

FACT SHEET
DRAFT RENEWAL OF TIER B MUNICIPAL STORMWATER GENERAL PERMIT
(NJ0141861)

I. BACKGROUND

The Tier B Municipal Stormwater General Permit (Tier B 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 A Municipal Stormwater General Permit (Tier A Permit, NJ0141852), 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 B Permit include: (1) establishing a point system for the Local Public Education Program to give permittees more flexibility in implementing the SBR; (2)

requiring the adoption and enforcement of a Fertilizer Management Ordinance (where required by an adopted TMDL); and (3) maintaining a record of where and when equipment and vehicle washing occurs to document proper management of wash water discharge.

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 B PERMIT

The Tier B 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 B under N.J.A.C. 7:14A-25.3(a)2 (Tier B Municipalities). The Department has currently authorized 101 municipalities under the Tier B Permit.

The Tier B 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 B 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 B 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 B Permit (NJ0141861) 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 B Permit.

The Master Tier B Permit contains provisions for both existing Tier B 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 B pursuant to N.J.A.C. 7:14A-25.3(a)2, 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 A to Tier B. For any new municipalities, it will be the permittee’s first term, therefore the permit contains implementation schedules for each SBR or BMP. However for existing Tier B 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 B Municipalities, and one for new Tier B 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 A.5. – Stormwater Discharges Not Authorized

As of the effective date of permit renewal, the deadline for Tier B municipalities to cease the unpermitted discharge of equipment and vehicle wash wastewater will have passed and these discharges will no longer be authorized. The Department has moved the information for the discharge of equipment and vehicle wash wastewater from authorized non-stormwater discharges to “Stormwater Discharges Not Authorized.”

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 C. – Definitions

The Department proposes to add definitions for “EDP” or “Effective Date of Permit,” and “New Tier B Municipality.” The definition 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 B Municipality” has been added for those municipalities which had not previously been considered a Tier B Municipality pursuant to N.J.A.C. 7:14A-25.3(a)2, did not exist on April 1, 2009 and results in a new discharge to surface or ground waters of the State or a Tier A municipality that received notice from the Department that it has been reassigned from Tier A to Tier B.

Part I, Section F.3. – Local Public Education Program

The Local Public Education Program will be modified to establish a point system, whereby Tier B 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 B 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 was made to give Tier B 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 B of the renewal permit.

Part I, Section F.4. – 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 the renewal permit and online at <http://www.nj.gov/dep/watershedmgt/tmdl.htm>.

Attachment B – Local Public Education Approved Activities and Point Totals

As mentioned above, as part of the draft renewal Tier B Permit, the Local Public Education BMP has been modified to give more flexibility in implementing the program. Attachment B 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.

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 B Municipal Stormwater General Permit (NJ0141861)
- b. List of names and addresses of permittees regulated under the Tier B Permit
- c. Draft Renewal of Tier B Municipal Stormwater General Permit NJ0141861 (Tier B Permit)
- d. January 2, 2003 Fact Sheet for the Draft Tier B 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 B 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. § 4711 (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