

control technologies which, in the context of this general permit, are the best available of the technologies economically achievable (or the equivalent BCT finding). See *NRDC v. EPA*, 822 F.2d 104, 122–23 (D.C. Cir. 1987) (EPA has substantial discretion to impose nonquantitative permit requirements pursuant to Section 402(a)(1)).

1. Prohibition of Non-storm Water Discharges

Today's general permit does not authorize non-storm water discharges that are mixed with storm water except as provided below. The only non-storm water discharges that are intended to be authorized under today's permit include discharges from fire fighting activities; fire hydrant flushings; potable water sources, including waterline flushings; irrigation drainage; lawn watering; routine external building washdown without detergents; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate; compressor condensate; springs; uncontaminated ground water; and foundation or footing drains where flows are not contaminated with process materials such as solvents that are combined with storm water discharges associated with industrial activity.

To be authorized under the general permit, these sources of non-storm water (except flows from fire fighting activities) must be identified in the storm water pollution prevention plan prepared for the facility. (Plans and other plan requirements are discussed in more detail below). Where such discharges occur, the plan must also identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

Today's permit does not require pollution prevention measures to be identified and implemented for non-storm water flows from fire-fighting activities because these flows will generally be unplanned emergency situations where it is necessary to take immediate action to protect the public.

The prohibition of unpermitted non-storm water discharges in this permit ensures that non-storm water discharges (except for those classes of non-storm water discharges that are conditionally authorized in Part III.A.2.b.) are not inadvertently authorized by this permit. Where a storm water discharge is mixed with non-storm water that is not authorized by today's general permit or another NPDES permit, the discharger

should submit the appropriate application forms (Forms 1, 2C, and/or 2E) to gain permit coverage of the non-storm water portion of the discharge.

2. Releases of Reportable Quantities of Hazardous Substances and Oil

a. This general permit provides that the discharge of hazardous substances or oil from a facility must be eliminated or minimized in accordance with the storm water pollution plan developed for the facility. Where a permitted storm water discharge contains a hazardous substance or oil in an amount equal to or in excess of a reporting quantity established under 40 CFR Part 117, or 40 CFR Part 302 during a 24-hour period, the following actions must be taken:

(1) Any person in charge of the facility that discharges hazardous substances or oil is required to notify the National Response Center (NRC) (800–424–8802; in the Washington, DC, metropolitan area, 202–426–2675) in accordance with the requirements of 40 CFR Part 117, and 40 CFR Part 302 as soon as they have knowledge of the discharge.

(2) The storm water pollution prevention plan for the facility must be modified within 14 calendar days of knowledge of the release to provide a description of the release, an account of the circumstances leading to the release, and the date of the release. In addition, the plan must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and it must be modified where appropriate.

(3) The permittee must also submit to EPA within 14 calendar days of knowledge of the release a written description of the release (including the type and estimate of the amount of material released), the date that such release occurred, the circumstances leading to the release, and steps to be taken to modify the pollution prevention plan for the facility.

b. Anticipated discharges containing a hazardous substance in an amount equal to or in excess of reporting quantities are those caused by events occurring within the scope of the relevant operating system. Facilities that have more than 1 anticipated discharge per year containing a hazardous substance in an amount equal to or in excess of a reportable quantity are required to:

(1) Submit notifications of the first release that occurs during a calendar year (or for the first year of this permit, after submittal of an NOI); and

(2) Provide a written description in the storm water pollution prevention plan of the dates on which such releases

occurred, the type and estimate of the amount of material released, and the circumstances leading to the releases. In addition, the pollution prevention plan must address measures to minimize such releases.

c. Where a discharge of a hazardous substance or oil in excess of reporting quantities is caused by a non-storm water discharge (e.g., a spill of oil into a separate storm sewer), that discharge is not authorized by this permit and the discharger must report the discharge as required under 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302. In the event of a spill, the requirements of Section 311 of the CWA and other applicable provisions of Sections 301 and 402 of the CWA continue to apply. This approach is consistent with the requirements for reporting releases of hazardous substances and oil that make a clear distinction between hazardous substances typically found in storm water discharges and those associated with spills that are not considered part of a normal storm water discharge (see 40 CFR 117.12(d)(2)(i)).

3. Co-located Industrial Facilities

Today's general permit addresses storm water discharges from industrial activities co-located at an industrial facility described in the coverage section of the permit. Co-located industrial activities occur when activities being conducted onsite meet more than one of the descriptions in the coverage sections of Part XI. of this permit (e.g., a landfill at a wood treatment facility or a vehicle maintenance garage at an asphalt batching plant). Co-located industrial activities are authorized under today's general permit provided that the industrial facility complies with the pollution prevention plan and monitoring requirements for each co-located activity.

Authorizing co-located discharges allows industrial facilities to develop pollution prevention plans that fully address all industrial activities at the site. For example, if a wood treatment facility has a landfill, the pollution prevention plan requirements for the wood treatment facility will differ greatly from those needed for a landfill. Therefore, by authorizing co-located industrial activities, the wood treatment facility will develop a pollution prevention plan to meet the requirements addressing the storm water discharges from the wood treatment facility and the landfill. The facility is also subject to applicable monitoring requirements for each type of industrial activity as described in the applicable sections of the permit. By