Who is subject to the NPDES Storm Water Program?

The term "Storm Water Discharges Associated with Industrial Activity," defined in federal regulations 40 CFR 122.26(b)(14)(i)-(xi), determines which industrial facilities are potentially subject to the NPDES stormwater program. The definition uses either SIC (Standard Industrial Classification) codes or narrative descriptions to characterize the activities, and requires a point source discharge. The definition’s 11 categories ((i)-(xi)) are listed below. Please note categories iii, vii, and xi have special conditions, or exceptions (described) which may make a facility NOT subject to the program, and therefore not required to apply, even though the facility’s activity matches an SIC code.

### Category (i)
Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi)). These types of facilities include the following:

**40 CFR Subchapter N**
- §405 Dairy products processing
- §406 Grain mills
- §407 Canned & preserved fruits & veg. processing *
- §408 Canned & preserved seafood processing
- §409 Beet, crystalline & liquid cane sugar refining
- §410 Textile mills
- §411 Cement manufacturing
- §412 Feedlots
- §413 Organic Chemicals plastics and synthetic fibers
- §414 Inorganic chemical manufacturing *
- §415 Soap and detergent manufacturing
- §416 Fertilizer manufacturing *
- §417 Petroleum refining *
- §418 Iron and steel manufacturing
- §419 Nonferrous metal manufacturing *
- §420 Phosphate manufacturing *
- §421 Steam electric power
- §422 Perforalloy manufacturing *
- §423 Leather tanning and finishing *
- §424 Glass manufacturing *
- §425 Asbestos manufacturing *
- §426 Rubber manufacturing *
- §427 Timber products processing
- §428 Pulp, paper, and board mills *
- §429 Paper and board mills
- §430 Pulp, paper, and board products *
- §431 Builder’s paper and board mills
- §432 Meat products
- §433 Metal finishing *
- §434 Coal Mining *
- §435 Mineral mining & processing *
- §436 Petroleum & coal products
- §437 Lead & zinc mining *
- §438 Copper mining *
- §439 Lead & zinc mining *
- §440 Paving and roofing materials
- §441 Paint formulating
- §442 Ink formulating
- §443 Pesticide Chemicals *
- §444 Carbon black manufacturing
- §445 Battery manufacturing
- §446 Plastics molding and forming
- §447 Metal & machining & forming
- §448 Alloy metal products
- §449 Metal & machining & forming
- §450 Foundry products
- §451 Iron & steel products
- §452 Nonferrous metal products
- §453 Fabricated metal products
- §454 Plastics products
- §455 Electrical & electronic components
- §456 Nonferrous metal forming & powders

*some facilities in group do not have limits or standards, see 40 CFR subchapter N to verify.

### Category (ii)
Facilities classified by the following SIC codes:

**SIC Code for Category (ii)**
- 24 Lumber and wood products (except 2434 wood kitchen cabinets, see (xi))
- 26 Paper & allied products (except 265 paperboard containers, 267 converted paper, see (xi))
- 28 Chemicals & allied products (except 283 drugs, see (xi))
- 29 Petroleum & coal products
- 311 Leather tanning & finishing
- 32 Stone, clay & glass production (except 323 products of purchased glass, see (xi))
- 33 Primary metal industry
- 341 Fabricated structural metal
- 373 Ship and boat building and repair

### Category (iii) Mineral Industry
Facilities classified as SIC codes 10-14 including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(1) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990), and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim).

**SIC Code for Category (iii)**
- 10 Metal mining (metallic mineral/ores)
- 11 Coal mining
- 12 Oil and gas extraction
- 14 Non-metallic minerals except fuels

Oil and gas operations that discharge contaminated stormwater at any time between November 16, 1987 and October 1, 1992, and that are currently not authorized by an NPDES permit, must apply for a permit. Operators of oil and gas exploration, production, processing, or treatment operations or transmission facilities, that are not required to submit a permit application as of October 1, 1992 in accordance with 40 CFR 122.26(c)(1)(ii), but that after October 1, 1992 have a discharge of a reportable quantity of oil or a hazardous substance (in a storm water discharge) for which notification is required pursuant to either 40 CFR 110.6, 117.21, or 302.6, must apply for a permit.
Who is subject to the NPDES Storm Water Program?

**Category (iv) Hazardous Waste**
Hazardous waste treatment, storage, or disposal facilities including those that are operating under interim status or a permit under Subtitle C of RCRA.

**Category (v) Landfills**
Landfills, land application sites, and open dumps that receive or have received any industrial waste (waste that is received from any of the facilities described under categories (i) - (xi)) including those that are subject to regulations under Subtitle D of RCRA.

**Category (vi)**
Facilities involved in the recycling of materials, including metal scrap yards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as SIC 5015 (used motor vehicle parts) and 5093 (scrap and waste materials).

**Category (vii) Steam Electric Plants**
Steam electric power generating facilities, including coal handling sites.

**Category (viii) Transportation**
Transportation facilities classified by the SIC codes listed below which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under categories (i)-(vii) or (ix)-(xi) are associated with industrial activity, and need permit coverage.

SIC Code for Category (viii)
40 railroad transportation
41 local and interurban passenger transit
42 trucking & warehousing (except 4221-25, see (xi))
43 US postal service
44 water transportation
45 transportation by air
5171 petroleum bulk stations and terminals

**Category (ix) Treatment Works**
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 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with section 405 of the Clean Water Act.

**Category (x) Construction**
Construction activity including clearing, grading and excavation activities except: operations that result in the disturbance of less than 1 acre of total land area which are not part of a larger common plan of development or sale. (Phase II changed threshold from 5 acres to 1 acre.)

**Category (xi) Light Industry**
Facilities classified by the following SIC codes:

<table>
<thead>
<tr>
<th>SIC Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>food and kindred product</td>
</tr>
<tr>
<td>21</td>
<td>tobacco products</td>
</tr>
<tr>
<td>22</td>
<td>textile mill products</td>
</tr>
<tr>
<td>23</td>
<td>apparel and other textile product</td>
</tr>
<tr>
<td>2434</td>
<td>wood kitchen cabinets</td>
</tr>
<tr>
<td>25</td>
<td>furniture and fixtures</td>
</tr>
<tr>
<td>265</td>
<td>paperboard containers and boxes</td>
</tr>
<tr>
<td>267</td>
<td>miscellaneous converted paper products</td>
</tr>
<tr>
<td>27</td>
<td>printing and publishing</td>
</tr>
<tr>
<td>283</td>
<td>drugs</td>
</tr>
<tr>
<td>285</td>
<td>paints and allied products</td>
</tr>
<tr>
<td>30</td>
<td>rubber and miscellaneous plastic</td>
</tr>
<tr>
<td>31</td>
<td>leather and products (except 311)</td>
</tr>
<tr>
<td>323</td>
<td>products of purchased glass</td>
</tr>
<tr>
<td>34</td>
<td>fabricated metal products (except 3441)</td>
</tr>
<tr>
<td>35</td>
<td>industrial machinery and equipment</td>
</tr>
<tr>
<td>36</td>
<td>electronic and other electric equipment</td>
</tr>
<tr>
<td>37</td>
<td>transportation equipment (except 373)</td>
</tr>
<tr>
<td>38</td>
<td>instruments and related products</td>
</tr>
<tr>
<td>39</td>
<td>miscellaneous manufacturing</td>
</tr>
<tr>
<td>4221</td>
<td>farm product storage</td>
</tr>
<tr>
<td>4222</td>
<td>refrigerated storage</td>
</tr>
<tr>
<td>4225</td>
<td>general warehouse and storage</td>
</tr>
</tbody>
</table>

(and which are not otherwise included in categories (ii) - (x)) with storm water discharges from all areas (except access roads and rail lines) where material handling equipment, or activities, raw materials, immediate products, final products, waste materials, by-products, or industrial machinery are exposed to storm water. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate produce, finished product, by-product, or waste product.

With Phase II, activities in any of the above categories (except Construction) are eligible for No Exposure Certification—not just “Light Industries” as was the case under Phase I.

Last updated 12/30/2008