Division of Surface Water
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Storm Water Permitting for Oil- and Gas-Related Operations

This fact sheet was developed to clarify the intent of the National Pollutant Discharge Elimination System (NPDES) storm water exemption and identify which activities are exempt and not exempt from NPDES construction and industrial storm water permitting.

Certain oil and gas exploration, production, processing, or treatment operations or transmission facilities are conditionally exempt from National Pollutant Discharge Elimination System (NPDES) construction and industrial storm water permitting under the federal Clean Water Act (CWA). The CWA permitting provisions are applicable if there is a discharge of storm water resulting in a discharge of a reportable quantity of oil or hazardous substances, or the facility contributes to a water quality violation. For more information about the federal storm water exemption and litigation history, go to ***epa.gov/npdes/oil-and-gas-stormwater-permitting#undefined***.

If Needed, How Do I Get a NPDES Storm Water Permit?

Industrial and construction activities in Ohio have two possible options for applying for a NPDES storm water discharge permit. The first option is to submit an individual NPDES permit application. The second option is to file a notice of intent (NOI) form requesting coverage under a general permit. There are several advantages to obtaining coverage under a general permit instead of an individual permit; such as, permit requirements are known prior to applying, a more simplified application process and reduced processing time. Ohio EPA has NPDES general permits for both construction and industrial storm water activities.

NPDES Construction Storm Water

Unless covered by the oil and gas exemption, projects disturbing one or more acres of ground must obtain a permit to discharge storm water from the construction site. In addition, projects disturbing less than 1 acre but are part of a larger common plan of development or sale must also obtain a permit to discharge storm water from the construction site. To obtain a general permit follow these steps, in order.

1) Develop a Storm Water Pollution Prevention Plan (SWP3), in accordance with the permit, for the construction site.
2) Submit a Notice of Intent (NOI) 21 days prior to initiation of construction (45 days if within the Big Darby Creek or certain portions of the Olentangy River Watersheds) requesting coverage for your discharges under the general permit.
3) Wait until you receive the Ohio EPA approval letter stating that you are covered under the general permit.
4) Ensure that contractors, subcontractors and staff understand their roles in carrying out the SWP3.
5) Implement the SWP3.
6) Proceed with construction, including regular maintenance and inspection of sediment and erosion controls and storm water management facilities.

For more information about Ohio EPA's NPDES Construction Storm Water program, general permits, application forms and additional guidance, go to ***epa.ohio.gov/dsw/storm/index.aspx***.

NPDES Industrial Storm Water

Industrial facilities within 29 different Standard Industrial Classification (SIC) code and narrative description categories are subject to NPDES industrial storm water permitting. Below, this fact sheet identifies common oil and gas facilities that are subject to NPDES industrial storm water permitting. For a complete listing of SIC codes/narrative description categories subject to storm water permitting requirements, go to ***epa.gov/sites/production/files/2015-10/documents/msgp2015_appendixd.pdf***. Unless a subject industrial facility is covered by the oil and gas exemption or eligible for a No Exposure Certification, subject facilities are required to obtain a permit to discharge storm water from the industrial site.

Storm Water Permitting for Oil- and Gas-Related Operations

To obtain a general permit, follow these steps, in order.

1) Develop a Storm Water Pollution Prevention Plan (SWP3), in accordance with the permit, for the industrial facility.
2) Submit an Industrial Notice of Intent (NOI) 180 days prior to commencing discharge requesting coverage for your discharges under the general permit.
3) Implement the SWP3.

For more information about Ohio EPA's NPDES Industrial Storm Water program, general permit, No Exposure Certification, application forms and additional guidance, go to ***epa.ohio.gov/dsw/permits/GP_IndustrialStormWater.aspx***.

The storm water regulations provide an exemption from permitting to industrial facilities that can demonstrate their industrial materials and activities are entirely sheltered from storm water. To apply, a facility must submit a No Exposure Certification (NOE) to Ohio EPA. The facility is obligated to maintain the conditions outlined in the NOE and resubmit a new NOE certification once every five years.

Since the Federal Court ruling on portions of the storm water regulation the following facilities/activities are exempt and not exempt from NPDES construction and industrial storm water permitting. The listed exemptions include all field activities or operations associated with exploration, production, processing, or treatment operations, or transmission facilities, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment.

Exempt Facilities/Activities

- Well sites and drill pads.
- Access and maintenance roads including haul/maintenance roads solely servicing exempt activities.
- Local borrow pits to provide sand, gravel, and soil for maintenance of service roads and infrastructure necessary to operate producing oil and gas fields, crude oil pipelines, and natural gas transmission lines. To receive the exemption the facility can only supply material to the exempt oil and gas project.
- Gathering line systems.
- Transmission line systems.
- Staging areas for oil and gas operations that are contiguous to the exempt project (areas/locations where pipe, sand, etc. are staged for drilling activities).
- Water lines, electric utility lines and railroad infrastructure servicing field exploration and production activities.
- Storage tanks and oil-water separators.
- Midstream processing plants.
- Gas and oil treatment and conditioning equipment (for example, heater treaters, dehydrators, and CO2 scrubbers, cryogenic plants, fractionation plants) and the transmission lines leaving these facilities.
- Gas processing plants (natural gas liquids recovery facilities and/or H2S gas sweetening plants).
- Natural gas pipeline compressor stations.
- Crude oil pipeline pump stations.
- Crude oil pipelines (for example, connecting producing fields with a refinery).
- Natural gas transmission lines (for example, lower pressure lines from producing field to nearest energy hub and cross-country, high pressure intra- and interstate pipelines). The exemption ceases at the distribution center (often referred to as the City Gate). The distribution center is where the local gas utilities take delivery of the gas and distribute it via lower pressure service lines to customers.
- Dedicated natural gas pipelines connecting LNG terminals to nearest transmission pipeline hub.
- Newly constructed offshore islands used as platforms for Alaskan exploration and production drilling operations.
- Central liquid waste treatment set up on a drill pad even if it takes waste from other drill pads.
- Underground injection wells.

Storm Water Permitting for Oil- and Gas-Related Operations

Not Exempt Facilities/Activities

- Improvements to public roads for access to projects (subject to NPDES construction storm water permitting).
- LNG re-gasification terminals (subject to NPDES construction and industrial storm water permitting).
- Conventional petroleum and petrochemical refineries (as defined in 40 CFR 419) (subject to NPDES construction and industrial storm water permitting).
- Fischer-Tropsche Clean Fuels synthetic fuel plants (subject to NPDES construction and industrial storm water permitting).
- Ethanol plants (subject to NPDES construction and industrial storm water permitting).
- Oil shale refineries, Cracking Plants (subject to NPDES construction and industrial storm water permitting).
- Natural gas utility or city-owned end-user distribution systems connecting industrial, commercial and residential customers (subject to NPDES construction storm water permitting).
- Offshore jack-up rigs, semi-submersible drill ships, dynamically positioned drill ships, production platforms and LNG re-gasification terminals subject to regulation of deck drainage (40 CFR 435) and Ocean Discharge Criteria (CWA 403) (subject to NPDES construction and industrial storm water permitting).
- Refined products pipelines (connecting refineries with local and distant product storage facilities) (subject to NPDES construction storm water permitting).
- Company and/or privately owned hotels, RV parks, campgrounds, worker camps, barracks and airport facilities servicing oil and gas exploration drilling and production operations (subject to NPDES construction storm water permitting).
- Centralized equipment maintenance and storage facilities owned by oil and gas drilling contractors, oilfield service companies (for example, Halliburton, Baker-Hughes, Schlumberger) and operating companies (for example, Devon Energy, BP-Amoco, El Paso) that are not contiguous to an exempt facility/activity (subject to NPDES construction and industrial storm water permitting).
- Support industries that supply materials and products to the oil and gas industry as well as other industries (e.g., metal fabrication shops, sand suppliers, gravel suppliers, concrete suppliers, trucking companies, river barge terminals, etc.) (subject to NPDES construction and industrial storm water permitting).
- Brine water/flow back water waste minimization treatment facilities that are not contiguous to an exempt facility/activity (subject to NPDES construction and industrial storm water permitting).
- Water storage/impoundment projects that are not contiguous to an exempt facility/activity (subject to NPDES construction storm water permitting).
- Pipeline related Horizontal Directional Drilling mud waste disposal sites that are not contiguous to an exempt facility/activity (subject to NPDES construction and industrial storm water permitting).

Situations Where Exemption Ceases and NPDES Storm Water Permit Required

An exempt oil and gas facility/activity is not required to submit a NPDES permit application for storm water discharges unless the facility/activity:

- has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 117.21 or 40 CFR 302.6; or
- has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 110.6; or
- contributes to a violation of a water quality standard. Introduction of pollutants, including sediment, to surface waters of the state may violate water quality standards through either numeric standards and/or free froms which may create noticeable color change and/or increase in turbidity.

A reportable quantity is the amount of oil that violates applicable water quality standards or causes a film or sheen upon or a discoloration of the surface of the water or adjoining shorelines or causes a sludge or emulsion to be deposited beneath the surface of the water upon adjoining shorelines (40 CFR 110.6). The reportable quantities for other substances are listed in 40 CFR 117.3 and 302.4 in terms of pounds released over a 24-hour period.

Storm Water Permitting for Oil- and Gas-Related Operations

To maintain the exemption, operators of exempt oil and gas field activities or operations are encouraged to implement and maintain best management practices (BMPs) such as the ones listed below to minimize discharges of pollutants, including sediment, in storm water both during and after construction activities to help ensure protection of surface water quality during storm events.

- Installing perimeter controls, sediment basins/traps and a stabilized construction entrance.
- Isolating drainage from the site to eliminate storm water run-on through the site.
- Using a stabilized entrance or wheel wash station to reduce mud on streets/roads from vehicle drag out.
- Containing and properly disposing of all drilling fluids, including fluids associated with setting the casing and plugging operations.
- Inspecting the site on a regular basis and after a rainfall to determine if additional measures (for example, additional stone, seed or mulch) are needed to stabilize the site.

More Information

For more information and fact sheets about regulations pertaining to oil- and gas-related operations, go to: ***epa.ohio.gov/MarcellusandUticaShale.aspx***. For more information about BMP guidance, go to:

- Ohio Department of Natural Resources' Best Management Practices for Oil and Gas Well Site Construction ***oilandgas.ohiodnr.gov/portals/oilgas/pdf/BMP_OIL_GAS_WELL_SITE_CONST_2013.pdf***
- Ohio Rainwater and Land Development Manual ***epa.ohio.gov/dsw/storm/technical_guidance.aspx***