

**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, 2017 and will expire on February 28, 2022. 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.

Effective March 1, 2017 the general permit was renewed and modified to require that requests for authorization be made via electronic application only. Also added was the description of an appropriate public location to post a copy of the authorization to discharge and the information contained in the posting. The Waste Handling component of the SPPP was 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 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 was 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,

(IH CSP) as well as other references to the Single Family Home Construction were removed. 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.

This permit action is a renewal of the general permit (NJ0088323). The proposed changes are included to allow the permit to remain consistent with the existing US EPA’s Stormwater Construction General Permit. These changes are primarily focused on the further clarification of existing permit language and the addition of one requirement. The Department has enhanced the level of detailed information required to be posted at the site for public view. This includes information for both project contacts and DEP contacts, permit identification information and information to obtain site stormwater pollution prevention plans. The Department is also adding further clarification language on waste handling. This additional language provides more detail on waste container best management practices. Finally, the new requirement added for this renewal deals with the addition of specific best management practices for a particular set of sites discharging to PCB impaired waters.

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, March 1, 2012 and March 1, 2017. For further discussion, see the February 5, 1996 Fact Sheet.

SUMMARY AND BASIS FOR MODIFIED PERMIT CONDITIONS

Onsite Posting

Part I E.3. has been modified to include additional information to the onsite posting. This additional information includes the permit authorization number specific to the site, a contact name and phone number where additional information about the site can be obtained, and information on the site stormwater pollution prevention plan. The changes have been included 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 further clarify the operational BMPs of the waste container lids and to remain consistent with the US EPA's General Construction Permit

Discharges to Polychlorinated biphenyls (PCBs) Impaired Waters

Part I J.6 has been added to the permit to enhance protection of currently impaired water ways and to remain consistent with the US EPA's General Construction Permit.

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 November 3, 2021 when the public notice appears in the New Jersey Bulletin or the date it appears in the Star Ledger, The 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 Stormwater Permitting and Water Quality Management at (609) 633-7021 or via email at Industrialstormwaterpermitting@dep.nj.gov.

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, effective March 1, 2017 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”
5. Fact sheets, dated June 5, 1992, February 5, 1996, October 28, 2003, and November 30, 2016 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)*
18. Standards for Soil Erosion and Sediment Control in New Jersey, January 2014 revised July 2017 (cited in N.J.A.C. 2:90-1.3) (NPI)*
19. (NPI)*
20. US EPA Construction General Permit approved 2017 and modification approved 2019.

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