



GUIDELINES FOR "NO EXPOSURE" EXCLUSION FOR INDUSTRIAL ACTIVITIES

DNREC - Division of Water Resources Surface Water Discharges Section

Storm water discharges from facilities engaging in industrial activities are point source discharges of pollutants and are subject to the General Industrial Storm Water Permit Program as required by the State of Delaware *Regulations Governing Storm Water Discharges Associated with Industrial Activities*. Regulated facilities can obtain permit coverage by submitting a Notice of Intent Form or a "No Exposure" Certification Form. Approval of the NOI Form covers the facility under the regulations and requires the facility to comply with all requirements outlined within; whereas approval of the "No Exposure" Form covers the facility under the regulations, but excludes the facility from complying with the Monitoring and Storm Water Plan Requirements of the regulations.

The "No Exposure" provision does not specify every possible situation that may be present at industrial sites; however the following can be used as a general guideline for "no exposure".

What is "No Exposure"

No exposure means that all industrial materials and activities are protected by storm resistant shelter to prevent exposure to rain, snow, snowmelt and/or runoff.

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

Material Handling Activities include storage, loading, unloading, transportation or conveyance of any raw material, intermediate product, by-product, final product or waste product.

What are Industrial Materials?

Industrial materials include, but are not limited to:

- Raw materials
- Fuels
- Materials such as solvents, detergents, and plastic pellets
- Finished materials such as metallic products
- Raw materials used in food processing or production
- Hazardous substances
- Any chemical the facility is required to report pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA)
- Fertilizers
- Pesticides
- Waste products such as ashes, slag, and sludge

What are Storm-Resistant Shelters?

Storm-Resistant Shelters include completely roofed and walled buildings or structures as well as structures with only a top cover but no side coverings, provided materials underneath are not in contact with storm water. Materials and activities may be sheltered by temporary covers until permanent enclosure can be achieved or if the material that is under the temporary cover is only there for a short period of time.

Practices that Provide “No Exposure” of Industrial Material

The intent of the “No Exposure” exclusion is to promote a condition of permanent “No Exposure”. The following are examples of practices that provide “No Exposure” of industrial material.

- Above ground storage tanks with no piping, pumps or other equipment leaking contaminants that could contact storm water and a double walled tank or a tank with secondary containment. A spill containment and clean-up kit must be available for personnel dispensing product.
- Lidded dumpsters provided the containers are completely covered and there are no holes in the bottom of the container to allow leakage.
- Adequately maintained vehicles that are used outdoors (cars, trucks, forklifts, trailers, etc. but no industrial machinery), which are not leaking or are otherwise a potential source of contaminants.
- Vehicle and vessel maintenance facilities in which the only maintenance activity conducted outdoors is vehicle fueling. If the

fueling is dispensed from an above ground storage tank, there must be adequate secondary containment for that tank or the tank must be double walled. In addition, a spill containment and clean-up kit must be kept on-site.

- Products and materials that are conveyed between buildings that would otherwise be required to be stored indoors because they are industrial materials provided the material is adequately protected from precipitation and could not be released as a result of a leak or spill.

What Materials are not Industrial?

- **Final Products.** MaNy final products which are meant to be used outdoors (e.g. autos) pose little risk of storm water contamination, i.e. the products cannot be mobilized by precipitation or runoff. Similarly, the containers, racks and other transport platforms (pallets) used for the storage or conveyance of these final products would also not be considered industrial materials, providing the containers, racks, and platforms are pollutant-free.
- **Finished or Intermediate Products** that are stored outdoors and are exposed to storm water but do not have solubility potential, e.g. painted metal parts or unfinished metals that do not have oil or other contaminants on their surfaces, washed rock.
- **Office Buildings and Parking Lots** associated with office buildings where the drainage from these areas does not mix with storm water runoff from industrial portions of the facility.

Frequently Asked Questions on “No Exposure”

- 1. If I have scrap materials from my process such as old equipment and metal, can I store this outside?**
Scrap material and old equipment may be stored outside as long as it is protected from storm water or storm water runoff. It must be covered and/or elevated to prevent storm water contact.
- 2. If I have a dumpster, collection bin, or garbage container outside can I still claim “no exposure”?**
Outside dumpsters, collection bins or garbage cans must be covered (except when adding or removing waste) and be free of leaks in order to be stored outside and still claim “no exposure”.
- 3. The area where trucks deliver materials is not covered but all the work and storage areas are covered. Can I claim “no exposure”?**
No. All activities including loading, unloading, transportation of final product or waste products must be covered or protected from storm water and storm water runoff. The exception would be waste areas such as dumpsters, collection bins, and garbage cans.
- 4. The air stack on my building is the only item not protected from storm water. If I have an air permit which covers the stack can I still claim “no exposure”?**
Roof stacks/vents do not cause a condition of exposure provided they are in compliance with other applicable environmental protection programs such as having an air permit. Deposits of particles or residuals from roof stacks/vents that aren’t regulated and which could be mobilized by storm water runoff, are considered exposed. Roof stains from emissions, or visible particulate matter on the roof, are evidence that you don’t meet the “no exposure” criteria.
- 5. I have some raw materials stored outside but they are covered by a shelter. Every so often we have high winds which may carry some of the raw materials off-site. Does this affect the “no exposure”?**
Yes. Windblown raw materials cause a condition of exposure.
- 6. Can I use tarps to cover materials stored outside?**
Under certain circumstances tarps may be used as temporary cover or shelter. Permitting authorities can determine the circumstances under which temporary structures will or will not meet the requirements of “no exposure”.
- 7. We had a small oil spill on a concrete pad outside. The oil was removed but left a stain. Would washing down the concrete pad put us out of compliance with the “no exposure” exclusion?**
Concrete may be washed as long as all the spilled material is removed and you do not use detergents or other chemicals to wash down the concrete.

8. **We wash down the building a couple times a year with a pressure washer and the runoff water goes to the storm drain. Does this disqualify us from claiming the “no exposure” exclusion?**

Not necessarily. There are a few non-storm water discharges such as washing buildings that are allowed and still let you claim no exposure. In this case, washing the building is allowed as long as detergents or other chemicals are not used.

9. **We have one forklift that move materials between buildings. The distance between the two buildings is minimal. Will this prevent me from obtaining a “no exposure” certification?**

Vehicles moving between buildings will likely come into contact with precipitation at some time, but so long as they are adequately maintained they will not cause a condition of exposure. The materials being moved must be protected from precipitation.

10. **I have an emergency generator that is not provided with secondary containment. Will this prevent me from obtaining a “no exposure” certification?**

A condition of “no exposure” exists at an industrial facility when all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, and/or runoff.

Emergency generators are not considered “industrial materials” or “industrial activities” (according to the storm water regulations) and are therefore not required to be protected by a storm resistant shelter.

Therefore, a facility can apply for a “no exposure” exclusion as long as all other industrial activities/materials are conducted in a manner in which they are not exposed to storm water – with the exception of the emergency generator.

For reference, the Department defines industrial materials or activities as: material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate products, final product or waste product.

11. **If all vehicle maintenance and equipment cleaning operations occur indoors at a transportation facility, is the facility able to certify “No Exposure”?**

No as the parking lots used to store vehicles awaiting maintenance are considered areas associated with industrial activities; thus requiring permit coverage.