



# TCEQ REGULATORY GUIDANCE

Program Support and Environmental Assistance Division  
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## Conditional No Exposure Exclusion from Multi-Sector General Permit Requirements

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### About This Guide

If you have an industrial facility subject to stormwater requirements in the Multi-Sector General Permit (MSGP), use this guide to help you decide if you meet the conditional no exposure exclusion. For more help, call our Small Business and Local Government Assistance hotline at 800-447-2827 or email us at [TexasEnviroHelp@tceq.texas.gov](mailto:TexasEnviroHelp@tceq.texas.gov).

### Definitions

**Industrial Activity.** Any of the ten categories of industrial activities included in the definition of “stormwater discharges associated with industrial activity” as defined in [Title 40 Code of Federal Regulations \(CFR\)](#)<sup>1</sup> 122.26(b)(14)(i)-(ix) and (xi).

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1. [ecfr.federalregister.gov/current/title-40](http://ecfr.federalregister.gov/current/title-40)

**No Exposure.** A condition at an industrial facility where all industrial materials and activities are protected by a storm-resistant shelter to prevent exposure to rain, snow, snowmelt, or runoff. **Industrial materials or activities** include, but are not limited to, 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 product, final product, or waste product.

**Storm-Resistant Shelter.** A building or structure that is completely roofed and walled, or a structure with only a top cover but no side coverings, provided that any material or industrial activity located under or within the structure is not exposed to any run-on and subsequent runoff of stormwater, or mobilization by wind.

## About the No Exposure Exclusion

The no exposure exclusion is a conditional authorization under the MSGP that excludes qualifying facilities from the permit's requirements. These facilities pose little risk to contaminating stormwater because industrial materials and activities are not exposed to precipitation.

To qualify for this exclusion, store industrial materials and equipment and conduct [industrial activities](#) at your facility under a [storm-resistant shelter](#). Nonpermanent covers, such as tarps, cannot be used as a long-term solution to meet the no exposure requirement.

- You may *temporarily* use nonpermanent covers while you work to implement a permanent storm-resistant shelter.

If you qualify, submit a **No Exposure Certification (NEC)** application through our State of Texas Environmental Electronic Reporting System (STEERS). You must certify that your facility does not expose industrial materials or activities to rain, snow, snowmelt, or stormwater runoff. See our [Apply for the Exclusion](#) section for more details.

Your facility is still subject to TCEQ investigations, so regularly inspect it to ensure it meets the qualifying conditions. If you discharge to a municipal storm sewer system (MS4) with MSGP enforcement authority, the MS4 may also perform inspections.

The exclusion follows the same five-year renewal schedule as the MSGP. For example, if you claimed coverage under the MSGP issued on **August 14, 2021**, it would **expire** at midnight on **August 13, 2026**.

## Exclusion Limitations

Limitations to the exclusion include:

- Your entire facility must meet the exclusion's conditions; individual outfalls do not qualify for coverage.<sup>2</sup>

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2. However, if a facility houses multiple businesses, one tenant's activities may meet the conditions even if other tenants' activities do not qualify.

- If your facility has any exposed industrial materials or activities, you are not eligible.
- We can deny or revoke your exclusion if we find your stormwater discharges may cause or contribute to a violation.

**If conditions at your facility change and cause exposure**, adjust your practices to meet the exclusion requirements. If you cannot meet them, [get coverage under the MSGP](#)<sup>3</sup> or an [individual TPDES water quality permit](#).<sup>4</sup>

**If your facility expects changes that may cause exposure**, get a stormwater authorization *before* exposure happens.

## Changes to Authorization Type

**If your facility already has an active stormwater authorization** and you meet the [definition of "no exposure"](#), you may qualify for the NEC.

If your current authorization is:

- **The MSGP**, [submit an NEC application](#), then a Notice of Termination (NOT) for your existing coverage. This ensures there is no lapse in coverage for your site.
- **An individual permit**, contact our Wastewater Permitting section at 512-239-4671. Certain permit conditions may prevent you from qualifying for the exclusion.

## Site Ownership Changes

**Stormwater authorizations cannot transfer to a new operator.** After taking ownership of a facility, new operators must submit a **new** NEC application. The **previous operator** must submit an NOT to cancel their existing authorization.

## Acceptable Exposure Conditions

The following practices do not disqualify your facility from the exclusion if you meet all conditions.<sup>5</sup>

### ***Drums, Barrels, Tanks, and Similar Containers***

**If they are in good condition**, you can store drums, barrels, tanks, and similar containers outside. You must:

- Keep them sealed, banded, or secured without operational taps or valves.
- Inspect them often to make sure they do not deteriorate or leak.
- Replace or shelter any open or damaged containers.

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3. [www.tceq.texas.gov/goto/txr05steps](http://www.tceq.texas.gov/goto/txr05steps)

4. [www.tceq.texas.gov/goto/ww-permits](http://www.tceq.texas.gov/goto/ww-permits)

5. See MSGP TXR050000 Part II Section C.1(a).

You can move containers in good condition, but **do not transfer materials to or from them while they are outside**. If they are free of contaminants, you can use racks and other transport platforms (like pallets) to store these containers outside.

### ***Final Products***

You can store final products<sup>6</sup> outside **if built for outdoor use**. Do not allow them to deteriorate or become a potential source of contaminants.

**Example:** Permanent outdoor headstone displays can qualify for the no exposure exclusion. Granite headstones ready for engraving are a raw material, so store them inside until completed.

### ***Adequately Maintained Vehicles***

You can store properly maintained vehicles outdoors if they do not become a source of contaminants. Vehicles awaiting maintenance are acceptable if they are not rusting, leaking, or otherwise deteriorating.

- Includes trucks, automobiles, forklifts, trailers, or other general-purpose non-industrial machinery.

### ***Material Transport***

You can transport materials or products protected from precipitation, leaks, and spills between buildings on site. Cover or protect areas where you load or unload them, unless they are in sealed, waterproof, or weatherproof containers.

### ***Lidded Dumpsters***

Cover dumpsters and open-top, roll-off containers that hold waste material. Do not allow drainage or loss of materials while loading or unloading. Heavy-duty tarps count as allowable covers if you do all the following:

- Securely fasten the tarps to the waste container.
- Completely plug any drain holes to prevent drainage.
- Unfasten the tarps only whenever you add or remove waste.
- Maintain the tarps and replace them whenever they begin to deteriorate.

### ***Roof Stacks or Vents***

Emissions from roof stacks or vents are acceptable if they meet **both** of the following conditions:

- They do not contaminate stormwater.
- They follow all other applicable TCEQ rules (such as air quality rules).

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6. Examples: automobiles, swing sets, wooden benches.

## ***Aboveground Storage Tanks (ASTs)***

ASTs are acceptable if they are separated from and not associated with vehicle maintenance operations and you:

- Maintain them as required by the AST rules.
- Make sure that no piping, pumps, or other equipment leaks contaminants.
- Surround ASTs with adequately engineered secondary containment<sup>7</sup> (e.g., an impervious dike, berm, or concrete retaining structure).

See our [AST Guide](#)<sup>8</sup> (RG-475n) for more information about their requirements.

ASTs dispensing with transfer valves are generally exempt from the rule against transferring materials from exposed containers. Outdoor ASTs may store materials if they meet any of the following conditions:

- Support facility operations (heating oil, propane, butane, chemical feedstock).
- Dispense fuel for delivery vehicles (gasoline, diesel, compressed natural gas).
- Dispense fuel to vehicles used to support the regulated facility operations.

**Example:** ASTs that distribute fuel to airplanes at a regulated air transportation facility **do not** qualify **unless** placed under a [storm-resistant shelter](#).

## **Unacceptable Exposure Conditions**

The following products and conditions **do not qualify** for the no exposure exclusion.<sup>9</sup>

- Products that wind or rain could move into stormwater discharges (like rock salt, wood shavings, compost, and paper).
- Products that oxidize, deteriorate, leak, or could otherwise be a source of contaminants when exposed (like scrap cars and scrap metal).
- Intermediate products or materials from your facility used to manufacture or create another product (like sheet metal, tubing and paint used in making tractors, plastic pellets, and glass for vehicles or building windows).
- Particles or residual deposits from roof stacks or vents not otherwise regulated.
- Vehicles that visibly track or carry particulate emissions.
- Domestic wastewater treatment plants with MSGP coverage requirements that have treatment processes, such as clarifiers or aeration basins, that are open and exposed to stormwater or precipitation.

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7. Properly dispose of any water or liquids collected in secondary containment.

8. [www.tceq.texas.gov/downloads/assistance/publications/rg-475n-aboveground-petroleum-storage-tanks](http://www.tceq.texas.gov/downloads/assistance/publications/rg-475n-aboveground-petroleum-storage-tanks)

9. See MSGP TXR050000 Part II Section C.1(b).

# No Exposure Checklist

Mark “Yes” or “No” for each of the following items at your facility.

**Table 1. No Exposure Exclusion Checklist**

Are any of the following exposed to stormwater?	Yes	No
Industrial materials or activities, <i>including</i> : <ul style="list-style-type: none"> <li>• using, storing, or cleaning industrial machinery or equipment</li> <li>• areas where residuals may exist from the activities mentioned above</li> </ul>		
Materials or residuals from spills or leaks on the ground or in stormwater inlets		
Materials or products from past industrial activities		
Material-handling equipment, <i>excluding</i> adequately maintained vehicles		
Materials or products loading, unloading, or transporting activities, <i>excluding</i> materials that are: <ul style="list-style-type: none"> <li>• protected from contact with precipitation</li> <li>• moved between buildings on site by adequately maintained vehicles</li> </ul>		
Materials or products stored outside, <i>excluding</i> final products intended for outdoor use where stormwater exposure does not cause a pollutant discharge		
Materials contained in open, deteriorated, or leaking storage drums, barrels, tanks, or similar containers		
Materials or products handled or stored on a road or railway owned and maintained at and by the facility		
Waste material, <i>excluding</i> waste in covered, non-leaking containers		
Application or disposal of process wastewater not already covered by a current wastewater permit		
Particulate matter or visible deposits of residuals from roof stacks or vents that are evident in stormwater discharges or not regulated under an air quality permit		

If you answered “yes” to any of the checklist questions, your site is **not eligible** for the NEC. If you answered “no” to **all** questions, you may continue to [Step 3](#) to apply for the exclusion.

## How to Apply for the Exclusion

Follow the steps in this section to submit an application and fee through [STEERS](#).<sup>10</sup> STEERS includes “industrial” in the application name – Industrial No Exposure Certification (INEC).

10. [www.tceq.texas.gov/goto/steers](http://www.tceq.texas.gov/goto/steers)

## Step 1: Determine Eligibility

Decide if your [industrial activity](#) is regulated and eligible for coverage under the general permit. If it is, continue to step 2.

- See the [MSGP](#)<sup>11</sup> Part II Section A for regulated industries.
- See the MSGP Part V on applicability for specific industry sectors.

## Step 2: Check Compliance with No Exposure Requirements

Decide if your regulated industrial activity meets the [definition of “no exposure”](#) and qualifies for the exclusion. Use the MSGP Part II Section C.1, this guide, and the [No Exposure Checklist](#) to help. Gather information from personnel familiar with the site and its operations. If your activity meets all requirements, continue to step 3.

If you **do not** meet the definition or requirements for the exclusion, you must do one of the following:

- Make changes to your facility to qualify for the exclusion.
- Submit a Notice of Intent (NOI) to get permit coverage under the MSGP.
- Get permit coverage under an individual TPDES water quality permit.

## Step 3: Apply in STEERS

If you qualify for the no exposure exclusion, create and submit an Industrial No Exposure Certification (INEC) application in [STEERS](#).<sup>12</sup>

- If you do not have one, [create an account in STEERS](#)<sup>13</sup>.
- Watch our [step-by-step STEERS account setup video](#)<sup>14</sup> for guidance.

## Step 4: Submit INEC to MS4

If your facility discharges to a [municipal separate storm sewer system](#)<sup>15</sup> (MS4), send a copy of your INEC certificate to the operator of that MS4. Operators include cities, counties, or public entities that control the storm-drain system your facility might discharge to.

## Step 5: Maintain Compliance

Conduct regular facility inspections to ensure you continue to qualify for the no exposure exclusion.

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11. [www.tceq.texas.gov/goto/msgp](http://www.tceq.texas.gov/goto/msgp)

12. [www.tceq.texas.gov/goto/steers](http://www.tceq.texas.gov/goto/steers)

13. [www.tceq.texas.gov/goto/setupsteers](http://www.tceq.texas.gov/goto/setupsteers)

14. [www.tceq.texas.gov/goto/steers-account-video](http://www.tceq.texas.gov/goto/steers-account-video)

15. [www.tceq.texas.gov/goto/ms4-assistance](http://www.tceq.texas.gov/goto/ms4-assistance)