

**GENERAL NJPDES-DST PERMIT TO DISCHARGE STORMWATER FROM
CONSTRUCTION INTO THE SURFACE WATERS OF THE
STATE OF NEW JERSEY**

**Draft Renewal of Permit No. NJ0088323
Fact Sheet**

The New Jersey Department of Environmental Protection (Department) currently regulates stormwater runoff from certain construction activities under its Construction Activity Stormwater General Permit (NJPDES Permit No. NJ0088323). This general permit controls stormwater discharges to surface water (DST) from certain construction activities, including clearing, grading, and excavation (generally, construction activities that disturb one acre or more of land, or disturb less than one acre but are part of a larger plan of development or sale). The most recent version of this general permit was issued effective on March 1, 2012 and will expire on February 28, 2017. It is being renewed with the modifications summarized below in the Summary and Basis for Modified Permit Conditions.

BACKGROUND

The Department is the issuing authority for National Pollutant Discharge Elimination System (NPDES) permits in the State of New Jersey, and issues those permits under the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.) as part of the New Jersey Pollutant Discharge Elimination System (NJPDES). As a response to the publication of the USEPA "Phase I" stormwater discharge regulations, the Department first issued the "construction" stormwater general permit, for stormwater discharges from certain construction, mining, and quarrying activities, in 1992 and revoked and reissued that general permit in 1997, as part of the NJPDES rules, N.J.A.C. 7:14A. The general permit was issued by the Department, but requests for authorization (RFAs) under the general permit are certified by individual Soil Conservation Districts within New Jersey, or by the New Jersey Department of Transportation (DOT). For a more thorough discussion of the background and conditions of the general permit issued in 1992 and reissued in 1997, see the Department's Fact Sheets for the draft general permit (dated June 5, 1992 and February 5, 1996), and the New Jersey Register notices for the proposal and adoption of NJPDES rule changes (see 24 N.J.R. 2352(a), 4088(a), 4364(a), 4522(a), 25 N.J.R. 687(a) 28 N.J.R. 320(a), and 29 N.J.R. 1704(a) and 3822(a)).

Effective January 22, 2002, the text of the general permit was removed from the NJPDES rules (through the deletion of N.J.A.C. 7:14A-11.5(j) and the repeal of N.J.A.C. 7:14A-11 Appendix B; see 33 N.J.R. 3636(a), 34 N.J.R. 595(a)). The general permit was renewed on March 1, 2002 (with the same conditions but in a revised format). The general permit was modified effective March 3, 2004 primarily to implement some of USEPA's "Phase II" stormwater regulations and related amendments to the NJPDES rules. For further discussion of the background and conditions of the modification effective March 3, 2004, see the Department's Fact Sheet and response to comments document for that modification, and the New Jersey Register notices for the proposal and adoption of NJPDES rule changes (35 N.J.R. 169(a) and 36 N.J.R. 813(a)).

Effective March 1, 2006 the general permit was modified to exclude permit eligibility for mining and quarrying operations, to authorize and regulate single family home construction that requires a NJPDES stormwater permit but is not within the Soil Erosion and Sediment Control Act definition of "project," to implement certain provisions of the Highlands Water Protection and Planning Act Rules that became effective on May 9, 2005, and to clarify how authorizations under this general permit cease to be effective.

The general permit was again modified effective August 17, 2009 to include requirements for electronic permit authorizations and to make other necessary corrections. The electronic permitting process has been in service since October 2009.

Effective March 1, 2012 the general permit was renewed and modified to expand permit eligibility that allowed discretion by the Department to authorize construction activities at any landfill when a determination is made that the permit requirements will protect the quality of the waters of the State. This permit renewal also modified the Contents of the Request for Authorization (RFA) to delete the use of the RFA form and required that requests for authorization be made using the E-permitting system via electronic applications. However, discretionary language was added that allowed the applicant to make a request to submit a RFA without using the E-permitting system. Clarification explaining the link between the soil erosion and sediment control plans and the Standards for Soil Erosion and Sediment Control in New Jersey was provided as well as a weekly inspection requirement with the ability for the permittee to seek a suspension or reduction in frequency of the routine inspections when construction activities have ceased or are anticipated to cease for 6 months. RFA certification signatory requirements were restructured to help clarify the responsibilities of the duly authorized representative and the requirements of the authorization documentation. The Waste Handling component of the Stormwater Pollution Prevention Plan (SPPP) was modified to remove the requirement that waste containers must be fitted with lids or covers and instead allowed the permittee to determine if a lid or cover was needed to meet the Waste Handling Performance Standard. The Concrete Truck Washout component of the SPPP was modified to remove the term "Truck" to expand the uses of the area to include all concrete wash waste produced on site. Consistent with the federal non-numeric minimum standards, the Stockpile Stabilization requirement was modified to change the requirement to stabilize soil stockpiles that are exposed for more than thirty (30) days to fourteen (14) days.

This permit action is a renewal of the general permit (NJ0088323). Several changes, including those consistent with the US EPA's draft Construction General Permit are being proposed. The Department has removed the discretionary language added in the previous permit cycle allowing the applicant to make a request to submit a RFA without using the E-permitting system and now requires that requests for authorization be made via electronic application only. A description of an appropriate public location to post a copy of the authorization to discharge has been added. The posted authorization will be required to include Department contact information. The Waste Handling component of the SPPP has been updated to include covers as an example of an appropriate means of preventing waste materials from overflowing, leaking, or blowing out of the containers. The permit renewal references DST in lieu of DSW. This is simply a clarification of the permit type,

which is the Discharge of Stormwater to Surface Water (DST). DSW references discharges of process wastewater to surface water and is not the accurate reference for this DST permit. All references to “upon the activation date of the E-Permitting system” have been deleted in the permit renewal. The E-Permitting system is fully activated and all facilities must obtain authorization through the electronic system. The language in the previous permit that permitted thirty (30) days for the Department to grant or deny certification of the RFA and explained that failure of the Department to act in this time frame constituted certification of the RFA has been removed. All RFA approvals and denials are completed through the E-Permitting System which gives immediate feedback to the applicant. Part I.K. Attachment C: Individual Home Construction Stabilization Plan, (IHCSP) as well as other references to the Single Family Home Construction have been removed in this renewal permit action. The New Jersey Department of Agriculture (NJDA) and the State Soil Conservation Committee (SSCC) provided clarification on the existing “Single Family Exemption” in an Administrative Policies Bulletin effective January 1, 2015. This clarification created consistency in the applicability of the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39, et. Seq. for single family home construction projects, and subsequently eliminated the need for a separate section in this permit for minimum soil erosion and sediment controls for such projects. In addition to the modified permit conditions and reference changes, the proposed renewal permit has been reformatted to enhance readability and permit flow.

As provided at N.J.A.C. 7:14A-16.3(e) the entire permit shall be reopened for notice and comment.

TYPE OF FACILITY OR ACTIVITY

This general permit controls stormwater discharges to surface water (DST) from certain construction activities, including clearing, grading, and excavation (generally, construction activities that disturb one acre or more of land, or disturb less than one acre but are part of a larger plan of development or sale). The Department has the ability to authorize construction activity at any landfill when a determination is made that the general permit requirements will protect the quality of the waters of the State.

TYPE AND QUANTITY OF POLLUTANTS DISCHARGED

On a facility-by-facility basis, the type and quantity of pollutants discharged under this draft general permit renewal is similar to the type and quantity of pollutants discharged under the general permit issued on May 5, 1997, renewed on March 1, 2002 and modified on March 3, 2004, March 1, 2006 and March 1, 2012. For further discussion, see the February 5, 1996 Fact Sheet.

SUMMARY AND BASIS FOR MODIFIED PERMIT CONDITIONS

Where to Submit

Part I D.5. has been modified to delete the discretionary language that previously allowed RFA submissions without using the E-permitting system if the applicant made a request to

the Department to submit a RFA using an alternative method. This permit renewal requires that requests for authorization be made using the E-permitting system via electronic application only. This change is set forth to accommodate the US EPA's October 22, 2015 promulgated final National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule (see Federal Register 80:204 p. 64064). This rule requires entities regulated under the Clean Water Act NPDES program to report certain information solely in an electronic format.

Onsite Posting

Part I E.3. has been modified to include a requirement for Construction operators to post a copy of the authorization to discharge at a safe, publically accessible location in close proximity to the construction site at all times until the notice of completion has been issued. The Department has added a requirement that the posted authorization include the NJDEP Hotline number. This requirement is proposed to provide information informing the public on how to contact the Department if stormwater pollution is observed in the discharge, to improve compliance with the permit, to eliminate site accessibility issues for compliance and enforcement inspections, to remain consistent with the US EPA's General Construction Permit, and to remain consistent with discharge signage requirement in all other NJPDES permits.

Waste Handling

Part I J.3. has been modified to include covers as an example of an appropriate means of preventing waste materials from overflowing, leaking, or blowing out of the containers.

PROCEDURES FOR REACHING FINAL DECISIONS ON THE DRAFT PERMIT MODIFICATION

The public notice includes requirements for the submission of comments to the Draft Permit renewal, procedures for requesting a hearing, and other procedures for participation in the final agency decision, as set forth in N.J.A.C. 7:14A-15. The comment period will begin on December 07, 2016 when the public notice appears in the New Jersey Bulletin or the date it appears in the Star Ledger, Courier Post or the New Jersey Herald, whichever is latest. The public comment period will remain open for 30 days from the latest date of publication but may be extended if public interest warrants.

DEPARTMENT CONTACT

Additional information concerning the Draft Permit modification may be obtained between the hours of 9:00 A.M. and 5:00 P.M., Monday through Friday from the Bureau of Nonpoint Pollution Control at (609) 633-7021.

CONTENTS OF THE ADMINISTRATIVE RECORD

The provisions of the Draft Permit modification (a type of “draft permit” as defined at N.J.A.C. 7:14A-1.2) are based on the following items:

1. The renewal, issued February 1, 2012 and effective March 1, 2012 for the Construction Activity Stormwater General Permit, NJPDES Permit No. NJ0088323 (“Renewal Permit”)
2. The public notice of that “Renewal Permit”
3. The fact sheet for that “Renewal Permit”
4. The renewal of NJPDES Permit No. NJ0088323, issued on March 1, 2007 and modified effective August 17, 2009.
5. Fact sheets, dated June 5, 1992, February 5, 1996, and October 28, 2003, for the draft issuance, reissuance, and modification of NJPDES Permit No. NJ0088323 (NPI)*
6. Federal Clean Water Act, 33 U.S.C. §§ 1251 et seq. (NPI)*
7. 40 CFR 122, 123, and 124 (NPI)*
8. New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq. (NPI)*
9. Soil Erosion and Sediment Control Act (“Chapter 251”), P.L. 1975, c.251, as amended, N.J.S.A. 4:24-39 et seq. (NPI)*
10. Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et seq. (NPI)*
11. State Uniform Construction Code Act (P.L. 1975, c.217, as amended; N.J.S.A. 52:27D-119 through 141) (NPI)*
12. N.J.A.C. 2:90-1, 5:23, 7:14A, and 7:38 (NPI)*
13. All Federal Register and New Jersey Register notices cited in the fact sheet for the “Draft Permit modification” issued October 19, 2005 (NPI)*
14. Fact sheet for draft Mining and Quarrying Stormwater General Permit (NJPDES Permit No. NJ0141950) issued September 2, 2004 (NPI)*
18. Standards for Soil Erosion and Sediment Control in New Jersey, July 2011 (cited in N.J.A.C. 2:90-1.3) (NPI)*
19. State Soil Conservation Committee New Jersey Soil Conservation Districts’ Chapter 251, P.L. 1975 Administrative Policy and Procedure Manual, December 2015 (NPI)*

(NPI)*: The document is part of the administrative record, but is not physically included with the record.