

FACT SHEET  
DRAFT RENEWAL OF THE NJPDES HIGHWAY AGENCY STORMWATER  
GENERAL PERMIT (NJ0141887)

## I. BACKGROUND

The Highway Agency Stormwater General Permit (Highway Agency 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), Tier B Municipal Stormwater General Permit (Tier B, NJ0141861), and the Public Complex Stormwater General Permit (Public Complex Permit, NJ0141879). 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](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 additions and modifications intended to clarify, further develop, simplify and refine aspects of the four general permits to better protect water quality and to assist permittees in complying with the permit's conditions. The proposed additions and changes to the Highway Agency Permit include: (1) requiring Highway Agencies to ensure that the

dumpsters and refuse containers that they own and operate are covered and leak proof; (2) revising the Catch Basin Inspection and Cleaning BMP so that permittees may be better able to comply; and (3) 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 HIGHWAY AGENCY PERMIT

The Highway Agency 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 municipal separate storm sewer systems (MS4s) at highways or other thoroughfares owned or operated by a Highway Agency (Highway Agency) under N.J.A.C. 7:14A-25.2(a)3.

A "Highway Agency" is a county, State, interstate, or Federal agency that operates a small MS4 at a highway or other thoroughfare (including a maintenance or service facility or rest area for such a thoroughfare). For purposes of N.J.A.C. 7:14A-25 and this permit, a "highway or other thoroughfare" does not include:

- Any thoroughfare confined to the grounds of a single building, or of two or more buildings that are not a "public complex" pursuant to N.J.A.C. 7:14A-25.2(a)2 (unless that building(s) is a maintenance or service facility for a highway or other thoroughfare not confined to such grounds);
- Any thoroughfare confined to the grounds of a "public complex" (each such thoroughfare is instead part of the "public complex"); or
- Any thoroughfare (other than the Palisades Interstate Parkway) confined to an officially designated park, forest, recreational area, natural area, wildlife management area, or set aside for water supply protection.

The Department has currently authorized 33 Highway Agencies under the Highway Agency Permit.

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

## 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 Highway Agency 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 Highway Agency Permit (NJ0141887) pursuant to N.J.A.C. 7:14A-16.

The Department worked closely with a highway agency stormwater advisory group which included representatives from the Department, New Jersey Department of Transportation, county, and quasi-state agencies to develop amendments to the four general permits, including the Highway Agency Permit.

The Master Highway Agency Permit contains provisions for both existing Highway Agencies, currently authorized under the expiring permit and provisions for "New Highway Agencies". A new Highway Agency means a highway or other thoroughfare as defined in N.J.A.C. 7:14A-25.2(a)3 which owns or operates a small MS4, that did not exist on March 1, 2009 and results in a new discharge to surface or ground waters of the State. For any new Highway Agencies, it will be the permittees first term, therefore the permit contains implementation schedules for each SBR or BMP. However for existing Highway Agencies 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 Highway Agencies, and one for new Highway Agencies. 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 Highway Agency". 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 Highway Agency" has been added for those Highway Agencies or other thoroughfare as defined in N.J.A.C. 7:14A-25.2(a)3 which owns or operates a small MS4, that did not exist on March 1, 2009 and results in a new discharge to surface or ground waters of the State.

##### Part I, Section F.5. – Refuse Container / Dumpsters

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 additional 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 requirements in the Improper Disposal of Waste SBR. Highway Agencies will have eighteen (18) months from the effective date of permit renewal to ensure the refuse containers and dumpsters that they own and operate, including those at rest stops and service areas, are covered at all times and leak proof.

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

The Storm Drain Inlet Retrofitting BMP has been clarified to aid Highway Agencies 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 Highway Agencies with catch basins which number in the thousands. It has become apparent that it is impossible for those Highway Agencies to maintain the requirement as it is currently written; the Department proposes to modify the Highway Agency Permit so that Highway Agencies may be better able to comply with the minimum standard. The draft renewal includes language which requires Highway Agencies having less than 10,000 Highway Agency owned and operated catch basins to inspect and clean at least 2,000 catch basins per year, or as many catch basins as their Highway Agency owns and operates. Those Highway Agencies with more than 10,000 Highway Agency 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 Highway Agency Permit renewal, the Road Erosion Control BMP was ineffective. Although the majority of Highway Agencies 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 Highway Agency 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 Highway Agencies 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 Highway Agencies 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 Highway Agencies 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 Highway Agency Permit Guidance Document. This change has no legal or substantive effect on permittee requirements.

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

Highway Agencies will be required to amend their SPPP due to changes made in the draft renewal of the Highway Agency Permit. On or before June 1, 2009, Highway Agencies will be required to incorporate the changes required by the draft permit renewal.

#### Part I, Section F.9. – Employee Training

According to many Highway Agencies, 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 “Highway Agencies shall have developed an annual employee training program to educate all Highway Agency 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.

## 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. Highway Agency Stormwater General Permit (NJ0141887)
- b. List of names and addresses of permittees regulated under the Highway Agency Permit
- c. Draft Renewal of Highway Agency Stormwater General Permit NJ0141887 (Highway Agency Permit)
- d. January 2, 2003 Fact Sheet for the Draft Highway Agency Permit
- e. February 2, 2004 Response to Comments Document for the Tier A, Tier B, and Public Complex Permits
- f. June 15, 2005 Fact Sheet for the Draft Modification of Highway Agency Permit
- g. August 1, 2005 Response to Comments Document for the Highway Agency, 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 Highway Agency Stormwater Advisory Group and BMP Subcommittee
- n. List of member of 2009 Permit Renewal Highway Agency 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