

FACT SHEET
DRAFT RENEWAL OF THE NJPDES TIER A MUNICIPAL STORMWATER
GENERAL PERMIT (NJ0141852)

I. BACKGROUND

The Tier A Municipal Stormwater General Permit (Tier A Permit) for discharge to surface water and groundwater is one of four New Jersey Pollutant Discharge Elimination System (NJPDES) general permits that are part of the Municipal Stormwater Regulation Program established by the New Jersey Department of Environmental Protection (Department). The Municipal Program was the primary focus of the February 4, 2004 amendments to the NJPDES rules (N.J.A.C. 7:14A). Those amendments were prepared mainly in response to requirements mandated under the Federal Clean Water Act (CWA), 33 U.S.C. §§ 1251 et seq. The other three general permits are the Tier B Municipal Stormwater General Permit (Tier B Permit, NJ0141861), the Public Complex Stormwater General Permit (Public Complex Permit, NJ0141879), and the Highway Agency Stormwater General Permit (Highway Permit, NJ0141887). All four general permits were issued final on February 4, 2004. Authorizations under those permits were issued to municipalities, county, state, and interstate highway agencies, and regulated public complexes that discharge stormwater from municipal separate storm sewers (MS4s). A list of the permittees authorized under each general permit (including names and addresses) is available on the Department's web site at http://www.state.nj.us/dep/dwq/bnpc_home.htm and available in the administrative record.

The Municipal Stormwater Regulation Program is part of the Department's Statewide Stormwater Permitting Program, and is also referred to in the Federal context as a "Phase II" program since it includes most of the second phase of the National Pollutant Discharge Elimination System (NPDES) Stormwater Permitting Program. The Department is the issuing authority for NPDES permits in New Jersey, and issues those permits as part of the NJPDES program. The Department develops and administers much of the Statewide Stormwater Permitting Program within the framework of Section 402(p) of the CWA (33 U.S.C. §1342(p)) and related provisions of the NPDES rules, 40 CFR 122, 123, and 124. For additional background about the Municipal Stormwater Regulation Program, the four general permits and about the first phase (Phase I) and Phase II of the NPDES and State Stormwater Permitting Programs, see the Summary of proposed amendments to the NJPDES rules (35 N.J.R. 169(a)), the January 2, 2003 fact sheets for the draft general permits, the notice of adoption of amendments to the NJPDES rules (36 N.J.R. 813(a)), and the February 2, 2004 response to comments document for the general permits.

The Department is proposing to renew the four general permits by authority of the Water Pollution Control Act at N.J.S.A. 58:10A-1 et seq. Separate fact sheets are available for each of the four general permits. The draft renewal, in addition to extending the permit term for another five (5) year period, proposes addition and modifications intended to clarify, further develop, simplify and refine aspects of the four general permits to better protect water quality and to assist municipalities and other permittees in complying with the permit's conditions. The proposed additions and changes to the Tier A Permit include: (1) establishing a point system for the Local

Public Education Program to give permittees more flexibility in implementing the SBR; (2) removing the 7 day requirement from the Yard Waste Collection Program and Ordinance; (3) requiring the adoption and enforcement of a Fertilizer Management Ordinance (where required by an adopted TMDL); (4) requiring the adoption and enforcement of an ordinance mandating the retrofitting of catch basins by private entities when repaving parking lots or private roads; (5) requiring the adoption and enforcement of an ordinance requiring certain private dumpsters and refuse containers to be covered and leak proof; (6) revising the Catch Basin Inspection and Cleaning BMP so that permittees may be better able to comply; and (6) making the Road Erosion Control BMP an Optional Measure.

The Department will discuss each draft permit modification in more detail below.

The public comment period is scheduled to begin on December 3, 2008 and end on January 16, 2009. The Department is extending the thirty (30) day comment period to forty-five (45) days to account for the holiday season. The procedures for submitting comments or requesting a public hearing on this draft permit are detailed in the public notice.

II. TYPES OF DISCHARGES AUTHORIZED UNDER THE TIER A PERMIT

The Tier A Permit applies to all areas of the State of New Jersey, and is primarily intended to authorize and control new and existing stormwater discharges to surface water and groundwater from small MS4s owned or operated by municipalities assigned to Tier A under N.J.A.C. 7:14A-25.3(a)1 (Tier A Municipalities). The Department has currently authorized 457 municipalities under the Tier A Permit.

The Tier A Permit also authorizes certain non-stormwater discharges (e.g., potable water sources, uncontaminated groundwater, and irrigation water) from small MS4s owned or operated by Tier A Municipalities.

III. POLLUTANTS IN DISCHARGES FROM SMALL MS4s

The type of pollutants discharged from small MS4s varies and may contain trace amounts of a variety of conventional and non-conventional pollutants. It is expected that stormwater discharges from MS4s may contain total suspended solids, dissolved solids, petroleum hydrocarbons, metals, nutrients and bacteria. The concentration of the pollutants as well as the volume of the stormwater discharged from the MS4 is directly linked to amount of use, development and percent of imperviousness in the drainage area.

The Tier A permit establishes BMPs for new development, redevelopment and existing development to reduce the discharge of pollutants from the permittee's small MS4 to the maximum extent practicable.

IV. BASIS AND DESCRIPTION OF DRAFT RENEWAL

The objective of this permit action is to RENEW the Tier A Permit (NJ0141852) pursuant to N.J.A.C. 7:14A-16.

The Department worked closely with a municipal stormwater advisory group which included representatives from the Department, municipal, county, and state officials, professional associations, and environmental groups to develop amendments to the four general permits, including the Tier A Permit.

The Master Tier A Permit contains provisions for both existing Tier A municipalities, currently authorized under the expiring permit and provisions for “new municipalities”. A new municipality means a municipality as defined in N.J.A.C. 7:14A-25.1(b) which owns or operates a small MS4, meets the criteria for being assigned to Tier A pursuant to N.J.A.C. 7:14A-25.3(a)1, did not exist on March 1, 2009 and results in a new discharge to surface or ground waters of the State or a Tier B municipality that received notice from the Department that it has been reassigned from Tier B to Tier A. The Department expects, as a result of the 2010 Decennial Census by the Bureau of the Census, that certain municipalities may be reassigned from Tier B to Tier A based on their population within the urbanized area. For any new municipalities, it will be the permittees first term, therefore the permit contains implementation schedules for each SBR or BMP. However for existing Tier A municipalities it will be their second permit term and implementation schedules are only contained for new BMPs since all other SBRs and BMPs should already be fully implemented. For simplicity of reading and better understanding, the Department has separated the Master General permit into two (2) permit versions. One for existing Tier A Municipalities, and one for new Tier A Municipalities. However, these permits and their conditions are actually one single general permit under a single NJPDES permit number and should be considered in their sum.

Part I, Section C. – Definitions

The Department proposes to add definition for “EDP” or “Effective Date of Permit,” and “New Tier A Municipality.” The definitions for “EDP” or “Effective Date of Permit” is being included to differentiate between the permittee’s original effective date of permit authorization and the effective date of this permit renewal. “New Tier A Municipality” has been added for those municipalities which had not previously been considered a Tier A Municipality pursuant to N.J.A.C. 7:14A-25.3(a)1, did not exist on April 1, 2009 and results in a new discharge to surface or ground waters of the State or a Tier B municipality that received notice from the Department that it has been reassigned from Tier B to Tier A.

Part I, Section F.4. – Local Public Education Program

The Local Public Education Program will be modified to establish a point system, whereby Tier A municipalities shall accrue a total of ten (10) points annually by conducting educational activities chosen from a list provided in the permit, each having an assigned point value. Tier A Municipalities will now be able to choose from any of the following activities in completing the education requirement: develop and present stormwater themed educational classes/assemblies to local elementary, middle and/or high school classes; build a stormwater themed website for the municipality’s website; produce and set-up a stormwater themed display at any municipal event; create and purchase a “take-away” item with a stormwater related message; establish a citizen stormwater advisory committee; utilize Department created stormwater educational materials for advertising to public; organize a stormwater themed poster contest with a local school district; conduct a training program for all elected municipal officials on the stormwater program;

facilitate the planning and painting of a stormwater pollution themed mural at a local downtown/commercial area; distribute any of the Department's educational brochures, tip cards, or a municipally produced equivalent to every resident and business in the municipality; identify and enter into a partnership agreement with a local service group and carry out a minimum of two (2) stewardship/education activities; and/or distribute a letter from the mayor to every resident and business in the municipality highlighting the requirements and environmental benefits of the Improper Disposal of Waste local ordinances.

This change is proposed to give Tier A municipalities more options, potentially reduce the cost of compliance and to make the Local Public Education Program more effective. The list of approved activities and point totals for the Local Public Education BMP will be detailed in Attachment E of the renewal permit.

Part I, Section F.5. – Yard Waste Ordinance / Collection Program

The Yard Waste Collection Program BMP in the current Tier A Permit requires municipalities to adopt and enforce an ordinance that prohibits placing non-containerized yard wastes in the street more than seven (7) days prior to a scheduled collection date. Since the issuance of the Tier A Permit, the Department has corresponded with many municipal residents and officials who believe that the seven day requirement places a significant burden on municipalities as well as the public, especially the elderly. The Department is proposing to remove the seven day requirement from the renewal permit to alleviate this burden from the permittees and to afford those who may require assistance, more time to rake leaves to the curb. The Department is retaining the requirement that municipalities have a yard waste collection program, notice collection dates and that yard waste be kept no closer than 10 feet from a storm drain inlet or only allow containerized yard waste at the curb.

Part I, Section F.5. – Refuse Container Ordinance

As part of investigations of beach closings in Monmouth and Ocean counties, the Department has traced the source of the bacteria to leaking dumpsters at hospitals and high density housing complexes. These dumpsters often contain significant concentrations of human waste from diapers and other sources. In addition high levels of BOD and COD can be traced to leaking liquids from food service establishments. Failure to properly cover or close dumpster tops often results in addition trash and floatables as well as gross solids to the MS4. In response to the above and at the recommendation of the advisory group the Department proposes to add a requirement for a Refuse / Dumpster Ordinance in the Improper Disposal of Waste SBR. Tier A municipalities will have eighteen (18) months from the effective date of permit renewal to adopt and begin enforcing an ordinance requiring refuse containers and dumpsters to be covered at all times and which prohibits the spilling, dumping, leaking, or otherwise discharge of solid waste or liquids from the containers (excluding individual homeowner trash containers and municipally permitted temporary demolition containers). A model Refuse Container Ordinance will be contained in the Tier A Municipal Stormwater General Permit guidance document and on the Department's website.

Part I, Section F.5. – Fertilizer Management Ordinance

On April 24, 2008, the Department's Division of Watershed Management adopted the "Non-Tidal Passaic River Basin Addressing Phosphorus Impairments" TMDL to address phosphorus impairments in the non-tidal Passaic River basin. This TMDL will be reflected in the renewal permit by requiring affected municipalities to adopt and enforce a fertilizer management ordinance consistent with the model ordinance provided by the Department within six (6) months from the effective date of permit renewal. The list of municipalities required to adopt the ordinance will be listed in Attachment F of the renewal permit and online at <http://www.nj.gov/dep/watershedmgt/tmdl.htm>.

Part I, Section F.5. – Private Catch Basin Retrofitting Ordinance

The Department proposes the adoption and enforcement an ordinance requiring the retrofitting of existing storm drain inlets on property not owned or operated by the municipality which are in direct contact with repaving, repairing (excluding repair of individual potholes), reconstruction, resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen), or alterations of facilities (except individual single family homes) to meet the standard contained in the Department provided model ordinance. The model Private Catch Basin Retrofitting Ordinance will be contained in the Tier A Municipal Stormwater General Permit guidance document and on the Department's website. This ordinance will address those inlets not regulated by the Storm Drain Inlet BMP or Post-Construction in New Development and Redevelopment SBR and will further enhance the quality of surface water bodies in the state.

Part I, Section F.7. – Storm Drain Inlet Retrofitting

The Storm Drain Inlet Retrofitting BMP has been clarified to aid municipalities in determining whether their road projects will require the retrofitting of storm drain inlets. Since the inception of the Municipal Stormwater Regulation Program, the Department has received numerous queries regarding where resurfacing fit into the requirements. This BMP has been expanded to include the following language, "resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen)."

Part I, Section F.7. – Stormwater Facility Maintenance

The Department is revising the Stormwater Facility Maintenance BMP so that the requirement for catch basin cleaning now becomes its own BMP. This change has no legal or substantive effect on permittee requirements.

Part I, Section F.7. – Catch Basin Inspection and Cleaning

The Department has come to realize over the course of the first permit term that there are a number of municipalities with catch basins which number in the thousands. It has become apparent that it is impossible for those municipalities to maintain the requirement as it is currently written; the Department proposes to modify the Tier A Permit so that municipalities may be better able to comply with the minimum standard. The draft renewal includes language which requires municipalities having less than 5,000 municipally owned and operated catch basins to inspect and clean at least 1,000 catch basins per year, or as many catch basins as their municipality owns and operates. Those municipalities with more than 5,000 municipally owned and operated catch basins shall inspect and clean all catch basins by February 28, 2014. Also, the title of this BMP has been expanded to further clarify requirements for the permittee.

Part 1, Section F.7. – Road Erosion Control

According to municipal officials and the advisory group assembled for the 2009 Tier A Permit renewal, the Road Erosion Control BMP was ineffective. Although the majority of Tier A municipalities have established and begun implementing a program, the Department has decided to change the scope of this requirement in the permit. The Road Erosion Control BMP will now be considered an optional measure that the Tier A municipality may adopt to suit their individual needs.

Part I, Section F.8. – Equipment and Vehicle Washing

The Department is proposing to include a provision in the renewal permit which will require municipalities to describe the BMP implemented to eliminate the unpermitted discharge of equipment and vehicle wash wastewater at each of the locations where vehicle and equipment washing activities occur. This change has been made to document the proper management of wash wastewater discharges.

Part I, Section F.8. – Standard Operating Procedures

Due to the fact that all Tier A municipalities have adopted and begun implementing the SOPs for Vehicle Fueling, Vehicle Maintenance, and Good Housekeeping, the Department has revised the organization of the Standard Operating Procedure SOPs so that they are contained under one general heading. This requirement now states that Tier A municipalities must, as of the effective date of permit renewal, maintain the three required standard operating procedures. There has not been any modification to those sections of Attachment D which includes the information which must be included in the required SOPs nor has there been any modification to the example SOPs in the Tier A Permit Guidance Document. This change has no legal or substantive effect on permittee requirements.

Part I, Section H.1. – Stormwater Pollution Prevention Plan

Municipalities will be required to amend their SPPP due to changes made in the draft renewal of the Tier A Permit. On or before June 1, 2009, Tier A municipalities will be required to incorporate the changes required by the draft permit renewal.

Part I, Section F.9. – Employee Training

According to many Tier A municipalities, the language contained in the current version of the Employee Training BMP has proven to be confusing and ambiguous in nature. As such, the Department has refined the language within the minimum standard of the Employee Training BMP from “shall develop and conduct an annual employee training program for appropriate employees on appropriate topics” to “Tier A Municipalities shall have developed an annual employee training program to educate all municipal employees on those stormwater topics which are applicable to their job and title.” There has been no change in the implementation schedule or the information which must be included in these training programs.

Attachment A - Identifying Areas Outside of the Watershed Subject to a TMDL

Due to the revision of the renewal permit to include a requirement for a Fertilizer Management

Ordinance, the Department has revised Attachment A to include a section entitled “Identifying Areas Outside of the Watershed Subject to a TMDL.” This revision will allow Tier A municipalities affected by the TMDL for the “Non-Tidal Passaic River Basin Addressing Phosphorus Impairments” that want to exclude those portions of the municipality located outside the impaired watershed to submit a map to the Department showing the boundaries of the affected watershed(s) in the municipality.

Attachment E – Local Public Education Approved Activities and Point Totals

As mentioned above, as part of the draft renewal Tier A Permit, the Local Public Education BMP has been modified to give more flexibility in implementing the program. Attachment E has been created to assist municipalities in implementing this modification. In this attachment, permittees will be able to view the Department approved list of activities and corresponding point totals which they may implement to comply with the Local Public Education BMP.

Attachment F - Municipalities affected by the TMDL for the “Non-Tidal Passaic River Basin Addressing Phosphorus Impairments”

The Department has compiled and included in this renewal permit a list of municipalities/counties which are affected by the “Non-Tidal Passaic River Basin Addressing Phosphorus Impairments” TMDL. Attachment F will aid Tier A municipalities in determining whether they are required to adopt the Fertilizer Management Ordinance in Part I, Section F. of the renewal permit.

VI. PROCEDURES FOR REACHING A FINAL PERMIT DECISION ON THE DRAFT PERMIT

Included in the public notice are the requirements for the submission of comments by a specified date, and other procedures for reaching a final permit decision in accordance with N.J.A.C. 7:14A-15, -16, and -17. The comment period will begin on December 3, 2008 and will end on January 16, 2009. The Department is extending the thirty (30) day comment period to forty-five (45) days to account for the holiday season.

VII. DEPARTMENT CONTACT

Additional information concerning the proposed permit renewal may be obtained between the hours of 8:00 A.M. and 4:00 P.M., Monday through Friday by contacting Tara Wood, Bureau of Nonpoint Pollution Control, at (609) 633-7021.

VIII. ADMINISTRATIVE RECORD

- a. Tier A Municipal Stormwater General Permit (NJ0141852)
- b. List of names and addresses of permittees regulated under the Tier A Permit
- c. Draft Renewal of Tier A Municipal Stormwater General Permit NJ0141852 (Tier A Permit)
- d. January 2, 2003 Fact Sheet for the Draft Tier A Permit

- e. February 2, 2004 Response to Comments Document for the Tier A, Tier B, Highway and Public Complex Permits
- f. June 15, 2005 Fact Sheet for the Draft Modification of Tier A Permit
- g. August 1, 2005 Response to Comments Document for the Tier A, Tier B, Highway and Public Complex Major Modification
- h. Federal Clean Water Act, 33 U.S.C. §§ 1251 et seq. (NPI)*
- i. Section 502 of the National Parks and Recreation Act of 1978, 16 U.S.C. § 471I (NPI)
- j. New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq. (NPI)
- k. Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq. (NPI)
- l. N.J.A.C. 5:21, 7:8, 7:14A, and 7:50 (NPI)
- m. List of members of 2004 Municipal Stormwater Advisory Group and BMP Subcommittee
- n. List of member of 2009 Permit Renewal Municipal Stormwater Advisory Group
- o. Commissioner Bradley M. Campbell's April 11, 2005 letter to William G. Dressel, Jr., Executive Director, New Jersey State League of Municipalities
- p. April 2004 New Jersey Stormwater BMP Manual (NPI)
- q. All websites, New Jersey Register notices, and other documents cited in this Fact Sheet (but not listed in a. through n. above) (NPI)

*NPI indicates that the document is not physically included in the administrative record