

FACT SHEET
FOR THE DRAFT MODIFICATION OF PUBLIC COMPLEX
STORMWATER GENERAL PERMIT NJ0141887

I. BACKGROUND

The Public Complex Stormwater General Permit (Public Complex 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). This Program is 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 Permit, NJ0141861), 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/municstw.html> 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 modify 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 modifications are intended to clarify, further develop, simplify and refine certain aspects of the four general permits to protect water quality and to assist Public Complexes and other permittees in complying with the permit's conditions. The modifications to the Public Complex Permit include: (1) clarifying and temporarily expanding the scope of non-stormwater discharges authorized by the permit to include washwater from

certain activities; (2) establishing a definition of “catch basin”; (3) defining “yard waste” as loose leaves and grass clippings and revising the Vegetative Waste Statewide Basic Requirement (SBR) to provide Public Complexes with additional flexibility on yard waste collection, and (4) establishing an Equipment and Vehicle Washing SBR. In addition, the Department will, as “minor modifications,” correct a citation for the Coastal Area Facility Review Act in the Post-Construction Stormwater Management in New Development and Redevelopment SBR, clarify that the Local Public Education Program SBR only applies to colleges, universities, and military bases, and correct an erroneous reference to Roadside Vegetation Management in the Vegetative Waste SBR. Pursuant to N.J.A.C. 7:14A-16.5 corrections of typographical errors and language changes that have no legal or substantive effect are “minor” modifications and are not subject to the procedures in N.J.A.C. 7:14A-15 and are therefore not open to public comment.

The Department will discuss each draft permit modification in more detail below. All proposed changes to the Public Complex Permit are in the attached Draft Modification of Public Complex Permit document.

II. TYPES OF DISCHARGES AUTHORIZED UNDER THE HIGHWAY PERMIT

The Public Complex 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 county, state, interstate, and federal Public Complexes identified in N.J.A.C. 7:14A-25.2(a)3. The Department has currently issued 82 authorizations under the Public Complex Permit.

The Public Complex Permit also authorizes certain non-stormwater discharges (e.g., potable water sources, uncontaminated groundwater, and irrigation water) from small MS4s owned or operated by Public Complexes. The draft modification to the Public Complex Permit includes a clarification to include flows from washing of fire fighting vehicles, and temporary expansion of authorized non-stormwater discharges to include vehicle and equipment wash water from Public Complex maintenance yard operations. Both changes are discussed in more detail in IV. below.

III. POLLUTANTS IN DISCHARGES FROM SMALL MS4s

The draft modifications to the Public Complex Permit do not substantially affect the type and quantity of pollutants discharged from small MS4s. The January 2, 2003 fact sheet for the draft Public Complex Permit identified the following pollutants in discharges from small MS4s: sediment, suspended and dissolved solids, nutrients (phosphorus and nitrogen), oil and grease, heavy metals and other toxic pollutants, pathogens, oxygen-demanding substances (organic material), and floatables.

IV. BASIS AND DESCRIPTION OF DRAFT MODIFICATION

The objective of this permit action is to MODIFY certain provisions of the Public Complex Permit (NJ0141887) pursuant to N.J.A.C. 7:14A-16.

The Department worked closely with the Municipal Stormwater Advisory Group (representatives from the Department, municipal, county, and state officials, professional associations, and environmental groups), the BMP Subcommittee, and the NJ Department of Transportation's New Jersey Quality Initiative Group in developing the February 2, 2004 NJPDES rule amendments and the four general permits, including the Public Complex Permit. To a substantial degree, it was input from these advisory bodies that enabled the Department to develop a reasonable, workable Public Complex Permit that provides substantial environmental benefit while minimizing the regulatory burden.

Since the adoption of the rule amendments and issuance of the general permits, the Department has continued to work closely with stakeholders to assist complying with the stormwater program. The draft modifications discussed below are consistent with discussions held with stakeholders, and are also based on the Department's experience administering the Public Complex Permit.

Part I, Section A.2.d - Non-stormwater discharges from small MS4s

The Department proposes to make it clearer that flows from fire fighting activities include flows from the washing of fire fighting vehicles, and to temporarily expand the list of non-stormwater discharges authorized by the permit to include the discharge of vehicle and equipment wash water from Public Complex maintenance yard operations until February 28, 2009. The basis for authorizing the discharge of vehicle and equipment wash water from maintenance yard operations is discussed in more detail below (Part I, Section F.8.e.).

Part I, Section C – Definitions

The Department proposes to add a definition of "catch basin" to clarify which catch basins need to be inspected and cleaned annually in accordance with the Stormwater Facility Maintenance SBR in Part I, Section F.7.c of the permit. The proposed definition of "catch basin" includes a cistern, vault, chamber or well that is usually built along a street as part of the storm sewer system. It has always been the Department's interpretation of the Public Complex Permit that Public Complexes must annually inspect all catch basins and clean those with accumulated sediment, trash and debris. This definition ensures all Public Complexes interpret the Stormwater Facility Maintenance SBR consistently.

Part I, Section F.3.(a)iv – Post-Construction Stormwater Management in New Development and Redevelopment

The citation for the Coastal Area Facility Review Act was given as N.J.S.A. 13:9-1 et seq. The correct citation is N.J.S.A. 13:19-1 et seq. This change is a minor modification and not open for public comment.

Part I, Section F.4 – Local Public Education

The Department is moving the reference (in parenthesis) to "Colleges, Universities, and Military Bases Only" from *Part I, Section F.4* to *Part I, Section F.4.a* to clarify that this reference pertains only to the Local Public Education Program component of the Local Public Education SBR. It is clear in the existing *Part I, Section F.4.a.i* minimum standard and *Part I, Section F.4.b* that the Local Public Education Program applies to Colleges, Universities, and Military Bases only, and that the Storm Drain Inlet Labeling SBR applies to all Public Complexes.

Therefore moving this reference has no legal or substantive effect. Pursuant to N.J.A.C. 7:14A-16.5 this change is a “minor” modification which is not subject to the procedures in N.J.A.C. 7:14A-15 and are therefore not open to public comment.

Part I, Section F.5.e – Vegetative Waste

The Department is proposing to modify the Vegetative Waste SBR to eliminate the requirement for Public Complexes to perform yard waste pickups monthly from October through December, and once in the spring (“spring clean-up”), and instead allow the Public Complex to pick up yard waste at their discretion. The SBR retains the requirement to that yard wastes may not be placed at the curb sooner than seven (7) days prior to the collection and can be placed no closer than 10 feet from any storm sewer inlet along the street, unless they are bagged or otherwise containerized.

The main purpose of this SBR is to reduce the amount of time loose leaves and grass clippings remain in the cartway in the street. When loose leaves and grass clippings are placed in the street they can be carried away by stormwater and have several detrimental effects on receiving waters and water quality. Leaves and grass clippings can clog stormwater systems, causing flooding and requiring additional maintenance at the Public Complexes’ expense. When yard waste enters local waterways, it adds solids, and its decomposition removes oxygen from the water, and adds nutrients, which cause excessive plant and algal growth.

The Department believes that by modifying the Vegetative Waste SBR it can reduce the costs associated with implementation, give Public Complexes greater flexibility with the pick-up schedule, while preserving the water quality benefits of the SBR.

The Department is also proposing to define, for the purposes of the SBR, “yard waste” as loose leaves and grass clippings to ensure consistent implementation of the SBR.

The Department will also replace the erroneous reference to “Roadside Vegetation Management” with “Vegetative Waste”. This change has no legal or substantive effect. Pursuant to N.J.A.C. 7:14A-16.5 these changes are “minor” modifications which are not subject to the procedures in N.J.A.C. 7:14A-15 and are therefore not open to public comment.

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

The January 2, 2003 draft Public Complex Permit contained a Statewide Basic Requirement (SBR) for Equipment and Vehicle Washing. This SBR required Public Complexes to eliminate the unpermitted discharge of equipment and vehicle wash wastewater to the waters of the State from maintenance yard operations by installing a vehicle wash reclaim system, capturing and hauling the wastewater for proper disposal, connecting to sanitary sewer (where applicable and approved by local authorities), ceasing the activity or applying for a separate NJPDES permit. Public Complexes had 12 months from the effective date of permit authorization (EDPA) to cease the discharge, or 15 months from EDPA to apply for a separate NJPDES permit, or 36 months to implement any of the other SBR options. The draft Tier A and Highway Permits contained a similar SBR. As a result of public comment, this SBR was not included in the final Public Complex, Tier A, and Highway Permits (see e.g., response to comment 144 at 36 N.J.R.

835 and response to comment 52-55 in the February 2, 2004 response to comments document for the general permits).

During the first year of permit implementation, many permittees took a closer look at their maintenance yard operations. This resulted in numerous inquiries to the Department about the proper handling of equipment and vehicle wash water from these operations. The Water Pollution Control Act (at N.J.S.A. 58:10A-6) and NJPDES rules (at N.J.A.C. 7:14A-2.1) state that, with some exceptions, it shall be unlawful for any person to discharge any pollutant except in conformity with a valid NJPDES permit. Any unpermitted discharge of equipment and vehicle wash water (which contains pollutants) from a Public Complex's maintenance yard operations would be in violation of the Act and NJPDES rules.

To resolve this issue and protect permittees from potential violations, the Department proposes to modify the Public Complex Permit to specifically and temporarily authorize the discharge of equipment and vehicle wash water from maintenance yard operations. The proposed Equipment and Vehicle Washing SBR requires that on or before February 28, 2009, Public Complexes eliminate the unpermitted discharge of equipment and vehicle wash wastewater to the waters of the State from maintenance yard operations. The permit modification outlines acceptable methods for eliminating the discharge, which includes installing a vehicle wash reclaim system, capturing and hauling the wastewater for proper disposal, connecting to sanitary sewer (where applicable and approved by local authorities), ceasing the activity and/or applying for and obtaining a separate NJPDES permit. The Department will continue to work with Public Complexes, municipalities, counties, and state agencies to facilitate the construction of regional vehicle washing facilities to assist compliance with this permit requirement.

V. REQUESTED VARIANCES OR ALTERNATIVES TO PERMIT CONDITIONS

No such requests exist in regard to this permit modification, which was initiated by the Department.

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 June 15, 2005, and will end on July 16, 2005.

VII. DEPARTMENT CONTACT

Additional information concerning the proposed permit modification may be obtained between the hours of 8:00 A.M. and 4:00 P.M., Monday through Friday from: Bruce Friedman, Bureau of Nonpoint Pollution Control at (609) 633-7021 or (609) 292-0407.

VIII. ADMINISTRATIVE RECORD

- a. Public Complex Stormwater General Permit (NJ0141879)
- b. List of names and addresses of permittees regulated under the Public Complex Permit
- c. Draft Modification of Public Complex Stormwater General Permit NJ0141879 (Public Complex Permit)
- d. January 2, 2003 Fact Sheet for the Draft Public Complex Permit
- e. February 2, 2004 Response to Comments Document for the Tier A, Tier B, Highway and Public Complex Permits
- f. Fact Sheet for the Draft Modification of Public Complex Permit
- g. Federal Clean Water Act, 33 U.S.C. §§ 1251 et seq. (NPI)*
- h. New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq. (NPI)
- i. N.J.A.C. 7:14A (NPI)
- j. List of members of Municipal Stormwater Advisory Group and BMP Subcommittee
- k. All websites, New Jersey Register notices, and other documents cited in this Fact Sheet (but not listed in a. through j. above) (NPI)

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