



## Regulatory Briefing

# Wisconsin Tier 1 Industrial Stormwater Permit – Final General Permit

May 2011

## Overview

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In May 13, 2011, the Wisconsin Department of Natural Resources (WDNR) published its final reissued “General Permit to Discharge under the Wisconsin Pollutant Discharge Elimination System WPDES No. WI-S067849-3. Tier 1 Industrial Facilities” or “Tier 1 permit”. This permit covers stormwater discharges from certain types of industrial and “industrial-like” operations that are required to have a stormwater discharge WPDES permit.

WPDES permits, including general permits, are reissued on a 5-year cycle. The previous DNR general permit for Tier 1 facilities was written in 2001 and expired in 2006. Therefore, this revised permit was needed to replace the expired one.

The revised permit includes many of the same requirements that are included in the current WDNR industrial stormwater permit. However, some significant changes are being proposed for facilities located near certain types of water bodies. The final general permit also incorporates additional requirements to assure stormwater discharges from Tier 1 facilities do not cause or contribute to water quality impairments.

## Types of Wisconsin DNR Permits

The WDNR has a series of stormwater general permits, in addition to the Tier 1 permit. These include (*click on link to read a summary of each permit*):

Tier 2 Industrial Stormwater Discharge Permit:

[http://www.calthacompany.com/Final\\_WDNR\\_Tier\\_2\\_Industrial\\_Stormwater\\_Permit.pdf](http://www.calthacompany.com/Final_WDNR_Tier_2_Industrial_Stormwater_Permit.pdf)

Auto Salvage Facility Industrial Stormwater Discharge Permit:

[http://www.calthacompany.com/Revised\\_Wisconsin\\_Stormwater\\_General\\_Permit\\_Vehicle\\_Salvage.pdf](http://www.calthacompany.com/Revised_Wisconsin_Stormwater_General_Permit_Vehicle_Salvage.pdf)

Scrap Metal Recycling Facility Industrial Stormwater Discharge Permit:

[http://www.calthacompany.com/Proposed\\_WDNR\\_Storm\\_Water\\_General\\_Permit\\_Scrap\\_Recycling.pdf](http://www.calthacompany.com/Proposed_WDNR_Storm_Water_General_Permit_Scrap_Recycling.pdf)

WDNR also has general permits for certain process wastewater discharges which include stormwater discharges.

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*Industrial facilities have been required to have a stormwater discharge permit since the 1987 Amendments to the Clean Water Act*

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## What are Tier 1 Facilities in Wisconsin?

The Tier 1 permit can only be used by certain types of industrial facilities, which meet all of the criteria for coverage. The Standard Industrial Classification (SIC) codes for Tier 1 facilities includes:

24-- Lumber & Wood Products  
 26-- Paper & Allied Products  
 28-- Chemicals & Allied Products  
 29-- Petroleum Refining & Related Industries  
 311- Leather Tanning & Finishing  
 32-- Stone, Clay, Glass, & Concrete Products  
 33-- Primary Metal Industries  
 3441 Fabricated Structural Metal  
 373- Ship & Boat Bldg. & Repair

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### **IMPORTANT:**

***Even facilities with  
NO OUTSIDE  
 activities or  
 storage are  
 affected by  
 stormwater rules***

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The Tier 1 permit can also be used by facilities involved in the recycling of materials such as metal scrap yards, battery reclaimers, salvage yards, automobile junk yards, and facilities handling scrap and waste. However, industry specific general storm water permit has been developed to cover these types of recycling facilities. Facilities with bulk storage piles for coal, metallic and non-metallic minerals and ores, and scrap not otherwise covered, can also be covered under the proposed permit.

## Sector-Specific Requirements

The Wisconsin Tier 1 permit **does not** include any sector-specific requirements, with one exception discussed below. All portions of the permit apply to each permitted facility, regardless of the type of business.

The Tier 1 Permit requires permitted facilities to collect and analyze samples of stormwater discharges. In addition to chemical parameters tested under the exiting general permit, the final permit requires dischargers to test for sector specific “benchmark monitoring parameters” assigned to their SIC code in the 2008 US EPA Multisector General Permit (MSGP). The final WDNR does not include stormwater benchmarks.

## Chemical Stormwater Monitoring Requirements

As in the previous permit, Tier 1 facilities are required to collect and analyzed stormwater discharge samples annually for at least the first two years of the permit. The WDNR will then determine if stormwater monitoring is required for the remaining years of permit coverage.

Each facility must determine the chemical parameters to be tested, which now include sector specific “benchmark monitoring parameters” assigned to their SIC code in the 2008 US EPA Multisector General Permit (MSGP).

The final WDNR permit does not include stormwater benchmarks. No specific corrective action is required in response to the results of sampling. However, data are submitted to DNR with the annual AFSCI report, and the agency could require additional controls.

## What Changes Are Included?

This section highlights some of the key changes reflected in WDNR's revised permit compared to the previous permit; not all changes are discussed here. The majority of these new requirements involve additional requirements placed on facilities that discharge to certain types of water bodies.

**Discharges To Outstanding and Exceptional Resource Waters.** A facility covered under the permit may not create a new storm water discharge to an Outstanding Resource Water (ORW) or an Exceptional Resource Water (ERW) unless the facility's storm water pollution prevention plan (SWPPP) is updated to prevent the discharge of pollutants above background levels within the water body.

What are Wisconsin Outstanding Resource Water (ORW) or an Exceptional Resource Water (ERW)?

Link: <http://wisconsinenvironmentalconsultant.blogspot.com/2010/11/wisconsin-outstanding-resource-waters.html>

WDNR defines "new storm water discharge" as a discharge that did not exist before the start date of permit coverage. A new discharge does not include an increase in a storm water discharge to a water body to which the facility discharged on or before permit coverage started.

If a facility has an existing storm water discharge to an ERW, it may not increase the discharge of pollutants that results in a violation of water quality standards. If a facility has an existing storm water discharge to an ORW, it may increase the discharge of pollutants provided that: 1) the pollutant concentration within the receiving water would not increase; and 2) the increased discharge would not result in a violation of any water quality standard.

**Discharges To Impaired Water Bodies and Total Maximum Daily Load Requirements:** Impaired Waters. If a facility discharges a pollutant of concern to a listed impaired water body, the pollutant levels in the discharge need to be reduced as much as possible as part of an overall state effort to reduce the pollutant loading to impaired water bodies.

The final permit requires that an annual check be conducted to determine if the facility discharges listed impaired water body, and to update their SWPPP to reduce the pollutant of concern

Federal law prohibits the issuance of a WPDES permit to a new source or new discharger that will contribute to a violation of a water quality standard in a listed impaired water. For a new facility requesting coverage under the general permit, the DNR will evaluate the proposed new pollutant discharge and receiving water to determine if the above requirement can be met.

The final permit also requires that facilities conduct an annual check to determine whether the facility discharges storm water runoff to a water body that has an EPA approved TMDL allocation, and to determine if additional storm water control measures are necessary.

**Discharges To Fish and Aquatic Life Waters:** Under the general permit, a facility must determine whether its discharges storm water to a fish and aquatic life water as defined in Wisconsin Rules. Most receiving waters in Wisconsin are classified as a fish and aquatic life waters. A facility can not create a new storm water discharge to a fish and aquatic life water unless the storm water pollution prevention plan is designed to prevent the significant lowering of water quality.

What are Wisconsin Fish and Aquatic Life Waters?

Link: <http://wisconsinenvironmentalconsultant.blogspot.com/2010/11/what-are-wisconsin-fish-and-aquatic.html>

**Compliance with Runoff Management Performance Standards:** Wisconsin Rules specifies post-construction performance standards for new development and redevelopment. A newly constructed or redeveloped industrial facility that is required to meet the post-construction performance standards must describe in its SWPPP the BMPs necessary to maintain compliance with the applicable performance standards.

**Discharges To The Great Lakes & Tributaries:** Under the final permit, discharge of persistent, bioaccumulating toxic (PBT) substances to the Great Lakes waters or their tributaries, must be limited to the maximum extent practicable.

## Other Compliance Requirements

The final permit includes many compliance requirements that existing permitted facilities are already familiar with, including:

**SWPPP Requirements.** Facilities need to prepare and maintain a SWPPP that includes all the elements listed in the permit. The SWPPP must be certified by an officer of the company, or equivalent.

**Quarterly Visual Stormwater Monitoring.** A facility must conduct quarterly visual inspections of storm water discharge quality at each storm water discharge outfall. Inspections must be conducted within the first 30 minutes of discharge and must include any observations of color, odor, turbidity, floating solids, foam, oil sheen, or other obvious indicators of storm water pollution.

**Prohibited Discharges.** Non-stormwater discharges are not allowed under the general permit, which includes most kinds of process wastewater discharge, non-contact cooling water and most wash water. The permit also prohibits stormwater discharges that impact wetlands, affect endangered and threatened resources, or affect any historic property that is listed property, or on the inventory or on the list of locally designated historic places.

**Annual Inspections.** Facilities must conduct an Annual Facility Site Compliance Inspection (AFSCI). The AFSCI is intended to verify that drainage, potential pollution sources identified in the SWPPP are accurate, and that BMPs are being implemented, and adequately maintained.

## What If My Facility Is Already Covered By A Permit?

Many facilities that are subject to WPDES requirements have already been covered under the previous Tier 1 permit. A Tier1 industrial facility with existing general permit coverage is automatically covered under the revised permit as of the issuance date, May 13, 2011. DNR will notify the facility that it has received continued coverage under the permit.

A facility that has been denied or revoked a No Exposure Exclusion must apply for permit coverage within 14-working days. A permittee can also request that permit coverage be transferred to a new owner or operator. The transfer request shall be signed by both the permittee and the new owner or operator and sent via certified or registered mail to DNR.

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## Industrial Stormwater Services

Caltha provides expert consulting services to industries in Wisconsin subject to stormwater permitting requirements, including:

- **Preparing new SWPPP or revising existing SWPPP**
- **Review of BMPs**
- **Development of employee training programs**
- **Conducting stormwater monitoring**
- **SPCC Plans and Emergency Preparedness Plans**

Email us at [info@calthacompany.com](mailto:info@calthacompany.com)

**Stormwater Services Website:**  
[http://www.calthacompany.com/?page\\_id=16](http://www.calthacompany.com/?page_id=16)