Waiver for Small Municipal Separate Storm Sewer Systems (MS4) under TPDES Phase II MS4 General Permit (TXR040000)

**IMPORTANT:**

Use the [INSTRUCTIONS](#INSTRUCTIONS) to fill out each question in this form.

Once processed, your permit authorization can be viewed at: <http://www.tceq.texas.gov/goto/wq-dpa>

**REASON FOR APPLICATION:**

**Select the reason you are submitting this application:**

  [ ]  New authorization

  [ ]  Renewal of authorization number: TXRMW Click here to enter text.

**Note: A waiver cannot be renewed after July 23, 2019**

# Section 1. OPERATOR (Applicant)

1. If the applicant is currently a customer with TCEQ, what is the Customer Number (CN) issued to this entity? CN Click here to enter text.
2. What is the Legal Name of the entity (applicant) applying for this permit? (The legal name must be spelled exactly as filed with the Texas Secretary of State, County, or in the legal document forming the entity.)

Click here to enter text.

1. Complete and attach a Core Data Form (TCEQ-10400) for this customer.

# Section 2. APPLICATION CONTACT

This is the person TCEQ will contact if additional information is needed about this application.

Provide the name and contact information of the application contact.

Prefix (Mr. or Ms.): Click here to enter text.

First and Last Name: Click here to enter text. Suffix: Click here to enter text.

Title: Click here to enter text. Credentials: Click here to enter text.

Phone Number: Click here to enter text. Fax Number: Click here to enter text.

Email: Click here to enter text.

Mailing Address: Click here to enter text.

City, State, and Zip Code: Click here to enter text.

# Section 3. REGULATED ENTITY (RE) INFORMATION FOR SITE

1. If this is an existing permitted site, what is the Regulated Entity Number (RN) issued to this site? RN Click here to enter text.
2. Name of site as known by the local community:

Click here to enter text.

1. Name of the urbanized area(s) the Phase II MS4 is located within:

Click here to enter text.

1. Provide a brief description of the regulated MS4 boundaries: (Example: *Area within* *the City of XXXX limits that is located within the xxx urbanized area*:

Click here to enter text.

# Section 4. WAIVER ELIGIBILITY

TCEQ may waive permitting requirements for small regulated MS4 operators if the criteria are met for Waiver Option 1 or Waiver Option 2.

Select the Waiver Option you are seeking and complete the questions to determine eligibility for provisional waiver coverage. If the small MS4 does not qualify for one of the waiver options, an Notice of Intent or NOI (TCEQ Form 20368) is required.

  [ ]  **Waiver Option 1**

Answer the following questions to determine eligibility under Waiver Option 1.

* 1. Does the portion of the MS4 located within an urbanized area serve a population of less than 1,000 based on the 2010 U.S. Census?

  [ ]  Yes, continue to question 2.

  [ ]  No. The MS4 does not qualify for Waiver Option 1. You must submit an NOI.

* 1. Does the small MS4 contribute substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the TPDES Stormwater Program?

  [ ]  Yes. The MS4 does not qualify for Waiver Option 1. You must submit an NOI.

  [ ]  No, continue to question 3.

* 1. Does the small MS4 discharge to an impaired water body (Category 4 or 5) in the *Texas Integrated Report of Surface Water Quality*?

  [ ]  Yes, continue to question 4.

  [ ]  No. The MS4 qualifies for Waiver Option 1. Go to Section 5.

* 1. Does the small MS4 discharge any pollutant(s) that have been identified as a cause for impairment?

  [ ]  No. The MS4 qualifies for Waiver Option 1. Go to Section 5.

  [ ]  Yes. If yes, the MS4 may not qualify for Waiver Option 1. Go to question 5.

* 1. Is there an EPA approved or established Total Maximum Daily Load (TMDL) that addresses the pollutant(s) of concern that are discharged by the MS4?

  [ ]  Yes, continue to question 6.

  [ ]  No. The MS4 qualifies for Waiver Option 1. Go to Section 5.

* 1. Does a TMDL or Implementation Plan (I-Plan) require stormwater controls to address the pollutants of concern based on waste load allocations in the EPA approved or established TMDL?

  [ ]  Yes. The MS4 does not qualify for Waiver Option 1. You must submit an NOI.

  [ ]  No. The MS4 qualifies for Waiver Option 1. Go to Section 5.

  [ ]  **Waiver Option 2**

Answer the following questions to determine eligibility under Waiver Option 2.

1. Does the portion of the MS4 located within an urbanized area serve a population of less than 10,000 based on the 2010 U.S. Census?

  [ ]  Yes, continue to question 2.

  [ ]  No. The MS4 does not qualify for Waiver Option 2. You must submit an NOI.

1. Has the small MS4 operator coordinated activities required to meet the waiver conditions with TCEQ?

  [ ]  Yes, continue to question 3.

  [ ]  No. The MS4 operator must coordinate with the TCEQ staff to determine eligibility under this Waiver Option prior to submitting this form.

1. Identify the TCEQ staff name and phone number working with the MS4 operator for coverage under this Waiver Option. If this information is not provided, this waiver will be denied.

TCEQ Staff Name: Click here to enter text.

TCEQ Staff Phone Number: Click here to enter text.

# Section 5. GENERAL CHARACTERISTICS

1. Is this site located on Indian Country Lands?

  [ ]  Yes, do not submit this application form. You must obtain authorization through EPA, Region 6.

  [ ]  No, continue to item b).

1. What is the estimated current population served by your MS4?

Click here to enter text. People

1. Discharge Information.
2. What is the name of the water body(ies) receiving stormwater discharges from the MS4?

Click here to enter text.

1. What is the classified segment number(s) that the discharges will eventually reach?

Click here to enter text.

Does the small MS4 discharge directly or indirectly into the classified segment(s)?

  [ ]  Directly

  [ ]  Indirectly

1. Are any of the water bodies receiving discharges from the small MS4 identified as impaired waters (Category 4 or 5) in the *Texas Integrated Report of Surface Water Quality*?

[ ]  Yes

What is the name of the impaired water body(ies) receiving the discharges from the small MS4? Click here to enter text.

What is/are the pollutant(s) of concern? Click here to enter text.

  [ ]  No

1. Does the impaired water body(ies) have a TMDL (Category 4 waterbody)?

  [ ]  Yes

What is/are the pollutants with a TMDL? Click here to enter text.

  [ ]  No

1. Does the small MS4 discharge any pollutant(s) with a TMDL?

  [ ]  Yes

What is/are the pollutants discharged? Click here to enter text.

[ ]  No

1. Does your MS4 discharge into any other MS4 entity’s jurisdiction prior to discharge into water in the state?

  [ ]  Yes

What is the name of the MS4 Operator? Click here to enter t

  [ ]  No

# Section 6. CERTIFICATION

I certify that I have obtained a copy and understand the terms and conditions of the 2019 General Permit TXR040000.    [ ]  Yes

I certify that the small MS4 qualifies for a waiver from permitting requirements under General Permit TXR040000.    [ ]  Yes

I understand that a Notice of Termination (NOT) must be submitted when this waiver is no longer needed.    [ ]  Yes

## Operator Certification:

Operator Signatory Name:Click here to enter text.

Operator Signatory Title: Click here to enter text.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

I further certify that I am authorized under 30 Texas Administrative Code §305.44 to sign and submit this document, and can provide documentation in proof of such authorization upon request.

Signature (use blue ink): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date: \_\_\_\_\_\_\_\_\_\_\_

Instructions for Waiver for Small Municipal Separate Storm Sewer Systems (MS4) under the TPDES Phase II MS4 General Permit (TXR040000)

# GENERAL INFORMATION

## Where to Send the Waiver:

**BY REGULAR U.S. MAIL:**

Texas Commission on Environmental Quality

ARP Team (MC-148)

P.O. Box 13087

Austin, Texas 78711-3087

**BY OVERNIGHT/EXPRESS MAIL:**

Texas Commission on Environmental Quality

ARP Team (MC-148)

12100 Park 35 Circle

Austin, TX 78753

## TCEQ Contact List

Small Business & Local Government Assistance 800-447-2827

Application – status and form questions: 512-239-4671

Technical questions: 512-239-4671

Environmental Law Division: 512-239-0600

Records Management - obtain copies of forms: 512-239-0900

Reports from databases (as available): 512-239-DATA (3282)

Cashier’s office: 512-239-0357 or 512-239-0187

## Waiver Process

When your Waiver and Core Data Form are received by the program, the forms will be processed as follows:

**Administrative Review**: Each item on the forms will be reviewed for a complete response. In addition, the operator’s legal name must be verified with Texas Secretary of State as valid and active (if applicable). The address(s) on the form must be verified with the US Postal service as receiving regular mail delivery. Do not give an overnight/express mailing address.

**An application for a waiver will not be declared administratively complete or approved if delinquent fees and/or penalties of $25 or more are owed to the TCEQ. All such fees must be paid prior to approval of the Waiver.**

**Notice of Deficiency:** If an item is incomplete or not verifiable as indicated above, a notice of deficiency (NOD) will be mailed to the operator. The operator will have 30 days to respond to the NOD. The response will be reviewed for completeness.

**Technical Review:** More information may be requested by phone, email, or technical NOD letter mailed to the operator.

**Acknowledgment of Coverage:** An acknowledgment certificate will be mailed to the operator. This certificate acknowledges coverage under the general permit.

or

**Denial of Coverage:** If the operator fails to respond to the NOD or the response is inadequate, coverage under the general permit may be denied. If coverage is denied, the operator will be notified.

## General Permit (Your Permit)

A waiver from permitting requirements under the general permit begins 30 days after an administratively complete waiver form is postmarked for delivery to TCEQ. You should have a copy of your general permit when submitting your application. You may view and print your permit for which you are seeking coverage, on the TCEQ website [http://www.tceq.texas.gov](http://www.tceq.texas.gov/). Search using keyword TXR040000.

## Change in Operator

An authorization or waiver under the general permit is not transferable. If the operator of the regulated entity changes, the present permittee must submit a Notice of Termination (NOT) and the new operator must submit a Notice of Intent (NOI) or Waiver. The NOT and NOI/Waiver must be submitted no later than 10 days prior to the change in status.

# INSTRUCTIONS FOR FILLING OUT THE FORM

**Renewal of General Permit:** Upon issuance of a renewed general permit, dischargers holding active waivers under the expired general are required to submit a Waiver to continue coverage. If a new Waiver is not submitted by the deadline specified by TCEQ, existing waivers under the expired general permit will be considered expired on that date.

Provide the authorization number. This number will begin with TXRMW. Do not use TXR040000, that is the general permit number not your authorization number. If the permit number provided was terminated or denied, or was not provided, a new permit number will be issued.

## Section 1. Operator (Applicant)

1. **Customer Number (CN)**

TCEQ assigns each customer a number that begins with CN, followed by nine digits. This is not a permit number, registration number, or license number. If the applicant is an existing TCEQ customer, the Customer Number is available at the following website: <http://www15.tceq.texas.gov/crpub/>. If the applicant is not an existing TCEQ customer, leave the space for CN blank.

1. **Legal Name of Applicant**

Provide the current legal name of the applicant. The name must be provided exactly as filed with the Texas Secretary of State, or on the legal documents forming the entity as filed with the county. If filed in the county, provide a copy of the legal documents showing the legal name.

1. **Core Data Form**

Complete and attach a Core Data Form (TCEQ 10400) for each customer.

## Section 2. Application Contact

Provide the name, title and contact information of the person that TCEQ can contact for additional information regarding this application.

## Section 3. Regulated Entity (RE) Information for Site

1. **Regulated Entity Reference Number (RN)**

The RN is issued by TCEQ to sites where an activity is regulated by TCEQ. This is not a permit number, registration number, or license number. Search TCEQ’s Central Registry to see if the site has an assigned RN at <http://www15.tceq.texas.gov/crpub/>. If this regulated entity has not been assigned an RN, leave this space blank.

1. **Name of the Site**

Provide the name of the site as known by the public in the area where the site is located. The name you provide on this application will be used in the TCEQ Central Registry as the Regulated Entity name.

1. **Name of Urbanized Area**

**List the formal name of the urbanized area(s) (UAs) where the MS4 is located using the 2010 U.S. Census maps. *For example: Dallas-Fort Worth-Arlington Urbanized Area.***

A reference map identifying the 2010 U.S. Census UAs can be found at [www.epa.gov/npdes/urbanized-area-maps-npdes-ms4-phase-ii-stormwater-permits](http://www.epa.gov/npdes/urbanized-area-maps-npdes-ms4-phase-ii-stormwater-permits).

1. **Describe the boundaries of the regulated portion of the small MS4**

Briefly describe the boundaries of the regulated portion of the small MS4.

## Section 4. Waiver Eligibility

Indicate the waiver option you are seeking, and complete the questions for the selected waiver option to determine if eligible for the waiver option. If not eligible for a waiver, you must submit a Notice of Intent (TCEQ Form 20368).

**Waiver Option 1** - A small MS4 may qualify for a waiver if it serves a total population of less than 1,000 within a UA based on the 2010 U.S. Census, and:

* + 1. The small MS4 is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the TPDES stormwater program; and
		2. If the small MS4 discharges any pollutant(s) that have been identified as a cause of impairment of any water body to which the small MS4 discharges, stormwater controls are not needed based on wasteload allocations that are part of an EPA approved or established Total Maximum Daily Load (TMDL) that addresses the pollutant(s) of concern. Impaired water bodies are identified as Category 4 or 5 in the *Texas Integrated Report of Surface Water Quality* which is available at: <http://www.tceq.texas.gov/waterquality/assessment/305_303.html>. For TMDL projects, go to <http://www.tceq.texas.gov/waterquality/tmdl/nav/tmdlprogramprojects.html>.

**Waiver Option 2** – A small MS4 may qualify for a waiver if it serves a total population of less than 10,000 within a UA based on the 2010 U.S. Census and meets all of the following criteria:

1. The TCEQ has evaluated all waters of the U.S., including small streams, tributaries, lakes, and ponds, that receive a discharge from the small MS4;
2. For all such waters, the TCEQ has determined that stormwater controls are not needed based on wasteload allocations that are part of an EPA approved or established TMDL that addresses the pollutant(s) of concern or, if a TMDL has not been developed or approved, an equivalent analysis that determines sources and allocations for the pollutant(s) of concern; and
3. The TCEQ has determined that future discharges from the small MS4 do not have the potential to exceed Texas surface water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts.

The receiving waters evaluation for Waiver Option 2 is a TMDL-equivalent evaluation that may be performed by the small MS4 using TCEQ protocol with appropriate guidance from the TCEQ. The evaluation would need to include the pollutants of concern, including at a minimum: biochemical oxygen demand (5-day); sediment (or a parameter that addresses sediment such as total suspended solids, turbidity, or siltation); pathogens; oil and grease; and any other pollutant that has been identified as a cause of impairment of any receiving water body. The small MS4 must coordinate with TCEQ Wastewater Permitting staff and Water Quality Assessment staff prior to initiating such a study.

## Section 5. General Characteristics

1. **Indian Country Lands**

If your site is located on Indian Country Lands, the TCEQ does not have authority to process your application. You must obtain authorization through EPA, Region 6, in Dallas. Do not submit this application form to TCEQ.

1. **Estimated Population**

**List the *current* estimated population served by the MS4. This number will not be used to determine if the MS4 qualifies for the waiver or not. This number will be used as a projection of MS4s that will not qualify for a waiver next permit cycle.**

1. **Discharge Information**
2. Provide the name of all waterbodies that receive discharges from the MS4. The discharge eventually reaches a receiving waterbody such as a local stream or lake, possibly via a drainage ditch or even through another MS4 prior to reaching the waterbody.

**Note:** This general permit does not grant permission to use another MS4 as a conveyance of stormwater and certain non-storm water discharges along the discharge route.

1. Identify the classified segment number(s) that will eventually receive the discharge. You can find classified segment numbers at: [www.tceq.texas.gov/publications/gi/gi-316](http://www.tceq.texas.gov/publications/gi/gi-316).

Indicate if the discharge is directly into the classified segment or if it reaches the classified segment after being discharged into another waterbody or MS4.

1. Indicate if any waterbodies receiving discharges are identified as impaired waters (Category 4 or 5) in the *Texas Integrated Report of Surface Water Quality*, which is available at: <http://www.tceq.texas.gov/waterquality/assessment/305_303.html>.

If Yes, provide the name(s) of the impaired waterbodies and the pollutants of concern for those waterbodies. The pollutants of concern are the parameters for which the waterbody is impaired.

1. Indicate if the impaired waterbody has a TMDL and list the pollutants with a TMDL (Category 4 waterbody).
2. Indicate if the small MS4 discharges any pollutant(s) with a TMDL.

If Yes, provide the name(s) of the pollutant(s) being discharged by the MS4.

1. Indicate if the discharge is into any other MS4 prior to reaching water in the state.

If Yes, provide the name of the MS4 operator that receives the discharge.

## Section 6. Certifications

Failure to indicate “Yes” to ALL of the certification items may result in denial of coverage under the general permit. The certification must bear an original signature of a person meeting the signatory requirements specified under 30 Texas Administrative Code §305.44.

IF YOU ARE A CORPORATION:

The regulation that controls who may sign an application form is 30 Texas Administrative Code §305.44(a), which is provided below. According to this code provision, any corporate representative may sign an NOI or similar form so long as the authority to sign such a document has been delegated to that person in accordance with corporate procedures. By signing the NOI or similar form, you are certifying that such authority has been delegated to you. The TCEQ may request documentation evidencing such authority.

IF YOU ARE A MUNICIPALITY OR OTHER GOVERNMENT ENTITY:

The regulation that controls who may sign an NOI or similar form is 30 Texas Administrative Code §305.44(a), which is provided below. According to this code provision, only a ranking elected official or principal executive officer may sign an NOI or similar form. Persons such as the City Mayor or County Commissioner will be considered ranking elected officials. In order to identify the principal executive officer of your government entity, it may be beneficial to consult your city charter, county or city ordinances, or the Texas statutes under which your government entity was formed. An NOI or similar document that is signed by a government official who is not a ranking elected official or principal executive officer does not conform to §305.44(a) (3). The signatory requirement may not be delegated to a government representative other than those identified in the regulation. By signing the NOI or similar form, you are certifying that you are either a ranking elected official or principal executive officer as required by the administrative code. Documentation demonstrating your position as a ranking elected official or principal executive officer may be requested by the TCEQ.

If you have any questions or need additional information concerning the signatory requirements discussed above, please contact the Texas Commission on Environmental Quality’s Environmental Law Division at 512-239-0600.

30 Texas Administrative Code §305.44. Signatories to Applications

(a) All applications shall be signed as follows.

(1) For a corporation, the application shall be signed by a responsible corporate officer. For purposes of this paragraph, a responsible corporate officer means a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. Corporate procedures governing authority to sign permit or post-closure order applications may provide for assignment or delegation to applicable corporate positions rather than to specific individuals.

(2) For a partnership or sole proprietorship, the application shall be signed by a general partner or the proprietor, respectively.

(3) For a municipality, state, federal, or other public agency, the application shall be signed by either a principal executive officer or a ranking elected official. For purposes of this paragraph, a principal executive officer of a federal agency includes the chief executive officer of the agency, or a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., regional administrator of the EPA).