

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

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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](http://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



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## 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.***



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## Obtaining Coverage: Small Site

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



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# 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



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# Terminating CGP Coverage

Submit a Notice of Termination (NOT) when:

- Final stabilization achieved
- Operational control transferred
- Alternative authorization obtained



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# 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



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## 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



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## 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)



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# 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:*

<b>GCD</b>	Groundwater Conservation District.
<b>ID</b>	Irrigation District.
<b>MMD</b>	Municipal Management District.
<b>MUD</b>	Municipal Utility District.
<b>RD</b>	Regional District.
<b>SCD</b>	Stormwater Control District.
<b>SUD</b>	Special Utility District.
<b>WCID</b>	Water Control & Improvement District.
<b>WID</b>	Water Improvement District.

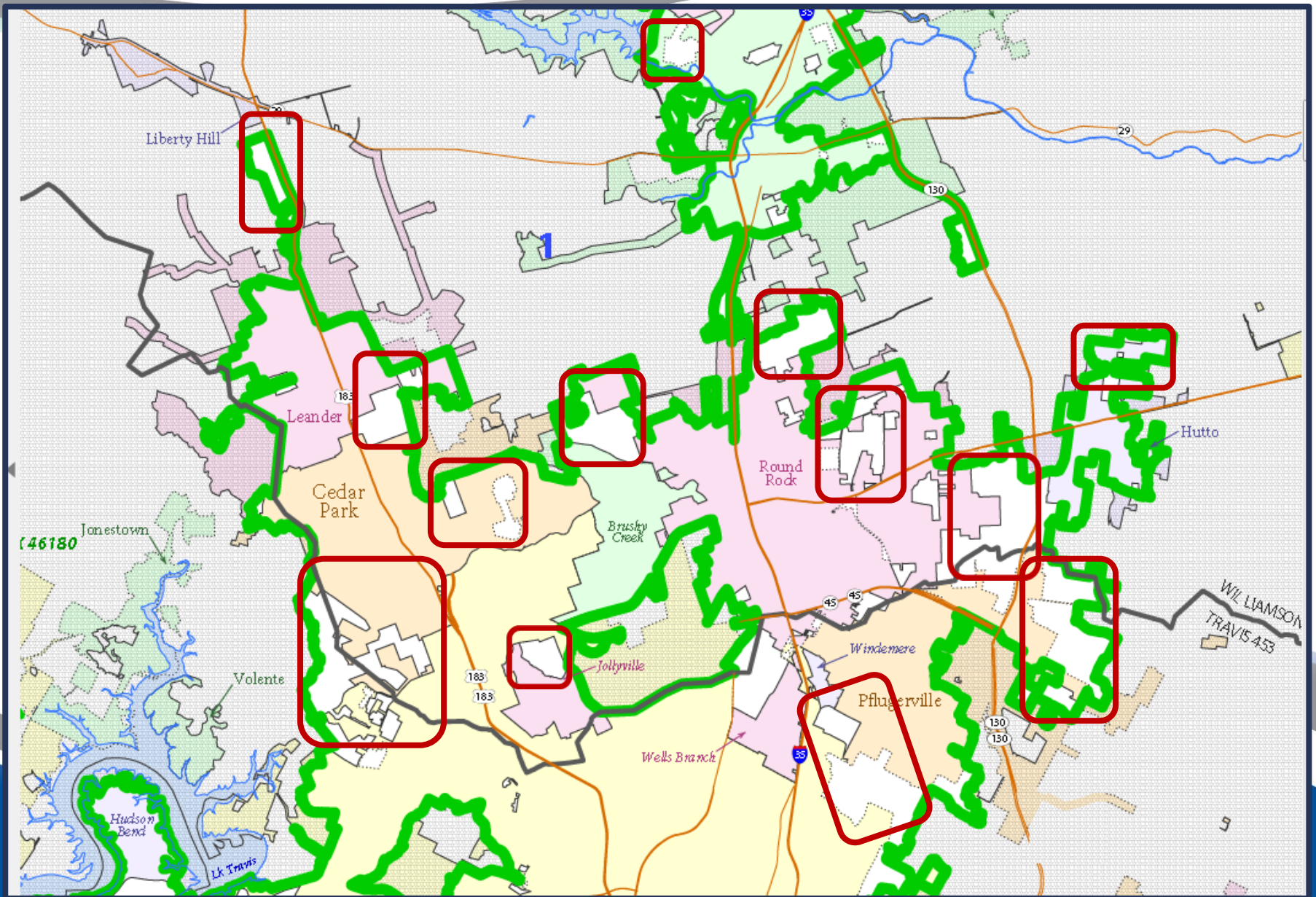


# What is an Urbanized Area?.

- 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.



# North Portion of Austin UA Map



## PII MS4 Applications

- Deadline to submit was June 11, 2014.
- Options for authorization include:
  - Full permit coverage.
  - Waiver.
- Total applications received:
  - 500+ NOIs.
  - 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.
  - Additional information from applicant.
- Technical Review of SWMP.
  - Additional information from applicant.
- Public Notice published in newspaper.
  - 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:
    - January 1–December 31, report due ~March 31.
  - 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.



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## 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.
7. Optional – Construction by MS4.



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## 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



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# Allowable Non-SW Discharges

- Address in relevant MCMs of the SWMP.
- Discharges listed in 40 CFR 122.26(d)(2)(iv)(B)(1).
- 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.



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# 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



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# 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](mailto:swgp@tceq.texas.gov)
- **SW Processing Center (admin forms)**
  - PH: 512-239-3700
  - [swpermit@tceq.texas.gov](mailto:swpermit@tceq.texas.gov)



## Additional Agency Contacts

- **STEERS** (to submit forms online)
  - PH: 512-239-6925
  - [steers@tceq.texas.gov](mailto:steers@tceq.texas.gov)
- **SBLGA:**
  - [texasenvirohelp@tceq.texas.gov](mailto:texasenvirohelp@tceq.texas.gov)
  - TCEQ Regional Offices



# Questions??



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