



## NO EXPOSURE CERTIFICATION for Exclusion from Storm Water Permitting Under the Surface Water Discharge Program

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Activities that take place at industrial facilities are often exposed to storm water, and runoff from these sites has the potential to discharge pollutants into nearby storm sewer systems and surface waters, and may adversely impact water quality. In an attempt to limit the amount of pollutants in those discharges, the U.S. Environmental Protection Agency (EPA) developed a federal program to regulate certain storm water discharges, particularly those associated with industrial activity.

The federal storm water regulations identify eleven categories of industrial activity that must obtain a storm water permit. The industrial categories are listed either by reference to a Standard Industrial Classification (SIC) code, a North American Industry Classification (NAIC) code, or by a short narrative description of the activity at the industrial site.

The regulations provide an exemption from the storm water permitting requirements for those facilities whose industrial materials or activities are not exposed to precipitation or runoff. If there is **no exposure** to storm water at an industrial facility, then a storm water permit is not required for that facility.

Industrial facilities wishing to be conditionally excluded from permitting requirements must submit a certification form to the South Dakota Department of Environment and Natural Resources (DENR). By submitting this form, the facility is certifying there is a condition of no exposure to storm water at the site. The form must be signed by an executive officer or owner of the facility/corporation.

**There is no exposure at an industrial facility when all industrial materials and activities are protected to prevent exposure to rain, snow, snowmelt, and/or runoff.** Industrial materials or activities such as material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products must be protected by a storm resistant shelter. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product. A storm resistant shelter is not required for the following industrial materials and activities:

- ◆ drums, barrels, tanks, and similar containers that are tightly sealed, provided those containers are not deteriorated and do not leak. “Sealed” means banded or otherwise secured and without operational taps or valves;
- ◆ adequately maintained vehicles used in material handling; and
- ◆ final products, other than products that would be mobilized in storm water discharges (e.g., rock salt).

A No Exposure Certification form must be provided for each facility that wishes to be conditionally excluded from the permitting requirements. The exemption from storm water permitting is available on a facility-wide basis only, not for individual outfalls or points of runoff. If any industrial activities or materials are or will be exposed to precipitation, the entire facility is not eligible for the no exposure exemption. If changes at a facility result in industrial activities or materials becoming exposed to storm water, the no exposure exemption no longer applies. If DENR determines that a facility’s storm water discharges have a reasonable potential to cause or contribute to a violation of applicable water quality standards, the no exposure exemption can be denied.

Please feel free to contact the SD Department of Agriculture and Natural Resources with any questions or comments regarding the No Exposure exemption and/or the Storm Water Program at 1-800-SDSTORM (737-8676).

**Detailed instructions for completing this form and obtaining the no exposure exemption are included with the form.**



## DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES

### STORM WATER NO EXPOSURE CERTIFICATION

For Exclusion from Permitting Requirements for Storm Water Discharges  
Associated with Industrial Activities Under the Surface Water Discharge Program

One **original copy** of this form shall be submitted to:

SD Department of Agriculture and Natural Resources  
Surface Water Quality Program  
523 East Capitol Avenue  
Pierre, South Dakota 57501-3181  
Telephone: (605) 773-3351 or 1-800-SDSTORM

Upon request, an additional copy of this form must be mailed to the municipality within which the facility is located, or county if the facility is located in an unincorporated area.

ALL INFORMATION MUST BE PROVIDED ON THIS FORM.

#### A. Applicant Information

1. Company Name: \_\_\_\_\_ 2. Phone: \_\_\_\_\_
3. Contact Person: a. Name: \_\_\_\_\_ b. Title: \_\_\_\_\_
4. Mailing Address: a. Street: \_\_\_\_\_  
b. City: \_\_\_\_\_ c. State: \_\_\_\_\_ d. Zip Code: \_\_\_\_\_
5. The applicant requesting a conditional "No Exposure" Exclusion is: ☐ Owner ☐ Operator

#### B. Facility/Site Location Information

1. Facility Name: \_\_\_\_\_ 2. Phone: \_\_\_\_\_
3. a. Street Address: \_\_\_\_\_  
b. City: \_\_\_\_\_ c. County: \_\_\_\_\_ d. State: \_\_\_\_\_ e. Zip Code: \_\_\_\_\_
4. Type of ownership: ☐ Federal ☐ State ☐ Private ☐ Public (other than Federal or State)
5. a. Latitude: \_\_\_\_\_ b. Longitude: \_\_\_\_\_
6. a. Quarter: \_\_\_\_\_ b. Section: \_\_\_\_\_ c. Township: \_\_\_\_\_ d. Range: \_\_\_\_\_

7. a: Was the facility or site previously covered under a storm water permit? Yes ☐ No ☐
- b: If yes, enter permit number: \_\_\_\_\_
8. SIC/NAICS Activity Codes: a: Primary: \_\_\_\_\_ b: Secondary (if applicable): \_\_\_\_\_
9. Please describe the industrial activities which take place at this site. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
10. Total size of site associated with industrial activity: \_\_\_\_\_ acres
11. a. Have you paved or roofed over a formerly exposed, pervious area in order to qualify for the no exposure exemption? Yes ☐ No ☐
- b. If yes, please indicate approximately how much area was paved or roofed over. Completing this question does not disqualify you for the no exposure exemption. However, DENR may use this information in considering whether storm water discharges from your site are likely to have an adverse impact on water quality, in which case you could be required to obtain permit coverage.  
Less than one acre ☐ One to five acres ☐ More than five acres ☐
12. a. Does the storm water from this facility enter a Municipal Separate Storm Sewer System?  
Yes ☐ No ☐
- b. If yes, name of Municipal Separate Storm Sewer System  
\_\_\_\_\_
13. a. Does the storm water from this facility enter a natural surface drainage? Yes ☐ No ☐
- c. If yes, name or description of the receiving water(s):  
\_\_\_\_\_

### C. Exposure Checklist

Please respond to the following questions by checking either “Yes” or “No” in the appropriate box. Additional information to assist in answering these questions is included in the instructions.

#### Yes No

1. Is there now, or in the foreseeable future, any use, storage or cleaning of industrial machinery or equipment where storm water exposure can occur; or, are there areas where residuals from using, storing or cleaning industrial machinery or equipment remain and are exposed to storm water?  
☐ ☐
2. Are there now, or in the foreseeable future, any materials or residuals, including spills/leaks, on the ground or within the storm water collection system or inlets that are exposed to storm water?  
☐ ☐
3. Are there now, or in the foreseeable future, any materials or products from past industrial activity

exposed to storm water?

☐ ☐

4. Is there now, or in the foreseeable future, any material handling equipment (except adequately maintained vehicles) that is exposed to storm water?  
☐ ☐
5. Are there now, or in the foreseeable future, any materials or products that are exposed to storm water during loading, unloading or transporting activities?  
☐ ☐
6. Are there now, or in the foreseeable future, any materials or products stored outdoors (except final products intended for outside use where exposure does not result in the discharge of pollutants)?  
☐ ☐
7. Are there now, or in the foreseeable future, any materials contained in open, deteriorated or leaking storage drums, barrels, tanks, and similar containers?  
☐ ☐
8. Are there now, or in the foreseeable future, any materials or products handled/stored on roads or railways owned or maintained by the discharger that are exposed to storm water?  
☐ ☐
9. Are there now, or in the foreseeable future, any industrial waste materials (except waste in covered, non-leaking containers) that are exposed to storm water?  
☐ ☐
10. Is there now, or in the foreseeable future, any application or disposal of process wastewater exposed to storm water (unless otherwise permitted)?  
☐ ☐
11. Is there now, or in the foreseeable future, any particulate matter or visible deposits of residuals from roof stacks and/or vents not otherwise regulated (i.e., under an air quality control permit) and evident in the storm water outflow?  
☐ ☐

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#### D. Certification Statement

I certify under penalty of law that I have read and understand the eligibility requirements for claiming a condition of “no exposure” and obtaining an exemption from storm water SWD permitting.

I certify under penalty of law that there are no discharges of storm water contaminated by exposure to industrial activities or materials from the industrial facility or site identified in this document (except as allowed under 40 CFR 122.26(g)(2)).

I understand that I am obligated to submit a no exposure certification form once every five years to SDDANR and, if requested, to the operator of the local municipal separate storm sewer system (MS4) into which the facility discharges (where applicable). I understand that I must allow SDDANR, or the MS4 operator where the discharge enters into the local MS4, to perform inspections to confirm the condition of no exposure and to make such inspection reports publicly available upon request. I understand that I must obtain coverage under a storm water SWD permit prior to any point source discharge of storm water from the facility.

Additionally, I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

(SEAL)

Instructions for the NO EXPOSURE CERTIFICATION for  
**Exclusion from Storm Water Permitting Under the Surface Water Discharge Program**

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### **Who May File a No Exposure Certification**

Federal law at 40 CFR Part 122.26 prohibits point source discharge of storm water associated with industrial activity to waters of the state without a storm water Surface Water Discharge (SWD) permit. However, industrial activities identified at 40 CFR 122.26(b)(14)(i) through (ix) and (xi) may be conditionally excluded from storm water permitting requirements if the discharger can certify that a condition of “no exposure” exists at the industrial facility or site.

Storm water discharges from construction activities identified in 40 CFR 122.26(b)(14)(x) and (b)(15) are not eligible for the no exposure exemption.

### **Obtaining and Maintaining the No Exposure Exemption**

This form is used to certify that a condition of no exposure exists at the industrial facility or site described herein. This certification must be re-submitted at least **once every five years**.

The industrial facility operator must maintain a condition of no exposure at its facility or site in order for the no exposure exemption to remain applicable. If conditions change resulting in the exposure of materials and activities to storm water, the facility operator must obtain coverage under a storm water permit immediately.

### **Where to File the No Exposure Certification Form**

Mail the completed no exposure certification form to:

SD Department of Environment and Natural Resources  
Surface Water Quality Program  
523 East Capitol Avenue  
Pierre, SD 57501

### **Completing the Form**

You must type or print. One form must be completed for each facility or site for which you are seeking to

certify a condition of no exposure. Please make sure you have addressed all applicable questions and have made a photocopy for your records before sending the completed form to the above address.

### **Section A. Facility Operator Information**

1. Provide the legal name of the person, firm, public organization, or other entity submitting certification. The name of the applicant may or may not be the same as the name of the facility.
2. Provide the telephone number of the applicant.
3. Provide the contact person’s name and title.
4. Provide the mailing address of the operator (P.O. Box numbers may be used). Include the city, state, and zip code. **All correspondence will be sent to this address.**
5. Indicate whether the applicant is the owner and/or operator of the facility.

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**Section B. Facility/Site Location Information**

1. Enter the official or legal name of the facility or site.
2. Enter the phone number for the facility.
3. Enter the complete street address (if no street address exists, provide a geographic description [e.g. intersection of Routes 9 and 55]), city, county, state, and zip code. Do not use a P.O. Box number.
4. Indicate the type of entity that owns/operates the industrial facility.
5. Enter the latitude and longitude of the approximate center of the facility or site in degrees/minutes/seconds. Latitude and longitude can be obtained from a US Geological Survey (USGS) quadrangle or topographic map, or from various internet mapping web pages.
6. Enter the legal description of the facility location, listed by Quarter, Section, Township and Range. Include the North, South, East, or West reference with the Township and Range.
7. Indicate whether the facility was previously covered under a SWD storm water permit. If so, include the permit number.
8. Enter the 4-digit Standard Industrial Classification (SIC) code or the 6-digit North American Industry Classification System (NAICS) which identifies the facility's primary activity. Also include a second 4-digit SIC code or 6-digit NAICS code identifying the facility's secondary activity, if applicable. These codes can be obtained from the US Census Bureau's web page <http://www.census.gov/epcd/www/naicstab.htm>
9. Please provide a description of any and all industrial activities taking place at the site now and in the foreseeable future.

10. Enter the total size of the site associated with industrial activity in acres. Acreage may be determined by dividing square footage by 43,560, as demonstrated in the following example.

Example: Convert 54,450 ft<sup>2</sup> to acres

Divide 54,450 ft<sup>2</sup> by 43,560 square feet per acre:  
54,450 ft<sup>2</sup> / 43,560 ft<sup>2</sup>/acre = 1.25 acres.

11. Check "Yes" or "No" as appropriate to indicate whether you have paved or roofed over a formerly exposed, pervious area (i.e., lawn, meadow, dirt or gravel road/parking lot) in order to qualify for no exposure. If yes, also indicate approximately how much area was paved or roofed over and is now impervious area.
12. Identify the Municipal Separate Storm Sewer System (MS4) in which the non-exposed storm water enters, if applicable.
13. Identify and/or describe the receiving water(s) in which the non-exposed storm water enters, if natural surface drainage occurs.



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contaminants or are not otherwise a source of industrial pollutants.

### **Section C. Exposure Checklist**

Check “Yes” or “No” as appropriate to describe the exposure conditions at your facility. DENR will evaluate the responses to these questions in order to determine eligibility for the “No Exposure” exemption.

The following information is provided as additional information to be used in answering the questions in this Section. Paragraph numbers correspond to the questions numbers.

#### **1. Industrial Machinery and Equipment**

Industrial machinery and equipment may not be stored where exposed to storm water. In addition, areas with residuals from using or storing or cleaning industrial machinery or equipment must not remain and be exposed to storm water. The following exceptions are allowed:

- a. Drums, barrels, tanks, and similar containers intended for the outdoor storage of the contained material or previously contained material. These must be tightly sealed (“sealed” means banded or otherwise secured and without operational taps or valves), and cannot be deteriorated or leaking, and are not otherwise a sources of pollutants. The addition of material to or withdrawing of material from these containers while outside is deemed exposure, and as such, not allowed under the exemption provisions. Containers, racks and other transport platforms used with the drums, barrels, etc., can be stored outside providing they are contaminant-free.
- b. Adequately maintained vehicles used in material handling may be exposed to storm water. This also includes vehicles such as trucks, automobiles, forklifts, pallet jacks, carts, dollies, or other such general-purpose vehicles at the industrial site that are not industrial machinery, and that are not leaking

#### **2. Materials and Residuals**

Industrial materials and residuals may not exist on the ground or within the storm water collection system (i.e. storm water inlets and storm sewers). Residuals include any material that may be mobilized by storm water, such as oil and chemical stains, and contaminated soils.

#### **3. Industrial Waste Material**

Industrial waste material, like other industrial materials, may not be stored where exposed to storm water. However, if the material is stored in a sealed container, such as those allowed for Question 1 or in a covered, non-leaking container such as a lidded dumpster, that does not allow exposure to storm water, outdoor storage is allowed.

Lidded dumpsters must be completely covered and materials must not be allowed to drain from any holes in the bottom, or be lost in loading onto a garbage truck. Industrial refuse and trash that is stored uncovered is considered exposed.

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Waste materials that are not related to an industrial activity, such as office supplies and cafeteria wastes, are not included in the definition of industrial waste materials, and although such wastes should be managed to prevent water quality impacts, are not included in this certification.

#### **Section D. Certification Statement**

State statutes provide for severe penalties for submitting false information on this application form. State regulations require this application to be signed as follows:

For a corporation: by a responsible corporate officer, which means:

- (i) *president, secretary, treasurer, or vice-president of the corporation in charge of principal business function, or any other person who performs similar policy or decision making functions for the corporation, or*
- (ii) *the manager of one or more manufacturing, production, or operation facilities, provided the manager is*

*authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;*

For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.

This certification must be signed in the presence of a certified notary public.