

RESPONSE TO COMMENTS

Comments were received on the draft Permit Renewal to the NJPDES Master General Permit No. NJ0088323 issued on January 10, 2007. The thirty (30) day public comment period began on January 10, 2007 when the Public Notice was published in the DEP Bulletin, the Atlantic City Press, the Trenton Times and the Star Ledger. The comment period ended on February 9, 2007. The following persons commented during the public comment period:

Elizabeth George-Cheniara, Esq., Director of Environmental Affairs, New Jersey Builders Association

A summary of the timely and significant comments received, the New Jersey Department of Environmental Protection's (Department) responses to these comments, and an explanation of any changes from the draft action have been included below.

COMMENT

Under section D. Request for Authorization Requirements, the commenter stated: Item 5 requires that "a completed and signed RFA and \$300 fee" be submitted to the soil conservation district office. The public has never been provided with any details as to the components of the fee and its intended purpose. We respectfully request an explanation of the basis for the \$300 fee.

RESPONSE

The Department disagrees with this comment. The \$300.00 fee is required in the New Jersey Pollutant Discharge Elimination System regulations at 7:14A-3.1(j). The Department first issued the "construction" general permit in 1992 for stormwater discharges from certain construction, mining, and quarrying activities as part of the NJPDES rules, N.J.A.C. 7:14A. At that time a \$200.00 permit fee was established for the construction permit. In subsequent rule making, the Department proposed changes to the NJPDES regulations that included raising the fee for the 5G3 from \$200 to \$300. The Department proposed and finalized these rule changes in accordance with legally required administrative procedures for rule making. The administrative procedures include requirements for public review and comment on any rule proposed by the Department. The Department did prepare draft rules for public review and comment with a basis and background for the rule proposal issued on January 6, 2003 that included the construction general permit and the \$300.00 fee (see. 35 N.J.R. 169(a)). After the close of the required public comment period and in consideration of all timely and significant comments that were submitted, the Department provided a response to the comments received and adopted the proposed rule changes, including the \$300.00 fee on February 2, 2004 (see 36 N.J.R. 813(a)). For a more thorough discussion of the background and conditions of the general permit, 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), 3822(a)) and 33 N.J.R. 3636(a), 34 N.J.R. 595(a), 35 N.J.R. 169(a) and 36 N.J.R. 813(a)).

COMMENT

Under section E. Effluent Limitations, Inspections and Reporting Requirements, the commenter stated:

Item 3 (“Routine Inspections”) requires that “the permittee shall conduct and document routine inspections of the facility to identify areas contributing to the stormwater discharge authorized by this permit and evaluate whether the stormwater pollution prevention plan (SPPP) identified under E.1, above, is being properly implemented and maintained, or whether additional measures are needed to implement the SPPP.”

NJBA finds the italicized language requiring routine inspections and evaluations too vague. Permittees currently conduct inspections of their sites without adequate guidance from the agency on the appropriate format for evaluation and documentation. We recommend that the Department adopt guidelines and a standardized format (i.e., a checklist) outlining what should be routinely inspected and evaluated by the permittee. This would ensure inspections are conducted, documented and evaluated properly and in a consistent fashion.

RESPONSE

The Department agrees with the comment and will work with the State Soil Conservation Committee and the Soil Conservation Districts to develop a standardized inspection checklist that may be used consistently by all permittees.

COMMENT

Under section E. Effluent Limitations, Inspections and Reporting Requirements, the commenter stated:

Item 3 also states “(Routine inspections minimum weekly.)” The department should revise this phrase to emphasize routine inspections are to be performed and documented on a weekly basis, if that is what is required.

RESPONSE

The Department disagrees with the comment. The existing language in the permit does require inspections “at least weekly”. This language was purposely used in the permit to provide flexibility and allow more frequent inspections, if necessary, during periods of precipitation or when site conditions warrant closer supervision and more frequent maintenance of soil erosion and sediment controls and waste management controls. The Department believes the language as written provides a minimum weekly inspection requirement regardless of weather and site conditions and allows for more frequent inspections based on the judgement of the permittee without being overly burdensome. The Department will retain the existing language in the permit.

COMMENT

Under section E. Effluent Limitations, Inspections and Reporting Requirements, the commenter stated:

Item 4 (“Annual Reports and Certifications”) requires permittees to “prepare an annual report summarizing each inspection performed under 3.a., above.” NJBA recommends that the Department provide an outline for (or an example of) an annual summary report. This would assist both permittees and agency personnel.

RESPONSE

The Department agrees with this comment. Necessary guidance that can be used by permittees to better implement the permit requirements is in the process of being developed by the Department. The Department will include a sample annual summary report with this guidance.

COMMENT

Under section E. Effluent Limitations, Inspections and Reporting Requirements, the commenter stated:

It is unclear how a permittee receives the annual certification form from the Department. We have been informed that the form is not included in the Authorization Letter that is sent to the permittee. We suggest that the form be distributed each year.

RESPONSE

The Department agrees with the comment. This comment will be shared with the State Soil Conservation Committee and each of the Soil Conservation Districts to ensure that Annual Certification Forms are distributed with the permit authorization. The form is also available on the Department’s web site at http://www.nj.gov/dep/dwq/pdf/5g3_annual_cert_form.pdf.

COMMENT

Under section J. Attachment B: Construction Site Waste Control Component of the Stormwater Pollution Prevention Plan (SPPP), the commenter stated:

There were a number of questions at the March 2005 workshop about which requirements are applicable to constructive activities. This may be due in part to the fact that the Soil Erosion Plan is an item separate and apart from Attachment B. We recommend that the Department include Attachment B to each Authorization Letter. In lieu of doing so, the Department should develop a protocol for distribution through the Soil Conservation District offices.

RESPONSE

The Department agrees with the comment and will work with the State Soil Conservation Committee and the Soil Conservation Districts to ensure this information is distributed with the permit authorization.