



# Basics of Industrial Stormwater Regulations

## Why is a stormwater permit required?

Rain and snowmelt runoff may become contaminated with potential pollutants from manufacturing and processing activities or raw materials stored at an industrial facility. Certain industries, as described in Title 40 of the Code of Federal Regulations (40 CFR), Section 122.26, must have permits that specify how facility operators will limit stormwater pollution to improve the quality of streams, lakes, and rivers where the stormwater eventually flows.

### *Who needs to apply for a stormwater permit?*

The need for permit coverage is determined by the facility's primary Standard Industrial Classification (SIC) code, an Industrial Activity Code, or the federal categorical effluent limitations on stormwater in 40 CFR Subchapter N, Parts 400–471. Operators of facilities with a primary SIC code, or any Industrial Activity Code included in Part II, Section A, of the Multi-Sector General Permit (MSGP)—available online at [www.tceq.texas.gov/assets/public/permitting/stormwater/txr050000.pdf](http://www.tceq.texas.gov/assets/public/permitting/stormwater/txr050000.pdf)—or those referenced in 40 CFR Subchapter N, Parts 400–471, must obtain authorization for discharges of stormwater associated with industrial activity. (See MSGP TXR050000, Part II.)

### *What is an SIC code?*

A Standard Industrial Classification code is a four-digit code used to describe the activities at a facility. You may have more than one SIC code if there is more than one industrial activity at your facility.

The documentation you received when you registered with the Texas Comptroller may include an SIC code or a North American Industrial Classification System (NAICS) code. To view SIC code descriptions or to convert a NAICS code to an SIC code, use the tools available on the Occupational Safety & Health Administration's Data & Statistics web page [www.osha.gov/oshstats/](http://www.osha.gov/oshstats/). (See Part I.)

## ***What is a primary SIC code?***

A primary SIC code is a description of the activity that generates the most revenue or that has the most resources dedicated to it. If both your primary and secondary SIC codes are regulated under the MSGP, you must comply with the requirements for both sectors in Part V of the permit. (See Part I.)

## **Am I required to get a permit if I don't discharge stormwater from my site?**

The potential for discharge is based on the physical characteristics of your site and the amount of precipitation received. Your site is not eligible for permit coverage if it is physically impossible for stormwater to discharge from your site or if your facility manages stormwater in one of the following ways:

- recycling of stormwater with no resulting discharge into or adjacent to surface water in Texas
- pumping and hauling of stormwater to an authorized disposal facility
- discharging of stormwater to a sewer system
- injecting stormwater underground in accordance with Title 30, Texas Administrative Code (30 TAC), Chapter 331
- discharging to aboveground storage tanks with no resulting discharge into or adjacent to surface water in Texas
- containing all stormwater within property boundaries, with no discharge into surface water in Texas, including no discharge during, or as the result of, any storm

As the operator of the site, you may be required to use engineering calculations or other appropriate methods to demonstrate that no discharge would occur from the site as a result of any storm regardless of the amount of rainfall. If a site does not have stormwater permit coverage and a storm occurs that results in a discharge from the site, then the operator would be in violation of the Texas Water Code. (See Part II, Section B.12.)

## **Are different types of authorization available for stormwater discharges?**

There are three options for obtaining authorization for stormwater discharges: the Multi-Sector General Permit, No Exposure Certification (NEC), or an individual Industrial Wastewater Permit. (See Part II, Section C.)

## **MSGP**

Your site may be authorized to discharge stormwater under the MSGP, which is often referred to as the industrial stormwater permit. General permits cover groups of businesses that conduct similar activities, discharge similar wastes, or do both. Applying for a general permit is much less complicated, less expensive, and less time consuming than applying for an individual permit.

## **No Exposure**

You may qualify for the *conditional no-exposure exclusion* if all industrial materials and activities are indoors or protected by a storm-resistant shelter to prevent exposure to rain, snow, snowmelt, and runoff. Industrial materials or activities include, but are not limited to:

- material-handling equipment or activities
- industrial machinery
- raw materials
- intermediate products
- byproducts
- final products
- waste products

Material-handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, or waste product. *Final product* means a product that is not used in making another product. Final products intended for outdoor use need not be stored indoors or in a storm-resistant shelter. (See Part II, Section C.1. Conditional No Exposure Exclusion.)

### **How do I claim “no exposure”?**

You must certify that no exposure exists by submitting a No Exposure Certification form (TCEQ-10383). Facilities that claim a condition of no exposure at their site may be subject to enforcement action if the TCEQ or the U.S. Environmental Protection Agency determines that industrial activities or materials are exposed to precipitation or runoff. Remember: if you are claiming no exposure, your facility must operate in that manner at all times, not just during a storm event. (See Part II, Section C.2.)

### **If I store finished products outside where they are exposed to rainfall, can I still qualify for the conditional no-exposure exclusion?**

Many final products—such as new cars or residential garbage cans—are intended for outdoor use and pose little risk of stormwater contamination when stored outdoors. Final products intended for outdoor use, except

those that contain metals or pollutants that can be mobilized in stormwater discharge, may be exposed and still allow the facility to certify no exposure. Any product that can be used to make another product or can be used as part of another product is considered an intermediate product and is not eligible for the conditional no-exposure exclusion.

## ***Industrial Wastewater Permit***

If you cannot meet all of the requirements in the MSGP, then you should apply for an individual Industrial Wastewater Permit. Unlike a general permit, an individual permit is written for a specific facility and requires an application that includes a detailed technical report. For more information about the individual permit, its requirements, or the application process, contact our Water Quality Permitting Section at 512-239-4671 or visit our web page, Industrial Wastewater Discharges: The Permit Process <[www.tceq.texas.gov/goto/ww-permits](http://www.tceq.texas.gov/goto/ww-permits)>.

## **How do I obtain permit coverage under the MSGP?**

You must:

- develop a Stormwater Pollution Prevention Plan (SWP3) as described in Part III, Section A., of the MSGP,
- implement that plan at your facility, and
- submit a Notice of Intent (NOI) and an application fee as indicated in the NOI instructions. (See Part II, Section C. 2. Application for Coverage.)

## ***How much does stormwater permit coverage cost?***

If you submit an NOI or NEC for coverage under the MSGP by mail, you must include an application fee of \$200. The electronic application fee is \$100 if you use the State of Texas Environmental Electronic Reporting System (STEERS) <[www3.tceq.texas.gov/steers/](http://www3.tceq.texas.gov/steers/)>. In addition, MSGP permit holders that have filed an NOI will be charged a \$200 annual water quality fee. (See Part II, Section C.10. Fees.)

An annual fee is not required for a facility that obtained a no-exposure exclusion.

The application fee for an individual permit is \$350, and individual permit holders are charged an annual \$500 water quality fee.

### ***Do I have to hire a consultant or engineer to prepare my No Exposure Certification, Notice of Intent, or Stormwater Pollution Prevention Plan?***

No. Compliance with the permit does not require the services of a consultant or an engineer. If you choose to hire a consultant or engineer, be sure you understand all of the requirements of the permit because you are responsible for complying with those requirements. You will be responsible for any noncompliance issues observed by an investigator and any applicable fines assessed as a result of noncompliance.

### ***Will I receive a letter or permit number from the TCEQ once I submit my No Exposure Certification or my Notice of Intent?***

You will receive an acknowledgement certificate that includes an authorization number specific to your facility. A copy of the completed NEC or NOI submitted along with a certified mail and return receipt can serve as documentation of coverage until your authorization number is received. If you submit an electronic application through STEERS, you will have immediate access to your acknowledgment certificate. Additional information is available online at the STEERS web page <[www3.tceq.texas.gov/steers/](http://www3.tceq.texas.gov/steers/)> or by calling our Help Desk at 512-239-6747.

### ***How soon after I submit my No Exposure Certification or my Notice of Intent does my coverage start?***

Provisional coverage begins seven days after the NEC or the NOI is postmarked. If you are submitting an application electronically through STEERS, provisional coverage begins immediately upon the TCEQ's confirmation of receipt of the NOI or NEC.

### ***How long does my permit coverage last?***

The general permit is issued for a five-year term, and coverage does not automatically continue at the end of that term. The current MSGP became effective on Aug. 14, 2016, and will expire at midnight on Aug. 13, 2021. You must reapply for coverage under the MSGP or the No Exposure Certification after the new permit is reissued, regardless of when you submitted your NOI or NEC.

***If I owned an industrial facility that has gone out of business, but industrial materials are still on my property, do I need to continue permit coverage?***

Yes. Stormwater coverage is required where industrial activity has taken place in the past and significant materials remain and are exposed to stormwater. The permit includes a description of the specific conditions and requirements for this situation. (See Part IV, Section A.4.)

***If my facility is located on property I lease, is the property owner required to obtain permit coverage?***

No. Only the operator of the industrial facility is responsible for obtaining permit coverage.

## **What is an SWP3?**

An SWP3 is a document you develop to evaluate potential pollutant sources and to describe the specific Best Management Practices (BMPs—see the next question) used at the facility to minimize and control pollutants that may be discharged in stormwater runoff. The information in your SWP3 also documents how your facility is complying with the permit requirements. The SWP3 is often described as a living document because it should change when the conditions at your facility change or as a result of your periodic inspection findings or sampling analysis. For example, if you inspect a BMP and determine that it is not adequate, you must change the BMP and update the SWP3 with information about the new BMP. Similarly, if analysis of a discharge sample shows that a particular pollutant is over the benchmark parameter, you must change a BMP or process that may more effectively control that particular pollutant and update the SWP3 with a description of the change.

***What are best management practices for stormwater?***

A best management practice is a technique, process, activity, or structure used to reduce the pollutant content of a stormwater discharge. BMPs include simple nonstructural methods such as good housekeeping and preventive maintenance. Additionally, BMPs can include structural modifications such as the installation of sediment basins, oil and water separators, grit traps, or erosion control devices. (See Part I.)

## **What are the sampling and monitoring requirements?**

Sampling and monitoring requirements are somewhat different for each industry. All permitted facilities must comply with Parts I–IV of the permit.

Additional requirements are described in the industry-specific portions of Part V. All sampling is to occur within the first 30 minutes of discharge, and these activities must be conducted by qualified personnel. Qualified Personnel is defined in Part I.

### ***Periodic Inspections***

Periodic inspections must be conducted by qualified personnel once per quarter unless otherwise stated in Part V of the permit. Periodic inspections serve to determine the effectiveness of the BMPs being used, and the results must be documented in your SWP3. (See Part III, Sections B.1. and B.2.)

### ***Quarterly Visual Monitoring***

Quarterly visual monitoring is conducted once per quarter. You must sample the runoff and examine it for floating, settled, and suspended solids, color, clarity, sheen, odor, foam, and other obvious indicators of stormwater pollution. Results must be recorded in your SWP3. For more information about quarterly visual monitoring, go to the online TCEQ Publications Catalog <[www.tceq.texas.gov/publications/search\\_pubs.html](http://www.tceq.texas.gov/publications/search_pubs.html)> and search for publication number RG-403, *Quarterly Visual Monitoring of Stormwater Runoff*. (See Part III, Section B.3.)

### ***Benchmark Monitoring***

Benchmark monitoring is conducted twice a year. Benchmark values are indicators of stormwater pollution associated with your specific sector of industry. Samples are collected and sent for analysis by a lab accredited by the National Environmental Laboratory Accreditation Program (NELAP). You must include the lab results in your SWP3 and submit a summary of results to the TCEQ before March 31 of each year using the Benchmark Summary form. To obtain this form, go to the online TCEQ Forms Search <[www.tceq.texas.gov/search\\_forms.html](http://www.tceq.texas.gov/search_forms.html)> and search for TCEQ-20091. (See Part IV.)

### ***Numeric Effluent Limits***

Numeric effluent limits are established for hazardous metals, and you must monitor for these metals once a year. Samples are collected and sent for analysis by a lab accredited by NELAP. You must record the results on a Discharge Monitoring Report (DMR) (EPA Form 3320-1) and include it in your SWP3. If the pollutant concentration in a sample exceeds the limits of a sampling parameter, you must submit a copy of the DMR to the TCEQ by March 31 of each year.

If your facility is subject to the additional numeric effluent limits in MSGP Part V, Sections A, C, D, E, J, O, or S you must submit a copy of your DMR to the TCEQ by March 31 of each year even if the discharge did not exceed the limits of a sampling parameter.

Permittees will receive a waiver until Aug. 31, 2017, to report DMRs electronically. For more information on the NetDMR electronic reporting system go to <<https://netdmrtest.epacdx.net/netdmr-web/public/login.htm>>.

(See Part III, Section C.1., and Part V, Sections A, C, D, E, J, O, S)

## How often must I monitor and sample?

### *Periodic Inspections and Quarterly Visual Monitoring*

- First quarter—January through March
- Second quarter—April through June
- Third quarter—July through September
- Fourth quarter—October through December

### *Benchmark Monitoring*

- First period—January through June
- Second period—July through December

### *Numeric Effluent Limits*

Samples required annually should be collected before Dec. 31 of each year. Begin monitoring during the first full monitoring period after submitting your NOI.

## What is a qualifying storm event?

A qualifying storm event is rain or snow that is both measureable and results in an actual discharge from the site. A rain gauge must be kept on-site and monitored at least once a week. You must maintain records of the dates and rainfall totals. You may temporarily suspend rain-gauge monitoring and recordkeeping for the rest of the monitoring period after the required sampling and monitoring has been performed.

## Am I required to take samples at each outfall?

No. If discharges of stormwater through two or more outfalls are substantially the same, you may sample from one outfall and report the results as representative for the other similar outfalls. Information describing each storm event, outfall descriptions, and justification for the

similarities in the discharge should be documented and included in the sampling results section of the SWP3. Outfalls that include non-stormwater flows cannot be substantially similar. (See Part III, Section D.2 Representative Discharge Samples.)

## How do I know if my facility discharges stormwater to a 303(d) listed (impaired) water body or if that water body has an established Total Maximum Daily Load?

First, identify the nearest receiving water body with a segment number. Use the Atlas of Texas Surface Waters <[www.tceq.texas.gov/publications/gi/gi-316/](http://www.tceq.texas.gov/publications/gi/gi-316/)> to locate the map for your area. The four-digit segment number is shown in red on the map.

Second, use the current Index of All Impaired Waters <[www.tceq.texas.gov/goto/tirswq](http://www.tceq.texas.gov/goto/tirswq)> to determine if the segment number is on the list. It is important to note what pollutant sources are responsible for the impairment, if applicable. If any of those particular pollutants could be present in the discharges from your facility, the permit requires additional action on your part to prevent any further impact on the receiving water body.

If the segment number is on the Index of All Impaired Waters, go to the web page <[www.tceq.texas.gov/goto/tmdl-segments](http://www.tceq.texas.gov/goto/tmdl-segments)> to determine if there is also a TMDL established for that water body. If the segment number is not on the list of impaired water bodies, it will not have an established TMDL. (See Part II. B.7.)

### ***What do I do with this information after submitting my NOI?***

Your SWP3 must include information about whether or not the stormwater discharges from your facility will contribute to an existing impairment of the receiving water body. If the pollutant of concern for that water body is present in your facility's discharges, Part II, Section B.7, of the permit includes additional requirements for reducing or preventing discharges of that pollutant.

## How long must I keep records related to my stormwater permit coverage?

Most records pertaining to your SWP3, including your sampling and monitoring records, must be kept for at least three years. You must keep specific records for five years on any spills in reportable quantities or if the facility generates industrial solid waste as defined under 30 TAC Subchapter 335.1. [See Part III., Subsection A.3(e), Section D.5, and Section E.7.]

## Am I allowed to keep records electronically?

No. Compliance with the permit requires that your current SWP3 and all documentation related to the SWP3 as stated in the permit must be maintained as hard copies. If you wish to keep records for previous permit periods, those records may be kept in whatever format you like.

## Where can I find more information?

Guidance for complying with the MSGP is available online at the web page Assistance Tools for Industrial Stormwater General Permit <[www.tceq.texas.gov/goto/ind-sw](http://www.tceq.texas.gov/goto/ind-sw)>.