

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

Draft

**Draft Renewal of Permit No. NJG0088323
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 discharge to surface water (DSW) 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 on March 1, 2002 and modified effective March 3, 2004 and again effective March 1, 2006, and will expire February 28, 2007. It is being reissued with the same conditions as the previous permit.

BACKGROUND

The New Jersey Department of Environmental Protection (Department) is the issuing authority for 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)).

The general permit was again modified effective March 1, 2006 primarily to limit 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 permit action now proposed by the Department is a **renewal** of the general permit (NJG0088323). The renewal permit is presented without change with the exception of minor changes to eliminate mining and quarrying activities from eligibility under this permit as set forth under the most recent modification of the existing permit and to remove all reference to "mining and quarrying" from the title and body of this permit. 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

As discussed below, this draft general permit renewal would change the types of mining and quarrying operations and construction activity that are eligible for this general permit.

Mining and Quarrying Operations

For mining and quarrying operations, draft changes have removed Part I.A.2 of this general permit eliminating eligibility for this general permit to operations that were eligible for and had obtained authorization under this general permit prior to the effective date of the "most recent modification of this permit". All mining or quarrying operations in the State must be authorized either under the Department's Mining and Quarrying Stormwater General Permit (NJPDES Permit No. NJ0141950) or an individual NJPDES permit. The Department issued its Mining and Quarrying Stormwater General Permit on March 31, 2005. For further discussion of the Mining and Quarrying Stormwater General Permit, including reasons for regulating mining and quarrying operations under that permit rather than under the Construction Activity Stormwater General Permit, see the Department's Fact Sheet and response to comments document for the Mining and Quarrying Stormwater General Permit issued March 31, 2005, and the Department's Fact Sheet for the draft major modification to that permit.

If only some of the stormwater discharges from a mine or quarry were eligible for and had obtained authorization under the Construction Activity Stormwater General Permit prior to the effective date of the modification that constitutes this permit action, then the phrase "mining and quarrying operations that were eligible for and had obtained authorization" is limited to the operations within that mine or quarry that produce those discharges. The Department also notes that unlike the Mining and Quarrying Stormwater General Permit, the Construction Activity Stormwater General Permit is for DSW only,

and does not satisfy the requirement under N.J.A.C. 7:14A for mines and quarries to obtain a NJPDES Discharge to Ground Water (DGW) permit for stormwater DGW.

TYPE AND QUANTITY OF POLLUTANTS DISCHARGED

On a facility-by-facility basis, the type and quantity of pollutants discharged under this draft general permit modification 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 and March 1, 2006. For further discussion, see the February 5, 1996 Fact Sheet.

For mining and quarrying operations, the draft renewal will remove mining and quarrying operations from regulation under this general permit. All mining or quarrying operations must be authorized under the Department's Mining and Quarrying Stormwater General Permit or an individual NJPDES permit, which are expected to provide better control of the discharge of pollutants from such operations than the Construction Activity Stormwater General Permit provides.

BASIS FOR MODIFIED PERMIT CONDITIONS

Mining and Quarrying Operations

As discussed above a draft removal of Part I.A.2 of the Construction Activity Stormwater General Permit would eliminate eligibility for this general permit to mining and quarrying operations that were eligible for and had obtained authorization under this general permit prior to the effective date of the most recent modification. This draft change to the Construction Activity Stormwater General Permit is part of the Department's ongoing effort to have mining and quarrying operations regulated under the Mining and Quarrying Stormwater General Permit or individual NJPDES permits rather than under the Construction Activity Stormwater General Permit. The Department expects that regulating all mining or quarrying operations under either the Department's Mining and Quarrying Stormwater General Permit (NJPDES Permit No. NJ0141950) or an individual NJPDES permit will result in better control of the discharge of pollutants from such operations than with the Construction Activity Stormwater General Permit provides.

PROCEDURES FOR REACHING FINAL DECISIONS ON THE DRAFT PERMIT MODIFICATION

The public notice includes requirements for the submission of comments to the Draft Permit modification, 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 the date the public notice appears in the January 10, 2007 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 or (609) 292-7026.

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 draft modification, issued October 19, 2005, to the Construction Activity Stormwater General Permit, NJPDES Permit No. NJ0088323 (“Draft Permit modification”)
2. The public notice of that “Draft Permit modification”
3. The fact sheet for that “Draft Permit modification”
4. NJPDES Permit No. NJ0088323, modified effective March 3, 2004
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)*
15. Mining and Quarrying Stormwater General Permit (NJPDES Permit No. NJ0141950) issued March 31, 2005 (NPI)*
16. Draft modification to Mining and Quarrying Stormwater General Permit (NJPDES Permit No. NJ0141950) issued September 12, 2005 (NPI)*
17. Fact sheet for draft modification to Mining and Quarrying Stormwater General Permit (NJPDES Permit No. NJ0141950) issued September 12, 2005 (NPI)*
18. Standards for Soil Erosion and Sediment Control in New Jersey, July 1999 (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, July 12, 2004 (NPI)*
20. March 21, 2002 letter from Michael J. Hill, Assistant District Manager, Freehold Soil Conservation District, to John Ashton, Bureau of Nonpoint Pollution Control, Division of Water Quality, New Jersey Department of Environmental Protection)

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