

i. Sampling locations, the season in which the sampling takes place, the minimum duration between the previous storm event and the storm event sampled, the minimum or maximum level of precipitation required for an appropriate storm event, and the form of precipitation sampled (snowmelt or rainfall); and

ii. The type of sampling (for example, grab sample or flow-weighted composite sample), whether and how to measure (or estimate) and report flow, protocols for collecting samples that may differ from protocols for collecting samples under 40 C.F.R. 136 or N.J.A.C. 7:18, time duration between the collection of sample aliquots in flow-weighted or other composite samples, mode of reporting sampling results (for example, concentration or loading) or other sampling or storm event information, and additional time for submitting data on a case-by-case basis.

7:14A-24.9 Monitoring requirements for certain stormwater discharges

(a) For small municipal separate storm sewer systems, and for stormwater discharges associated with industrial activity or small construction activity that are not subject to an effluent limitation guideline that establishes monitoring requirements or numeric effluent limitations, monitoring requirements shall be established on a case-by-case basis depending upon the nature and effect of the discharge. The permittee shall be required to monitor such discharges in accordance with N.J.A.C. 7:14A-11.2(a)2, or, at a minimum:

1. For small municipal separate storm sewer systems subject to N.J.A.C. 7:14A-25.6 or 25.8, the permittee shall comply with the requirements for evaluation, recordkeeping, and reporting in N.J.A.C. 7:14A-25.6(j) or 25.8(i), respectively.

2. For stormwater discharges associated with industrial activity or small construction activity:

i. The permittee shall conduct an annual inspection of the facility to identify areas contributing to a stormwater discharge associated with industrial activity or small construction activity and evaluate whether measures to reduce pollutant loadings identified in a stormwater pollution prevention plan are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed;

ii. The permittee shall prepare a report summarizing the result of the annual inspection conducted under (a)2i above. This report shall be accompanied by an annual certification that the facility is in compliance with its stormwater pollution prevention plan and the permit, except that if there are any incidents of non-compliance, those incidents shall be identified in the certification. If there are incidents of non-compliance, the report shall identify the steps being taken to remedy the non-compliance and to prevent such incidents from

recurring. The permittee shall maintain this report and certification for a period of at least five years from the date of the report. This period may be extended by written request from the Department at any time; and

iii. Such report and certification shall be signed by a person described in N.J.A.C. 7:14A-4.9.

iv. Permittees that are not required to submit monitoring reports at least annually pursuant to this subsection shall report to the Department at least annually all instances of non-compliance not reported under N.J.A.C. 7:14A-6.7, 6.8 and 6.10.

(b) The operating entity for a large or medium municipal separate storm sewer system shall include, in its annual report, a summary of data, including monitoring data, that is accumulated throughout the reporting year, in accordance with N.J.A.C. 7:14A-25.10(b) and 40 C.F.R. 122.42(c).

7:14A-24.10 Additional requirements for stormwater discharges associated with construction activity

(a) This section sets forth additional requirements applicable to “stormwater discharge associated with small construction activity” as defined at N.J.A.C. 7:14A-1.2, and to stormwater discharge associated with construction activity described under subparagraph 1x of the N.J.A.C. 7:14A-1.2 definition of “stormwater discharge associated with industrial activity.” The Department may issue general and/or individual NJPDES permits for such discharges. The NJPDES permit program for such discharges shall be designed to reduce pollutants in such discharges. The program components include:

1. NJPDES permit conditions requiring that operating entities for construction sites implement appropriate erosion and sediment control BMPs. NJPDES permits shall require compliance with the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules;

2. NJPDES permit conditions requiring that operating entities for construction sites control waste such as discarded building materials, concrete truck washout, chemicals, litter, sanitary waste, and other solid or hazardous waste at the construction site that may cause adverse impacts to water quality;

3. For construction activities described under subparagraph 1x of the N.J.A.C. 7:14A-1.2 definition of “stormwater discharge associated with industrial activity,” NJPDES permit conditions imposing any additional requirements necessary to achieve the applicable technology-based standards of “best available technology” and “best conventional technology” based on the Department’s best professional judgment, effluent limitations and standards promulgated under Section 301 of the Federal Act (33 U.S.C. § 1311), or new source perform-

ance standards promulgated under Section 306 of the Federal Act (33 U.S.C. § 1316);

4. NJPDES permit conditions requiring that operating entities for construction sites develop, submit for review, and implement a stormwater pollution prevention plan for construction activity. (This stormwater pollution prevention plan shall include site descriptions, descriptions of appropriate control measures, copies of approved State or local requirements, maintenance procedures, inspection procedures, and identification of non-stormwater discharges.);

5. The review of stormwater pollution prevention plans, including the consideration of potential water quality impacts of construction activity;

6. The implementation of applicable provisions of N.J.A.C. 7:50-4.81 through 4.85 (coordinated permitting in the Pinelands Area);

7. The receipt and consideration of information submitted by the public; and

8. Site inspection and enforcement of control measures.

1. Tier A municipalities: All stormwater discharges from small MS4s that are owned or operated by and located in a municipality that is assigned to Tier A under N.J.A.C. 7:14A-25.3(a)1;

2. Public complexes: All stormwater discharges from small MS4s that are owned or operated by a county, State, interstate, or Federal agency at a "public complex" located entirely or partially in a municipality that is assigned to Tier A under N.J.A.C. 7:14A-25.3(a)1, or in a municipality that receives a waiver under (d) below. For purposes of this subsection, a "public complex" is a single lot (or two or more lots that are contiguous or on a college or university campus) which contains at least two buildings owned or operated by the same governmental entity, and:

i. Is at a campus of a college or university which Statewide has a combined total of at least 1,000 employees (usually present at least six hours per day on weekdays) or full-time students; or

ii. Is at any other public facility (for example, a military base, hospital, prison, or general administration facility), and has a combined total of at least 1,000 employees, military personnel, or residents (including patients or prisoners) usually present at least six hours per day on weekdays.

3. Highways or other thoroughfares: All stormwater discharges from small MS4s that are owned or operated by a county, State, interstate, or Federal agency at a highway or other thoroughfare (including a maintenance or service facility or rest area for such a thoroughfare). For purposes of this subsection, a "highway or other thoroughfare" does not include:

i. Any thoroughfare confined to the grounds of a single building, or of two or more buildings that are not a "public complex" as described under (a)2 above (unless that building(s) is a maintenance or service facility for a highway or other thoroughfare not confined to such grounds);

ii. Any thoroughfare confined to the grounds of a "public complex" (each such thoroughfare is instead considered part of the "public complex"); or

iii. Any thoroughfare (other than the Palisades Interstate Parkway) confined to an officially designated park, forest, recreational area, natural area, wildlife management area, or area set aside for water supply protection.

4. Special designations: All of the following stormwater discharges from municipal separate storm sewers (which for purposes of this paragraph does not include "large" or "medium" municipal separate storm sewer systems, or separate storm sewers in very discrete areas, such as individual buildings):

SUBCHAPTER 25. MUNICIPAL STORMWATER REGULATION PROGRAM

Authority

N.J.S.A. 13:1D-1 et seq.; 40:55D-1 et seq.;
58:10A-1 et seq. and 58:11A-1 et seq.

Source and Effective Date

R.2004 d.47, effective February 2, 2004.

See: 35 N.J.R. 169(a), 35 N.J.R. 1331(a), 36 N.J.R. 813(a).

7:14A-25.1 Scope

(a) This subchapter sets forth requirements applicable to the Municipal Stormwater Regulation Program, which regulates discharges to surface water and groundwater of stormwater from large, medium, and small municipal separate storm sewer systems.

(b) For purposes of this subchapter, "municipality" means a "municipality" as defined in the Municipal Land Use Law at N.J.S.A. 40:55D-5, that is, any city, borough, town, township, or village.

7:14A-25.2 Identifying municipalities, public complexes, and highways or other thoroughfares regulated under the small MS4 program

(a) A NJPDES permit is required for the stormwater discharges to surface water or groundwater identified in (a)1 through 4 below. The operating entities for those discharges shall apply for a NJPDES permit in accordance with N.J.A.C. 7:14A-25.4(a) and 25.5(a).

i. All stormwater discharges from municipal separate storm sewers that the Department designates as "small MS4s that contribute substantially to the pollutant loadings of a physically interconnected municipal separate storm sewer that requires a NJPDES permit" under this subsection, or under N.J.A.C. 7:14A-24.2(a)5, 7 or 9;

ii. All stormwater discharges that are from municipal separate storm sewers, and that are designated under N.J.A.C. 7:14A-24.2(a)7 or 9;

iii. All stormwater discharges that are from municipal separate storm sewers, and that are determined to require a NJPDES permit in response to a petition under N.J.A.C. 7:14A-24.3;

iv. All stormwater discharges whose operating entity is granted a waiver under (d) below, but that are subsequently determined to require a NJPDES permit under (e) below; and

v. All stormwater discharges from municipal separate storm sewers designated by USEPA under 40 C.F.R. 123.35(b).

(b) Each municipality that is assigned to Tier B under N.J.A.C. 7:14A-25.3(a)2, and that operates a small MS4 that discharges to surface water or groundwater, shall apply for the Tier B Municipal Stormwater General Permit under N.J.A.C. 7:14A-25.8.

(c) All stormwater discharges to surface water or groundwater that are from small MS4s but not identified under (a) or (b) above are exempt from the requirement to obtain a NJPDES permit from the Department, except as provided in N.J.A.C. 7:14A-8.3, Prohibition of underground injection.

(d) The duty to obtain a permit under section 402 of the Federal Act (33 U.S.C. § 1342) is waived for all operating entities for each small MS4 that is:

1. Owned or operated by and located in a municipality that is assigned to Tier B under N.J.A.C. 7:14A-25.3(a)2; and
2. Located within an urbanized area as determined by the 2000 Decennial Census by the Bureau of the Census or a subsequent and superseding Decennial Census.
3. This waiver applies solely to stormwater discharges from the small MS4s meeting the criteria at (d)1 and 2 above to surface waters of the State, and is subject to (e) below. This waiver does not exempt any Tier B municipality from the duty to obtain the Tier B Municipal Stormwater General Permit where required under (b) above.
4. The Department shall publish in the New Jersey Register a notice of administrative change revising (as appropriate under this subsection or (e) below) the list of municipalities in the table below, and shall mail notice of such revision to the affected municipality(ies) and coun-

ty(ies). Each notice under this subsection shall identify the reason for the revision. The list in this table is for informational purposes only. Any person may obtain the most current list of municipalities to which the waiver applies and which are assigned to Tier B from the Department's Division of Water Quality, Bureau of Non-point Pollution Control at PO Box 029, Trenton, New Jersey 08625, or from the Division's website (<http://www.state.nj.us/dep/dwq>).

Municipalities to which Waiver Applies and which Are Assigned to Tier B

Bergen County

Ridgefield Park Village

Rockleigh Borough

Teterboro Borough

Municipalities to which Waiver Applies and which Are Assigned to Tier B

Bergen County

Ridgefield Park Village

Rockleigh Borough

Teterboro Borough

Burlington County

Chesterfield Township

Fieldsboro Borough

Springfield Township

Camden County

Pine Valley Borough

Tavistock Borough

Cumberland County

Deerfield Township

Gloucester County

Elk Township

Woolwich Township

Hunterdon County

Bethlehem Township

Bloomsbury Borough

East Amwell Township

Franklin Township

Lebanon Township

Tewksbury Township

Union Township

West Amwell Township

Monmouth County

Interlaken Borough

Upper Freehold Township

Morris County

Harding Township

Salem County

Oldmans Township

Upper Pittsgrove Township

Somerset County

Far Hills Borough

Millstone Borough

Rocky Hill Borough

Sussex County

Andover Borough

Fredon Township

Warren County

Allamuchy Township

Harmony Township

(e) The waiver under (d) above is based on the fact that the small MS4s identified do not have any of the characteristics set forth in (e)1 or 2 below, and based on the presumption that those small MS4s are of such minimal extent and serve such a small population that none of their stormwater discharges have any of the characteristics set forth in (e)3i through iii below. An operating entity to which the waiver applies may subsequently be required to apply for a NJPDES permit under (a) above if circumstances change. The Department shall require any operating entity to which the waiver applies to apply for a NJPDES permit under (a) above for a stormwater discharge from that entity's small MS4 if:

1. The municipality in which the small MS4 is located is reassigned from Tier B to Tier A in accordance with N.J.A.C. 7:14A-25.3(a)1 (for a reason other than the review under this subsection of the operating entity's waiver);

2. That stormwater discharge is identified under (a)4ii, iii or v above (special designations); or

3. Information specific to the small MS4 demonstrates to the Department's satisfaction that the stormwater discharge from the small MS4:

i. Contributes substantially to the pollutant loadings of a physically interconnected MS4 (see (a)4i above) that requires a NJPDES permit under (a) above;

ii. Contains a pollutant(s) for which stormwater controls have been established as part of a USEPA approved or established "total maximum daily load" (TMDL) that addresses the pollutant(s) of concern; or

iii. Requires an individual UIC permit under N.J.A.C. 7:14A-8.5(d).

(f) Whenever a NJPDES permit is required under (a)4 above (special designations), or a municipality is assigned to Tier A under N.J.A.C. 7:14A-25.3(a)1v, the Department shall notify the operating entity in writing of the reasons for such a determination, and shall include instructions on how to apply for a NJPDES permit.

1. If the operating entity applies for an individual NJPDES permit in response to such notice, comment regarding the appropriateness of the initial determination may be received during the public comment period under N.J.A.C. 7:14A-15.11 and in any subsequent hearing, unless the reason for that determination was a decision made by USEPA under 40 C.F.R. 122.26(a)(9)(i)(C) or (a)(9)(i)(D), or under 40 C.F.R. 123.35(b) or (c).

2. If the operating entity is a municipality that has applied for or received authorization under the Tier B Municipal Stormwater General Permit (see N.J.A.C. 7:14A-25.8), the applicable requirements of N.J.A.C. 7:14A-6.13 shall also be followed.

Administrative change.
See: 36 N.J.R. 2419(a), 4133(a).

7:14A-25.3 Assignment of municipalities to Tier A or Tier B

(a) All municipalities are assigned either to Tier A or to Tier B as follows:

1. An entire municipality is assigned to Tier A if that municipality: