United States
Environmental Protection
Agency

Office Of Water
EN-336

EPA 833-F-93-002
March 1992

EPA

NPDES Storm Water Program

Question And Answer Document
Volume 1

Recycled/Recyclable
Printed on paper that contains
at least 50% recycled fiber

NPDES

Storm Water Program

Question and Answer Document

U.S. Environmental Protection Agency
Office of Wastewater Enforcement and Compliance
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March 1992

INDUSTRIAL PERMIT APPLICATION QUESTIONS AND ANSWERS

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)
Ferroalloy 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 <u>not</u> 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)

5. **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)

- 24 (except 2434) - Lumber and Wood Products (except wood kitchen cabinets)
- 26 (except 265 and 267) - Paper and Allied Products (except paperboard containers and products)
- 28 (except 283 and 285) - Chemicals and Allied Products (except drugs and paints)
- 29 - Petroleum Refining Industries
- 311 - Leather Tanning and Finishing

32 (except 323) - Stone/Clay/Glass and Concrete Products (except glass products made of purchased glass)
33 - Primary Metal Industries
3441 - Fabricated Structural Metals
373 - Ship and Boat Building and Repairing

Category (iii)
10 - Metal Mining
12 - Coal Mining
13 - Oil and Gas Extraction
14 - Nonmetallic Minerals

Category (vi)
5015 - Motor Vehicles Parts, Used
5093 - Scrap and Waste Materials

Category (viii)
40 - Railroad Transportation
41 - Local Passenger Transportation
42 (except 4221-4225) - Trucking and Warehousing (except public warehousing and storage)
43 - U.S. Postal Service
44 - Water Transportation
45 - Transportation by Air
5171 - Petroleum Bulk Stations and Terminals

Category (xi)
20 - Food and Kindred Products
21 - Tobacco Products
22 - Textile Mill Products
23 - Apparel Related Products
2434 - Wood Kitchen Cabinets Manufacturing
25 - Furniture and Fixtures
265 - Paperboard Containers and Boxes
267 - Converted Paper and Paperboard Products
27 - Printing, Publishing, and Allied Industries
283 - Drugs
285 - Paints, Varnishes, Lacquer, Enamels, and Allied Products
30 - Rubber and Plastics
31 (except 311) - Leather and Leather Products (except leather tanning and finishing)
323 - Glass Products
34 (except 3441) - Fabricated Metal Products (except fabricated structural metal)

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)
38 - Measuring, Analyzing, and Controlling Instruments
39 - Miscellaneous Manufacturing Industries
4221-4225 - Public Warehousing and Storage

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.

8. **Are any oil & gas exploration, production, processing, or treatment operations, or transmission facilities classified under SIC code 13, exempt from having to apply for a storm water permit?**

Yes, such facilities are exempt unless they have discharged storm water after November 16, 1987, containing a Reportable Quantity (RQ) of a pollutant for which notification is or was required pursuant to 40 CFR 117.21, 40 CFR 302.6, or 40 CFR 110.6; or if a storm water discharge from the facility contributes to a violation of a water quality standard, as set forth in 40 CFR 122.26(c)(1)(iii).

9. 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 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 junk yards.

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.

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

No. Electrical substations are not covered by this regulation.

18. **Are storm water discharges from coal piles that are located offsite from the power station included in the definition of industrial activity?**

No. Offsite coal piles are not covered by this regulation. In order to be included, a coal pile must be located on the site of a facility defined by the regulation as being "engaged in an industrial activity."

19. **Are storm water discharges from co-generation facilities included in the definition of industrial activity?**

A heat capture co-generation facility is not covered under the definition of storm water discharge associated with industrial activity; however, a dual fuel co-generation facility is included and therefore must submit an application for the storm water discharges associated with industrial activity.

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 <u>primarily</u> 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.

31. Are railroad facilities included?

Railroad facilities, classified as SIC code 40, which have vehicle maintenance activities, equipment cleaning operations or are otherwise identified under 122.26(b)(14)(i)-(vii) or (ix)-(xi) need to apply for a permit.

32. Are repairs along a railroad system considered to be vehicle maintenance and thus regulated?

No. Only nontransient vehicle maintenance shops are included in the transportation category.

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.

37. **Is a marina required to apply for a storm water permit if it operates a retail fueling operation, but other vehicle maintenance or equipment cleaning activities are not conducted onsite?**

Facilities that are "primarily engaged" in operating marinas are best classified as SIC 4493 - marinas. These facilities rent boat slips, store boats, and generally perform a range of other marine services including boat cleaning and incidental boat repair. They frequently sell food, fuel, fishing supplies, and may sell boats. For facilities classified as 4493 that are involved in vehicle (boat) maintenance activities (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication) or equipment cleaning operations, those portions of the facility that are involved in such vehicle maintenance activities are considered to be associated with industrial activity and are covered under the storm water regulations.

Facilities classified as 4493 that are not involved in equipment cleaning or vehicle maintenance activities (including vehicle rehabilitation, mechanical repairs, painting, and lubrication) are not intended to be covered under 40 CFR Section 122.26(b)(14)(viii) of the storm water permit application regulations. The retail sale of fuel alone at marinas, without any other vehicle maintenance or equipment cleaning operations, is not considered to be grounds for coverage under the storm water regulations.

Marine facilities that are "primarily engaged" in the retail sale of fuel and lubricating oils are best classified as SIC code 5541 - marine service stations - and are not covered under 40 CFR Section 122.26(b)(14)(viii) of the storm water permit application regulations. These facilities may also sell other merchandise or perform minor repair work.

Facilities "primarily engaged" in the operation of sports and recreation services such as boat rental, canoe rental, and party fishing, are best classified under SIC code 7999 - miscellaneous recreational facilities - and are not covered under 40 CFR Section 122.26(b)(14)(viii).

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 offsite 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.**

46. **The definition states that the operators of construction activity that disturb less than five acres are not required to apply for a permit unless that construction is part of a larger common plan of development or sale. What is meant by "part of a larger common plan of development or sale"?**

"Part of a larger common plan of development or sale" is a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan. Thus, if a distinct construction activity has been identified onsite by the time the application would be submitted, that distinct activity should be included as part of the larger plan.

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?**

There are no requirements set forth under the November 16, 1990, rule. However, the operator may want to document the facility evaluation which led to the conclusion that there is no exposure to storm water. This documentation should be retained onsite. Some States may have specific requirements. A facility is advised to check with its NPDES permitting authority for additional requirements.

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 outfall 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.

62. **Do pilot plants or research and development facilities classified within one of the regulated SIC codes need to apply for a permit?**

A pilot plant or research facility classified by an SIC code which is specified under 122.26(b)(14)(i)-(xi) would be required to submit an application. A pilot plant or research facility's operations can be directly related to the manufacturing operations of the full-scale facility and therefore warrant a permit.

63. **Are stockpiles of a final product from an industrial site that are located away from the industrial plant site, included under the definition of storm water discharge associated with industrial activity?**

Such stockpiles would not be covered because they are not located at the site of the industrial facility.

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.

66. **If a regulated company owns and operates a subsidiary which is of a wholesale or commercial nature, would the subsidiary need to apply?**

No. Since the subsidiary facility's operations are of a wholesale or commercial orientation, the operations are not considered to be industrial and therefore

would not be covered by this rule unless they are specifically covered by one of the SIC codes or narrative descriptions in 122.26(b)(14).

67. Can an applicant claim confidentiality on information contained in an NPDES permit application?

No. Under 40 CFR 122.7(b), the permitting authority will deny claims of confidentiality for the name and address of any permit applicant or permittee, permit applications, permits, and effluent data.

68. Do the November 16, 1990, regulations modify the requirements of existing storm water effluent guidelines?

No. Existing storm water effluent guidelines are still applicable.

69. Which application forms are industries responsible for submitting?

- For discharges composed entirely of storm water, operators should submit Form 1 and Form 2F.

- For discharges of storm water combined with process wastewater, operators should submit Form 1, Form 2F, and Form 2C.

- For storm water discharged in combination with nonprocess wastewater, operators should submit Form 1, Form 2F, and Form 2E.

- For new sources or new discharges of storm water which will be combined with other non-storm water, operators should submit Form 1, Form 2F, and Form 2D.

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 1?**

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

77. **Before the October 1, 1992, individual application deadline, which forms must a facility submit to renew its NPDES permit for a storm water discharge?**

Since the individual storm water application is not due until October 1, 1992, EPA is allowing such facilities to choose whether the storm water discharges are identified on a Form 2C or a Form 2F. After October 1, 1992, a facility must submit an application in accordance with 40 CFR 122.26(c) (i.e., Forms 1 and 2F).

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.