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Illinois Environmental Protection Agency
Office of Small Business
P.O. Box 19276
Springfield, IL 62794-927
1-888-372-1996

Department of Commerce & Economic Development
Small Business Environmental Assistance Program
620 East Adams Street, 4th floor
Springfield, IL 62701

1-800-252-3998

What Is Phase II of the NPDES Storm Water Management Program?

Information presented in this publication is intended to provide a general understanding of the requirements of Phase II of the National Pollutant Discharge Elimination System (NPDES) storm water program. This information is not intended to replace, limit or expand upon the complete statutory and regulatory requirements found in the Illinois Environmental Protection Act and Title 35 of the Illinois Administrative Code.

What is Phase II and Who is Affected?

Storm water runoff has been a source of great concern for many years. It can pollute lakes and streams. As a result, the 1987 amendments to the Clean Water Act required the United States Environmental Protection Agency (U.S. EPA) to address storm water runoff in two phases. Phase I of the NPDES Storm Water Program began in 1990 and applied to large and medium municipal separate storm sewer systems (MS4) and 11 industrial categories including construction sites disturbing five acres of land or more. Phase II of the NPDES Storm Water Program will begin in March 2003 and applies to additional MS4s and construction sites disturbing equal to or greater than one but less than five acres of land. Phase II also expands the industrial "no exposure" exemption covered under Phase I. Illinois Environmental Protection Agency (Illinois EPA) is in charge of implementing both phases of the NPDES Storm Water Program.

Although this fact sheet will focus on the Phase II regulatory requirements for industry and construction, the following is provided for MS4s: Operators of MS4s covered by Phase I and II must obtain an NPDES permit for their storm water discharges. Once they receive their discharge permit, they must fully implement all storm water runoff control practices identified in the permit. Operators of MS4s should contact the Illinois EPA Bureau of Water Permit Section at 217-782-0610 for additional information regarding how Phase II of the storm water program may affect them.

"Storm water runoff" is rain water or melted snow that runs off the land and enters lakes, rivers, streams and ponds. As it moves across the land, it picks up and carries pollutants such as pesticides, metals and oil and dumps theses pollutants into the water. It can also cause increased erosion that results in more soil being carried into surface water. Both of these situations can degrade water quality.

How Do the Phase II Rules Affect Industry?

Phase I of the storm water program required 11 industrial categories to obtain an NPDES permit for their storm water discharges. Phase II does not add any new industrial categories to the program.

Phase I also included a "no exposure" exemption limited to certain "light industry" facilities. Phase II expands the "no exposure" exclusion to include all industrial facilities covered under Phase I except construction activities. If industrial materials or activities are not exposed to storm water, an exemption can be requested under this exclusion. Illinois EPA notifies exemption applicants if the exemption is approved or if the request is denied or additional information is required. The condition of no exposure must be maintained by keeping all industrial materials or activities protected at all times. If "no exposure" conditions are not maintained, the operator must immediately apply for an NPDES storm water permit. For a list of the Phase I "light industry" facilities, contact the Office of Small Business.

Under the Phase II "no exposure" exclusion, a written certification must be submitted every five years to verify that a condition of no exposure exists. All industrial facilities covered under Phase I of the storm water program must either apply for an NPDES permit or complete a "no exposure" certification form every five years in order to comply with storm water requirements. The Illinois EPA fact sheet entitled "Storm Water — Keep it Clean!" presents additional information.

"No exposure" means all industrial materials and activities are 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 and activities, industrial machinery, raw materials, intermediate products, by-products, final products and waste products.

The "no exposure" certification form may be obtained from the Illinois EPA website, the Office of Small Business or the Bureau of Water Permit Section.

How Do The Phase II Rules Affect Construction Sites

Phase II of the storm water program automatically applies to all construction activities disturbing one or more acre to less than five acres of land. These sites must receive an NPDES

permit before any earthmoving activities begin. Illinois EPA may require construction sites disturbing less than one acre of land to obtain a storm water discharge permit if such activities would adversely affect water quality.

Construction activities include, but are not limited to, road building, construction of residential houses and office buildings, industrial sites and demolition.

Activities that "disturb the land" or "cause land disturbance" include grading, clearing, excavation and other earth-moving processes.

Two waivers may be available for small construction sites, both of which are quite technical. Applications for a waiver can be submitted to the Illinois EPA. Illinois EPA will determine if and when waivers apply to construction activities. For more information on waivers for small construction sites, contact Illinois EPA Bureau of Water Permit Section at 217-782-0610.

In order to comply with Phase II of the storm water program, follow the steps below:

1. Determine which parties are considered "operators" responsible for complying with the Phase II requirements.

An "operator" of a construction site, such as the developer, is one who maintains overall operational control over construction plans and specifications, including the ability to change these plans and specifications. An operator can also be one who maintains day-to-day operational control over activities that will ensure compliance with the storm water pollution prevention plan, such as the general contractor or subcontractor.

2. Complete and submit a Notice of Intent (NOI) to the Illinois EPA Division of Water Pollution Control Permit Section before construction activities that will cause land disturbance begin.

3. Develop a storm water pollution prevention plan (SWPPP) prior to the start of construction. The SWPPP does not need to be submitted to Illinois EPA, but must be kept on the construction site and accessible to everyone during construction activities.

4. Implement the SWPPP, including completion of inspection reports that must be kept on site.

5. Complete final stabilization of the site.

6. Complete and submit a Notice of Termination (NOT) to Illinois EPA when any of the following occurs:

- After the land disturbing activities are complete and the site has been finally stabilized, the operator should terminate his coverage under the permit by completing a NOT form and submitting it to the Illinois EPA. The United States Environmental Protection Agency considers that a site has been finally stabilized when all land disturbing activities are complete and a uniform perennial vegetative cover with a density of 70 percent of the cover for unpaved areas and areas not covered by permanent structures has been established or equivalent permanent stabilization measures have been used.
- The permittee is no longer an operator of the site.
- For residential construction only, after temporary stabilization has been completed and the homeowner has been informed that he or she must complete final stabilization upon assuming control of the site.

An SWPPP Must Include the Following:

- Site description identifying potential sources of pollution that may affect the quality of storm water discharges.
- Apropriate best management practices (BMP), including erosion, sediment, and storm water management controls to minimize the discharge of pollutants from the site.
- Description of steps taken to prevent and control pollutants in storm water discharge from the site, including inspection of all disturbed, unstabilized areas and maintenance of all controls to ensure their effective operation.

For more information on how to comply with the storm water program, see Illinois EPA's fact sheet "Storm Water Management for Construction Activities." More information about NPDES storm water permits and assistance on filling out NOIs can be obtained by contacting the Illinois EPA Office of Small Business.

? When Do I Need To Comply?

Operators of small construction sites must comply with permit requirements within 90 days after Illinois EPA has issued the permit (no later than March 10, 2003) or prior to beginning any construction activities that involve land disturbance.

Helpful Hint: Most of the forms that you will need to complete to fulfill the Phase II storm water requirements are on Illinois EPA's website at www.epa.state.il.us/water/forms.html#permits-wastewater.

All regulated industrial facilities must apply for either an NPDES storm water discharge permit or a waiver under the "no exposure" exclusion 180 days prior to a new discharge. Operators of industrial facilities seeking an exemption under the "no exposure" exclusion must submit a written certification to Illinois EPA every five years. NPDES storm water discharge permits are automatically renewed every five years.

? Where Do I Go For More Information?

For additional information on storm water or other environmental requirements, please call the Office of Small Business at 1-888-EPA-1996. All calls are considered confidential, and the caller can remain anonymous. You can also visit the Illinois EPA website at www.epa.state.il.us. All fact sheets mentioned in this document are available through the Illinois EPA website.

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