) • System inspections • Dye testing • Recycling programs • Informing public/employees/businesses of hazards associated with illicit discharges • Identification of illicit discharges • Used oil collection centers • Public outreach and education programs regarding illicit discharges • Publicize and facilitate public reporting
21-27	SWMP includes measureable goals, and the method of measurement, for addressing stormwater quality.
21-27	SWMP has been fully implemented, or includes a schedule of implementation not to exceed five (5) years from permit issuance date.

MCM 3: Construction Site Stormwater Runoff Control

Page # (s) – Provide the page number (s) to the left of each item.

The SWMP includes the following required elements:

Requirements for all MS4s:

28

1. Description of program that will be developed, implemented and enforced, to address stormwater runoff from construction once acre and greater (including larger common plan).

29-30

2. 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.

31

3. Program requires construction site operators to implement erosion and sediment control – BMPs to minimize the discharge of pollutants.
    a. Program requires soil stabilization measures, and implementation of BMPs to control pollutants from equipment and vehicle washing and other wash waters.
    b. Program requires operators to minimize exposure to stormwater of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials.
    c. Minimize the discharge of pollutants from spills and leaks. As an alternative, ensure that the construction site has developed a stormwater pollution prevention plan in accordance with the TPDES Construction General Permit TXR150000.

31

4. Program prohibits illicit discharges such as wash out wastewater, fuels, oils, soaps, solvents, and dewatering activities.

31

5. Procedures for construction site plan review to consider water quality impacts.

32

6. Procedures for construction site inspections and enforcement of control measures, to the extent allowable under state and local law.

34

7. Procedures for receipt and consideration of information submitted by the public.

33

8. Procedures for MS4 staff training.

N/A

Additional Requirements for Level 3, and 4 small MS4s:

Includes an inventory of all permitted active construction sites greater than one acre or less than one acre if part of a larger common plan of development.

29-34

SWMP lists BMPs used to fulfill this MCM. Examples may include:

- Requirement to comply with TPDES CGP
- Notification to discharger of responsibilities under TPDES CGP
- Hire staff to review construction site plans
- Provide a web page for public input on construction activities
- Require overall construction site waste management
- Perform site inspections and enforcement
- Provide education and training for construction site operators
- Notify dischargers of requirement to obtain TPDES permit coverage
- Mechanism to prohibit discharges into MS4 where necessary

29-34

SWMP includes measurable goals, and the method of measurement, for addressing stormwater quality.

29-34

SWMP has been fully implemented, or includes a schedule of implementation not to exceed five (5) years from permit issuance date.

MCM 4: Post-Construction Stormwater Management in New Development and Redevelopment

Page # (s) – Provide the page number (s) to the left of each item.

The SWMP includes the following required elements:

Requirements for all MS4s:

35	1. Description of program that will be developed, implemented and enforced, to address stormwater runoff from new development and redeveloped sites that discharge into the small MS4 that disturb one acre or more, including projects that disturb less than one acre that are part of a larger common plan of development or sale.
35	2. Ordinance or other regulatory mechanism is in place or planned which will regulate discharges from new development and redevelopment projects.
35	3. Establish, implement, and enforce a requirement that owners or operators of new development and redeveloped sites design, install, implement, and maintain a combination of structural and non-structural BMPs appropriate for the community and that protects water quality.
35	4. Document and maintain records of enforcement actions.
37-38	5. Long-term operation and maintenance of post construction stormwater control measures is addressed.
37-38	6. Operation and maintenance is documented.

Additional Requirements for Level 4 small MS4s:

N/A	1. Develop and implement an inspection program to ensure that all post construction stormwater control measures are operating correctly and are being maintained. 2. Inspections are documented.

36-38	SWMP lists BMPs used to fulfill this MCM. Examples may include: • Local ordinance in place or planned • Guidance document for developers to utilize • Specific BMPs established for particular watersheds • List of appropriate BMPs provided to operators • Elimination of curbs and gutters is encouraged • Zoning takes into account stormwater issues • Incentives for use of permeable choices, such as porous pavement • Requirements for wet ponds or other BMPs for certain size sites • Xeriscaping
36-38	SWMP includes measurable goals, and the method of measurement, for addressing stormwater quality.
36-38	SWMP has been fully implemented, or includes a schedule of implementation not to exceed five (5) years from permit issuance date.

MCM 5: Pollution Prevention and Good Housekeeping for Municipal Operations

Page # (s) – Provide the page number (s) to the left of each item.

The SWMP includes the following required elements:

Requirements for all MS4s:

39-40	1. An operation and maintenance (O&M) program, including an employee training component, in place or scheduled, to reduce/prevent pollution from municipal activities and municipally owned areas included but not limited to park and open space maintenance; street, road, or highway maintenance; fleet and building maintenance; stormwater system maintenance; new construction and land disturbances; municipal parking lots; vehicle and equipment maintenance and storage yards; waste transfer stations; and salt/sand storage locations.
41-42	2. Develop and maintain an inventory of the MS4's facilities and stormwater controls.
43-44	3. Inform or train staff involved in good housekeeping practices.
39-40	4. Waste from the MS4 is removed and properly disposed.
39-40	5. Contractors hired by the MS4 must be required to comply with operating procedures. a. MS4 develop contractor oversight procedures.
39-40	6. MS4 evaluates O&M activities for their potential to discharge pollutants in stormwater for road and parking lot maintenance, bridge maintenance, cold weather operations, and right-of-way maintenance etc. a. MS4 identifies pollutants of concern that could be discharged from the O&M activities. b. MS4s develop and implement pollution prevention measures that will reduce discharge of pollutants from O&M activities. c. MS4s inspects pollution prevention measures at MS4 facilities.
39-40	7. MS4 maintains structural controls.

Additional requirements for Level 3 and 4 small MS4s:

N/A	1. Storm sewer system O&M. a. MS4 develops and implements an O&M program to reduce the collection of pollutants in catch basins and other surface structures. b. MS4 develops a list of potential problem areas for increased inspection (for example, areas with recurrent illegal dumping).
N/A	2. Implement an O&M program to reduce discharge of pollutants from roads that might include a street sweeping and cleaning program, or inlet protection. The program includes an implementation schedule and a waste disposal procedure.
N/A	3. MS4 map identify MS4 facilities and stormwater controls.
N/A	4. MS4 assess its facilities for their potential to discharge pollutants into stormwater. a. The MS4 identifies high priority facilities that have a high potential to generate stormwater pollutants. At a minimum, facilities include the MS4s maintenance yards, hazardous waste facilities, fuel storage locations, and any other facilities at which chemicals or other materials have a high potential to be discharge in stormwater. b. The MS4 documents the result of the assessments.
N/A	5. The MS4 develops stormwater management Standard Operation Procedures for high priority facilities.
N/A	6. The MS4 implements stormwater controls at high priority facilities that address: a. Good housekeeping

N/A

b. De-icing and anti-icing storage
c. Fueling operations and vehicle maintenance
d. Equipment and vehicle washing

N/A

7. The MS4 develops and implements an inspection program that includes high priority facilities.

N/A

Additional requirements for Level 4 small MS4s:

MS4 has an application and management program for pesticides, herbicides, and fertilizers that address:

a. Evaluating materials and activities used at public open spaces.
b. Implementing the following practices to minimize generating pollutants related to landscaping.
   i. Education for applicators and distributers
   ii. Encouragement of non-chemical solutions for pest management
c. Development of schedules that minimizes discharge of pollutants.
d. Ensuring collection and proper disposal of unused pesticides, herbicides, and fertilizers.

41-45

SWMP lists BMPs used to fulfill this MCM. Examples may include:

- BMPs which address fleet vehicle maintenance/washing
- BMPs which address parking lot and street cleaning
- Catch basin and storm drain system cleaning
- Landscaping and lawn care (e.g. xeriscaping)
- Waste materials management
- Road salt application and storage practices
- Used oil recycling
- Pest management practices
- Fire training facilities
- BMPs which address roadway and bridge maintenance
- Golf course maintenance/waste disposal
- Disposal of cigarette butts
- Park maintenance (e.g., providing trash bags)

41-45

SWMP includes measurable goals, and the method of measurement, for addressing stormwater quality.

41-45

SWMP has been fully implemented, or includes a schedule of implementation not to exceed five (5) years from permit issuance date.

MCM 6: Industrial Stormwater Sources

Page # (s) – Provide the page number (s) to the left of each item.

The SWMP includes the following required elements:

Requirements for Level MS4 only:

N/A

Program to identify and control industrial stormwater sources that at least includes:

a. MS4 landfills, other treatment, storage, or disposal facilities for municipal waste, hazardous waste treatment, storage, disposal and recovery facilities and facilities that are subject to Emergency Planning and Community Right-to-Know Act (EPCRA).
b. Priorities and procedures for inspections and for implementing control measures for such discharges.

Optional 7th MCM: Municipal Construction Activities (only available within the regulated area where the MS4 operator meets the definition of construction site operator)

Page # (s) – Provide the page number (s) to the left of each item.

If this MCM is applicable, the SWMP includes the following information:

N/A	1. Description of how construction activities will generally be conducted so as to take into consideration local conditions of weather, soils, and other site specific considerations.
N/A	2. Description of the area that this MCM will address and where the MS4 operator's 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).
N/A	3. If the area included in this MCM includes areas outside of the UA, then all MCMs will be implemented over those additional areas as well.
N/A	4. Description provided for one of the following: a. How contractor activities will be supervised or overseen to ensure that the Stormwater Pollution Prevention Plan (SWP3) requirements are properly implemented at the construction site(s); or b. How the MS4 operator will make certain that contractors have a separate authorization for stormwater discharges if needed.
N/A	5. General description of how a construction SWP3 will be developed for each construction site.
N/A	6. Records of municipal construction activities authorized under this optional MCM.

Texas Pollutant Discharge Elimination System

Stormwater Phase II MS4 General Permit

City of Texarkana, Texas

Stormwater Management Program

Prepared By:

HALFF

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Fort Worth, Texas 76137

May 2014

AVO 29949

Table of Contents

List of Appendices

Acronyms

BMP	Best Management Practice
CWA	Clean Water Act
EPA	United States Environmental Protection Agency
ISWM	Integrated Stormwater Management
MCM	Minimum Control Measure
MEP	Maximum Extent Practicable
MS4	Municipal Separate Storm Sewer System
NOC	Notice of Change
NOI	Notice of Intent
NOT	Notice of Termination
NPDES	National Pollutant Discharge Elimination System
SWMP	Stormwater Management Program
SWPPP	Stormwater Pollution Prevention Plan
TCEQ	Texas Commission on Environmental Quality
TPDES	Texas Pollutant Discharge Elimination System
UA	Urbanized Area

1.0 INTRODUCTION

1.1 Regulatory Requirement

The Clean Water Act (CWA) is a federal law that establishes environmental programs, including the National Pollutant Discharge Elimination (NPDES) program, to protect the Nation's waters and directs the U.S. Environmental Protection Agency (EPA) to issue rules on how to implement this law. Under the NPDES program, a municipal stormwater program was developed in two phases, Phase I and Phase II.

Phase I of the EPA municipal stormwater program was promulgated in 1990 under the authority of the CWA. Phase I relied on the NPDES permit coverage to address stormwater runoff from medium and large municipal separate storm sewer systems (MS4s), serving populations of 100,000 and greater.

The NPDES Stormwater Phase II regulations, which target small MS4s located fully or partially within an "urbanized area" and construction activities disturbing more than one acre of land, were promulgated by the Environmental Protection Agency (EPA) on December 8, 1999. These regulations apply to all jurisdictions within a delineated urbanized area regardless of individual population. The latest decennial census (2000) by the U.S. Census Bureau identified the City of Texarkana as a community that is operating an MS4 within an urbanized area, and thus is regulated under the NPDES Stormwater Phase II regulations.

The Texas Commission on Environmental Quality (TCEQ) was granted the authority in 1998 from the EPA to administer the Texas Pollutant Discharge Elimination System (TPDES). This authority is granted through a Memorandum of Agreement with the EPA to administer the NPDES system as it applies to the State of Texas. The TPDES requirements must be at least as stringent as those set forth by the NPDES program.

This program requires that the City of Texarkana:

- Reduce the discharge of pollutants to the maximum extent practicable (MEP);
- Protect water quality;
- Satisfy the appropriate water quality requirements of the Clean Water Act; and,
- Manage stormwater quality activities through the Stormwater Management Program (SWMP).

The City of Texarkana has developed the SWMP in accordance with the requirements of the TPDES Small MS4 General Permit TXR040000 for obtaining authorization for stormwater discharges and certain non-stormwater discharges. The SWMP has been developed to reduce the amount of pollutants carried into the MS4 by stormwater runoff as required by the TPDES General Permit.

The City of Texarkana is required to develop a SWMP that describes specific actions that will be taken over a five-year period to reduce pollutants and protect the City's stormwater quality to the MEP. The specific activities to be implemented are Best Management Practices (BMPs). The

SWMP must also set measurable goals and provide a schedule for the implementation of the BMPs. Various BMPs must be developed for each of the five minimum control measures (MCMs) that are required by the Phase II Rule. The five required MCMs are:

1. Public Education, Outreach, and Involvement;
2. Illicit Discharge Detection and Elimination;
3. Construction Site Stormwater Runoff Control;
4. Post-Construction Stormwater Management in New Development and Redevelopment; and
5. Pollution Prevention and Good Housekeeping for Municipal Operations.

The MS4 General Permit includes a sixth MCM that only applies to Level 4 MS4s that was not included. The permit also includes the optional seventh MCM that address's stormwater from municipal construction activities. The City of Texarkana deems this MCM inappropriate for consideration at this time.

2.0 PROGRAM OVERVIEW

2.1 Background Information for the City of Texarkana

The City of Texarkana, located in Bowie County Texas, is part of the Texarkana, AK and Texarkana, TX Metropolitan area. The City was incorporated in 1874, and currently has a land area of approximately 30 square miles. In 2010, the population of Texarkana was estimated at 37,103. A location map is presented in Figure 1.

The southern portion and majority of the City lies within the Sulphur River Watershed, the remaining northern part of the City drains into the Red River Watershed. The City has approximately 30 stream miles within the City limits. The stream miles within Texarkana are comprised of Swampoodle Creek, Wagner Creek, Cowhorn Creek, Howard Creek, Nix Creek, and Days Creek. Most of the streams flow in a southeasterly direction and discharge into Days Creek which eventually discharges into the Sulphur River.

2.2 Stormwater Management Program Development

The hydrology and water quality concerns of the City of Texarkana have been considered in developing this Stormwater Management Program. The Plan herein describes the development and implementation of the Stormwater Management Program. In preparing this Plan, the City of Texarkana has considered different activities, municipal and public, that have stormwater impacts. Some of the municipal departments that have been identified as having stormwater impacts include Public Works, Police, Fire, Parks and Recreation, Planning and Zoning, and the Texarkana Water Utilities.

This SWMP includes the five MCMs required by the TPDES program and the EPA Phase II Final Rule. Each of the five required MCMs includes a summary that outlines the TCEQ requirements for that component of the plan. The summary is followed by specific BMPs that include measurable goals and target dates, and the implementing responsibility within the City of Texarkana.

2.3 Public Review and Comment of the Stormwater Management Program

In accordance with the general permit TXR040000, Part II, Section E, Number 12, the SWMP will be available for review at the City Hall, located at 220 Texas Blvd., Texarkana, Texas 75501 and at the Public Library, located at 600 W. 3rd Street, Texarkana, Texas 75501.

2.4 Annual Reporting

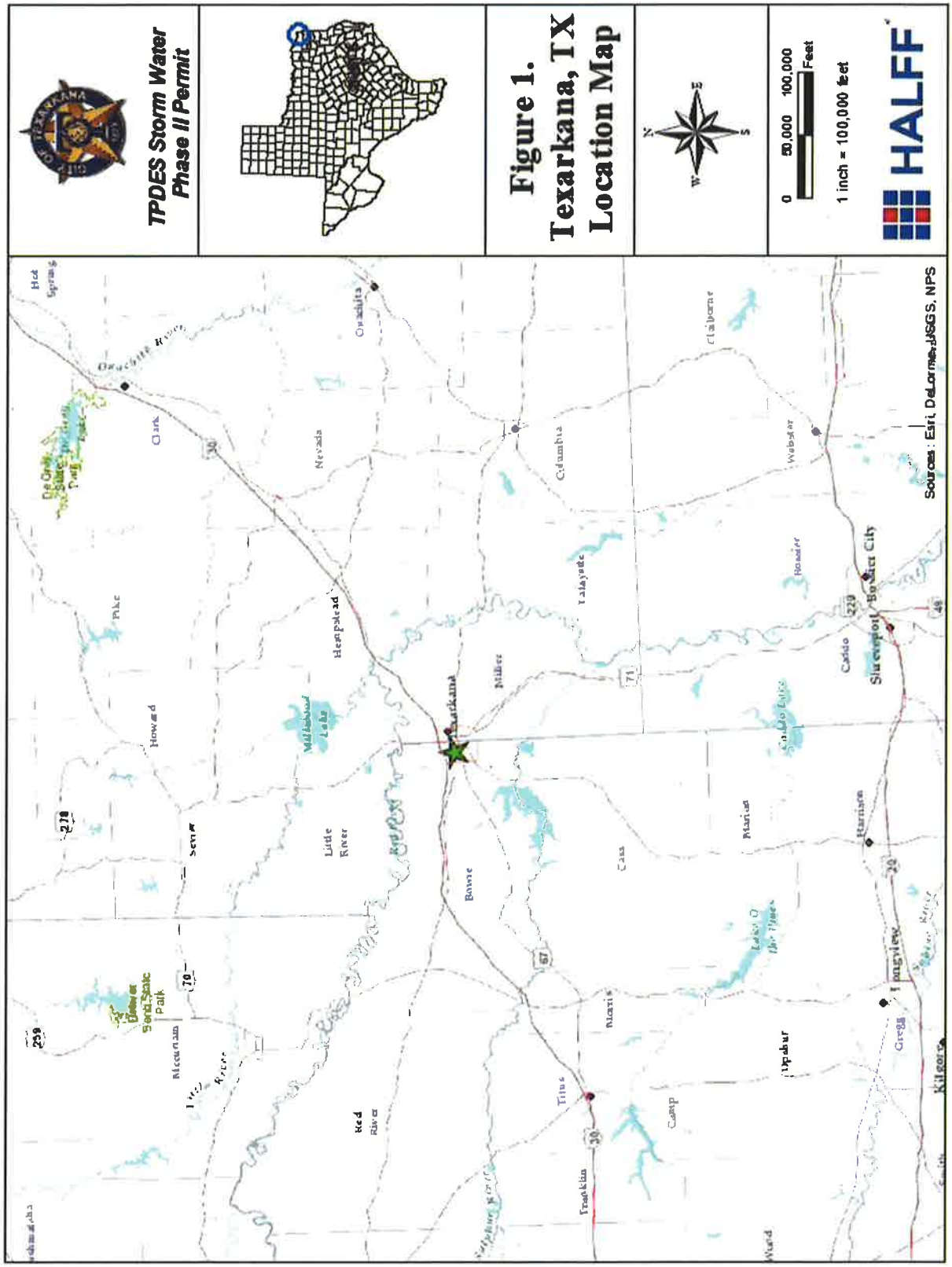
The City of Texarkana will track BMP activities, results, and changes to the SWMP through an annual report that will be submitted to the TCEQ within 90 days of the end of each permit year. The annual report will include factors required by Part IV, Section B, Number 2 of the general permit, including the status of the compliance with permit conditions, assessments of BMPs, and any changes to the SWMP, as assessed to keep the City of Texarkana in compliance with the general permit conditions.

2.5 Recordkeeping and Tracking

In accordance with the general permit TXR040000, Part IV, Section A, the City of Texarkana will retain all records, a copy of the TPDES general permit, and records of all data used to complete the application (NOI) for the general permit for a minimum of three years or the term of this general permit, whichever is longer, and make this information available to the public if requested to do so in writing within 10 days of the request.

2.6 Responsibility

The City of Texarkana Public Works Department is responsible for implementing, updating and tracking progress towards the goals and objectives of this Stormwater Management Program.


TPDES Storm Water
Phase II Permit
Figure 1.
Texarkana, TX
Location Map
0 50,000 100,000 Feet
1 inch = 100,000 feet
HALFF
Sources: Esri, DeLorme, USGS, NPS

3.0 CITY OF TEXARKANA STORMWATER MANAGEMENT PROGRAM

This section recommends specific methods to implement during the next five years in order to develop stormwater management programs that match community priorities and also enable the City to comply with the TCEQ General Permit as an operator of a small MS4.

3.1 Introduction

The City of Texarkana's Stormwater Management Program must address the five MCMs outlined in TCEQ's General Permit TXR040000 for small municipal separate storm sewer systems (MS4s). As stated in Section 1, each MCM has permit requirements; actions that the City needs to take to maintain compliance with the TPDES General Permit.

The BMPs presented herein have been proposed because they are appropriate for the City of Texarkana's stormwater system. The BMPs are considered measurable, are anticipated to provide significant benefits in the City's stormwater quality, and are achievable. Many of these BMPs build upon efforts initiated by the City as part of the previous SWMP. The City is committed to a proactive approach to stormwater management for the community's health and to be good environmental stewards. Based on the General Permit's requirements and recommendations, the following recommended actions are categorized by the five Phase II Minimum Control Measures.

MCM-1
Public Education and Outreach , and Involvement

3.2 MCM1 Public Education, Outreach, and Involvement

Public education, outreach, and involvement are an important MCM for which the City of Texarkana has effectively utilized as part of its current SWMP. This MCM can be accomplished in a number of different ways, most of which are already established and/or accessible. In the past, the City has found that print, radio, and television are effective ways to reach the City's residents.

The City of Texarkana recognizes the benefits of direct involvement in the City's stormwater program by members of the public. The City involves its residents by obtaining feedback from them in a number of established forums, including on-line communication, and public notices. Public involvement differs from public education in that it not only informs the public, but also provides opportunities for direct citizen action. When citizens participate in a project's decision-making process, they are more likely to support the final outcome. This plan describes ways in which the community can play an active role in developing and implementing the City's stormwater management program. An informed and involved public can be a valuable information resource and can help build compliance with the program. The public involvement and participation program is also a requirement of the TPDES program and EPA NPDES Phase II Final Rule.

General Permit Requirements:

(a) A public education program must be developed to distribute educational materials to the community or conduct equivalent outreach activities that will be used to inform the public. The City of Texarkana may determine the most appropriate sections of the population at which to direct the program. The City must consider the following groups and the SWMP shall provide justification for any listed group not included in the program:

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 that pollution in stormwater 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 stormwater quality.

(b) The City of Texarkana must document activities conducted and materials used to fulfill this control measure. Documentation shall be detailed enough to demonstrate the amount of resources used to address each group. This documentation shall be retained in the annual reports required in Part IV.B.2 of the General Permit.

(c) The City must at a minimum, comply with any state and local public notice requirements when implementing a public involvement / participation program. The program may be developed to include opportunities for a wide variety of constituents within the MS4 area to participate in the SWMP development and implementation.

The Texas Government Code Chapter 2051, Section 44 defines the requirements for a newspaper in which a public notice will be published as:

(1) The newspaper in which a notice is published must:

i. devote not less than 25 percent of its total column lineage to general interest items;

ii. be published at least once each week;

iii. be entered as second-class postal matter in the county where published; and

iv. have been published regularly and continuously for at least 12 months before the governmental entity or representative publishes notice.

(2) A weekly newspaper has been published regularly and continuously under Subsection (a) if the newspaper omits not more than two issues in the 12-month period.

Public meetings, if required, will be conducted according to the Texas Government Code Title 5, Subtitle A, Chapter 551.

BMP #1	MINIMUM CONTROL MEASURE NO. 1 Public Education and Outreach	

Distribute Stormwater Educational Materials

Activity
Distribute stormwater educational materials to relevant sectors of the community as required by the Small MS4 General Permit.

Objective
Educate residents; visitors; public service employees; businesses; commercial, and industrial activities; and construction site personnel about stormwater pollution-potential of common activities and hazards associated with illegal discharges and improper disposal of waste. Provide community clear guidance on steps and specific actions that they can take to reduce the potential for Stormwater pollution.

Work Actions

i. Distribute materials to relevant community sector by placing in public buildings or direct mailing.

Annual Reporting Documentation
Discussion of approximate number of educational materials developed or procured; general nature of messages on printed materials; date on which materials were first made available; method of distributing materials and number of materials distributed to each sector of the community.

Document Retention
Written documentation of date on which materials are procured; date on which materials were first available; copy of materials distributed, method of distributing materials; location materials available to the community, meeting minutes and relevant letters, e-mails, memos, and phone conversation records.

Action Items

i. Distribute stormwater educational materials targeted towards Residents and Visitors. Educational pamphlets and/ or brochures will be printed and distributed annually until end of permit. Educational materials will be placed in public areas or distributed at community events. This action item may be implemented with MCM No. 1, BMP No. 8.

ii. Distribute stormwater educational materials targeted towards public service employees. Materials will be distributed annually until end of permit term with a goal to reach all public service employees each year. This action item goal may be implemented with MCM No. 5, BMP No. 2; and MCM No. 2, BMP No. 4.

iii. Distribute stormwater educational materials targeted towards businesses, commercial and industrial activities. Educational pamphlets and/ or brochures will be printed and distributed annually until end of permit. This action item may be implemented with MCM No. 2, BMP No. 4.

iv. Distribute stormwater educational materials targeted towards construction site personnel. Educational pamphlets and/ or brochures will be printed and distributed annually until end of permit. This action item may be implemented with MCM No. 4 BMP No. 3; and MCM No. 3 BMP No. 5.

Helpful Suggestions	The EPA, and TCEQ, have stormwater educational information available for municipalities to use with minor modifications. Also, to reduce costs and resource commitments, it is possible to develop materials with other local Phase II MS4's or NCTOG municipalities and share printing and distribution costs. To meet permit requirements, ensure message targets specific areas of concern, for example consider targeting the stormwater pollution-potential of over fertilizing yards and proper disposal of waste for residences and visitors.

BMP #2	MINIMUM CONTROL MEASURE NO. 1 Public Education and Outreach	

Educational Messages on Television

Activity
Telecast stormwater educational information on cable television.

Objective
Inform residents; visitors; public service employees; businesses; commercial, and industrial activities; and construction site personnel about stormwater pollution-potential of common activities and pollution prevention of the Texarkana stormwater system.

Work Actions
i. Air message on cable channel 21.

Annual Reporting Documentation
Discussion of messages distributed, including approximate number of times messages were telecast; dates during which message was telecast; transcript of messages.

Document Retention
Written record of date on which specific video message was completed and distributed; television station on which messages were telecast; copy of materials aired, approximate dates and times on which messages were telecast; transcripts of messages; meeting minutes, relevant letters, memos, e-mails, and phone conversations.

Action Items
i. Continue airing stormwater educational message targeted towards residents and visitors. Message will be continuously aired until end of permit term.

ii. Continue airing stormwater educational message targeted towards construction site personnel. Message will be continuously aired until end of permit term. This action item may be implemented with MCM No. 4, BMP No. 3.

iii. Continue airing stormwater educational message targeted towards businesses, commercial and industrial activities. Message will be continuously aired until end of permit term.

Helpful Suggestions	The EPA, and TCEQ, have stormwater educational information available for municipalities to use. To reduce costs, consider sharing development costs with other local Phase II MS4's for regional distribution. Ensure message targets specific areas of concern, for example consider targeting the stormwater pollution-potential of construction site sediment runoff for the message targeted at construction site personnel.

BMP #3	MINIMUM CONTROL MEASURE NO. 1 Public Education and Outreach	

Stormwater Message(s) with Links on City of Texarkana Website

Activity

Implement, maintain, and update as necessary stormwater educational messages on City website to inform residents; visitors; public service employees; businesses; commercial, and industrial activities; and construction site personnel about stormwater pollution-potential of common activities and pollution prevention of the Texarkana stormwater system. Webpage should have appropriate information with links to outside web sources such as EPA, TCEQ, and a link to the e-mail of the City's contact person. Information available on website should be pertinent to all sectors of the community.

Objective

Provide public forum for disseminating and collecting stormwater and SWMP related information via City's website to all sectors of the community.

Work Actions

i. Implement and maintain stormwater informational page on website; and

ii. Respond to e-mail comments or questions from public.

Annual Reporting Documentation

Description of website stormwater information and links, with beginning dates and dates of any modifications. Description of the number of e-mails received regarding stormwater issues and number of hits on webpage.

Documentation Requirements

Date on which stormwater webpage and links are made available; prints of appropriate materials; dates of additions or modifications to stormwater webpage; relevant meeting minutes and memos, letters, and records of phone conversations.

Action Items

i. Maintain webpage continuously until end of permit term.

ii. Make City SWMP available for viewing on stormwater webpage. Maintain on webpage until end of permit term. This action item should be implemented with MCM No. 1, BMP No. 8.

iii. Post stormwater pollution prevention "fact sheets" for all relevant sectors of the community (residences and visitors, public service employees, businesses, commercial and industrial, and construction site personnel).

iv. Designate city contact for receiving and responding to stormwater related emails and post email address of contact on stormwater webpage. Maintain on webpage until end of

permit term. This action item should be implemented with MCM No. 1, BMP No. 6; and MCM No. 3 BMP No. 4.

Helpful Suggestions	The Stormwater website may be an efficient mechanism to publicly display NOI and SWMP as mandated by the MS4 General Permit. Promotion of website could be done on water bill in conjunction with MCM No. 1, BMP No. 4. Web links to consider are EPA's Stormwater page, Keep America Beautiful, or TCEQ's websites. There are lots of resources available to use, just ensure they are appropriate for the City's concerns.

BMP #4	MINIMUM CONTROL MEASURE NO. 1 Public Education and Outreach	

Stormwater Message Printed on Water Bill

Activity
Utilize water bills as mechanism to display stormwater related information to; residents; public service employees; businesses; commercial and industrial activities; and construction site personnel.

Objective
Distribute stormwater pollution prevention messages to water customers.

Work Actions

i. Determine general stormwater message to be conveyed in cooperation with Utilities Department; and

ii. Arrange for printing and distribute to water customers.

Annual Reporting Documentation
Discussion of water bill message, including dates on which message was printed and distributed, and copy of printed message(s).

Document Retention
Written documentation regarding design, printing, and distribution of message; copy of message(s) printed, meeting minutes and relevant letters, memos, e-mails and phone conversation records.

Action Items

i. Continue printing stormwater pollution prevention related messages on water bills. Repeat printing of message once per year until end of permit term.

Helpful Suggestions	Messages on water bill can also promote other BMPs. For example, consider advertising City stormwater website, promoting public volunteer activities, or publicizing City used motor oil recycling facilities.

BMP #5	MINIMUM CONTROL MEASURE NO. 1 Public Education and Outreach	

River/Stormwater System Cleanups

Activity
Facilitate river and stormwater volunteer cleanups.

Objective
Involve businesses, public employees and local citizens in hands-on cleanup of Texarkana's stormwater system.

Work Actions

i. Organize and/or participate with volunteer efforts to clean up debris and trash in the creeks or that could end up in local creeks and streams including stormwater outfalls; emphasize cleanup of floatables.

Annual Reporting Documentation
Discussion of cleanup, including publicity materials, number of participants, length of stormwater system cleaned, and general results.

Document Retention
Documentation of publicity materials, approximate number of persons participating, instructions for cleaning trash from streets, creeks, streams, or stormwater outfalls, memos, letters, e-mails, and phone conversations.

Action Items

i. Perform business, citizen, and public employee volunteer clean-up of designated street, creek, stream, stormwater outfall, etc. Repeat annually until end of permit term.

ii. Perform business, citizen, and public employee volunteer clean-up of designated street, creek, stream, stormwater outfall, etc. Repeat annually until end of permit term.

Helpful Suggestions	Consider promoting events on City website or water bill with MCM No. 1, BMP No. 4. Possible to utilize existing "Teen Corp" volunteer cleanup as credit for this BMP.

BMP #6	MINIMUM CONTROL MEASURE NO. 1 Public Education and Outreach	

Stormwater Hotline or Dedicated Email

Activity
Develop and implement a "hotline" or email address for citizens to provide input/feedback pertaining to stormwater related issues. Provide mechanisms for addressing comments from public.

Objective
Give the public opportunities to provide input and feedback regarding Texarkana's Stormwater Management Program.

Work Actions

i. Publicize stormwater hotline or email;

ii. Solicit and receive verbal and/ or written input from the community; and

iii. Address feedback or comments received.

Annual Reporting Documentation
Public input and actions by the City.

Document Retention
Prints of e-mail messages received that refer to stormwater; dates of additions or modifications to stormwater hot line or email; relevant meeting minutes and memos, letters, and records of public correspondence conversations.

Action Items

i. Continue hotline or email forum where the community can discuss stormwater issues. This action item may be implemented with MCM No. 1, BMP No 3; and MCM No. 3 BMP No. 4.

ii. Address comments or questions. Inspect complaints regarding illicit discharges. This action item goal may be implemented with MCM No. 3 BMP No. 4.

Helpful Suggestions	Consider placing email on City stormwater website created with MCM No. 1, BMP No. 3.

BMP #7	MINIMUM CONTROL MEASURE NO. 1 Public Education and Outreach	

Designate Selected Storm Drains for Stormwater Only

Activity
Organize public works employees and/or volunteers to affix informational message to storm drains that read "Stormwater Only" or similar message.

Objective
Inform the general public, businesses, construction site personnel; and commercial and industrial facilities that stormwater drains are for stormwater use only and should not be used for other purposes including dumping.

Work Actions

i. Identify storm drains that will have message affixed; and

ii. Organize public works employees and/or volunteers and provide with marking materials, have volunteers affix message to drains.

Annual Reporting Documentation
Discussion of drain marking program, including description and method of marking; map of storm drains that have been marked; written documentation of the dates on which messages were affixed to drains.

Document Retention
Documents indicating locations of drains and dates on which message was affixed; sample photograph of a marked drain.

Action Items with Measurable Goals and Schedule

i. Perform Volunteer storm drain marking. Mark selected stormwater drains annually until end of permit term.

Helpful Suggestions	Consider promoting events on City website or water bill with MCM No. 1, BMP No. 4. Possible to engage existing local environmental watch groups for volunteer personnel and involve them in providing input and help implementing the stormwater program.

BMP #8	MINIMUM CONTROL MEASURE NO. 1 Public Education and Outreach	

Display Stormwater Management Program on City Website for Public Review and Comment

Activity
Display SWMP on City website for public review and comment

Objective
To allow community to comment on SWMP and participate in the development and implementation process.

Work Requirements

i. Post SWMP on City website;

ii. Create email or similar outlet for gathering public comments; and

iii. Develop method for reviewing and implementing public comments.

Annual Report Requirements
Public input and actions by the City

Documentation Requirements
Documentation of public comments and response or actions by the City with relevant meeting minutes. If meetings are held, include numbers and lists of attendees, nature of discussion.

Action Items

i. Display SWMP on city website. This action item should be implemented with MCM No. 1, BMP No. 3.

ii. Monitor email or similar outlet on City website for commenting on SWMP and method for addressing community comments. This action item should be implemented with MCM No. 1, BMP No. 6; and MCM 3, BMP No. 4.

MCM-2
Illicit Discharge Detection and Elimination

3.3 MCM2 Illicit Discharge Detection and Elimination

The City of Texarkana recognizes the potential for illicit discharges to the City's stormwater system and is committed to addressing these discharges. The BMPs in this section are targeted toward known and potential illicit discharges.

Non-stormwater discharges will be addressed on a case-by-case basis. Allowable non-stormwater discharges, as identified in Part II. C of the TPDES General Permit, are not required to be addressed by the minimum control measures unless they are determined by the City or TCEQ to be significant contributors of pollutants to the small MS4.

General Permit Requirements

(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 and process to be used to effectively prohibit illicit discharges. To the extent allowable under state, and local law, an ordinance or other regulatory mechanism must be utilized to prohibit and eliminate illicit discharges. Elements must include:

(i) Detection

The SWMP must list techniques used for detecting illicit discharges; and

(ii) Elimination

The SWMP must include appropriate actions and to the extent allowable under state and local law, establish enforcement procedures for removing the source of an illicit discharge. Where the permittee lacks the authority to develop ordinances or to implement enforcement actions, the information regarding the illicit discharge may be referred to the TCEQ's regional field office.

(b) Allowable Non-Stormwater Discharges

Non-stormwater flows listed in Part II.C and Part VI.B of the General Permit do not need to be considered by the City as an illicit discharge requiring elimination unless the City or TCEQ identifies the flow as a significant source of pollutants to the MS4. In lieu of considering non-stormwater sources on a case-by-case basis, the MS4 operator may develop a list of common and incidental non-stormwater discharges that will not need to be addressed as illicit discharges requiring elimination. If developed, the listed sources of pollutants must not be reasonably expected to be significant sources of pollutants either because of the nature of the discharge or the conditions that have been established by the City prior to accepting discharge to the MS4. All local controls and conditions established for these discharges must be described in the SWMP and any changes from the initial SWMP must be included in the annual report described in Part IV.B.2 of the General Permit.

(c) Storm Sewer Map

i. A map of the storm sewer system must be developed and must include the following:

i. The location of the outfalls;

ii. The names and locations of all waters of the U.S. that receive discharges from the outfalls; and

iii. Any additional information needed by the permittee to implement its SWMP.

ii. 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.

BMP #1	MINIMUM CONTROL MEASURE NO. 2 Illicit Discharge Detection and Elimination	

Implement City Ordinance and Enforcement Procedures to Prohibit and Remove Illicit Discharges

Activity
Implement, update as necessary, and enforce City of Texarkana ordinance that prohibits non-stormwater discharges to the City stormwater system, include exceptions for allowable non-stormwater discharges as identified in Part II.C or Part VI.B of the General Permit.

Continue to implement enforcement procedures for removing the source of illicit discharges in a timely manner.

Objective
Regulate and enforce procedures to prohibit and remove illicit discharges.

Work Actions

i. Continue to implement and update as necessary the City ordinance prohibiting non-stormwater discharges to the MS4, including exceptions for allowable non-stormwater discharges as identified in Part II.C or Part VI.B of the General Permit;

ii. Implement enforcement procedures for removing illicit discharges.

Annual Report Documentation
Copy of current ordinance; description of any revisions to the ordinance and enforcement procedures; ordinance and enforcement procedures revision dates.

Document Retention
If necessary, copies of meeting agendas and minutes for meetings at which ordinance and enforcement procedures revisions were discussed; copies of all correspondence related to ordinance and enforcement procedure revisions, including e-mails, letters, and phone conversations.

Action Items

i. Monitor ordinance implementation and enforcement. Review ordinance yearly and recommend revisions as necessary to help eliminate non-stormwater discharges to the MS4.

Helpful Suggestions	The EPA has example model City ordinances available to develop language adequate to meet the General Permit requirements.

BMP #2	MINIMUM CONTROL MEASURE NO. 2 Illicit Discharge Detection and Elimination	

Visual Inspection of Selected Stormwater Outfalls During Dry Weather

Activity
Perform dry weather screening of selected stormwater outfalls to determine the existence of illicit discharges. If necessary, determine source of suspected illicit discharge and report to City's enforcement mechanism for elimination of illicit discharge.

Objective
Develop program to Identify and remove potential illicit discharges to Texarkana's stormwater system.

Work Actions

i. Revise and update as necessary the existing procedures and criteria for inspecting and ranking outfalls.

ii. Continue to develop and revise inspection procedures, including illicit discharge reporting procedures, for City staff to perform storm water outfall dry weather inspections;

iii. Based on the outfall pollution-potential ranking criteria have City staff members visually inspect stormwater outfalls during dry weather to check for possible illicit discharges and document observations;

iv. Continue to develop and revise procedure for tracing any flows upstream to identify source and determine if flow is result of illicit discharge; and

v. Continue to develop procedure for reporting any discovered illicit discharge to enforcement body for removal.

vi. Develop procedures to prevent and correct leaking on-site sewage disposal systems

Annual Reporting Documentation
Description of outfalls selected for inspection; description of inspection procedure and dates on which outfalls were inspected; written description of any discharges observed and actions taken.

Document Retention
Map showing inspected outfalls; written report for each outfall inspected including date, time, and description of any observed discharges; actions taken if suspected illicit discharge is detected; memos, letters, e-mails, and photographs.

Action Items

i. Update and revise as necessary the current criteria for ranking stormwater pollution potential of stormwater outfalls.

ii. Update and revise as necessary the dry weather outfall inspection procedures and forms, including methods for following flows upstream and reporting illicit discharges.

iii. Develop procedures to prevent and correct leaking on-site sewage disposal systems

iv. Implement dry weather screening program by inspecting the top five (5) ranked stormwater outfalls and following inspections procedures. Continue inspections annually until end of permit term.

Helpful Suggestions	The EPA has example IDDE programs available to develop language adequate to meet the General Permit requirements. Consider incorporating smoke testing currently performed by Texarkana Water Utility during summer months into IDDE program. Existing programs can meet some aspects of this BMP without any additional work.

BMP #3	MINIMUM CONTROL MEASURE NO. 2 Illicit Discharge Detection and Elimination	

Development of Storm Sewer Map Showing All Outfalls and Names of Waters of the United States

Activity
Develop a Texarkana storm sewer map showing all outfalls and names of Waters of the United States.

Objective
Develop a complete and current map of all stormwater facilities in Texarkana to demonstrate a basic awareness of the intake and discharge areas of the system.

Work Actions

i. Compile stormwater map data from necessary sources;

ii. Review data to locate outfalls and conduct field verification of all outfall locations; and

iii. Create electronic versions of outfall maps.

Annual Reporting Documentation
Discussion of compilation of map data, field verification process, and generation of map.

Document Retention
Written documentation of process to compile necessary stormwater system data.

Action Items

i. Continue to compile all relevant stormwater outfall location data from existing records.

ii. Conduct field verification of all remaining stormwater outfalls and document results.

iii. Develop draft electronic maps of all stormwater outfalls and receiving waters.

iv. Finalize electronic stormwater outfall location map with receiving waters. Maintain current map until end of permit term.

Helpful Suggestions	A paper and electronic USGS quadrangle map showing outfall locations is a simple solution to meeting the General Permit requirements.

BMP #4	MINIMUM CONTROL MEASURE NO. 2 Illicit Discharge Detection and Elimination	

Educate City Employees, Businesses, and the General Public Regarding Hazards Associated with Illegal Discharges to Stormwater Systems

Activity
Educate City employees, businesses, and the general public about illicit discharges to the MS4.

Objective: To inform City employees, businesses, and the general public about the hazards of illegal discharges to the stormwater system.

Work Actions

i. Develop and/ or procure educational materials discussing the stormwater hazards of illicit discharges; and

ii. Distribute materials to City employees, businesses and the general public.

Annual Reporting Documentation
Discussion of development or procurement of materials; discussion of distribution methods.

Document Retention
Written documentation of materials developed or procured; written documentation of any correspondence related to distribution.

Action Items

i. Distribute stormwater educational materials targeted towards Residents and Visitors. Educational pamphlets and/ or brochures will be printed and distributed annually until end of permit. Educational materials will be placed in public areas or distributed at community events. This action item may be implemented with MCM No. 1, BMP No. 1.

ii. Distribute stormwater educational materials targeted towards public service employees. Materials will be distributed annually until end of permit term with a goal to reach all public service employees each year. This action item may be implemented with MCM No. 5, BMP No. 2; and MCM No. 1, BMP No. 1

iii. Distribute stormwater educational materials targeted towards businesses, commercial and industrial activities. Educational pamphlets and/ or brochures will be printed and distributed annually until end of permit. This BMP may be implemented with MCM No. 1, BMP No. 1

Helpful Suggestions	The EPA and TCEQ have stormwater educational information available for municipalities to use with minor modifications. Also, to reduce costs and resource commitments, it is possible to develop materials with other local Phase II MS4's or NCTOG municipalities and share printing and distribution costs. Also consider implementing this BMP with other public education BMPs in MCM No. 1.

MCM-3
Construction Site Runoff Controls

3.4 MCM3 Construction Site Runoff Controls

In the absence of proper management, construction sites can release significant amounts of sediment into stormwater and eventually into a municipality's stormwater drainage system. Other construction site activities such as storage and handling of construction materials also can release pollutants into the storm drain system. In addition, increases in compaction and impervious surfaces at construction sites impact stormwater. The fact that construction and construction-related activities are occurring in the Texarkana metropolitan area is cause to evaluate the methods and procedures currently in place to address stormwater runoff. Pollutants from construction sites that may impact stormwater runoff include sediment, solid and sanitary wastes, fertilizer, pesticides, oil and grease, truck washout debris, and construction debris.

The City of Texarkana currently has institutional controls related to stormwater at construction sites. The continued implementation and enforcement of these stormwater runoff controls will be an important element in Texarkana's Stormwater Management Program.

General Permit Requirements:

The City, to the extent allowable under State and local law, must develop, implement, and enforce a program to reduce pollutants in any stormwater runoff to the MS4 from construction activities that result in land disturbances 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 of land. The City is not required to develop, implement, and/or enforce a program to reduce pollutant discharges from sites where the construction site operator has obtained a waiver from permit requirements under NPDES or TPDES construction permitting based on low potential for erosion.

(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 BMPs; 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 City 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 to the extent allowable under State and local law.*

BMP #1	MINIMUM CONTROL MEASURE NO. 3 Construction Site Runoff Controls	

Implement and Maintain Texarkana City Ordinance and Enforcement Mechanism to Require Erosion and Sediment Controls at Construction Sites > 5,000 square feet

Activity
Continue to implement and maintain a City ordinance and enforcement mechanism (including sanctions) to require waste, erosion, and sediment controls at construction sites that disturb 5,000 square feet or more, and at sites that are part of a larger common plan of development. Ordinance must address waste such as discarded building materials, concrete washout water, litter, and sanitary waste.

Objective
To regulate and control waste, erosion, and sedimentation from construction sites within the City of Texarkana.

Work Actions

i. Continue to implement and revise as necessary the City ordinance requiring waste, erosion, and sediment controls at construction sites ≥ 5,000 square feet, and at sites that are part of a larger common plan of development; and

ii. Continue to enforce the requirements of waste, erosion, and sediment controls at construction sites ≥ 5,000 square feet, and at sites that are part of a larger common plan of development.

Annual Reporting Documentation
Discussion any revisions of ordinance and enforcement mechanism; copy of ordinance and enforcement policy and procedures; discussion of any important issues related to ordinance.

Document Retention
Written minutes of relevant City Council meetings if the ordinance is revised; copies of agendas; copies of correspondence, including e-mails, letters, memos, and phone conversations.

Action Items with Measurable Goals and Schedule

i. Implement and update as necessary the final ordinance requiring waste, erosion, and sediment controls at construction sites ≥ 5,000 square feet, and at sites that are part of a larger common plan of development.

ii. Implement enforcement procedures for requiring waste, erosion, and sediment controls at construction sites ≥ 5,000 square feet, and at sites that are part of a larger common plan of development.

Helpful Suggestions	The EPA has example model City ordinances available to develop language adequate to meet the General Permit requirements.

BMP #2	MINIMUM CONTROL MEASURE NO. 3 Construction Site Runoff Controls	

Require Submittal of Construction Site SWPPP for Review by City Staff

Activity
Require contractors to submit TCEQ approved Construction SWPPP for city review.

Objective: Incorporate site plan review with considerations of water quality impacts

Work Actions

i. Implement policy and ordinance that requires contractors to submit TCEQ approved Construction SWPPP;

ii. Provide construction plan checklist for City site plan reviewers which has a specific item requiring submittal of Construction SWPPP; and

iii. Review of all Submitted Construction SWPPP's for compliance with City ordinance. Ensure that SWPPPs include temporary controls for waste, sediment, and erosion, as well as controls for allowable non-stormwater discharges and post-construction stormwater controls.

Annual Reporting Documentation
Discussion of policy updates, discussion of construction plan checklist revisions and any changes made to ensure compliance with erosion and sediment control ordinance.

Document Retention
Documentation of checklist, both before and after changes are made; documentation of phone calls, memos, letters, and e-mails regarding checklist modification.

Action Items

i. Implement and update as necessary ordinance requiring all contractors to submit TCEQ approved Construction SWPPP, as mandated by the TPDES program.

ii. Implement and update as necessary the new construction site plan review checklist that considers potential impacts of water quality. Continue review of all Construction SWPPPs to ensure compliance with City ordinance until end of permit term.

BMP #3	MINIMUM CONTROL MEASURE NO. 3 Construction Site Runoff Controls	

Implement Procedures for Construction Site Inspection of Runoff Controls

Activity
Review and revise as necessary the stormwater runoff inspection procedures for City inspectors to follow at construction sites.

Objective
Reduce stormwater pollution-potential from construction sites.

Work Actions

i. Implement and revise as necessary the procedures for construction site inspections for proper waste, erosion, and sediment controls. Ensure controls documented in SWPPP are in-place. Enforcement of control measures should follow those outlined through MCM No. 3, BMP No. 1.

Annual Reporting Documentation
Discussion of any revisions of the inspection procedures, including dates and nature of procedures finalized.

Document Retention
Documentation regarding creation of construction runoff control inspection procedures; including copies of relevant correspondence, including letters, e-mails, memos, and phone conversations.

Action Item with Measurable Goal and Schedule

i. Review and revise as necessary the construction site inspection procedures.

BMP #4	MINIMUM CONTROL MEASURE NO. 3 Construction Site Runoff Controls	

Train City Inspectors in Conducting Proper Site Inspections

Activity
Train City inspectors in procedures for ensuring construction site has required stormwater runoff controls.

Objective
Reduce stormwater pollution-potential from construction sites.

Work Actions

i. Develop training materials for construction site inspections;

ii. Perform City inspectors training on proper waste, erosion, and sediment controls at construction sites; and

iii. Have City inspectors implement inspection procedures during construction site inspections.

Annual Reporting Documentation
Discussion of inspection training, including dates, materials, and nature of training.

Document Retention
Documentation of training program, including copies of any materials distributed during training; attendees, copies of relevant correspondence, including letters, e-mails, memos, and phone conversations.

Action Item with Measurable Goal and Schedule

i. Continue training City inspectors in procedures for ensuring construction site has required stormwater runoff controls. Continue training annually until end of permit term.

BMP #5	MINIMUM CONTROL MEASURE NO. 3 Construction Site Runoff Controls	

Implement Mechanism for Contractor Comment and Procedures for Comment Consideration in Regards to Construction Site Runoff Controls

Activity
Provide mechanisms for commenting and review of comments. Determine if incorporation of comment(s) is in the common interest of the City and Public.

Objective
Ensure construction contractors have a mechanism to communicate concerns related to the construction site runoff controls with the City.

Work Actions

i. Continue to operate construction stormwater controls hotline and website (email) for receiving comments from construction contractors and citizens; and

ii. Solicit and receive verbal and/or written input from contractors and citizens through a storm water hotline, public meetings, and surveys. A location on the City's website will also be available for contractors and/or citizens to email concerns or potential violations to City staff;

iii. Track comments, complaints, and investigations received from contractors and/or public. Develop method to address feedback or comments received.

Annual Reporting Documentation
Discussion of any revisions to the communication mechanism developed, and review procedures.

Document Retention
Documentation of sessions including agendas, public meetings, summaries, numbers and lists of attendees, and nature of discussions; including letters, memos, surveys, and phone conversation records.

Action Items

i. Continue to maintain hotline and website (email forum) where the community can discuss stormwater issues. Maintain public forum until end of permit term. This action item may be implemented with MCM No. 1, BMP No 3; and MCM No. 1 BMP No.6.

ii. Address comments or questions as necessary.

MCM-4
Post-Construction Stormwater Management in New Development and Redevelopment

3.5 MCM4 Post-Construction Stormwater Management in New Development and Redevelopment

There generally are two forms of substantial impacts from post-construction runoff. The first is caused by an increase in the type and quantity of pollutants in stormwater runoff. As runoff flows over areas altered by development, it picks up harmful sediment and chemicals such as oil and grease, pesticides, heavy metals, and nutrients (e.g., nitrogen and phosphorus). These pollutants become suspended in stormwater runoff and have the ability to impact the food chain and eventually impact humans. The second kind of post-construction runoff impact occurs by increasing the quantity of water delivered to the receiving water body during storms. Increased impervious surfaces interrupt the natural cycle of gradual percolation of water through vegetation and soil. Instead, water is collected from surfaces such as asphalt and concrete and routed to drainage systems where large volumes of runoff quickly flow to the nearest receiving water. This can result in scouring of natural drainage pathways and flooding of areas resulting in property damage.

General Permit Requirements:

To the extent allowable under State and local law, the City must develop, implement, and enforce a program to address stormwater runoff from new development and redevelopment projects that disturb greater than or equal to one acre of land, including projects less than one acre that are part of a larger common plan of development or sale that will result in disturbances of one or more acres, that discharge to the MS4. The program must ensure that controls are in place that would prevent or minimize water quality impacts. The permittee shall:

(a) Develop and implement strategies which include a combination of structural and/ or non-structural BMPs appropriate for the 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.

BMP #1	MINIMUM CONTROL MEASURE NO. 4 Post Construction Stormwater Management in New Development and Redevelopment	

Create and Distribute Educational Materials for Area Developers Regarding Post-Construction Stormwater Controls

Activity
Create and distribute educational materials regarding post-construction stormwater controls to developers, contractors, and relevant stakeholders.

Objective
Inform area developers, contractors, and stakeholders about post-construction stormwater controls.

Work Actions

i. Create written educational materials regarding Texarkana construction stormwater control requirements; and

ii. Deliver educational materials to area developers and contractors as part of the building permits process.

Annual Reporting Documentation
Discussion of creation and distribution of educational materials, including the date materials were finalized and the date on which distribution began; discussion of any feedback from recipients of materials.

Document Retention
Documentation of the creation of educational materials, including date on which they were finalized and any comments received from developers and contractors; copy of written materials; documentation of distribution of materials, including starting date and any feedback received; documentation of any relevant correspondence.

Action Items

i. Educational materials will be distributed with building permits or inspections. Distribution will continue until end of permit term. This action item may be implemented with MCM No. 4, BMP No. 3; and MCM No. 1, BMP No. 1.

BMP #2	MINIMUM CONTROL MEASURE NO. 4 Post Construction Stormwater Management in New Development and Redevelopment	

Implement and refine a Long-Term Operation and Maintenance Program for Post-Construction Existing Stormwater Controls

Activity
Implement and refine a long-term post-construction controls maintenance strategy; create mechanism to ensure that maintenance is addressed.

Objective
Ensure adequate long-term operation and maintenance post-construction stormwater runoff controls.

Work Actions

i. Conduct inventory of structural runoff controls;

ii. Develop schedules for regular inspection and maintenance for each structural control; and

iii. Notify owner of stormwater control(s) in their possession with prescribed inspection and maintenance; and

iv. Inspect control(s) to ensure maintenance is being addressed.

Annual Reporting Documentation
Discussion of strategy development and various options for ensuring long-term maintenance of post-construction stormwater controls.

Document Retention
Documentation of strategy development; copy of written strategy with various options for ensuring long-term maintenance of controls; documentation of any relevant correspondence and feedback from property owners.

Action Items with Measurable Goals and Schedule

i. Develop schedules for regular inspection and maintenance for each structural control.

ii. Notify owner's of stormwater controls in their possession with related inspection and maintenance schedule.

iii. Conduct inspections and maintenance as prescribed for each type of control.

MCM-5
Pollution Prevention / Good Housekeeping for Municipal Operations

3.6 MCM5 Pollution Prevention/Good Housekeeping for Municipal Operations

The City of Texarkana recognizes that any Stormwater Management Program requires good housekeeping and pollution prevention to be successful.

The City of Texarkana owns and operates 15 municipal parks, a fleet maintenance and service facility, a public works storage yard, and various administrative facilities. None of the properties owned by the City are permitted under the TPDES Industrial Stormwater Permit.

Pollution prevention and good housekeeping practices of the City government are critical to maintaining progress and achieving continued improvement with respect to environmental quality, not just water quality. A pollution prevention and good housekeeping program requires operators to examine and subsequently alter their own actions to help ensure a reduction in the type and amount of pollution. This includes pollution that collects on streets, parking lots, open spaces, and storage areas and is discharged into local waterways, as well as from actions such as environmentally damaging land development and flood management practices or poor maintenance of storm drainage systems and detention and retention areas.

General Permit Requirements:

(a) Good Housekeeping and Best Management Practices (BMPs)
Housekeeping measures and BMPs (which may include new or existing structural and non-structural controls) must be identified and either continued or implemented with the goal of preventing or reducing pollutant runoff from municipal operations. 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) Stormwater 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 stormwater pollution from municipal operations. Materials may be developed, or obtained from the EPA, states, or other organizations and sources. Examples or descriptions of training materials being used must be included in the SWMP.

(c) Structural Control Maintenance

If BMPs 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 and waste that is collected as a result of maintenance of stormwater structural controls 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 stormwater regulations.

BMP #1	MINIMUM CONTROL MEASURE NO. 5 Pollution Prevention and Good Housekeeping	

Assess Municipal Properties for Appropriate Stormwater Pollution Prevention Controls

Activity
Inspect 15 municipal parks, fleet maintenance and service facility, public works storage yard, and City administrative buildings to determine what stormwater controls are in place, and what pollution prevention controls are warranted. The City owned properties are not subject to the TPDES Industrial Stormwater Permit.

Objective
To reduce pollution in Texarkana's stormwater system from municipally owned properties.

Work Actions

i. Periodically inspect City properties to determine what stormwater controls are in place and determine what additional controls are warranted;

ii. Identify any illicit discharges, and determine if existing structural controls are properly maintained; and

iii. Generate written report with recommendations; and

iv. Install and implement additional stormwater pollution prevention controls at City owned properties.

Annual Reporting Documentation
Discussion of inspections, including properties inspected and materials stored and handled; description of report development and recommendations. Pollution controls installed

Document Retention
Written field logs of inspections, including contact persons at each property; times and dates of inspections; any relevant correspondence; pollution prevention controls installed; and existing pollution prevention controls.

Action Items

i. Conduct follow-up inspections to review actions following previous inspections.

ii. Conduct periodic inspections of additional municipal facilities through the end of the permit.

BMP #2	MINIMUM CONTROL MEASURE NO. 5 Pollution Prevention and Good Housekeeping	

Train Texarkana City Employees Responsible for Municipal Operations Subject to Pollution Prevention/ Good Housekeeping

Activity

Train Texarkana City employees responsible for municipal operations subject to pollution prevention/ good housekeeping program. These municipal operations include, but are not limited to:

- Vehicle maintenance, washing, and fueling
- Landscape and lawn care
- Roadway cleaning
- Drain system cleaning
- Hazardous material storage and disposal
- New construction and land disturbances
- Park Maintenance
- Demolition procedures

Objective

Reduce stormwater pollution from the above mentioned municipal operations.

Work Actions

i. Develop and/or procure training materials; and

ii. Conduct training directed at preventing and reducing stormwater pollution from municipal operations.

Annual Reporting Documentation

Description of training, including training materials; discussion of number of employees trained and City Departments from which employees were selected.

Document Retention

Written record of names and City Departments of employees trained; record of dates training took place; copies of training materials; records of any relevant correspondence.

Action Items

i. Develop and/ or procure materials. Conduct training with selected employees. This action item may be implemented with MCM No.1, BMP No. 1; and MCM No. 2, BMP No. 4.

Helpful Suggestions	The EPA has stormwater training materials available for municipalities to use with minor modifications. Also, to reduce costs and resource commitments, it is possible to develop materials and train a regional group in combination with other local Phase II MS4's to help manage costs.

BMP #3	MINIMUM CONTROL MEASURE NO. 5 Pollution Prevention and Good Housekeeping	

Written Policy, Procedures, and Schedule for Periodic Inspection and Maintenance Of Stormwater System

Activity
Implement policy, procedures, and schedule for periodic maintenance of stormwater system including cleaning and disposal of floatables and debris.

Objective
Implement the written policy for maintenance procedures for Texarkana's stormwater system.

Work Actions

i. Research existing stormwater system regarding potential cleaning and maintenance requirements; and

ii. Implement and revise as necessary the policy, procedures, and schedule for system maintenance including proper disposal of waste removed from MS4.

Annual Reporting Documentation
Discussion of any stormwater system research; discussion of any revisions to policy, procedures, and schedule for system maintenance.

Document Retention
Written documentation of system research and maintenance procedures and schedule creation; documentation of any relevant correspondence.

Action Item with Measurable Goals and Schedule

i. Review policy, procedures, and schedule, including proper disposal of waste as defined in the General Permit, for storm sewer maintenance.

ii. Begin performing periodic inspections and maintenance according to developed schedule. Continue inspections according to schedule until end of permit term.

4.0 REFERENCES

Texas Commission on Environmental Quality, TPDES General Permit No. TXR040000, General Permit to Discharge Under the Texas Pollutant Discharge Elimination System, December 2013.

North Central Texas Council of Governments, Stormwater Management Program Webpage, http://www.nctcog.org/envir/SEEclean/Stormwater/index.asp.

United States Environmental Protection Agency, National Pollutant Discharge Elimination System Stormwater Website, http://cfpub.epa.gov/npdes/home.cfm?program_id=6

5.0 DEFINITIONS

Best Management Practices (BMPs) - Schedules of activities, prohibitions of practices, maintenance procedures, structural controls, local ordinances, and other management practices to prevent or reduce the discharge of pollutants. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spills or leaks, waste disposal, or drainage from raw material storage areas.

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.

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

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 stormwater, except discharges pursuant to this general permit or a separate authorization and discharges resulting from emergency fire fighting activities.

Maximum Extent Practicable (MEP) - The technology-based discharge standard for municipal separate storm sewer systems to reduce pollutants in stormwater 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.

MS4 Operator - The public entity, and/ or the entity contracted by the public entity, responsible for management and operation of the municipal separate storm sewer system that is subject to the terms of this general permit.

Notice of Change (NOC) - Written notification from the permittee to the executive director providing changes to information that was previously provided to the agency in a notice of intent.

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

Notice of Termination (NOT) - A written submission to the executive director from a permittee authorized under a general permit requesting termination of coverage under this general permit.

Outfall - A point source at the point where a municipal separate storm sewer discharges to surface water in the state and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels, or other conveyances that connect segments of the same stream or other waters of the U.S. and are used to convey waters of the U.S.

Permittee - The MS4 operator authorized under the general permit.

Permitting Authority - For the purposes of the general permit, the TCEQ.

Point Source - (from 40 CFR § 122.22) any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

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 § 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 one 5,000 square feet 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 5,000 square feet and less than five (5) acres of land. Small construction activity also includes the disturbance of less than 5,000 square feet 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 5,000 square feet 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 stormwater conveyance. Small construction activity does not include the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing right-of-ways, and similar maintenance activities.

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, stormwater, 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 § 208 of the CWA; (ii) Designed or used for collecting or conveying stormwater; (iii) Which is not a combined sewer; (iv) Which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR § 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; and (vi) Which does not include very discrete systems such as those serving individual buildings. For the purpose of this permit, a very discreet system includes storm drains associated with municipal office and education complexes, where the complexes serve a transient (nonresidential)

population, and where the buildings are not physically interconnected to an MS4 that is also operated by that public entity.

Stormwater - Stormwater runoff, snow melt runoff, and surface runoff and drainage.

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

Stormwater Management Program (SWMP) - A comprehensive program to manage the quality of discharges from the municipal separate storm sewer system.

Structural Control (or Practice) - A pollution prevention practice that requires the construction of a device, or the use of a device, to capture or prevent pollution in stormwater runoff. Structural controls and practices may include but are not limited to: wet ponds, bioretention, infiltration basins, stormwater wetlands, silt fences, earthen dikes, drainage swales, sediment traps, check dams, subsurface drains, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins.

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 non-navigable, 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.

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 2000 decennial census.

Waters of the United States - (from 40 CFR § 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.

Texas Commission on Environmental Quality

P.O. Box 13087, Austin, Texas 78711-3087

GENERAL PERMIT TO DISCHARGE UNDER THE

TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM

under provisions of
402 of the Clean Water Act
and Chapter 26 of the Texas Water Code

This permit supersedes and replaces
TPDES General Permit No. TXR040000, issued August 13, 2007

Small Municipal Separate Storm Sewer Systems

located in the state of Texas

may discharge directly to surface water in the state

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

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

EFFECTIVE DATE: DEC 13 2013

ISSUED DATE: DEC 13 2013

Bryan W. Shaw

For the Commission

TCEQ GENERAL PERMIT NUMBER TXR040000
RELATING TO DISCHARGES FROM
SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS

Table of Contents

Part I. Definitions

Arid Areas - Areas with an average annual rainfall of less than ten (10) inches.

Best Management Practices (BMPs) - Schedules of activities, prohibitions of practices, maintenance procedures, structural controls, local ordinances, and other management practices to prevent or reduce the discharge of pollutants. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spills or leaks, waste disposal, or drainage from raw material storage areas.

Catch basins - Storm drain inlets and curb inlets to the storm drain system. Catch basins typically include a grate or curb inlet that may accumulate sediment, debris, and other pollutants.

Classified Segment - A water body that is listed and described in Appendix A or Appendix C of the Texas Surface Water Quality Standards, at 30 Texas Administrative Code (TAC) § 307.10.

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.

Common Plan of Development or Sale - A construction activity that is completed in separate stages, separate phases, or in combination with other construction activities. A common plan of development or sale is identified by the documentation for the construction project that identifies the scope of the project, and may include plats, blueprints, marketing plans, contracts, building permits, a public notice or hearing, zoning requests, or other similar documentation and activities.

Construction Activity - Soil disturbance, including clearing, grading, and excavating; and not including routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site (e.g., the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing right-of-ways, and similar maintenance activities). Regulated construction activity is defined in terms of small and large construction activity.

> **Small Construction Activity** is construction activity that results 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.
>
> **Large Construction Activity** is construction activity that results 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.

Construction Site Operator - The entity or entities associated with a small or large construction project that meet(s) either of the following two criteria:

(a) The entity or entities that have operational control over construction plans and specifications (including approval of revisions) to the extent necessary to meet the requirements and conditions of this general permit; or

(b) The entity or entities that have day-to-day operational control of those activities at a construction site that are necessary to ensure compliance with a stormwater pollution

prevention plan (SWP3) for the site or other permit conditions (for example they are authorized to direct workers at a site to carry out activities required by the SWP3 or comply with other permit conditions).

Control Measure - Any BMP or other method used to prevent or reduce the discharge of pollutants to water in the state.

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

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

Edwards Aquifer - As defined in 30 TAC §213.3 (relating to the Edwards Aquifer), that portion of an arcuate belt of porous, water-bearing, predominantly carbonate rocks known as the Edwards and Associated Limestones in the Balcones Fault Zone trending from west to east to northeast in Kinney, Uvalde, Medina, Bexar, Comal, Hays, Travis, and Williamson Counties; and composed of the Salmon Peak Limestone, McKnight Formation, West Nueces Formation, Devil's River Limestone, Person Formation, Kainer Formation, Edwards Formation, and Georgetown Formation. The permeable aquifer units generally overlie the less-permeable Glen Rose Formation to the south, overlie the less-permeable Comanche Peak and Walnut Formations north of the Colorado River, and underlie the less-permeable Del Rio Clay regionally.

Edwards Aquifer Recharge Zone - Generally, that area where the stratigraphic units constituting the Edwards Aquifer crop out, including the outcrops of other geologic formations in proximity to the Edwards Aquifer, where caves, sinkholes, faults, fractures, or other permeable features would create a potential for recharge of surface waters into the Edwards Aquifer. The recharge zone is identified as that area designated as such on official maps located in the offices of the TCEQ or the TCEQ website.

Final Stabilization - A construction site where any of the following conditions are met:

(a) All soil disturbing activities at the site have been completed and a uniform (for example, evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent 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.

(b) For individual lots in a residential construction site by either:

  (1) The homebuilder completing final stabilization as specified in condition (a) above; or

  (2) The homebuilder establishing temporary stabilization for an individual lot prior to the time of transfer of the ownership of the home to the buyer and after informing the homeowner of the need for, and benefits of, final stabilization.

(c) For construction activities on land used for agricultural purposes (for example 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 which are not being returned to their preconstruction agricultural use must meet the final stabilization conditions of condition (a) above.

(d) In arid, semi-arid, and drought-stricken areas only, all soil disturbing activities at the site have been completed and both of the following criteria have been met:

(1) Temporary erosion control measures (e.g., degradable rolled erosion control product) are selected, designed, and installed along with an appropriate seed base to provide erosion control for at least three years without active maintenance by the operator, and

(2) The temporary erosion control measures are selected, designed, and installed to achieve 70 percent vegetative coverage within three years.

General Permit - A permit issued to authorize the discharge of waste into or adjacent to water in the state for one or more categories of waste discharge within a geographical area of the state or the entire state as provided by Texas Water Code (TWC) §26.040.

Groundwater Infiltration - For the purposes of this permit, groundwater that enters a municipal separate storm sewer system (including sewer service connections and foundation drains) through such means as defective pipes, pipe joints, connections, or manholes.

High Priority Facilities - High priority facilities are facilities with a high potential to generate stormwater pollutants. These facilities must include, at a minimum, the MS4 operator's maintenance yards, hazardous waste facilities, fuel storage locations, and other facilities where chemicals or other materials have a high potential to be discharged in stormwater. Among the factors that must be considered when giving a facility a high priority ranking are: the amount of urban pollutants stored at the site, the identification of improperly stored materials, activities that must not be performed outside (for example, changing automotive fluids, vehicle washing), proximity to waterbodies, proximity to sensitive aquifer recharge features, poor housekeeping practices, and discharge of pollutant(s) of concern to impaired water(s).

Hyperchlorinated Water – Water resulting from hyperchlorination of waterlines or vessels, with a chlorine concentration greater than 10 milligrams per liter (mg/L).

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 stormwater, except discharges pursuant to this general permit or a separate authorization and discharges resulting from emergency fire fighting activities.

Impaired Water - A surface water body that is identified on the latest approved CWA §303(d) List as not meeting applicable state water quality standards. Impaired waters include waters with approved or established total maximum daily loads (TMDLs), and those where a TMDL has been proposed by TCEQ but has not yet been approved or established.

Indian Country - Defined in 18 USC § 1151 as: (a) All land within the limits of any Indian reservation under the jurisdiction of the United States (U.S.) 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 U.S. 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.

Indicator Pollutant - An easily measured pollutant, that may or may not impact water quality that indicates the presence of other stormwater pollutants.

Industrial Activity - Any of the ten (10) categories of industrial activities included in the definition of "stormwater discharges associated with industrial activity" as defined in 40 Code of Federal Regulations (CFR) §122.26(b)(14)(i)-(ix) and (xi).

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

MS4 Operator - For the purpose of this permit, the public entity or the entity contracted by the public entity, responsible for management and operation of the small municipal separate storm sewer system that is subject to the terms of this general permit.

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):

(a) Owned or operated by the U.S., a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over the disposal of sewage, industrial wastes, stormwater, 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 the CWA §208 that discharges to surface water in the state;

(b) That is designed or used for collecting or conveying stormwater;

(c) That is not a combined sewer; and

(d) That is not part of a publicly owned treatment works (POTW) as defined in 40 CFR §122.2.

Non-traditional Small MS4 - A small MS4 that often cannot pass ordinances and may not have the enforcement authority like a traditional small MS4 would have to enforce the stormwater management program. Examples of non-traditional small MS4s include counties, transportation authorities (including the Texas Department of Transportation), municipal utility districts, drainage districts, military bases, prisons and universities.

Notice of Change (NOC) - A written notification from the permittee to the executive director providing changes to information that was previously provided to the agency in a notice of intent.

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

Notice of Termination (NOT) - A written submission to the executive director from a permittee authorized under a general permit requesting termination of coverage under this general permit.

Outfall - A point source at the point where a small MS4 discharges to waters of the U.S. and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels, or other conveyances that connect segments of the same stream or other waters of the U.S. and are used to convey waters of the U.S. For the purpose of this permit, sheet flow leaving a linear transportation system without channelization is not considered an outfall. Point sources such as curb cuts; traffic or right-or-way barriers with drainage slots that drain into open culverts, open swales or an adjacent property, or otherwise not actually discharging into waters of the U.S. are not considered an outfall.

Permittee - The MS4 operator authorized under this general permit.

Point Source - (from 40 CFR § 122.22) any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

Pollutant(s) of Concern – For the purpose of this permit, includes biochemical oxygen demand (BOD), sediment or a parameter that addresses sediment (such as total suspended solids (TSS), 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 § 122.32(e)(3)).

Redevelopment - Alterations of a property that changed the "footprint" of a site or building in such a way that there is a disturbance of equal to or greater than one (1) acre of land. This term does not include such activities as exterior remodeling, routine maintenance activities, and linear utility installation.

Semiarid Areas - Areas with an average annual rainfall of at least ten (10) inches, but less than 20 inches.

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, manmade channels, or storm drains):

(a) Owned or operated by the U.S., 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, stormwater, 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 CWA § 208;

(b) Designed or used for collecting or conveying stormwater;

(c) Which is not a combined sewer;

(d) Which is not part of a publicly owned treatment works (POTW) as defined in 40 CFR § 122.2; and

(e) Which was not previously regulated under a National Pollutant Discharge Elimination System (NPDES) or a Texas Pollutant Discharge Elimination System (TPDES) individual permit as a medium or large municipal separate storm sewer system, as defined in 40 CFR §§122.26(b)(4) and (b)(7).

This term includes systems similar to separate storm sewer systems at military bases, large hospitals or prison complexes, and highways and other thoroughfares. This term does not include separate storm sewers in very discrete areas, such as individual buildings. For the purpose of this permit, a very discrete system also includes storm drains associated with certain municipal offices and education facilities serving a nonresidential population, where those storm drains do not function as a system, and where the buildings are not physically interconnected to a small MS4 that is also operated by that public entity.

Stormwater and Stormwater Runoff - Rainfall runoff, snow melt runoff, and surface runoff and drainage.

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

Stormwater Management Program (SWMP) - A comprehensive program to manage the quality of discharges from the municipal separate storm sewer system.

Structural Control (or Practice) - A pollution prevention practice that requires the construction of a device, or the use of a device, to capture or prevent pollution in stormwater runoff. Structural controls and practices may include but are not limited to: wet ponds, bioretention, infiltration basins, stormwater wetlands, silt fences, earthen dikes, drainage swales, vegetative lined ditches, vegetative filter strips, sediment traps, check dams, subsurface drains, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins.

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 total amount of a substance that a water body can assimilate and still meet the Texas Surface Water Quality Standards.

Traditional Small MS4 - A small MS4 that can pass ordinances and have the enforcement authority to enforce the stormwater management program. An example of traditional MS4s includes cities.

Urbanized Area (UA) - An area of high population density that may include multiple small MS4s as defined and used by the U.S. Census Bureau in the 2000 and the 2010 Decennial census.

Waters of the United States - (According to 40 CFR § 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.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA (other than cooling ponds as defined in 40 CFR § 423.11(m) which also meet the criteria of this definition) are not waters of the U.S. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the U.S. (such as disposal area in wetlands) nor resulted from the impoundment of waters of the U.S. Waters of the U.S. do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the CWA, the final authority regarding the CWA jurisdiction remains with the EPA.

Part II. Permit Applicability and Coverage

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

Section A. Small MS4s Eligible for Authorization under this General Permit

Discharges from a small MS4 must be authorized if any of the following criteria are met and may be authorized under this general permit if coverage is not otherwise prohibited.

1. Small MS4s Located in an Urbanized Area

Operators of small MS4s that are fully or partially located within an urbanized area (UA), as determined by the 2000 or 2010 Decennial Census by the U.S. Bureau of Census, must obtain authorization for the discharge of stormwater runoff and are eligible for coverage under this general permit unless otherwise prohibited.

2. Designated Small MS4s

A small MS4 that is outside an urbanized area that is *designated* by TCEQ based on evaluation criteria as required by 40 CFR § 122.32(a)(2) or 40 CFR § 122.26(a)(1)(v) and adopted by reference in Title 30, TAC § 281.25, is eligible for coverage under this general permit. Following designation, operators of small MS4s must obtain authorization under this general permit or apply for coverage under an individual TPDES stormwater permit within 180 days of notification of their designation.

3. Operators of Previously Permitted Small MS4s

Operators of small MS4s that were covered under the previous TPDES general permit for small MS4s (TXR040000, Issued and Effective on August 13, 2007) must reapply for permit coverage, or must obtain a waiver if applicable (see Part II.B, related to Obtaining a Waiver.)

4. Regulated Portion of Small MS4

The portion of the small MS4 that is required to meet the conditions of this general permit are those portions that are located within the UA as defined and used by the U.S. Census Bureau in the 2000 or 2010 census, as well as any portion of the small MS4 that is designated by TCEQ.

For the purpose of this permit, the regulated portion of a small MS4 for a transportation entity is the land owned by the permittee within the UA which functions as, or is integral to a transportation system with drainage conveyance. Non-contiguous property that does not drain into the transportation drainage system is not subject to this general permit.

5. Categories of Regulated Small MS4s

This permit defines MS4 operators by the following categories, or levels, based on the population served within the 2010 UA. The level of a small MS4 may change during the permit term based on the MS4 operator acquiring or giving up regulated area, such as by annexing land or if land is annexed away. However, the level of a small MS4 will not change during the permit term based on population fluctuation.

(a) Level 1: Operators of traditional small MS4s that serve a population of less than 10,000 within a UA;

(b) Level 2: Operators of traditional small MS4s that serve a population of at least 10,000 but less than 40,000 within a UA. This category also includes all non-traditional small MS4s such as counties, drainage districts, transportation entities, military bases, universities, colleges, correctional institutions, municipal utility districts and other special districts regardless of population served within the UA, unless the non-traditional MS4 can demonstrate that it meets the criteria for a waiver from permit coverage based on the population served;

(c) Level 3: Operators of traditional small MS4s that serve a population of at least 40,000 but less than 100,000 within a UA;

(d) Level 4: Operators of traditional small MS4s that serve a population of 100,000 or more within a UA.

For the purpose of this section "serve a population" means the residential population within the regulated portion of the small MS4 based on the 2010 census, except for non-traditional small MS4s listed in (b) above.

Section B. Available Waivers from Coverage

The TCEQ may waive permitting requirements for small regulated MS4 operators if the criteria are met for Waiver Option 1 or 2 below. 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. A provisional waiver from permitting requirements begins 30 days after an administratively complete waiver form is postmarked for delivery to the TCEQ. Following review of the waiver form, the executive director may:(1) Determine that the waiver form is technically complete and approve the waiver by providing a notification and a waiver number; (2) Determine that the waiver form is incomplete and deny the waiver until a completed waiver form is submitted; or (3) Deny the waiver and require that permit coverage be obtained.

If the conditions of a waiver are not met by the MS4 operator, then the MS4 operator must submit an application for coverage under this general permit or a separate TPDES permit application.

At any time the TCEQ may require a previously waived MS4 operator to comply with this general 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 MS4 operator to request a waiver at any time.

At any time the TCEQ can request to review any waivers granted to MS4 operators to determine whether any of the information required for granting the waiver has changed. At a minimum TCEQ will review all waivers when MS4 operators submit their renewal waiver applications.

For the purpose of obtaining a waiver, the population served refers to the residential population for traditional small MS4s and for certain non-traditional small MS4s with a residential population (such as counties and municipal utility districts). For other non-traditional small MS4s, the population served refers to the number of people using the small MS4 on an average operational day.

1. Waiver Option 1:

The small MS4 serves a population of less than 1,000 within a UA and meets the following criteria:

(a) The small MS4 is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the NPDES / TPDES stormwater program (40 CFR § 122.32(d)); and

(b) If the small MS4 discharges any pollutant(s) that have been identified as a cause of impairment of any water body to which the small MS4 discharges, stormwater 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.

2. Waiver Option 2:

The small MS4 serves a population under 10,000 within a UA and meets the following criteria:

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

(b) For all such waters, the TCEQ has determined that stormwater controls are not needed based on wasteload allocations that are part of an 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 small MS4 do not have the potential to exceed Texas surface water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts.

(d) For the purpose of this paragraph (2.), the 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 the small MS4.

Section C. Allowable Non-Stormwater Discharges

The following non-stormwater sources may be discharged from the small MS4 and are not required to be addressed in the small MS4's Illicit Discharge and Detection or other minimum control measures, unless they are determined by the permittee or the TCEQ to be significant contributors of pollutants to the small MS4, or they are otherwise prohibited by the MS4 operator:

1. Water line flushing (excluding discharges of hyperchlorinated water, unless the water is first dechlorinated and discharges are not expected to adversely affect aquatic life);
2. Runoff or return flow from landscape irrigation, lawn irrigation, and other irrigation utilizing potable water, groundwater, or surface water sources;
3. Discharges from potable water sources that do not violate Texas Surface Water Quality Standards;
4. Diverted stream flows;
5. Rising ground waters and springs;
6. Uncontaminated ground water infiltration;
7. Uncontaminated pumped ground water;
8. Foundation and footing drains;
9. Air conditioning condensation;
10. Water from crawl space pumps;
11. Individual residential vehicle washing;
12. Flows from wetlands and riparian habitats;
13. Dechlorinated swimming pool discharges that do not violate Texas Surface Water Quality Standards;
14. Street wash water excluding street sweeper waste water;
15. Discharges or flows from emergency fire fighting activities (fire fighting activities do not include washing of trucks, run-off water from training activities, test water from fire suppression systems, and similar activities);
16. Other allowable non-stormwater discharges listed in 40 CFR § 122.26(d)(2)(iv)(B)(1);
17. Non-stormwater discharges that are specifically listed in the TPDES Multi Sector General Permit (MSGP) TXR050000 or the TPDES Construction General Permit (CGP) TXR150000;
18. Discharges that are authorized by a TPDES or NPDES permit or that are not required to be permitted; and
19. Other similar occasional incidental non-stormwater discharges such as spray park water, unless the TCEQ develops permits or regulations addressing these discharges.

Section D. Limitations on Permit Coverage

1. Discharges Authorized by Another TPDES Permit

Discharges authorized by an individual or other general TPDES permit may be authorized under this TPDES general permit only 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 30 TAC Chapter 205 considerations and requirements, or other site-specific considerations.

2. Discharges of Stormwater Mixed with Non-Stormwater

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

3. Compliance with Water Quality Standards

Discharges to surface water in the state that would cause, has the reasonable potential to 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 except as described in Part II.D.4 below. The executive director may require an application for an individual permit or alternative general permit to authorize discharges to surface water in the state if the executive director determines that an activity will cause has the reasonable potential to cause, or contribute to, a violation of water quality standards or is found to cause, have the reasonable potential 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 based on factors described in Part II.F.2.

4. Impaired Water Bodies and Total Maximum Daily Load (TMDL) Requirements

Discharges of the pollutant(s) of concern to impaired water bodies for which there is a TCEQ and EPA approved total maximum daily load (TMDL) are not eligible for this general permit unless they are consistent with the approved TMDL. A water body is impaired for purposes of the permit if it has been identified, pursuant to the latest TCEQ and EPA approved CWA §303(d) list, as not meeting Texas Surface Water Quality Standards.

The permittee shall control the discharges of pollutant(s) of concern to impaired waters and waters with approved TMDLs as provided in sections (a) and (b) below, and shall assess the progress in controlling those pollutants.

(a) Discharges to Water Quality Impaired Water Bodies with an Approved TMDL

If the small MS4 discharges to an impaired water body with an approved TMDL, where stormwater has the potential to cause or contribute to the impairment, the permittee shall include in the SWMP controls targeting the pollutant(s) of concern along with any additional or modified controls required in the TMDL and this section.

The SWMP and required annual reports must include information on implementing any targeted controls required to reduce the pollutant(s) of concern as described below:

(1) Targeted Controls

The SWMP must include a detailed description of all targeted controls to be implemented, such as identifying areas of focused effort or implementing additional Best Management Practices (BMPs) to reduce the pollutant(s) of concern in the impaired waters.

(2) Measurable Goals

For each targeted control, the SWMP must include a measurable goal and an implementation schedule describing BMPs to be implemented during each year of the permit term.

(3) Identification of Benchmarks

The SWMP must identify a benchmark for the pollutant(s) of concern. Benchmarks are designed to assist in determining if the BMPs established are effective in addressing the pollutant(s) of concern in stormwater discharge(s) from the MS4 to the maximum extent practicable (MEP). The BMPs addressing the pollutant of concern must be re-evaluated on an annual basis for progress towards the benchmarks and modified as necessary within an adaptive management framework. These benchmarks are not numeric effluent limitations or permit conditions but intended to be guidelines for evaluating progress towards reducing pollutant discharges consistent with the benchmarks. The exceedance of a benchmark is not a permit violation and does not in itself indicate a violation of instream water quality standards.

The benchmark must be determined based on one of the following options:

a. If the MS4 is subject to a TMDL that identifies a Waste Load Allocation(s) (WLA) for permitted MS4 stormwater sources, then the SWMP may identify it as the benchmark. Where an aggregate allocation is used as a benchmark, all affected MS4 operators are jointly responsible for progress in meeting the benchmark and shall (jointly or individually) develop a monitoring/assessment plan as required in Part II.D.4(a)(6).

b. Alternatively, if multiple small MS4s are discharging into the same impaired water body with an approved TMDL, with an aggregate WLA for all permitted stormwater MS4s, then the MS4s may combine or share efforts to determine an alternative sub-benchmark for the pollutant(s) of concern (e.g., bacteria) for their respective MS4. The SWMP must clearly define this alternative approach and must describe how the sub-benchmark would cumulatively support the aggregate WLA. Where an aggregate benchmark has been broken into sub-benchmarks for individual MS4s, each permittee is only responsible for progress in meeting its sub-benchmark.

(4) Annual Report

The annual report must include an analysis of how the selected BMPs will be effective in contributing to achieving the benchmark.

(5) Impairment for Bacteria

If the pollutant of concern is bacteria, the permittee shall include focused BMPs addressing the below areas, as applicable, in the SWMP and implement as appropriate. If a TMDL Implementation Plan (I-Plan) is available, the permittee may refer to the I-Plan for appropriate BMPs. The SWMP and annual report must include the selected BMPs. Permitees may not exclude BMPs associated with the minimum control measures required under 40 CFR §122.34 from their list of proposed BMPs. Proposed BMPs will be reviewed by the executive director during the NOI and SWMP review and approval process.

The BMPs shall, as appropriate, address the following:

a. Sanitary Sewer Systems

(i) Make improvements to sanitary sewers to reduce overflows;

(ii) Address lift station inadequacies;

(iii) Improve reporting of overflows; and

(iv) Strengthen sanitary sewer use requirements to reduce blockage from fats, oils, and grease.

b. On-site Sewage Facilities (for entities with appropriate jurisdiction)

(i) Identify and address failing systems; and

(ii) Address inadequate maintenance of On-Site Sewage Facilities (OSSFs).

c. Illicit Discharges and Dumping

Place additional effort to reduce waste sources of bacteria; for example, from septic systems, grease traps, and grit traps.

d. Animal Sources

Expand existing management programs to identify and target animal sources such as zoos, pet waste, and horse stables.

e. Residential Education

Increase focus to educate residents on:

(i) Bacteria discharging from a residential site either during runoff events or directly;

(ii) Fats, oils, and grease clogging sanitary sewer lines and resulting overflows;

(iii) Decorative ponds; and

(iv) Pet waste.

(6) Monitoring or Assessment of Progress

The permittee shall monitor or assess progress in achieving benchmarks and determine the effectiveness of BMPs, and shall include documentation of this monitoring or assessment in the SWMP and annual reports. In addition, the SWMP must include methods to be used.

a. The permittee may use either of the following methods to evaluate progress towards the benchmark and improvements in water quality as follows:

(i) Evaluating Program Implementation Measures

The permittee may evaluate and report progress towards the benchmark by describing the activities and BMPs implemented, by identifying the appropriateness of the identified BMPs, and by evaluating the success of implementing the measurable goals.

The permittee may assess progress by using program implementation indicators such as: (1) number of sources identified or eliminated; (2) decrease in number of illegal dumping; (3) increase in illegal dumping reporting; (4) number of educational opportunities conducted; (5) reductions in sanitary sewer flows (SSOs); or, (6) increase in illegal discharge detection through dry screening, etc.; or

(ii) Assessing Improvements in Water Quality

The permittee may assess improvements in water quality by using available data for segment and assessment units of water bodies from other reliable sources, or by proposing and justifying a different approach such as collecting additional instream or outfall monitoring data, etc. Data may be acquired from TCEQ, local river authorities, partnerships, and/or other local efforts as appropriate.

b. Progress towards achieving the benchmark shall be reported in the annual report. Annual reports shall report the benchmark and the year(s) during the permit term that the MS4 conducted additional sampling or other assessment activities.

(7) Observing no Progress Towards the Benchmark

If, by the end of the third year from the effective date of the permit, the permittee observes no progress toward the benchmark either from program implementation or water quality assessments as described in Part II.D.4(a)(6), the permittee shall identify alternative focused BMPs that address new or increased efforts towards the benchmark or, as appropriate, shall develop a new approach to identify the most significant sources of the pollutant(s) of concern and shall develop alternative focused BMPs for those (this may also include information that identifies issues beyond the MS4's control). These revised BMPs must be included in the SWMP and subsequent annual reports.

Where the permittee originally used a benchmark based on an aggregated WLA, the permittee may combine or share efforts with other MS4s discharging to the same watershed to determine an alternative sub-benchmark for the pollutant(s) of concern for their respective MS4s, as described in Part II.D.4(a)(3)(b) above. Permittees must document, in their SWMP for the next permit term, the proposed schedule for the development and subsequent adoption of alternative sub benchmark for the pollutant(s) of concern for their respective MS4s and associated assessment of progress in meeting those individual benchmarks.

(b) Discharges Directly to Water Quality Impaired Water Bodies without an Approved TMDL

The permittee shall also determine whether the permitted discharge is directly to one or more water quality impaired water bodies where a TMDL has not yet been approved by TCEQ and EPA. If the permittee discharges directly into an impaired water body without an approved TMDL, the permittee shall perform the following activities:

(1) Discharging a Pollutant of Concern

a. Within the first year following the permit effective date, the permittee shall determine whether the small MS4 may be a source of the pollutant(s) of concern by referring to the CWA §303(d) list and then determining if discharges from the MS4 would be likely to contain the pollutant(s) of concern at levels of concern.

b. If the permittee determines that the small MS4 may discharge the pollutant(s) of concern to an impaired water body without an approved TMDL, the permittee shall, no later than two years following the permit effective date, ensure that the SWMP includes focused BMPs, along with corresponding measurable goals, that the permittee will implement, to reduce, the discharge of pollutant(s) of concern that contribute to the impairment of the water body.

c. In addition, no later than three years following the permit effective date, the permittee shall submit an NOC to amend the SWMP to include any additional BMPs to address the pollutant(s) of concern.

(2) Impairment of Bacteria

Where the impairment is for bacteria, the permittee shall identify potential significant sources and develop and implement focused BMPs for those sources. The permittee may implement the BMPs listed in Part II.D.4(a)(5) or proposed alternative BMPs as appropriate.

(3) The annual report must include information on compliance with this section, including results of any sampling conducted by the permittee.

5. Discharges to the Edwards Aquifer Recharge Zone

Discharges of stormwater from regulated small MS4s, and other non-stormwater discharges, are not authorized by this general permit where those discharges are prohibited by 30 TAC Chapter 213 (Edwards Aquifer Rule). 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 (WPAP) under the Edwards Aquifer Rule are in addition to the requirements of this general permit. BMPs and maintenance schedules for structural stormwater 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 stormwater runoff are in addition to the effluent limitation requirements found in Part VI.D. of this general permit.

The permittee's agency-approved WPAPs that are required by the Edwards Aquifer Rule must be referenced in the SWMP. Additional agency-approved WPAPs received after the SWMP submittal must be recorded in the annual report for each respective permit year. For discharges originating from the small MS4 permitted area, and located on or within ten stream miles upstream of the Edwards Aquifer recharge zone, applicants must also submit a copy of the MS4 NOI to the appropriate TCEQ regional office with each WPAP application submitted to TCEQ on or after August 13, 2012.

Counties: Comal, Bexar, Medina, Uvalde, and Kinney

Contact:

TCEQ, Water Program Manager
San Antonio Regional Office
14250 Judson Road
San Antonio, Texas 78233-4480
(210) 490-3096

Counties: Williamson, Travis, and Hays

Contact:

TCEQ, Water Program Manager
Austin Regional Office
12100 Park 35 Circle, Bldg. A, Rm 179
Austin, Texas 78753
(512) 339-2929

6. Discharges to Specific Watersheds and Water Quality Areas

Discharges of stormwater from regulated small MS4s and other non-stormwater discharges are not 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 Home Rule Municipalities

This general permit does not limit the authority of a home-rule municipality provided by § 401.002 of the Texas Local Government Code.

8. Indian Country Lands

Stormwater runoff from small MS4s that occur 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 stormwater require authorization under federal NPDES regulations, authority for these discharges must be obtained from the U.S. EPA.

9. Endangered Species Act

Discharges that would adversely affect a listed endangered or threatened species or its critical habitat are not authorized by this permit. Federal requirements related to endangered species apply to all TPDES permitted discharges, and site-specific controls may be required to ensure that protection of endangered or threatened species is achieved. If a permittee has concerns over potential impacts to listed species, the permittee shall contact TCEQ for additional information prior to submittal of the NOI and SWMP. If adverse impact is determined after submittal of the NOI and SWMP or after permit issuance, the permittee shall contact TCEQ immediately to determine corrective action and potential modification to the MS4's permit.

10. Other

Nothing in Part II of the general permit is intended to negate any person's ability to assert the force majeure (act of God, war, strike, riot, or other catastrophe) defenses found in 30 TAC § 70.7.

This permit does not transfer liability for the act of discharging without, or in violation of, a NPDES or a TPDES permit from the operator of the discharge to the permittee(s).

Section E. Obtaining Authorization

1. Application for Coverage

When submitting a notice of intent (NOI) and SWMP, for coverage under this general permit, as described in Parts II.E.3., II.E.4, and Part III, the applicant must follow the public notice and availability requirements found in Part II.E.12 of this general permit.

Applicants seeking authorization to discharge under this general permit must submit a completed NOI on a form approved by the executive director, and a SWMP as described in Part III. The NOI and SWMP must be submitted to the TCEQ Water Quality Division, at the address specified on the form. Following review of the NOI and SWMP, the executive director may determine that: 1) The submission is complete and confirm coverage by providing a notification and an authorization number, 2) The NOI or SWMP are incomplete and deny coverage and require that a new complete NOI and SWMP be submitted, 3) Approve the NOI and SWMP with revisions and provide a written description of the required revisions along with any compliance schedule(s), or 4) Deny coverage and provide a deadline by which the MS4 operator must submit an application for an individual permit. Discharge authorization begins when the applicant is notified by TCEQ that the NOI and SWMP have been administratively and technically reviewed and the applicant has followed the public participation provisions in Part II.E.12. Denial of coverage under this general permit is subject to the requirements of 30 TAC § 205.4(c). Application deadlines are as follows:

(a) Small MS4s Located in a 2010 Urbanized Area (UA) (Newly regulated Small MS4s)

Operators of small MS4s described in Part II.A.1 that were not previously regulated under the TPDES General Permit TXR040000, shall submit an NOI and SWMP within 180 days following the effective date of this general permit.

(b) Small MS4s Located in a 2000 UA (Previously Regulated Small MS4s)

Operators of small MS4s described in Part II.A.1 that were required to obtain authorization under the previous TPDES General Permit TXR040000 based on the 2000 UA maps shall submit an NOI and revised SWMP within 180 days following the effective date of this general permit.

(c) Designated Small MS4s

Following designation, operators of small MS4s described in Part II.A.2 shall submit an NOI and SWMP, or apply for coverage under an individual TPDES stormwater permit, within 180 days of being notified in writing by the TCEQ of the need to obtain permit coverage.

(d) Individual Permit Alternative

If an operator of a small MS4 described in Part II.A.1. of this general permit elects to apply for an individual permit, the application must be submitted within 90 days following the effective date of this general permit.

2. Late Submission of the NOI and SWMP

Operators are not prohibited from submitting an NOI and SWMP after the deadlines provided. If a late NOI and SWMP are submitted, then this general permit provides authorization 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. Stormwater Management Program (SWMP)

A SWMP must be developed and submitted with the NOI for eligible discharges that will reach waters of the U.S., including discharges from the regulated small MS4 to other MS4s or to privately-owned separate storm sewer systems that subsequently drain to waters of the U.S., according to the requirements of Part III of this general permit. The SWMP must include, as appropriate, the months and years in which the permittee will undertake required actions, including interim milestones and the frequency of the action throughout the permit term.

New elements in the program must be completely implemented within five years of the effective date of this general permit, or within five years of being designated for those small MS4s which are designated following permit issuance. Previously regulated MS4s shall assess existing program elements set forth in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP.

Changes may be made to the SWMP during the permit term. The TCEQ may notify the permittee of the need to modify the SWMP to be consistent with the general permit, in which case the permittee will have 90 days to finalize such changes to the SWMP.

Changes that are made to the SWMP before the NOI is approved by the TCEQ must be submitted in a letter providing supplemental information to the NOI. Changes to the SWMP that are made after TCEQ approval of the NOI and SWMP may be made following submittal of a notice of change (NOC) and receipt of written approval of the NOC from the TCEQ, except as follows:

(a) The following changes may be implemented without submitting an NOC form. The changes may be made immediately following revision of the SWMP, and must be included in the annual report:

(1) Adding components, controls, or requirements to the SWMP; or replacing a BMP with an equivalent BMP. An equivalent BMP is one that is intended to address the same concern as the original BMP and is substantially similar in nature to the original BMP;

(2) Nonsubstantive changes, including:

a. A change in personnel, or a reorganization of departments responsible for implementing the SWMP;

b. Minor clarifications to the existing BMPs;

c. Correction of typographical errors;

d. Other similar administrative or nonsubstantive comments.

(3) Adding or subtracting area(s) during the permit term, such as by annexing land or if land is de-annexed.

(b) The permittee may replace a less effective or infeasible BMP specifically identified in the SWMP with an alternative BMP, (for example, replacing a structural BMP with a non-structural BMP). Such a change may be implemented within 60 days following submittal of an NOC form, unless the NOC is denied in writing by TCEQ. Such requests must include the following:

(1) An explanation of why the BMP was eliminated;

(2) An explanation of the effectiveness of the replacement BMP; and

(3) An explanation of how the replacement BMP is expected to achieve the goals of the previous BMP.

(c) All other changes must be submitted on an NOC form and may only be implemented following written approval by TCEQ (See Part II.E.5).

4. Contents of the NOI

The NOI must contain the following minimum information:

(a) MS4 Operator Information

(1) The name, mailing address, electronic mail (email) address, telephone number, and facsimile (fax) number of the MS4 operator; and

(2) The legal status of the MS4 operator (for example, federal government, state government, county government, city government, or other government).

(b) Site Information

(1) The name, physical location description, and latitude and longitude of the approximate center of the regulated portion of the small MS4;

(2) County or counties where the small MS4 is located;

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

(4) The name, mailing address, telephone number, email (if available) and fax number of the designated person(s) responsible for implementing or coordinating implementation of the SWMP;

(5) A signature and certification on the NOI, according to 30 TAC § 305.44, that a SWMP has been developed according to the provisions of this permit;

(6) A statement that the applicant will comply with the Public Participation requirements described in Part II.E.12.;

(7) The name of each classified segment that receives discharges, directly or indirectly, from the small MS4. If one or more of the discharge(s) is not directly to a classified segment, then the name of the first classified segment that those discharges reach must be identified;

(8) The name of any MS4 receiving the discharge prior to discharge into waters of the U.S.;

(9) The name of all surface water(s) receiving discharges from the small MS4 that are on the latest EPA-approved CWA § 303(d) list of impaired waters;

(10) An indication of whether the small MS4 discharges within the Recharge Zone, the Contributing Zone or the Contributing Zone within the Transition Zone of the Edwards Aquifer; and

(11) Any other information deemed necessary by the executive director.

5. Notice of Change (NOC)

If the MS4 operator becomes aware that it failed to submit any relevant facts, or submitted incorrect information in the NOI, the correct information must be provided to the executive director in a NOC within 30 days after discovery. If any information provided in the NOI changes, an NOC must be submitted within 30 days from the time the permittee becomes aware of the change.

Any revisions that are made to the SWMP must be made in accordance with Part II.E.3. above. Changes that are made to the SWMP following NOI approval must be made using an NOC form, in accordance with Part II.E.3. above.

6. Change in Operational Control of a Small MS4

If the operational control of the regulated small MS4 changes, the previous operator must submit a Notice of Termination (NOT) and the new operator must submit an NOI and SWMP. The NOT and NOI must be submitted concurrently not more than ten (10) calendar days after the change occurs.

7. Notice of Termination (NOT)

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, or immediately following confirmation of receipt of the electronic NOT form by the TCEQ. A NOT must be submitted within 30 days after the MS4 operator obtains coverage under an individual permit.

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

NOI, NOT, NOC, and Waiver forms must be signed and certified consistent with 30 TAC § 305.44(a) and (b) (relating to Signatories to Applications).

9. Fees

An application fee of $100.00 must be submitted with each NOI. A fee is not required for submission of a waiver form, a NOT, or an NOC.

A permittee authorized under this general permit must pay an annual Water Quality fee of $100.00 under TWC § 26.0291 and 30 TAC Chapter 205 (relating to General Permits for Waste Discharges).

10. Permit Expiration

(a) This general permit is effective for five (5) years from the permit effective date. Authorizations for discharge under the provisions of this general permit will continue until the expiration date of the general permit. This general permit may be amended, revoked, or canceled by the commission or renewed by the TCEQ for an additional term not to exceed five (5) years.

(b) If the executive director proposes to reissue this general permit before the expiration date, the general permit will remain in effect until the date on which the commission takes final action on the proposal to reissue this general permit. For existing permittees, general permit coverage will remain in effect after the expiration date of the existing general permit, in accordance with 30 TAC, Chapter 205. No new NOIs will be accepted and no new authorizations will be processed under the general permit after the expiration date.

(c) Following issuance of a renewed or amended general permit, all permittees, including those covered under the expired general permit, may be required to submit an NOI according to the requirements of the new general permit or to obtain a TPDES individual permit for those discharges. The renewed permit will include a deadline to apply for coverage, and authorization for existing permittees will be automatically extended until the deadline to apply for coverage, or until an application is submitted for renewal, whichever occurs first.

(d) If the TCEQ does not propose to reissue this general permit within 90 days before the expiration date, permittees must apply for authorization under a TPDES individual permit or an alternative general permit. If the application for an individual permit is submitted before the expiration date of this general permit, authorization under this expiring general permit remains in effect until the issuance or denial of an individual permit.

11. Suspension of Permit Coverage

The executive director may suspend an authorization under this general permit for the reasons specified in 30 TAC § 205.4(d) by providing the discharger with written notice of the decision to suspend that authority, and the written notice will include a brief statement of the basis for the decision. If the decision requires an application for an individual permit or an alternative general permit, the written notice will also include a statement establishing the deadline for submitting an application. The written notice will state that the authorization under this general permit is either suspended on the effective date of the commission's action on the permit application, unless the commission expressly provides otherwise, or immediately, if required by the executive director.

12. Public Notice Process for NOI submittal

An applicant under this general permit shall adhere to the following procedures:

(a) The applicant shall submit an NOI and SWMP to the executive director. The SWMP must include information about:

(1) BMPs the applicant will implement for each of the six MCMs, as appropriate;

(2) The measurable goals for each of the BMPs, including, as appropriate the months and years in which the applicant will take the required actions, including interim milestones and the frequency of the action; and

(3) The person or persons responsible for implementing or coordinating the applicants SWMP.

(b) After the applicant receives written instructions from the TCEQ's Office of Chief Clerk, the applicant must publish notice of the executive director's preliminary decision on the NOI and SWMP.

(c) The notice will include the following information, at a minimum:

(1) The legal name of the MS4 operator;

(2) Indication of whether the NOI is for a new authorization or is a renewal of an existing authorization;

(3) The address of the applicant;

(4) A brief summary of the information included in the NOI, such as the general location of the small MS4 and a description of the classified receiving waters that receive the discharges from the small MS4;

(5) The location and mailing address where the public may provide comments to the TCEQ;

(6) The public location where copies of the NOI and SWMP, as well as the executive director's general permit and fact sheet, may be reviewed; and

(7) If required by the executive director, the date, time, and location of the public meeting.

(d) This notice must be published at least once in a newspaper of general circulation in the municipality or county where the small MS4 is located. If the small MS4 is located in multiple municipalities or counties, the notice must be published at least once in a newspaper of general circulation in the municipality or county containing the largest resident population for the regulated portion of the small MS4. This notice must provide opportunity for the public to submit comments on the NOI and SWMP. In addition, the notice must allow the public to request a public meeting. A public meeting will be held if the TCEQ determines that there is significant public interest.

(e) The public comment period begins on the first date the notice is published and lasts for at least 30 days. If a public meeting is held, the comment period will end at the closing of the public meeting (see paragraph (f) below). The public may submit written comments to the TCEQ Office of Chief Clerk during the comment period detailing how the NOI or SWMP for the small MS4 fails to meet the technical requirements or conditions of this general permit.

(f) If significant public interest exists, the executive director will direct the applicant to publish a notice of the public meeting and to hold the public meeting. The applicant shall publish notice of a public meeting at least 30 days before the meeting and hold the public meeting in a county where the small MS4 is located. TCEQ staff will facilitate the meeting.

(g) If a public meeting is held, the applicant shall describe the contents of the NOI and SWMP. The applicant shall also provide maps and other data on the small MS4. The applicant shall provide a sign in sheet for attendees to register their names and addresses and furnish the sheet to the executive director. A public meeting held under this general permit is not an evidentiary proceeding.

(h) The applicant shall file with the Chief Clerk a copy and an affidavit of the publication of notice(s) within 60 days of receiving the written instructions from the Chief Clerk.

(i) The executive director, after considering public comment, will either approve, approve with conditions, or deny the NOI based on whether the NOI and SWMP meet the requirements of this general permit.

(j) Persons whose names and addresses appear legibly on the sign-in sheet from the public meeting and persons who submitted written comments to the TCEQ will be notified by the TCEQ's Office of Chief Clerk of the executive director's decision regarding the authorization.

Section F. Permitting Options

1. Authorization Under the General Permit

An operator of a small MS4 is required to obtain authorization either under this general permit, or under an individual TPDES permit if it is located in a UA or designated by the TCEQ. Multiple small MS4s with separate operators must individually submit an NOI to obtain coverage under this general permit, regardless of whether the systems are physically interconnected, located in the same UA, or are located in the same watershed. Each regulated small MS4 will be issued a distinct permit number. These MS4 operators may combine or share efforts in meeting any or all of the SWMP requirements stated in Part III of this general permit. MS4 operators that share SWMP development and implementation responsibilities must meet the following conditions:

(a) Participants

The SWMP must clearly list the name and permit number for each MS4 operator that chooses to contributes to development or implementation of the SWMP, and provide written confirmation that the contributing MS4 operator has agreed to contribute. If a contributing small MS4 has submitted a NOI and SWMP to TCEQ, but has not yet received written notification of approval, along with the accompanying permit authorization number, a copy of the submitted NOI form must be made readily available or be included in the SWMP.

(b) Responsibilities

Each permittee is entirely responsible for meeting SWMP requirements within the boundaries of its small MS4. Where a separate MS4 operator is contributing to implementation of the SWMP, the SWMP must clearly define each minimum control measure and the component(s) each entity agrees to implement, within which MS4 area(s) each entity agrees to implement 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 a MS4 operator, authorized by this general 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. The executive director shall deny or suspend a facility's authorization for disposal under this general permit based on a rating of "unsatisfactory performer" according to commission rules in 30 TAC §60.3, *Use of Compliance History*. An applicant who owns or operates a facility classified as an "unsatisfactory performer" is

entitled to a hearing before the commission prior to having its coverage denied or suspended, in accordance with TWC § 26.040(h).

Part III. Stormwater Management Program (SWMP)

To the extent allowable under state and local law, a SWMP must be developed, implemented and enforced according to the requirements of Part III of this general permit, for stormwater discharges that reach waters of the U.S., regardless of whether the discharge is conveyed through a separately operated storm sewer system. The SWMP must be developed, implemented and enforced to reduce the discharge of pollutants from the small MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the CWA and the TWC.

A permittee that implements best management practices consistent with the provisions of their permit and SWMP constitutes compliance with the standard of reducing pollutants to the MEP and will be deemed in compliance with Part III of this permit. This permit does not extend any compliance deadlines set forth in the previous permit effective August 13, 2007.

Section A. Developing a Stormwater Management Program (SWMP)

1. SWMP Development and Schedule

(a) Existing regulated small MS4s

Permittees who were regulated under the previous TPDES general permit TXR040000, shall update and submit to the TCEQ an updated SWMP under this general permit along with the NOI for coverage. The NOI and SWMP are due within 180 days of the general permit effective date. The permittee shall continue to operate under the conditions of the previous permit and existing SWMP until the revised SWMP is approved.

(b) New regulated small MS4s

Operators of regulated small MS4s that were not required to obtain permit coverage under the previous TPDES general permit TXR040000, have 180 days from the effective date of the general permit to develop and submit their NOI and SWMP.

(c) Implementation of the SWMP

Existing small MS4 operators shall ensure full implementation of any new elements in the revised SWMP as soon as practicable, but no later than five years from the permit effective date. Previously regulated MS4 operators shall continue to implement existing elements in the approved SWMPs until the revised SWMPs has been approved.

Designated small MS4s must achieve full implementation of the SWMP as soon as practicable, but no later than five years from designation. Newly regulated small MS4s, based on the 2010 Decennial Census, must achieve full implementation of the SWMP as soon as practicable, but no later than five years from the permit effective date.

2. Content of the SWMP

At a minimum, the permittee shall include the following information in its SWMP:

(a) A description of Minimum Control Measures (MCM) with measureable goals, including, as appropriate, the months and years in which the permittee will undertake required actions, including interim milestones and the frequency of the action for each MCM described in Part III, Section B.

(b) A measurable goal that includes the development of ordinances or other regulatory mechanisms, allowed by state, federal and local law, providing the legal authority necessary to implement and enforce the requirements of this permit, including information on any limitations to the legal authority;

(c) A summary of written procedures describing how the permittee will implement the provisions in Parts III and IV of this general permit.

(d) A description of a program or a plan of compliance with the requirements in Part II.D.4. (relating to Impaired Water Bodies and Total Maximum Daily Load (TMDL) Requirements)

3. Legal Authority

(a) Traditional small MS4s, such as cities

(1) Within two years from the permit effective date, the permittee shall review and revise, if needed, its relevant ordinance(s) or other regulatory mechanism(s), or shall adopt a new ordinance(s) or other regulatory mechanism(s) that provide the permittee with adequate legal authority to control pollutant discharges into and from its small MS4 in order to meet the requirements of this general permit.

(2) To be considered adequate, this legal authority must, at a minimum, address the following:

a. Authority to prohibit illicit discharges and illicit connections;

b. Authority to respond to and contain other releases – Control the discharge of spills, and prohibit dumping or disposal of materials other than stormwater into the small MS4;

c. Authority to require compliance with conditions in the permittee's ordinances, permits, contracts, or orders;

d. Authority to require installation, implementation, and maintenance of control measures;

e. Authority to receive and collect information, such as stormwater plans, inspection reports, and other information deemed necessary to assess compliance with this permit, from operators of construction sites, new or redeveloped land, and industrial and commercial facilities;

f. Authority, as needed, to enter and inspect private property including facilities, equipment, practices, or operations related to stormwater discharges to the small MS4;

g. Authority to respond to non-compliance with BMPs required by the small MS4 consistent with their ordinances or other regulatory mechanism(s);

h. Authority to assess penalties, including monetary, civil, or criminal penalties; and

i. Ability to enter into interagency or interlocal agreements or other maintenance agreements, as necessary.

(b) Non-traditional small MS4s, such as counties, drainage districts, transportation entities, municipal utility districts, military bases, prisons and universities

(1) Where the permittee lacks the authority to develop ordinances or to implement enforcement actions, the permittee shall exert enforcement authority as required by this general permit for its facilities, employees, contractors, and any other entity over which it has operational control within the portion of the UA under the jurisdiction of the permittee. For discharges from third party actions, the permittee shall perform inspections and exert enforcement authority to the MEP.

(2) If the permittee does not have inspection or enforcement authority and is unable to meet the goals of this general permit through its own powers, then, unless otherwise stated in this general permit, the permittee shall perform the following actions in order to meet the goals of the permit:

a. Enter into interlocal agreements with municipalities where the small MS4 is located. These interlocal agreements must state the extent to which the municipality will be responsible for inspections and enforcement authority in order to meet the conditions of this general permit; or,

b. If it is not feasible for the permittee to enter into interlocal agreements, the permittee shall notify an adjacent MS4 operator with enforcement authority or TCEQs Field Operations Support Division as needed to report discharges or incidents that it cannot itself enforce against. In determining feasibility for entering into interlocal agreements, the permittee shall consider all factors, including, without limitations, financial considerations and the willingness of the municipalities in which the small MS4 is located.

4. Resources

It is the permittee's responsibility to ensure that it has adequate resources and funding to implement the requirements of this permit.

5. Effluent Limitations

The controls and BMPs included in the SWMP constitute effluent limitations for the purposes of compliance with state rules. This includes the requirements of 30 TAC Chapter 319, Subchapter B, which lists the maximum allowable concentrations of hazardous metals for discharge to water in the state.

6. Enforcement Measures

Permittees with enforcement authority (i.e. traditional small MS4s) shall develop a standard operating procedure (SOP) to respond to violations to the extent allowable under state and local law. When the permittee does not have enforcement authority over the violator, and the violations continue after violator has been notified by the permittee, the permittee shall notify either the adjacent MS4 operator with enforcement authority or TCEQ's Field Operations Support Division.

Section B. Minimum Control Measures

Operators of small MS4s seeking coverage under this general permit shall develop and implement a SWMP that includes the following six minimum control measures (MCMs), as applicable.

All program elements must be implemented according to the schedule mentioned in Part III.A. All six MCMs apply to all MS4s regardless of their level as described in Part II.A.5. Specific program elements under each MCM shall be implemented by all MS4 operators, unless it is specifically stated that particular program elements only are applicable for certain levels of small MS4s.

Permittees shall provide justification within the SWMP for any requirements that were not implemented because they were not feasible as described in each MCM.

1. Public Education, Outreach, and Involvement

(a) Public Education and Outreach

(1) All permittees shall develop, implement, and maintain a comprehensive stormwater education and outreach program to educate public employees, businesses, and the general public of hazards associated with the illegal discharges and improper disposal of waste and about the impact that stormwater discharges can have on local waterways, as well as the steps that the public can take to reduce pollutants in stormwater.

Existing permittees shall assess program elements that were described in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the program fully implemented by the end of this permit term. The program must, at a minimum:

a. Define the goals and objectives of the program based on high priority community-wide issues (for example, reduction of nitrogen in discharges from the small MS4, promoting previous techniques used in the small MS4, or improving the quality of discharges to the Edwards Aquifer);

b. Identify the target audience(s);

c. Develop or utilize appropriate educational materials, such as printed materials, billboard and mass transit advertisements, signage at select locations, radio advertisements, television advertisements, and websites;

d. Determine cost effective and practical methods and procedures for distribution of materials.

(2) Throughout the permit term, all permittees shall make the educational materials available to convey the program's message to the target audience(s) at least annually.

(3) All permittees shall review and update as necessary, the SWMP and MCM implementation procedures required by Part III.A.2.. Any changes must be reflected in the annual report. Such written procedures must be maintained, either on site or in the SWMP and made available for inspection by the TCEQ.

(4) MS4 operators may partner with other MS4 operators to maximize the program and cost effectiveness of the required outreach.

(b) Public Involvement

All permittees shall involve the public, and, at minimum, comply with any state and local public notice requirements in the planning and implementation activities related

to developing and implementing the SWMP, except that correctional facilities are not required to implement this portion of the MCM.

Existing permittees shall assess program elements that were described in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the program fully implemented by the end of this permit term. At a minimum, all permittees shall:

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

(2) If feasible, create opportunities for citizens to participate in the implementation of control measures, such as stream clean-ups, storm drain stenciling, volunteer monitoring, volunteer "Adopt-A-Highway" programs, and educational activities;

(3) Ensure the public can easily find information about the SWMP.

2. Illicit Discharge Detection and Elimination (IDDE)

(a) Program Development

(1) All permittees shall develop, implement and enforce a program to detect, investigate, and eliminate illicit discharges into the small MS4. The program must include a plan to detect and address non-stormwater discharges, including illegal dumping to the MS4 system.

Existing permittees must assess program elements that were described in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the program fully implemented by the end of this permit term. See also Part III.A.1(c).

The Illicit Discharge Detection and Elimination (IDDE) program must include the following:

a. An up-to-date MS4 map (see Part III.B.2.(c)(1));

b. Methods for informing and training MS4 field staff (See Part III.B.2.(c)(2));

c. Procedures for tracing the source of an illicit discharge (see Part III. B.2.(c)(5));

d. Procedures for removing the source of the illicit discharge (see Part III.B.2.(c)(5));

e. For Level 2, 3 and 4 small MS4s, if applicable, procedures to prevent and correct any leaking on-site sewage disposal systems that discharge into the small MS4;

f. For Level 4 small MS4s, procedures for identifying priority areas within the small MS4 likely to have illicit discharges, and a list of all such areas identified in the small MS4 (See Part III.B.2.(g)(1));

g. For Level 4 small MS4s, field screening to detect illicit discharges (See Part III.B.2.(g)(2)).

(2) For non-traditional small MS4s, if illicit connections or illicit discharges are observed related to another operator's MS4, the permittee shall notify the other MS4 operator within 48 hours of discovery. If notification to the other MS4 operator is not practicable, then the permittee shall notify the appropriate TCEQ regional office of the possible illicit connection.

(3) If another MS4 operator notifies the permittee of an illegal connection or illicit discharge to the small MS4, then the permittee shall follow the requirements specified in Part III.B.2.(c)(3).

(4) All permittees shall review and update as necessary, the SWMP and MCM implementation procedures required by Part III.A.2.. Any changes must be reflected in the annual report. Such written procedures must be maintained, either on site or in the SWMP and made available for inspection by the TCEQ.

(b) Allowable Non-Stormwater Discharges

Non-stormwater flows listed in Part II.C do not need to be considered by the permittee as an illicit discharge requiring elimination unless the permittee or the TCEQ identifies the flow as a significant source of pollutants to the small MS4.

(c) Requirements for all Permittees

All permittees shall include the requirements described below in Parts III.B.2(c)(1)-(6)

(1) MS4 mapping

All permittees shall maintain an up-to-date MS4 map, which must be located on site and available for review by the TCEQ. The MS4 map must show at a minimum the following information:

a. The location of all small MS4 outfalls that are operated by the permittee and that discharge into waters of the U.S;

b. The location and name of all surface waters receiving discharges from the small MS4 outfalls;

c. Priority areas identified under Part III.B.2.(e)(1) if applicable.

(2) Education and Training

All permittees shall implement a method for informing or training all the permittee's field staff that may come into contact with or otherwise observe an illicit discharge or illicit connection to the small MS4 as part of their normal job responsibilities. Training program materials and attendance lists must be maintained on site and made available for review by the TCEQ.

(3) Public Reporting of Illicit Discharges and Spills

To the extent feasible, all permittees shall publicize and facilitate public reporting of illicit discharges or water quality impacts associated with discharges into or from the small MS4. The permittee shall provide a central contact point to receive reports; for example by including a phone number for complaints and spill reporting.

(4) All permittees shall develop and maintain on site procedures for responding to illicit discharges and spills.

(5) Source Investigation and Elimination

a. Minimum Investigation Requirements – Upon becoming aware of an illicit discharge, all permittees shall conduct an investigation to identify and locate the source of such illicit discharge as soon as practicable.

(i) All permittees shall prioritize the investigation of discharges based on their relative risk of pollution. For example, sanitary sewage may be considered a high priority discharge.

(ii) All permittees shall report to the TCEQ immediately upon becoming aware of the occurrence of any illicit flows believed to be an immediate threat to human health or the environment.

(iii) All permittees shall track all investigations and document, at a minimum, the date(s) the illicit discharge was observed; the results of the investigation; any follow-up of the investigation; and the date the investigation was closed.

b. Identification and Investigation of the Source of the Illicit Discharge –All permittees shall investigate and document the source of illicit discharges where the permittees have jurisdiction to complete such an investigation. If the source of illicit discharge extends outside the permittee's boundary, all permittees shall notify the adjacent permitted MS4 operator or TCEQ's Field Operation Support Division according to Part III.A.3.b.

c. Corrective Action to Eliminate Illicit Discharge

(i) If and when the source of the illicit discharge has been determined, all permittees shall immediately notify the responsible party of the problem, and shall require the responsible party to perform all necessary corrective actions to eliminate the illicit discharge.

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

(d) Additional Requirements for Level 3 and 4 small MS4s

In addition to the requirements described in Parts III.B.2(c)(1)-(6) above, permittees who operate level 3 and 4 small MS4s shall meet the following requirements:

(1) Source Investigation and Elimination

Permittees who operate level 3 and 4 small MS4 shall upon being notified that the discharge has been eliminated, conduct a follow-up investigation or field screening, consistent with Part III.B.2.(e)(2), to verify that the discharge has been eliminated. The permittee shall document its follow-up investigation. The permittee may seek recovery and remediation costs from responsible parties consistent with Part III.A.3., and require compensation related costs. Resulting enforcement actions must follow the procedures for enforcement action in Part III.A.3. If the suspected source of the illicit discharge is authorized under an NPDES/TPDES permit or the discharge is listed as an authorized non-stormwater discharge, as described in Part III.C, no further action is required.

(e) Additional Requirements for Level 4 small MS4s

In addition to the requirements described in Parts III.B.2(c)-(d) above, permittees who operate level 4 small MS4s shall meet the following requirements:

(1) Identification of Priority Areas

Permittees who operate level 4 small MS4s shall identify priority areas and shall document the basis for the selection of each priority area and shall create a list of all priority areas identified. This priority area list must be available for review by the TCEQ.

(2) Dry Weather Field Screening

By the end of the permit term, permittees who operate level 4 small MS4s shall develop and implement a written dry weather field screening program to assist in detecting and eliminating illicit discharges to the small MS4. Dry weather field screening must consist of (1) field observations; and (2) as needed, field screening.

If dry weather field screening is necessary, at a minimum, the permittee shall:

a. Conduct dry weather field screening in priority areas as identified by the permittee in Part III.B.2(e)(1). By the end of the permit term, all of those priority areas, although not necessarily all individual outfalls must be screened.

b. Field observation requirements – The permittee shall develop written procedures for observing flows from outfalls when there has been at least 72 hours of dry weather. The written procedures should include the basis used to determine which outfalls would be observed. The permittee shall record visual observations such as odor, color, clarity, floatables, deposits or stains.

c. Field screening requirements – The permittee shall develop written procedures to determine which dry weather flows will be screened, based on results of field observations or complaint from the public or the permittee's trained field staff. At a minimum, when visual observations indicate a potential problem such as discolored flows, foam, surface sheen, and other similar indicators of contamination, the permittee shall conduct a field screening analysis for selected indicator pollutants as determined by the permittee. Screening methodology may be modified based on experience gained during the actual field screening activities. The permittee shall document the method used.

3. Construction Site Stormwater Runoff Control

(a) Requirements and Control Measures

(1) All permittees shall develop, implement and enforce a program requiring operators of small and large construction activities, as defined in Part I of this general permit, to select, install, implement, and maintain stormwater control measures that prevent illicit discharges to the MEP. The program must include the development and implementation of an ordinance or other regulatory mechanism, as well as sanctions to ensure compliance to the extent allowable under state, federal, and local law, to require erosion and sediment control.

Existing permittees shall assess program elements that were described in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the the progam fully implemented by the end of this permit term.

If TCEQ waives requirements for stormwater discharges associated with small construction from a specific site(s), the permittee is not required to enforce the program to reduce pollutant discharges from such site(s).

(b) Requirements for all Permittees

All permittees shall include the requirements described below in Parts III.B.3(b)(1)-(7)

(1) All permittees shall review and update as necessary, the SWMP and MCM implementation procedures required by Part III.A.2. Any changes must be included in the annual report. Such written procedures must be maintained on site or in the SWMP and made available for inspection by the TCEQ.

(2) All permittees shall require that construction site operators implement appropriate erosion and sediment control BMPs. The permittee's construction program must ensure the following minimum requirements are effectively implemented for all small and large construction activities discharging to its small MS4.

a. Erosion and Sediment Controls - Design, install and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants.

b. Soil Stabilization - Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. Stabilization must be completed within a period of time determined by the permittee. In arid, semiarid, and drought-stricken areas, as determined by the permittee, where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the permittee.

c. BMPs – Design, install, implement, and maintain effective BMPs to minimize the discharge of pollutants to the small MS4. At a minimum, such BMPs must be designed, installed, implemented and maintained to:

(i) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters;

(ii) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater; and

(iii) Minimize the discharge of pollutants from spills and leaks.

d. As an alternative to (a) through (c) above, all permittees shall ensure that all small and large construction activities discharging to the small MS4 have developed and implemented a stormwater pollution prevention plan (SWP3) in accordance with the TPDES CGP TXR150000. In arid, semiarid, and drought-stricken areas, as determined by the permittee, where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the permittee. As an alternative, vegetative stabilization measures may be implemented as soon as practicable.

(3) Prohibited Discharges - The following discharges are prohibited:

a. Wastewater from washout of concrete and wastewater from water well drilling operations, unless managed by an appropriate control;

b. Wastewater from washout and cleanout of stucco, paint, from release oils, and other construction materials;

c. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and,

d. Soaps or solvents used in vehicle and equipment washing;

e. Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, unless managed by appropriate BMPs.

(4) Construction Plan Review Procedures

To the extent allowable by state, federal, and local law, all permittees shall maintain and implement site plan review procedures, that describe which plans will be reviewed as well as when an operator may begin construction. For those permittees without legal authority to enforce site plan reviews, this requirement is limited to those sites operated by the permittee and its contractors and located within the permittee's regulated area. The site plan procedures must meet the following minimum requirements:

a. The site plan review procedures must incorporate consideration of potential water quality impacts.

b. The permittee may not approve any plans unless the plans contain appropriate site specific construction site control measures that, at a minimum, meet the requirements described in Part III.B.3.(a) or in the TPDES CGP, TXR150000.

The permittee may require and accept a plan, such as a SWP3, that has been developed pursuant to the CGP, TXR150000.

(5) Construction Site Inspections and Enforcement

To the extent allowable by state, federal, and local law, all permittees shall implement procedures for inspecting large and small construction projects. Permittees without legal authority to inspect construction sites shall at a minimum conduct inspections of sites operated by the permittee or its contractors and that are located in the permittee's regulated area.

a. Inspections must occur at a frequency determined by the permittee, based on the evaluation of factors that are a threat to water quality, such as: soil erosion potential; site slope; project size and type; sensitivity of receiving waterbodies; proximity to receiving waterbodies; non-stormwater discharges; and past record of non-compliance by the operators of the construction site.

b. Inspections must occur during the active construction phase.

(i) All permittees shall develop, implement, and revise as necessary, written procedures outlining the inspection and enforcement requirements. These procedures must be maintained on site or in the SWMP and be made available to TCEQ.

(ii) Inspections of construction sites must, at a minimum:

1. Determine whether the site has appropriate coverage under the TPDES CGP, TXR150000. If no coverage exists, notify the permittee of the need for permit coverage.
2. Conduct a site inspection to determine if control measures have been selected, installed, implemented, and maintained according to the small MS4's requirements.
3. Assess compliance with the permittee's ordinances and other regulations.
4. Provide a written or electronic inspection report.

c. Based on site inspection findings, all permittees shall take all necessary follow-up actions (for example, follow-up-inspections or enforcement) to ensure compliance with permit requirements and the SWMP. These follow-up and enforcement actions must be tracked and maintained for review by the TCEQ.

For non-traditional small MS4s with no enforcement powers, the permittee shall notify the adjacent MS4 operator with enforcement authority or the TCEQ's Field Operations Support Division according to Part III.A.3(b).

(6) Information submitted by the Public

All permittees shall develop, implement and maintain procedures for receipt and consideration of information submitted by the public.

(7) MS4 Staff Training

All permittees shall ensure that all staff whose primary job duties are related to implementing the construction stormwater program (including permitting, plan review, construction site inspections, and enforcement) are informed or trained to conduct these activities. The training may be conducted by the permittee or by outside trainers.

(c) Additional Requirements for Level 3 and 4 small MS4s

In addition to the requirements described in Parts III.B.3(b)(1)-(7) above, permittees who operate level 3 and 4 small MS4s shall meet the following requirements:

(1) Construction Site Inventory

Permittees who operate level 3 and 4 small MS4s shall maintain an inventory of all permitted active public and private construction sites, that result in a total land disturbance of one or more acres or that result in a total land disturbance of less than one acre if part of a larger common plan or development or sale. Notification to the small MS4 should be made by submittal of a copy of an NOI or a small construction site notice. The permittee shall make this inventory available to the TCEQ upon request.

4. Post-Construction Stormwater Management in New Development and Redevelopment

(a) Post-Construction Stormwater Management Program

(1) All permittees shall develop, implement and enforce a program, to the extent allowable under state, federal, and local law, to control stormwater discharges

from new development and redeveloped sites that discharge into the small MS4 that disturb one acre or more, including projects that disturb less than one acre that are part of a larger common plan of development or sale. The program must be established for private and public development sites. The program may utilize an offsite mitigation and payment in lieu of components to address this requirement.

Existing permittees shall assess program elements that were described in the previous permit, modify as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the program fully implemented by the end of the permit term.

(2) All permittees shall use, to the extent allowable under state, federal, and local law and local development standards, an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects. The permittees shall establish, implement, and enforce a requirement, that owners or operators of new development and redeveloped sites design, install, implement, and maintain a combination of structural and non-structural BMPs appropriate for the community and that protects water quality. If the construction of permanent structures is not feasible due to space limitations, health and safety concerns, cost effectiveness, or highway construction codes, the permittee may propose an alternative approach to TCEQ. Newly regulated permittees shall have the program element fully implemented by the end of the permit term.

(b) Requirements for all Permittees

All permittees shall include the requirements described below in Parts III.B.4.(b)(1)-(3)

(1) All permittees shall review and update as necessary, the SWMP and MCM implementation procedures required by Part III.A.2.. Any changes must be included in the annual report. Such written procedures must be maintained either on site or in the SWMP and made available for inspection by TCEQ.

(2) All permittees shall document and maintain records of enforcement actions and make them available for review by the TCEQ.

(3) Long-Term Maintenance of Post-Construction Stormwater Control Measures

All permittees shall, to the extent allowable under state, federal, and local law, ensure the long-term operation and maintenance of structural stormwater control measures installed through one or both of the following approaches:

a. Maintenance performed by the permittee. See Part III.B.5

b. Maintenance performed by the owner or operator of a new development or redeveloped site under a maintenance plan. The maintenance plan must be filed in the real property records of the county in which the property is located. The permittee shall require the owner or operator of any new development or redeveloped site to develop and implement a maintenance plan addressing maintenance requirements for any structural control measures installed on site. The permittee shall require operation and maintenance performed is documented and retained on site, such as at the offices of the owner or operator, and made available for review by the small MS4.

(c) Additional Requirements for Level 4 small MS4s

In addition to the requirements described in Parts III.B.5(b)(1)-(3) above, permittees who operate level 4 small MS4s shall meet the following requirements:

(1) Inspections - Permittees who operate level 4 small MS4s shall develop and implement an inspection program to ensure that all post construction stormwater control measures are operating correctly and are being maintained as required consistent with its applicable maintenance plan. For small MS4s with limited enforcement authority, this requirement applies to the structural controls owned and operated by the small MS4 or its contractors that perform these activities within the small MS4's regulated area.

a. Inspection Reports - The permittee shall document its inspection findings in an inspection report and make them available for review by the TCEQ.

5. Pollution Prevention and Good Housekeeping for Municipal Operations

(a) Program development

(1) All permittees shall develop and implement an operation and maintenance program, including an employee training component that has the ultimate goal of preventing or reducing pollutant runoff from municipal activities and municipally owned areas including but not limited to park and open space maintenance; street, road, or highway maintenance; fleet and building maintenance; stormwater system maintenance; new construction and land disturbances; municipal parking lots; vehicle and equipment maintenance and storage yards; waste transfer stations; and salt/sand storage locations.

Existing permittees shall assess program elements that were described in the previous permit, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharges of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term and newly regulated permittees shall have the program fully implemented by the end of this permit term. See also Part III.A.1.(c))

(b) Requirements for all Permittees

All permitees shall include the requirements described below in Parts III.B.5.(1)-(6) in the program:

(1) Permittee-owned Facilities and Control Inventory

All permittees shall develop and maintain an inventory of facilities and stormwater controls that it owns and operates within the regulated area of the small MS4. If feasible, the inventory may include all applicable permit numbers, registration numbers, and authorizations for each facility or controls. The inventory must be available for review by TCEQ and must include, but is not limited, to the following, as applicable:

a. Composting facilities;

b. Equipment storage and maintenance facilities;

c. Fuel storage facilities;

d. Hazardous waste disposal facilities;

e. Hazardous waste handling and transfer facilities;

f. Incinerators;

g. Landfills;

h. Materials storage yards;

i. Pesticide storage facilities;

j. Buildings, including schools, libraries, police stations, fire stations, and office buildings;

k. Parking lots;

l. Golf courses;

m. Swimming pools;

n. Public works yards;

o. Recycling facilities;

p. Salt storage facilities;

q. Solid waste handling and transfer facilities;

r. Street repair and maintenance sites;

s. Vehicle storage and maintenance yards; and

t. Structural stormwater controls.

(2) Training and Education

All permittees shall inform or train appropriate employees involved in implementing pollution prevention and good housekeeping practices. All permittees shall maintain a training attendance list for inspection by TCEQ when requested.

(3) Disposal of Waste Material - Waste materials removed from the small MS4 must be disposed of in accordance with 30 TAC Chapters 330 or 335, as applicable.

(4) Contractor Requirements and Oversight

a. Any contractors hired by the permittee to perform maintenance activities on permittee-owned facilities must be contractually required to comply with all of the stormwater control measures, good housekeeping practices, and facility-specific stormwater management operating procedures described in Parts III B.5.(2)-(6).

b. All permittees shall provide oversight of contractor activities to ensure that contractors are using appropriate control measures and SOPs. Oversight procedures must be developed before the end of the permit term and maintained on site and made available for inspection by TCEQ.

(5) Municipal Operation and Maintenance Activities

a. Assessment of permittee-owned operations

All permittees shall evaluate operation and maintenance (O&M) activities for their potential to discharge pollutants in stormwater, including but not limited to:

(i) Road and parking lot maintenance may include such areas as pothole repair, pavement marking, sealing, and re-paving;

(ii) Bridge maintenance may include such areas as re-chipping, grinding, and saw cutting;

(iii) Cold weather operations, including plowing, sanding, and application of deicing and anti-icing compounds and maintenance of snow disposal areas; and

(iv) Right-of-way maintenance, including mowing, herbicide and pesticide application, and planting vegetation.

b. All permittees shall identify pollutants of concern that could be discharged from the above O&M activities (for example, metals; chlorides; hydrocarbons such as benzene, toluene, ethyl benzene, and xylenes; sediment; and trash).

c. All permittees shall develop and implement a set of pollution prevention measures that will reduce the discharge of pollutants in stormwater from the above activities. These pollution prevention measures may include the following examples:

(i) Replacing materials and chemicals with more environmentally benign materials or methods;

(ii) Changing operations to minimize the exposure or mobilization of pollutants to prevent them from entering surface waters; and

(iii) Placing barriers around or conducting runoff away from deicing chemical storage areas to prevent discharge into surface waters.

d. Inspection of pollution prevention measures - All pollution prevention measures implemented at permittee-owned facilities must be visually inspected at a frequency determined by the permittee to ensure they are working properly. A log of inspections must be maintained and made available for review by the TCEQ upon request.

(6) Structural Control Maintenance

If BMPs include structural controls, maintenance of the controls must be performed at a frequency determined by the permittee and consistent with maintaining the effectiveness of the BMP.

(c) Additional Requirements for Level 3 and 4 small MS4s:

In addition to the requirements described in Parts.B.5.(b)(1)-(6) above, permittees who operate level 3 or 4 small MS4s shall meet the following requirements:

(1) Storm Sewer System Operation and Maintenance

a. Permittees who operate level 3 or 4 small MS4s shall develop and implement an O&M program to reduce to the maximum extent practicable the collection of pollutants in catch basins and other surface drainage structures.

b. Permittees who operate level 3 or 4 small MS4s shall develop a list of potential problem areas. The permittees shall identify and prioritize problem areas for increased inspection (for example, areas with recurrent illegal dumping).

(2) Operation and Maintenance Program to Reduce Discharges of Pollutants from Roads

Permittees who operate level 3 or 4 small MS4s shall implement an O&M program that includes, if feasible and practicable, a street sweeping and cleaning program,

or an equivalent BMP such as an inlet protection program, which must include an implementation schedule and a waste disposal procedure. The basis for the decision must be included in the SWMP. If a street sweeping and cleaning program is implemented, the permittee shall evaluate the following permittee-owned and operated areas for the program: streets, road segments, and public parking lots including, but not limited to, high traffic zones, commercial and industrial districts, sport and event venues, and plazas, as well as areas that consistently accumulate high volumes of trash, debris, and other stormwater pollutants.

a. Implementation schedules – If a sweeping program is implemented, the permittee shall sweep the areas in the program (for example, the streets, roads, and public parking lots) in accordance with a frequency and schedule determined in the permittee's O&M program.

b. For areas where street sweeping is technically infeasible (for example, streets without curbs), the permittee shall focus implementation of other trash and litter control procedures, or provide inlet protection measures to minimize pollutant discharges to storm drains and creeks.

c. Sweeper Waste Material Disposal – If utilizing street sweepers, the permittee shall develop a procedure to dewater and dispose of street sweeper waste material and shall ensure that water and material will not reenter the small MS4.

(3) Mapping of Facilities

Permittees who operate level 3 or 4 small MS4s shall, on a map of the area regulated under this general permit, identify where the permittee-owned and operated facilities and stormwater controls are located.

(4) Facility Assessment

Permittees who operate level 3 or 4 small MS4s shall perform the following facility assessment in the regulated portion of the small MS4 operated by the permittee:

a. Assessment of Facilities' Pollutant Discharge Potential - The permittee shall review the facilities identified in Part III.B.5.(b) once per permit term for their potential to discharge pollutants into stormwater.

b. Identification of *high priority* facilities - Based on the Part III.B.5.(c)(4)a. assessment, the permittee shall identify as *high priority* those facilities that have a high potential to generate stormwater pollutants and shall document this in a list of these facilities. Among the factors that must be considered in giving a facility a high priority ranking are the amount of urban pollutants stored at the site, the identification of improperly stored materials, activities that must not be performed outside (for example, changing automotive fluids, vehicle washing), proximity to waterbodies, proximity to sensitive aquifer recharge features, poor housekeeping practices, and discharge of pollutant(s) of concern to impaired water(s). High priority facilities must include, at a minimum, the permittee's maintenance yards, hazardous waste facilities, fuel storage locations, and any other facilities at which chemicals or other materials have a high potential to be discharged in stormwater.

c. Documentation of Assessment Results - The permittee shall document the results of the assessments and maintain copies of all site evaluation checklists used to conduct the assessments. The documentation must include the results

of the permittee's initial assessment, and any identified deficiencies and corrective actions taken.

(5) Development of Facility Specific SOPs

Permittees who operate level 3 or 4 small MS4s shall develop facility specific stormwater management SOPs. The permittee may utilize existing plans or documents that may contain the following required information:

a. For each high priority facility identified in Part III.B.5.(c)(4)b., the permittee shall develop a SOP that identifies BMPs to be installed, implemented, and maintained to minimize the discharge of pollutants in stormwater from each facility.

b. A hard or electronic copy of the facility-specific stormwater management SOP (or equivalent existing plan or document) must be maintained and be available for review by the TCEQ. The SOP must be kept on site when possible and must be updated as necessary.

(6) Stormwater Controls for High Priority Facilities

Permittees who operate level 3 or 4 small MS4s shall implement the following stormwater controls at all high priority facilities identified in Part III.B.5.(c)(4)b. A description of BMPs developed to comply with this requirement must be included in each facility specific SOP:

a. General good housekeeping – Material with a potential to contribute to stormwater pollution should be sheltered from exposure to stormwater when feasible.

b. De-icing and anti-icing material storage - The permittee shall ensure, to the MEP, that stormwater runoff from storage piles of salt and other de-icing and anti-icing materials is not discharged; or shall ensure that any discharges from the piles are authorized under a separate discharge permit.

c. Fueling operations and vehicle maintenance - The permittee shall develop SOPs (or equivalent existing plans or documents) which address spill prevention and spill control at permittee-owned and operated vehicle fueling, vehicle maintenance, and bulk fuel delivery facilities.

d. Equipment and vehicle washing - The permittee shall develop SOPs that address equipment and vehicle washing activities at permittee-owned and operated facilities. The discharge of equipment and vehicle wash water to the small MS4 or directly to receiving waters from permittee-owned facilities is not authorized under this general permit. To ensure that wastewater is not discharged under this general permit, the permittee's SOP may include installing a vehicle wash reclaim system, capturing and hauling the wastewater for proper disposal, connecting to sanitary sewer (where applicable and approved by local authorities), ceasing the washing activity, or applying for and obtaining a separate TPDES permit.

(7) Inspections

Permittees who operate level 3 or 4 small Ms4s shall develop and implement an inspection program, which at a minimum must include periodic inspections of high priority permittee-owned facilities. The results of the inspections and observations must be documented and available for review by the TCEQ.

(d) Additional Requirements for Level 4 small MS4s:

In addition to all the requirements described in Parts III.B.5(b) and III.B.5.(c) above, permittees who operate level 4 small MS4s shall meet the following requirements:

(1) Pesticide, Herbicide, and Fertilizer Application and Management

a. Landscape maintenance - The permittee shall evaluate the materials used and activities performed on public spaces owned and operated by the permittee such as parks, schools, golf courses, easements, public rights of way, and other open spaces for pollution prevention opportunities. Maintenance activities for the turf landscaped portions of these areas may include mowing, fertilization, pesticide application, and irrigation. Typical pollutants include sediment, nutrients, hydrocarbons, pesticides, herbicides, and organic debris.

b. The permittee shall implement the following practices to minimize landscaping-related pollutant generation with regard to public spaces owned and operated by the permittee:

(i) Educational activities, permits, certifications, and other measures for the permittee's applicators and distributors.

(ii) Pest management measures that encourage non-chemical solutions where feasible. Examples may include:

(a) Use of native plants or xeriscaping;

(b) Keeping clippings and leaves out the small MS4 and the street by encouraging mulching, composting, or landfilling;

(c) Limiting application of pesticides and fertilizers if precipitation is forecasted within 24 hours, or as specified in label instructions;

(d) Reducing mowing of grass to allow for greater pollutant removal, but not jeopardizing motorist safety.

c. The permittee shall develop schedules for chemical application in public spaces owned and operated by the permittee that minimize the discharge of pollutants from the application due to irrigation and expected precipitation.

d. The permittee shall ensure collection and proper disposal of the permittee's unused pesticides, herbicides, and fertilizers.

6. Industrial Stormwater Sources

(a) Permittees operating a level 4 small MS4 shall include the requirements described below in Part III. B.6.(1) – this requirement is only applicable to level 4 MS4s

(1) Permittees who operate level 4 small MS4s shall identify and control pollutants in stormwater discharges to the small MS4 from permittee's landfills; other treatment, storage, or disposal facilities for municipal waste (for example, transfer stations and incinerators); hazardous waste treatment, storage, disposal and recovery facilities and facilities that are subject to Emergency Planning and Community Right-to-Know Act (EPCRA) Title III, Section 313; and any other industrial or commercial discharge the permittee determines are contributing a substantial pollutant loading to the small MS4. The program must include priorities and procedures for inspections and for implementing control measures for such discharges.

7. Authorization for Construction Activities where the Small MS4 is the Site Operator

The development of this MCM for construction activities, where the small MS4 is the site operator, is optional and provides an alternative to the MS4 operator seeking coverage under TPDES CGP, TXR150000 for each construction activity. Permittees that choose to develop this measure will be authorized to discharge stormwater and certain non-stormwater from construction activities where the MS4 operator meets the definition of a construction site operator in Part I of this general permit. When developing this measure, permittees are required to meet all requirements of, and be consistent with, applicable effluent limitation guidelines for the Construction and Development industry (40 CFR Part 450), TPDES CGP TXR150000, and Part III.B.3 of this permit. The authorization to discharge under this MCM is limited to the regulated area, such as the portion of the small MS4 located within a UA or the area designated by TCEQ as requiring coverage. However, an MS4 operator may also utilize this MCM over additional portions of their small MS4 that are also in compliance with all of the MCMs listed in this general permit. This MCM must be developed as a part of the SWMP that is submitted with the NOI for permit coverage. If this MCM is developed after submitting 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 general permit. Utilization of this MCM does not preclude a small MS4 from obtaining coverage under the TPDES CGP, TXR150000, or under an individual TPDES permit.

This MCM is only available for projects where the small MS4 is a construction site operator or owner, and the MCM does not provide any authorization for other construction site operators at a municipal project.

Controls required under this MCM must be implemented prior to discharge from a municipal construction site into surface water in the state.

(a) The MCM must include:

(1) 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;

(2) A description of the area that this MCM will address and where the permittee's construction activities are covered (for example within the boundary of the urbanized area, the corporate boundary, a special district boundary, an extra territorial jurisdiction, or other similar jurisdictional boundary);

(3) 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 stormwater discharges;

(4) A general description of how a SWP3 will be developed for each construction site, according to Part VI of this general permit, "Authorization for Municipal Construction Activities"; and

(5) Records of municipal construction activities authorized under this optimal MCM, in accordance with Part VI of this general permit.

Section C. General Requirements

Permittees shall provide information in the SWMP documenting the development and implementation of the program. 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. If applicable, a list of all MS4 operators contributing to the development and implementation of the SWMP, including a clear description of the contribution;
3. A list of all BMPs and measurable goals for each of the MCMs;
4. A schedule for the implementation of all SWMP requirements. The schedule must include, as appropriate, the months and years in which the permittee will undertake required actions, including interim milestones and the frequency of the action throughout the permit term.
5. A description of how each measurable goal will be evaluated; and
6. A rationale statement that addresses the overall program, including how the BMPs and measurable goals were selected.

Part IV. Recordkeeping and Reporting

Section A. Recordkeeping

1. The permittee shall retain all records, a copy of this TPDES general permit, and records of all data used to complete the application (NOI) for this general permit and satisfy the public participation requirements, for a period of at least three (3) years, or for the remainder of the term of this general permit, whichever is longer. This period may be extended by request of the executive director at any time.
2. The permittee shall submit the records to the executive director only when specifically asked to do so. The SWMP required by this general permit (including a copy of the general permit) must be retained at a location accessible to the TCEQ.
3. The permittee shall make the NOI and the SWMP available to the public at reasonable times during regular business hours, if requested to do so in writing. Copies of the SWMP must be made available within ten (10) working days of receipt of a written request. Other records must be provided in accordance with the Texas Public Information Act. However, all requests for records from federal facilities must be made in accordance with the Freedom of Information Act.
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 may be instituted against the permittee.

Section B. Reporting

1. General Reporting Requirements

(a) Noncompliance Notification

According to 30 TAC § 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 appropriate 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.

(b) Other Information

When the permittee becomes aware that it either submitted incorrect information or failed to submit complete and accurate information requested in an NOI, NOT, or NOC, or any other report, the permittee shall promptly submit the facts or information to the executive director.

2. Annual Report

The MS4 operator shall submit a concise annual report to the executive director within 90 days of the end of each reporting year. For the purpose of this section, the reporting year may include either the permit year, the permittee's fiscal year or the calendar year, as elected by the small MS4 and notified to the TCEQ in the application submittal. The annual report must address the previous reporting year.

The first reporting year for annual reporting purposes shall begin on the permit effective date, and shall last for a period of one (1) year (the end of the "permit year"). Alternatively, if the permittee elects to report based on its fiscal year, the first reporting year will last until the end of the fiscal year following the end of the first permit year. If the permittee elects to report based on the calendar year, then the first reporting year will last until December 31, 2014.

Subsequent calendar years will begin at the beginning of the first reporting year (which will vary based on the previous paragraph) and last for one (1) year. The MS4 operator shall also make a copy of the annual report readily available for review by 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) A summary of the results of information collected and analyzed, during the reporting period, including monitoring data used to assess the success of the program at reducing the discharge of pollutants to the MEP;

(c) If applicable, a summary of any activities taken to address the discharge to impaired waterbodies, including any sampling results and a summary of the small MS4s BMPs used to address the pollutant of concern;

(d) A summary of the stormwater activities the MS4 operator plans to undertake during the next reporting year;

(e) Proposed changes to the SWMP, including changes to any BMPs or any identified measurable goals that apply to the program elements;

(f) Description and schedule for implementation of additional BMP's that may be necessary, based on monitoring results, to ensure compliance with applicable TMDLs and implementations plans;

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

(h) The number of construction activities where the small MS4 is the operator and authorized under the 7th optional MCM, including the total number of acres disturbed; and

(i) The number of construction activities that occurred within the jurisdictional area of the small MS4 (as noticed to the permittee by the construction operator), and that were not authorized under the 7th MCM.

An annual report must be prepared whether or not the NOI and SWMP have been approved by the TCEQ. If the permittee has either not implemented the SWMP or not begun to implement the SWMP because it has not received approval of the NOI and SWMP, then the annual report may include that information.

If permittees share a common SWMP, they shall contribute to and submit a single system-wide report. Each permittee shall sign and certify the annual report in accordance with 30 TAC § 305.128 (relating to Signatories to Reports).

The annual report must be submitted with the appropriate TCEQ reporting forms if available, or as otherwise approved by TCEQ.

The annual report must be submitted to the following address:

Texas Commission on Environmental Quality
Stormwater & Pretreatment Team; MC - 148
P.O. Box 13087
Austin, Texas 78711-3087

A copy of the annual report must also be submitted to the TCEQ Regional Office that serves the area of the regulated small MS4.

If available, electronic submission of annual reports is encouraged. The Federal Waste Reduction Act and the Government Paperwork Elimination Act encourages governmental agencies to use electronic submission. See the TCEQ website at, www.tceq.texas.gov for additional information and instructions.

Part V. Standard Permit Conditions

A. The permittee has a duty to comply with all permit conditions. Failure to comply with any permit condition is a violation of the general 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.

B. It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

C. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

D. 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 shall furnish to the executive director, upon request and within a reasonable timeframe, any information necessary for the executive director to determine whether cause exists for modifying, revoking, suspending, reissuing or terminating authorization under this general permit. Additionally, the permittee shall provide to the executive director, upon request, copies of all records that the permittee shall maintain as a condition of this general permit.

E. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used to achieve compliance with the conditions of this permit and with the condition of the permittee's SWMP. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed only when the operation is necessary to achieve compliance with the conditions of this permit.

F. Inspection and entry shall be allowed under the TWC Chapters 26-28, Health and Safety Code §§ 361.032-361.033 and 361.037, and 40 CFR §122.41(i). The statement in TWC § 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.

G. The discharger is subject to administrative, civil, and criminal penalties, as applicable, under the TWC, Chapters 26, 27, and 28, and the Texas Health and Safety Code, Chapter 361 for violations including but not limited to the following:

   1. Negligently or knowingly violating CWA, §§ 301, 302, 303, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under CWA, § 402; and

   2. 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.

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

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

J. The permittee shall implement its SWMP on any new areas under its jurisdiction that are located in a UA or that are designated by the TCEQ. Implementation of the SWMP in these areas is required the greater of three (3) years from acquiring the new area, or five (5) years from the date of initial permit coverage.

Part VI. Authorization for Municipal Construction Activities – Applicable only if the 7th Optional MCM is selected

The MS4 operator may obtain authorization under TPDES CGP, TXR150000 to discharge stormwater runoff from each construction activity performed by the MS4 operator that results in a land disturbance of one (1) acre or more of land or less than one (1) acre of land, if the construction activity is part of a larger common plan of development or sale that would disturb one acre or more. Alternatively, the MS4 operator may develop the SWMP to include the optional seventh (7^{th}) stormwater MCM listed in Part III.B.7 of this general permit if the eligibility requirements in Part VI.A. below are met. If an MS4 operator decides to utilize this MCM, then the MS4 operator must include this MCM in its SWMP submitted with the NOI or submit an NOC notifying the executive director of the addition of this MCM to its SWMP. The MS4 operator must identify the geographic area or boundary where the construction activities will be conducted under the provisions of this general permit. If the permittee meets the terms and requirements of this general permit, then discharges from these construction activities may be authorized under this general permit as long as they occur within the regulated geographic area of the small MS4. An MS4 operator may utilize this MCM over additional portions of their small MS4 if those areas are also in compliance with all MCMs listed in this general permit. Even if an MS4 operator has developed this optional seventh stormwater MCM, the MS4 operator may apply under TPDES CGP TXR150000 for authorization for particular municipal construction activities including those activities that occur during periods of low potential for erosion (for which no SWP3 must be developed).

Section A. Eligible Construction Sites

Discharges from construction activities within the regulated area where the MS4 operator meets the definition of construction site operator are eligible for authorization under this general permit. Discharges from construction activities outside of the regulated area, where the MS4 operator meets the definition of construction site operator, are only eligible for authorization under this general permit in those areas where the MS4 operator meets the requirements of Parts III.B.1. through III.B.6 of this general permit, related to MCMs.

Section B. Discharges Eligible for Authorization

1. Stormwater Associated with Construction Activity

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

2. Discharges of Stormwater Associated with Construction Support Activities

Discharges of stormwater runoff from construction support activities, including 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 within a one-mile distance from the boundary of the permitted construction site and directly supports the construction activity;

(b) A SWP3 is developed according to the provisions of this general permit and includes appropriate controls and measures to control sediment and erosion and discharge of pollutants in stormwater runoff from the supporting construction activity site;

(c) The construction support activity either does not operate beyond the completion date of the construction activity or obtains separate TPDES authorization for discharges as required; and

(d) Discharge of stormwater from concrete production facilities must meet the requirements in Section E below

3. Non-Stormwater Discharges

The following non-stormwater discharges from construction sites authorized under this general permit are also eligible for authorization under this MCM:

(a) Discharges from emergency fire fighting activities (fire fighting activities do not include washing of trucks, run-off water from training activities, test water from fire suppression systems, and similar activities);

(b) Uncontaminated fire hydrant flushings (excluding discharges of hyperchlorinated water, unless the water is first dechlorinated and discharges are not expected to adversely affect aquatic life), which include flushings from systems that utilize potable water, surface water, or groundwater that does not contain additional pollutants (uncontaminated fire hydrant flushings do not include systems utilizing reclaimed wastewater as a source water);

(c) Water from the routine external washing of vehicles, the external portion of buildings or structures, and pavement, where detergents and soaps are not used and where spills or leaks of toxic or hazardous materials have not occurred (unless spilled materials have been removed; and if local state, or federal regulations are applicable, the materials are removed according to those regulations), and where the purpose is to remove mud, dirt, or dust;

(d) Uncontaminated water used to control dust;

(e) Potable water sources including waterline flushings (excluding discharges of hyperchlorinated water, unless the water is first dechlorinated and discharges are not expected to adversely affect aquatic life);

(f) Uncontaminated air conditioning condensate; and

(g) Uncontaminated ground water or spring water, including foundation or footing drains where flows are not contaminated with industrial materials such as solvents.

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 small MS4, provided the discharge complies with the associated permit.

Section 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 Part VI of the general permit.

Section D. Stormwater Pollution Prevention Plan (SWP3) Requirements

Operators of municipal construction activities that qualify for coverage under this general permit and that discharge stormwater associated with construction activities into surface water in the state must:

1. Develop a SWP3 according to the provisions of this general permit that covers the entire site and begin implementation of that plan prior to commencing construction activities;
2. Post a signed copy of a TCEQ approved site notice 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. 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;
4. Ensure all contractors are aware of the SWP3 requirements, are aware that municipal personnel are responsible for the day-to-day operations of the SWP3, and who to contact concerning SWP3 requirements; and
5. Ensure that the SWP3 identifies the municipal personnel responsible for implementation of control measures described in the plan.

Section E. Stormwater Runoff from Concrete Batch Plants

Discharges of stormwater runoff from concrete batch plants at regulated construction sites may be authorized under the provisions of this general permit provided that the following requirements are met for concrete batch plant(s) authorized under this permit. If discharges of stormwater runoff from concrete batch plants are not covered under this general permit, then discharges must be authorized under an alternative general permit or an individual permit. This permit does not authorize the discharge or land disposal of any wastewater from concrete batch plants at regulated construction sites. Authorization for these wastes must be obtained under an individual permit or an alternative general permit.

1. Benchmark Sampling Requirements

(a) Operators of concrete batch plants authorized under this section must sample the stormwater runoff from the concrete batch plants according to the requirements of this section of the general permit, and must conduct evaluations of the effectiveness of the SWP3 based on the following benchmark monitoring values:

Table 1. Benchmark Monitoring

Benchmark Parameters	Benchmark Value	Sampling Frequency	Sample Type
Oil and Grease	15 mg/L	1/quarter (*1)(*2)	Grab (*3)

Benchmark Parameters	Benchmark Value	Sampling Frequency	Sample Type
Total Suspended Solids	100 mg/L	1/quarter (*1)(*2)	Grab (*3)
pH	6.0-9.0 S.U.	1/quarter (*1)(*2)	Grab (*3)
Total Iron	1.3 mg/L	1/quarter (*1)(*2)	Grab (*3)

(*1) When discharge occurs. Sampling is required within the first 30 minutes of discharge. If it is not practicable to take the sample, or to complete the sampling, within the first 30 minutes, sampling must be completed within the first hour of discharge. If sampling is not completed within the first 30 minutes of discharge, the reason must be documented and attached to all required reports and records of the sampling activity.

(*2) Sampling must be conducted at least once during each of the following periods. The first sample must be collected during the first full quarter that a stormwater discharge occurs from a concrete batch plant authorized under this general permit.

January through March
April through June
July through September
October through December

For projects lasting less than one full quarter, a minimum of one sample shall be collected, provided that a stormwater discharge occurred at least once following submission of the NOI.

(*3) A grab sample shall be collected from the stormwater discharge resulting from a storm event that is at least 0.1 inches of measured precipitation that occurs at least 72 hours from the previously measurable storm event. The sample shall be collected downstream of the concrete batch plant, and where the discharge exits any BMPs utilized to handle the runoff from the batch plant, prior to commingling with any other water authorized under this general permit.

(b) The permittee shall compare the results of sample analyses to the benchmark values above, and must include this comparison in the overall assessment of the SWP3's effectiveness. Analytical results that exceed a benchmark value are not a violation of this permit, as these values are not numeric effluent limitations. Results of analyses are indicators that modifications of the SWP3 should be assessed and may be necessary to protect water quality. The operator must investigate the cause for each exceedance and must document the results of this investigation in the SWP3 by the end of the quarter following the sampling event.

The operator's investigation must identify the following:

(1) Any additional potential sources of pollution, such as spills that might have occurred;

(2) Necessary revisions to good housekeeping measures that are part of the SWP3;

(3) Additional BMPs, including a schedule to install or implement the BMPs; and

(4) Other parts of the SWP3 that may require revisions in order to meet the goal of the benchmark values.

Background concentrations of specific pollutants may also be considered during the investigation. If the operator is able to relate the cause of the exceedance to background concentrations, then subsequent exceedances of benchmark values for that pollutant may be resolved by referencing earlier findings in the SWP3. Background concentrations may be identified by laboratory analyses of samples of stormwater run-on to the permitted facility, by laboratory analyses of samples of stormwater run-off from adjacent non-industrial areas, or by identifying the pollutant is a naturally occurring material in soils at the site.

2. BMPs and SWP3 Requirements

Minimum Stormwater Pollution Prevention Plan (SWP3) Requirements - The following are required in addition to other SWP3 requirements listed in this section:

(a) Description of Potential Pollutant Sources - The SWP3 must provide a description of potential sources (activities and materials) that may reasonably be expected to affect the quality of stormwater discharges associated with concrete batch plants authorized under this permit. The SWP3 must describe practices that that will be used to reduce the pollutants in these discharges to assure compliance with this general permit, including the protection of water quality, and must ensure the implementation of these practices. The following must be developed, at a minimum, in support of developing this description:

(1) Drainage – The site map must include the following information:

a. The location of all outfalls for stormwater discharges associated with concrete batch plants that are authorized under this permit;

b. A depiction of the drainage area and the direction of flow to the outfall(s);

c. Structural controls used within the drainage area(s);

d. The locations of the following areas associated with concrete batch plants that are exposed to precipitation: vehicle and equipment maintenance activities (including fueling, repair, and storage areas for vehicles and equipment scheduled for maintenance); areas used for the treatment, storage, or disposal of wastes listed in the TPDES Construction General Permit TXR150000; liquid storage tanks; material processing and storage areas; and loading and unloading areas; and

e. The locations of the following: any bag house or other dust control device(s); recycle or sedimentation pond, clarifier or other device used for the treatment of facility wastewater (including the areas that drain to the treatment device); areas with significant materials; and areas where major spills or leaks have occurred.

(2) Inventory of Exposed Materials – A list of materials handled at the concrete batch plant that may be exposed to stormwater and that have a potential to affect the quality of stormwater discharges associated with concrete batch plants that are authorized under this general permit.

(3) Spills and Leaks - A list of significant spills and leaks of toxic or hazardous pollutants that occurred in areas exposed to stormwater and that drain to

stormwater outfalls associated with concrete batch plants authorized under this general permit must be developed, maintained, and updated.

(4) Sampling Data - A summary of existing stormwater discharge sampling data must be maintained, if available.

(b) Measures and Controls - The SWP3 must include a description of management controls to regulate pollutants identified in the SWP3's "Description of Potential Pollutant Sources" from Part VI.E.2.(a) of this permit, and a schedule for implementation of the measures and controls. This must include, at a minimum:

(1) Good Housekeeping - Good housekeeping measures must be developed and implemented in the area(s) associated with concrete batch plants.

a. Operators must prevent or minimize the discharge of spilled cement, aggregate (including sand or gravel), settled dust, or other significant materials from paved portions of the site that are exposed to stormwater.

Measures used to minimize the presence of these materials may include regular sweeping or other equivalent practices. These practices must be conducted at a frequency that is determined based on consideration of the amount of industrial activity occurring in the area and frequency of precipitation, and shall occur at least once per week when cement or aggregate is being handled or otherwise processed in the area.

b. Operators must prevent the exposure of fine granular solids, such as cement, to stormwater. Where practicable, these materials must be stored in enclosed silos, hoppers or buildings, in covered areas, or under covering.

(2) Spill Prevention and Response Procedures - Areas where potential spills that can contribute pollutants to stormwater runoff, and the drainage areas from these locations, must be identified in the SWP3. Where appropriate, the SWP3 must specify material handling procedures, storage requirements, and use of equipment. Procedures for cleaning up spills must be identified in the SWP3 and made available to the appropriate personnel.

(3) Inspections - Qualified facility personnel (for example, a person or persons with knowledge of this general permit, the concrete batch plant, and the SWP3 related to the concrete batch plant(s) for the site) must be identified to inspect designated equipment and areas of the facility specified in the SWP3. The inspection frequency must be specified in the SWP3 based upon a consideration of the level of concrete production at the facility, but must be a minimum of once per month while the facility is in operation. The inspection must take place while the facility is in operation and must, at a minimum, include all areas that are exposed to stormwater at the site, including material handling areas, above ground storage tanks, hoppers or silos, dust collection or containment systems, truck wash down and equipment cleaning areas. Follow-up procedures must be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections must be maintained and be made readily available for inspection upon request.

(4) Employee Training - An employee training program must be developed to educate personnel responsible for implementing any component of the SWP3, or personnel otherwise responsible for stormwater pollution prevention, with the provisions of the SWP3. The frequency of training must be documented in the SWP3, and at a

minimum, must consist of one training prior to the initiation of operation of the concrete batch plant.

(5) Record Keeping and Internal Reporting Procedures - A description of spills and similar incidents, plus additional information that is obtained regarding the quality and quantity of stormwater discharges, must be included in the SWP3. Inspection and maintenance activities must be documented and records of those inspection and maintenance activities must be incorporated in the SWP3.

(6) Management of Runoff - The SWP3 shall contain a narrative consideration for reducing the volume of runoff from concrete batch plants by diverting runoff or otherwise managing runoff, including use of infiltration, detention ponds, retention ponds, or reusing of runoff.

(c) Comprehensive Compliance Evaluation – At least once per year, one (1) or more qualified personnel (for example, a person or persons with knowledge of this general permit, the concrete batch plant, and the SWP3 related to the concrete batch plant(s) for the site) shall conduct a compliance evaluation of the plant. The evaluation must include the following:

(1) Visual examination of all areas draining stormwater associated with regulated concrete batch plants for evidence of, or the potential for, pollutants entering the drainage system. These include but are not limited to: cleaning areas, material handling areas, above ground storage tanks, hoppers or silos, dust collection or containment systems, and truck wash down and equipment cleaning areas. Measures implemented to reduce pollutants in runoff (including structural controls and implementation of management practices) must be evaluated to determine if they are effective and if they are implemented in accordance with the terms of this permit and with the permittee's SWP3. The operator shall conduct a visual inspection of equipment needed to implement the SWP3, such as spill response equipment.

(2) Based on the results of the evaluation, the following must be revised as appropriate within two (2) weeks of the evaluation: the description of potential pollutant sources identified in the SWP3 (as required in Part VI.E.2(a), "Description of Potential Pollutant Sources"); and pollution prevention measures and controls identified in the SWP3 (as required in Part VI.E.2.(b) "Measures and Controls"). The revisions may include a schedule for implementing the necessary changes.

(3) The permittee shall prepare and include in the SWP3 a report summarizing the scope of the evaluation, the personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the SWP3, and actions taken in response to the findings of the evaluation. The report must identify any incidents of noncompliance. Where the report does not identify incidences of noncompliance, the report must contain a statement that the evaluation did not identify any incidence(s), and the report must be signed according to 30 TAC Section 305.128, relating to Signatories to Reports.

(4) The Comprehensive Compliance Evaluation may substitute for one of the required inspections delineated in Part VI.E.2.(b)(3) of this general permit.

3. Prohibition of Wastewater Discharges

Wastewater discharges associated with concrete production including wastewater disposal by land application are not authorized under this general permit. These wastewater

discharges must be authorized under an alternative TCEQ water quality permit or otherwise disposed of in an authorized manner. Discharges of concrete truck washout at construction sites may be authorized if conducted in accordance with the requirements of Part VI of this general permit.

4. Concrete Truck Wash Out Requirements

This general permit authorizes the wash out of concrete trucks at construction sites regulated under this section of the general permit, provided the following requirements are met. Authorization is limited to the land disposal of wash out water from concrete trucks. Any other direct discharge of concrete production waste water must be authorized under a separate TCEQ general permit or individual permit.

(a) Direct discharge of concrete truck wash out water to surface water in the state, including discharge to storm sewers, is prohibited by this general permit.

(b) Concrete truck wash out water shall be discharged to areas at the construction site where structural controls have been established to prevent direct discharge to surface waters or to areas that have a minimal slope that allow infiltration and filtering of wash out water to prevent direct discharge to surface waters. Structural controls may consist of temporary berms, temporary shallow pits, temporary storage tanks with slow rate release, or other reasonable measures to prevent runoff from the construction site.

(c) Wash out of concrete trucks during rainfall events shall be minimized. The direct discharge of concrete truck wash out water is prohibited at all times, and the operator shall insure that its BMPs are sufficient to prevent the discharge of concrete truck washout as the result of rain.

(d) The discharge of wash out water shall not cause or contribute to groundwater contamination.

(e) If a SWP3 is required to be implemented, the SWP3 shall include concrete wash out areas on the associated map.

Section F. Effective Date of Coverage

Construction activities may not commence under this section until the MS4 NOI and SWMP are approved in writing by the TCEQ. Following approval of the NOI and SWMP, operators of construction activities eligible for coverage under this general permit are authorized to discharge stormwater associated with construction activity immediately upon posting the signed construction site notice required under this section.

Section G. Deadlines for SWP3 Preparation and Compliance

The SWP3 must:

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

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

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

Section 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 stormwater management plans; and to local government officials.

Section I. Keeping Plans Current

The permittee shall amend the SWP3 whenever either of the following occurs:

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, 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.

Section J. Contents of SWP3

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

1. Site Description

A site description, or project description, which must 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) Data describing the soil type or 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) Locations of all major structural controls either planned or in place;

(4) Locations where temporary or permanent stabilization practices are expected to be used;

(5) Locations of construction support activities, including off-site activities that are authorized under the permittee's NOI, including material, waste, borrow, fill, or equipment storage areas;

(6) Surface waters (including wetlands) either at, adjacent, or in close proximity to the site;

(7) Locations where stormwater discharges from the site directly to a surface water body or a MS4; and

(8) Vehicle wash areas.

(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 VI of this TPDES general permit.

2. Structural and non-structural controls

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 per cent.

(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 stormwater 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 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 VI.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 immediately in portions of the site where construction activities have temporarily or permanently ceased, and will not resume for a period exceeding 14 calendar days, except as provided in (1) and (2) below.

(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, semiarid areas, and areas experiencing drought conditions.

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) Sites with a drainage area of ten (10) or more acres:

(1) A sediment basin is required, where feasible, for a common drainage location that serves an area with ten (10) or more acres disturbed at one time. A sedimentation basin may be temporary or permanent, but must provide sufficient storage to contain a calculated volume of runoff from a 2-year, 24-hour storm from each disturbed 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 off-site areas and flow from on-site 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. Capacity calculations must be included in the SWP3.

(2) Where rainfall data is not available or a calculation cannot be performed the sedimentation basin must provide at least 3,600 cubic feet of storage per acre drained until the site reaches final stabilization.

(3) If a sedimentation basin is not feasible, then the permittee shall provide equivalent control measures until the site reaches final stabilization. In determining whether installing a sediment basin is feasible, the permittee may consider factors such as site soils, slope, available area, public safety, precipitation pattern, site geometry, site vegetation, infiltration capacity, geotechnical factors, depth to groundwater, and other similar considerations. The permittee shall document the reason that the sediment basins are not feasible, and shall utilize equivalent control measures, which may include a series of smaller sediment basins.

(4) Perimeter Controls – At a minimum, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries of the construction area, and for those side slope boundaries deemed appropriate as dictated by individual site conditions.

(b) Controls for sites with drainage areas less than ten acres:

(1) Sediment traps and sediment basins may be used to control solids in stormwater 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 of the construction area, and for those side slope boundaries deemed appropriate as dictated by individual site conditions.

(2) Alternatively, a sediment basin that provides storage for a calculated volume of runoff from a 2-year, 24-hour storm from each disturbed acre drained may be utilized. Where rainfall data is not available or a calculation cannot be performed, a temporary or permanent sediment basin providing 3,600 cubic feet of storage per acre drained may be provided. If a calculation is performed, then the calculation shall be included in the SWP3.

5. Permanent Stormwater Controls

A description of any measures that will be installed during the construction process to control pollutants in stormwater 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 stormwater management measures prior to final stabilization of the site.

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 stormwater 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. Effluent Limits

The federal Effluent Limitations Guidelines at 40 CFR Part 450.21(a) apply to all regulated construction activities under this 7th optional MCM, where the small MS4 is the operator.

8. Approved State and Local Plans

(a) The permittee shall ensure the SWP3 is consistent with requirements specified in applicable sediment and erosion site plans or site permits, or stormwater 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 stormwater management site plans or site permits approved by state or local official for whom the permittee receives written notice.

9. 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 stormwater controls. If maintenance prior to the next anticipated

storm event is impracticable, maintenance must be scheduled and accomplished as soon as practicable.

10. Inspections of Controls

(a) Personnel provided by the permittee 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, discharge locations, and structural controls for evidence of, or the potential for, pollutants entering the drainage system. Personnel conducting these inspections must be knowledgeable of this general permit, familiar with the construction site, and knowledgeable of the SWP3 for the site. 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. Inspections must be conducted at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater.

Where sites have been finally or temporarily stabilized or where runoff is unlikely due to winter conditions (e.g. site is covered with snow, ice, or frozen ground exists), inspections must be conducted at least once every month. In arid or semi-arid, or drought stricken areas, inspections must be conducted at least once every month and within 24 hours after the end of a storm event of 0.5 inches or greater

As an alternative to the above-described inspection schedule of once every 14 calendar days and within 24 hours of a storm event of 0.5 inches or greater, the SWP3 may be developed to require that these inspections will occur at least once every seven (7) calendar days. If this alternative schedule is developed, then the inspection must occur on a specifically defined day, regardless of whether or not there has been a rainfall event since the previous inspection. The inspections may occur on either schedule provided that the SWP3 reflects the current schedule and that any changes to the schedule are conducted in accordance with the following provisions: the schedule may be changed a maximum of one time each month, the schedule change must be implemented at the beginning of a calendar month, and the reason for the schedule change must be documented in the SWP3 (e.g., end of "dry" season and beginning of "wet" season).

(b) Utility line installation, pipeline construction, and other examples of long, narrow, linear construction activities may provide inspection personnel with limited access to the areas described in Part VI.J.10(a) above. Inspection of these areas could require that vehicles compromise temporarily or even permanently stabilized areas, cause additional disturbance of soils, and increase the potential for erosion. In these circumstances, controls must be inspected at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches, but representative inspections may be performed. For representative inspections, personnel must inspect controls along the construction site for 0.25 mile above and below each access point where a roadway, undisturbed right-of-way, or other similar feature intersects the construction site and allows access to the areas described in Part VI.J.10.(a) above. The conditions of the controls along each inspected 0.25 mile portion may be considered as representative of the condition of controls along that reach extending from the end of the 0.25 mile portion to either the end of the next 0.25 mile inspected portion, or to the end of the project, whichever occurs first.

As an alternative to the above-described inspection schedule of once every 14 calendar days and within 24 hours of a storm event of 0.5 inches or greater, the SWP3 may be

developed to require that these inspections will occur at least once every seven (7) calendar days. If this alternative schedule is developed, the inspection must occur on a specifically defined day, regardless of whether or not there has been a rainfall event since the previous inspection. The inspections may occur on either schedule provided that the SWP3 reflects the current schedule and that any changes to the schedule are conducted in accordance with the following provisions: the schedule may be changed a maximum of one time each month, the schedule change must be implemented at the beginning of a calendar month, and the reason for the schedule change must be documented in the SWP3 (e.g., end of "dry" season and beginning of "wet" season).

(c) In the event of flooding or other uncontrollable situations which prohibit access to the inspection sites, inspections must be conducted as soon as access is practicable.

(d) 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.

(e) A report summarizing the scope of the inspection, the date(s) 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.

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. The report must be signed by the person and in the manner required by 30 TAC §305.128 (relating to Signatories to Reports).

(f) The names and qualifications of personnel making the inspections for the permittee may be documented once in the SWP3 rather than being included in each report.

11. Pollution Prevention Measures

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

Section K. Additional Retention of Records

The permittee shall 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 section, including copies of the construction site notices.

Appendix B

NOTICE OF INTENT (NOI) FOR COVERAGE UNDER TPDES PERMIT

EPAY
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

›› Questions or Comments

Your transaction is complete. Thank you for using TCEQ ePay.

Note: It may take up to 3 working days for this electronic payment to be processed and be reflected in the TCEQ ePay system. Print this receipt and the vouchers for your records. An email receipt has also been sent.

Transaction Information

Trace Number:	582EA000167396
Date:	05/21/2014 02:10 PM
Payment Method:	CC - Authorization 0000001548
Amount:	$100.00
ePay Actor:	Lindy Coffee
Actor Email:	lcoffee@txkusa.org
IP:	98.23.250.130

Payment Contact Information

Name:	Dusty Henslee
Company:	City Of Texarkana
Address:	P O Box 1967, Texarkana, TX 75504
Phone:	903-798-3948

Cart Items

Click on the voucher number to see the voucher details.

Voucher	Fee Description	AR Number	Amount
209384	GENERAL PERMIT MS4 PHASE II STORM WATER DISCHARGE NOI APPLICATION		$100.00
	Total fees for transaction:	**$100.00**	

ePay Again | Exit ePay

Note: It may take up to 3 working days for this electronic payment to be processed and be reflected in the TCEQ ePay system. Print this receipt for your records.

TCEQ Office Use Only
Permit No.:
RN:
CN:
Region:

Notice of Intent (NOI) for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4) under the TPDES Phase II MS4 General Permit (TXR040000)

IMPORTANT:

- Use the INSTRUCTIONS to fill out each question in this form.
- Use the CHECKLIST to make certain you filled out all required information. Incomplete applications WILL delay approval or result in automatic denial.
- Once processed your authorization can be viewed at: http://www2.tceq.texas.gov/wq_dpa/index.cfm

APPLICATION FEE:

- You must pay the **$100** Application Fee to TCEQ for the paper application to be complete.
- Payment and NOI must be mailed to separate addresses.
- Did you know you can pay on line?
  - Go to https://www3.tceq.texas.gov/epay/index.cfm
  - Select Fee Type: GENERAL PERMIT MS4 PHASE II STORM WATER DISCHARGE NOI APPLICATION
- **Provide your payment information below, for verification of payment:**

Mailed ☐ Check/Money Order No.: _____
Name Printed on Check: _____
EPAY ☑ Voucher No.: 209384
Is the Payment Voucher copy attached? ☑ Yes

One (1) copy of the NOI and Stormwater Management Program (SWMP) with the completed SWMP Cover Sheet MUST be submitted with the original NOI and SWMP.

Is the copy attached? ☐ Yes

RENEWAL: Is this NOI a Renewal of an existing Phase II MS4 General Permit Authorization?
(Note: An authorization cannot be renewed after June 11, 2014.)

☑ Yes The existing authorization number is: TXR04 0368
(If an authorization number is not provided, a new number will be assigned.)

☐ No

1) OPERATOR (Applicant)

a. If the applicant is currently a customer with TCEQ, what is the Customer Number (CN) issued to this entity? You may search for your CN at:
http://www12.tceq.texas.gov/crpub/index.cfm?fuseaction=cust.CustSearch
CN 600335830

b. What is the Legal Name of the entity (applicant) applying for this permit?
City of Texarkana
(The exact legal name must be provided.)

c. What is the name and title of the person signing the application? The person must be an executive official meeting signatory requirements in 30 TAC 305.44(a).
Prefix (Mr. Ms. Miss): Mr.
First/Last Name: John Whitson Suffix:
Title: City Manager Credential:

d. What is the contact information for the Operator Contact (Responsible Authority)? The mailing address must be recognized by the US Postal Service. You may verify the address at:
https://tools.usps.com/go/ZipLookupAction!input.action
Phone Number: (903) 798-3900 Ext: Fax Number: (903) 792-6419
E-mail: kdooley@txkusa.org
Mailing Address: P.O. Box 1967
Internal Routing (Mail Code, Etc.):
City: Texarkana State: TX ZIP Code: 75504
If outside USA: Territory: Country Code: Postal Code:

e. Indicate the type of Customer (The instructions will help determine your customer type):
☐ Federal Government ☐ State Government ☐ County Government
☑ City Government ☐ Other Government

f. Number of Employees:
☐ 0-20; ☐ 21-100; ☐ 101-250; ☐ 251-500; or ☑ 501 or higher

2) BILLING ADDRESS

The Operator is responsible for paying the annual fee. The annual fee will be assessed to authorizations active on September 1 of each year. TCEQ will send a bill to the address provided in this section. The Operator is responsible for terminating the permit when it is no longer needed.

Is the billing address the same as the Operator Address?
☑ Yes, go to Section 3).

☐ No, complete section below

Phone Number: Ext: Fax Number:
E-mail:
Mailing Address:
Internal Routing (Mail Code, Etc.):
City: State: ZIP Code:
Mailing Information if outside USA:
Territory: Country Code: Postal Code:

3) REGULATED ENTITY (RE) INFORMATION

If the site of your business is part of a larger business site or if other businesses were located at this site before yours, a Regulated Entity Number (RN) may already be assigned for the larger site. Use the RN assigned for the larger site. Search TCEQ's Central Registry to see if the larger site may already be registered as a regulated site at: http://www12.tceq.texas.gov/crpub/index.cfm?fuseaction=regent.RNSearch.

If the site is found, provide the assigned Regulated Entity Reference Number and provide the information for the site to be authorized through this application below. The site information for this authorization may vary from the larger site information.

a. TCEQ issued RE Reference Number (RN): RN 105606263

b. Name that is used to identify the small MS4 (Example: City of XXX MS4)
City of Texarkana MS4

c. Provide a brief description of the regulated MS4 boundaries: (Example: Area within the City of XXXX limits that is located within the xxx (e.g. Dallas) urbanized area):
Area within the City of Texarkana limits that is located within the Texarkana urbanized area

d. County where the largest residential population exists within the regulated MS4 boundaries:
Bowie County

Is the MS4 located within additional counties?

☐ Yes – If Yes, what county (or counties)?

☑ No

e. Latitude: 33.421 N Longitude: -94.049 W

4) GENERAL CHARACTERISTICS

a. Is the project/site located on Indian Country Lands?

☐ Yes – If Yes, you must obtain authorization through EPA, Region 6.

☑ No

b. What is applicant's Standard Industrial Classification (SIC) code?
SIC Code: 9111

c. What is the category or level of the MS4 based on the population served?

☐ **Level 1:** Operators of traditional small MS4s that serve a population of less than 10,000 within an urbanized area (UA).

☑ **Level 2:** Operators of traditional small MS4s that serve a population of at least 10,000 but less than 40,000 within an UA.

This category also includes all non-traditional small MS4s such as counties, drainage districts, transpiration entities, military bases, universities, colleges, correctional institutions, municipal utility districts and other special districts regardless of population served within the UA, unless the non-traditional MS4 can demonstrate that it meets the criteria for a waiver from permit coverage based on the population served.

☐ **Level 3:** Operators of traditional small MS4s that serve a population of at least 40,000 but less than 100,000 within an UA.

☐ **Level 4:** Operators of traditional small MS4s that serve a population of 100,000 or more within an UA.

d. Has TCEQ "designated" the small MS4 as needing coverage under this general permit?

☑ Yes

☐ No - If No and no portion of the small MS4 is located within an UA as determined by the 2000 or 2010 Decennial Census by the U.S Bureau of Census requiring a NOI be submitted, the operator is not eligible for coverage under this general permit through the NOI.

e. What is your annual reporting year?

☐ Calendar year

☑ MS4 general permit year

☐ Fiscal year – If Fiscal year, what is the last day of the fiscal year?_____

f. Stormwater Management Program (SWMP)

1. I certify that the SWMP submitted with this Notice of Intent has been developed according to the provisions of this general permit TXR040000.

   ☑ Yes

   ☐ No – If No, the application is considered incomplete and may be returned.

2. I certify that the SWMP Cover Sheet is completed and attached to the front of the SWMP.

   ☑ Yes

   ☐ No – If No, the application is considered incomplete and may be returned.

3. Who is the person responsible for implementing or coordinating implementation of the SWMP? (Note: All contact information requested below is required.)

   First/Last Name: Kyle Dooley
   Title: City Engineer Company:
   Phone Number: (903) 798-3948 Ext: Fax Number: (903) 792-6419
   E-mail: kdooley@txkusa.org
   Mailing Address: P.O. Box 1967
   Internal Routing (Mail Code, Etc.):
   City: Texarkana State: TX ZIP Code: 75504

g. 7th Minimum Control Measure (MCM) for Municipal Construction Activities

1. Is the MCM for authorization to discharge stormwater from municipal construction activities included with the attached SWMP?

   ☐ Yes – If Yes, what are the boundaries within which those activities will occur? (Note: If the boundaries are located outside of the urbanized area, then the entire SWMP must also incorporate the additional areas.)

   _____

   ☑ No

2. Is the discharge or potential discharge from regulated construction activities within the Recharge Zone, Contributing Zone, or Contributing Zone within the Transition Zone of the Edwards Aquifer?
   ☐ Yes – If Yes, please note that a copy of the agency approved Water Pollution Abatement Plan (WPAP) required by the Edward Aquifer Rule (30 TAC Chapter 213) must be either included or referenced in the construction stormwater pollution prevention plan(s).
   ☑ No

h. Discharge Information

1. What is the name of the water body (ies) receiving stormwater from the MS4?
   Days Creek, Wagner Creek, Cowhorn Creek, Swampoodle Creek, McKinney Bayou, Ho[redacted]

2. What is the classified segment(s) that receives discharges, directly or indirectly, from the small MS4?
   0304, 0304A, 0304B, 0304C, 0225

3. Are any of the surface water body (ies) receiving discharges from the small MS4 on the latest EPA-approved Clean Water Act (CWA) §303(d) list of impaired waters?
   ☑ Yes – If Yes:
   What is the name of the impaired water body (ies) receiving the discharge from the small MS4?
   Cowhorn Creek and Swampoodle Creek

   What are the pollutants of concern?
   Not mentioned

   ☐ No

4. Is the discharge into any other MS4 prior to discharge into surface water in the state?
   ☐ Yes – If Yes, what is the name of the MS4 Operator?
   ☑ No

i. Edwards Aquifer

Is the discharge or potential discharge from the MS4 within the Recharge Zone, Contributing Zone, or Contributing Zone within the Transition Zone of the Edwards Aquifer?

☐ Yes - If Yes, complete certification below by checking "Yes".

☑ No

I certify that a copy of the TCEQ approved WPAP required by the Edwards Aquifer Rule (30 TAC Chapter 213) is either included or referenced in the SWMP.

☐ Yes

j. Public Participation Process

The Office of Chief Clerk will send the operator or person responsible for publishing, the notice of the executive director's preliminary determination of the NOI and SWMP, in a newspaper of general circulation in the county where the small MS4 is located. If multiple

counties, notice must be published at least once in the newspaper of general circulation in the county containing the largest resident population.

The applicant must file with the Chief Clerk a copy of an affidavit of the publication within 60 days of receiving the written instructions from the Office of Chief Clerk.

1. I will comply with the Public Participation requirements described in Part II.E.12 of the general permit.
   ☑ Yes
   ☐ No – If No, coverage under this general permit is not obtainable.

2. Who is the person responsible for publishing notice of the executive director's preliminary determination on the NOI and SWMP? (Note: All contact information requested below is required.)
   First/Last Name: Kyle Dooley
   Title: City Engineer Company:
   Phone Number: (903) 798-3948 Ext: Fax Number: (903) 792-6419
   E-mail: kdooley@txkusa.org
   Mailing Address: P.O. Box 1967
   Internal Routing (Mail Code, Etc.):
   City: Texarkana State: TX ZIP Code: 75504

3. What is the name and location of the public location where copies of the NOI and SWMP, as well as the executive director's general permit and fact sheet, may be reviewed?
   Name of Public Place: City Hall
   Address of Public Place: 220 Texas Blvd., Texarkana, Texas 75501
   County of Public Place: Bowie

5) CERTIFICATION

Check Yes to the certifications below. Failure to indicate Yes to ***ALL*** items may result in denial of coverage under the general permit.

a. I certify that I have obtained a copy and understand the terms and conditions of the Phase II (Small) MS4 General Permit TXR040000. ☑ Yes

b. I certify that the small MS4 qualifies for coverage under the general permit TXR040000. ☑ Yes

c. I understand that a Notice of Termination (NOT) must be submitted when this authorization is no longer needed. ☑ Yes

d. I understand that authorization active on September 1st of each year will be accessed an Annual Water Quality Fee. ☑ Yes

Operator Certification:

I, John Whitson (*Typed or printed name*) City Manager (*Title*)

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.

I further certify that I am authorized under **30 Texas Administrative Code §305.44** to sign and submit this document, and can provide documentation in proof of such authorization upon request.

Signature: John A Whitson (*Use blue ink*) Date: 27 MAY 14

NOTICE OF INTENT CHECKLIST (TXR040000)

- Did you complete everything? Use this checklist to be sure!
- Are you ready to mail your form to TCEQ? Go to the General Information Section of the Instructions for mailing addresses.

This checklist is for use by the operator to ensure a complete application. Missing information may result in denial of coverage under the general permit. (See NOI process description in the Instructions)

Application Fee:

If paying by Check:

- ☐ Check was mailed **separately** to the TCEQs Cashier's Office. (See Instructions for Cashier's address and Application address.)
- ☐ Check number and name on check is provided in this application.

If using ePay:

- ☐ The voucher number is provided in this application or a copy of the voucher is attached.

AUTHORIZATION NUMBER:

- ☑ Authorization number provided – if this application is for renewal of an existing authorization.

OPERATOR INFORMATION - Confirm each item is complete:

- ☑ Customer Number (CN) issued by TCEQ Central Registry
- ☑ Legal name as filed to do business in Texas (Call TX SOS 512/463-5555)
- ☑ Name and title of responsible authority signing the application
- ☑ Mailing address is complete & verifiable with USPS. www.usps.com
- ☑ Phone numbers/e-mail address
- ☑ Type of operator (entity type)
- ☑ Number of employees
- ☑ Billing address is complete & verifiable with USPS. http://www.usps.com

REGULATED ENTITY (RE) INFORMATION ON PROJECT OR SITE - Confirm each item is complete:

- ☑ MS4/Regulated Entity Name
- ☑ Site description
- ☑ Latitude and longitude http://www.tceq.texas.gov/gis/sqmaview.html
- ☑ County
- ☑ Site/project physical address. Do not use a rural route or post office box.
- ☑ Business description

GENERAL CHARACTERISTICS - Confirm each item is complete:

- ☑ Indian Country Lands –the facility is not on Indian Country Lands
- ☑ Standard Industrial Classification (SIC) Code www.osha.gov/oshstats/sicser.html
- ☑ Level of MS4
- ☑ Qualifying TCEQ "Designated" small MS4
- ☑ Annual Reporting Year
- ☐ 7th Minimum Control Measurement (MCM) for Municipal Construction Activities
- ☑ Discharge information
- ☐ Edwards Aquifer rule
- ☑ Public participation information

CERTIFICATION

- ☑ Certification statements have been checked indicating "Yes"
- ☑ Signature meets 30 Texas Administrative Code (TAC) 305.44 and is original.
- ☑ Stormwater Management Program (SWMP), and completed SWMP Cover Sheet are attached to the NOI.

ANNUAL REPORT

Appendix C

Annual Reporting Requirements for Phase II (Small) MS4s TPDES General Permit Number TXR040000

Within 90 days of the end of each permit year (see table below), regulated Phase II Municipal Separate Storm Sewer Systems (MS4s) must submit annual reports to the Texas Commission of Environmental Quality (TCEQ) for that permit year. As required by the Texas Pollutant Discharge Elimination System (TPDES) General Permit Number TXR040000, an MS4 operator must annually review its Storm Water Management Program (SWMP) in conjunction with the preparation of the annual report. This document contains a suggested format for annual reporting.

Permit Year	Permit Year Dates	Due Date
1	8/13/07 – 8/12/08	11/12/2008
2	8/13/08 – 8/12/09	11/12/2009
3	8/13/09 – 8/12/10	11/12/2010
4	8/13/10 – 8/12/11	11/12/2011
5	8/13/11 – 8/12/12	11/12/2012

An annual report must be submitted even if the SWMP has not yet been approved by the TCEQ.

If MS4s share a common SWMP, all permittees must contribute to a system-wide report (if applicable). Each permittee must sign and certify the annual report in accordance with 30 TAC • 305.128 (relating to Signatories to Reports).

The annual report must include:

the status of compliance with permit conditions, an assessment of the appropriateness of best management practices (BMPs), a description of progress towards reducing the discharge of pollutants to the maximum extent practicable (MEP), the measurable goals for each of the minimum control measures (MCM), and an evaluation of the program's progress;

(a) if applicable, the status of any control measures implemented by the permittee during the permit year;

(b) a summary of any information (including monitoring data) collected and analyzed during the permit year that was used to evaluate reductions in the discharge of pollutants;

(c) a summary of the storm water activities the MS4 operator plans to undertake during the next permit year;

(d) proposed changes to the SWMP, including changes to any BMPs or any identified measurable goals that apply to the program elements;

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

(f) the number of non-municipal construction activities that occurred within the jurisdiction of the permittee (as noticed to the permittee by the construction operators); and

(g) if applicable, notification that the MS4 operator is relying on another government entity to satisfy some of its permit obligations.

The annual report must be submitted to the following address:

Texas Commission on Environmental Quality
Storm Water & Pretreatment Team; MC-148
P.O. Box 13087
Austin, Texas 78711-3087

A copy of the annual report must also be submitted to the TCEQ Regional Office. To locate the TCEQ Regional Office that serves the area of the regulated small MS4, visit <http://www.tceq.state.tx.us/about/directory/region/reglist.html>.

Instructions for Phase II (Small) MS4 Annual Report
TPDES General Permit Number TXR040000
Use these instructions to assist in completing the MS4 Annual Report Form starting on page 11.

A. General Information

1. Provide the:

   - assigned permit number, beginning and end dates of the annual reporting period (permit year),
   - name of the permittee (municipality or owner/operator of the MS4),
   - name, telephone number, mailing address and e-mail address for the appropriate contact person.

2. If the MS4 is relying on another government entity to satisfy some of the permit obligations, provide the name of the other entity and an explanation of the elements of the SWMP that the entity is responsible for implementing. A description of the agreement or written documentation of the agreement must be included in the SWMP.
3. For a shared SWMP, list all associated permit numbers and permittee names. Add more spaces or pages if needed.

   (a) Indicate if this a system-wide annual report including information for all permittees. If "Yes," all represented permittees must sign the report in accordance with signatory requirements. The regulation governing who may sign an application form is 30 Texas Administrative Code (TAC) §305.128.

4. Indicate whether a copy of the annual report has been submitted to the TCEQ Regional Office. To locate the TCEQ Regional Office that serves the area of the regulated small MS4, visit <http://www.tceq.state.tx.us/about/directory/region/reglist.html>.

B. SWMP Modifications and Additional Information

1. If changes have been made or are proposed to the SWMP, those modifications must be addressed in the annual report as required in Part II Section D 3 of the permit. If the TCEQ has notified you in writing that changes to the SWMP are necessary, those changes must be included in the report. Be sure to provide the following information in the explanation:

   (a) Describe changes made to or proposed for the SWMP during the permit year, including changes to BMPs, measurable goals, dates, contacts, procedures or details during the permit year.

(b) If changes include additions or substitutions of BMPs, include a written analysis explaining why the original BMP is ineffective or not feasible and why the replacement BMP is expected to achieve the goals of the original BMP.

(c) A Notice of Change (NOC) is required if revisions are proposed to a SWMP that has already been approved by the TCEQ. If the initial SWMP has not been approved, submit a letter describing the change(s) so that information may be considered during the SWMP review process. If an NOC is required, it must be submitted to the address shown on the NOC form. Do not attach the form to this report.

2. If the MS4 has annexed land, attach a description (or map) indicating the newly annexed area located within a regulated area, the BMPs to be implemented, and any resulting updates to the SWMP.
3. If the receiving water body is newly listed as impaired or a Texas Maximum Daily Load (TMDL) has been established, refer to Part II Section C of general permit TXR040000 for additional information about limitations on permit coverage, compliance with water quality standards, and prohibited discharges (Edwards Aquifer Recharge Zone, specific watersheds, etc.).

    - Impaired waters are those that do not meet applicable water quality standards and are listed on the Clean Water Act § 303(d) list. Constituents of concern are those for which the water body is listed as impaired. New sources or new discharges of the constituent(s) of concern to impaired waters are not authorized by the permit unless otherwise allowable under 30 TAC Chapter 305 and applicable state law. To determine if your receiving water has been listed as impaired, refer to the Texas 2008 List of Impaired Waters on the TCEQ website at <http://www.tceq.state.tx.us/compliance/monitoring/water/quality/data/08twqi/twqi08.html>.
    - A TMDL is the maximum amount of a water quality contaminant that can be discharged into a body of surface water on a daily basis without causing an exceedance of surface water quality standards. More information about TMDLs is located on the TCEQ website at <http://www.tceq.state.tx.us/implementation/water/tmdl/tmdlprogram.html>.
    - NOTE: Discharges of constituent(s) of concern to impaired water bodies for which there is a TMDL implementation plan are not eligible for coverage under this general permit unless they are consistent with the approved TMDL and the implementation plan. In order to be eligible for permit coverage, MS4 operators must incorporate into their SWMP the limitations, conditions and requirements applicable to their discharges, including monitoring frequency and reporting as required by the TCEQ rules. For discharges not eligible for coverage under this general permit, the discharger must apply for and receive an individual TPDES permit.

4. Indicate whether the MS4 has conducted analytical monitoring of storm water quality. Provide an explanation along with any monitoring data used to evaluate the success of the SWMP at reducing pollutants to the maximum extent practicable (MEP). Include a discussion of results with the explanation or summary.

C. Narrative Provisions

1. Provide a brief description on the status of complying with permit conditions, including compliance with the SWMP that TCEQ approved, compliance with record keeping and reporting requirements, and compliance with permit eligibility requirements.
2. Provide a general assessment of the appropriateness of the selected BMPs, including whether any of the selected BMPs are not appropriate.
3. Describe progress towards reducing the discharge of pollutants. Summarize any information used to evaluate reductions in the discharge of pollutants. This information can be included in a tabular format as provided in the form, or described in a narrative format following the table.
4. Provide a general evaluation of the program's progress, including any obstacles or challenges in meeting the SWMP schedule, etc.
5. Provide the number of construction projects in the jurisdiction of the MS4 where the permittee was not the construction site operator (as provided in submittals to the MS4 operator via notices of intent or site notices).
6. Does the permittee utilize the seventh MCM related to construction? To answer "Yes," this must have been requested on the Notice of Intent (NOI) or on an NOC and approved by the TCEQ.

   (a) If "Yes," then provide information about the number of municipal construction activities authorized under this general permit and the total number of acres disturbed for municipal construction projects.

7. Requirements for Specific Minimum Control Measures (MCMs):

   (a) For MCM 1 - Public Education and Outreach, provide documentation of activities conducted and materials used to fulfill the requirements of this MCM.

   (b) Also for MCM 1, provide documentation of the amount of resources used to address each group (e.g., visitors, businesses, etc.).

   (c) For MCM 3 – Illicit Discharge Detection and Elimination (IDDE), include a synopsis of the changes to the SWMP that are necessary to meet any local controls, conditions and/or programs being established for non-storm water discharges. Indicate if not applicable.

8. Other than the SWMP modifications indicated in Section B, describe any proposed changes to the SWMP in the coming reporting year.
9. Describe any activities that are planned for the next permit year that have not already been described above.

D. Storm Water Management Program Status

Each MS4 is required to evaluate compliance with permit requirements and assess the appropriateness of the BMPs in reducing the discharge of pollutants to the maximum extent

practicable. The purpose of the annual report is to describe the status of compliance with permit conditions – specifically the implementation of selected BMPs and the progress towards achieving the measurable goals for each BMP. Using Table 1 provided with these instructions, summarize the status of all BMPs specified in the SWMP, as follows:

Minimum Control Measures: Specify the MCM addressed by each BMP. The six MCMs are listed in Part III A of the permit. Some BMPs may address more than one MCM. Include at least one BMP for each MCM.

Best Management Practices: BMPs are the specific long-term activities and practices that will be implemented to prevent or reduce storm water pollution. Examples include public service announcements, outfall inspections, and construction site plan reviews. List all of the BMPs specified in the SWMP, including any new BMPs. For a shared SWMP, include the name of the responsible MS4 operator(s) in this column. See Example 1: BMP Status

Measurable Goals: Measurable goals are the ongoing tasks and interim steps that demonstrate progress toward implementing a specific BMP. List all measurable goals from the SWMP, and include any new measurable goals. If you have developed a storm water ordinance during the permit year, include a description or citation of the ordinance, or simply attach a copy of the ordinance. See Example 2: Measurable Goals Status

New or Revised: Indicate whether the BMP or measurable goal is new or revised. Examples include replacement of a BMP with another, addition of a new measurable goal, revision of a start date, etc. Briefly explain the change.

Start Date: Specify the scheduled start date (month and year) for each BMP as described in the schedule provided in the SWMP.

Implementation Status: Describe the implementation status (such as completed, in progress, or not started) of each BMP as of the end of the permit year. If an activity has been completed, indicate the completion date. If an activity has not yet been started or is in progress, provide the expected completion date. Briefly describe the frequency with which ongoing BMPs are conducted. The following tables are examples of the type of information to be provided in the annual report.

See: Example 1. BMP Status

Example 2. Measurable Goals Status

Example 1 – BMP Status

MCM(s)	BMP	Year 1 Milestone(s)	New or Revised (submit NOC as needed)	Start Date	Status / Completion Date (completed, in progress, not started)
3: Illicit Discharge Detection and Elimination	Map all outfalls and all water bodies receiving discharges from MS4.	Completed storm sewer system map includes all outfalls and names and locations of all water bodies		January 2008	Completed June 2008.
3: Illicit Discharge Detection and Elimination	Perform field screening of outfalls.	Develop protocol to screen outfalls, and research sampling equipment.		August 2008	Did not complete. City was not required to implement SWMP because SWMP was not approved by TCEQ. City revised original schedule during initial SWMP review to require this milestone be met in Years 1 or 2.
4/5: Construction Site Control and Post-Construction Site Control	Implement storm water ordinance for construction and post-construction runoff control	Researched other municipalities' ordinances	X	July 2007	Completed - Revised start date from March 2007 to July 2007.
4/5: Construction Site Control and Post-Construction Site Control	Implement storm water ordinance for construction and post-construction runoff control	Integrated language from model ordinance		September 2007	Completed December 2007.
4/5: Construction Site Control and	Implement storm water ordinance for	Storm water ordinance has been drafted		March 2008	In progress - Draft ordinance presented to City

MCM(s)	BMP	Year 1 Milestone(s)	New or Revised (submit NOC as needed)	Start Date	Status / Completion Date (completed, in progress, not started)
Post-Construction Site Control	construction and post-construction runoff control				Council June 2008 - Approval pending, expected completion date July 2009.
6: Pollution Prevention & Good Housekeeping for Municipal Operations	Train all public works and streets staff	Approx. 20 staff trained. Staff educated on good housekeeping/ pollution prevention and upcoming storm water ordinance		April 2007	In progress - annual training every April

Example 2– Measurable Goals Status

MCM	Measurable Goal(s)	Success	Proposed Changes (submit NOC as needed)
1	Provide utility bill inserts to each utility customer at least once each year.	Met goal	None
2	Conduct one public meeting or city-wide cleanup day each year.	Exceeded goal: conducted one public meeting and two cleanup days.	None
3	Map 25% of outfalls and 50% of receiving waters during Year 1 (same as milestone)	Met goal	None
4	Perform site inspections of 25% of all active construction sites.	Did not meet goal. Number of construction sites in city was far above normal for the year.	Revise goal to perform site inspections of 25% of all active construction sites, or a minimum of 50 sites per year. Submitted NOC along with the annual report to reflect this change.
4	Respond to 100% of construction complaints received.	Met goal	None
5	Review all site plans submitted for new development projects.	Met goal	None

MCM	Measurable Goal(s)	Success	Proposed Changes (submit NOC as needed)
6	Sweep 50% of roads each year.	Exceeded goal – swept all city streets in Year 1.	None
	Send two employees each year to a storm water training workshop.	Met goal	None

E. Certification

The annual report must be signed by a principal executive officer or ranking elected official, or by a duly authorized representative as referenced in 30 TAC §305.128. The Delegation of Signatories to Reports (TCEQ form 20403) can be located by visiting <http://www.tceq.state.tx.us> and selecting the Forms option.

For shared SWMPs, it would be acceptable to submit separate signature pages for each operator participating in the shared SWMP and system-wide annual report.

F. Cover Letter

Please submit the annual report with a cover letter to insure that the report reaches the Storm Water & Pretreatment Team. Send the report and cover letter to the TCEQ at the following address. See cover letter template on page 19.

Texas Commission on Environmental Quality
Storm Water & Pretreatment Team Leader (MC-148)
P.O. Box 13087
Austin, Texas 78711-3087

Phase II (Small) MS4 Annual Report Form

TPDES General Permit Number TXR040000

A. General Information

1. Permit Number _____ Annual Report Year: _____

   Name of MS4 / Permittee: _____

   Contact Name: _____ Telephone Number: _____

   Mailing Address: _____

   E-mail Address: _____

2. Is the named permittee relying on another entity/ies to satisfy some of its permit obligations? _____ Yes _____ No

   If "Yes," provide the name(s) of other entity/ies and an explanation of their responsibilities (add more spaces or pages if needed):

   Name and Explanation: _____

   _____

   Name and Explanation: _____

   _____

   Name and Explanation: _____

   _____

Name and Explanation: _____

_____

Name and Explanation: _____

_____

3. Is the named permittee sharing a SWMP with other entities? _____ Yes _____ No

   a. If the answer to Number 3 is "Yes," list all associated permit numbers and permittee names (add additional spaces or pages if needed):

      Permit Number: _____ Permittee: _____

      Permit Number: _____ Permittee: _____

      Permit Number: _____ Permittee: _____

      Permit Number: _____ Permittee: _____

   b. If the answer to Number 3 is "Yes," is this a system-wide annual report including information for all permittees?

      _____ Yes _____ No

      Explanation, if any _____

      _____

      _____

4. Has a copy of this annual report been submitted to the TCEQ Regional Office? _____ Yes _____ No

B. SWMP Modifications and Additional Information.

Include a brief explanation if you check "Yes" to any of the following statements.

1. a. Changes have been made or are proposed to the SWMP since the NOI or the last annual report, including changes in response to TCEQ's review. _____ Yes _____ No

_____

_____

b. If the answer to Number 1.a. is "Yes," has the TCEQ already approved the original SWMP? _____Yes _____ No

_____

_____

c. If the answer to Number 1.a. is "Yes," indicate whether an NOC (or letter) has been submitted to document the changes to the approved SWMP as required by the general permit. (Note that if an NOC is required, it must be submitted to the address shown on the NOC. Do not attach the original NOC form to this report.) __Yes __No

_____

_____

2. The MS4 has annexed lands since obtaining permit coverage. If "Yes," please explain. _____Yes _____ No

_____

_____

3. A receiving water body is newly listed as impaired or a TMDL has been established. If yes, please explain.

_____Yes _____ No _____

_____

_____

4. The MS4 has conducted analytical monitoring of storm water quality. _____ Yes _____ No

   Explain below or attach a summary to submit along with any monitoring data used to evaluate the success of the SWMP at reducing pollutants to the maximum extent practicable. Be sure to include a discussion of results.

_____

_____

_____

_____

_____

_____

_____

C. Narrative Provisions

1. Provide information on the status of complying with permit conditions:

	Yes	No	Explain
Permittee is currently in compliance with the SWMP as submitted to and approved by the TCEQ.			
Permittee is currently in compliance with recordkeeping and reporting requirements.			
Permittee meets the eligibility requirements of the permit (e.g., TMDL requirements, Edwards Aquifer limitations, compliance history, etc.)			

2. Provide a general assessment of the appropriateness of the selected BMPs:

   Has the permittee determined that any of the selected BMPs are not appropriate for reducing the discharge of pollutants in storm water? _____ Yes _____ No

   Provide explanation: _____

   _____

   _____

   _____

   _____

   _____

3. Describe progress towards reducing the discharge of pollutants to the maximum extent practicable (MEP). Summarize any information used (such as monitoring data) to evaluate reductions in the discharge of pollutants. Use a narrative description or table as appropriate:

MCM	BMP	Parameter	Quantity	Units	Does BMP Demonstrate a Direct Reduction in Pollutants? (Yes / No / Explain)

Or, provide explanation below:

4. Provide a general evaluation of the program's progress, including any obstacles or challenges encountered in implementing BMPs, meeting the program's schedule, etc.:

5. Provide the number of construction activities (other than those where the permittee was the operator) that occurred within the regulated area as indicated by notices of intent or site notices:

_____

_____

6. Does the permittee utilize the optional seventh MCM related to construction? _____ Yes _____ No

   If "Yes," then provide the following information for this permit year:

   a. The number of municipal construction activities authorized under this general permit: _____

   b. The total number of acres disturbed for municipal construction projects: _____

   Though the seventh MCM is optional, implementation must be requested on the NOI or on a NOC and approved by the TCEQ.

7. Requirements for Specific Minimum Controls Measures (MCMs):

   a. For MCM 1 - Public Education and Outreach, provide documentation of activities conducted and materials used to fulfill the requirements of this MCM.

   _____

   _____

   _____

   b. Also for MCM 1, provide documentation of the amount of resources used to address each group (e.g., visitors, businesses, etc.).

   _____

c. For MCM 3 – Illicit Discharge Detection and Elimination (IDDE), indicate whether you have developed a list of allowable non-storm water discharges, other than those already listed in the general permit. If you have developed a list and have made any changes to the local controls, conditions and/or programs being established for discharges, include this information below. If you do not have any changes for this permit year, indicate that this item is not applicable.

8. Describe any proposed changes to the SWMP in the coming reporting year.

9. Describe any activities planned for the next permit year, not already described.

D.D. Storm Water Management Program Status

Provide the status of every BMP and measurable goal listed in the SWMP, as described in the instructions. Each MCM, but not necessarily each BMP, must include the measurable goals described in the SWMP. For a shared SWMP, include the name of the responsible MS4 operator(s) in the "BMP" column. *(Though an MS4 is not required to implement BMPs until the initial SWMP is approved by the TCEQ, the MS4's initial annual report should include a description of what has been done to date, even if the SWMP has not yet been approved. The MS4 will receive credit for all BMPs implemented prior to and during the first permit year if they are described in the initial annual report.)*

Table 1 – BMP Status

MCM(s)	BMP	Milestones of Permit Year	New or Revised	Start Date	Status / Completion Date (completed, in progress, not started)

Table 2 – Measurable Goals Status

MCM(s)	Measurable Goal(s)	Success	Proposed Changes (submit NOC as needed)

E. 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 gathered and evaluated 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.

Name (printed): _____ Title: _____

Signature: _____ Date: _____

Name (printed): _____ Title: _____

Signature: _____ Date: _____

Name (printed): _____ Title: _____

Signature: _____ Date: _____

Name (printed): _____ Title: _____

Signature: _____ Date: _____

Name (printed): _____ Title: _____

Signature: _____ Date: _____

Add pages as needed.

Texas Commission on Environmental Quality
Storm Water & Pretreatment Team Leader (MC-148)
P.O. Box 13087
Austin, Texas 78711-3087

Re: Phase II MS4 Annual Report Transmittal for {Small MS4 Name}
TPDES Permit Number: TXR04 __

Dear Team Leader:

This letter serves to transmit the Year _____ Annual Report for the Texas Pollutant Discharge Elimination System Small Municipal Separate Storm Sewer System General Permit, Authorization Number TXR040___ for the {MS4 name}.

A separate Notice of Change **[** has / has not been / will be **]** submitted based on the fact that changes have / have not been proposed for the next permit year.

As required by the general permit, a copy of this submittal has also been mailed to the TCEQ's regional office in __, Texas.

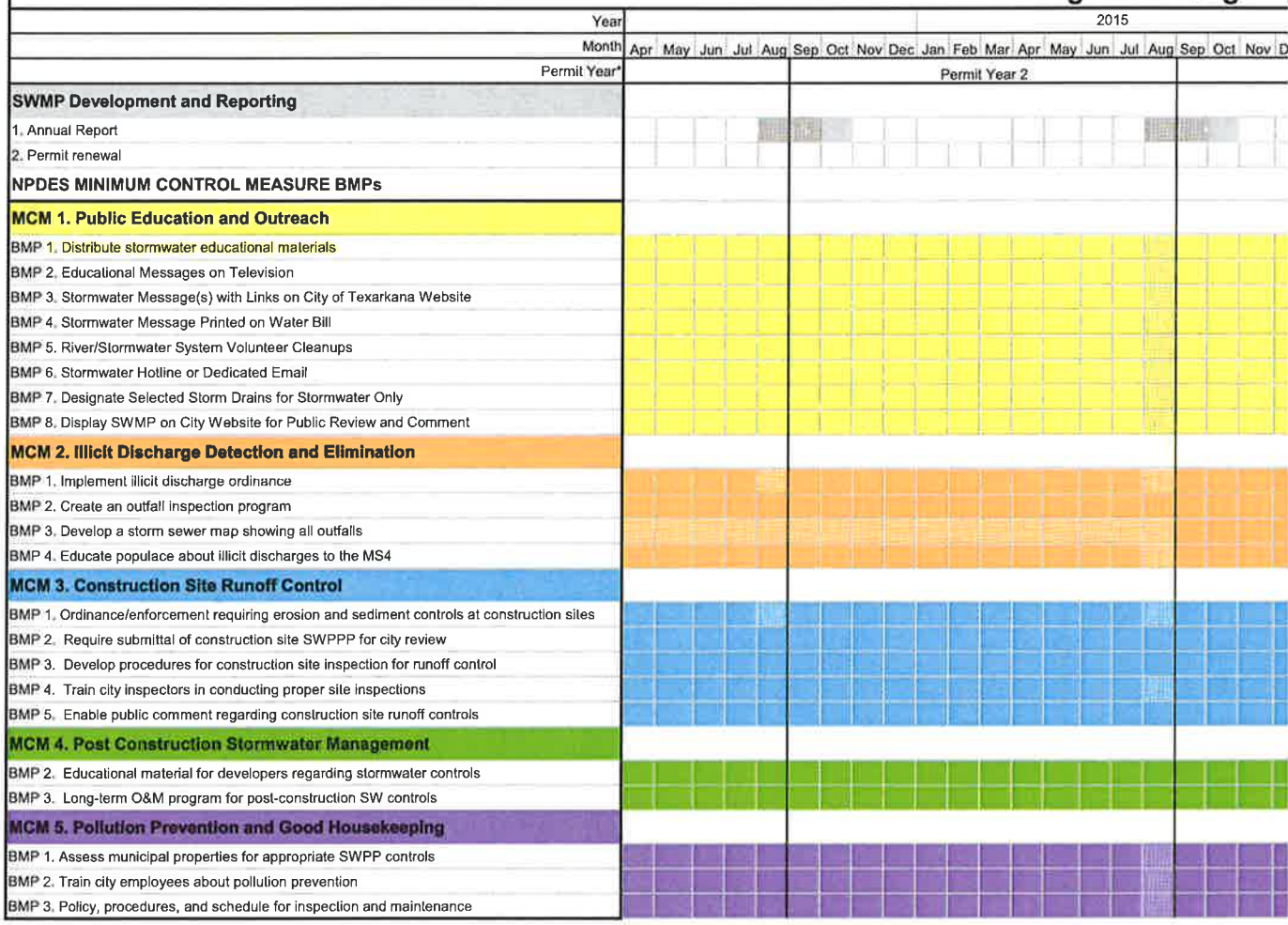
Sincerely,

{Name}

BMP IMPLEMENTATION SCHEDULE

Appendix D

Appe
CITY OF TEXA
Stormwater Pha
Stormwater Management Program



*Permit years are those periods established in the TCEQ General Permit on which annual reports are based and do not coincide with calendar years.

Texas Commission on Environmental Quality

NOTICE OF APPLICATION FOR SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

General Permit Authorization No. TXR040368

APPLICATION. City of Texarkana, 220 Texas Blvd., Texarkana, Texas 75501, has applied to the Texas Commission on Environmental Quality (TCEQ) under the Texas Pollutant Discharge Elimination System (TPDES) General Permit No. TXR040000 for a renewal of authorization number TXR040368 to discharge from the City of Texarkana municipal separate storm sewer system (MS4). The notice of intent (NOI) and stormwater management program were received by the TCEQ on June 4, 2014.

The MS4 is located within the City of Texarkana limits that are within the Texarkana urbanized area in Bowie County Texas. The MS4 will discharge to the drainage area of the Sulphur River Basin and Red River Basin.

A copy of the NOI, stormwater management program, general permit, and general permit fact sheet is available for viewing and copying at the City of Texarkana City Hall, 220 Texas Blvd., Texarkana, Texas 75501.

The Executive Director of the TCEQ has made a preliminary decision to approve authorization of this MS4 under TPDES General Permit No. TXR040000.

PUBLIC COMMENT. Written public comments may be submitted to the Office of Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of this notice. In addition, the public may request a public meeting. If significant interest exists, the Executive Director will direct the applicant to publish a notice of the public meeting and hold the public meeting. The applicant must publish notice of a public meeting at least 30 days prior to the meeting in a newspaper of general circulation in the county where the MS4 is located. If the MS4 is located in more than one county, the applicant must publish notice in a newspaper of general circulation in the county containing the largest residential population. The Executive Director will consider all relevant information pertaining to whether the applicant meets the requirements of the general permit and will issue a written determination as to any final action on the NOI for authorization under the general permit.

INFORMATION. Written public comments should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at www.tceq.texas.gov/about/comments.html. For additional information, about the application for authorization under TPDES General Permit No. TXR040000 or the procedure for public participation in the general permit process, individual members of the general public may contact the TCEQ Public Education Program at 1-800-687-4040. Si desea información en Español, puede llamar al 1-800-687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.texas.gov

Issued: July 29, 2014