



REGION 2

NEW YORK, N.Y. 10007

3/20/2025

Via Electronic Mail To: edward.kuchie@co.middlesex.nj.us

Edward Kuchie, Middlesex County Public Works Director
Middlesex County Department of Transportation
P.O. Box 7356
New Brunswick, New Jersey 08902

**Re: Middlesex County Department of Highways & Bridges
Clean Water Act Administrative Compliance Order
NJPDES Permit No. NJG0155136
Administrative Docket No. CWA-02-2025-3008**

Dear Director Kuchie:

Please find attached an Administrative Compliance Order ("Order"), which the United States Environmental Protection Agency ("EPA"), Region 2, is issuing to Middlesex County Department of Highways & Bridges ("Respondent") pursuant to Section 309(a) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(a). The EPA is issuing the Order because Respondent has violated CWA Sections 301 and 402, 33 U.S.C. §§ 1311 and 1342, by failing to comply with the conditions and limitations of the New Jersey Department of Environmental Protection ("NJDEP") New Jersey Pollutant Discharge Elimination System ("NJPDES") R12 – Highway Agency Stormwater General Permit (the "Permit").

Please acknowledge receipt of the Order by signing the acknowledgment page and returning the signed acknowledgment page by email to Ms. Christy Arvizu at arvizu.christy@epa.gov. Failure to comply with the attached Order may subject the Respondent to civil/criminal penalties pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, and subject the Respondent to ineligibility for participation in work associated with Federal contracts, grants or loans.

If you have any questions regarding the attached Order, please contact Ms. Justine Modigliani, P.E., Acting Manager, Water Compliance Branch, at (212) 637-4268.

Sincerely,

**KATHLEEN
ANDERSON** Digitally signed by
KATHLEEN ANDERSON
Date: 2025.03.20
16:44:18 -04'00'

Kathleen Anderson, Director
Enforcement and Compliance Assurance Division

Enclosure

1. CWA-02-2025-3008 Administrative Compliance Order

cc (via email): Bryan Barrett, Bureau Chief, Southern Bureau of Water Compliance and Enforcement, NJDEP
Anthony Panzarino, Principal Engineer, Middlesex County Department of Transportation
Jessica Brigyoni, Lead Operations Manager, Middlesex County Department of Transportation
Christopher Ehrmann, Acting Stormwater Program Coordinator, Middlesex County Department of Transportation

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

IN THE MATTER OF:

Middlesex County Department
of Highways & Bridges
97 Apple Orchard Rd
North Brunswick Township, NJ 08902

Proceeding pursuant to Section 309(a) of the
Clean Water Act, 33 U.S.C. § 1319(a)

RESPONDENT

ADMINISTRATIVE COMPLIANCE ORDER

CWA-02-2025-3008

The following Administrative Compliance Order (“Order”) is issued pursuant to Section 309(a) of the Clean Water Act (“CWA” or “Act”), 33 U.S.C. § 1319(a). This authority has been delegated by the Administrator of the United States Environmental Protection Agency (“EPA”) to the Regional Administrator, EPA Region 2, and since further redelegated to the Director, Enforcement and Compliance Assurance Division, Region 2, EPA.

A. LEGAL AUTHORITY

1. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), makes it unlawful for any person to discharge any pollutant from a point source to waters of the United States, except, among other things, with the authorization of, and in compliance with, a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.
2. Section 402 of the CWA, 33 U.S.C. § 1342, authorizes the Administrator of the EPA to issue a NPDES permit for the discharge of any pollutant, or combination of pollutants, subject to certain requirements of the CWA and conditions which the Administrator determines are necessary. The New Jersey Department of Environmental Protection (“NJDEP”) is the agency with the authority to administer the federal NPDES program in New Jersey pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b). A New Jersey Pollutant Discharge Elimination System (“NJNPDES”) permit is required to be issued by the NJDEP to facilities for the discharge of pollutants from point sources to navigable waters of the United States. The EPA maintains concurrent enforcement authority with authorized States for violations of the CWA and permits issued by authorized States thereunder.
3. “Person” is defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5), to include an individual, corporation, partnership, association, municipality, or political subdivision of a State.
4. “Municipality” is defined by Section 502(4) of the CWA, 33 U.S.C. § 1362(4), to include, among other things, a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes.

5. "Discharge of a pollutant" is defined by Section 502(12) of the CWA, 33 U.S.C. § 1362(12), to include any addition of any pollutant to navigable waters from any point source.
6. "Pollutant" is defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6), to include, among other things, solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge and industrial, municipal, and agricultural waste discharged to water.
7. "Point source" is defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14), to include any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.
8. "Navigable waters" are defined by Section 502(7) of the CWA, 33 U.S.C. § 1362(7), as "waters of the United States, including the territorial seas."
9. "Owner or operator" is defined by 40 C.F.R. § 122.2, as the owner or operator of any "facility or activity" subject to regulation under Section 402 of the CWA, 33 U.S.C. § 1342.
10. Section 309(a) of the CWA, 33 U.S.C. § 1319(a), authorizes the Administrator to issue an order requiring compliance, or commence a civil action, when any person is found to be in violation of Section 301 of the CWA, 33 U.S.C. § 1311, or in violation of any permit condition or limitation in a permit issued under Section 402 of the CWA, 33 U.S.C. § 1342.
11. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), sets forth the requirements for the discharge of stormwater, including discharges of stormwater from Municipal Separate Storm Sewer Systems ("MS4s").
12. Section 402(p)(3)(B) of the CWA, 33 U.S.C. § 1342(p)(3)(B), requires that NPDES permits for discharges from an MS4 shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers and shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.
13. Pursuant to Section 402(p) of the CWA, 33 U.S.C. § 1342(p), the EPA promulgated regulations at 40 C.F.R. § 122.26 setting forth the NPDES permit requirements for stormwater discharges, including the following:
 - a. 40 C.F.R. § 122.26(b)(8) defines an MS4 as a "conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by State law).....that discharges into waters of the United States; (ii) designed or used for collecting or conveying stormwater; (iii) which is not a combined sewer; and (iv) which is not part of a Publicly Owned Treatment Works..."

- b. 40 C.F.R. §§ 122.26(a)(l)(iv) and 122.26(d) require the operator of a discharge from a medium MS4 to apply for a jurisdiction-wide or system-wide permit;
 - c. 40 C.F.R. § 122.26(b)(4)(i) defines “large municipal separate storm sewer system,” in part, as being located in an incorporated place with a population of 250,000 or more;
 - d. 40 C.F.R. § 122.26(b)(7)(i) defines “medium municipal separate storm sewer system,” in part, as being located in an incorporated place with a population of 100,000 or more but less than 250,000;
 - e. 40 C.F.R. § 122.26(b)(16)(ii) defines “small municipal separate storm sewer system,” in part, as not defined as “large” or “medium” municipal separate storm sewer systems; and
 - f. 40 C.F.R. § 122.26(b)(3) defines “incorporated place,” in part, as a city, town, township, or village that is incorporated under the laws of the State in which it is located.
14. Pursuant to 40 C.F.R. § 122.32(a)(1), operators of small MS4s located in an “urban area” (as determined by the latest Decennial Census by the Bureau of Census) are regulated small MS4s.
 15. The terms “MS4 General Permit” or “Permit” mean the NJDEP NJPDES R12 – Highway Agency Stormwater General Permit NJ0141887. The 2020 MS4 General Permit (“2020 MS4 General Permit”) became effective on January 1, 2020, and expired on December 31, 2024. The current MS4 General Permit (“2025 MS4 General Permit”) was renewed by NJDEP on November 27, 2024, and became effective on January 1, 2025, and will expire on December 31, 2029.

B. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Middlesex County Department of Highways and Bridges (“Respondent” or the “County”) is a political subdivision chartered under the laws of the State of New Jersey, and as such, Respondent is a “person,” as that term is defined in Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2, and is an “incorporated place,” as that term is defined in 40 C.F.R. § 122.26(b)(3).
2. Respondent owns and operates the MS4 located in Middlesex County, New Jersey, and is an owner or operator within the meaning of 40 C.F.R. § 122.2.
3. Respondent’s MS4 is a small MS4 located in an urbanized area within the meaning of 40 C.F.R. § 122.26(b)(16)(ii) and 40 C.F.R. § 122.32(a)(1).
4. Respondent’s MS4 includes a population of 863,162, according to the 2020 Decennial Census conducted by the Bureau of Census.
5. Respondent’s MS4 includes outfalls, including pipes and drainage ditches, which are “point sources” within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14). Respondent’s MS4 discharges stormwater, which is a “pollutant” within the meaning of Section 502(6) of the CWA, 33 U.S.C. § 1362(6), to the South Branch Rahway River, a relatively permanent tributary of the Rahway River, a traditional navigable water which flows into the Arthur Kill, a traditional navigable water which flows into the Raritan Bay and New York Harbor, traditional navigable waters; the Bound Brook, a relatively permanent tributary of the Raritan River, a traditional

navigable water which flows into the Raritan Bay; the Millstone River, a relatively permanent tributary of the Raritan River, a traditional navigable water which flows into the Raritan Bay; the Raritan River, which flows into the Raritan Bay; the Rahway River, which flows into the Arthur Kill, which flows into the Raritan Bay and New York Harbor; and relatively permanent tributaries of these water bodies, which flow into the Atlantic Ocean, a traditional navigable water. All of these water bodies are “navigable waters” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7). As such, Respondent discharges pollutants within the meaning of Section 502(12) of the CWA, 33 U.S.C. § 1362(12).

6. Respondent submitted a Request for Authorization (“RFA”) to the NJDEP and subsequently received authorization under the MS4 General Permit pursuant to NJPDES Permit Number NJG0155136 and has been covered under the conditions and limitations in the MS4 General Permit at all relevant times addressed by this Order.
7. The MS4 General Permit authorizes Respondent to discharge pollutants from MS4 outfalls to waters of the United States, under the conditions and limitations prescribed in the Permit.
8. On September 5, 2024, EPA Region 2 conducted an offsite compliance evaluation of Respondent’s MS4 program, and on September 9, 2024, through September 11, 2024, conducted associated field activities (together, the “Audit”).
9. At the time of the Audit, the 2020 MS4 General Permit was in effect.
10. Based on the Audit findings, the EPA finds that the Respondent failed to comply with the CWA and the conditions and limitations of the 2020 MS4 General Permit, including but not limited to the following:
 - a. Part III of the Permit states that the “permittee shall keep records necessary to document, in the Annual Report and Certification, the status of compliance with the conditions of this permit.”

At the time of the Audit, the EPA Audit Team observed the following inconsistencies between the County’s MS4 Annual Reports, Stormwater Pollution Prevention Plan (“SPPP”), and documentation provided during the Audit:

- i. The 2021, 2022, and 2023 MS4 Annual Reports stated the County had adopted regulatory mechanisms for improper disposal of waste control and illicit connection control on April 6, 2006. However, at the time of the Audit, the County was not able to provide copies of the adopted regulatory mechanisms.
- ii. The 2023 MS4 Annual Report stated 100% of catch basins had been inspected during the reporting year. However, at the time of the Audit, the County did not have documentation of catch basin inspections.

Therefore, Respondent violated Part III of the Permit.

- b. Part IV.A.2.a.i and ii of the Permit states that the SPPP shall include information that “identifies the person designated as the Stormwater Coordinator as per Part IV.A.1.d above;” and “members of the SPPP Team, which is comprised of the person or persons responsible for implementing or coordinating the SPPP activities.”

At the time of the Audit, the EPA Audit Team observed that the SPPP did not accurately identify the Stormwater Coordinator and current members of the SPPP Team. Therefore, Respondent violated Part IV.A.1.d of the Permit.

- c. Part IV.A.2.a.iii of the Permit states that the SPPP shall include, at a minimum, information that “identifies each individual maintenance yard covered under each permit authorization, including the geographic region and site specific details of each yard. The SPPP for permittees with multiple yards must include an individual Form 10 (Maintenance Yards and Other Ancillary Operations) for each yard, as well as any other site specific SPPP Forms for each yard, where applicable.”

At the time of the Audit, the EPA Audit Team observed that the County’s SPPP did not include individual forms for each of the County’s four (4) maintenance yards. Therefore, Respondent violated Part IV.A.2.a.iii of the Permit.

- d. Part IV.A.2.a.iv of the Permit states the SPPP shall include, at a minimum, information that “describes the measures necessary for compliance with all components of this permit including all measures described in Parts IV.B, C, D, E and F” of the Permit.

At the time of the Audit, the EPA Audit Team observed the County’s SPPP did not include written descriptions for all required program elements. Specifically, the County’s SPPP did not have a written description of:

- i. Storm drain inlet cleaning program in accordance with Part IV.B.5.b.vi of the Permit.
- ii. Catch basin cleaning program in accordance with Part IV.B.5.b.vii of the Permit.
- iii. Illicit discharge detection and elimination program in accordance with Part IV.B.6.c of the Permit.

Therefore, Respondent violated Part IV.A.2.a.iv of the Permit.

- e. Part IV.B.5.a. of the Permit states permittees shall adopt and enforce regulatory mechanisms for pet waste control, wildlife feeding control, litter control, and improper disposal of waste. In addition, Part IV.B.6.d of the Permit requires permittees to “adopt and enforce an appropriate regulatory mechanism that prohibits illicit connections to the small MS4 owned or operated by the permittee.”

At the time of the Audit, the EPA Audit Team observed the County did not have documentation that the required regulatory mechanisms (Pet Waste Control, Wildlife Feeding Control, Litter Control, Improper Disposal of Waste, and Illicit Connection Prohibition) had been adopted. Therefore, Respondent violated Parts IV.B.5.a and IV.B.6.d of the Permit.

- f. Part IV.B.5.b.i of the Permit states permittees “shall develop and implement a litter pick up program that includes roadside clean-up of trash and debris and regular collection of refuse from litter and recycling receptacles owned and operated by the permittee, including those located at rest areas and service areas. The permittee shall maintain records of roadside clean-ups and estimates of the total amount of trash and debris collected.”

At the time of the Audit, the EPA Audit Team observed the County’s litter pick-up program did not include litter picked up by the Parks Department, nor did the County maintain records and estimates of the total amount of trash and debris collected by the Parks Department. Therefore, Respondent violated Part IV.B.5.b.i of the Permit.

- g. Part IV.B.5.v of the Permit states the permittee shall inspect, at a minimum of once per year, all storm drain inlets that it owns or operates. Documentation of inspections shall include: inlet location, date visited, observations of the inlet’s structural integrity, and if maintenance or repairs are required.” In addition, Part IV.B.5.b.vi of the Permit states that the permittee “shall develop, update, and implement a storm drain inlet cleaning program. The program shall establish when a storm drain inlet must be cleaned and shall be implemented as frequently as necessary to ensure, at a minimum, that sediment, trash, or other debris is removed as necessary to control it from entering the waters of the State, to eliminate recurring problems and maintain proper function.”

At the time of the Audit, the EPA Audit Team observed that the County did not have a formal storm drain inlet inspection program. County representatives stated the County cleans and/or repairs inlets on a reactive basis. In addition, the EPA Audit Team did not observe documentation of storm drain inlet inspections. Therefore, Respondent violated Parts IV.B.5.v & vi of the Permit.

- h. Part IV.B.5.b.vii of the Permit states that the permittee “shall inspect and document inspections of all catch basins that it owns or operates. At a minimum, permittees who own or operate less than 2,500 catch basins shall inspect those basins once per year. Permittees who own or operate 2,500 catch basins or more shall inspect a minimum of 20% of the total or 2,500 per year, whichever is greater, rotating the schedule in such a way that all catch basins are inspected at least once every five years on approximately the same frequency. Documentation of inspections shall include: catch basin location, date visited, observations of the catch basin’s structural integrity, and if maintenance or repairs are required.”

At the time of the Audit, the County stated there are 8,531 catch basins. Therefore, the County must inspect 2,500 per year. The County’s 2023 MS4 Annual Report stated all 8,531 catch basins were inspected. The EPA Audit Team observed the County did not have records documenting inspections of the catch basins. Therefore, Respondent violated Part IV.B.5.b.vii of the Permit.

- i. Part IV.B.5.b.viii of the Permit states that the permittee “shall develop, update, and implement a catch basin cleaning program. The program shall establish when a catch basin must be cleaned, include procedures for cleaning, and shall be implemented as frequently as necessary to ensure, at a minimum, that sediment, trash, or other debris is removed as

necessary to control it from entering the waters of the State, to eliminate recurring problems and maintain proper function.”

At the time of the Audit, the EPA Audit Team observed that the County did not have a formal program establishing when catch basins must be cleaned and how they will be cleaned. County representatives stated the County cleans and maintains catch basins on a reactive basis. Therefore, Respondent violated Part IV.B.5.b.viii of the Permit.

- j. Part IV.B.5.b.ix of the Permit states that the permittee “shall label all storm drain inlets for those drains that do not have permanent wording cast into the structure of the inlet, which are located at rest areas, service areas, maintenance facilities, and along streets with sidewalks.”

At the time of the Audit, the EPA Audit Team observed inlets without labels at several locations during the field activities. Specifically, inlets were observed without labels at Area #1, Area #2, Area #4/5 and Johnson Park. Therefore, Respondent violated Part IV.B.5.b.ix of the Permit.

- k. Part IV.B.5.b.xv of the Permit states that the permittee “shall ensure that dumpsters (including tire) and other refuse containers that are outdoors or exposed to stormwater, are covered at all times.”

At the time of the Audit, the EPA Audit Team observed the following:

- i. Two (2) small dumpsters with open lids at Area #1 located in front of the Facilities Management maintenance facility. In addition, two (2) large roll-off container dumpsters in the yard to the west of the Parks Department maintenance facility were observed without covers, and a small dumpster with an open lid in the yard to the west of the Parks Department was observed.
- ii. An uncovered large roll-off container in the eastern portion of the yard with labeled “Aluminum” at Area #4/5.

Therefore, Respondent violated Part IV.B.5.b.xv of the Permit.

- l. Part IV.B.5.c of the Permit requires permittees to implement the best management practices (BMPs) described in Attachment E (*Best Management Practices for Maintenance Yards and Other Ancillary Operations*) for maintenance yards and other ancillary operations owned or operated by the permittee. Attachment E (*Inventory of Materials and Machinery*) states the SPPP shall include a list of all materials, machinery, and activities of each maintenance yard and ancillary operation where they could be a source of pollutants in a stormwater discharge.

At the time of the Audit, the EPA Audit Team observed the County’s SPPP did not have the required inventory of materials, machinery, and activities that could be a source of pollutants in a stormwater discharge. Therefore, Respondent violated Part IV.B.5.c of the Permit.

- m. Part IV.B.5.c of the Permit requires permittees to implement the best management practices (BMPs) described in Attachment E (*Best Management Practices for Maintenance Yards and Other Ancillary Operations*) for maintenance yards and other ancillary operations owned or operated by the permittee. Attachment E (*Inspections and Good Housekeeping*) states permittees shall inspect the entire site [maintenance yards and ancillary operations], including the site periphery, monthly (under both dry and wet conditions, when possible). Permittees are required to identify conditions that would contribute to stormwater contamination, illicit discharges or negative impacts to the permittee’s MS4. Permittees are required to maintain an inspection log and keep the log on-site.

At the time of the Audit, the EPA Audit Team observed the County was conducting inspections on a quarterly basis instead of monthly as required. In addition, the EPA Audit Team observed the County was not inspecting all maintenance yards and ancillary operations owned or operated by the County. Specifically, at Area #1, it was observed that the County’s quarterly inspections focused only on the area in the proximity of the Roads Department garage and a portion of the yard immediately adjacent to the building utilized by the Roads Department. Other operations at this site include a salt dome, maintenance garages and outdoor storage of materials by the Parks Department and Facilities Management which were not being inspected by the County as required. Therefore, Respondent violated Part IV.B.5.c of the Permit.

- n. Part IV.B.5.c of the Permit requires permittees to implement the best management practices (BMPs) described in Attachment E (*Best Management Practices for Maintenance Yards and Other Ancillary Operations*) for maintenance yards and other ancillary operations owned or operated by the permittee. Attachment E (*Fueling Operations*) identifies required instructions that must be posted, in a prominent area of the facility, for the safe operation of fueling equipment. The following statements must be included:
- i. “Topping off vehicles, mobile fuel tanks, and storage tanks is strictly prohibited.”
 - ii. “Stay in view of fueling nozzle during dispensing.”
 - iii. Contact information for the person(s) responsible for spill response.

At the time of the Audit, the EPA Audit Team observed the signage posted in the area of the fueling operations at each of the four maintenance yards visited during the site visits (Areas #1, #2, #3, and 4/5) did not include the required language. Therefore, Respondent violated Part IV.B.5.c of the Permit.

- o. Part IV.B.5.d of the Permit states that the permittee “shall develop, update, and implement an employee training program to address permit components and SPPP requirements. All Highway Agency employees shall receive training on those stormwater topics applicable to their title and duties within 3 months of commencement of duties. In addition, follow-up training shall occur as specified” in Part IV.B.5.d.i – ix of the Permit.

At the time of the Audit, the County had not ensured all employees had taken the required training as training is not taken by all staff and on topics applicable to their title and duties. In addition, the EPA Audit Team observed the County utilizes a training program (i.e.

RAINcheck) that does not address all of the topics required by the Permit. Therefore, Respondent violated Part IV.B.5.d of the Permit.

- p. Part IV.B.5.e of the Permit states that the permittee “shall ensure that all engineers, and other individuals that review the stormwater management design for development and redevelopment projects for the Highway Agency, complete the Department approved Stormwater Management Design Review Course once every five years... The permittee is required to maintain a list of the dates and names of training program participants.”

At the time of the Audit, County representatives could not provide the EPA Audit Team information on whether engineers and other individuals that review the stormwater management design for development and redevelopment projects for the County had taken the required NJDEP Stormwater Management Design Review course. Therefore, Respondent violated Part IV.B.5.e of the Permit.

- q. Part IV.B.6.a of the Permit states that the permittee "shall develop, update and maintain an outfall pipe map showing the location of the end of all MS4 outfall pipes (in tidal and non-tidal receiving waters) owned or operated by the permittee which discharge to a surface water body. The outfall pipe map shall also ... be included in the SPPP...; be updated annually to include, at a minimum, the location of the end of any new or newly identified MS4 outfall pipes; be provided to the Department on or before EDPA + 12 months; and, be submitted electronically by December 21, 2020 via the Department’s designated electronic submission service.”

At the time of the Audit, while the County provided an overview of its Geographic Information System (“GIS”) outfall map which showed the County’s outfalls, the County did not have a copy of the outfall map in its SPPP as required. The EPA Audit Team observed not all outfalls were mapped as the outfall at Scudders Mill Road and Innovation Way was not included on the County’s GIS outfall map. In addition, the EPA Audit Team observed the County had failed to submit the outfall map to NJDEP as required in accordance with the Permit. Therefore, Respondent violated Part IV.B.6.a of the Permit.

- r. Part IV.B.6.b of the Permit states that the permittee “shall develop, update and implement a program to detect, investigate and control any localized stream scouring from stormwater outfall pipes owned or operated by the permittee. This program shall be described in the written SPPP, as required in Part IV.A.2., above.”

At the time of the Audit, the EPA Audit Team observed the County is not implementing the outfall pipe stream scouring remediation program as described in Form 15 (*Outfall Pipe Stream Scouring*) of the County’s SPPP. Therefore, Respondent violated Part IV.B.6.b of the Permit.

- s. Part IV.B.6.c of the Permit states that the permittee “shall develop, update, implement and enforce an ongoing Illicit Discharge Detection and Elimination Program in accordance with this permit. This program shall be described in the written SPPP, as required in Part IV.A.2.”

At the time of the Audit, the EPA Audit Team observed the County does not have formal procedures for IDDE, nor did the County's SPPP include a written description of a program or regulatory mechanism that prohibits illicit connections to the small MS4 owned and operated by the County. Therefore, Respondent violated Part IV.B.6.c of the Permit.

- t. Part IV.B.6.c.i requires permittees to "conduct visual dry weather inspection of all outfall pipes owned or operated by the permittee at least once every five years, with a minimum of 20% of the total number of outfalls or 100 per year, whichever is greater to determine if dry weather flow (flow occurring 72 hours after a rain event) or other evidence of illicit discharge is present."

The EPA Audit Team observed the County did not have sufficient documentation demonstrating that visual dry weather inspections are conducted at each outfall owned or operated by the County as the forms did not document what the weather conditions were at the time of the inspection or provide detail on the condition of the outfall. Therefore, Respondent violated Part IV.B.6.c.i of the Permit.

- u. Part IV.C.1.b of the Permit states that the Stormwater Facilities Map shall "show property boundaries of the Highway Agency maintenance yard(s), ancillary operations, rest areas, and service areas as well as an annotated map of roadways and thoroughfares owned or operated by the permittee; ... Be provided to the Department on or before EDPA + 36 months..."

The EPA Audit Team observed the County did not maintain a stormwater facility map as required as the stormwater facility map did not include property boundaries for all maintenance yards and ancillary operations, nor did the map show roadways and thoroughfares owned or operated by the permittee. The EPA Audit Team also observed the County had not submitted the stormwater facility map to NJDEP on or before EDPA + 36 months (by January 1, 2023) in accordance with the Permit. Therefore, Respondent violated Part IV.C.1.b of the Permit.

- v. Part IV.C.3.a of the Permit states that the permittee "shall annually review approved or adopted TMDL reports to identify stormwater related pollutants listed therein and associated with any segment of surface water wholly or partially within or bordering all: maintenance yards; rest areas; service area properties; and new "major development" projects as defined by the permittee's stormwater program..." Part IV.C.3.b of the Permit states permittees "shall annually update its SPPP to list information identified in a. above."

The EPA Audit Team observed the County's SPPP had not been updated to include TMDL information as required. Therefore, Respondent violated Parts IV.C.3.a and b of the Permit.

11. Based upon Paragraph 1 through 10 above, the EPA finds that Respondent is in violation of Sections 301(a) and 402 of the CWA, 33 U.S.C. §§ 1311(a) and 1342, and applicable implementing regulations.

C. ORDERED PROVISIONS

Based upon the foregoing and pursuant to the authority of Section 309(a) of the Act, it is hereby ORDERED that:

1. **Within five (5) business days of receipt of this Order**, a responsible official with authority to act on behalf of the Respondent shall complete and sign the “Acknowledgment of Receipt of Administrative Compliance Order” and return the acknowledgment page to the Manager, Water Compliance Branch electronically to the email addresses listed in paragraph D.1, below. The certification language required in paragraph D.2 does not apply to the signing and sending of the “Acknowledgment of Receipt of Administrative Compliance Order.”
2. Respondent shall complete the following items in accordance with the schedule listed below:

COMPLIANCE SCHEDULE	
Item	Completion Deadline
a. Identify the designated and authorized Stormwater Program Coordinator who has the knowledge to manage the implementation and compliance of the County’s MS4 stormwater program, as required by Part IV.A.1.d of the 2025 MS4 General Permit. Submit Stormwater Program Coordinator Information Update Sheet in accordance with Part IV.A.1.e of the 2025 MS4 General Permit to EPA and NJDEP.	Within thirty (30) calendar days of receipt of this Order
b. Develop an inventory of all materials and machinery which could be a source of pollutants in a stormwater discharge at all maintenance yards and ancillary operations, as required by Part IV.F.4.c of the 2025 MS4 General Permit. Submit written inventory to EPA and NJDEP.	Within thirty (30) calendar days of receipt of this Order
c. Clearly post, in a prominent area of each fueling area operated and maintained by the County, the contact information for the person(s) responsible for spill response and instructions for safe operation of fueling equipment that include all of the following: “Topping off of vehicles, mobile fuel tanks, and storage tanks is strictly prohibited;” and “Stay in view of fueling nozzle during dispensing,” in accordance with Part IV.F.5.g.v of the 2025 MS4 General Permit. Submit supporting photo documentation to EPA and NJDEP.	Within thirty (30) calendar days of receipt of this Order
d. Inspect all maintenance yards and ancillary operations owned or operated by the County on a monthly basis under dry conditions, as required by Part IV.F.4.b of the 2025 MS4 General Permit. Submit supporting documentation of completed inspection activities to EPA and NJDEP.	Within sixty (60) calendar days of receipt of this Order
e. Ensure that refuse containers and dumpsters that are outdoors or exposed to stormwater are managed in accordance with Part IV.F.2.o of the 2025 MS4 General Permit. Submit supporting photo documentation to EPA and NJDEP.	Within sixty (60) calendar days of receipt of this Order

<p>f. Update the County’s MS4 Infrastructure Map, in accordance with Part IV.G.1 of the 2025 MS4 General Permit to ensure all required information as outlined in Part IV.A.1.a of the 2025 MS4 General Permit is included. Specifically, the County shall update the map to include:</p> <ol style="list-style-type: none"> 1. MS4 Outfalls 2. Property boundaries of rest area(s), maintenance yard(s) and other ancillary operations. <p>The County shall also submit the MS4 outfall pipe map and stormwater facilities map to NJDEP.</p> <p>Submit certification of completed map submittals to EPA and NJDEP.</p>	<p>Within sixty (60) calendar days of receipt of this Order</p>
<p>g. Revise the County litter pick-up program to include tracking and measuring litter picked up by the Parks Department in accordance with Part IV.F.2.c of the 2025 MS4 General Permit. The County shall also maintain records of roadside clean-ups and estimates of the trash and debris collected by all County departments responsible for litter pick-up in accordance with Part IV.F.2.c.i of the 2025 MS4 General Permit. Submit a copy of the revised program to EPA and NJDEP.</p>	<p>Within seventy-five (75) calendar days of receipt of this Order</p>
<p>h. Develop a formal storm drain inlet cleaning and maintenance program that describes conditions under which a storm drain inlet must be cleaned and maintained to ensure, at a minimum, that sediment, trash, or other debris is removed to eliminate recurring problems and maintain proper function, as required by Part IV.F.3.e.ii of the 2025 MS4 General Permit. Submit a copy of the program to EPA and NJDEP.</p>	<p>Within seventy-five (75) calendar days of receipt of this Order</p>
<p>i. Develop a formal catch basin cleaning and maintenance program that describes conditions under which a catch basin must be cleaned and maintained, including any specific procedures that must be followed at a frequency to ensure, at a minimum, that sediment, trash, or other solid or floatable material or other obstructions are removed, as required by Part IV.F.3.f.ii of the 2025 MS4 General Permit. Submit a copy of the program to EPA and NJDEP.</p>	<p>Within seventy-five (75) calendar days of receipt of this Order</p>
<p>j. Ensure that all County owned or operated storm drain inlets that eventually discharge to surface water and do not have permanent wording cast into the structure of the inlet are properly labelled, as required by Part IV.F.2.g of the 2025 MS4 General Permit. Submit supporting documentation of completed activities to EPA and NJDEP.</p>	<p>Within seventy-five (75) calendar days of receipt of this Order</p>
<p>k. Update the County’s employee training program to ensure annual training of all individuals responsible for the implementation of the County’s stormwater program includes all topics required by Part IV.F.6 of the 2025 MS4 General Permit. The County’s training program must describe procedures necessary to ensure compliance with all permit conditions and include site-specific details described in the</p>	<p>Within seventy-five (75) calendar days of receipt of this Order</p>

County's SPPP, at a minimum. Submit a copy of the written program to EPA and NJDEP.	
l. Ensure all individuals that review and approve stormwater management designs for major development projects on behalf of the permittee for compliance with the Stormwater Management Rules at N.J.A.C. 7:8 have completed the mandatory NJDEP-provided training, as required by Part IV.F.8 of the 2025 MS4 General Permit. Submit documentation of completed training to EPA and NJDEP.	July 1, 2025
m. Revise the County's SPPP in accordance with Part IV.A.2 of the 2025 MS4 General Permit. Respondent shall ensure the SPPP includes the minimum information specified in Part IV.A.2.a of the 2025 MS4 General Permit. Submit a copy of the SPPP to EPA and NJDEP.	July 1, 2025
n. Adopt and enforce appropriate regulatory mechanisms for pet waste, wildlife feeding control, and improper disposal of waste, as required by Part IV.F.1 of the 2025 MS4 General Permit. Submit supporting documentation to EPA and NJDEP.	July 1, 2025
o. Provide training to all individuals responsible for the implementation of the County's stormwater program, as required by Part IV.F.6.a of the 2025 MS4 General Permit. Submit documentation of completed employee training to EPA and NJDEP.	July 1, 2025
p. Conduct outfall inspections for localized stream scouring of the stream banks or bottom and the surrounding area in the vicinity of outfall(s), as required by Part IV.F.3.c of the 2025 MS4 General Permit. Submit supporting documentation of completed stream scouring inspections to EPA and NJDEP.	December 31, 2025
q. Conduct outfall inspections to determine if dry weather flow or other evidence of illicit discharge is present, as required by Part IV.F.3.d of the 2025 MS4 General Permit. Submit supporting documentation of completed outfall inspection activities to EPA and NJDEP.	December 31, 2025
r. Conduct inspections of all storm drain inlets at a minimum of once per year, as required by Part IV.F.3.e.i of the 2025 MS4 General Permit. Submit certification of completed inspections to EPA and NJDEP.	December 31, 2025
s. Conduct inspections at a minimum of 20% of the total number of catch basins or 2,500 catch basins, whichever is greater, at a minimum of once per year, as required by Part IV.F.3.f.i of the 2025 MS4 General Permit. Submit certification of completed inspections to EPA and NJDEP.	December 31, 2025

D. GENERAL PROVISIONS

1. All information or documents required to be submitted by Respondent as part of this Order shall be sent electronically to the following individuals:

Justine Modigliani, P.E., Acting Manager
Water Compliance Branch

Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency - Region 2
modigliani.justine@epa.gov
with copy submitted to
arvizu.christy@epa.gov

and

Bryan Barrett, Southern Bureau Chief
Bureau of Water Compliance & Enforcement
New Jersey Department of Environmental Protection
Bryan.Barrett@dep.nj.gov

*Electronic submissions must include the Respondent's certification, specified in Paragraph D.2 below.

2. Pursuant to 40 C.F.R. § 122.22, all information or documents required to be submitted by Respondent shall be signed by an authorized representative of Respondent, and shall include the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."


3. The Respondent shall have the opportunity, for a period of twenty (20) days from the date of receipt of this Order, to confer regarding the Ordered Provisions, with the following designated Agency representative:

Justine Modigliani, P.E., Acting Manager
Water Compliance Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency - Region 2
290 Broadway, 21st Floor
New York, New York 10007-1866

4. Respondent has the right to seek immediate federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701-706. Section 706 of the APA provides the grounds for such review.
5. This Order does not constitute a waiver from compliance with, or a modification of, the effective terms and conditions of the CWA, its implementing regulations, or any applicable permit, which remain in full force and effect. This Order is an enforcement action taken by EPA to ensure swift compliance with the CWA. Issuance of this Order shall not be deemed an election by EPA to forego

any civil or criminal actions for penalties, fines, imprisonment, or other appropriate relief under the CWA.

6. Notice is hereby given that failure to comply with the terms of the CWA Section 309(a) Administrative Compliance Order may result in Respondent's liability for civil penalties for each violation of up to \$68,445.00 per day under Section 309(d) of the CWA, 33 U.S.C. § 1319(d), as modified by 40 C.F.R., Part 19. Upon suit by EPA, the United States District Court may impose such penalties if, after notice and opportunity for hearing, the Court determines that Respondent has violated the CWA as described above.
7. If any provision of this Order is held by a court of competent jurisdiction to be invalid, any surviving provisions shall remain in full force and effect.
8. This Order shall become effective upon the date of execution by the Director, Enforcement and Compliance Assurance Division.

Signed: **KATHLEEN
ANDERSON**  Digitally signed by
KATHLEEN ANDERSON
Date: 2025.03.20 16:44:56
-04'00'

Kathleen Anderson, Division Director
Enforcement and Compliance Assurance Division

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

IN THE MATTER OF:

Middlesex County Department
of Highways & Bridges
97 Apple Orchard Rd
North Brunswick Township, NJ 08902

Proceeding pursuant to Section 309(a) of the
Clean Water Act, 33 U.S.C. § 1319(a)

RESPONDENT

ADMINISTRATIVE COMPLIANCE ORDER

CWA-02-2025-3008

**ACKNOWLEDGMENT OF RECEIPT OF
ADMINISTRATIVE COMPLIANCE ORDER**

I, _____, an authorized representative of the Respondent,

with the title of _____, do hereby acknowledge the receipt of

a copy of the ADMINISTRATIVE COMPLIANCE ORDER, **CWA-02-2025-3008**.

DATE: _____

SIGNED: _____