

Georgia Department of Natural Resources

Environmental Protection Division, Watershed Protection Branch

4220 International Parkway, Suite 101, Atlanta, Georgia 30354

Linda MacGregor, P.E., Branch Chief

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FAX: 404/675-6245

Reply To:
NonPoint Source Program
404/675-6240

February 21, 2007

MEMORANDUM

TO: Erosion and Sedimentation Control Local Issuing Authorities
Other Interested Parties

FROM: Linda MacGregor, Chief
Watershed Protection Branch

SUBJECT: Erosion and Sedimentation - Education and Training Certification
Fact Sheet and Enforcement Strategy

The purpose of this memorandum is to inform Local Issuing Authorities and other interested parties of two important issues involving the State of Georgia's erosion and sedimentation control Education and Training Certification (E&TC) requirements. The first issue is the application of E&TC requirements to utility contractors. The second is the statewide policy on enforcement of the E&TC requirements.

Attached is a copy of a revised Fact Sheet as well as a copy of the letter to Georgia Power Company that acknowledges and clarifies the E&TC requirements that apply to certain utility companies and utility contractors working as secondary permittees in Common Developments. This clarification was brought about through recent conversations with Georgia Power and other utility representatives after the original E&TC Fact Sheet was released for distribution in November 2006. As mentioned in the accompanying letter, this clarification is necessary due to an oversight made during the formulation of the 2003 amendments to the Georgia Erosion and Sedimentation Act (Act), as well as the absence of a definition of "service line installations" in the NPDES Construction Activity General Permit. The February 2007 revision of the Fact Sheet corrects our previous interpretation of the E&TC requirements, as well as clarifies other language that was causing confusion among the regulated community and the regulatory agencies.

The third attachment is the Georgia Environmental Protection Division (EPD) Enforcement Strategy regarding enforcement of the E&TC requirements. We believe that it is important to have a consistent enforcement strategy throughout the state. This will reduce confusion and hopefully increase compliance. As discussed in this strategy, EPD will use enforcement discretion when dealing with an individual who has taken the required E&TC course but is currently awaiting his/her certification card. In addition, due to the language in Paragraph 12-7-8(a)(1) of the Act, Local Issuing Authorities should refrain from taking enforcement action for the absence of training certification towards individuals who enjoy one of the exemptions in Section 12-7-17 of the Act. In such situations, if that land

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disturbing activity is regulated under one of the NPDES General Permits for Construction Activity, EPD has the authority to take enforcement action for such violations of these Permits.

The original November 2006 Fact Sheet is currently being discussed and distributed at the erosion and sedimentation control workshops (a/k/a Road Shows) that EPD is conducting around the State. EPD strongly encourages all Local Issuing Authorities to attend one of these workshops as described in EPD's previous invitation to you.

ATTACHMENTS

cc: EPD District Managers
SSWCC Regional Representatives
Brent Dykes

Georgia Department of Natural Resources

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February 21, 2007

Ms. Tanya Blalock
Environmental Manager, Water Programs
Environmental Affairs, Bin 10221
Georgia Power Company
241 Ralph McGill Blvd., NE
Atlanta, GA. 30308-3374

Re: Education and Training Certification
For Utility Contractors

Dear Ms. Blalock:

The Georgia Environmental Protection Division (EPD) is in receipt of January 3, 2007 e-mail from Burns Wetherington explaining the rationale for Georgia Power and its utility contractors being exempt from inspection and monitoring requirements when performing service line installations as a secondary permittee in common developments. The rationale explains that because inspections by utility contractors acting as secondary permittees do not require qualified personnel, meeting the Education and Training Certification (E&TC) requirements is not mandated. Additionally, Mr. Wetherington's e-mail also explains the exemption for Public Service Commission (PSC) regulated utilities in the Georgia Erosion and Sedimentation Act (E&S Act).

It should be pointed out that the language in the NPDES Construction Activity General Permits for inspections remained essentially unchanged in the 2003 renewal from the original 2000 Permit. During the negotiations and discussions that preceded the issuance of these NPDES General Permits, it was EPD's understanding that the term "service line installations" pertained only to the individual service connections between a building and the utility line serving that street. EPD also understands that utilities have a different view of this term, and they use it to describe all lines providing service to customers within a common development. However, because NPDES General Permit No. GAR100003 does not define the term "service line installations," ambiguity exists with respect to the current Permit requirements.

The intent of the General Permits was to have qualified individuals in all the trades pertaining to land disturbing activities be aware of erosion and sedimentation, such that no group or entity would be unfamiliar with E&S requirements. EPD does recognize that PSC regulated utilities [as well as other utilities listed in O.C.G.A. 12-7-17(10)] operating under

the NPDES General Permits are subject to E&TC requirements for qualified personnel when acting as primary permittees. Mr. Wetherington has pointed out that this is not the case with the NPDES Construction Activity General Permit No. GAR100003 regarding inspections by utilities that are regulated as secondary permittees. Mr. Wetherington has also indicated that PSC regulated utilities are subject to one specific section of the Georgia Erosion and Sedimentation Act that requires installation and maintenance of best management practices for erosion and sediment control. Other sections of the Georgia Erosion and Sedimentation Act, including the E&TC requirements, are not applicable to utility companies that are regulated by the PSC. EPD believes that the language in the Act that exempts utility contractors for the certification requirements was an oversight made while drafting the 2003 amendments to the E&S Act through House Bill 285.

It is EPD's position that the E&TC provisions in the Act were intended to apply to all construction activity. E&TC for utilities and utility contractors that are regulated as secondary permittees will be addressed when the three NPDES General Permits are reissued in 2008. In the interim, EPD acknowledges the differing interpretations of the existing language, but recommends that all utility staff involved as secondary permittees for service line installations take the E&TC Level I A course. This will ensure that all affected utility staff and utility contractors have the necessary E&TC certification in hand once the General Permits are renewed next year. In addition, as delineated in Part IV of the NPDES General Permits for Construction Activity, all persons involved in the preparation of Erosion, Sedimentation and Pollution Control Plans (including utility companies) must have completed the E&TC Level II course by December 31, 2006. It is EPD's understanding that Georgia Power Company already requires this of its design professionals.

If you have any questions concerning this issue, I can be reached by calling (404) 675-6240.

Sincerely,

Lawrence W. Hedges
Program Manager
NonPoint Source Program

LH/rrs

cc: Jim Sommerville, EPD
Brent Dykes, SSWCC
Jason Ulseth, SSWCC

File: Georgia Power Company