

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT ON TCEQ GENERAL PERMIT NO. TXR050000

Timely public comments were received from the following entities: Airlines for America (AFA), City of Amarillo (Amarillo), City of Austin – Department of Aviation (ABIA), Cantey Hanger LLP (Cantey Hanger), Dallas Area Rapid Transit (DART), Dallas-Fort Worth Airport (DFW), DiSorbo Consulting, LLC (DiSorbo), Environmental and Occupational Risk Management, Inc. (EORM), Harris County, Hensley Industries, Inc. (HI), Environment Texas, Houston Airport System (HAS), Progressive Water Solutions (PWS), Steele Environmental Services LLC (Steele), TECO-Westinghouse Motor Company (TECO), Westward Environmental, Inc. (Westward). Timely individual comments were also received from Holly Craig, Cary Karnstadt, and Michael Moore.

General Comments

Comment 1: Holly Craig and Cary Karnstadt were concerned regarding the granting of multi-sector general permit (MSGP) authorizations for industrial stormwater discharges to specific facilities.

Response 1: The process for issuing a water quality general permit does not include consideration of the issuance or potential issuance of specific authorizations under the general permit. Texas Water Code (TWC) §26.040(a) specifically authorizes TCEQ to issue general permits for the discharge of stormwater. Once the general permit is issued, all industrial activities that are required to obtain an authorization must submit a notice of intent (NOI) for coverage. Only when an NOI for coverage is submitted does TCEQ consider authorizations for specific facilities. Authorizations are issued only to those facilities who meet the requirements for coverage under the general permit. Prior to obtaining coverage under the general permit, a stormwater pollution prevention plan (SWP3) must be developed for the site.

Comment 2: Westward comments that they would like to review the draft version of the NOI associated with the new MSGP. Westward understands that the current NOI will be modified to correspond to the changes to the MSGP and requests the new NOI be provided to the regulated community by posting it on the TCEQ website.

Response 2: The NOI will be revised, as needed, and made available to the regulated community on the effective date of the permit. Currently, the NOI (Form number 10382) can be found on the TCEQ's Forms Web Page:

https://www.tceq.texas.gov/search_forms.html#number

Comment 3: Environment Texas comments that the updated MSGP should include a revised requirement for NOIs in order to provide TCEQ with more information so TCEQ can better inform permittees regarding their specific monitoring requirements. Environment Texas comments that the NOIs should also include these Environmental Protection Agency (EPA) suggested items: 1) location information for each stormwater outfall discharged from; 2) whether the facility

discharges to saltwater; 3) the hardness of the receiving water; and 4) general information from their storm water pollution prevention plan (SWP3) if the plan is not posted online. Environment Texas also notes that the following items are being required to be identified in NOIs for the 2015 EPA MSGP: 1) onsite industrial activities exposed to stormwater, including potential spill and leak areas; 2) pollutants or pollutant constituents associated with each industrial activity exposed to stormwater that could be discharged in stormwater and any authorized non-storm water discharges; 3) control measures employed to comply with the non-numeric technology-based effluent limits; 4) a schedule for good housekeeping and maintenance; and 5) a schedule for all inspections required by the MSGP.

Response 3: TCEQ appreciates that there is additional information from regulated industrial facilities that could be collected on the NOI form. However, TCEQ notes that the NOI for this MSGP renewal is not a part of the general permitting process and will only be finalized after the general permit is issued. As required by 30 TAC §205.4(a)(5), the NOI “ shall be submitted to the executive director in a form or format that is specified in the general permit or otherwise set out in commission rules.” At a minimum, the NOI will contain the legal name and address of the owner and operator, the facility name and address, specific description of its location, type of facility or discharges, and the receiving water(s). The NOI will also request additional information necessary to comply with the general permit. The NOI may also be modified, as necessary, during the general permit term. For example, once EPA’s new National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule is implemented, the NOI will be modified to collect additional information to comply with that rule.

Comment 4: Environment Texas comments that in an effort to provide greater transparency and public access to the SWP3, the TPDES MSGP should require that permittees provide either a web link for their SWP3 on the NOI form or provide more specific information from the SWP3 on the NOI form.

Response 4: TCEQ will continue to require facility operators to keep the SWP3 on site and have it available to TCEQ personnel for inspection. For purposes of this renewal, TCEQ is not contemplating requiring regulated entities to provide web links to SWP3s developed and implemented under the MSGP, but this option may be considered in the future.

Comment 5: Michael Moore comments that the draft MSGP is not adequately protective of Lake Austin and Lake Travis water quality areas. Mr. Moore notes that Lake Travis is designated as having “exceptional” aquatic life issues and that such water bodies require special measures. Mr. Moore recommends that individual permits be required of industrial facilities that discharge stormwater to these water bodies.

Response 5: 30 TAC Chapter 311, Watershed Protection Subchapter A allows the discharges of stormwater runoff authorized by a Texas Pollutant Discharge Elimination System (TPDES) permit or a NPDES permit. The MSGP is a TPDES permit that regulates

stormwater from industrial facilities listed in 40 CFR §122.26 (b)(14). The industries are required to use BMPs and technology-based limits that reduce pollutants to the maximum extent practicable. The MSGP is consistent with the provisions of 30 TAC Chapter 311, as well as the requirements of the TWC and the federal Clean Water Act. TCEQ declines to make the suggested changes since TCEQ already has the authority to require an application for an individual TPDES permit based on a variety of factors such as for discharges of stormwater from any industrial facility that is determined to cause a violation of water quality standards. *See Part II, Section B – Limitation on Permit Coverage.*

Comment 6: Michael Moore comments that the draft MSGP does not provide adequate public participation in the development of discharge effluent limitations, including the SWP3. Mr. Moore notes that there is no mailed or published notice of individual authorizations and that the SWP3 is not submitted to TCEQ for confirmation of its existence and adequacy. Additionally, Mr. Moore notes that the MSGP does not provide public participation in the same way as EPA's MSGP on this issue and should at least provide the equivalent process. Cary Karnstadt asks whether the MSGP renewal will be sent to all county judges, in particular, the county judges in Burnet and Travis County.

Response 6: For the MSGP, TCEQ follows the general permit requirements for public participation, public notice, public meetings, and public comments specified in TWC §26.040(b)-(d) and 30 TAC §205.3, both applicable to public notice requirements for general permits. During the general permit public participation process, the public has 30 days to submit written comments on the draft general permit. Additionally, TCEQ held a stakeholder meeting on January 8, 2015, prior to initiating the formal general permit renewal process and a public meeting on the draft general permit during the public participation period on November 16, 2015. Once an authorization under the MSGP is issued, the public has 23 days from the date of the authorization is issued to file a motion to overturn (MTO). A MTO is a request for the commission to review the executive director's approval of an authorization. *See 30 TAC § 50.139, Motion to Overturn.*

Notification of the MSGP renewal is mailed to the common address for county judges in each county in the state, including Burnet and Travis Counties.

An applicant is responsible for the development and implementation of the SWP3. The applicant submits a NOI (application for MSGP authorization) and signs the application documents according 30 TAC Chapter 305 Subchapter C (§305.44) and certifies that they have developed a SWP3 as required by the MSGP. The SWP3s must be maintained onsite and available to TCEQ for inspection and verification of permit compliance. In addition, stormwater discharges in the Edwards Aquifer Recharge Zone (such as for Williamson, Travis, and Hays counties where Lake Travis and Lake Austin are located) are required to comply with the requirements of 30 TAC Chapter 213 – Edwards Aquifer Protection Rule. *See Part II, Section B- Limitation on Permit Coverage.*

TCEQ has complied with all federal and state notice requirements. In addition, EPA Region 6 has reviewed the proposed documents and had no comments or objections in their approval letter received August 12, 2015.

Comment 7: Michael Moore comments that the mailed notice of the SWP3 should be given to nearby and downstream landowners.

Response 7: Mailed notice for individual authorizations under TCEQ general permits is not required per TWC §26.040(b) or 30 TAC §205.3. The only public notice requirements in the statutes or rules are for the general permit itself, not for the individual authorizations.

Comment 8: Michael Moore comments that the MSGP should require more frequent monitoring than once per year. Mr. Moore recommends monthly monitoring, particularly in Sector D – Asphalt, roofing materials, and lubricants.

Response 8: The monitoring requirements listed in the MSGP are consistent with the federal industrial stormwater regulations in 40 CFR Part §122.44 (Establishing limitations, standards, and other permit conditions) and Part §122.48 (Requirements for recording and reporting of monitoring results). TCEQ declines to make the suggested change.

Comment 9: Michael Moore comments that the MSGP fails to sufficiently address cumulative impacts from multiple facilities located close to each other or that are located in the same watershed. Mr. Moore comments that due to this shortcoming, the MSGP does not sufficiently implement TCEQ's Tier 2 anti-degradation policy.

Response 9: TCEQ has established that the controls for stormwater discharges in the MSGP are based on BMPs, technology-based limits, or a combination of both. The required monitoring of stormwater discharged by each facility, provides the level of stormwater treatment consistent with the provisions of the TWC and the federal Clean Water Act; and complies with 30 TAC §307.5 (Antidegradation) and 30 TAC §307.9 (Determination of Standards Attainment). In accordance with 30 TAC §307.5 and the TCEQ implementation procedures for the Texas Surface Water Quality Standards, an antidegradation review of this general permit was performed. The conditions in this general permit which include, implementation of a SWP3, routine monitoring and inspections, numeric permit limitations, industry-specific requirements, benchmark monitoring requirements, and more have been determined to be sufficient to maintain and protect existing uses and preclude degradation of waters in the state. TCEQ declines to make any revisions to the MSGP as a result of the comment.

Comment 10: Environment Texas comments that electronic reporting should be required in the updated MSGP because it will create efficiencies and reduce the burden of submitting information.

Response 10: As a result of the final NPDES Electronic Reporting Rule effective December 21, 2016, language regarding electronic reporting requirements was added to

Part II, Section. C.2.(a)(2), Part II Section C.6(c), and Part II Section C.7(b)(2) regarding submittal of application forms (see below):

Part II, Section. C.2.(a)(2):

(2) Electronic NOIs and NECs. Effective September 1, 2017, applicants must submit an NOI or NEC using the online e-permitting system available through the TCEQ website or request and obtain an electronic reporting waiver. Electronic reporting waivers are not transferrable and expire on the same date as the authorization to discharge.

Part II Section C.6(c):

(c) Effective September 1, 2017, permittees must submit an NOC using the online e-permitting system available through the TCEQ website unless the permittee obtained an electronic reporting waiver.

Part II Section C.7(b)(2):

(2) Effective September 1, 2017, permittees must submit an NOT using the online e-permitting system available through the TCEQ website unless the permittee obtained an electronic reporting waiver.

Additionally, language regarding electronic reporting requirements was added to the following sections regarding discharge monitoring reporting (DMR) requirements (see below):

Part III, Section C1.(c)(2)

(1) Effective December 21, 2016, analytical results for determining compliance with effluent limitations shall be submitted online using the NetDMR reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver. Permittees that are issued an electronic reporting waiver shall submit analytical results to the TCEQ Enforcement Division (MC-224) on a Discharge Monitoring Report form (EPA No. 3320-1).

Part III E. 6(a)(1):

(1) DMRs shall be submitted online using the NetDMR reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver. Permittees that are issued an electronic reporting waiver shall submit analytical results to the TCEQ Enforcement Division (MC-224) on a Discharge Monitoring Report form (EPA No. 3320-1). Effluent sampling shall be conducted in accordance with the monitoring frequencies specified in this general permit.

These changes are consistent with the new NPDES Electronic Reporting Rule and with other general permits issued by TCEQ. Over 50% of industrial site operators already

submit applications electronically through the TCEQ's electronic reporting system (ePermits).

Part I. – Definitions

Comment 11: EORM comments that in the definition of “benchmark” there is a phrase that appears to contain an extra word or otherwise incorrectly worded: “...could point to a identify problems at the site.”

Response 11: TCEQ agrees with the comment and revised the second sentence of the definition to read as follows:

“This type of monitoring differs from “compliance monitoring” in that exceedances of the indicator or benchmark level are not permit violations, but rather indicators that can help identify problems at the site with exposed or unidentified pollutant sources; or control measures that are either not working correctly, whose effectiveness need to be re-considered, or who need to be supplemented with additional BMPs.”

Part II.A.

Comment 12: EORM comments that in Part II.A.4, it would be helpful to clarify how to address co-located industrial facilities when one or more of the facilities is an oil and gas facility, not subject to TCEQ jurisdiction.

Response 12: There are a number of scenarios that can arise that affect jurisdiction of oil and gas sites between TCEQ and the Railroad Commission of Texas (RRC). Part V.I. (Oil and Gas Extraction Facilities) lists the oil and gas standard industrial classification (SIC) codes for industrial activities that are not regulated by TCEQ. The permit explains that those industrial activities are regulated under the EPA's NPDES program and would be subject to EPA's regulations and the federal MSGP, if applicable. Where the jurisdictional boundaries are uncertain, TCEQ and RRC can address those questions on a case-by-case basis.

Part II.B.

Comment 13: In reference to Part II.B.7, TECO asks whether unnamed, intermittent tributaries are considered water bodies for purposes of the MSGP.

Response 13: Consistent with the Texas Surface Water Quality Standards (TSWQS) definition of surface water in the state, unnamed, intermittent tributaries are considered water bodies or water in the state for the purposes of this MSGP.

Comment 14: Michael Moore commented that the provision in Part II.B.7. is insufficiently protective of impaired water bodies and does not assure compliance with TCEQ's Tier 1 anti-degradation policy.

Response 14: It is unclear what aspects of B.7 the commenter considers to be insufficiently protective. The Tier 1 Antidegradation Policy found in 30 TAC

§307.5(b)(1) of the TSWQS states: “existing uses and water quality sufficient to protect those existing uses shall be maintained.” Additionally, 30 TAC §307.5(c)(2)(A) of the TSWQS states: “All pollution that could cause an impairment of water quality is subject to Tier 1 reviews. If the existing uses and criteria of a potentially affected water body have not been previously determined, then the antidegradation review must include a preliminary determination of existing uses and criteria. Existing uses must be maintained and protected.” This means that waterbodies must continue to be fishable and swimmable following permitted discharges.

Section B.7. of the MSGP states:

“Discharges of the pollutant(s) of concern to impaired water bodies where there is a TMDL are not eligible for coverage under this permit, unless they are consistent with the EPA-approved TMDL. Permittees must incorporate the limitations, conditions, and requirements applicable to their discharges, including monitoring frequency and reporting required by TCEQ rules, into their SWP3 in order to be eligible for MSGP permit coverage.”

Section B.7. contains numerous requirements for discharges into impaired waters intended to document the presence or absence of pollutant(s) of concern, detail how the pollutant(s) of concern are isolated (preventive measures), additional monitoring requirements with benchmark monitoring levels, contingency measures if pollutant(s) of concern are detected, and requirements of additional controls consistent with the Total Maximum Daily Load (TMDL) Implementation Plan.

Furthermore, TCEQ has the authority to require additional control measures as necessary, or to revoke an entity’s authorization under the MSGP and require submittal of an application for an individual TPDES permit. These conditions in the MSGP provide for numerous additional requirements for discharges to impaired waterbodies and provides reasonable assurances that when these requirements are followed, there will be adequate protection of impaired waterbodies and compliance with the Tier I Antidegradation Policy. In accordance with 30 TAC §307.5 and the TCEQ implementation procedures for the Texas Surface Water Quality Standards, an antidegradation review of this general permit was performed. The conditions in this general permit which include, implementation of a SWP3, routine monitoring and inspections, numeric permit limitations, industry-specific requirements, benchmark monitoring requirements, and more have been determined to be sufficient to maintain and protect existing uses and preclude degradation of waters in the state.

Comment 15: EORM comments that there may be some inconsistency between the wording in Part II B.7. and the definition of “impaired water” in the draft permit. EORM notes that the definition refers to an “EPA-approved or established TMDL,” and this section refers to a “TCEQ approved TMDL” and “an approved TMDL” in different locations. EORM comments that for a regulated facility to know specifically what requirements they need to address, these items should all say “EPA-approved TMDL” (as stated in the definition) since that is the final stage of TMDL development.

Response 15: TCEQ agrees with the comment and made the appropriate revisions to the wording in Part II.B.7.(a.) of the MSGP as follows:

(a) The permittee shall determine whether the permitted authorized discharge is to an impaired water body on the latest approved CWA Section 303(d) List, or waters with an EPA-approved or established total maximum daily load (TMDL) that are found on the latest EPA-approved Texas Integrated Report of Surface Water Quality for CWA Sections 305(b) and 303(d) as not meeting applicable Texas Surface Water Quality Standards.

Comment 16: EORM asks regarding Part II.B.7(c)(3) whether a regulated facility needs to address only those “pollutants of concern” that have a benchmark value. If so, EORM asks whether a facility that has a septic drain field or irrigation system and discharges stormwater to a water body that is impaired for bacteria has to address bacteria if there is no benchmark. EORM notes that B.7.(c)(3)(c) later clarifies that where a benchmark is not available, the permittee must compare the results to the water quality criteria in 30 TAC Chapter 307, or to the minimum analytical level (MAL). EORM comments that if it is intended that a facility address any pollutants of concern, and not just those applicable to activities specific to a sector, the reference to benchmark value in B.7(c)(3) should be deleted or the language should say to compare to the benchmark value, water quality criteria, or MAL.

Response 16: The SWP3 for a facility regulated under the MSGP must address all of the “pollutants of concern” that are discharged from the site and that are listed as contributing to a water quality impairment. For example, a facility that has a septic drain field or irrigation system and that also discharges stormwater to a water body that is impaired for bacteria is required to address bacteria in its SWP3 even if there is not an identified benchmark value. For existing discharges to an impaired water body with an approved TMDL, permittees must comply with any additional controls in the TMDL Implementation Plan (I-Plan). If the I-Plan does not identify monitoring requirements for the permittee, then additional monitoring is not required under Part III.B.4(a).

TCEQ declines to change or delete the reference to benchmarks in Part II.B.7(c)(3) of the MSGP, because it clarifies that where a benchmark is not available, the permittee shall compare the results to the water quality criteria in 30 TAC Chapter 307, or to the minimum analytical level (MAL).

Comment 17: Westward requests clarification of the meaning of the phrase "discharges that would adversely affect" and what documentation is required to prove that the federal Endangered Species Act is satisfied in Part II.B.10. Environment Texas comments that the MSGP should further outline procedures that operators must follow with regards to the protection of threatened or endangered species.

Response 17: A discharge that would have an adverse effect on a listed species means that the survival, reproduction, or growth of a species is affected. If it is determined that adverse effects to a listed species have occurred as a result of a discharge, a facility’s authorization under the MSGP may be revoked and an application for an individual

TPDES permit required. Regardless, the permittee is subject to all applicable federal laws and regulations. There are a number of BMPs that a facility can implement to ensure protection of endangered species. These BMPs are very site-specific depending on local conditions and the species in question that is in close proximity to the outfall(s). Operators are encouraged to discuss these options with TCEQ on a case-by-case basis to determine the most protective methods available for their site-specific conditions.

Comment 18: Harris County comments that Part II.B.12. of the MSGP states that “[t]he operator may be required to demonstrate, using engineering calculations or similar methods, that the facility will not discharge stormwater associated with industrial activity.” Harris County requests the language to be modified as follows: “[t]he operator shall provide certification by a professional engineer that the facility will not discharge stormwater associated with industrial activity.” In the alternative, Harris County requests adding the following language to this section: “Upon request by TCEQ or a local pollution control agency with jurisdiction, the operator shall provide certification by a professional engineer that the facility will not discharge stormwater associated with industrial activity.”

Response 18: TCEQ declines requiring that a professional engineer certify, under seal that the facility is not discharging nor will a discharge occur in the future because the requirement creates an undue burden for the operator and it is not required by the federal regulations. This proposed requirement can be especially burdensome for small businesses. Furthermore, the TCEQ and local authorities have the ability to review documents for suitability during inspections, complaints, etc.

Part II.C.

Comment 19: In Part II.C.1.(a)(8)(c), PWS recommends removing the word “concrete” to allow other suitable structures not made of concrete, e.g. steel, fiberglass, plastic, etc.

Response 19: TCEQ declines to remove the word “concrete.” The permit does not limit the use of other types of secondary containment structures. The term “concrete retaining structure” included in the parenthesis of Part II, C.1.(a)(8)(c) is included only as an example of a type of retaining structure that may be used.

Comment 20: PWS recommends changing the phrase “are considered” to “are not considered” in the first sentence of the last paragraph of Part II.C.1.(a)(8) to make the statement consistent with earlier statements in that section.

Response 20: TCEQ agrees with the comment and revised the paragraph as suggested to read as follows:

“ASTs that dispense fuel to vehicles that are used to support the regulated facility operations are not considered exposed.”

Comment 21: Regarding Part II.C.1.(b), DART requests that stockpiled train rails and related metal products be removed from the example list of products considered

contaminant sources not eligible for a “no exposure certification”. DART comments that these items are manufactured specifically for long-term outdoor use and therefore, contradicts the statement elsewhere in the permit that allows exposure to stormwater where products are intended for outdoor use. Such exclusion would adversely affect the ability of DART and other transit agencies to effectively utilize outdoor storage. DART also contends that this prohibition is contrary to 40 CFR § 122.26(g)(2)(iii), which states that certain industrial materials and activities do not require a storm resistant shelter, unless they would be mobilized in stormwater discharges.

Response 21: TCEQ agrees with the comment and has removed the terms “stockpiled train rails” and “metal products” from Part II.C.1.(b)(2.). The terms “stockpiled train rails” and “metal products” were added during the 2011 MSGP permit renewal based on EPA’s *Guidance Manual for Conditional Exclusion from Storm Water Permitting Based On “No Exposure” of Industrial Activities to Storm Water* (June 2000). TCEQ agrees that train rails are considered a finished product and intended for outdoor use. This revision does not conflict with 40 CFR § 122.26(g)(2)(iii) and is consistent with the EPA 2015 MSGP.

Comment 22: Amarillo comments that in Part II.C.1., quarried slabs of stone, such as marble and granite, that provide the source material for production for sale of countertops and other related products are currently required to be stored in a manner that does not expose them to stormwater runoff in order to qualify for a no exposure certification. Amarillo comments that marble and granite are found in the environment and produce no documented toxic threat to receiving waters in their natural, cut, or finished state. Amarillo requests adding a paragraph, as follows, to the list of materials and activities that are not required to be isolated from stormwater in order to meet the no exposure exclusion: “Raw or intermediate cut stone (i.e. marble, quartz, or granite) to be used to provide a finished product, provided these have been rinsed prior to outdoor storage to prevent the introduction of cutting dusts.”

Response 22: To qualify for the no-exposure exclusion all industrial materials, such as raw materials, intermediate products, by-products, final products, or waste products, and activities need to be protected by a storm resistant shelter. See 40 CFR §122.26(g). Countertops made of cut stones, such as marble and granite are considered industrial materials and are therefore required to be protected under a storm resistant shelter even though they are made of material found in the environment. Only certain final products that are intended for outdoor use do not require a storm resistance shelter. Examples of final products intended for outdoor uses are new automobiles, swing sets, wooden benches and railroad rails as discussed in a previous comment. In order to be consistent with the federal regulation and the EPA 2015 MSGP, TCEQ declines to make this suggested change.

Comment 23: Amarillo comments that the same reasoning in the previous comment applies to scrap marble and granite and that if a threat exists, it would be from cutting dust. Amarillo asks if these scraps are a threat, why is the finished stone allowed to be stored outdoors. They also asked if rinsing scrap marble and granite before storage

would be sufficient to eliminate concerns about cutting dust. Amarillo requests TCEQ consider adding a paragraph, as follows, to the list of materials and activities that are not required to be isolated from stormwater in order to meet the no exposure exclusion: “Stone cuttings (scrap material), that are of sufficient size to not be subject to mobilization by wind or stormwater discharges, that have been rinsed prior to outdoor storage.”

Response 23: The size of “scrap material” is not referenced in 40 CFR §122.26(g), only that this type of product does not qualify for the no-exposure exclusion. See previous comment and response. In order to remain consistent with the federal regulations, TCEQ declines to make the suggested change.

Comment 24: Amarillo comments that the signatory requirements in Part II.C.8. reference 30 TAC § 305.44, but does not reference the signatory requirements in 30 TAC § 305.128. Amarillo recommends revising the applicable language in C.8. to read: “NOI, NOT, NOC, and NEC forms must be signed according to 30 TAC § 305.44 and 30 TAC § 305.128 (relating to Signatories for Applications). Signatory authority may not be delegated to a person who does not meet the requirements listed in the referenced rule.”

Response 24: Part II.C.8. does not reference the signature requirements in 30 TAC §305.128 because this requirement applies to the signature authority for reports, such as DMRs, versus the signatory requirements in 30 TAC §305.44, which applies to signing permit applications, including general permit NOI, NOC, and NEC forms. The difference in the two provisions recognizes that the reporting functions required to meet permit requirements are generally handled at a different organizational level than the entities decision to obtain/cancel permit coverage or to make changes to permits.

Part III.A.

Comment 25: TECO recommends adding a reference in Part III.A.1.(b) to environmental management programs based on other standards or requirements. For example, some places have environmental management systems that follow international standards such as the International Organization for Standardization (ISO).

Response 25: Environmental management systems are not regulatory requirements under the NPDES/TPDES program. However, the SWP3 can refer to a certified environmental management system as additional documentation if it is implemented at a facility. No changes were made to the permit based on the comment.

Comment 26: Harris County comments that Part III.A.4.(f)(1) states that “[t]raining must be conducted at least once per year and records of training activities must be maintained in the SWP3.” Harris County requests that the language be modified as follows “...records of training activities, including employee sign-in sheets, must be maintained in the SWP3.” Harris County comments that in many instances, it is difficult for investigators to verify that the training program is being implemented without documentation of employee attendance and that the requested change will

greatly assist in the investigation process.

Response 26: TCEQ agrees with the comment. The suggested language will support TCEQ's SWP3 template, which already includes an example of employee training sign-in sheet being kept with the SWP3. EPA's guidance document for developing a SWP3 (EPA 833-B-09-002), also states that the permittee should have a sign-in sheet for each training class and maintain those sign-in sheets with their SWP3. In response to the comment, Part III.A.4.(f)(1) of the MSGP was revised as follows:

“Training must be conducted at least once per year and records of training activities and attendance lists must be maintained in the SWP3.”

Part III.B.

Comment 27: Cantey Hanger notes that Part III.B.2.(c) lists the specific elements that must be included in routine quarterly inspections and requests deleting (c)(7) – “any incidents of noncompliance that are observed” from this list. Cantey Hanger comments that this deletion would avoid confusion and duplication associated with the other references in the MSGP to “issues of noncompliance” set forth in Part III.B.5(b)(6) and E.6.(b)(3).

Response 27: TCEQ declines to delete item B.2.(c)(7) from the permit, but has added clarification to Part III.B.2(c) for the purpose of identifying instances of non-compliance when performing routine facility inspections. B.2(c)(7) now reads:

“(7) any incidents of non-compliance that are observed. An incident of non-compliance is any instance where an element of the SWP3 is either not implemented, or where specific conditions of the permit are not met;”

The purpose of these quarterly routine inspections is to determine the effectiveness of the pollution prevention measures and controls set forth in Part III.A.(4). During the inspections, if any incidents of non-compliance is found, the selected BMPs must be modified appropriately to maintain compliance with this general permit. The permittee shall document the findings and modifications; and documentation must be kept onsite with the SWP3 as stated in Part III, B.2.(b) of the general permit.

Comment 28: TECO asks for a clarification of the language in Part III.B.4.(a) and requests adding language to direct the reader to Part II.B.7. for a determination.

Response 28: Part III B.4(a) already includes a reference to B.7. TCEQ believes that the requirement and reference are clear and declines to make any changes in response to the comment.

Comment 29: Cantey Hanger comments that the title of Part III.B.6. suggests that it relates to compliance and noncompliance revealed by inspections and monitoring activities described in the preceding sub-sections of Section B. Cantey Hanger notes that the last sentence in B.6. requires the permittee to submit the results of monitoring (not inspections) conducted under this permit that demonstrate noncompliance with

any permit condition, and then refers to Part III.E.6., "Reporting Requirements." Cantey Hanger comments that if the intent of the last sentence in B.6. is to require the permittee to submit only the results from those monitoring activities described in B.6., they suggest inserting the phrase "water quality and visual" in the final sentence of B.6. before the word "monitoring," in keeping with the types of monitoring described in the preceding sub- sections. Alternatively, if the intent of the last sentence of item B.6. is to require the permittee to submit the results of any water quality monitoring or inspection that demonstrates noncompliance, they request rephrasing the last sentence to read: "If the findings of the inspections and monitoring activities described in this section demonstrate noncompliance, the permittee shall submit the results to the TCEQ in accordance with Part III, Section E.6."

Response 29: Part III.B.6. relates to compliance and non-compliance revealed as a result of inspections and monitoring activities conducted by the permittee. Therefore, in response to the comment, B.6. was revised to read as follows:

"If the findings of the inspections and monitoring activities described in this section demonstrate noncompliance, the permittee shall submit the results to the TCEQ in accordance with Part III, Section E.6. "

Part III.C.

Comment 30: Harris County comments that Part III.C.(1)(d) of the MSGP allows industrial facilities to qualify for a waiver from effluent limitation monitoring of one or more hazardous metals based solely on what they think constitutes their raw materials, intermediate products, or final products. Harris County requests requiring the sample collection certification in C.(1)(d)(3) of all facilities seeking a waiver for one or more hazardous metals under this provision. Harris County notes that it is often difficult and time-consuming for inspectors to verify what metals the facility may have in its materials or products; and whether they are ever exposed to storm water or runoff because it requires being present to sample during a rain event or having detailed process knowledge of a facility. Harris County states that the best way to ensure that no hazardous metals are being discharged is to require the permittee to collect a sample during the first sampling period a sample is required, analyze the sample for the hazardous metals that would be waived, and verify that the metal(s) is/are not present in detectable levels as indicated in Table 2 C.(1)(d)(3).

Response 30: The MSGP provides entities the flexibility to monitor for hazardous metals in their discharge to determine if they can qualify for a waiver. Alternatively, they can verify that they have no products containing the hazardous metals. This approach was also used in the previous two versions of the MSGP issued and is used to provide entities with the flexibility. This approach does not exclude local authorities from requesting a sample to verify a waiver is justified. Unlike the EPA's 2015 MSGP, the TCEQ allows permittees to have a waiver option for hazardous metals. No changes were made to the permit based on this comment.

Part III.D.

Comment 31: Cantey Hanger comments that the draft permit in Part III.D.2.(b)(3)(a) states that substantially similar outfalls may not be established for outfalls with any non-storm water discharges. Cantey Hanger recommends revising this statement as follows: "Substantially similar outfalls may not be established for outfalls with any non-storm water discharge, unless the non-storm water discharge is determined to be an allowable non-storm water discharge pursuant to Section II.A.6. of this general permit."

Response 31: Substantially similar outfalls need to have comparable characteristics of their drainage areas such as industrial activities and BMPs resulting in the discharges from those outfalls being substantially similar. Adding an allowable non-stormwater discharge to an outfall will generally alter the characteristics by changing the concentration of pollutants, resulting in an outfall that cannot be considered substantially similar in many cases. No changes were made to the permit based on this comment.

Comment 32: Amarillo comments that Part III.D.2.(b)(4)(f) and (g) use the term "substantially identical" instead of the term "substantially similar" that is used in the rest of this subsection. Amarillo recommends using the term "substantially similar" in (f) and (g) for consistency.

Response 32: TCEQ agrees with this comment. The recommended change was made to Part III.D.2.(b)(4)(f), and (g) of the permit.

Part III.E.

Comment 33: ABIA asks for clarification in Part III.E. regarding what noncompliance(s) must be reported. ABIA comments that by stating "any other noncompliance(s)," that seems to encompass everything including minor issues such as a paperwork error and asks whether it is the intent of TCEQ to be notified of minor incidents of non-compliance.

Response 33: "Any non-compliance" is any instance where an element of the SWP3 is not implemented, or where specific conditions of the permit are not met. In response to the comment, TCEQ clarified Part III.E.6.(b)(3) by adding a reference to Part III.B.5(b)(6) where incidents of non-compliance are described.

Comment 34: DiSorbo notes that Part III.E.4.(a) requires that benchmark samples must be collected before the discharge comingles with stormwater from other areas of the site. DiSorbo comments that many facilities covered by the MSGP have designed and installed drainage systems that provide treatment for stormwater discharges from both regulated and non-regulated portions of the facility at an external outfall prior to discharge. DiSorbo states that allowing permittees to collect monitoring samples at an external outfall when structural controls or BMPs provide treatment at the final outfall more accurately represent the quality of the stormwater being discharged. Requiring

multiple internal monitoring points is unduly burdensome and potentially costly to implement. DiSorbo recommends continuing to allow sampling to occur at a point downstream of all treatment, but prior to discharge.

Response 34: The comment references Part III.E.4.(a), the correct citation in the MSGP is Part III.E.4.(b) regarding stormwater commingling with other areas of the site. TCEQ agrees and made the suggested changes. Please refer to the next response to see the proposed language revisions.

Comment 35: HI opposes the addition of Part III.E.4.(b) – Benchmark Monitoring because this section implies that benchmark samples are required after each BMP and that this type of sampling should be left to the discretion of the industry as part of their investigation of benchmark value exceedances. HI and Amarillo comment that this section is incompatible with other sections of the permit, which require monitoring for benchmark parameters in discharges, only. At minimum, HI comments that this sampling requirement should be limited to structural BMPs. Amarillo states that the language concerning internal and external outfalls conflicts with the definition of outfall and discharge in the permit by associating them with the concept of internal monitoring. Amarillo comments that permittees should be free to focus monitoring on individual BMP effectiveness and be responsible for the overall basin results for each outfall as they discharge. Amarillo recommends deleting Part III.E.4.(b) and re-numbering the following sections, as appropriate.

Response 35: Benchmarks are intended to help facility operators evaluate their stormwater controls and BMPs. An exceedance of the benchmark value is not a permit violation, but an indication that there may be issues at the site that require further investigation and possible corrective action. For additional information, see EPA's Industrial Stormwater Monitoring and Sampling Guide (EPA 832-B-09-003, March 2009).

Monitoring results do not necessarily describe effectiveness of only structural controls, because good housekeeping measures and other "common sense" practices will have an impact on benchmark monitoring results as well. The sample locations can be after a BMP/ structural control or at a final outfall. The optimal location is site specific to the facility, and if the area's site and controls meet the requirements for substantially similar outfalls, then those can be used for the benchmark monitoring.

In response to the comment, Part III.E.4.(b) of the MSGP was revised as follows:

"(b) Benchmark Monitoring. This type of monitoring differs from monitoring for compliance with numeric effluent limitations. Results from benchmark monitoring are used to determine if the selected BMPs are effective. The samples should be collected from internal or external outfalls where the BMPs are installed."

Comment 36: Amarillo comments that the current benchmark data set is based on data collected from regulated entities and is not scientifically applicable, scientifically

prudent, or proper. Amarillo also objects to lowering the benchmark standard for biological oxygen demand (BOD) from 30 mg/l to 20 mg/l, Total suspended solids (TSS) from 100 mg/l to 50 mg/l, and ammonia nitrogen from 2.5 mg/l to 1.7 mg/l because they are based on inadequate methodology. Amarillo also comments that due to regional variations in soil composition and other environmental factors statewide benchmark values are impractical and should be targeted regionally based on actual conditions. Amarillo notes that the Texas Department of Agriculture currently differentiates by region based upon the diversity of needs and special needs of the clients. Amarillo requests that TCEQ adjust benchmark values to account for regional differences or retain the benchmark values in the current version of the MSGP.

Response 36: TCEQ declines to revise the proposed benchmark values specified in the comment. The proposed benchmark values are based on a statistical analysis of benchmark monitoring data submitted by regulated entities to TCEQ during years 2011 to 2014. TCEQ assessed the data on a pollutant level across all sectors, as well as on a sector-specific level, and the resulting proposed changes to benchmark values were determined by comparing median pollutant values to the existing benchmark values. Median values with a deviation of 40% or greater were considered for benchmark values changes, a value that is consistent with the standard used to determine noncompliance in permit effluent limitations. However, analytical results that exceed a benchmark value are not in violation of the permit, but rather indicators that the selected BMPs in the SWP3 may need to be modified. It was determined that adjusting benchmarks for BOD, TSS, and ammonia nitrogen would provide corresponding regulated entities with a better indicator of the overall success of their BMPs. In addition, these values are ultimately intended to protect water quality, where the course and reach of watersheds across various regions precludes TCEQ from considering regional differences when determining sector benchmark values.

Comment 37: Cantey Hanger comments that under "Other Noncompliance" in Part III.E.6.(b)(3)(c), the draft permit states that "any other noncompliance with the permit" must be reported to the TCEQ by March 31st of the following year. Other sections of the draft permit that address a generic incident of noncompliance for the purposes of reporting are: 1) Part III.B.2.(c)(7), which addresses noncompliance observed during routine facility inspections and 2) Part III.B.6, requiring results of monitoring pursuant to Section B, which demonstrate noncompliance with any permit condition to be submitted to the TCEQ, and referring to Part III, Section E.6. However, Cantey Hanger notes that Part III.E.6.(b)(3)(c) states that the permittee may satisfy the reporting requirement in that subsection by submitting a copy of the annual comprehensive site compliance investigation (CSCE) report. If the intent of this sub-section of the permit is to require only reporting of noncompliance identified during the annual CSCE inspection, it is requested that be made clear by striking "with the general permit" in the first sentence of III.E.6.(b)(3)(c) and replacing it with "identified during the Annual CSCE inspection, as defined in Part III.B.5(b)(6)."

Response 37: In response to this and previous comments, Part III.E.6(b)(3)(c) of the MSGP was revised to refer to Part III.B.5.(b)(6)(a) as suggested. It now reads as follows:

- “c. Any other non-compliance(s) as described in Part III.B.5(b)(6)(a) must be reported to the TCEQ by March 31 following the calendar year in which the non-compliance(s) occurred.”*

The intent of E.6.(b)(3)(c) is not only to report non-compliances identified during the annual CSCE inspection, but any non-compliance at the facility.

Part IV.A.

Comment 38: Harris County comments that Part II.B.6. of the MSGP states: “...discharges 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 are not eligible for coverage under this general permit...” and that Part IV.A.1.(a) of the MSGP states: “...analytical results that exceed a benchmark value are not a violation of this permit, as these values are not numeric effluent limitations.” Harris County requests adding an exception to Part IV.A.1.(a) that provides if a facility exceeds a benchmark in the MSGP that is not designated as an effluent limit and/or is not listed in the water quality standards, but is determined to contribute a substantial pollutant load to a municipal separate storm sewer system (MS4) by the MS4 operator, the MS4 operator may elect to apply its own regulatory limitations by way of a local rule or ordinance to the facility. Harris County notes that in some situations the current language in Part IV.A.(1)(a) limits the effectiveness of the MS4 operator in improving stream quality where significant impacts are determined to occur from a discharge.

Response 38: As previously stated, benchmark results are used by the permittee to determine the effectiveness of the selected BMPs. Exceedances of benchmark values indicate that modifications may be necessary to the SWP3 and current BMPs. All benchmark analyses and any changes made to improve the effectiveness of selected BMPs must be documented in the SWP3. Failure to do so is a violation of the MSGP. Benchmark results are not numeric effluent limitations. Making any exceedance of a benchmark parameter a permit violation would defeat the purpose of benchmark monitoring. Local jurisdictions may choose to apply its own regulatory requirements as deemed appropriate to facilities as part of their MS4 permits. No changes were made to the permit based on this comment.

Comment 39: Harris County comments that Part IV.A.(1)(a) and Part II.B.(6) are in conflict and can pose difficulties in regulating stormwater discharges from industrial facilities. Part II.B.(6) states that “discharges 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 are not eligible for coverage under this general permit.” Part IV.A.1.(a) states that “analytical results that exceed a benchmark value are not a violation of this permit, as these values are not numeric

effluent limitations.” Harris County comments that the MSGP sets the benchmark value for pH as 6.0-9.0 S.U. TCEQ surface water quality standards for some stream segments are not always 6.0-9.0 S.U. for pH. Accordingly, it is possible for a facility to be in compliance with Part IV.A.(1)(a), but in violation of Part II.B.(6). Harris County requests that the language for the benchmark parameter of pH be changed for consistency with surface water quality standards for the stream segment where the facility discharges.

Response 39: TCEQ declines to revise the benchmark parameter for pH. Benchmark values are based on results of benchmark monitoring results submitted to the TCEQ by facilities authorized under the MSGP during years 2011 to 2014. This technology-based approach reasonably assures instream compliance with Texas Surface Water Quality Standards criteria due to the relatively smaller MSGP facility discharge volumes (i.e. less than 1 million gallons per day). This conservative assumption is based on TCEQ sampling conducted throughout the state, which indicates that instream buffering quickly restores pH levels to ambient conditions. Similarly, this approach has been historically applied within EPA issued NPDES general permits where technology-based pH limits were established to be protective of water quality criteria. Therefore, although Part IV.A.(1)(a) and Part II.B.(6) may appear to allow for an opportunity to conflict when segment criteria lie outside the benchmark for pH range of 6.0 – 9.0 S.U., the nature of these discharges and the natural buffering of the receiving waters is such that discharges are not expected to cause or contribute to a violation of water quality standards.

Part IV.B.

Comment 40: PWS recommends changing the phrase “each semiannual” to “each subsequent semiannual” in Part IV.B.1. Also, in that section, PWS recommends deleting the phrase “during the next four years” to account for NOIs initiated in permit years two through five.

Response 40: TCEQ agrees with this comment and item B.1.(a) of the MSGP was revised as follows:

- (a) Benchmark monitoring must be conducted once every six months (January through June **or** July through December) following permit issuance, and then once during each subsequent semiannual monitoring period (i.e., January through June and July through December) during the remaining permit term, except that a waiver is available for the third and fourth year according to Part IV, Section B.1.(c) below.*

Comment 41: In Part IV.B.1.(b), PWS recommends changing the phrase “first six months” to “first full six months” to clarify the intent as stated in previous MSGP permits and for consistency with the 2016 MSGP Fact Sheet. Also, PWS recommends adding “(i.e. January through June)” in that same section to clarify since all renewals occur in the latter half of the year the MSGP is re-issued.

Response 41: TCEQ agrees with this comment and made the suggested changes to Part IV.B.1.(b) of the MSGP.

Comment 42: PWS recommends deleting the phrase “for a total of four (4) years, or eight (8) semiannual monitoring periods” in Part IV.B.1.(b) to account for NOIs initiated in years 2-5 of the new MSGP permit term.

Response 42: TCEQ agrees with the comment and revised the language in Part IV.B.1.(b) of the MSGP to read as follows:

“...for up to a total of four (4) years, or eight (8) semiannual monitoring periods, depending on when coverage is obtained.”

General Sector Comments

Comment 43: Steele requests that the draft permit be clarified to define a practicable path to compliance for permittees who must monitor their stormwater discharges for pH. This includes those in Sectors E, G, J, S, and AD that require pH benchmark analyses, plus those in Sectors A, D, E, J, and O that have sector-specific pH. Steele notes that Part III.E.4.(c)(2) reads: “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.” Steele is concerned that this requirement will be impracticable because it would overwhelm the available commercial laboratories and asks that TCEQ incorporate a viable on-site alternative pH analytical method for affected permittees.

Response 43: If an MSGP operator is conducting sampling and analyses for their regulated facility in order to comply with the requirements outlined in the MSGP, then the Environmental Testing Laboratory Accreditation and Certification rule provides an exclusion from National Environmental Laboratory Accreditation Program (NELAP) accreditation for on-site laboratories (see 30 TAC §25.6.1). In regards to the specific example for pH in this comment, Method 150.1 (pH – Electrometric) is an EPA approved test method for determining pH in drinking, surface, and saline waters. This method uses a hand held pH meter which can be used to test stormwater at a facility’s sample location (in the field).

Sector F

Comment 44: HI opposes halving the TSS benchmark for steel foundries from 100 mg/l to 50 mg/l. HI comments that decreasing the benchmark is unwarranted and asks what the purpose is of implementing a benchmark below a value that is presumably protective of aquatic life. HI notes that EPA and other states do not have a stricter TSS benchmark for steel foundries less than 100 mg/l.

Response 44: TCEQ declines to revise the proposed TSS benchmark value for steel foundries in Sector F. This benchmark value is based on a statistical analysis of benchmark monitoring data submitted by regulated entities to TCEQ during years 2011 to 2014. The proposed benchmark value is above the median value for sampling data

reported by this industrial activity. Based on submitted data, TCEQ determined that the adjusted value would be a more accurate indicator for permittees to assess the effectiveness of existing control measures and BMPs. Please refer to previous responses to similar comments regarding the methodology used by TCEQ to select benchmark values.

Sector P

Comment 45: EORM asks that in the case where there is a co-located industrial facility where some tenants are covered by the TPDES MSGP and others are covered by EPA's NPDES MSGP, is it acceptable to have one plan that addresses the requirements of both permits. Additionally, EORM asks if the language in this section can be clarified to answer this question.

Response 45: EPA enforces the NPDES program, while TCEQ enforces the TPDES program in Texas over activities that it has jurisdiction to regulate. The two programs may have some similar requirements, but generally have separate requirements. Therefore, having one SWP3 addressing both programs is not acceptable as it may be confusing and impracticable. TCEQ agrees that Part V.P.3.(b) should be clearer that each facility must develop its own SWP3 and the following phrase was added at the end of Part V.p.3.(b):

“If circumstances arise where a portion of a site is regulated by the TCEQ, and a portion of a site is regulated by the EPA and RRC, authorization for stormwater discharges must be obtained from the TCEQ for the TCEQ-regulated portions, and from the EPA and RRC for the RRC-regulated portions of the site, *including developing separate SWP3s.*”

Comment 46: DFW comments that Part V.P.2.(c) states that facilities described by SIC code 4225 that do not engage in vehicle maintenance or cleaning activities are not required to submit a NOI or implement a SWP3 if the facility maintains conditions of no exposure. DFW asks whether TCEQ considers occasional (e.g., monthly) onsite fueling of facility vehicles by a fuel provider based off-site in the same as permanent onsite fueling stations. Additionally, DFW asks whether the occasional onsite fueling activity conducted by a provider based off-site prevent the facility from a no exposure certification even if the fuel provider conducts the fueling activities utilizing adequate control measures.

Response 46: TCEQ does not consider occasional onsite fueling of facility vehicles at sites described by SIC code 4425 to be part of a vehicle maintenance activity when performed as a standalone activity, whether based onsite or off-site. However, vehicle fueling would be considered part of a maintenance activity if performed alongside the additional activities listed in P.2.(c). Occasional onsite fueling performed as a standalone activity would not prevent the facility from obtaining a no exposure certification when conducted utilizing control measures that prevent runoff of stormwater from the fueling area.

Sector S

Comment 47: AFA and HAS comment that the federal deicing effluent limitation guidelines (ELG) do not impose any requirements, including numeric effluent limitations, applicable to aircraft deicing operations at existing airports. The only effluent limitations established by the deicing ELG are those that apply to aircraft deicing operations for new airports. See 40 CFR §449.11(a).

Response 47: TCEQ agrees with this comment. The federal rules do not include requirements for aircraft deicing operations at existing airports. The federal rule includes requirements for aircraft deicing operations at new airports with more than 10,000 jet departures.

Comment 48: ABIA comments that there are several references to “glycol-based chemicals” that should reference “ethylene glycol-based chemicals.” AFA and HAS comment that the language referring to “glycol-based deicing chemicals” should be changed for consistency with the federal MSGP, which establishes the threshold in terms of the amount of “pure glycol” used.

Response 48: The term “glycol-based chemical” replaced the term “ethylene glycol-based chemicals” in this version of the MSGP. The term “glycol-based” is a more precise term since ingredients in deicers can be ethylene glycol or propylene glycol and the term “glycol-based” includes both of those chemicals. This is also consistent with the terms used in the federal MSGP. In response to the comment, Part V.S.7 (a) of the MSGP was revised as follows:

7. Benchmark Monitoring Requirements

(a) Benchmark monitoring is only required for permittees conducting deicing activities that have used more than 100 tons of urea, or more than 100,000 gallons of glycol-based chemicals on an average annual basis.

Additionally, in response to the comment, the term “glycol-based deicing chemical” was changed to “pure glycol in glycol-based deicing fluids” in the note under Table 31. Benchmark Monitoring Requirements for Subsections in Sector S. The current MSGP used the term “ethylene glycol” and the term “pure glycol” is more precise since it includes other forms of glycol as well. The change is also consistent with EPA’s 2015 MSGP.

As a result of the above change, the language in the note in this section appears as follows:

**For airports where a single permittee, or a combination of permitted facilities use more than 100,000 gallons of pure glycol in glycol-based deicing fluids and / or 100 tons or more of urea on an average annual basis.*

Comment 49: AFA and HAS comment that language noting there are factors that constrain selection and adoption of technologies for the control of stormwater from aircraft deicing operations should be incorporated into S.5.(c), (d), and (f).

Response 49: TCEQ agrees with the comment and to be consistent with the EPA's 2015 MSGP, the language: "where determined to be practicable and that accommodate considerations of safety, space, operational constraints, and flight considerations (list not exclusive)" was added to Parts V.S.5. (c), (d), and (f) as follows:

Part V.S.5. (c):

"Good Housekeeping Measures. This section of the SWP3 must describe specific measures, where determined to be practicable and that accommodate considerations of safety, space, operational constraints, and flight considerations (list not exclusive), to prevent or minimize contamination of stormwater from areas used for the maintenance, fueling, or cleaning of equipment, aircraft, and other vehicles, and for areas where aircraft deicing and anti-icing activities occur."

Part V.S. (d):

"Structural Controls. Operators that conduct deicing or anti-icing activities shall select controls, where determined to be practicable and that accommodate considerations of safety, space, operational constraints, and flight considerations (list not exclusive), to capture and contain chemicals used in this activity. Containing activities to specific areas where runoff may be captured and either treated, hauled away for disposal or disposed of to the sanitary sewer must be considered, where determined to be practicable and that accommodate considerations of safety, space, operational constraints, and flight considerations (list not exclusive)."

Part V.S. (f):

"Best Management Practices. Facilities that conduct deicing or anti-icing operations must evaluate operating procedures on an annual basis to consider alternative practices, where determined to be practicable and that accommodate considerations of safety, space, operational constraints, and flight considerations (list not exclusive), that may reduce the overall amount of chemical used, or otherwise lessen the environmental impact of the pollutant."

Comment 50: DFW comments that Part V.S.5.(g)(1) requires that inspections be conducted at least once per week "during deicing or anti-icing activities in the areas where these operations take place." This could present a safety hazard because inspectors may have to be on active aircraft taxiways to conduct the sampling. DFW recommends revising this section to state: "Facility inspections must be conducted at least once per week during the deicing season in areas where deicing activities are occurring, if accessible, and/or in areas where aircraft, airfield deicing chemicals and equipment are staged." Alternatively, the language could be revised to specify that areas where these operations take place include areas at the facility that support deicing activities and areas that support the storage or management of deicing related equipment and chemicals.

Response 50: Part III.D.4 of the MSGP states that requirements to sample, inspect,

examine, or otherwise monitor stormwater discharges may be temporarily suspended for adverse conditions. Adverse conditions are conditions that are either dangerous to personnel or conditions that prohibit access to a discharge. As a response to the comment, the term “if accessible” was added to Part V.S.5.(g)(1) as follows:

“...conducted as least once per week during deicing or antiicing activities in the areas where these operations take place, if accessible.”

Comment 51: ABIA comments that in regards to “new” and “existing” airports in Part V.S.6., the word and definition reference of “primary airports” should be included as it is in EPA’s MSGP.

Response 51: TCEQ agrees with the comment and the phrase “primary airports” was added to Part V.S.6 of the MSGP in the following locations:

Part V.S.6.:

“The following numeric effluent limitations, based upon guidelines from Airport Deicing Point Source Category, 40 CFR Part 449, applies to any stormwater runoff from airport and airfield deicing activities at primary airports.”

Part V.S.6.(a):

“For new and existing primary airports with 1,000 or more jet departures....”

Part V.S.6.(a)(2)(b):

“New primary airports with 10,000 or more departures annually...”

Comment 52: AFA and HAS comment that Part V.S.6.(a)(2), which applies to “aircraft deicing,” states: “[t]here are no requirements for new or existing airports with less than 1,000 jet (non-propeller aircraft) departures per year.” AFA and HAS comment that this could be read to imply that there are effluent limitations that apply to aircraft deicing operations for existing airports with more than 1,000 jet operations per year. They note that this is particularly problematic because item S.6.(c) appears to contemplate that all airports, whether new or existing, would be required to implement technologies to achieve compliance with effluent limitations that apply to airport deicing activities. Accordingly, AFA and HAS recommend combining S.6.(a)(2) with S.6.(b) as follows:

2) Airport Deicing.

(a) Existing airports (regardless of number of jet (non-propeller) departures per year – None;

(b) New airports with less than 1,000 jet (non-propeller aircraft) departures per year – None; and

(c) New airports with more than 1,000 jet (non-propeller aircraft) departures per year, 10,000 or more departures annually and 3,000 or more heating degree days (annual).

Response 52: TCEQ agrees with the comments and item S.6.(a)(2) was combined with item S.6.(b) as follows and was renumbered as S.6.(a)2. *Aircraft Deicing*

- a. *Existing airports: There are no requirements for existing airports (regardless of number of jet (non-propeller aircraft) departures per year.*
- b. *New airports with less than 1,000 jet (non-propeller aircraft) departures per year: There are no requirements.*
- c. *New primary airports with 1,000 and more jet (non-propeller aircraft) departures per year, 10,000 or more departures annually, and 3,000 or more heating degree days (annual) have the the following requirements:*
 - (a) *At least 60% of available aircraft deicing fluid (ADF) must be collected; and*
 - (b) *The discharge must meet the numeric effluent limitations below. The effluent limitation must be met at the location where the effluent leaves the onsite treatment system utilized for meeting these requirements and before commingling with any non-deicing discharges.*

Comment 53: ABIA comments that item Part V.S.6. is labeled numeric effluent limitations, but that only 6(a) and (b) are actually related to numeric effluent limitations. ABIA states that it is unclear whether 6(c) through (g) are required for all airports with deicing activities or just those subject to the numeric effluent limitations.

Response 53: Part V.S.6(c) through 6(g) of the MSGP are related to requirements under Section 6 - Numeric Effluent Limitation and applies only to airports subject to numeric effluent limitations. These sections were included to match other sectors in the MSGP that also include requirements related to monitoring for numeric effluent limitations.

Comment 54: AFA and HAS recommend changing the title of Part V.S.6.(b) as follows to avoid the implication and align the text with the intent of the section: “(b) General Requirements for the Implementation of Numeric Effluent Limitations Established in Section S.(6)(a).” The re-designation of this section as (b) assumes that the recommendation of AFA and HAS to combine S.6.(a)(2) and S.6.(b)(2) is adopted.

Response 54: TCEQ agrees with the comment, and Section 6(b) was renamed as suggested and items S.6.(a)(2) and S.6.(b)(2) were combined as described above. Based on the comments the first sentence in item S.6.(b) was changed as follows:

“(b) General Requirements for the Implementation of Numeric Effluent Limitations Established in item S.(6)(a) above.”

Comment 55: DFW notes that Part V.S.6.(c) cites the record keeping requirements in “Part V., Section S.6.(c)(2) above” and questions whether the correct citation should be Part V.S.5.(b)(2). ABIA, AFA, and HAS note that the reference to “Part V.S.(c)(2) above”

is incorrect.

Response 55: TCEQ agrees with the comment and the citation was changed to Part V., Section S.(6)(a).

Comment 56: AFA and HAS comment that this section should only apply to new airports, not existing ones. Part V.S.6.(c)(1) references “centralized deicing pads.” AFA, HAS, ABIA, and DFW ask whether this applies to both new and existing airports. ABIA does not have a decentralized deicing pad at this time, but plans to add one in the future using the existing infrastructure. ABIA also asks whether (c)(2) applies to both new and existing airports. DFW recommends moving this requirement to S.6.(b) if this is intended to only apply to new airports.

Response 56: Part V.S.6.(c)(1) that references “centralized deicing pads” only applies to new airports with more than 10,000 annual departures and 3,000 or more heating degree days (annual). To clarify this as previously stated, Part V.S.6.(b) General Requirements was revised to: “General Requirements for the Implementation of Numeric Effluent Limitations Established in Section S.(6)(a) above.”

Comment 57: ABIA, AFA, DFW, and HAS comment that Part V.S.6.(c), (c)(1), (c)(2), and (c)(2)(a) reference Part V.S.(d)(2)(a-d), which do not exist. AFA and HAS comment that because of the incorrect citations, they request that the Commission fix the cross-references and then provide an opportunity for the public to review and comment on the corrected materials and any other affected portions of the proposed MSGP.

Response 57: TCEQ agrees with the comment and corrected the references. In Part V.6.(b)(1) the reference was changed to: “*as follows*”, and in S.6.(b)(2) (renamed from S.6.(c)(2) based on a previous comment) the reference was changed to S.6.(b)(1)(a-d). Based on the comment the first paragraph in S.6.(b)(1) and the first paragraph in S.6.(b)(2) read as follows:

6. (b)(1) The permittee shall maintain records to demonstrate, and certify annually, that it is operating and maintaining one or more centralized deicing pads. This technology shall be operated and maintained according to the technical specifications as follows:

6. (b)(2) Alternative technology or specifications. This general permit may allow one of the following alternative procedures for demonstrating compliance with its collection requirement, instead of the procedure mentioned above in Part V. item S.6.(b)(1)(a-d) of the section above.

(a) Using a different ADF collection technology from the centralized deicing pad technology specified in Part V. item S.6.(b)(1)(a-d) of this section; or

(b) Using the same ADF collection technology, but with different specifications for operation and/or maintenance.

TCEQ declines to re-notice the entire MSGP based on incorrect references in a single sector of the permit. TCEQ regrets the error and any confusion this may have caused,

but considers the incorrect references in Sector S to be non-substantive, since it clearly referred to a part “of this section.”

Comment 58: ABIA comments that item Part V.S.6.(c)(2) allows alternative procedures for demonstrating compliance and asks whether there will be an approval process for such alternative procedures and what alternative procedures will be allowed.

Response 58: It is not TCEQ’s intent to approve alternate procedures for demonstrating compliance with permit requirements related to aircraft deicing fluids (ADF) under this general permit. Permittees are required to use best professional judgement when selecting alternative procedures to ensure permit requirements are met. No changes were made to the permit based on this comment.

Comment 59: Regarding Part V.S.6(c)(3) and (e), ABIA comments that five years is a long time for maintaining records and is inconsistent with the majority of record keeping requirements in the MSGP, which is typically three years.

Response 59: The five year record keeping is based on 40 CFR § 449.20. Monitoring, reporting, and recordkeeping requirements under the Airport Deicing Point Source Category. No changes were made to the permit based on this comment.

Comment 60: ABIA asks for clarification in Part V.S.6.(e) regarding what the phrase “[I]f using volumes of ADF applied/collected, records of these amounts” means.

Response 60: The phrase means that permittees are required to monitor and document both how much ADF they apply and how much they collect. These two results are used to document the permit requirement that at least 60% ADF was collected. No changes were made the permit based on this comment.

Comment 61: ABIA comments that in Part V.S.6.(g) the term “deicing agent” is new to this sector and should be either “ADF” if referring to aircraft deicing or “deicing chemicals,” which refers to both aircraft and airfield deicing chemicals. ABIA comments that his will make it consistent with the rest of the MSGP and reduce confusion regarding the type of deicing chemical. Also, ABIA recommends that the method of deicing agent collection should just be for ADF collection. They further comment that the “deicing activity log” seems redundant to the requirement specified in S.5.(b)(2) and ask for clarification of whether there is a difference.

Response 61: TCEQ agrees with the comments. The word “*deicing agent*” was replaced with “*deicing chemicals*” in Part V.S.6(f) (that previously was Part V.S.6.(g)) and with “ADF” in the same section, as follows:

S.6.(f) Additional SWP3 Requirements.

The following SWP3 requirements must be conducted in addition to those listed in Part V.S.5. Permittees shall document and describe the following:

- b. Type of deicing chemicals used and keep deicing activity log.*
- c. Method of ADF collection.*
- d. Compliance with 60% ADF collection requirements, as applicable.*

Comment 62: DFW comments that Part V.S.7.(a) describes the application of benchmark monitoring for airports using more than 100 tons of urea, or more than 100,000 gallons of "ethylene glycol-based chemicals." The following sub-sections use the term "glycol-based" deicing chemicals, instead of "ethylene glycol-based" chemicals, on an average annual basis. DFW asks whether the intent is for benchmark monitoring to be conducted only at airports using more than 100,000 gallons of ethylene glycol-based deicing chemicals on an average basis or does the 100,000 gallons refer to the cumulative volume of any type of glycol-based aircraft deicing chemical.

Response 62: The intent of Part V.S.7.(a) is that benchmark monitoring is required at airports using more than 100,000 gallons of pure glycol or 100 tons or more of urea. The term ethylene glycol was used in TCEQ's current MSGP. However, in this permit renewal the term "glycol-based" and "pure glycol" is used for consistency with the federal MSGP.

Comment 63: AFA notes that the benchmark value for ammonia-nitrogen was changed to 1.7 mg/L, down from 2.5 mg/L in the previous permit and comments that this does not establish a basis for altering the benchmark value or provide any explanation for deviating from the benchmark value in the federal MSGP (2.14 mg/L).

Response 63: Benchmark values for Texas are based on data submitted by permittees during the years 2011 to 2014. The values represent the medians of those submitted data except for certain outliers. This method is consistent with how other benchmark values are calculated. Please refer to previous responses to similar comments regarding the methodology used by TCEQ to select benchmark values. No changes were made in the permit based on this comment.

Comment 64: DFW comments that Part V.S.7.(a)(1) requires permittees who use urea or glycol-based deicing chemicals at an airport using more than 100,000 gallons of glycol based chemicals or 100 tons of urea to conduct benchmark monitoring. DFW asks whether a tenant with authorization to discharge pursuant to TPDES MSGP TXR050000 is still required to conduct benchmark monitoring for deicing activities if the airport is authorized under an individual stormwater permit, which includes the discharges of tenants, and the airport is subject to and complying with more stringent monitoring requirements and discharge limitations than those in S.7.(a)(1).

Response 64: Generally, if an entity uses urea or glycol-based deicing chemicals and if the total amount of deicing chemicals meets the criteria in the MSGP, the entity is responsible for obtaining coverage and monitoring for benchmarks as part of meeting the requirement under the MSGP authorization. Due to the uniqueness and complexity, DFW Airport has an individual TPDES discharge permit (WQ0001441000 issued on February 4, 2015). This permit authorizes discharges of first flush stormwater and other

stormwater for those areas identified in the individual permit. DFW Airport is identified as the only permittee authorized under the individual permit; therefore, airport tenants are required to obtain authorization under the MSGP would be subject to benchmark monitoring if deicing activities are conducted by the tenant in areas outside of DFW Airport's centralized deicing collection system, and under the authority of the tenant. Tenant MSGP authorizations are independent of an individual permit issued for the DFW Airport.

Sector T

Comment 65: Amarillo opposes a benchmark standard for BOD for Sector T, Treatment Works, noting that the current EPA MSGP does not contain a BOD benchmark requirement for Sector T. Amarillo asks for the scientific justification to determine benchmark values for BOD in Sector T.

Response 65: Benchmark sampling for BOD in Sector T was added to TCEQ's MSGP in 2006 and was based on the nature of pollutants at wastewater treatment plants. In this permit the benchmark value is decreased to 20 mg/L from 30 mg/L based on a statistical analysis of local benchmark monitoring data submitted by regulated entities to TCEQ during years 2011 to 2014. EPA has delegated authority to TCEQ to develop and implement permit requirements that are protective of water quality, and this particular benchmark has been reviewed by EPA without objection. The proposed benchmark is above the median and mean values and well above the third quartile of data, and TCEQ determined that the adjusted value is a more accurate indicator for permittees to assess the effectiveness of existing control measures and BMPs. No changes were made to the permit based on this comment.

Sector AD

Comment 66: Harris County comments that they and other Phase I MS4 operators are required to inspect industrial and commercial facilities the MS4 operators believe are contributing pollutants to the MS4. Harris County often observes that facilities which are not industrial activities covered by Sectors A – AC, are none the less believed to be contributing pollutants to the MS4. The MSGP provides that facilities that do not meet the description of an industrial activity covered by Sectors A – AC, may be designated by the executive director to require an MSGP authorization under Sector AD. Harris County comments that the organizational structure of TCEQ is often difficult to maneuver, so an MS4 operator seeking to notify TCEQ of a facility that should be considered for coverage under Sector AD does not know who the proper party is to notify. Accordingly, Harris County requests that TCEQ provide a mechanism by which the MS4 operator may notify TCEQ of a facility it believes should be designated as Sector AD, when that facility does not meet the description of an industrial activity covered by Sectors A–AC.

Response 66: When a facility is contributing pollutants to the MS4 and the facility does not fall into one of the SIC codes regulated in Sectors A–AC in the MSGP, then the

MS4 operator can notify the appropriate TCEQ regional office where the facility is located, and request that the operation be investigated to determine the applicability of the designated under Sector AD.

Based on a site investigation by the local TCEQ region office, a determination can be made whether a facility would be appropriately regulated under the MSGP – Sector AD, under an individual stormwater permit, or other appropriate action taken.