



STATE OF NEVADA

Department of Conservation & Natural Resources

DIVISION OF ENVIRONMENTAL PROTECTION

Jim Gibbons, Governor

Allen Biaggi, Director

Leo M. Drozdoff, P.E., Administrator

FACT SHEET (pursuant to NAC 445A.236)

Permit Name: General Permit for Stormwater Discharges Associated with Industrial Activities to Waters of the United States

Permit Number: NVR050000

Location: Currently, there are approximately 420 separate industrial facilities permitted statewide.

Background Relating to the General Permit

Since the passage of the Clean Water Act ("CWA"), the quality of our Nation's waters has improved dramatically. Despite this progress, however, degraded water bodies still exist. According to the 1996 National Water Quality Inventory ("Inventory"), a biennial summary of State surveys of water quality, approximately 40 percent of surveyed U.S. water bodies are still impaired by pollution and do not meet water quality standards. A leading source of this impairment is polluted runoff. In fact, according to the Inventory, 13 percent of impaired rivers, 21 percent of impaired lakes and 45 percent of impaired estuaries are affected by urban/suburban stormwater runoff and 6 percent of impaired rivers, 11 percent of impaired lakes and 11 percent of impaired estuaries are affected by construction site discharges. Phase I of the U.S. Environmental Protection Agency's ("EPA") stormwater program was promulgated in 1990 under the CWA. Phase I relies on the National Pollutant Discharge Elimination System ("NPDES") permit coverage to address stormwater runoff from:

- (1) "Medium" and "large" municipal separate storm sewer systems ("MS4s") generally serving populations of 100,000 or greater, and
- (2) Eleven categories of industrial activity as defined by 40 CFR 122.26.

Activities that take place at industrial facilities, such as material handling and storage, are often exposed to stormwater. The runoff from these activities discharges industrial pollutants into nearby storm sewer systems and water bodies. This may adversely impact water quality.

To limit pollutants in stormwater discharges from industrial facilities, the NPDES Phase I Stormwater Program includes an industrial stormwater permitting component. Operators of industrial facilities included in one of the 11 categories of "stormwater discharges associated with industrial activity" (40 CFR 122.26 (b)(14)(i)-(xi)) that discharge

stormwater to an MS4 or directly to Waters of the U.S. require authorization under a NPDES industrial stormwater permit. If an industrial facility has an applicable Standard Industrial Classification (“SIC”) code or meets the narrative description listed in the 11 categories, the facility operator must determine if the facility is eligible for coverage under a general or an individual NPDES industrial stormwater permit. In some cases, a facility operator may be eligible for a conditional/temporary exclusion from permitting requirements.

Industrial Activity

The following categories of industrial facilities are defined as "stormwater discharges associated with industrial activity" under federal regulations 40 CFR 122.26 (b)(14)(i) - (xi). Each category contains a list of SIC codes and/or a narrative description of industrial facilities. Operators of industrial facilities or sites with activities included in one of these 11 categories must obtain coverage under an NPDES industrial stormwater permit, unless conditionally excluded.

The list provided below describes the types of industrial activities within each category.

Category One (i): Facilities with stormwater effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N*

* Certain facilities have stormwater effluent guidelines for at least one of their subcategories: cement manufacturing (40 CFR 411); feedlots (40 CFR 412); fertilizer manufacturing (40 CFR 418); petroleum refining (40 CFR 419); phosphate manufacturing (40 CFR 422); steam electric power generation (40 CFR 423); coal mining (40 CFR 434); mineral mining and processing (40 CFR 436); ore mining and dressing (40 CFR 440); paving and roofing materials (40 CFR 443); and landfills (40 CFR 445). A facility that falls into one of these general categories is required to examine the applicable effluent guideline to determine if it is categorized in one of the subcategories that have storm water effluent guidelines. If a facility is classified as one of those subcategories, that facility is subject to the standards listed in the CFR for that category and must sample stormwater discharges in accordance with the permit conditions.

Category Two (ii): Facilities classified as SIC 24 (except 2434), 26 (except 265 and 267), 28 (except 283), 29, 311, 32 (except 323), 33, 3441, 373

Category Three (iii): Mineral Industry**

** Mineral Industry Facilities defined within SIC code 10 (Metal Mining (metallic mineral/ores) under Category III of 40 CFR §122.26(b)(14) are required to obtain authorization for stormwater discharges under Permit NVR 300000.

Category Four (iv): Hazardous Waste, Storage or Disposal Facilities

Category Five (v): Landfills
Category Six (vi): Recycling Facilities
Category Seven (vii): Steam Electric Plants
Category Eight (viii): Transportation Facilities
Category Nine (ix): Treatment Works Treating Domestic Sewage and/or Sludge
Category Ten (x): Construction ***

*** Although Category Ten (x), Construction Activity, is included in the definition of "stormwater discharges associated with industrial activity," construction activities require construction stormwater permits (Permit NVR 100000), not industrial stormwater permits, under the NPDES Stormwater Program.

Category Eleven (xi): Light Industry

In Nevada, there are currently more than 55,000 firms that employ people. The vast majority (95.7 percent or 52,300) of these firms employ less than 500 people. Of those businesses, approximately 420 are currently permitted under the current Industrial General Permit, NV050000. After applying the stormwater rule criteria to Nevada's businesses, the estimated number of facilities that will require a permit are between 1,000 and 2,000 facilities. Given this information, NDEP has already implemented several changes to the program to bring the program into substantial compliance with the EPA rule.

No Exposure - Waiver

As revised in the Phase II Final Rule, the conditional no-exposure exclusion applies to **ALL** industrial categories listed in the 1990 stormwater regulations, except for construction activities disturbing 5 or more acres (Category Ten (x)).

The intent of the no-exposure provision is to provide facilities with industrial materials and activities that are entirely sheltered from stormwater a simplified way of complying with the stormwater permitting provisions of the CWA. This includes facilities that are located within a larger office building, or facilities at which the only items permanently exposed to precipitation are roofs, parking lots, vegetated areas, and other non-industrial areas or activities. The Phase II regulatory definition of "no-exposure" follows.

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 or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products.

Under the Phase II Final Rule, the no exposure exclusion is conditional and not an outright exemption. Therefore, if there is a change in circumstances that causes exposure of industrial activities or materials to stormwater, the operator is required to comply

immediately with all the requirements of the NPDES Stormwater Program, including applying for and obtaining a permit. Failure to maintain the condition of no exposure or obtain coverage under an NPDES stormwater permit can lead to the unauthorized discharge of pollutants to Waters of the U.S., resulting in penalties under the CWA. Where a facility operator determines that exposure is likely to occur in the future due to some anticipated change at the facility, the operator should submit an application and acquire stormwater permit coverage prior to the exposed discharge to avoid such penalties. To apply for a No-Exposure” exclusion, an applicant would be required to submit the EPA document (NPDES FORM 3510-11) to the Carson City NDEP Stormwater program office.

Nevada is making strides to ensure all facilities in Nevada requiring coverage under this permit are included. Since 2003, Nevada has added 195 new permittees. There have also been 29 no-exposure waivers provided during the same timeframe. There are also a number of industrial facilities in Nevada that do not discharge to jurisdictional waters and do not require coverage under this stormwater permit.

What’s New with This General Permit

This general permit has added language to this permit that addresses the following issues:

Reorganized Format. This permit contains much of the same information as that of the previous permit that was issued in 2003. The format has been reorganized slightly to make it easier to follow. Commonly used terms have and the associated acronyms have been highlighted to make it easier to reference. Some of the new information that has been added to this permit is discussed in the following paragraphs.

Discharges to Water Quality-Impaired Waters. When discharges to water quality-impaired waters that are contained in the current 303(d) Impaired Water Body listing issued by the Nevada Division of Environmental Protection, Bureau of Water Quality Planning, the permittee must investigate whether discharges from the permittee’s site will contribute significantly to any 303(d) listing, and when the permittee discharges into a water body with an established Total Maximum Daily Load (“TMDL”), the permittee shall comply with all applicable TMDL requirements. Information concerning the 303(d) list can be found on the following NDEP website: <http://ndep.nv.gov/bwqp/303dlist.htm>. For a list of TMDLs approved by EPA please refer to the following NDEP website: <http://ndep.nv.gov/bwqp/tmdl.htm>.

When a TMDL has not been established as described in paragraph above, the permittee must include a section in the Stormwater Pollution Prevention Plan (“SWPPP”) describing the condition for which the water has been listed. The SWPPP must also include a demonstration that the BMPs that are selected for implementation will be sufficient to ensure that the discharges will not cause or contribute to an exceedance of an applicable State water quality standard.

Waste Load Allocations for Stormwater. Currently, Nevada has not established any wasteload allocations ("WLAs") which would be applicable to the industrial stormwater discharges covered by the permit. NDEP is in the process of studying this process in different parts of the state as part of establishing limits for Total Maximum Daily Loads ("TMDLs").

If WLAs for industrial stormwater discharges are established, NDEP will review the permit requirements, including monitoring requirements, concerning this issue and may, as appropriate, reopen the permit to include new requirements pertaining to WLAs for stormwater. An individual permit application may also be required in accordance with 40 CFR 128(b)(3) if NDEP determines that the requirements of the general permit are not appropriate for a particular discharger.

Pollution Prevention Team. The Permittee shall list the staff members (either by name or title) that comprise the facility's stormwater pollution prevention team. The pollution prevention team is responsible for assisting the facility manager in developing, implementing, maintaining, revising and ensuring compliance with the permitted facility's SWPPP. Specific responsibilities of each staff individual on the team must be identified and listed in the SWPPP. Each member of the stormwater pollution prevention team must have ready access to either an electronic or paper copy of applicable portions of this permit and the SWPPP.

Additional Information Required in the SWPPP. Additional information will be required to be included in the SWPPP. This information includes the amount of impervious surface at the site; precipitation information; and more detailed information about potential pollutants and sources and how the facility will deal with these potential pollutants.

Salt Stockpiles. For storage piles of salt or piles containing salt used for deicing or other commercial or industrial purposes, the permittee must enclose or cover these piles to prevent exposure to precipitation. The permittee must implement appropriate measures (e.g., good housekeeping, diversions, containment) to minimize exposure resulting from adding to or removing materials from the pile. Piles do not need to be enclosed or covered only if stormwater from the pile is not discharged directly or indirectly to Waters of the U.S. or discharges from the piles are authorized and controlled under another NPDES permit.

Receiving Water Characteristics:

Varies depending on location.

Permit Requirements:

This permit is in response to requirements of the CWA and implementing federal regulations, and is based on BMPs such as education, diversion, detention, covered storage, spill response, and good housekeeping. The facility selects the BMPs subject to

NDEP approval. This is a continuation of a program begun in 1993 under the previous general permit, NVR050000. Like the previous permit, this permit authorizes certain Stormwater Discharges Associated with Industrial Activity to Waters of the U.S.

Rationale for Permit Requirements:

The conditions set in permit language are the minimum requirements to maintain and implement an effective stormwater program within the confines of U. S. EPA published rules (40CFR Part 122) for use in stormwater permits.

Noticing Requirements:

Pursuant to NRS 445A.590, NDEP shall notify each interested person and appropriate governmental agency of each complete application for a permit, and shall provide them an opportunity to submit their written views and recommendations thereon. The public has thirty (30) calendar days from the date of issuance of the public notice in which to submit written comments to:

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NDEP Guidance Materials

NDEP has various guidance materials on its website at http://ndep.nv.gov/bwpc/storm_ind03.htm. These materials include information on the eleven categories of industrial activity, no-exposure waivers and other information about no-exposure, information for auto recyclers, and other miscellaneous topics. Additional resources are available at <http://www.osha.gov/pls/imis/sicsearch.html> and [EPA - Stormwater Discharges From Industrial Facilities](#).

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