

# Who is subject to the NPDES Stormwater Program?

Point source “Stormwater discharges associated with industrial activity” and regulated under the NPDES Stormwater Program are defined in federal regulations 40 CFR §122.26(b)(14)(i)-(xi). The definition invokes either SIC (Standard Industrial Classification) codes or narrative descriptions to characterize the activities.

Summaries of the 11 regulated categories are below. Some categories have special conditions or exceptions which may make a facility NOT subject to the program, even though the facility’s activity matches an SIC code or a Part under 40 CFR Subchapter N.

## Category (i)

Facilities **subject to stormwater effluent limitations guidelines, new source performance standards (NSPS), or toxic pollutant effluent standards under 40**



**CFR subchapter N** (except facilities with toxic pollutant effluent standards which are exempted under category (xi) – SICs beginning with 311, 373 and 3441). Being subject to “toxic pollutant effluent standards” refers to standards codified in 40 CFR §129 and applies only to manufacturers of six specific pesticide products defined as “toxic pollutants.” It **does not** mean industries subject to *effluent limitations guidelines for toxics* under 40 CFR Subchapter N (from EPA Q&A Document, Vol 2, 1993). The facilities include those in the following categories, **and any other Parts that have been codified since the inception of the NPDES Stormwater Program** (may not be listed below). **However, note some Parts may not have limits or standards** – see 40 CFR to verify:

### 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 Electroplating - see category (xi)  
\$414 Organic Chemicals plastics and synthetic fibers  
\$415 Inorganic chemical manufacturing  
\$416 <Reserved>  
\$417 Soap and detergent manufacturing  
\$418 Fertilizer manufacturing  
\$419 Petroleum refining  
\$420 Iron and steel manufacturing  
\$421 Nonferrous metal manufacturing  
\$422 Phosphate manufacturing  
\$423 Steam electric power - see category (vii)  
\$424 Ferroalloy manufacturing  
\$425 Leather tanning and finishing  
\$426 Glass manufacturing  
\$427 Asbestos manufacturing  
\$428 Rubber manufacturing  
\$429 Timber products processing  
\$430 Pulp, paper, and paperboard  
\$431 <Reserved>  
\$432 Meat products  
\$433 Metal finishing  
\$434 Coal Mining  
\$435 Oil & Gas Extraction\* - N/A, see category (iii)

\$436 Mineral mining & processing  
\$437 Centralized Waste Treatment - see category (ix)  
\$438 Metal Products and Machinery - see cat. (xi)  
\$439 Pharmaceutical manufacturing  
\$440 Ore mining & dressing  
\$442 Transportation Equipment Cleaning  
\$443 Paving and roofing materials  
\$444 Waste Combustors - see also (iv) or (viii)  
\$445 Landfills - see category (v)  
\$446 Paint formulating  
\$447 Ink formulating  
\$449 Airport Deicing - see category (viii)  
\$450 Construction - see category (x)  
\$451 Concentrated Aquatic Animal Production - Refer to NC WW General Permit NCG530000  
\$454 Gum and wood products manufacturing - see (ii)  
\$455 Pesticide chemicals  
\$457 Explosives manufacturing - see category (ii)  
\$458 Carbon Black manufacturing  
\$459 Photographic processing - N/A  
\$460 Hospital - N/A  
\$461 Battery manufacturing  
\$463 Plastics molding and forming  
\$464 Metal molding and casting  
\$465 Coil coating  
\$466 Porcelain enameling  
\$467 Aluminum forming  
\$468 Copper forming  
\$469 Electrical & electronic component  
\$471 Nonferrous metal forming & powders

## 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 category (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  
3441 fabricated structural metal  
373 ship and boat building and repair

## Category (iii) Mineral Industry

Facilities classified as Standard Industrial Classifications 10-14 (mineral industry) 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 except for 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



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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)  
12 coal mining  
13 oil and gas extraction  
14 non-metallic minerals except fuels

**\*OIL & GAS EXCLUSION INFO:** Operators of oil and gas exploration, production, processing, or treatment operations, or transmission facilities are not required to submit an NPDES permit application per the exclusion in 40 CFR §122.26(c)(1)(i) unless the facility has had a discharge of a reportable quantity of oil or a hazardous substance (in a stormwater discharge) for which notification is required pursuant to either 40 CFR §110.6, §117.21, or §302.6 since November 16, 1987; or the discharge contributes to a violation of a water quality standard. Other stormwater permitting requirements may apply outside of the NPDES 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 wastes (waste that is received from any of the facilities described under these 11 categories) including those that are subject to regulation under subtitle D of RCRA. Includes construction and demolition (C&D) debris landfills but not typically land clearing and inert debris (LCID) landfills.



## 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. Note that per EPA's 2008 Multi-Sector GP Fact Sheet sentences 36-39, the



following do not require coverage under EPA's MSGP:

1. Simple-cycle **natural gas turbines**;
2. Combined-cycle **gas turbines** with only natural gas and/or exhaust gas energy producing steam;
3. **Gas-turbine** based cogeneration facilities with only natural gas and/or exhaust gas energy producing steam.

The presence of a second type of fuel (including the *capability* to use auxiliary or back-up fuel) makes the facility a dual-fuel facility and voids the gas turbine exemption from NPDES permitting under EPA's MSGP (implementation may differ in delegated state programs).

## 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 in (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



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of less than **1 acre** of total land area which are not part of a larger common plan of development or sale. Demolition activities meeting, or contributing to, the 1 acre threshold are regulated by this paragraph.

## Category (xi) Light Industry

Facilities classified by the following SIC codes:

### SIC Code

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

\***Offsite warehouses** associated with a regulated industrial activity of either preassembly parts or finished products are not required to apply for an NPDES stormwater permit unless otherwise covered by these rules.

## Discharges Otherwise Not Regulated:

40 CFR §122.26(a)(1)(v) grants authority for the State to require a permit for a discharge which the Director or the EPA Regional Administrator “determines to contribute to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States,” except for those discharges from conveyances which do not require a permit under paragraph §122.26 (a)(2) [oil and gas exploration / mine operation stormwaters not contacting materials specified above] or agricultural stormwater runoff exempted from the definition of a point source in §122.2.

## What Industrial Stormwater is Regulated?

**“Stormwater discharge associated with industrial activity”** means the discharge from any conveyance that is used for collecting and conveying stormwater and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program under §122. For the categories of industries identified above, the term includes, but is not limited to, stormwater discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at §401 of this chapter); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. Material handling activities include storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, by-product or waste product. The term *excludes areas* located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas.