

State of Michigan Industrial Storm Water Program
Certificate of Entry Process for Unpermitted Facilities

Michigan Department of Environmental Quality (DEQ)
Water Resources Division (WRD)
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Federal regulation (Title 40, Code of Federal Regulations, Part 122.26) requires that a regulated facility apply for industrial storm water permit coverage if storm water runoff exposed to industrial materials and/or industrial activities discharges to surface waters of the state. This requirement also includes facilities that discharge storm water runoff to a private or municipal separate storm sewer system that conveys storm water to surface waters of the state. Surface waters of the state include rivers, lakes, streams, and wetlands. This document and other compliance assistance tools can be accessed on the DEQ, WRD Industrial Storm Water (ISW) webpage: www.michigan.gov/degstormwater then click on Industrial Storm Water Program.

The DEQ, WRD is offering facilities discharging storm water to surface waters of the state without required industrial storm water permit coverage an expedited process to resolve violations of law. The goal is to encourage facility owners to comply with state and federal water quality laws, specifically Part 31, Section 324.3112 of the Natural Resources Environmental Protection Act, 1994 PA 451, as amended. Facilities that have never obtained a permit and are discharging storm water without necessary permit coverage may voluntarily enter into the General Administrative Consent Order for Unpermitted Discharges No. ACO-UD12-100 (Consent Order) by submitting a complete Notice of Intent and Certificate of Entry application form (NOI/COE form). A complete NOI/COE form includes paying the applicable permit fee of \$260 and meeting all NOI/COE form requirements.

The Consent Order is not available to facilities with expired permits for storm water discharges. Please also note that the Consent Order resolves the violation of discharging without a permit from the DEQ, WRD, however the DEQ, WRD may deny entry of the Consent Order if the discharge is found to have caused any damage to waters of the state as a result of current or past discharges.

Storm Water Permit Applicability

Facilities must perform a 3 step process to determine if storm water permit coverage is applicable. The 3 steps are:

Step 1: Determine if the industrial activity is federally regulated.

Standard Industrial Classification (SIC) codes or narrative descriptions are used to identify regulated facilities. For the purposes of the storm water program, a facility must determine the primary SIC code based on the primary activity occurring at the site. The operation that generates

the most revenue or employs the most personnel is the operation in which the facility is primarily engaged. In general, the following industrial categories are regulated:

- ✓ Manufacturing (SIC 20— through 39—)
- ✓ Public Warehousing (SIC 422-)
- ✓ Transportation (SIC 40— through 45—)
- ✓ Mining (SIC 10— through 14—)
- ✓ Landfills
- ✓ Steam Electric Power Plants
- ✓ Recycling Facilities
- ✓ Waste Water Treatment
- ✓ Hazardous Waste Storage and Treatment

You can find your four digit SIC code, for comparison, in your corporate tax returns under Schedule K listed as either “Business Activity Code” or “Manufacturers Identity Code”. However, please be aware that the SIC code identified in your corporate tax returns may not always be the primary activity as it relates to the storm water program. A complete list of regulated SIC codes can be found on the DEQ, WRD ISW webpage. If a facility uses an NAICS code instead of a SIC code, a website link to convert NAICS to SIC is available to use as a resource on the DEQ, WRD ISW webpage.

Step 2: Determine if storm water discharges to surface waters of the state through a point source.

Storm water consists of rain, snow or any other form of precipitation. In regards to the storm water program, a point source discharge to surface waters of the state is any discernable, confined, and discrete conveyance that directs storm water to surface waters of the state. A point source discharge includes but is not limited to pipes, ditches, channels, tunnels, conduits, and grading to convey water off the property.

If storm water from the facility is discharged into a combined sewer system that leads to a wastewater treatment plant, a storm water permit is not required. Combined sewers are common in several large cities in Michigan and are designed to handle storm water runoff and sanitary wastewater. You may contact personnel at the department of public works in your city to determine if your site is served by combined or separate storm sewers. If storm water from your site discharges to a separate storm sewer system, a storm water permit is required.

Step 3: Determine if industrial materials and/or activities are exposed to precipitation?

Generally, if you store or handle anything related to your industrial activity outside without a storm resistant shelter your facility is considered to have exposure. Exceptions to that statement are explained in the No Exposure Certification (NEC) compliance assistance document located on

the DEQ, WRD ISW webpage. The term exposure is used in the storm water program to describe the potential for precipitation to come in contact with your industrial materials and/or industrial activities. Industrial materials include but are not limited to material handling equipment (bins, boxes, pallets, racking, etc.), industrial machinery, raw materials, intermediate products, by-products, final products, and waste products. Industrial activities include but are not limited to storage, loading and unloading, transportation or conveyance of raw, intermediate, final, or waste products.

Summary and Permit Evaluation Scenarios

Scenario 1

If Step 1 does not apply, then NO PERMIT is needed.

Scenario 2

If Step 1 applies but not Step 2, then NO PERMIT is needed.

Scenario 3

If Step 1 and Step 2 apply, but not Step 3, then a NEC IS APPLICABLE. The NEC compliance assistance document located on the DEQ, WRD ISW webpage needs to be reviewed to ensure all conditions are understood. If an NEC is still applicable after the NEC compliance assistance document is reviewed, complete and submit the NEC Form via MiWaters.

Scenario 4

If all three steps above are applicable then industrial storm water PERMIT COVERAGE IS REQUIRED. An existing facility which has been operating without the required industrial storm water permit coverage may be eligible to fulfill the requirements of the Consent Order by submitting a complete NOI/COE form via MiWaters. Before submitting the NOI/COE form via MiWaters, the facility must:

- ✓ Obtain the services of an Industrial Storm Water Certified Operator. This can be an employee at the facility, a consultant, or anyone else that has completed the DEQ, WRD Industrial Storm Water Certified Operator Training and has received a certification number.
- ✓ Develop a Storm Water Pollution Prevention Plan (SWPPP) that meets the storm water permit requirements, preferably using the DEQ, WRD SWPPP template available at the DEQ, WRD ISW webpage. A SWPPP checklist is also available on the DEQ, WRD ISW webpage.
- ✓ Implement the nonstructural controls as described in the SWPPP.
- ✓ Complete construction and put into operation all structural controls as described in the SWPPP or have a schedule of when the structural controls will be constructed and become operational.
- ✓ Certify the facility has no unauthorized discharges.

Once the above requirements have been met, facilities may apply for industrial storm water permit coverage by submitting the completed NOI/COE form along with the annual permit fee of \$260, which fulfills the requirements of the Consent Order. This process is intended to resolve the violation of operating without industrial storm water permit coverage.

In order to submit a NOI/COE form and other permit related activities a representative at the facility will need to create an account in the DEQ, WRD MiWaters permit database <https://miwaters.deq.state.mi.us/miwaters/#/external/home>. Once an account has been created the NOI/COE form can be completed and submitted via MiWaters.

Please note that facilities that have received written notification from the DEQ, WRD that industrial storm water permit coverage is or may be required, have 90 days to submit a complete NOI/COE form. Please be aware that if the NOI/COE form is received after 90 days, the facility may no longer be eligible for entry into the Consent Order.

Pre-Application Submittal Meeting

It is recommended that facilities schedule a pre-application meeting with DEQ, WRD industrial storm water district staff to ensure that all storm water program requirements regarding the NOI/COE have been met prior to submittal. Contact information for DEQ, WRD district industrial storm water staff can be found on the DEQ, ISW webpage.

The DEQ, WRD will review submitted NOI/COE forms to determine if coverage under a National Pollutant Discharge Elimination System (NPDES) General Permit is appropriate. The DEQ, WRD will grant coverage under a NPDES General Permit by issuing the facility a Certificate of Coverage.

Frequently Asked Questions

1. **What is storm water?** Storm water refers to rain, snow melt, or any other form of precipitation.
2. **I have storm drains at my facility, but I don't know where they go. Where can I find this information?** Contact your city's department of public works or the water and sewer division.
3. **I don't add anything to storm water or put anything in the storm drains. Do I still need a permit?** Yes. This is a pollution prevention permit. It requires that pollution prevention procedures and controls are used to prevent the contamination of the storm water that is discharged from the facility.
4. **What is the purpose of the Industrial Storm Water Program?** The goal of the program is to reduce the amount of pollutants that are washed into Michigan's rivers, lakes streams, and wetlands, by implementing pollution prevention controls at industrial facilities.
5. **How long have storm water permits been required?** Industrial storm water permit coverage has been required in Michigan since 1994.
6. **Do other states have this requirement?** Yes. The federal Clean Water Act requires that industrial facilities in all states obtain permit coverage if they meet the conditions specified in the rules.
7. **Are there any fees associated with the permit?** Yes. Currently, there is an annual fee of \$260.
8. **What is a Storm Water Pollution Prevention Plan (SWPPP)?** The SWPPP is a written plan that describes the control measures an industrial facility will take to reduce or eliminate pollutants in storm water. The storm water permit dictates the specific items that need to be included in a SWPPP. In General, these measures include preventative maintenance, good housekeeping and material handling practices, as well as proper spill response procedures. The DEQ, WRD ISW webpage includes templates, samples, and a checklist to assist permittees in the development of an acceptable SWPPP.
9. **What if I lease my facility?** The facility operator must apply for permit coverage rather than the property owner.
10. **Are there any exceptions?** Yes, a NEC is a conditional exemption for those facilities that operate without any exposure of industrial materials or activities to storm water. More information about the NEC can be found on the DEQ, WRD ISW webpage.