

*ADD: This is a new subdivision (Sub Division C) under Article VI, Division 5.*

## **ARTICLE VI. WATER QUALITY CONTROL & POLLUTION PREVENTION**

### **DIVISION 5. PROHIBITED DISCHARGES INTO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM**

#### **Subdivision C. Storm Water Compliance for Industrial & Commercial Activities**

##### **Section 34 – 750. General Provisions.**

- 1. Purpose:* This subdivision sets forth requirements for all facilities discharging to the San Antonio Municipal Separate Storm Sewer System (MS4) and those facilities required maintain a Texas Pollutant Discharge Elimination System (TPDES) Multi-Sector General Permit (MSGP) for Industrial Storm Water Discharges.
- 2. Administration:* Pursuant to the TPDES permit no. WQ0004284000 issued to the City of San Antonio, San Antonio Water System (SAWS) and the Texas Department of Transportation requiring the establishment of an Industrial and High Risk Runoff Program SAWS shall have responsibility for administering, implementing, and enforcing the Industrial Inspection Program as outlined in the San Antonio Storm Water Management Plan and established by this subdivision.
- 3. Objectives:* The objective of this subdivision is to prevent the introduction of pollutants to the maximum extent practicable into the MS4 from industrial and/or commercial facilities, including but not limited to those regulated categories that must maintain a TPDES discharge permit. All facilities that discharge storm water defined as being “associated with industrial activity” under provisions of Section 402 of the Clean Water Act and Chapter 26 of the Texas Water Code that discharge directly to waters of the State, the United States, or through a municipal separate storm sewer system are required to obtain either a MSGP or obtain a conditional No Exposure Exclusion (NEC) from permit requirements from the TCEQ.

##### **Section 34-751. MSGP Permit Required**

The following facilities are required to obtain MSGP permit coverage and provide a copy to SAWS:

- a. Those facilities operating under the Industrial Sectors of the MSGP, and
- b. SAWS may require that an industrial or commercial facility not specifically referenced by the North American Industry Classification System to comply with SWP3 requirements of the MSGP in order to control to the maximum extent practicable the discharge of pollutants of concern into the MS4.

##### **Section 34 – 752. Conditional No Exposure Certification**

Facilities regulated under the industrial activities described by one or more sectors of the MSGP may be excluded from permit requirements if there is no exposure of industrial materials or activities to precipitation or runoff. To qualify for this conditional exclusion from permit requirements, the operator must apply to the TCEQ for the NEC permit exclusion and provide certification that those regulated industrial activities and materials mobilized by storm water are isolated from storm water and storm water runoff by storm resistant shelters (as defined in the MSGP). Facilities that qualify for this exclusion shall provide a copy of the NEC to SAWS upon request. Facilities that operate under a conditional NEC exclusion are subject to inspection to verify compliance. Facilities that previously qualified for a NEC and have made changes in their industrial process resulting in exposure must obtain a MSGP to discharge storm water associated with industrial activities.

### **Section 34 - 753. Storm Water Pollution Prevention Plan Requirements**

1. SWP3 Components – Each facility requiring a MSGP Permit shall develop and implement a Storm Water Pollution Prevention Plan (SWP3) prior to submitting a Notice of Intent to the TCEQ for MSGP permit coverage. The SWP3 must be maintained onsite or made readily available for review by SAWS upon request. The SWP3 shall include all elements identified in the MSGP language and continuously meet the criteria including any SWP3 updates and Best Management Practices (BMPs) maintenance as necessary to control discharge of pollutants. The SWP3 shall be developed to identify actual and potential sources of pollution that may reasonably be expected to affect the quality of storm water discharges from the facility. The SWP3 shall establish BMPs and any necessary structural control necessary to reduce or eliminate pollutants from the facility’s storm water discharge. The SWP3 shall describe how such practices are appropriate for the facility and how each will effectively prevent or lessen pollution.
2. Sampling criteria – Each regulated facility shall take the appropriate samples at the frequency prescribed in the current MSGP. These storm water samples include but are not limited to: effluent limitations for hazardous metals, benchmark sampling and any sector specific sampling required under the MSGP.
3. Industrial and/or commercial facilities determined to potentially contribute pollutant loading to the MS4 may be required to perform additional monitoring as outlined by the TCEQ Municipal TPDES Permit to validate improvements to the BMPs and changes in the SWP3. This additional sampling can include, but is not limited to:
  - Any pollutant limited in an existing TPDES permit for the facility
  - Oil and Grease (O/G)
  - Chemical Oxygen Demand (COD)
  - pH
  - Biochemical Oxygen Demand (BOD5)
  - Total Suspended Solids (TSS)
  - Phosphorus (P)
  - Total Kjeldahl Nitrogen (TKN)
  - Nitrate plus Nitrite Nitrogen
  - Ammonia-nitrogen
  - Temperature
  - Total Organic Carbon (TOC)
  - E. Coli and Fecal Coliform

4. The SWP3 and monitoring data must be submitted to SAWS upon request.

### **Section 34 – 754. Inspection and Entry**

SAWS shall have the right to inspect the facilities of any industrial user to ascertain whether the purposes of this subdivision are being met and all applicable requirements are being fulfilled. Industrial users and their employees shall allow SAWS representatives displaying proper identification ready access to the premises at all reasonable times for the purpose of: inspecting industrial operations and processes, examination and reproduction of business records pertinent to storm water quality, including hazardous and non-hazardous waste manifests and where applicable, making photographic documentation and obtaining other information necessary to ascertain whether the information submitted is current, and to assess compliance by permittees with storm water permit requirements. Failure to allow access or impeding an investigation will be considered a violation of this subdivision. In the event SAWS reasonably believes discharges from a property into the MS4 may cause an imminent and substantial threat to human health or the environment, an inspection may take place at any time without notice to the owner of the property or a representative on-site.

### **Section 34-755. Falsifying Information**

1. It is a violation of this subdivision to knowingly make any false statement, representation or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this subdivision or pursuant to any condition or provision of an industrial storm water discharge permit.
2. It is a violation of this subdivision to tamper with, interfere with the operation of, or knowingly render inoperable any monitoring, sampling or surveillance devices or to improperly impede an inspection procedure required or authorized under this subdivision and/or any industrial discharge permit. In addition to any civil or criminal liability that may be imposed for a violation of this subdivision, a person who damages equipment used or necessary for monitoring compliance with an industrial discharge permit and/or this subdivision, shall also be liable for the cost associated with replacing or repairing such equipment.

### **Section 34-756. Enforcement and Penalties**

1. Violations. The commission of any act that is prohibited by this subdivision or the failure to perform any act that is required by this subdivision is a violation of this subdivision. SAWS may require that a compliance meeting be held prior to implementing legal action to enforce the provisions of this subdivision; however, such a meeting shall not be a bar against or a prerequisite for taking any enforcement action.

2. Penalties for violations.

- (a) Criminal. A conviction for a violation of this subdivision shall constitute a class C misdemeanor. A person convicted of a violation of this subdivision shall be fined a minimum amount of not less than two hundred dollars (\$200.00) per violation and a maximum amount of not more than two thousand dollars (\$2,000.00) per violation.

Each violation of this subdivision shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this subdivision.

(b) *Civil.* A civil penalty in an amount not to exceed five thousand dollars (\$5,000.00) per violation of this subdivision may be imposed. Each violation of this subdivision shall constitute a separate violation, and each day such violation continues shall be considered a new violation for purposes of enforcing this subdivision, and calculating the amount of civil penalties.

3. *Additional remedies*

In addition to the penalties for violations that may be imposed pursuant to this subdivision, SAWS may commence actions for any other legal and/or equitable relief or for the imposition of civil penalties authorized by any applicable law, statute, ordinance, or regulation.