

Stormwater Discharge Associated with Industrial Activity

(40 CFR 122.26(b)(14)(i) – (xi))

NO EXPOSURE EXCLUSION

What is the definition of the “No Exposure” exclusion? No exposure means all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt and/or runoff. Industrial materials and activities include material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products or waste products. Material handling activities include storage, loading and unloading, transportation or conveyance, of any raw material, intermediate product, by-product, final product or waste product.

Well that is definitely a mouthful. I wanted to make sure everyone understands that you do not have to develop a Stormwater Plan if the No Exposure Exclusion applies to your facility. To determine if your facility can use the No Exposure Exclusion please review the regulation: (40 CFR 122.26(b)(14)(i) – (xi)).

The conditional no exposure exclusion applies to 10 of the 11 categories of Stormwater discharges from regulated industrial activities:

- Category One: Facilities subject to federal Stormwater effluent discharge standards in 40 CFR Parts 405-471
- Category Two: Heavy manufacturing (e.g., paper mills, chemical plants, petroleum refineries, and steel mills and foundries)
- Category Three: Coal and mineral mining, and oil and gas exploration and processing
- Category Four: Hazardous waste treatment, storage or disposal facilities
- Category Five: Landfills, land application sites, and open dumps with industrial wastes
- Category Six: Metal scrapyards, salvage yards, automobile junkyards, and battery reclaimers
- Category Seven: Steam electric power generating plants
- Category Eight: Transportation facilities that have vehicle maintenance, equipment cleaning or airport deicing operations
- Category Nine: Treatment works treating domestic sewage with a design flow of 1 million gallons or more a day
- Category Eleven: Light manufacturing (e.g., food processing, printing and publishing, electronic and other electrical equipment manufacturing, and public warehousing and storage)

A no exposure certification must be provided to the permitting authority for each facility qualifying for the permitting exclusion. In addition, the exclusion from NPDES permitting is available on a facility-wide basis only, not for individual outfalls. To retain the exclusion, you must recertify the condition with the permitting authority at least every five years. If you are in an area where EPA is the permitting authority, you can use the NPDES eReporting Tool for the MSGP (NeT-MSGP) to submit your no exposure certification.

Drums, barrels, tanks and similar containers that are sealed (“sealed” means banded or otherwise secured and without operational taps or valves), are not exposed provided those containers are not deteriorated and do not leak. Unless the drums, barrels, etc., are opened while outdoors, or are deteriorated or leak, they will likely not constitute a risk of contaminating storm water runoff.

Lidded dumpsters containing waste materials, providing the containers are completely covered and nothing can drain out holes in the bottom, or is lost in loading onto a garbage truck. Industrial refuse and trash that is stored uncovered, however, is considered exposed.

Adequately maintained vehicles, such as trucks, automobiles, forklifts, trailers or other general purpose vehicles found onsite—but not industrial machinery—which are not leaking or are otherwise a potential source of contaminants.

To obtain the conditional no exposure exclusion, you must submit a certification form attesting your facility meets the definition of “no exposure.”

Please review the No Exposure Certification form below.

Questions? Contact The Redstone Group at 614-763-5034 x7007 or jwilliams@redstonegrp.com

C. Exposure Checklist

Are any of the following materials or activities exposed to precipitation, now or in the foreseeable future?
(Please check either "Yes" or "No" in the appropriate box.) **If you answer "Yes" to any of these questions (1) through (11), you are not eligible for the no exposure exclusion.**

	Yes	No
1. Using, storing or cleaning industrial machinery or equipment, and areas where residuals from using, storing or cleaning industrial machinery or equipment remain and are exposed to stormwater	<input type="checkbox"/>	<input type="checkbox"/>
2. Materials or residuals on the ground or in stormwater inlets from spills/leaks	<input type="checkbox"/>	<input type="checkbox"/>
3. Materials or products from past industrial activity	<input type="checkbox"/>	<input type="checkbox"/>
4. Material handling equipment (except adequately maintained vehicles)	<input type="checkbox"/>	<input type="checkbox"/>
5. Materials or products during loading/unloading or transporting activities	<input type="checkbox"/>	<input type="checkbox"/>
6. Materials or products stored outdoors (except final products intended for outside use [e.g., new cars] where exposure to stormwater does not result in the discharge of pollutants)	<input type="checkbox"/>	<input type="checkbox"/>
7. Materials contained in open, deteriorated or leaking storage drums, barrels, tanks, and similar containers	<input type="checkbox"/>	<input type="checkbox"/>
8. Materials or products handled/stored on roads or railways owned or maintained by the discharger	<input type="checkbox"/>	<input type="checkbox"/>
9. Waste material (except waste in covered, non leaking containers [e.g., dumpsters])	<input type="checkbox"/>	<input type="checkbox"/>
10. Application or disposal of process wastewater (unless otherwise permitted)	<input type="checkbox"/>	<input type="checkbox"/>
11. Particulate matter or visible deposits of residuals from roof stacks and/or vents not otherwise regulated (i.e., under an air quality control permit) and evident in the stormwater outflow	<input type="checkbox"/>	<input type="checkbox"/>

D. Certification Statement

I certify under penalty of law that I have read and understand the eligibility requirements for claiming a condition of "no exposure" and obtaining an exclusion from NPDES stormwater permitting.

I certify under penalty of law that there are no discharges of stormwater contaminated by exposure to industrial activities or materials from the industrial facility or site identified in this document (except as allowed under 40 CFR 122.26(g)(2)).

I understand that I am obligated to submit a no exposure certification form once every five years to the NPDES permitting authority and, if requested, to the operator of the local municipal separate storm sewer system (MS4) into which the facility discharges (where applicable). I understand that I must allow the NPDES permitting authority, or MS4 operator where the discharge is into the local MS4, to perform inspections to confirm the condition of no exposure and to make such inspection reports publicly available upon request. I understand that I must obtain coverage under an NPDES permit prior to any point source discharge of stormwater from the facility.

Additionally, I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print Name:

Print Title:

Signature: _____

Date: / /
Mo Day Year

Email:

Instructions for the NO EXPOSURE CERTIFICATION for Exclusion from NPDES Stormwater Permitting

Who May File a No Exposure Certification

Federal law at 40 CFR Part 122.26 prohibits point source discharges of stormwater associated with industrial activity to waters of the U.S. without a National Pollutant Discharge Elimination System (NPDES) permit. However, NPDES permit coverage is not required for discharges of stormwater associated with industrial activities identified at 40CFR 122.26(b)(14)(i)-(ix) and (xi) if the discharger can certify that a condition of "no exposure" exists at the industrial facility or site.

Stormwater discharges from construction activities identified in 40 CFR 122.26(b)(14)(x) and (b)(15) are not eligible for the no exposure exclusion.

Obtaining and Maintaining the No Exposure Exclusion

This form is used to certify that a condition of no exposure exists at the industrial facility or site described herein. This certification is only applicable in jurisdictions where EPA is the NPDES permitting authority and must be re-submitted at least once every five years.

The industrial facility operator must maintain a condition of no exposure at its facility or site in order for the no exposure exclusion to remain applicable. If conditions change resulting in the exposure of materials and activities to stormwater, the facility operator must obtain coverage under an NPDES stormwater permit immediately.

Where to File the No Exposure Certification Form

No Exposure Forms sent regular mail: Forms sent overnight/express:

SW No Exposure Certification (4203M) USEPA 1200 Pennsylvania Avenue, NW Washington, D.C. 20460	SW No Exposure Certification US EPA East Building, Rm. 7420 1201 Constitution Avenue, NW Washington, D.C. 20004 (202) 564-9545
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Completing the Form

You must type or print, using uppercase letters, in appropriate areas only. Enter only one character per space (i.e., between the marks). Abbreviate if necessary to stay within the number of characters allowed for each item. Use one space for breaks between words. One form must be completed for each facility or site for which you are seeking to certify a condition of no exposure. Additional guidance on completing this form can be accessed at EPA's website: www.epa.gov/npdes/stormwater. Please make sure you have addressed all applicable questions and have made a photocopy for your records before sending the completed form to the above address.

Section A. Facility Operator Information

1. Provide the legal name of the person, firm, public organization, or any other entity that operates the facility or site described in this certification. The name of the operator may or may not be the same as the name of the facility. The operator is the legal entity that controls the facility's operation, rather than the plant or site manager.
2. Provide the telephone number of the facility operator.
3. Provide the email address of the facility operator.
4. Provide the mailing address of the operator (P.O. Box numbers may be used). Include the city, state, and zip code. All correspondence will be sent to this address.

Section B. Facility/Site Location Information

1. Enter the official or legal name of the facility or site.
2. Enter the complete street address (if no street address exists, provide a geographic description [e.g., Intersection of Routes 9 and 55]), city, county, state, and zip code. Do not use a P.O. Box number.
3. Indicate whether the facility is located on Indian Lands.
4. Indicate whether the industrial facility is operated by a department or agency of the Federal Government (see also Section 313 of the Clean Water Act).
5. Enter the latitude and longitude of the approximate center of the facility or site in degrees/minutes/seconds. Latitude and longitude can be obtained from United States Geological Survey (USGS) quadrangle or topographic maps, by calling 1-(888) ASK-USGS, or by accessing the Census Bureau at: www.census.gov/cgi-bin/gazetteer

Latitude and longitude for a facility in decimal form must be converted to degrees (°), minutes ('), and seconds (") for proper entry on the certification form. To convert decimal latitude or longitude to degrees/minutes/seconds, follow the steps in the following example.

Example: Convert decimal latitude 45.1234567 to degrees (°), minutes ('), and seconds (").

- a) The numbers to the left of the decimal point are the degrees: 45°.
 - b) To obtain minutes, multiply the first four numbers to the right of the decimal point by 0.006: $1234 \times 0.006 = 7.404$.
 - c) The numbers to the left of the decimal point in the result obtained in (b) are the minutes: 7'.
 - d) To obtain seconds, multiply the remaining three numbers to the right of the decimal from the result obtained in (b) by 0.06: $404 \times 0.06 = 24.24$. Since the numbers to the right of the decimal point are not used, the result is 24".
 - e) The conversion for 45.1234567 = 45° 7' 24".
6. Indicate whether the facility was previously covered under an NPDES stormwater permit. If so, include the permit number or permit tracking number.
 7. Enter the 4-digit SIC code which identifies the facility's primary activity and second 4-digit SIC code identifying the facility's secondary activity, if applicable. SIC codes can be obtained from the Standard Industrial Classification Manual, 1987.
 8. Enter the total size of the site associated with industrial activity in acres. Acreage may be determined by dividing square footage by 43,560, as demonstrated in the following example.
Example: Convert 54,450 ft² to acres
Divide 54,450 ft² by 43,560 square feet per acre:
 $54,450 \text{ ft}^2 \div 43,560 \text{ ft}^2/\text{acre} = 1.25 \text{ acres}$.
 9. Check "Yes" or "No" as appropriate to indicate whether you have paved or roofed over a formerly exposed, pervious area (i.e., lawn, meadow, dirt or gravel road/parking lot) in order to qualify for no exposure. If yes, also indicate approximately how much area was paved or roofed over and is now impervious area.

Instructions for the NO EXPOSURE CERTIFICATION for Exclusion from NPDES Stormwater Permitting

Section C. Exposure Checklist

Check "Yes" or "No" as appropriate to describe the exposure condition at your facility. If you answer "Yes" to **ANY** of the questions (1) through (11) in this section, a potential for exposure exists at your site and you cannot certify to a condition of no exposure. You must obtain (or already have) coverage under an NPDES stormwater permit. After obtaining permit coverage, you can institute modifications to eliminate the potential for a discharge of stormwater exposed to industrial activity, and then certify to a condition of no exposure.

Section D. Certification Statement

Federal statutes provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

For a corporation: by a responsible corporate officer, which means:

- (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or
- (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit

application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner or the proprietor, or

For a municipal, State, Federal, or other public facility: by either a principal executive or ranking elected official.

Paperwork Reduction Act Notice

Public reporting burden for this certification is estimated to average 1.0 hour per certification, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose to provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Director, OPPE Regulatory Information Division (2137), USEPA, 401 M Street, SW, Washington, D.C. 20460. Include the OMB control number of this form on any correspondence. Do not send the completed No Exposure Certification form to this address.