

PART V: DEFINITIONS AND STANDARD PERMIT CONDITIONS

A. Definitions:

As required by 30 TAC Chapter 305, certain regulations appear as standard conditions in waste discharge permits. 30 TAC §§ 305.121 - 305.129, Subchapter F, "Permit Characteristics and Conditions" as promulgated under the Texas Water Code §§ 5.103 and 5.105, and the Texas Health and Safety Code §§ 361.017 and 361.024(a), establish the characteristics and standards for discharge permits, including sewage sludge, and those sections of 40 Code of Federal Regulations (CFR) Part 122 adopted by reference by the Commission. The following text includes these conditions and incorporates them into this permit.

All definitions contained in Section 26.001 of the Texas Water Code and 30 TAC Chapter 305 shall apply to this permit and are incorporated herein by reference. Unless otherwise specified, additional definitions of words or phrases used in this permit are as follows:

1. **Best Management Practices (BMPs)** - schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution in discharges that reach waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
2. **CWA** - the Clean Water 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. (6-483 and Pub. L. 97-117, 33 U.S.C. 1251 et. seq.).
3. **Co-permittee** - one of several entities authorized under a single individual permit that is only responsible for permit conditions relating to the discharge for which it is the operator.
4. **Daily maximum concentration** - the maximum concentration measured on a single day, by composite sample unless otherwise specified elsewhere in this permit, within a period of one calendar month.
5. **Discharge** - unless indicated otherwise, refers to discharges from the Municipal Separate Storm Sewer System (MS4).
6. **Flow-weighted composite sample** - a composite sample consisting of a mixture of aliquots collected at either:
 - a. a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge; or
 - b. a constant volume at varying time intervals, proportional to the discharge flow rate.
7. **Grab sample** - an individual sample collected in less than 15 minutes.
8. **Illicit connection** - any man-made conveyance connecting an illicit discharge directly to a municipal separate storm sewer.
9. **Illicit discharge** - any discharge to a municipal separate storm sewer that is not composed entirely of stormwater except discharges pursuant to a NPDES or TPDES permit (other than the NPDES or TPDES permit for certain discharges from the municipal separate storm sewer), discharges resulting from fire-fighting activities, and other allowable non-stormwater discharges described in Part III, Section B.2.c. of this permit.
10. **Landfill** - an area of land or an excavation in which wastes are placed for permanent disposal, and which is not a land application unit, surface impoundment, injection well, or waste pile.
11. **Large or medium municipal separate storm sewer system (MS4)** - all MS4s that are either:

- a. located in an incorporated place (city) with a population of 100,000 or more as determined by the 1990 Decennial Census by the Bureau of Census (these cities are listed in Appendices F and G of 40 CFR Part 122); or
 - b. located in the counties with unincorporated urbanized populations of 100,000 or more, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties (these counties are listed in Appendices H and I of 40 CFR Part 122); or
 - c. owned or operated by a municipality other than those described in paragraph (a) or (b) and that are designated by the EPA as part of the large or medium municipal separate storm sewer system.
12. **Major Outfall** - an outfall that discharges from a single pipe with an inside diameter of 36 inches or more or its equivalent (discharge from a single conveyance other than circular pipe which is associated with a drainage area of more than 50 acres); or for municipal separate storm sewers that receive stormwater from lands zoned for industrial activity (based on comprehensive zoning plans or the equivalent), an outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other than a circular pipe associated with a drainage area of 2 acres or more).
13. **Maximum Extent Practicable (MEP)** - the technology-based discharge standard for MS4 established by Section 402(p) of the Federal Clean Water Act.
14. **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 a State, city, town, borough, county, parish, 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 section 208 of the CWA that discharges to waters of the United States;
 - b. designed or used for collecting or conveying stormwater;
 - c. which is not a combined sewer; and
 - d. which is not part of a Publicly Owned Treatment Works (POTW) as defined at 30 TAC § 305.2.
15. **Outfall** – for the purpose of this permit, an outfall is a point or location where an MS4 discharges to waters of the U.S., and does not include a conveyance that connects two municipal separate storm sewers.
16. **Permittee** - any entity authorized by this permit to discharge to surface water in the state.
17. **Point source** – for the purpose of this permit, 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, 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.

18. **Storm sewer** - unless otherwise indicated, a municipal separate storm sewer (MS4).
19. **Stormwater** - stormwater runoff, snow melt runoff, and surface runoff and drainage.
20. **Stormwater discharges associated with industrial activity** - defined in TPDES General Permit No. TXR050000 Industrial Stormwater Multi-Sector General Permit (MSGP).
21. **Stormwater Management Program, or SWMP** - a comprehensive program to manage the quality of discharges from the municipal separate storm sewer system. For the purposes of this permit, the SWMP is considered a single document, but may actually consist of separate components (e.g. "chapters") for each permittee.
22. **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: 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.
23. **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 (MHW) 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.
24. **Waters of the United States** - For the purposes of this permit, 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 the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

- i. which are or could be used by interstate or foreign travelers for recreational or other purposes;
- ii. from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
- iii. 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 CWA are not waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. Waters of the United States 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 Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with the EPA.

B. Monitoring And Reporting Requirements

1. Self-Reporting

- a. Monitoring results shall be provided at the intervals specified in the permit.
- b. As provided by state law, the permittee(s) (is/are) subject to administrative, civil and criminal penalties, as applicable, for negligently or knowingly violating the CWA, the Chapters 26, 27, and 28 of the TWC, and Texas Health and Safety Code, Chapter 361, including but not limited to knowingly making any false statement, representation, or certification on any report, record, or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance, or falsifying, tampering with or knowingly rendering inaccurate any monitoring device or method required by this permit or violating any other requirement imposed by state or federal regulations.

2. Test Procedures

- a. Unless otherwise specified in this permit, analytical procedures shall comply with procedures specified in 30 TAC §§ 319.11 - 319.12. Measurements, tests and calculations shall be accurately accomplished in a representative manner.
- b. All laboratory tests submitted to demonstrate compliance with this permit must meet the requirements of 30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification.

3. Records of Results

- a. Monitoring samples and measurements shall be taken at times and in a manner so as to be representative of the monitored activity.
- b. Monitoring and reporting records, including the SWMP, requests for SWMP changes, reports, strip charts and records of calibration and maintenance, copies of all records required by this permit, and records of all data used to complete the application for this permit shall be retained by the permittee(s) or shall be readily available for review by a TCEQ representative for a period of three years from the date of the original record or sample, measurement, report, application, or the latest revisions, whichever is later. This period shall be extended at the request of the Executive Director.
- c. Records of monitoring activities shall include the following:
 - i. date, time and place of sample or measurement;
 - ii. identity of individual who collected the sample or made the measurement.
 - iii. date and time of analysis;
 - iv. identity of the individual and laboratory who performed the analysis;
 - v. the technique or method of analysis; and
 - vi. the results of the analysis or measurement and quality assurance/quality control records.
- d. The period during which records are required to be kept shall be automatically extended to the date of the final disposition of any administrative or judicial enforcement action that maybe instituted against a permittee.

4. Additional Monitoring by Permittee(s)

If the permittee(s) perform(s) additional monitoring for any parameter at the outfall(s) included in Part IV of this permit using approved analytical methods as specified above, then all results of such monitoring shall be included in the calculation and reporting of the values submitted in the annual or other reports describing these discharges. Increased frequency of sampling shall be indicated on the reports.

5. Calibration of Instruments

All automatic flow measuring, flow recording devices or totalizing meters for measuring flows shall be accurately calibrated by a trained person prior to use and as often as necessary to ensure accuracy, but not less often than annually. Such person shall verify in writing that the device is operating properly and giving accurate results. Copies of the verification shall be retained by the permittee(s) and shall be readily available for review by a TCEQ representative for a period of three years.

6. Compliance Schedule Reports

If a compliance schedule is included in this permit, reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in the compliance schedule shall be submitted no later than 14 days

following each schedule date to the TCEQ Regional Office and to the Enforcement Division (MC-224).

7. Noncompliance Notification

- a. In accordance with 30 TAC § 305.125(9), any noncompliance that may endanger human health or safety, or the environment shall be reported by the permittee(s) to the TCEQ. Report of such information shall be provided orally or by facsimile transmission (FAX) to the TCEQ Regional Office within 24 hours of becoming aware of the noncompliance. For Publicly Owned Treatment Works (POTWs), effective September 1, 2020, the permittee must submit the written report for unauthorized discharges and unanticipated bypasses that exceed any effluent limit in the permit using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver. A written submission of such information shall also be provided by the permittee(s) to the TCEQ Regional Office and to the Enforcement Division (MC-224) within five working days of becoming aware of the noncompliance. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.
- b. Unauthorized discharges of wastewater or any other waste from the MS4 that results from noncompliance with the SWMP shall be reported under Part V, Section B. 7.a. above.
- c. In addition to 7.a. and b. above, and if the permit contains numeric limitations, any violation that deviates from a permitted numeric limitation by more than 40% shall be reported by the permittee(s) in writing to the TCEQ Regional Office and to the Enforcement Division (MC-224) within 5 working days of becoming aware of the noncompliance.
- d. Any noncompliance other than that specified in this section, or any required information not submitted or submitted incorrectly, shall be reported to the Enforcement Division (MC-224) as promptly as possible.
- e. Duty to Mitigate
The permittee(s) shall take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

8. Signatories to Reports

All reports and other information requested by the Executive Director shall be signed by the person and in the manner required by 30 TAC § 305.128 (relating to Signatories to Reports).

C. PERMIT CONDITIONS

1. General

- a. When a permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in an application or in any report to the Executive Director, it shall promptly submit such facts or information.
- b. This permit is granted on the basis of the information supplied and representations made by the permittee(s) during action on an application in accordance with 30 TAC Chapter 50 and the application process in accordance with 30 TAC Chapter 281, and relying upon the accuracy and completeness of that information and those representations in accordance with 30 TAC Chapter 305. After notice in accordance with 30 TAC Chapter 39 and opportunity for a hearing in accordance with 30 TAC §§ 55.200 - 55.211, Subchapter B, "Hearing Requests, Public Comment," this permit may be modified, suspended, or revoked, in whole or in part in accordance with 30 TAC Chapter 305 Subchapter D, during its term for cause; including, but not limited to, the following:
 - i. violation of any terms or conditions of this permit, or
 - ii. obtaining this permit by misrepresentation or failure to disclose fully all relevant facts.
- c. The permittee(s) shall furnish to the Executive Director, upon request and within a reasonable time, any information to determine whether cause exists for amending, revoking, suspending or terminating the permit. The permittee(s) shall also furnish to the Executive Director, upon request, copies of records required to be maintained as a provision of the permit.

2. Compliance

- a. Acceptance of the permit by a permittee to whom it is issued constitutes acknowledgment and agreement that the permittee will comply with all the terms and conditions embodied in the permit, and the rules and other orders of the Commission.
- b. The permittee(s) (has/have) a duty to comply with all conditions of the permit. Failure to comply with any permit condition constitutes a violation of the permit and the Texas Water Code or the Texas Health and Safety Code, and is grounds for enforcement action, for permit amendment, revocation or suspension, or for denial of a permit renewal application or of an application for a permit for another facility.
- c. It shall not be a defense for a 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 the permit.
- d. Before beginning any change in the permitted activity that may result in noncompliance with any permit requirements, authorization from the Commission must be obtained.

- e. A permit may be amended, suspended and reissued, or revoked for cause in accordance with 30 TAC §§ 305.62 and 305.66 and the TWC § 7.302. The filing of a request by a permittee for a permit amendment, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
 - f. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under TWC §§7.051 - 7.075 (relating to Administrative Penalties), 7.101 - 7.111 (relating to Civil Penalties), and 7.141 - 7.202 (relating to Criminal Offenses and Penalties) for violations including, but not limited to, negligently or knowingly violating the federal CWA §§ 301, 302, 306, 307, or 308, or any condition or limitation implementing any sections in a permit issued under the CWA § 402, or any requirement imposed in a pretreatment program approved under the CWA §§ 402 (a)(3) or 402 (b)(8).
3. Inspections and Entry
 - a. Inspection and entry shall be allowed as prescribed in Chapters 26, 27, and 28 of the TWC, and Texas Health and Safety Code Chapter 361.
 - b. The members of the Commission and employees and agents of the Commission are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit or other order of the Commission. Members, employees, or agents of the Commission and Commission contractors are entitled to enter public or private property at any reasonable time to investigate or monitor or, if the responsible party is not responsive or there is an immediate danger to public health or the environment, to remove or remediate a condition related to the quality of water in the state. Members, employees, Commission contractors, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper credentials. If any member, employee, Commission contractor, or agent is refused the right to enter in or on public or private property under this authority, the Executive Director may invoke the remedies authorized in TWC § 7.002.
 4. Permit Amendment or Renewal
 - a. The permittee(s) shall give notice to the Executive Director as soon as possible of any planned revisions to the SWMP that would require amendment of the permit.
 - b. The permittee(s) shall apply for an amendment or renewal at least 180 days prior to expiration of the existing permit in order to continue a permitted activity after the expiration date of the permit. Authorization to continue such activity will terminate upon the Commission's denial of the application.
 - c. In accordance with the TWC § 26.029(b), after a public hearing, notice of which shall be given to the permittee(s), the Commission may require the permittee(s), from time to time, for good cause, in accordance with applicable

laws, to conform to new or additional conditions.

- d. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the CWA for a toxic pollutant that is present in the discharge, and that standard or prohibition is more stringent than a numeric limitation that was established for that pollutant in this permit, then this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition. The permittee(s) shall comply with effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not been modified to incorporate the requirement.

5. Permit Transfer

- a. Prior to any transfer of this permit, Commission approval must be obtained. The Commission shall be notified in writing of any change in control or ownership of a system authorized by this permit. Such notification should be sent to the Applications Review and Reporting Team (MC-148) of the Water Quality Division.
- b. A permit may be transferred only according to the provisions of 30 TAC § 305.64 (relating to Transfer of Permits) and 30 TAC § 50.133 (relating to Executive Director Action on Application for Transfer).

6. Relationship to Hazardous Waste Activities

This permit does not authorize any activity of hazardous waste storage, processing, or disposal which requires a permit or other authorization pursuant to the Texas Health and Safety Code.

7. Property Rights

A permit does not convey any property rights of any sort, or any exclusive privilege.

8. Permit Enforceability

The conditions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

D. OPERATIONAL REQUIREMENTS

1. Upon request by the Executive Director, the permittee(s) shall take appropriate samples and provide proper analysis in order to demonstrate compliance with Commission rules.
2. The permittee(s) shall provide a readily accessible sampling point and, where required by the permit, a flow measuring device or other acceptable means by which discharge flow may be determined, at point sources and outfalls with discharge monitoring requirements.

3. The permittee(s) shall remit an annual water quality fee to the Commission as required by 30 TAC Chapter 21. Failure to pay the fee may result in revocation of this permit under Texas Water Code § 7.302(b)(6).

4. Documentation

For all written notifications to the Commission required of the permittee(s) by this permit, the permittee(s) shall keep and make available a copy of each such notification under the same conditions as self-monitoring data are required to be kept and made available. Except for applications, effluent data, permits, and other data specified in 30 TAC § 1.5(d), any information submitted pursuant to this permit may be claimed as confidential by the submitter. Any such claim must be asserted in the manner prescribed in the application form or by stamping the words “confidential business information” on each page containing such information. If no claim is made at the time of submission, information may be made available to the public without further notice.

5. Facilities which generate industrial solid waste as defined in 30 TAC § 335.1 shall comply with provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.

6. Proper Operation and Maintenance

The permittee(s) shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by a permittee to achieve compliance with the conditions of this permit and with the requirements of stormwater management programs. 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 by a permittee only when necessary to achieve compliance with the conditions of the permit.

Revised 3/2016