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PHASE II STORM WATER PERMITTING STRATEGY STATE OF GEORGIA

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I. INTRODUCTION

Section 405 of the Federal Water Quality Control Act of 1987 amended Section 402 of the Federal Clean Water Act (CWA), requiring the Environmental Protection Agency (EPA) to establish regulations setting forth NPDES permit application requirements for storm water discharges. Storm water is defined as storm water runoff, snow melt runoff and surface runoff and drainage.

Phase I of the U.S. Environmental Protection Agency's (EPA) storm water program was promulgated in 1990 under the CWA. Phase I relies on National Pollutant Discharge Elimination System (NPDES) permit coverage to address storm water runoff from: (1) "medium" and "large" municipal separate storm sewer systems (MS4s) generally serving populations of 100,000 or greater, (2) construction activity disturbing 5 acres of land or greater, and (3) eleven categories of industrial activity.

Georgia has been delegated the NPDES program and is therefore responsible for implementation of a program to control storm water discharges. EPD has issued NPDES MS4 permits for the Phase I large and medium municipal areas and a general permit for the ten categories of industrial activity. A general permit for construction activity disturbing 5 acres of land or greater was issued on June 12, 2000 with an effective date of August 1, 2000.

On December 8, 1999 EPA published the Storm Water Phase II Final Rule, which expands the Phase I program by requiring additional operators of small MS4s and operators of small construction sites (1 to 5 acres) to be covered by NPDES permits and to implement programs and practices to control polluted storm water runoff. This Phase II Storm Water Permitting Strategy outlines how the Final Rule will be implemented in Georgia. This Strategy has been approved by EPA Region 4.

EPD must make necessary changes to the Georgia Rules and Regulations for Water Quality Control in order to implement the Phase II storm water program. Under the Final Rule, delegated States must modify their NPDES programs within one year after publication of the Rule if no statutory change is required, or within two years if a statutory change is required. At this time, it appears that no changes to the Georgia Water Quality Control Act are needed, but changes to the Rules and Regulations must be made. EPD plans to submit proposed changes to the Rules

and Regulations for Water Quality Control to the DNR Board for adoption at its January, 2001 Board meeting.

II. OBJECTIVES

1. To develop a realistic and meaningful Phase II storm water management program that can be implemented satisfactorily with the resources available to the Georgia Environmental Protection Division (EPD).
2. To comply with the requirements of the Federal Clean Water Act of 1987 through a program of NPDES permits for applicable municipal and industrial storm water categories.
3. To provide guidance and instructions that will assist municipalities, industries, and other operators to comply with the permit requirements.

III. APPLICABILITY

Under Phase II, NPDES permit applications for storm water discharges are required for the following:

1. Discharges from certain municipal separate storm sewer systems (MS4s) serving a population of less than 100,000 persons, also know as Small MS4s.
2. Discharges from certain State and Federal facilities, also considered to be Small MS4s, which are located within the Urbanized Areas in Georgia defined by the U.S. Census Bureau.
3. Discharges from certain industrial facilities owned or operated by Small MS4s.
4. Operators of small construction sites disturbing 1 to 5 acres of land.
5. Discharges for which the State determines that the storm water discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to the waters of the State, in accordance with certain designation criteria established by the Final Rule.

IV. STATEMENT OF STRATEGY

A. MUNICIPAL PERMITTING

The State of Georgia requires all applicable municipalities and State and Federal facilities to comply with permit application requirements for their municipal separate storm sewer systems. The Federal Clean Water Act mandates that permits for discharges from MS4s shall require controls to reduce the discharge of pollutants to the maximum extent practical. The State of Georgia intends to issue one or more general permits for Small MS4 storm water discharges. The following items will be implemented for the Phase II MS4 permitting program. **Expected implementation dates are shown in bold type.**

1. Develop and issue a NPDES general storm water permit for regulated Small MS4s owned or operated by municipalities (i.e., city or county governments) by **December 9, 2002**.

2. In conjunction with EPA, EPD will develop necessary guidance information to support implementation of the Phase II program, such as a best management practices (BMP) "toolbox", financial assistance information, technical and programmatic assistance, reporting formats, and more. EPA must issue a menu of BMPs for regulated small MS4s by October 2000 and issue guidance on the development of measurable goals by October 2001. EPD will depend primarily on EPA guidance for these two items, but should be able to provide additional BMP guidance by the end of 2000 in the form of the State-Wide Storm Water Design Manual now being developed by the Atlanta Regional Commission. Other EPD guidance will be developed as appropriate.

3. Verify the list of municipalities with MS4s fully or partially within the Urbanized Areas that have been Automatically Designated to apply for MS4 permits and notify all these municipalities by **June 9, 2002**. The current list of 19 cities and 19 counties has been provided by EPA in the Preamble of the Final Rule as guidance, but may not be comprehensive and must be verified by EPD. In addition, the current list is based on the Urbanized Area boundaries established by the 1990 Census, and these boundaries will be re-drawn based on the 2000 Census population data. These changes to the Urbanized Area boundaries are expected to be published by the U.S. Census Bureau by mid-2001 and will add additional Automatically Designated municipalities to the list, as well as expand the Urbanized Areas farther into MS4 areas of municipalities already Automatically Designated. Municipalities that are Automatically Designated in both the 1990 Census

and 2000 Census Urbanized Areas must apply for MS4 permit coverage by **March 10, 2003**.

- The Urbanized Areas in Georgia (as listed in Appendix 3 of the Preamble to the Final Rule) are Albany, Athens, Atlanta, Augusta, Brunswick, Chattanooga, Columbus, Macon, Rome, Savannah and Warner Robins.
- The counties in the Urbanized Areas that are currently Automatically Designated to receive Phase II permits (as listed in Appendix 6 of the Preamble) include all or part of Bartow, Catoosa, Chattahoochee, Cherokee, Clarke, Columbia, Dade, Dougherty, Douglas, Fayette, Floyd, Glynn, Henry, Houston, Jones, Lee, Oconee, Rockdale and Walker Counties.
- The cities in the Urbanized Areas that are currently Automatically Designated to receive Phase II permits (as listed in Appendix 6 of the Preamble) include Albany, Athens, Brunswick, Centerville, Chickamauga, Conyers, Douglasville, Fort Oglethorpe, Grovetown, Lookout Mountain, Mountain Park, Payne, Rome, Rossville, Stockbridge, Vernonburg, Warner Robins, Winterville and Woodstock.

4. Although the Final Rule specifies that only that portion of an Automatically Designated municipality that is located within an Urbanized Area is regulated, EPD can extend the MS4 permit coverage to a broader area or the entire municipal jurisdiction, based on water quality considerations, anticipated future growth, etc. EPD followed a similar policy in extending the Phase I MS4 permit coverage to large and medium MS4 areas beyond the minimum areas required by the Phase I Storm Water Rule. At this time, EPD intends to require permit coverage for the entire jurisdictions of Automatically Designated cities, but only those portions of Automatically Designated counties that are within an Urbanized Area boundary.

5. Develop a process and criteria to designate small MS4s to be covered under the Phase II permitting program, other than those municipalities Automatically Designated within the Urbanized Areas, by **June 8, 2001**. The purpose of the criteria is to evaluate whether a storm water discharge results in or has the potential to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts. USEPA guidance recommends a balanced consideration of the following designation criteria on a watershed or other local basis:

- Discharge to sensitive waters;
- High growth or growth potential;
- High population density;
- Contiguity to an urbanized area;
- Significant contributor of pollutants to waters of the United States;
- Ineffective protection of water quality by other programs.

6. Using the criteria from Item 5, designate for permit coverage small MS4s outside of an Urbanized Area with a population greater than 10,000 persons and density greater than 1,000 persons per square mile by **June 9, 2002**. Municipalities that are so designated must apply for MS4 permit coverage by **March 10, 2003**.

- The 14 cities in Georgia currently meeting these population and density requirements are listed in Appendix 7 of the Preamble and include Americus, Carrollton, Cordele, Dalton, Dublin, Griffin, Hinesville, Moultrie, Newnan, Statesboro, Thomasville, Tifton, Valdosta and Waycross. No Georgia Counties are listed in Appendix 7 as meeting both the population and density criteria. This list is based on the 1990 Census, and the 2000 Census is expected to add more local governments to this list.

7. Designate for permit coverage small MS4s outside of an Urbanized Area that contribute substantially to the pollutant loadings of a physically interconnected municipal separate storm sewer that is regulated by the NPDES storm water program by **June 9, 2002**. Municipalities that are so designated must apply for MS4 permit coverage by **March 10, 2003**.

8. Designate for permit coverage small MS4s determined to require a permit based on a Total Maximum Daily Load (TMDL). This designation will be applied as appropriate and permit coverage may be required within 180 days of notification, unless EPD grants a later date.

9. Under the Final Rule, delegated States have the discretion to develop a process and criteria for waiving MS4 permits for certain municipalities with populations less than 1,000 persons within the Urbanized Areas and certain municipalities with populations less than 10,000 persons throughout the State. The Final Rule has separate sets of waiver criteria for these two population limits. At this time, EPD does not intend to grant any such waivers.

10. Develop a process for “co-permitting” small MS4s with each other or with an existing Phase I MS4 permittee by **June 9, 2002**. Co-permitting of multiple Phase II permittees with each other should be fairly straightforward

using the Phase II MS4 general permit. However, co-permitting of a Phase II permittee with an existing Phase I permittee will require submission of a modified Phase I permit application by the Phase II permittee and modification of the existing Phase I municipality's permit, as outlined in the Final Rule.

11. Develop and issue a NPDES general storm water permit for MS4s owned and operated by regulated State and Federal facilities by **December 9, 2002**. EPD will consider whether separate general NPDES MS4 permits are appropriate for certain types of State and Federal facilities. Note that only State and Federal facilities located within the Urbanized Areas must be permitted, but the boundaries of these Urbanized Areas may expand in many areas after the 2000 Census.

12. Designate and notify affected Federal and State facilities by **June 9, 2002**. EPD will identify Federal and State facilities in Urbanized Areas meeting the definition of a regulated small MS4, i.e., owning or operating their own separate storm sewer systems. This list could include military bases, prisons, hospital complexes, universities, State Department of Transportation highway systems and facilities, and more. These facilities must apply for MS4 permit coverage by **March 10, 2003**. EPD will identify and notify these entities of their permitting requirements. This Phase II requirement may require extensive research and discussion with a number of State departments and agencies such as the Department of Transportation, Department of Administrative Services, Department of Community Affairs, Georgia Building Authority and the University System, as well as Federal departments and agencies such as the Environmental Protection Agency and Defense Department. Determining whether a particular Federal or State facility owns and operates its own storm sewer system, rather than the local government, will be a critical part of this process.

B. INDUSTRIAL AND CONSTRUCTION SITE PERMITTING

Storm water discharge(s) associated with industrial activity is defined as the discharge(s) from any conveyance which is used for collecting and conveying storm water, and which is directly related to manufacturing, processing, or materials storage areas. Georgia has already issued a general storm water permit for certain Phase I industrial facilities (NPDES General Permit No. GAR000000 for Storm Water Discharges Associated With Industrial Activity). The Phase II Final Rule allows exemptions from this permit under certain conditions, as well as affects the permitting for industrial facilities in a number of other ways.

1. Develop and make available to existing and potential industrial storm water permittees a Georgia "No-Exposure Certification" form for industrial facilities by **March 9, 2001**. EPD will develop a database to track the submittal of these exemptions.

2. Develop and issue a general storm water permit for construction activities disturbing 1 to 5 acres by **December 9, 2002**. The Final Rule includes potential waivers from this permit based on either "low rainfall erosivity" or "certification that controls are not necessary based on a TMDL or equivalent analysis." At this time, EPD does not intend to grant any such waivers.

3. Designate for permit coverage industrial and construction site storm water dischargers determined to require a permit, where EPD or EPA determines that storm water controls are needed based on waste load allocations that are part of total maximum daily loads (TMDLs), or determines that discharges or a category of discharges within a geographic area contribute to a violation of a water quality standard or is a significant contributor of pollutants to waters of the U.S. This designation will be applied as appropriate, and permit coverage will be required within 180 days of notification unless EPD grants a later date.

4. Certain industrial facilities that are owned or operated by small municipalities must apply for industrial storm water permits by **March 10, 2003**. Except for airports, power plants and uncontrolled sanitary landfills, these facilities owned or operated by small municipalities have been exempt from NPDES permit requirements pursuant to the Intermodal Surface Transportation Efficiency Act (ISTEA). EPD does not have to designate these facilities. Notice of Intent forms must be submitted to obtain coverage under Georgia's existing NPDES general storm water permit for industrial activity. EPA and/or EPD may provide further guidance on the general types of facilities which need to apply for permit coverage, which may not be clear to small municipalities. Note that all small municipalities (less than 100,000 population) are affected by this requirement and deadline, not just permitted small MS4s. Any guidance on this requirement will be comprehensive and State-wide, perhaps with the assistance of the Association County Commissioners of Georgia, Georgia Municipal Association, the University System, State Department of Transportation and other appropriate entities.

Industrial facilities that may be owned or operated by small municipalities which must apply for permit coverage include:

- Sewage treatment works with a design capacity of 1.0 mgd or greater and those required to have an approved pretreatment program.
- Hazardous waste treatment, storage or disposal facilities.

- Landfills, land application sites and open dumps that receive or have received any industrial waste.
- Steam electric power generating facilities, including coal handling sites.

Additional facilities that may need to apply for permit coverage include:

- Transportation facilities, including airports, bus garages, motor pools and equipment maintenance facilities.
- Mining activities (borrow pits), batch concrete or asphalt plants, sawmills and metal fabrication facilities such as machine and sign shops.
- Waste materials recycling such as yard and wood waste, paper, plastic and glass recycling centers, and scrap metal yards.

Other types of municipally-owned or operated industrial facilities may also need to apply. To determine whether a permit is required, it may be necessary to look at the Standard Industrial Classification (SIC) code of an equivalent industrial facility, as well as the type of materials and industrial processes exposed to storm water at the facility. The Phase II “No Exposure” permit exemption may apply in some cases.

V. PERMIT APPLICATION REQUIREMENTS

A. MUNICIPAL

1. EPD will issue a general permit for Small MS4s that are owned or operated by municipalities (i.e., city or county governments).
2. EPD will issue one or more general permits for storm sewer systems owned or operated by State and Federal facilities that are required to obtain coverage as Small MS4s.
3. Public Notices will be issued by EPD prior to issuance of general permits in accordance with the applicable regulations.
4. To apply for coverage under a MS4 general permit once it has been issued, the applicant shall submit a Notice of Intent (NOI) in lieu of a formal permit application. The exact content of the NOI will be specified in the general permit. The Final Rule requires certain

information to be submitted with the NOI, including chosen best management practices and measurable goals for the minimum control measures specified in the Final Rule.

B. INDUSTRIAL

1. EPD has issued a general storm water permit (NPDES Permit No. GAR000000) for the industrial activities regulated under both Phase I and Phase II, with the exception of construction activity.
2. EPD will develop a Georgia “No-Exposure Certification” form for industrial facilities which qualify for this exemption provided by the Final Rule.

C. CONSTRUCTION SITES

1. EPD has issued a general storm water permit (NPDES Permit No. GAR100000) for construction activity disturbing 5 acres of land or greater.
2. For Phase II, EPD will issue a general permit for construction activities disturbing 1 to 5 acres.
3. Public Notice will be issued by EPD prior to issuance of the general permit in accordance with the applicable regulations.
4. To apply for coverage under the general permit once it has been issued, the applicant shall submit a Notice of Intent (NOI) in lieu of a formal permit application. The exact content of the NOI will be specified in the general permit.

V. CONCLUSION

The management of storm water runoff is critical to addressing a large number of stream segments in the State that have been identified as not meeting their designated use. Through the use of Phase I and Phase II NPDES permits for regulating municipal separate storm sewer systems and industrial activities, best management practices for the control of storm water runoff become a legally enforceable tool. This effort, in conjunction with education of the public, will assist the State in the continuing endeavor to protect water quality.

Information on the USEPA Phase II Storm Water program, including a Storm Water Phase II Compliance Assistance Guide, may be found on the USEPA Phase II website at <http://www.epa.gov/owm/sw/phase2>. Information on Georgia's Phase II program may be found on the Georgia EPD website at <http://www.ganet.org/dnr/environ>. Questions concerning Georgia's municipal, industrial and construction site storm water permitting programs should be directed to the Georgia EPD NonPoint Source Program at 404-675-6240.

Information on the nationwide Total Maximum Daily Load (TMDL) program may be found on the USEPA TMDL website at <http://www.epa.gov/OWOW/tmdl>. Questions concerning Georgia's TMDL program should be directed to the Georgia EPD Watershed Planning and Monitoring Program at 404-675-6236.