

Storm Water Pollution Prevention Regulations Fact Sheet

REGULATORY SUMMARY

These regulations, known as the storm water National Pollutant Discharge Elimination System (NPDES), govern the discharge of storm water containing pollutants into waters of the United States. Their goal is to use pollution prevention measures to limit pollutants in storm water discharges. There are three different classifications of regulated entities under these regulations: industrial dischargers, construction sites, and municipal separate storm sewer systems (MS4). **Any small business that has property from which rain water or snowmelt flows into a water body or storm sewer should be concerned with these regulations.** There are three ways small businesses may be covered by these regulations:

- If a small business falls into one of the classifications of industrial activities covered by the regulations, they may have to obtain coverage under a storm water permit.
- Small businesses undertaking construction activities disturbing more than one acre are required to obtain a storm water permit.
- Small businesses may have to follow requirements of local storm water ordinances established by MS4s.

WHERE TO FIND STORM WATER POLLUTION PREVENTION REGULATIONS

Statutory Authority: *The Clean Water Act of 1977 (CWA)* and its amendments, primarily the *Water Quality Act of 1987*.

Regulations: The following sections of water regulations specific to storm water pollution prevention in 40 CFR, Subchapter D cover the discharge of pollutants:

- [Part 122](#) – Water Programs EPA Administered Permit Programs: The National Pollutant Discharge Elimination System.

States: Some states are authorized to administer NPDES permits. A table is available on the U.S. Environmental Protection Agency's (EPA) web site listing which states are authorized to administer NPDES permits (see For Further Info). Contact your state's water quality office for state specific regulations.

LEARNING THE LINGO

Discharge of a Pollutant is:

- Any addition of any pollutant or combination of pollutants to waters of the United States from any point source; or

- Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

Facility or Activity means any NPDES “point source” or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.

Municipal Separate Storm Sewer System (MS4) means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that are:

- Owned or operated by a public body;
- Designed or used for collecting or conveying storm water;
- Which is not a combined sewer; and
- Which is not part of a Publicly Owned Treatment Works (POTW).

Within the universe of MS4s, are two subcategories of concern:

- **Small MS4** is any MS4 serving an area with a population less than 100,000 which is not already classified as a medium or large MS4.
- **Regulated Small MS4s** are defined as all small MS4s located in urbanized areas (UAs) as defined by the Bureau of the Census, and those small MS4s located outside of a UA that are designated by NPDES permitting authorities. *Only this select subset of small MS4s, referred to as regulated small MS4s, require an NPDES storm water permit.*

Point Source means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, or vessel or other floating craft from which pollutants are or may be discharged.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

Storm Water means storm water runoff, snow melt runoff, and surface water runoff and drainage.

Urbanized Area (UA) is based on the latest decennial Census. The residential population must be at least 50,000 and an overall population density of at least 1,000 people per square mile. A listing of UAs according to the 1990 Census can be found in Appendix 6 of the Preamble of the Phase II Final Rule.

KEY PROVISIONS OF INTEREST TO SMALL BUSINESSES

1. List of SIC Codes

Operators of businesses included in certain Standard Industrial Classification (SIC) Codes that discharge storm water to a Municipal Separate Storm Water System or directly to waters of the United States require authorization under a NPDES industrial storm water permit. The following is a list of categories of industrial facilities that fall under federal storm water regulations found at 40 CFR [122.26](#) (b)(14)(i) - (xi).

- A.** Lumber and Wood Products, Except Furniture.
- B.** Paper and Allied Products.
- C.** Chemicals and Allied Products.
- D.** Petroleum Refining and Related Industries.
- E.** Leather Tanning and Finishing.
- F.** Stone, Clay, Glass, and Concrete Products.
- G.** Primary Metals.
- H.** Fabricated Structural Metal.
- I.** Ship and Boat Building and Repairing.
- J.** Metal, Anthracite, Bituminous Coal and Lignite Mining.
- K.** Oil and Gas Extraction.
- L.** Coal Mines and Coal Mining Related Facilities.
- M.** Mining and Quarrying of Non-Metallic Materials.
- N.** Hazardous Waste Treatment, Storage, and Disposal Facilities.
- O.** Landfills and Land Application Sites.
- P.** Automobile Salvage Yards.
- Q.** Scrap Recycling Facilities.
- R.** Steam Electric Generating Facilities.
- S.** Railroad Transportation.
- T.** Local and Suburban Transit and Interurban Highway Passenger Transportation.
- U.** Motor Freight Transportation and Warehousing.
- V.** Water Transportation.
- W.** Transportation by Air.
- X.** Petroleum Bulk Stations and Terminals.
- Y.** Treatment Works.
- Z.** Construction activity including clearing, grading and excavation.
- AA.** Food and Kindred Products.
- BB.** Tobacco Products.
- CC.** Textile Mills.
- DD.** Apparel, and Other Fabric Products Manufacturing.
- EE.** Wood Kitchen Cabinets.
- FF.** Furniture and Fixtures.
- GG.** Paperboard Containers and Boxes.
- HH.** Converted Paper and Paperboard Products.
- II.** Printing, Publishing, and Allied Industries.
- JJ.** Drugs.
- KK.** Paints, Varnishes, Lacquers, Enamels.
- LL.** Rubber and Miscellaneous Plastics Products.
- MM.** Leather and Leather Products.
- NN.** Glass Products, Made Of Purchased Glass.
- OO.** Fabricated Metal Products, Except Machinery and Transportation Equipment.
- PP.** Industrial and Commercial Machinery and Computer Equipment.
- QQ.** Electronic and Other Electronic Equipment and Components.

- RR.** Transportation Equipment.
- SS.** Measuring, Analyzing, and Controlling Instruments; Photographic, Medical And Optical Goods; Watches And Clocks.
- TT.** Miscellaneous Manufacturing Industries.
- UU.** Farm Product Warehousing and Storage.
- VV.** Refrigerated Warehousing and Storage.
- WW.** General Warehousing and Storage.

2. Coverage Under NPDES

Small businesses meeting the criteria described above must obtain coverage under an NPDES storm water permit and implement storm water pollution prevention plans and management programs. This includes adopting best management practices (BMPs) that effectively reduce or prevent the discharge of pollutants into receiving waters. Storm water permits are usually granted by the state agency delegated authority by EPA to implement the storm water regulations.

3. Permits

Most industrial facilities have permit coverage under a general permit, also known as “permit by rule,” because it is the most efficient permit option. General permits contain preset requirements for specific types of industrial activities. If a business is eligible for inclusion under a general permit, the process of applying for and obtaining the permit is greatly simplified. Where the U.S. Environmental Protection Agency (EPA) is the NPDES permitting authority, the Multi-Sector General Permit is the general permit currently available to facility operators. Other types of general permits may be available in NPDES authorized states; contact the appropriate state NPDES permitting authority to obtain more information on general permits in these states (see [40 CFR 122.28](#)).

There are certain circumstances where a general permit is either not available or not applicable to a specific facility. In this situation, a facility operator must obtain coverage under an individual permit that the NPDES permitting authority will develop with requirements specific to the facility.

4. No Exposure Exclusion

Under the no exposure exclusion, operators of industrial facilities have the opportunity to certify to a condition of “no exposure.” This means that their industrial materials and operations are kept under cover and not exposed to storm water. As long as the condition of “no exposure” exists at a certified facility, the operator is excluded from NPDES industrial storm water permit requirements. Construction activities are addressed under the construction component of the NPDES Storm Water Program and are not eligible for the exclusion.

5. Construction Site Permits

If construction will disturb more than one acre of property, coverage under a NPDES storm water permit is required. If small businesses hire construction

contractors, they should require them, as part of the contract language, to obtain a storm water permit, if required.

6. Municipal Ordinances

A MS4 covered by a NPDES storm water permit may pass a storm water ordinance to help ensure that it can meet its permit conditions. The ordinance usually applies to all or specified entities within its boundaries that have potential to impact storm water. Under such an ordinance, a small business may be required to follow specified pollution prevention BMPs or meet certain pollutant discharge limits regardless of whether the small business is required to have their own storm water permit as an industrial entity.

FIRST QUESTIONS FOR THE SMALL BUSINESS OWNER

- Do you know the Standard Industrial Classification Code for your business? If unknown, compare business activities to the industrial activity classifications listed above.
- Do you have storage of raw materials, machinery, final products, waste products, or by-products uncovered and exposed to weather?
- Does your facility conduct maintenance activities outside?
- Do you know how rain water drains from the property and where it drains to?
- Does the storm water from your facility go into a town- or city- operated drain system, catch basins, storm drains, or sewer systems?
- Does your facility have any fueling operations?
- If you discharge to an MS4, determine if the MS4 is located within the boundaries of a bureau of Census-defined “urbanized area.”

WHAT TO LOOK FOR

- Any pipes, ditches, culverts, or other potential means of conveying storm water that leaves the building or property or discharge to a storm water or sewer systems or directly to a water source.
- Materials stored outside without cover that could come into contact with rain water.
- Evidence of potential sources of contamination of storm water such as discolorations or oily sheens in parking lots or in soils.

THE POLLUTION PREVENTION CONNECTION

- Avoid storing chemicals outdoors, or provide a cover to keep rain water from contacting them and secondary containment to capture leaks.

- Consider just-in-time delivery for raw materials that could contaminate storm water when stockpiled outdoors.
- Identify locations of storm drains and protect them from activities that could cause contaminants to enter them.

WHAT'S NEW

- The EPA has expanded the number of facilities requiring NPDES permits through the Phase II Final Rule published in the Federal Register on December 8, 1999. The initial regulation referred to as "Phase 1 program" was published in 1990 and addressed sources of storm water runoff that had the greatest potential to negatively impact water quality.
- Phase II requires small construction activities to have a NPDES permit. A small construction activity is defined as one to five acres.
- Any small MS4 located **within** the boundaries of an urbanized area is covered under Phase II. Small MS4s located **outside** of the boundary of an urbanized area are subject to potential designation into Phase II.
- In Phase II, all industrial activities will now be eligible for no-exposure waivers instead of only light industries.

FOR FURTHER INFO

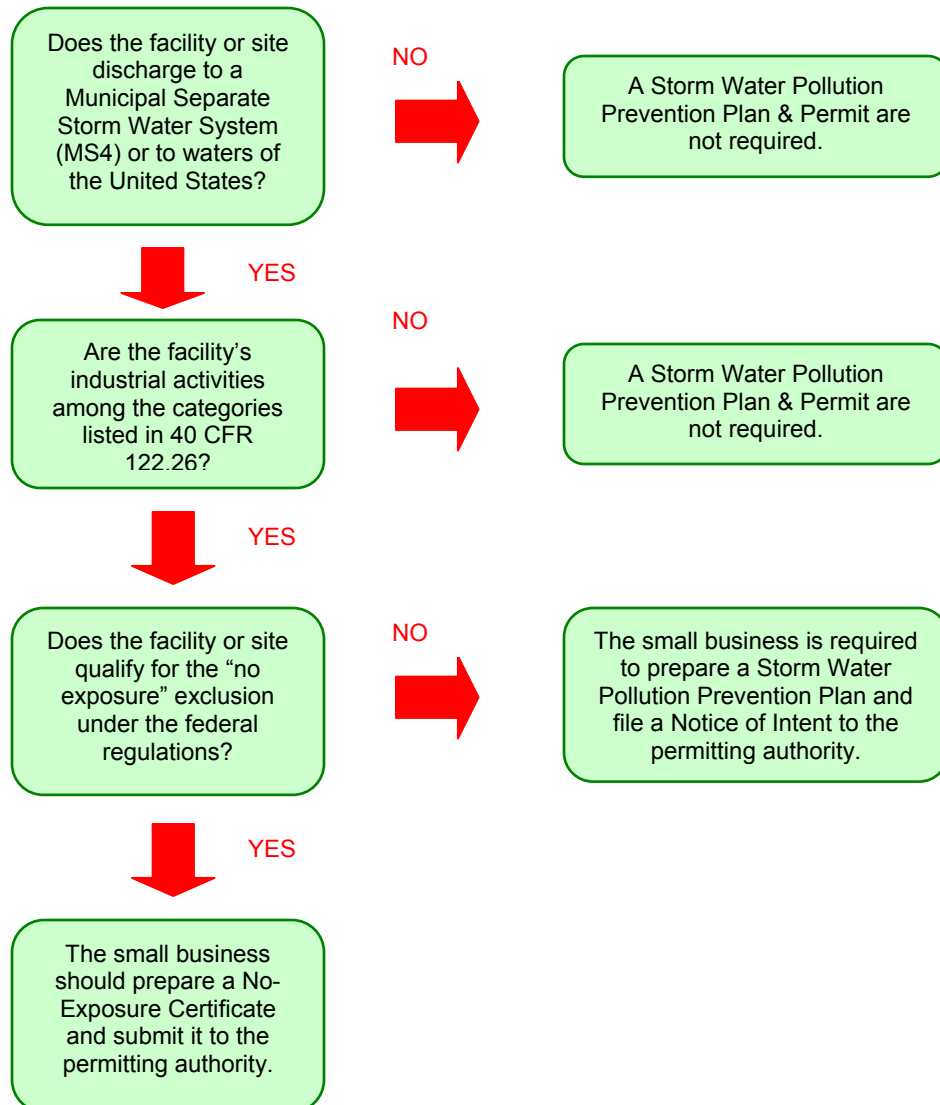
EPA NPDES Phase II Storm Water information website:
<http://cfpub.epa.gov/npdes>.

Determining urbanized area fact sheet:
<http://www.epa.gov/npdes/pubs/fact2-2.pdf>.

EPA Construction Site Permit website:
<http://cfpub.epa.gov/npdes/stormwater/cgp.cfm>.

This fact sheet provides a general overview of regulatory requirements. It is not all-inclusive and does not describe specific state and local requirements. Its purpose is to provide state SBAP staff with guidance on key provisions so that they may recognize potential applicability to small business and be more effective when seeking interpretations from regulatory experts.

Storm Water Pollution Prevention Regulations Roadmap (For Industrial Entities)



Storm Water Pollution Prevention Regulations Roadmap (For Construction Sites)

