Permitting Applicability and Renewal of the Phase II MS4 and Construction General Stormwater Permits

STEP Meeting October 27, 2017

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Agenda

• What is SBLGA?
• Overview of CGP requirements
• Proposed changes to CGP
• Basics of Phase II MS4 General Permit
Contact Information

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SBLGA Programs

• Hotline 800-447-2827
• Regional staff
• EnviroMentor
• TexasEnviroHelp.org
• Email updates
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TPDES

• What is a Permit?
• Multi-Sector General Permit aka MSGP or Industrial
  – TXR050000 (expires 8/14/21)
• Construction General Permit aka CGP or Construction
  – TXR150000 (expires 3/5/18)
• Municipal Separate Storm Sewer Systems
  – Phase I- large and medium cities
  – Phase II- small cities
  – TXR040000 (expires 12/13/18)
Construction General Permit Renewal
First...What Does the CGP Authorize?

• Stormwater discharge associated with construction activity

• Stormwater discharge associated with construction support activities

• Certain non-stormwater discharges
What is Construction?

- Land clearing
- Grading
- Excavation
- Demolition
- Road expansion
- Activities that disturb or expose soil
Size of Construction Site

• Large Construction Sites
  – Equal to or greater than 5 acres, or
  – Part of a common plan of development

• Small Construction Sites
  – More than 1 acre, but less than 5 acres, or
  – Part of a common plan of development

• Less than 1 acre
**Stock Piles & Borrow Pits**

- Include in the number of acres permitted if:
  - directly supporting construction activity
  - located within one mile of the site(s)

- Before terminating permit coverage for the site, these areas must be stabilized or covered by another authorization.
Concrete Batch Plants

• CGP authorizes washout water from concrete trucks where controls prevent direct discharge to surface water AND discharges will not cause groundwater contamination.

• CGP does not authorize on-site concrete batch plants wastewater. Alternative coverage is required under industrial permit TXG110000.
Obtaining Coverage: Less than 1 Acre

- Read permit
- Implement and maintain BMPs
- SWP3, NOI, NOT, fee are not required
- Notify MS4, if applicable

*Poor management of unpermitted sites may result in a violation or citation.*
Obtaining Coverage: Small Site

- Read permit
- Prepare and implement SWP3
- Post Site Notice for small sites
- Notify MS4, if applicable
- Adhere to permit requirements
Obtaining Coverage: Large Site

- Read permit
- Prepare and implement Stormwater Pollution Prevention Plan (SWP3)
- Submit Notice of Intent (NOI) and fee separately
- Post Site Notice for large sites
- Notify MS4 operator, if applicable
- Adhere to permit requirements
- Submit Notice of Termination (NOT)
CGP Fees & Coverage (for large sites)

- Paper NOI
  - $325 application fee
  - 7 days from the postmark
- Electronic NOI via STEERS
  - $225 application fee
  - Immediate coverage after confirmation of receipt
- No annual water quality fees
Terminating CGP Coverage

Submit a Notice of Termination (NOT) when:

• Final stabilization achieved
• Operational control transferred
• Alternative authorization obtained
Termination of Construction Activity

• Meet final stabilization requirements
• Remove temporary BMPs
• Remove site notice
• Submit NOT to TCEQ and a copy to MS4 (if applicable)-
  primary operator at large site only
• Submit completed copy of site notice to MS4 (if required)-
  secondary operator at large site & all operators at small site
Common Permit Violations, Failure to:

- Prevent unauthorized discharge
- Obtain permit coverage
- Develop/implement SWP3
- Include and update site map
- Update pollution prevention team information
- Properly install and maintain BMPs
- Inspect on-site controls
- Keep containers closed
How to be in Compliance...

• Read the permit
• Know the applicable sections of the permit
• Implement and maintain appropriate controls
• Conduct routine monitoring
• Modify SWP3 when changes are needed
• Use available resources
• Contact the TCEQ for guidance
CGP Renewal

• Permit expires March 5, 2018.
• Permittees will have 90 days after reissued permit to submit NOI.
• Submit NOT to terminate coverage.
• Public meeting was held on Sep 18, 2017
• Draft permit and fact sheet available online
Proposed Changes

• EPA’s Electronic Reporting Rule
  – Paper NOIs, NOT’s, NOCs will not be accepted after August 31, 2018, without a waiver from e-reporting
  – Electronic submittal of construction NOIs, NOTs, NOCs as of September 1, 2018

• Included 2014 and 2015 amendments to federal effluent guidelines
  – Added definition of infeasible
  – Clarifications to requirements for controlling erosion caused by discharges, soil stabilization, and topsoil preservation
Proposed Changes

• Reduced benchmark monitoring limit for TSS
  – reduced from 100 mg/L to 50 mg/L

• Added definitions
  – Construction Support Activity
  – Thawing Conditions
  – Construction-related activity
  – Low Rainfall Erosivity Waiver (LREW)
Proposed Changes

• Revised definition of Construction Activity
  – demolition, material stock piles, and construction support activities
• Added reference to the *Texas Integrated Report of Surface Water Quality Standards*
• Clarified the permit coverage of construction activities regulated by the RRC and TCEQ to be consistent with MOU
Proposed Changes

• Clarifications to existing requirements:
  – authorization language for large construction activities;
  – site notices - operators of small construction and secondary operators of large construction;
  – requirement language for small construction activities with low potential for erosion and low rainfall;
  – SWP3 development and implementation;
  – NOI submittal and operational control for primary operators of large construction
Proposed Changes

- Clarifications (continued)
  - provisional and effective dates of coverage;
  - NOC and NOT requirements;
  - terminating coverage for operators at small construction sites and secondary operators of large construction sites;
  - changes in operational control at large and small construction sites and responsibilities of primary and secondary operators when those changes occur;
  - provisional and non-provisional authorization letters/certificates to be with the SWP3s;
  - construction support activity;
Proposed Changes

• Clarifications (continued)
  – person(s) authorized to perform inspections and investigations at a construction site;
  – vegetative stabilization requirements during frozen and thawing conditions;
  – requirements for developing a SWP3 for concrete batch mixing plants;
  – only land disposal of washout from concrete trucks is authorized and discharges are prohibited;
  – how construction support activities are covered under the permit;
Proposed Changes

• Clarifications (continued)
  – requirements of LREWs for discharging and disposing non-stormwater and when construction activity extends beyond the waiver period;
  – revisions to prohibited discharge requirements for consistency with C&D ELGs in 40 CFR 450; and
  – rewording existing requirement language, splitting-up paragraphs and/or enumerating requirements.
Proposed Changes

• Added requirements for:
  – inspection criteria at construction sites;
  – an “unsatisfactory performer” is entitled to a hearing before the Commission prior to denial or suspension of authorization;
  – minimizing the exposure of waste materials; and
  – compliance with the 24-hour reporting requirements and sufficiently sensitive test procedures requirements for sample analysis.
Municipal Separate Storm Sewer Systems (MS4)
What is an MS4?

- Publicly owned or **operated** drainage system designed to convey stormwater.
- Not a wastewater collection or sewer.
- Include many non-traditional entities such as military bases, transportation systems, hospitals, universities, correctional facilities and a variety of districts.
- Conveyance located fully or partially within UA.
- “Once in, always in.”
## Potentially Regulated Districts.

**Jurisdiction of the TCEQ:**

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>GCD</td>
<td>Groundwater Conservation District.</td>
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<tr>
<td>ID</td>
<td>Irrigation District.</td>
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<td>MMD</td>
<td>Municipal Management District.</td>
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<td>MUD</td>
<td>Municipal Utility District.</td>
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<tr>
<td>RD</td>
<td>Regional District.</td>
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<tr>
<td>SCD</td>
<td>Stormwater Control District.</td>
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<td>SUD</td>
<td>Special Utility District.</td>
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<td>WCID</td>
<td>Water Control &amp; Improvement District.</td>
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<tr>
<td>WID</td>
<td>Water Improvement District.</td>
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</table>
What is an Urbanized Area?.

- High density of residential population:
  - at least 1,000 people per square mile and.
  - at least 50,000 total population.

- U.S. Census Bureau.
  - Collects data every 10 years (2010).
  - Develops UA maps, boundaries.

- MS4 required to regulate only the portion within UA.

- UA Maps also located on TCEQ and EPA web sites.
PII MS4 Applications

• Deadline to submit was June 11, 2014.
• Options for authorization include:
  o Full permit coverage.
  o Waiver.
• Total applications received:
  o 500+ NOIs.
  o 70+ Waivers
Waiver Option.

Waiver 1:
- Serve population less than 1,000 within the UA.
- No significant contribution to the:
  - pollutant loadings of and interconnected MS4.
  - pollutants identified as a cause of impairment to the receiving water body.
- Change in those conditions requires NOI/SWMP.
- Submit Waiver 1 form 20369.

Waiver 2:
- Data and labor intensive.
- More costly than permit
Authorization Process

• Submit NOI, proposed Stormwater Management Program, and application fee.

• Administrative review by the TCEQ.
  o Additional information from applicant.

• Technical Review of SWMP.
  o Additional information from applicant.

• Public Notice published in newspaper.
  o Public Meeting.

• Approved by the TCEQ
Administrative Requirements

- Application for permit coverage.
- Stormwater Management Program.
  - Maintain records evaluating efforts.
  - Implement SWMP by end of permit term.
- Annual Report.
  - Submit within 90 days of end of each permit year
Annual Reporting Period

- Select a 12-month permit year.
  - Permit issuance date:
    - December 13–December 12, report due ~March 8.
  - Calendar year:
  - Fiscal year:
    - August 1–July 31, report due ~October 31.
- Submit within 90 days from end of permit year.
Technical Requirements

Develop and implement comprehensive SWMP to:

- Reduce pollution to maximum extent practicable.
- Meet water quality requirements of CWA and TWC.
- Required only inside of UA boundaries.
- Best Management Practices, ordinances, and other mechanisms.
- Include six minimum control measures.
Tiered Approach

- Requirements based on UA population served:
  - Level 1: < 10,000.
  - Level 2: 10,000 – 40,000 & non-traditional.
  - Level 3: 40,000 – 100,000.
  - Level 4: > 100,000.

- Level does not change during permit term
Impaired Water Body

- Determine if receiving water body is on the current, approved Index of All Impaired Waters.
- Identify pollutant of concern.
- Determine if MS4 is contributing the POC.
- SWMP must include:
  - Focused BMPs for reducing the POC.
  - Measurable goals for each BMP.
  - Identify and focus on sources of bacteria.
  - Assess progress.
- Include in Annual Report
Impaired Water Body with TMDL

- Determine if receiving water body has an established Total Maximum Daily Load.
- Identify pollutant of concern and determine if MS4 is contributing to the POC.
- Refer to the watershed’s Implementation Plan.
- SWMP must include:
  - Targeted controls for reducing POC.
  - Measurable goals for each control.
  - Create benchmarks.
  - Identify and focus on sources of bacteria.
  - Assessment of progress.
- Include in Annual Report.
SWMP

Includes a map and six **Minimum Control Measures**:

1. Public Education, Outreach and Involvement.
2. Illicit Discharge Detection and Elimination.
3. Construction Site Runoff Control.
4. Post-Construction Mgmt. in New & Redevelopment.
5. Pollution Prevention and Good Housekeeping for Municipal Operations.
6. Industrial Sources.
For each MCM

- Establish measurable goals.
- Evaluate / assess efforts to meet goals.
- Meet MEP standard for each goal.
- Maintain records evaluating efforts.
- Report progress annually.
- Full implementation by end of permit term
Allowable Non-SW Discharges

- Address in relevant MCMs of the SWMP.
- Specific potable or uncontaminated sources:
  - water line flushing (except hyperchlorinated).
  - swimming pool discharges (if dechlorinated).
  - runoff from landscape irrigation.
  - incidental spray park water.
  - street wash water.
  - residential vehicle washing.
  - A/C condensate.
Assessment

- Monitor WQ to assess pollutant reductions.
- Evaluate social indicators / behavior change.
- Document progress toward goals.
  - Provide feedback to program management.
  - Ensure efficient use of resources.
  - Meet regulatory requirements.
Monitor Water Quality

- Most direct approach.
- Verifiable results.
- May focus on:
  - Biological – E. coli, fish, algae.
  - Physical – flow, turbidity, erosion.
  - Chemical – levels of metals, chemicals, hydrocarbons, bacteria, phosphorus and other nutrients.
Annual Report Contents

- Status of compliance with permit conditions.
- Progress towards reducing pollutants.
- Summary of information and monitoring data.
- Evaluation of the BMPs.
- Assessment of efforts toward goals.
- Statement of activities planned
Notice of Change

- Submit NOC form 20392 and revised SWMP.
  - Substantive change to goals or controls.
  - Replacing structural BMP with a non-structural BMP (ex. street sweeping instead of inlet protection).

- Does not require NOC/revised SWMP if:
  - MS4 expands or grows, include in SWMP and report.
  - Replacing substantially similar BMPs.
  - Reorganization or personnel changes.
  - Corrections or clarifications
Sharing a SWMP

- Form a coalition with other MS4s sharing a boundary or watershed.
- Divide program elements.
- Identify responsibilities for each entity.

Each MS4 responsible for:
- Applying for permit coverage.
- Compliance with SWMP
Renewal of General Permits for Phase II (small) MS4s

- Expires on December 13, 2018
- Formal public comment period tentatively scheduled for April 2018
- Submit SWMP and NOI form within 180 days following effective date of general permit
Stormwater Program Contacts

• **SW Permitting Program** (technical)
  – PH: 512-239-4671
  – swgp@tceq.texas.gov

• **SW Processing Center** (admin forms)
  – PH: 512-239-3700
  – swpermit@tceq.texas.gov
Additional Agency Contacts

- **STEERS** (to submit forms online)
  - PH: 512-239-6925
  - steers@tceq.texas.gov

- **SBLGA:**
  - texasenvirohelp@tceq.texas.gov
  - TCEQ Regional Offices
Questions??