Texas Pollutant Discharge Elimination System (TPDES)
Stormwater Permitting Updates

Southwest IECA Texas Stormwater Conference

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Water Quality Division
Texas Commission on Environmental Quality

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Overview

- New Federal and State Regulations
- TPDES Stormwater Permitting
  - Multi-Sector General Permit
    - e-Reporting
  - Construction General Permit
    - 2018 Renewal
  - Municipal Stormwater
    - Phase I Individual Permits
New NPDES Rules – Phase II MS4 Remand Rule
40 CFR §§122.33 and 122.34

- Phase II MS4 Remand Rule
  - Published in *Fed. Reg.* on December 9, 2016
  - Effective date of Jan. 9, 2017

- The regulations are revised to ensure that:
  - States determine the adequacy of best management practices (BMPs) and permit requirements
  - States provide public notice and opportunity for the public to request a public hearing
New NPDES Rules – Phase II MS4 Remand Rule
40 CFR §§122.33 and 122.34

- This is a procedural rule – no substantive changes are made to the Phase II MS4 requirements
- Includes two options for states to administer their Phase II MS4 programs
  - Option 1: Comprehensive general permit approach
    - The general permit needs to include all requirements necessary to meet the MS4 permit standard “to reduce pollutants to the maximum extent practicable” (MEP).
  - Option 2: Two-step General Permit
    - The general permit includes some requirements for all MS4s
    - The state established additional requirements and BMPs for individual MS4s (this is in the SWMPs).
New NPDES Rules – Phase II MS4 Remand Rule
40 CFR §§122.33 and 122.34

- Differences between Option 1 – comprehensive general permit and Option 2 – two step general permit

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Option 1</th>
<th>Option 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirements in general permit</td>
<td>Specific - BMPs and frequencies</td>
<td>General – not specific</td>
</tr>
<tr>
<td>SWMP</td>
<td>Plan to implement general permit</td>
<td>Specific - BMPs and frequencies</td>
</tr>
<tr>
<td>SWMP reviewed by state</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>SWMP enforceable</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>SWMP – clear, specific, measurable language</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Public notice requirements</td>
<td>• General permit</td>
<td>• General permit</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Each MS4 NOI/SWMP</td>
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<tr>
<td></td>
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<td>• Possibly on NOCs</td>
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</tbody>
</table>
New NPDES Rules – Phase II MS4 Remand Rule
40 CFR §§122.33 and 122.34

- All permits must be written with terms that are “clear, specific, and measurable”

- The general permits need to use “mandatory” terms and cannot use terms such as:
  - as practicable, should, encouraged, etc.
  - if feasible, cannot be used unless it is defined

- The permit language needs to be worded in a manner that will help assess compliance and track whether measurable goals have been met by the MS4.
Final NPDES Electronic Reporting Rule
(e-Reporting Rule)
New Federal Rules – Electronic Reporting Rule

40 CFR Part 127

- Electronic Reporting Rule – effective Dec. 21, 2015
  - Requires electronic submittal of applications and reports
    - Phase 1 of Rule: DMRs need to be submitted electronically by Dec. 21, 2016
    - Phase 2 of Rule: General permit applications (NOIs) and MS4 reports need to be submitted electronically by Dec. 21, 2020
New Federal Rules – Electronic Reporting Rule
40 CFR Part 127

- Electronic Reporting Rule – effective Dec. 21, 2015
  - Appendix A of 40 CFR 127 – includes list of elements that need to be reported electronically
  - Waiver option is available from eReporting (permanent and temporary)
    - Religious beliefs
    - No internet access
    - Training needed
New Federal Rules – Electronic Reporting Rule
40 CFR Part 127

- Electronic Reporting Rule
  - EPA will develop tools to accept applications and reports from small MS4s
  - TCEQ participates in EPA – State MS4 Technical Workgroup to discuss integrating the eReporting Rule into the MS4 programs
Clean Water Act Methods Update Rule for the Analysis of Effluent (2017 Methods Update Rule)

- Rule proposed **February 19, 2015**
- Final Rule signed **December 15, 2016**
- Final Rule publication date: **August 28, 2017**
  - See Federal Register / Vol. 82, No. 165
- Effective date: **September 27, 2017**

The final rule amends 40 CFR Part 136 for the laboratory testing procedures approved for analysis and sampling under the Clean Water Act.
The changes include:

- Improved data quality
- Clarification that only EPA can approve alternative test procedures
- Amended the procedure for the determination of MDLs to address laboratory contamination and to better account for intra-laboratory variability
2017 Methods Update Rule: Summary of Changes

Updated methods to keep current with technology advances:

New Standard Methods (SM) and American Society for Testing and Materials (ASTM) methods for Inorganics

Revised three EPA Methods that replace 608 (Pesticides and PCBs), 624 and 625 (volatile and semi-volatile organic compounds)

- 608.3 Organochlorine Pesticides and PCBs by GC/HSD (replaces Method 608)
- 624.1 Purgeables by GC/MS (replaces Method 624), and
- 625.1 Base/Neutrals and Acids by GC/MS (replaces Method 625)
2017 Methods Update Rule: Summary of Changes

Revisions to the term Minimum Level (ML):

- Some MLs and MDLs in the final rule are lower than those in TCEQ’s current Implementation Procedures for the Texas Surface Water Quality Standards (IPs), June 2010, RG-194,
- Some MLs and MDLs are higher. The final rule includes different MLs for the same pollutant depending on the method used.
2017 Methods Update Rule: Next Steps for Implementation in Texas

Adding new analytical methods 608.3, 624.1 and 625.1 to TCEQ’s Fields of Accreditation

TCEQ internal MUR workgroup formed to develop implementation plan and timeline to:

- Revise the Procedures to Implement the Texas Surface Water Quality Standards to update analytical levels (MAL, ML, and MDL)
- Revise TPDES permit applications and permit language, as needed
- Develop policy for compliance monitoring

Form an external MUR workgroup to provide comments

Submit implementation plan to EPA Region 6 for approval
Texas Surface Water Quality Standards and Implementation Procedures
Update on TCEQ’s Texas Surface Water Quality Standards

- 2018 revisions to 30 TAC Chapter 307
  - Approved by TCEQ Commission on Aug. 23, 2017
  - Public comment period: Aug. 27 – Oct. 17, 2017
  - Public hearing at TCEQ on Oct. 16, 2017
  - Adopted on Feb. 7, 2018
  - The 2018 Standards became effective as state rules on March 1, 2018

See 2018 Revision at https://www.tceq.texas.gov/waterquality/standards/WQ_standards_revisions.html
Update on TCEQ’s Implementation Procedures (IPs)

- Proposed 2018 revisions to approved 2010 IPs are underway:
  - Procedures to address thermal discharges
  - Revised Whole Effluent Toxicity procedures to address reasonable potential (already using this process)
  - pH screening procedures (already using this process)
  - Revised dechlorination requirements
  - Updates to appendices to include ambient segment water quality data and flow data
  - Updates to endangered species information
  - Developing new minimum analytical levels (MALs) to address new toxic criteria
TPDES Basin Cycle Rule

- June 1, 2017 - Texas Legislature passed House Bill (HB) No. 3618 which repealed Section 26.0285 of the Texas Water Code, effective Sep. 1, 2017.

**Effects of HB. 3618**

- Permits within a watershed do not need to have the same expiration date or need to be simultaneous reviewed and renewed.

- TCEQ repealed 30 TAC §305.71, which included basin schedules.

- Rule was adopted in May 2018
TPDES
Stormwater General Permits

Construction
NOIs: 10,931
Waivers: 5

Industrial
NOIs: 8,121
NECs: 3,290

Municipal
Phase II
NOIs: 506
Waivers: 79
Individual Permits

*Required for…*

- Sites with “Unsatisfactory” Compliance History Rating
- Wastewater being discharged
- Existing individual permits with water quality-based limits

*General permit authorization may be revoked during term if conditions change*
Industrial Stormwater
Multi-Sector General Permit (MSGP)
TPDES Permit No. TXR050000

- Effective August 14, 2016
- Expires August 13, 2021
- Universe
  - 8,121 Notices of Intent (NOIs)
  - 3,290 No Exposure Certificates (NECs)

NOI is effective from approval of NOI to either:
- Expiration of MSGP or
- Submittal of NOT (whichever is first)
Industrial Stormwater
MSGP TXR050000

• Authorizes point source discharges of stormwater associated with industrial activity and certain non-stormwater discharges to surface water in the state

• Stormwater discharge directly related to manufacturing, processing or raw materials storage areas at an industrial facility
Obtaining MSGP Coverage

- Since September 1, 2017, electronic submittal of all applications is required

  - Submit NOI electronically via ePermits
    - $100 fee
    - Immediate authorization after payment and submittal

  - Paper NOI, only with a Waiver from eReporting
    - $200 fee
    - Provisional coverage 7 days after postmarked date – **only** if eReporting waiver is approved
Obtaining MSGP Coverage

- Waiver from eReporting, only if:

<table>
<thead>
<tr>
<th>Section 4. Reason for the Waiver</th>
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</thead>
<tbody>
<tr>
<td>Select the reason for requesting a waiver from electronic reporting:</td>
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<tr>
<td>☐ I don't have a computer.</td>
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<tr>
<td>☐ I don't have internet access.</td>
</tr>
<tr>
<td>☐ I have limited internet speed.</td>
</tr>
<tr>
<td>☐ I need additional training on electronic reporting.</td>
</tr>
<tr>
<td>☐ I have a religious objection to electronic reporting.</td>
</tr>
</tbody>
</table>

- If submitting paper applications, submit:
  - Core Data Form (TCEQ – 10400)
  - Application (NOI, NEC, NOT, or NOC)
  - Waiver form (TCEQ-20754)
MSGP eReporting Requirements

- eReporting and monitoring
  - By September 1, 2018 all DMRs must be submitted electronically
    - Sector Specific Numeric Effluent Limit
    - Hazardous metals
    - No changes in when to submit – just use NetDMR instead
    - Benchmarks are still submitted on paper

- TCEQ sent waiver letters for NetDMR reporting to all permittees December 2016 and August 2017
No Exposure Exclusion

- Conditional exclusion available for all sectors
  - Submit NEC in lieu of NOI
- Storm resistant shelter required
  - Some exceptions
- RG-467 – TCEQ Guidance Document
Construction General Permit (CGP)  
TPDES Permit No. TXR150000  
Renewal

- Effective March 5, 2018
- Expires March 4, 2023
- NOIs: 10,931
- Waivers: 5
Municipal Separate Storm Sewer Systems (MS4)

An MS4 is a publicly owned or operated stormwater drainage system designed to collect or convey stormwater.
Phase I MS4s

- Medium and Large MS4s
  - Municipal population 100,000+ (1990 Census)
  - Includes public entities in the urbanized area (UA)
    - universities, MUDs, etc.
  - Universe: 22 individual TPDES permits
    - Includes 50 permittees due to coalitions
  - One TxDOT statewide Phase I and II MS4 TPDES permit

*No new permits issued*
Requirements of Phase I MS4s

Develop a Stormwater Management Program (SWMP) to address Minimum Control Measures (MCMs) in permits

• Public Education and Outreach/Public Involvement and Participation
• Pollution Prevention/Good Housekeeping for Municipal Operations
• MS4 Maintenance Activities
• Illicit Discharge Detection and Elimination
• Construction Site Runoff
• Post-Construction Control Measures
• Industrial & High Risk Runoff
Requirements of Phase I MS4s

- Monitoring Requirements
  1. Representative Storm Events,
  2. Representative Rapid Bioassessment, or
  3. Watershed Monitoring
     • Regional Wet Weather Characterization Program

- Monitoring of Floatables

- Submit Annual Reports
Phase I MS4s Permit Renewals

- EPA Review of the Renewals from 2011
  - Requiring similar requirements as in the Phase II MS4 General Permit
    - Priority areas
    - MS4 maps
    - Impaired waterbodies
  - Requesting to see inspection or audit reports completed by TCEQ
Phase I MS4 Permit Renewals

Renewals - 2016

- All permits revised to address comments made by EPA on MS4 permits from 2011
- Measurable goals required for MCMs
- Provisions from existing permits are continued
- E-Reporting Rule provisions for DMRs and annual reports
- Use application form TCEQ-20214 (no changes)
  - Attachment 4 – will be requested by permit writer
- Senate Bill 709 – legislative notice requirement
Phase I MS4s Permit Renewals

- EPA Objections of the Renewals from 2016:
  - MCM 3, Illicit Discharge Detection and Elimination
    • Include inspection procedures, frequencies and methods for detecting and eliminating illicit discharges
    • Have a plan to address illicit discharges in priority areas
  - MCM 6, Construction Site Stormwater Runoff
    • Include procedures for site plan review of sediment and erosion plans
Phase I MS4s Permit Renewals

- EPA Objections of the Renewals from 2016:
  - MCM 8, Monitoring, Evaluation and Reporting
    - Industrial High-Risk Runoff Monitoring – include an inspection program of activities at facilities, risk levels, and inspection schedules
  - Clarify continued and new requirements
Impaired Water Bodies

Additional Permit Requirements

- Category 5 - CWA 303(d) for stream segment, no TMDL
- Category 4 - Not on CWA 303(d), with watershed TMDL

Texas Integrated Report Index of Water Quality Impairments

2012 Texas Integrated Report Index of Water Quality Impairments

<table>
<thead>
<tr>
<th>SegID: 0806A</th>
<th>Foxtail Lake (unclassified water body) From Foxtail Lake Dam to the reservoir headwaters in Oakland Lake Park in Tarrant County</th>
</tr>
</thead>
<tbody>
<tr>
<td>Segment(s)</td>
<td>Category</td>
</tr>
<tr>
<td>PCBs in edible tissue</td>
<td>0806A_01</td>
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</table>

<table>
<thead>
<tr>
<th>SegID: 0806B</th>
<th>Echo Lake (unclassified water body) From Echo Lake Dam to the reservoir headwaters in Tarrant County</th>
</tr>
</thead>
<tbody>
<tr>
<td>Segment(s)</td>
<td>Category</td>
</tr>
<tr>
<td>PCBs in edible tissue</td>
<td>0806B_01</td>
</tr>
</tbody>
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<thead>
<tr>
<th>SegID: 0806E</th>
<th>Sycamore Creek (unclassified water body) Five mile stretch of Sycamore Creek running upstream from confluence with the W. Fork of Trinity River to confluence with Echo Lake Tributary in Fort Worth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parameter(s)</td>
<td>Category</td>
</tr>
<tr>
<td>bacteria</td>
<td>0806E_01</td>
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</tbody>
</table>
Contact Information

- Small Business and Local Government Assistance (SBLGA)
  (800) 447-2827 or www.texasenvirohelp.org

- Stormwater Processing Center (NOI/NEC/NOT Status)
  (512) 239-3700 or swpermit@tceq.texas.gov

- STEERS
  (512) 239-6925 or STEERS@tceq.texas.gov

- Permitting Information (Technical questions)
  (512) 239-4671 or swgp@tceq.texas.gov
TPDES Stormwater Program Contacts

- Water Quality Division
  - Stormwater Team
    - Rebecca L. Villalba, Team Leader
    - Lindsay Garza, Work Leader
    - Hanne Lehman Nielsen
    - Dan Siebeneicher
    - Gordon Cooper
    - Lili Martinez
    - Maria Benitez

- Austin Office: (512) 239-4671
Useful Links

- STEERS - [https://www3.tceq.texas.gov/steers/index.cfm](https://www3.tceq.texas.gov/steers/index.cfm)
Questions?