

NPDES Phase II Industrial Permit Notes
by John Chlarson, MTAS Public Works Consultant

This is an attempt to highlight some information regarding:

Storm Water Discharge Associated With Industrial Activity (40 CFR 122.26(b)(14)(i)-(xi))

"Stormwater discharge associated with industrial activity" means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program under this regulation.

All of this information came from TDEC and/or the EPA; this is primarily an attempt to highlight some of it and also to present it through another venue for greater exposure to designated MS4's. ***Most of the frequently asked questions (FAQ's) that MTAS has seen are answered in the first six pages.***

FAQ's:

Q: Does my Municipal vehicle maintenance shop require an industrial permit?

A: That depends. If none of the vehicles serviced are related to transportation (e.g. a Municipal Transit Bus), then the shop will not require a permit. If the shop serves a mixed use fleet, records must be used to determine which category of vehicles are predominately serviced, i.e. if more than half the work done at the facility is transportation related, then the facility must be permitted.

Q: How does a municipality determine what type of vehicle a particular maintenance facility is primarily engaged in servicing?

A: The SIC Manual recommends using a value of receipts or revenues approach to determine what is the primary activity of a facility. For example, if a maintenance facility services both school buses and intercity buses, the facility would total receipts for each type of vehicle and whichever generated the most revenue, would be the vehicle type that the facility is primarily engaged in servicing. If data on revenues and receipts are not available, the number of vehicles and frequency of service may be compared. If a facility services more than two types of vehicles, whichever type generates the most (not necessarily greater than half of the total) revenue, or is most frequently serviced, is the vehicle type the facility is primarily engaged in servicing.

Q: Is a municipal maintenance facility that is primarily engaged in servicing garbage trucks required to apply for a permit?

A: The answer depends on the SIC code assigned to the establishment. If the municipality also owns the disposal facility (e.g., landfill, incinerator) that receives refuse transported by the trucks, then the maintenance facility would be classified as SIC code 4953 and thus would not be required to apply for a permit unless the maintenance facility was located at a facility covered under one of the other categories of industrial activity (e.g., a landfill that receives industrial waste). If, however, the municipality does not own the disposal facility, the truck maintenance facility would be classified as SIC code 4212 and thus would be required to apply for a permit. If other vehicles are serviced at

the same maintenance facility, the facility may not be required to submit a permit application (see question above).

Q: Are fire trucks or police cars included in the transportation SIC codes?

A: No. The operation of fire trucks and police cars are classified under public order and safety (SIC code 92); therefore, the operator of a facility primarily engaged in servicing those vehicles would not be required to apply for a permit.

Q: Are municipally owned and/or operated school bus maintenance facilities required to apply for an NPDES permit?

A: No. The SIC Manual states that "school bus establishments operated by educational institutions should be treated as auxiliaries" to the educational institution. Since the SIC code assigned to educational institutions is 82, the municipally operated (i.e., by a school board, district, or other municipal entity) school bus establishments would not be required to apply for an NPDES permit for their storm water discharges. Private contract school bus services are required to apply for an NPDES permit for their storm water discharges.

Q: Is the fueling operation of a transportation facility (SIC codes 40 through 45) covered if there are no other vehicle maintenance activities taking place at the facility?

A: Yes. A nonretail fueling operation is considered vehicle maintenance [see 122.26(b)(14)(viii)] and requires an NPDES storm water discharge permit application

Q: Is SIC code 4212 always assigned to facilities with dump trucks?

A: No. The maintenance facility must be primarily engaged in maintaining the dump truck to be characterized as SIC code 4212. Dump trucks used for road maintenance and construction and facilities that maintain these trucks are classified under SIC code 16 (heavy construction other than building construction) and therefore would not be characterized as engaging in industrial activity.

Q: We store road salt at our street department garage. Do we need a permit?

A: That depends. Salt is an "end-product" which could, if exposed to water, enter the run-off. However

if the salt is stored in a shed with a roof and walls, then it is prevented from entering the run-off. If the salt is far enough under a shed roof, without walls, then it is protected from entering the run-off. If it will not enter the run-off, no permit is required.

Q: If I have more than one designated industrial activity at a site, do I need multiple industrial permits?

A: No. One permit per site, regardless of the number of activities.

Q: Does our municipal landfill need a permit? What if we close the landfill?

A: If the landfill now, or has ever, received industrial waste, it requires a permit. A closed landfill requires a permit also, if it ever received industrial waste.

Q: Do we have to permit our sewage lift stations?

A: No.

Q: Do my treatment plants need permits?

A: Yes and no. Your potable water treatment plant normally does not need a permit, however, your sewage treatment plant does, unless the runoff from the plant is being captured and treated at the plant. If your sewage treatment plant meets this and other qualifications, you may be able to file a certificate of No Exposure.

TDEC recently sent the following guidance memorandum to the EAC Water Pollution Control Managers:

TENNESSEE DEPARTMENT OF ENVIRONMENT & CONSERVATION
DIVISION OF WATER POLLUTION CONTROL
OFFICE MEMORANDUM

DATE: February 12, 2003
TO: EAC, Water Pollution Control Managers
FROM: Permit Section, Water Pollution Control, Nashville
SUBJECT: Storm Water Runoff from Sewage Treatment Works

For approximately ten years, publicly owned sewage treatment works (POTWs) have been exempt from storm water runoff permitting. That exemption expires on March 10, 2003, when POTWs:

- with design flow of 1.0 MGD or more; or
- that are required to have an approved pretreatment program (any design flow);

have to submit a notice of intent (NOI) to obtain coverage under the Tennessee Multi-Sector General Permit (TMSP), under [Sector T](#).

The NOI submittal requirement applies only if there is exposure of raw materials (chemicals), processes or process equipment, or waste products to precipitation and a resulting point source discharge of this storm water runoff to waters of the state (other than the main POTW outfall). Rainwater collected for treatment in the main plant, such as in sludge drying bed drains or grit collection wash areas, does not need to be covered by the TMSP.

Land used for the disposal of sludge at the facility is considered process-related material. Therefore, this permitting requirement applies to runoff from areas of the facility where sludge is disposed. Sludge placed off-site is subject to the permitting requirement as well, except where it is beneficially reused, such as on farm land and gardens, or where the application of the sludge is in compliance with [40 CFR Part 503](#).

POTWs can qualify for a [No Exposure](#) (NoEx) exemption. If the POTW can qualify for the NoEx, it must submit a NoEx certification form to the state by March 10, 2003. In general, the no exposure exemption can be claimed if no raw materials (chemicals), processes or process equipment, or waste products are exposed to rainwater. See the NoEx form referenced below for more detail.

The NOI and the NoEx form are available on the Water Pollution Control industrial storm water web page, <http://www.state.tn.us/environment/permits/strmh2o.htm>.

The following text is included for reference purposes. There are no chemical monitoring requirements for [Sector T](#), only quarterly visual inspection of storm water runoff. All new and existing facilities that request coverage under this permit must have a storm water pollution prevention plan (SWPPP) prepared and implemented prior to NOI submittal. A copy of the SWPPP should not be included with the NOI submission (except as required by Part IV.F of the TMSP, for discharges which constitute an increase of pollutant loading into 303(d) listed waters or high quality waters). Upon a showing of good cause, the division may establish a later date in writing for preparing and compliance with the SWPPP.

The definition of “Storm water associated with industrial activity,” as included in the TMSP, taken verbatim from [40 CFR 122.26\(b\)14](#), states, in part:

Storm water associated with industrial activity means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program. For the categories of industries identified in paragraphs (i) through (x) of this definition, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at [40 CFR Part 401](#)); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. [...]

(ix) Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under [40 CFR Part 403](#). Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and that are not physically located in the confines of the facility, or areas that are in compliance with [40 CFR Part 503](#);

During the EPA’s NPDES Permit Application Workshop (notebook dated July 10, 1992), the above definition was presented in a following “user-friendly” language:

(ix) Treatment works

This category [category ix, see above definition] covers sewage treatment plants that treat domestic sewage, or any other sewage sludge or wastewater treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage.

Includes:

- *Facilities with design flow of 1.0 MGD or more*
- *Facilities required to have an approved pretreatment program*
- *Land used for the disposal of sludge at the facility*

Does Not Include:

- *Beneficially re-used sludge*

If sludge is beneficially reused on, for example, farms or home gardens, the facility is not required to apply. To be considered beneficially reused, the sludge must be used off-site. Beneficial sludge reuse is the application of sludge as a nutrient builder or soil conditioner.

Wastewater treatment facilities that collect their stormwater and process it through headworks of a plant do not need to apply for a stormwater permit.

Municipalities serving less than 100,000 persons have been granted exemption and extension for obtaining coverage for sewage treatment plants (and various other industrial activities) by EPA rule of April 2, 1992, pursuant to the Intermodal Transportation and Efficiency Act of 1991, and by EPA rule of August 7, 1995. The recent phase II rule published at the [Federal Register, p.68780, on Wed. Dec. 8, 1999](http://www.access.gpo.gov/su_docs/aces/aces140.html) (searchable at http://www.access.gpo.gov/su_docs/aces/aces140.html) removes the extension and sets a deadline for permitting:

3. ISTEA Sources

Provisions within the Intermodal Surface Transportation and Efficiency Act (ISTEA) of 1991 temporarily exempted storm water discharges associated with industrial activity that are owned or operated by municipalities serving populations less than 100,000 people (except for airports, power plants, and uncontrolled sanitary landfills) from the need to apply for or obtain a storm water discharge permit (section 1068(c) of ISTEA). Congress extended the NPDES permitting moratorium for these facilities to allow small municipalities additional time to comply with NPDES requirements for certain sources of industrial storm water. The August 7, 1995 storm water final rule (60 FR 40230) further extended this moratorium until August 7, 2001. However, today's rule changes this deadline so that previously exempted industrial facilities owned or operated by municipalities serving populations less than 100,000 people, must now submit an application for a permit within 3 years and 90 days from date of publication of today's rule.

As a result, the new deadline for a [Notice of Intent](#) submittal for category (ix) facilities is Monday, March 10, 2003.

The TMSP is located at <http://www.state.tn.us/environment/permits/tmsp.htm>. Question & Answer document about the TMSP is at <http://www.state.tn.us/environment/wpc/stormh2o/tmspsh2o.htm>.

Questions regarding the TMSF can be E-mailed to Storm.Water@state.tn.us.

cc: Permit Section, TMSF General File

Note: The following questions and answers are from EPA's storm water program from a few years ago. Tennessee's approach to storm water permitting is very similar to EPA's so the information here applies by and large to Tennessee's storm water program. Some things, such as the address where you submit an NOI, will be different for TN than for the EPA program.

INDUSTRIAL PERMIT APPLICATION QUESTIONS AND ANSWERS: Volume I

March 16, 1992

Category i - Facilities subject to storm water effluent guidelines, new source performance standards, or toxic pollutant effluent standards.

1. What kinds of facilities are included under category (i)?

Category (i) includes facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under Title 40 subchapter N of the Code of Federal Regulations (CFR) (except facilities with toxic pollutant effluent standards which are exempted under category (xi) of the definition of storm water discharge associated with industrial activity). The term "storm water" modifies only "effluent limitations guidelines." Facilities subject to subcategories with new source performance standards, toxic pollutant effluent standards, or storm water effluent limitation guidelines are required to submit a National Pollutant Discharge Elimination System (NPDES) permit application for storm water discharges associated with industrial activity.

2. What kinds of facilities are subject to storm water effluent guidelines?

The following categories of facilities have storm water effluent guidelines for at least one of their subcategories: cement manufacturing (40 CFR 411); feedlots (40 CFR 412); fertilizer manufacturing (40 CFR 418); petroleum refining (40 CFR 419); phosphate manufacturing (40 CFR 422); steam electric power generation (40 CFR 423); coal mining (40 CFR 434); mineral mining and processing (40 CFR 436); ore mining and dressing (40 CFR 440); and asphalt (40 CFR 443). A facility that falls into one of these general categories should examine the effluent guideline to determine if it is categorized in one of the subcategories that have storm water effluent guidelines. If a facility is classified as one of those subcategories, that facility is subject to the standards listed in the CFR for that category, and as such, is required to submit a storm water discharge permit application.

3. What kinds of facilities are subject to 'toxic pollutant effluent standards'?

First, it is important to understand the term toxic pollutant. Toxic pollutants refers to the priority pollutants listed in

Tables II and III of Appendix D to 40 CFR part 122 (not 40 CFR Part 129). If any of these toxic pollutants are limited in an effluent guideline to which the facility is subject (including pretreatment standards), then the facility must apply for a storm water permit.

The following categories of facilities have toxic pollutant effluent standards for at least one subcategory:

Textile mills (40 CFR 410)
Electroplating (40 CFR 413)
Organic chemicals, plastics, and synthetic fibers (40 CFR 414)
Inorganic chemicals (40 CFR 415)
Petroleum refining (40 CFR 419)
Iron and steel manufacturing (40 CFR 420)
Nonferrous metals manufacturing (40 CFR 421)
Steam electric power generating (40 CFR 423)
Ferro alloy manufacturing (40 CFR 424)
Leather tanning and finishing (40 CFR 425)
Glass manufacturing (40 CFR 426)
Rubber manufacturing (40 CFR 428)
Timber products processing (40 CFR 429)
Pulp, paper, and paperboard (40 CFR 430)
Metal finishing (40 CFR 433)
Pharmaceutical manufacturing (40 CFR 439)
Ore mining and dressing (40 CFR 440)
Pesticide chemicals (40 CFR 455)
Photographic processing (40 CFR 459)
Battery manufacturing (40 CFR 461)
Metal molding and casting (40 CFR 464)
Coil coating (40 CFR 465)
Porcelain enameling (40 CFR 466)
Aluminum forming (40 CFR 467)
Copper forming (40 CFR 468)
Electrical and electronic components (40 CFR 469)
Nonferrous metals forming and metal powders (40 CFR 471)

4. What kinds of facilities are subject to "new source performance standards"?

Most effluent guidelines listed in subchapter N contain New Source Performance Standards (NSPS). A facility that is subject to a NSPS as defined for that particular effluent guideline is required to submit a permit application for the storm

water discharges associated with industrial activity at that site. The definition of a new source varies based on the publication date of the particular effluent guideline. The following categories of 40 CFR Subchapter N facilities do not have new source performance standards. All other categories have at least one subcategory with new source performance standards.

Oil and Gas Extraction (40 CFR 435)

Mineral Mining and Processing (40 CFR 436)

Gum and Wood Chemicals Manufacturing (40 CFR 454)

Pesticide Chemicals (40 CFR 455)

Explosives Manufacturing (40 CFR 457)

Photographic (40 CFR 459)

Hospital (40 CFR 460)

If a facility is included under the description of both category (i) and category (xi), is that facility required to submit a storm water permit application if material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are not exposed to storm water?

The answer depends on why the facility is included in category (i). If the facility is included in category (i) because it is subject to storm water effluent standards or new source performance standards, the facility is required to apply for a permit regardless of whether it has exposure or not. Facilities that are included in category (i) only because they have toxic pollutant effluent standards are not required to submit an application if they indeed have no exposure to material handling equipment or activities, raw materials,

intermediate products, final products, waste materials, by-products, or industrial machinery.

Categories ii, iii, vi, viii, and xi

6. What industrial groups are covered by Standard Industrial Classification (SIC) codes that are used in the definition of storm water discharge associated with industrial activity?

The following SIC codes and associated industries are included in the indicated categories of the definition:

Category (ii)

32 (except 323) - Stone/Clay/Glass and Concrete Products (except glass products made of purchased glass)

14 - Nonmetallic Minerals

Category (vi)

5015 - Motor Vehicles Parts, Used

5093 - Scrap and Waste Materials

Category (viii)

41 - Local Passenger Transportation

42(except 4221-4225) - Trucking and Warehousing (except public warehousing and

storage)

43 - U.S. Postal Service

45 - Transportation by Air 5171 - Petroleum, Bulk Stations and Terminals

Category (xi)

35 - Industrial and Commercial Machinery and Computer Equipment

36 - Electronic and Other Electrical Equipment and Components

37 (except 373) - Transportation Equipment (except ship and boat building and repairing)

Category iii - Mining and Oil & Gas Operations

7. Are inactive mines included in the regulation?

Two conditions must be met for an inactive mine to be required to submit a storm water discharge permit application. First, the facility must have a discharge of storm water that has come into contact with any overburden, raw material, intermediate products, finished products, byproducts, or waste products located on the site of the facility. The second condition depends on the type of mining activity. Inactive non-coal mining operations must apply until such sites are released from applicable State or Federal reclamation requirements after December 17, 1990. Non-coal mining operations released from applicable State or Federal requirements before December 17, 1990, must apply for an NPDES storm water discharge permit if the storm water discharges are contaminated as discussed above. Inactive coal mining operations must apply unless the performance bond issued to the facility by the appropriate Surface Mining Control and Reclamation Act (SMCRA) authority has been released.

What is a reportable quantity for discharges from an oil or gas operations?

As defined at 40 CFR 110.6, an RQ is the amount of oil that violates applicable water quality standards or causes a film or sheen upon or a discoloration of the surface of the water or adjoining shorelines or causes a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines (40 CFR part 110.6). The RQs for other substances are listed in 40 CFR 117.3 and 302.4 in terms of pounds released over any 24-hour period.

10. Are access roads for mining operations covered?

Any construction that disturbs 5 acres (*1 acre*) or more of total land area must apply for a storm water discharge permit.

After construction, roads for mining operations would not be included unless storm water runoff from such roads mixes with storm water that is contaminated by contact with overburden, raw materials, intermediate products, finished products, byproducts, or waste products. When roads are constructed out of materials such as overburden or byproducts, an application for an NPDES storm water discharge permit would be required. ,

Category iv - Hazardous Waste Treatment, Storage, or Disposal

Facilities

11. Is a facility that stores hazardous waste less than 90 days required to submit an application?

It is EPA's intent to cover those facilities that are operating under interim status or permit under the Resource Conservation and Recovery Act (RCRA) subtitle C. As such, only facilities meeting the definition of a hazardous waste treatment, storage, or disposal facility under RCRA are expressly included in this category. A facility that stores hazardous waste less than 90 days is not considered to be a treatment, storage, or disposal facility, and therefore is not required to submit a storm water permit application.

Category v - Landfills, Land Application Sites and Open Dumps

12. Do closed or inactive landfills need to apply for a permit?

Yes. Any landfill, active, inactive or closed, must apply for a permit if it receives, or has received, wastes from the

industrial facilities identified under 122.26(b)(14)(i)-(xi). To the extent that control measures and best management practices address storm water, the permit may incorporate those control measures.

13. Does a landfill that receives only the office waste and/or cafeteria waste from industrial facilities have to apply for an NPDES permit?

No. Only landfills that receive or have received waste from manufacturing portions of industrial facilities need to apply for a permit.

Category vi- Recycling Facilities

14. Are gas stations or repair shops that collect tires or batteries classified in the "recycling" category?

No. Only those facilities classified in SIC codes 5015 (used motor vehicle parts) and 5093 (scrap and waste materials) are in the "recycling" category.

This includes facilities such as metal scrap yards, battery reclaimers, salvage yards, and automobile junkyards.

15. Are municipal waste collection sites included in category (vi)?

No. Municipal waste collection sites where bottles, cans, and newspapers are collected for recycling purposes are not classified as SIC codes 5015 or 5093.

Category vii - Steam Electric Power Generating Facilities

16. Are offsite transformer areas regulated under the NPDES storm water rule?

No. Upon examination of the Toxic Substances Control Act, EPA determined that the regulation of storm water discharges from these facilities should be studied under Section 402(p)(5) of the Clean Water Act (CWA) (55 FR 48013). Future regulations may be developed to address these areas.

7. Are storm water discharges from electrical substations included in the definition of industrial activity?

No. Electrical substations are not covered by this regulation.

20. Are university power plants included in the definition of industrial activity?

Yes. A university steam electric power generating facility is required to apply for a storm water discharge permit.

Category viii - Transportation Facilities

21. Are gas stations and automotive repair shops required to apply for an NPDES storm water discharge permit?

No. These facilities are classified in SIC codes 5541 (gasoline filling stations) and 7538 (automotive repair shops). The storm water rule generally does not address facilities with SIC classifications pertaining to wholesale, retail, service or commercial activities. Additional regulations addressing these sources may be developed under Section 403(p)(6) of the CWA if studies required under Section 402(p)(5) indicate the need for regulation.

22. Does a vehicle maintenance shop or an equipment cleaning facility need to apply for a permit?

Yes, if the shop is categorized by the SIC codes listed in the transportation category of facilities engaged in industrial activity [i.e., SIC codes 40, 41, 42 (except 4221-25) 43, 44, 45 and 5171]. Only the vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication) and equipment cleaning areas (such as truck washing areas) must be addressed in the application.

As explained above, gas stations are classified in SIC code 5541 and automotive repair services are classified as SIC code 75, which are not included in the regulatory definition of industrial activity, and therefore are not required to submit NPDES storm water discharge permit applications.

23. Are municipally owned and/or operated school bus maintenance facilities required to apply for an NPDES permit?

No. The SIC Manual states that "school bus establishments operated by educational institutions should be treated as auxiliaries" to the educational institution. Since the SIC code assigned to educational institutions is 82, the municipally operated (i.e., by a school board, district, or other municipal entity) school bus establishments would not be required to apply for an NPDES permit for their storm water discharges. Private contract school bus services are required to apply for an NPDES permit for their storm water discharges.

24. Is SIC code 4212 always assigned to facilities with dump trucks?

No. The maintenance facility must be primarily engaged in maintaining the dump truck to be characterized as SIC code 4212. Dump trucks used for road maintenance and construction and facilities that maintain these trucks are classified under SIC code 16 (heavy construction other than building construction) and therefore would not be characterized as engaging in industrial activity.

25. How does a municipality determine what type of vehicle a particular maintenance facility is primarily engaged in servicing?

The SIC Manual recommends using a value of receipts or revenues approach to determine what is the primary activity of a facility. For example, if a maintenance facility services both school buses and intercity buses, the facility would total receipts for each type of vehicle and whichever generated the most revenue, would be the vehicle type that the facility is primarily engaged in servicing. If data on revenues and receipts are not available, the number of vehicles and frequency of service may be compared. If a facility services more than two types of vehicles, whichever type generates the most (not necessarily greater than half of the total) revenue, or is most frequently serviced, is the vehicle type the facility is primarily engaged in servicing.

26. Is a municipal maintenance facility that is primarily engaged in servicing garbage trucks required to apply for a permit?

The answer depends on the SIC code assigned to the establishment. If the municipality also owns the disposal facility (e.g., landfill, incinerator) that receives refuse transported by the trucks, then the maintenance facility would be classified as SIC code 4953 and thus would not be required to apply for a permit unless the maintenance facility was located at a facility covered under one of the other categories of industrial activity (e.g., a landfill that receives industrial waste). If, however, the municipality does not own the disposal facility, the truck maintenance facility would be classified as SIC code 4212 and thus would be required to apply for a permit. If other vehicles are serviced at the same maintenance facility, the facility may not be required to submit a permit application (see question #25 above).

27. Are fire trucks or police cars included in the transportation SIC codes?

No. The operation of fire trucks and police cars are classified under public order and safety (SIC code 92); therefore, the operator of a facility primarily engaged in servicing those vehicles would not be required to apply for a permit.

28. Do all airports need to apply for a storm water discharge permit?

No, only those airports classified as SIC code 45. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning, or airport deicing or which are otherwise identified under 122.26(b)(14)(i)-(vii) or (ix-xi) are required to be permitted. Airports that are not engaged in such activities do not require storm water discharge permits.

Facilities primarily engaged in performing services that incidentally use airplanes (e.g., crop dusting and aerial photography) are classified according to the service performed.

29. Is the deicing of airplanes, runways, or both included in airport deicing operations?

Airports or airline companies must apply for a storm water discharge permit for locations where deicing chemicals are applied. This includes, but is not limited to, runways, taxiways, ramps, and areas used for the deicing of airplanes. The operator of the airport should apply for the storm water discharge permit with individual airline companies included as co-applicants.

30. Who is responsible for seeking permit coverage at an airport that has many companies using the facility and discharging storm water?

The operator is responsible for seeking coverage. EPA strongly encourages cooperation between the airport authority and all operating airlines at that airport. Each operator is responsible for coordinating with the others and they may act as co-applicants. Please note that under 122.26(a)(6) the Director has the discretion to issue individual permits to each discharger or to issue an individual permit to the airport operator and have other dischargers to the same system act as co-permittees to the permit issued to the airport operator.

33. Are tank farms at petroleum bulk storage stations covered by the rule?

No, unless the storm water discharge from the tank farm area commingles with storm water from any vehicle maintenance shops or equipment cleaning operations located onsite. However, tank farms located onsite with other industrial facilities, as defined in 122.26(b)(14), are included in the regulation.

34. Is a parking lot associated with a vehicle maintenance shop included in the regulation?

Yes. Under 122.26 (b)(14)(viii) vehicle maintenance and equipment cleaning operations are considered industrial activity. Parking lots used to store vehicles prior to maintenance are considered to be a component of the vehicle maintenance activity.

35. Is the fueling operation of a transportation facility (SIC codes 40 through 45) covered if there are no other vehicle maintenance activities taking place at the facility?

Yes. A nonretail fueling operation is considered vehicle maintenance [see 122.26(b)(14)(viii)] and requires an NPDES storm water discharge permit application.

36. Is a manufacturing facility's offsite vehicle maintenance facility required to apply for a permit under the transportation category?

No. An offsite vehicle maintenance facility supporting one company would not be required to apply for a permit if that company is not primarily engaged in providing transportation services and therefore would not be classified as SIC code 42. The maintenance facility would be considered an auxiliary operation to the manufacturing facility. For a full discussion on auxiliary facilities see page 13 through 17 of the 1987 Standard Industrial Classification Manual. If the maintenance facility is located on the same site as the manufacturing operation, it would be included in the areas associated with industrial activity and must be addressed in an application.

Category ix - Sewage Treatment Works

38. Are storm water permit applications required for offsite (i.e., physically separated from the main treatment works property) pumping stations?

No, storm water permit applications are not required for such sites.

39. Are separate permit applications required for vehicle maintenance/ washing facilities (located

either onsite or offsite) associated with a wastewater treatment plant and owned/operated by the wastewater treatment agency?

Offsite vehicle maintenance facilities would not be required to submit applications unless they serve multiple clients

since they do not fit the SIC codes listed in the transportation category of facilities engaged in industrial activity. Onsite vehicle maintenance/cleaning operations are associated with industrial activity and must be included in the application.

40. Do wastewater treatment facilities that collect their storm water runoff and treat the storm water as part of the normal inflow that is processed through the treatment plant have to apply for a permit?

No. If a facility discharges its storm water into the headworks of the treatment plant, it is essentially the same as discharging to a combined system or to a sanitary system and is therefore exempt from the requirements of 122.26(c).

41. The definition states that of/site areas where sludge is beneficially reused are not included as storm water discharges associated with industrial activity. How is beneficial reuse defined?

Beneficial sludge reuse is the application of sludge as a nutrient builder or soil conditioner. Examples include agricultural or domestic application.

Category x - Construction Activities

42. Is a construction site of five acres or more subject to the same deadline as other industrial facilities?

The individual application deadline for all storm water discharges associated with industrial activity is 10/1/92. If a construction activity is completed by 10/1/92, an application is not required.

43. What is the duration of an NPDES permit issued for a construction activity?

The permit will be effective as long the construction activity continues, but no longer than five years. If the construction continues beyond five years, the owner/operator must apply for a new permit.

44. Does the construction category only include construction of industrial buildings?

No. Any construction activity, including clearing, grading, and excavation, that results in the disturbance of five acres of land or more in total is covered by the rule. Such activities may include road building, construction of residential houses, office buildings, or industrial buildings, and demolition activity. However, this does not apply to agricultural or silvicultural activities, which are exempt from NPDES permit requirements under 40 CFR 122.4.

45. Does the rule require that storm water discharges after construction be addressed?

Yes. The individual application must describe proposed measures to control pollutants in storm water discharges that will occur after construction

operations are complete, including a description of State and local erosion and sediment control specifications.

Please Note: EPA believes that construction activities should be covered under a storm water general permit wherever possible. 40 CFR 122.21(c)(1) allows the permitting authority to establish different and shorter submittal dates under the specific terms of a particular general permit.

47. Who is responsible for applying for a storm water permit?

The operator is responsible for applying for the permit as required by 122.21(b). In the case of construction, the owner may submit an application for a construction activity if the operators have not yet been identified. However, once the operators have been identified, they must become either sole permittees or co-permittees with the owner. The operator is determined by who has day to day supervision and control of activities occurring at a site. In some cases, the operator may be the owner or the developer, at other sites the operator may be the general contractor.

Category xi - Light Industrial Facilities

48. If a category (xi) facility has determined that there is no exposure of certain activities or areas listed in the definition

to storm water and the operator does not file a permit application, how does the operator prove, if asked, that he/she did not need to apply?

If there is no exposure of certain activities or areas listed in the definition, the operator should file a no exposure certification form.

49. Do those industries listed in 122.26(b)(14)(xi) that only have access roads and rail lines exposed to storm water need to apply for a permit?

No. As stated in 122.26 (b)(14), facilities in category (xi) do not have to apply for a permit if storm water only is exposed to access roads and rail lines.

50. If air pollution control equipment vents on the roof are exposed to storm water, does this constitute exposure and trigger a permit condition?

No. The exposure of air pollution control equipment vents does not in itself constitute exposure. It is possible, however, that even with the use of air pollution control equipment, significant pollutants may be exposed to storm water. For example, if a cyclone, a common particulate control device, is used alone, only about 80 percent of the potential pollutants would be removed. 20 percent of the pollutants may then come into contact with storm water. In this case, a permit application is required.

51. If there has been past exposure, can a facility change its operation to eliminate exposure, and thus become exempt?

Yes. If a category (xi) facility can change its operation and eliminate all exposure, the facility may be exempt from the regulation. It is important to note, however, that eliminating exposure may include clean up as well.

52. Is a covered dumpster containing waste material kept outside considered exposure?

No, as long as the container is completely covered and nothing can drain out holes in bottom, or is lost in loading onto a garbage truck, this would not be considered exposure.

General Applicability

53. How is a storm water out/all from an industrial site defined for the purpose of sampling?

An industrial outfall is the point at which storm water associated with industrial activity discharges to waters of the United States or a separate storm sewer. Separate storm sewers may be roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains.

54. Are tank farms considered to be associated with industrial activity?

Yes, if they are located at a facility described in the definition of storm water discharge associated with industrial activity. Tank farms are used to store products and materials used or created by industrial facilities, and therefore are directly related to manufacturing processes. However, tank farms associated with petroleum bulk storage stations, classified as SIC code 5171, at which no vehicle maintenance or equipment cleaning operations occur, are exempt.

55. Is an offsite warehouse associated with a regulated industrial facility required to submit an application?

No. As stated on page 48011 of the preamble to the November 16, 1990, rule, warehouses of either preassembly parts or finished products that are not located at an industrial facility are not required to submit an application unless otherwise covered by the rule.

56. If a facility has more than one industrial activity, how many applications are required?

Only one application is required per facility. Permit conditions will address the various operations at the facility. The application must reflect all storm water discharges from areas associated with industrial activity as described in the definition at 122.26(b)(14). The activity in which a facility is primarily engaged determines what SIC code is assigned to that facility. To determine the activity in which a facility is primarily engaged, The SIC Manual recommends using

a value of receipts or revenues approach. For example, if a facility manufactures both metal and plastic products, the facility would total receipts for each operation and the operation that generated the most revenue for the facility is the operation in which the facility is primarily engaged. If revenues and receipts are not available for a particular facility, the number of employees or production rate may be compared. If a facility performs more than two types of operations, whichever operation generates the most (not necessarily the majority) revenue or employs the most personnel, is the operation in which the facility is primarily engaged.

57. Are industrial facilities located in municipalities with fewer than 100,000 residents required to apply for a permit?

Yes. All industrial discharges of storm water through separate storm sewers or into waters of the United States must apply for an NPDES permit.

58. If the SIC code for the activity in which a facility is primarily engaged is not included in the definition of storm water discharge associated with industrial activity, but the facility has a secondary SIC code that is included in the definition, is the facility required to submit an NPDES storm water permit application?

For purposes of this regulation, a facility's SIC code is determined based on the primary activity taking place at that facility. In the case described above, the facility is not required to apply for an NPDES storm water discharge permit. However, if the facility conducts an activity on the site identified in the narrative descriptions of categories (i), (iv), (v), (vii), or (x), then the facility would be required to submit an NPDES storm water permit application for portions of the facility used for the activities described in those categories.

59. Are military bases or other Federal facilities regulated under this rule?

Yes. Industrial activities identified under 122.26(b)(14)(i)-(xi) that Federal, State, or Municipal governments own or operate are subject to the regulation.

60. Does the regulation require a permit for storm water discharges to a publicly owned treatment works?

No. A discharge to a sanitary sewer or a combined sewer system is not regulated under the storm water regulation. Storm water discharges either to waters of the United States or separate storm sewer systems require a permit if associated with any of the industrial facilities listed in 122.26(b)(i) - (xi).

61. Are there any limits or size restrictions which narrow the scope of facilities requiring an application?

The only restrictions regarding size are for construction activities and sewage treatment works. All construction activities must apply for permit coverage except for operations that disturb less than five acres of total land which are not part of a larger common plan of development or sale. Sewage treatment works designed to treat one million gallons per day or more must submit an NPDES permit application.

64. If a facility has a NPDES permit for its process wastewater and some, but not all, of its storm water discharges associated with industrial activity, does the operator need to apply?

The operator must ensure that all storm water discharges associated with industrial activity are covered by an NPDES permit. The operator may wish to submit an individual application, participate in a group application, or seek coverage under a general permit for any remaining outfalls that are not covered by an existing NPDES permit. The permitting authority may also wish to modify the existing NPDES permit to cover the other storm water discharges.

65. A facility holds a recently renewed NPDES permit which does not cover storm water discharges. Does that facility need to apply?

Yes. If the facility is identified in paragraph 122.26(b)(14)(i) through (xi) of the rule, that facility may wish to submit an individual application, participate in a group application, or seek coverage under a general permit for any remaining outfalls that are not covered by an existing NPDES permit. The permitting authority may also wish to modify or reissue the existing NPDES permit to cover the other storm water discharges.

70. Are Superfund sites regulated under this rule?

Yes, if the site is assigned an SIC code or fits the description of one of the categories listed in the definition of storm water discharge associated with industrial activity. Under the Superfund Amendment and Reauthorization Act (SARA) section 121(E), Superfund sites are required to "substantively comply" with all environmental regulations.

71. Are areas used for the disposal of industrial wastewaters and sanitary wastewaters included in the definition of "associated with industrial activity"?

Yes, the definition includes sites used for process water land application that are not used for agricultural activities.

72. Do inactive industrial facilities need to apply?

Yes, if the facility is included in the definition of storm water discharge associated with industrial activity and significant materials remain on site and are exposed to storm water runoff (p.48009 of 11/16/91 Federal Register). The regulation defines significant materials at 122.26 (b)(13) as including, but not limited to, raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101 (14) of the Comprehensive Environmental Response, Compensation, and Liability Act; any chemical the facility is required to report pursuant to section 313 of title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

73. Can a facility apply for an individual permit after completing the group application or applying for coverage under a general permit?

This option is available, but the operator is advised to discuss the matter directly with the permitting authority.

74. If a facility is totally enclosed with no materials or activities exposed to storm water, but has a point source discharge of storm water, is a permit application required?

If the facility is described in categories 122.26(b)(14)(i-x) a permit application is required regardless of the actual exposure of materials or activities to storm water. If the facility is described in 122.26(b)(14)(xi), a permit application is required only if there is exposure of materials or activities to storm water.

75. How does a municipally owned industrial facility apply for an NPDES permit?

Such a facility must meet the same application requirements as any other industrial facility. The facility may submit an individual permit application (Forms 1 and 2F), participate in a group application, or seek coverage under an available general permit.

76. Who is required to submit Form 17?

Anyone submitting NPDES application Forms 2C, 2D, 2E, 2F, or a construction individual application is required to submit Form 1.

78. Are washwaters and/or noncontact cooling waters (e.g., air conditioner condensate) Included in the definition of storm water?

No. "Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage. Washwaters are usually considered to be process wastewater. Noncontact cooling waters are considered a nonprocess wastewater.