



Phase II Storm Water Guidance: Municipal Public Works Facilities with Industrial Activities

The Phase II Storm Water Regulations ended the moratorium contained in the Intermodal Surface Transportation Efficiency Act that exempted municipalities with populations of equal to or less than 100,000 from the requirement to obtain a storm water permit for certain municipally owned/operated facilities. Therefore, all municipally owned industrial facilities which have discharges that meet the definition of "storm water associated with industrial activity" in accordance with RIPDES Rule 31(b)(15)(i)-(ix) and (xi) (and that were not previously regulated, e.g. landfills, power plants, etc.) are now required to seek permit coverage.

The Rhode Island Department of Environmental Management (RIDEM) issued the Rhode Island Pollutant Discharge Elimination System (RIPDES) General Permit for Storm Water Discharges from Small MS4s and from Industrial Activity at Eligible Facilities Operated by Regulated Small MS4s. The general permit allows a regulated small MS4 to obtain permit coverage for discharges of storm water from the MS4 and from municipally-owned/operated facilities engaged in regulated industrial activities. The general permit requires the operator to develop and implement a site-specific Storm Water Pollution Prevention Plan (SWPPP). In accordance with Part I.C.2.a. of the general permit, the SWPPP must be submitted with the Small MS4 Storm Water Management Program Plan (SWMPP) by March 18, 2004.

To determine if a facility has activities that would require a storm water permit, the operator must first identify if the facility meets one of the eleven (11) industrial categories of facilities considered to be engaged in industrial activity as defined in RIPDES Rule 31(b)(15)(i)-(ix) and (xi). Some of the industrial categories such as "Transportation Facilities" are further defined through Standard Industrial Classification (SIC) codes. The operator of the facility must evaluate all activities at the facility to determine the primary activity of the facility and the associated SIC code that best describes the primary activity. If the facility is primarily engaged in activities defined by SIC codes that are included in the industrial category, the facility is considered to be engaged in a regulated industrial activity and will require permit coverage.

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The evaluation of a facility is site-specific and must be done on a case-by-case basis. At a minimum, the operator of a municipally owned or operated public works facility should review the descriptions of SIC codes 16, 421, and 423. Comprehensive descriptions can be found at <http://www.osha.gov/cgi-bin/sic/sicser5>. Some municipal public works facilities, such as maintenance garages, are most likely primarily engaged in activities such as general trucking, debris removal, refuse collection and hauling; and facilities storing and maintaining highway-type property carrying vehicles as described under industry groups 421 and 423. This regulated industrial category is described in RIPDES Rule 31(b)(15)(viii) as: "*transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-25), 43, 44, 45, and 5171 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 paragraphs (b)(15)(i)-(vii) or (ix)-(xi) of this section are associated with industrial activity.*"

It is important to note that vehicle maintenance is described as follows: "Vehicle and equipment fluid changes, mechanical repairs, parts cleaning, sanding, refinishing, painting, fueling, locomotive sanding (loading sand for traction), storage of vehicles and equipment waiting for repair or maintenance, and storage of related materials and waste materials such as oil, fuel, batteries, tires, or oil filters." Equipment cleaning includes "...vehicle exterior wash down, interior trailer washouts, tank wash outs, and rinsing of transfer equipment."

There may be garages that are primarily engaged in heavy construction meeting the description of establishments under major group 16. These garages may house paving, construction and excavation equipment as well as construction materials and may be dedicated to the construction of highways, streets, bridges, tunnels, elevated highways, water, sewer, pipelines, etc. Specialized activities that are covered here include grading for highways and airport runways; guardrail construction; installation of highway signs; trenching; underwater rock removal; and asphalt and concrete construction of roads, highways, streets and public sidewalks. This major industrial group is not regulated under the RIPDES Program and facilities under this group are not required to seek permit coverage for their storm water discharges. However, in most instances, public works maintenance garages are not primarily engaged in heavy construction. While the facility may service paving, construction, and excavation equipment, it is most likely that the facility is primarily engaged in servicing snow plows, street sanders, street sweepers, vac-trucks and other vehicles that are used to haul materials or equipment to maintain roads and other public facilities maintenance on a routine basis.

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