



# CD ENVIRONMENTAL ENGINEERING LLC

## *Regulatory focus*

ADDRESSING THE NEEDS OF THE REGULATED  
COMMUNITY FOR ENVIRONMENTAL COMPLIANCE

2nd Qtr | 2021

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## Important information on a current Hot Topic.

### Hot Topic in Regulations

#### Texas TPDES MSGP Renewal

The Texas Pollutant Discharge Elimination System (TPDES) Industrial Stormwater Multi-Sector General Permit (MSGP) expires on August 14, 2021. The TCEQ has finalized the new permit and is expected to be adopted by the Commissioner in July 2021 with an effective date in August 2021. Existing permitted facilities have 90 days after the issuance of the new permit to submit a Notice of Intent (NOI) or No Exposure Certification (NEC) for coverage. NOIs and NECs must be reported electronically through STEERS unless a waiver is obtained. A new or updated SWP3 must be developed before submittal of an NOI.

Below is a summary of the general changes to the MSGP that affect all covered facilities based on the TCEQ provided Fact Sheet. Additional changes have been made that may affect a smaller percentage of the covered facilities or Sectors. It is recommended that each facility review the permit to determine the applicable changes. The general changes include but are not limited to:

- When the operator of a facility changes, the new operator must submit an NOI or NEC, and the previous operator must submit a Notice of Termination (NOT), at least ten days before the change in operator occurs.
- All MSGP permittees are required to post a sign or other notice of permit coverage in a location where it is safely and readily available for viewing by the general public, local, state, and federal authorities, at least five days from obtaining permit coverage. The location

must be in close proximity to the facility and at potentially impacted public access areas. The permittee shall use a font large enough to be readily viewed from a public right-of-way and conduct periodic maintenance of the sign to ensure that it is legible, viable, and factually correct. No guidance on the font height or a template has been provided at this time. At a minimum, the sign must include the facility's:

- TPDES authorization number;
- Contact name and phone number for obtaining additional facility information including the SWP3; and
- The following statement: “If you observe indicators of stormwater pollutants in the discharge or in the receiving waterbody, contact the TCEQ through the following website: <https://www.tceq.texas.gov/>”
- A copy of an NOC and TOC must also be provided to the operator of any MS4 receiving the discharge (if required by the MS4), and the SWP3 must include a list of the names and addresses of the MS4 operator(s) receiving a copy.
- Additional requirements for updating the facility information using an NOC. Examples of information that may be submitted on an NOC include the following:
  - Change to applicant contact or billing information.
  - Changes to the General Characteristics section, such as adding, removing, or changing an SIC code or industrial activity code; adding or removing



## Important information on a current Hot Topic.

industrial activities with federal effluent limitations; or changing the discharge information.

- Operator name change, provided that only the name has changed and that no transfer of ownership has occurred (see Part II, Section C.7.(a) below).
- Addition, removal, or change in the location of an outfall.
- Request to stop submitting monitoring results of benchmarks, numeric effluent limitations (hazardous metals), and pollutants of concern.
- Changes in facility status from active to inactive and vice versa.
- If signatory authority is delegated by an authorized representative, then a Delegation of Signatory form must be submitted using STEERS. A new Delegation of Signatory form must be submitted, if the delegation changes to another individual or position. A Delegation of Signatory form can be found at [here](#).
- Investigation for Non-Stormwater Discharges must be conducted within 180 days of filing an NOI for coverage. The permittee shall conduct a survey of potential non-stormwater sources and shall provide the certification required in Part III, Section B.1.(c) of the MSGP.
- The drainage map must include the latitude and longitude for each outfall covered by the permit.
- Results of sampling required to be reported must be submitted online using the NetDMR reporting system

available through the TCEQ website unless the permittee obtained an electronic reporting waiver.

Requirements to sample, inspect, examine or otherwise monitor stormwater discharges within a prescribed monitoring period may be temporarily suspended for adverse conditions. Adverse conditions that result in the temporary suspension of a permit requirement to sample, inspect, examine, or otherwise monitor stormwater discharges must be documented and included as part of the SWP3. Documentation must include:

- the date and time of the adverse condition,
- names of personnel that witnessed the adverse condition,
- narrative for the nature of the adverse condition, and
- rain gauge reading(s).
- • When monitoring was not possible due to a lack of a qualifying storm event as documented in the rain gauge recording, monitoring is temporarily suspended.

Please contact CD Environmental if you would like assistance in updating your SWP3 or have questions as to which changes that apply to your facility.



Keeping up with new regulations is the first step towards environmental compliance.

## New Air Regulations

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### 2010 1-Hr SO<sub>2</sub> NAAQS Anderson, Freestone, and Titus Counties

The EPA is approving a clean data determination for the Anderson and Freestone Counties and the Titus County nonattainment areas, concluding that each area is currently in attainment of the 2010 1-hour Primary Sulfur Dioxide National Ambient Air Quality Standard (SO<sub>2</sub> NAAQS) per the EPA's Clean Data Policy. The primary sources of Sulfur Dioxide emissions in these counties have permanently shut down and air quality in these areas is now attaining the SO<sub>2</sub> NAAQS. This final action is supported by EPA's evaluation of available monitoring data, emissions data, and air quality modeling. This action suspends the requirements for these areas to submit an attainment demonstration, a reasonable further progress plan, contingency measures, and other planning State Implementation Plan (SIP) revisions related to attainment of the 2010 SO<sub>2</sub> NAAQS until the area is formally redesignated, or a violation of the NAAQS occurs. This final rule is effective on June 14, 2021. For further information, please contact Robert Imhoff at (214) 665-7262 or [Imhoff.Robert@epa.gov](mailto:Imhoff.Robert@epa.gov).

### Emissions Inventories for Nonattainment Areas for the 2015 Ozone NAAQS

The EPA is providing notice that it has responded to petitions for reconsideration and/or administrative stay of a final action under the Clean Air Act (CAA) published in the Federal Register on December 13, 2016, titled, "Air Quality Designations for the 2010 Sulfur Dioxide (SO<sub>2</sub>) Primary National Ambient Air Quality Standard—Supplement to Round 2 for Four Areas in Texas: Freestone and Anderson Counties, Milam County, Rusk and Panola Counties, and Titus County." The EPA has denied these petitions in letters to the petitioners for the reasons that the EPA explains in those documents.

The EPA is approving the portions of the State Implementation Plan (SIP) submitted by the State of Texas to meet the Emissions Inventory (EI) requirements of the Federal Clean Air Act (CAA or the Act), for the Dallas-Fort Worth (DFW), Houston-Galveston-Brazoria (HGB), and Bexar County ozone nonattainment areas for the 2015 8-hour ozone NAAQS. This final rule is effective on July 29, 2021. For further information, please contact Nevine Salem with the EPA at 214-665-7222 or [salem.nevine@epa.gov](mailto:salem.nevine@epa.gov).



Keeping up with new regulations is the first step towards environmental compliance.

## Progress Plan for the HGB O3 Nonattainment Area

The Environmental Protection Agency (EPA) is approving revisions to the Texas State Implementation Plan (SIP) to meet the Reasonable Further Progress (RFP) requirements for the Houston-Galveston-Brazoria (HGB) serious ozone nonattainment area for the 2008 ozone National Ambient Air Quality Standard (NAAQS). Specifically, EPA is approving the RFP demonstration and associated Motor Vehicle Emission Budgets (MVEBs), and a revised 2011 base year emissions inventory (EI) for the HGB area. EPA is also notifying the public of the status of EPA's adequacy determination for the MVEBs for the HGB area. EPA is not finalizing the proposed approval of revisions to the SIP to address contingency measure requirements in the HGB area for the 2008 Ozone NAAQS at this time. This rule is effective on June 9, 2021. For further information, please contact Carrie Paige at 214-665-6521 or [paige.carrie@epa.gov](mailto:paige.carrie@epa.gov).



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## New Environmental Compliance/ Waste/Wastewater Regulations

### RCRA Authorization for Parts of Federal Rule Clusters XXIV - XXVIII

In order for the state of Texas to be consistent with certain federal solid and hazardous waste requirements and with the Resource Conservation and Recovery Act (RCRA), the Texas Commission on Environmental Quality (TCEQ or commission) periodically incorporates specific EPA rule changes into state rules. Parts of the EPA federal rule changes in Rule Clusters XXIV - XXVIII are included in this proposed rulemaking, amending 30 Texas Administrative Code (30 TAC) Chapter 335.

In addition to incorporating federal rule changes, the proposed rulemaking would update and formalize existing guidance regarding the regulatory status of spent foundry sand from the iron and steel casting industry as a coproduct when reused as a substitute material, including use constituting disposal.

This rulemaking initiative would update Chapter 335 to include federal rule changes that are both optional and non-optional. The revisions are set forth in parts of RCRA Clusters XXIV - XXVII. Each cluster contains one or more checklists, and each checklist explains specific additions and revisions to the rule language. The following is a summary of the rule changes:

- RCRA Cluster XXIV - Checklist 233: Implement vacatur of parts of the federal definition of solid waste (DSW) by revising several recycling-related provisions associated with the DSW. The purpose of these revisions is to ensure that the hazardous secondary materials recycling regulations encourage reclamation in a way that does not result in increased risk to human health and the environment. The state previously adopted the 2015 DSW revisions and is recognized as broader in scope than the federal regulations, therefore this checklist is optional.
- RCRA Cluster XXV - Checklist 237: Revise the existing hazardous waste generator regulatory program by reorganizing the regulations to improve their usability by the regulated community; providing a better understanding of how the RCRA hazardous waste generator regulatory program works; addressing gaps in the existing regulations to strengthen environmental protection; providing greater flexibility for hazardous waste generators to manage their hazardous waste in a cost-effective and protective manner; and making technical corrections and conforming changes to address inadvertent errors and remove obsolete references to programs that no longer exist.
- RCRA Cluster XXVI - Checklists 238: Revise existing regulations regarding the export and import of hazardous wastes from and into the United States. Specifically, this rule applies a confidentiality determination such that no person



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can assert confidential business information claims for documents related to the export, import, and transit of hazardous waste and export of excluded cathode ray tubes.

- RCRA Cluster XXVI - Checklists 239: Would adopt the methodology the EPA established to determine and revise the user fees applicable to the electronic and paper manifests to be submitted to the national electronic manifest (e-Manifest) system that the EPA developed under the Hazardous Waste Electronic Manifest Establishment Act. Certain users of the hazardous waste manifest are required to pay a prescribed fee to the EPA for each electronic and paper manifest they use and submit to the national system.
- RCRA Cluster XXVII - Checklist 241: Establish cost-savings and streamlined standards for handling hazardous waste pharmaceuticals to better fit the operations of the healthcare sector while maintaining protection of human health and the environment. The rule would prohibit disposal of pharmaceuticals into the sewage system, exempt nicotine wastes from classification as a listed hazardous waste, and codify the exemption for unused pharmaceuticals that are expected to be legitimately reclaimed from being classified as a solid waste.
- RCRA Cluster XXVIII - Checklist 242: Add hazardous waste aerosol cans to the universal waste program. This change would benefit the wide variety of establishments generating and managing hazardous waste aerosol cans, including the retail

sector, by providing a clear, protective system for managing discarded aerosol cans, easing regulatory burdens, and promoting the collection and recycling of these cans.

In addition to federal revisions, revisions are being proposed to the state industrial waste program to codify a 1995 regulatory determination letter and provide an exclusion from the DSW for spent foundry sands generated by the iron and steel casting industries when they are appropriately recycled. The proposed rulemaking would amend Chapter 335 by adopting federal RCRA revisions and implement state-initiated revisions to clarify the regulatory status of spent foundry sand.

## TCEQ Proposed IHW Generator and Management Fees Increase

Revisions to the Industrial and Hazardous Waste (IHW) generator and management fee rules are needed to increase revenue into the Waste Management Account, Fund 0549. Fund 0549 is facing a declining fund balance and these fee rates have not been adjusted since 1994. The increase in waste generation fees could provide generators an incentive to reduce their waste generation as a cost saving. While such reduction in waste generation would benefit human health and the environment, there is a possibility that revenue might not increase as much as anticipated due to lower waste generation amounts.



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## TCEQ offering Lunch and Learn Webinars

These informal webinars will provide information on a variety of topics including water requirements, compliance and enforcement subjects, and remediation programs. Current offerings include Brownfields, PST Rule Updates, Scrap Tire Management, and Lead in Schools. You can view the current offerings and register [here](#).

## Significant New Use Rules on Certain Chemical Substances (19-1.F)

EPA is issuing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for chemical substances which were the subject of premanufacture notices (PMNs) and a microorganism that was the subject of a Microbial Commercial Activity Notice (MCAN). This action requires persons to notify EPA at least 90 days before commencing manufacture (defined by statute to include import) or processing of any of these chemical substances for an activity that is designated as a significant new use by this rule. This action further requires that persons not commence manufacture or processing for the significant new use until they have submitted a Significant New Use Notice (SNUN), and EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken any risk management actions as are required as a result of that determination.

TSCA section 5(a)(2) states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In determining what would constitute a significant new use for the chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances and potential human exposures and environmental releases that may be associated with the substances, in the context of the four bulleted TSCA section 5(a)(2) factors listed in this unit. This rule is effective on July 6, 2021. For further information, please contact William Wysong with the EPA at (202) 564-or [wysong.william@epa.gov](mailto:wysong.william@epa.gov).



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## Restore the Organization and Function of the Environmental Appeals Board

The EPA is reversing recent changes to the organization and function of the Environmental Appeals Board (EAB) that altered the appeals process and procedures for Agency decisions that the EAB considers. In addition, the Administrator reaffirms that the Board is intended to function as an impartial body that is independent of all EPA components, except the immediate Office of the Administrator, and reaffirms the EAB's ability to carry out the Administrator's delegated authority to adjudicate disputes and issue final Agency decisions. The Agency is rescinding certain changes made to EPA's EAB and its appeal process that were promulgated on August 21, 2020. Specifically, the EPA is reinstating the regulatory text at 40 CFR 1.25 and most of 40 CFR 124.19 that existed prior to the 2020 amendments. The 2020 EAB Rule is subject to review consistent with the Executive Order 13990, "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis," section 2(a) (January 20, 2021). The Agency has determined that the 2020 EAB Rule adversely affects the administration of the Agency's appeals process and procedures and, thus, rescission of the 2020 EAB Rule is warranted. This final rule is effective on June 11, 2021. For further information, please contact Ammie Roseman-Orr with the EPA at (202) 233-0122 or [roseman-orr.ammie@epa.gov](mailto:roseman-orr.ammie@epa.gov).

## NPDES 2022 General Permit for Stormwater Discharges From Construction Activities

All ten Environmental Protection Agency (EPA) Regions are proposing for public comment on the proposed 2022 National Pollutant Discharge Elimination System (NPDES) general permit for stormwater discharges from construction activities. The proposed permit, once finalized, will replace the existing 2017 CGP that will expire on February 16, 2022. EPA proposes to issue this to provide permit coverage to eligible operators in all areas of the country where EPA is the NPDES permitting authority. EPA seeks comment on the proposed permit and on the accompanying fact sheet. This Federal Register document describes the proposed permit and includes specific topics on which they are particularly seeking comment. EPA encourages the public to read the fact sheet to better understand the proposed permit. The fact sheet and proposed permit can be found at <https://www.epa.gov/npdes/stormwater-discharges-construction-activities>. Comments on the proposed permit must be received on or before July 12, 2021. For further information on the proposed permit, contact the appropriate EPA Regional office

# Upcoming Compliance Reminders

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## July

<b>1</b>	<ul style="list-style-type: none"> <li>❖ Toxics Release Inventory annual reports due to the EPA</li> <li>❖ P2 Plan: annual progress report due.</li> </ul>
<b>24</b>	<ul style="list-style-type: none"> <li>❖ Dam Safety Workshop for Owners and Operators</li> </ul> <p><b>Decatur Civic Center</b> 2010 W. US 380 Decatur, TX 76234</p> <p>Registration: \$75.00; On-site Registration: \$99.00</p>

## August

<b>14</b>	<ul style="list-style-type: none"> <li>❖ Multi-Sector General Permit No. TXR050000 expires.</li> </ul>
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## September

<b>16</b>	<ul style="list-style-type: none"> <li>❖ Pollution Prevention Waste Management Workshop (Virtual)</li> </ul> <p><a href="https://web.cvent.com/event/8fa200f6-801c-4c79-b6e9-14f4e470fb1c/summary">https://web.cvent.com/event/8fa200f6-801c-4c79-b6e9-14f4e470fb1c/summary</a></p>
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## October

<b>31</b>	<ul style="list-style-type: none"> <li>❖ Annual Air Emissions/Inspection fees are invoiced.</li> </ul>
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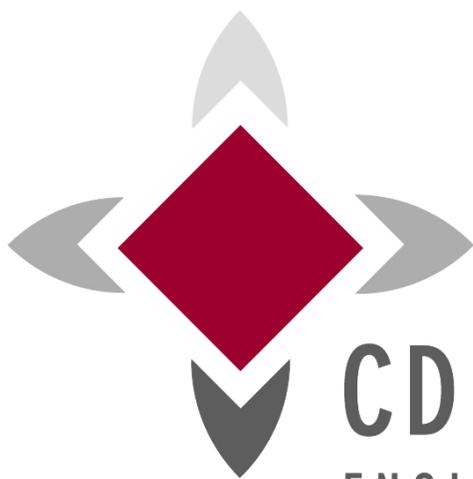
### Plan Ahead!

Review any upcoming changes to your facility for environmental compliance to prevent any last-minute issues from slowing down your progress.

CD Environmental appreciates the opportunity to provide this regulatory update to our customers and friends. CD is committed to helping you achieve your environmental compliance goals. Please let us know if there is anything we can assist with to meet your compliance needs.

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