

**STATE OF GEORGIA
DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION**

FACT SHEET

APPLICATION FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMITS TO DISCHARGE STORMWATER FROM PHASE I LARGE MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s) INTO THE WATERS OF THE STATE OF GEORGIA.

March 1, 2024

Regulatory Background

Clean Water Act

Section 301(a) of the Clean Water Act (CWA) provides that “the discharge of any pollutant by any person shall be unlawful” unless the discharge is in compliance with certain other sections of the CWA [33 U.S.C. 131(a)]. The CWA defines “discharge of a pollutant” as (A) any addition of a pollutant to navigable waters from any point source, (B) any addition of any pollutant to the waters of the contiguous zone or the ocean from a point source other than a vessel or floating craft” [33 U.S.C. 1362 (14)]. The term “pollutant” includes among other things, “garbage, chemical wastes, biological materials, and industrial, municipal and agricultural waste discharged into water” [33 U.S.C. 1362(6)].

A person may discharge a pollutant without violating Section 301 of the CWA by obtaining authorization to discharge under Section 402 of the CWA – National Pollutant Discharge Elimination System (NPDES). Under Section 402, except as provided in Section 1328 and 1344 under Title 402(a), the Environmental Protection Division (Division) may “after opportunity for public hearing issue a permit for the discharge of any pollutants, or combination of pollutants, notwithstanding Section 1311(a) of this title”, upon meeting certain conditions of the CWA.

These CWA provisions are reflected in the Georgia Rules and Regulations for Water Quality Control (Rules) Chapter 391-3-6-.16 and also O.C.G.A. §12-5-29 and O.C.G.A. §12-5-30.

The requirements of Phase I Large MS4 permits are addressed in 40 CFR 122, which specifies the NPDES permit program. A list of permit requirements correlated to code citations is included as Attachment A.

NPDES Permits

General

These NPDES Permits will authorize stormwater discharges to the waters of the State of Georgia from the 45 Phase I Large MS4s owned or operated by local governments in Georgia (Attachment B).

The Phase I Large MS4 permits were first issued in 1994. In previous iterations, the permits incorporated by reference a Stormwater Management Program (SWMP) to be implemented by the

permittee over the term of the permit. The SWMP describes the permittee's program to eliminate or minimize, to the maximum extent practicable (MEP), the discharge of pollutants to the waters of the State from stormwater discharges. This iteration of the permit has been revised to further clarify the requirements for municipal employee training (Part 3.3.8), public education, (Part 3.3.9), and public involvement (Part 3.3.10). Permittees are required to submit Annual Reports to the Division providing their status in implementing the SWMP and permit requirements.

Numeric effluent limitations have not been included in the proposed permits. The Division has determined that it is infeasible to derive numeric effluent limitations for intermittent stormwater discharges from MS4s because of a lack of information available concerning rate, volume, variability, and duration of stormwater discharges and receiving water flow, the quantity and types of pollutants, and the effectiveness of many conventional control measures. The Division has determined, based upon best professional judgment and guidance from EPA, that compliance with permit conditions can be well evaluated through the Annual Report.

The proposed permits will be valid for a term of five (5) years in accordance with Federal regulations which limit NPDES permits to a maximum term of five (5) years.

The proposed permits comply with the anti-degradation requirements in the Division's Rules and Regulations for Water Quality Control, rule 391-3-6-.03. Existing water quality will not be degraded by the issuance of these permits. The stormwater discharges authorized by these permits have been on-going since the Federal regulations requiring an NPDES permit were adopted. The permits will reduce the current level of pollution discharged from the MS4. The Division expects the pollution reduction measures implemented by the permittees to offset any expansion of stormwater conveyance systems and outfalls because of the permit requirement to implement a broad range of pollution reduction measures, including measures to address impacts for new development and redevelopment. The permits require the permittees to implement controls to reduce pollutants to the MEP. The focus of the permits is a net reduction in pollutant loadings over the five-year permit term, during which a range of programs will be implemented and enhanced to minimize pollution in stormwater discharges. Therefore, the issuance of these permits will protect and improve existing water quality and is consistent with the Division's antidegradation policy.

If a Total Maximum Daily Load (TMDL) containing a wasteload allocation specific to one or more of the permittee's outfalls is approved, then the wasteload allocation must be incorporated into the SWMP. The permittee will implement best management practices (BMPs) to address the pollutant(s) of concern. BMPs must be consistent with any approved TMDL and implementation of these BMPs must be sufficient to address any stormwater point source wasteload allocation portion of a TMDL, reducing the pollutants of concern in the impaired waterbody. Monitoring for the pollutant of concern will be performed to evaluate BMP effectiveness and TMDL attainment. Outfall or instream monitoring, BMP implementation, and BMP evaluation is also required for discharges to streams listed as impaired on Georgia's current 305(b)/303(d) list. The iterative process will require new, expanded or better-tailored BMPs be implemented if the evaluation determines the current BMPs are not effective in TMDL attainment and/or in reducing the pollutant of concern for impaired waterbodies where the TMDL has not yet been approved.

Specific Permit Changes

The permit was revised from the previous iteration. These revisions include:

- Provides specification of minimum annual inspection requirements for permittees with less than 5 of the following:
 - Municipal facilities
 - Industrial facilities
 - HVPS facilities
 - GI/LID structures
- Inclusion of underground detention as one of the types of MS4 structures to be included in the inventory.
- Clarifies that existing flood management projects are not required to have a full reassessment for water quality impacts with each permit reissuance if an assessment was previously performed using the 2016 GSMM or latest edition.
- Inclusion of requirement to submit updated inventory in each annual report.
- Specifies how a permittee should implement procedures for construction site management if they are not Local Issuing Authorities.
- Clarifies that permittees with a population of less than 10,000 are exempt from the collection of four bacteriological geometric means but are still required to address bacteria impairments in their Impaired Waters Plan (including conducting monitoring for that pollutant of concern).
- Provides an additional bacteriological monitoring option for permittees with a population equal to or exceeding 10,000. Permittees may collect 4 geometric means or may collect monthly samples. The addition of this option aligns the permit with updates to the listing/delisting methodology EPD uses for the 305(b)/303(d) list of waters.
- Provides specification of which items to be included in the SWMP that pertain to employee training.
- Updates Appendix B (Phase I Large MS4s by Population) to reflect results of the 2020 Census.

Procedures for the Formulation of Final Determinations

Comment Period

The draft permit template and other information are available electronically upon request or on the Division's website at <https://epd.georgia.gov/>. In addition, the draft permit, comments received, and other information are available for review at 2 Martin Luther King Jr. Drive SW, West Tower, Balcony, Suite 418, Atlanta, Georgia 30334. If you are interested in reviewing those files, please contact our office to schedule an appointment. To set an appointment, email gorarequest.water@dnr.ga.gov with your name, email, and phone number and an associate will reach out to you. Copies may also be requested by contacting the Watershed Protection Branch at (404) 463-1511.

Persons wishing to comment upon or object to the proposed determinations are invited to submit same in writing to the Division address below, or via e-mail at EPDcomments@dnr.ga.gov by Wednesday, April 10, 2024. All comments received on or prior to that date will be considered in the formulation of final determinations regarding this permit. "Draft Phase I Large MS4 Permit

Template” should be placed at the top of the first page of comments and in the email subject line (if sent via email) to ensure that your comments will be forwarded to the appropriate staff.

Georgia Environmental Protection Division
Watershed Protection Branch
Nonpoint Source Program
Municipal Stormwater Team
2 Martin Luther King Jr. Dr., SW, Suite 1462 East Tower
Atlanta, Georgia 30334

Contested Hearings

Any person who is aggrieved or adversely affected by the issuance or denial of a permit by the Director of the Division may petition the Director for a hearing if such petition is filed in the office of the Director within thirty (30) days from the date of notice of such permit issuance. Such hearing shall be held in accordance with the Division’s Rules and Regulations for Water Quality Control, rule 391-3-6-.01.

Petitions for a contested hearing must include the following:

1. The name and address of the petitioner;
2. The grounds under which the petitioner alleges to be aggrieved or adversely affected by the issuance of a permit;
3. The reason or reasons why petitioner takes issue with the action of the Director;
4. All other matters asserted by petitioner which are relevant to the action in question.

Public Hearing

Any applicant, affected state or interstate agency, the Regional Administrator of the U.S. Environmental Protection Agency (EPA) or any other interested agency, person or group of persons may request a public hearing with respect to an NPDES permit if such request is filed within thirty (30) days following the date of the public notice for such permit. Such request must indicate the interest of the party filing the request, the reasons why a hearing is requested, and those specific portions of the permit or other NPDES form or information to be considered at the public hearing.

The Director shall hold a hearing if he determines that there is sufficient public interest in holding such a hearing. If a public hearing is held, notice of same shall be provided at least thirty (30) days in advance of the hearing date.

In the event that a public hearing is held, both oral and written comments will be accepted; however, for the accuracy of the record, written comments are encouraged. The Director or a designee reserves the right to fix reasonable limits on the time allowed for oral statements and such other procedural requirements, as deemed appropriate.

Following a public hearing, the Director, unless it is decided to deny the permit, may make such modifications in the terms and conditions of the proposed permit as may be appropriate and shall issue the permit.

If no public hearing is held, and, after review of the written comments received, the Director determines that a permit should be issued and that the determinations as set forth in the proposed permit are substantially unchanged, the permit will be issued and will become final in the absence of a request for a contested hearing. Notice of issuance or denial will be made available to all interested persons and those persons that submitted written comments to the Director on the proposed permit.

If no public hearing is held, but the Director determines, after a review of the written comments received, that a permit should be issued but that substantial changes in the proposed permit are warranted, public notice of the revised determinations will be given and written comments accepted in the same manner as the initial notice was given and written comments accepted pursuant to the Division's Rules and Regulations for Water Quality Control, rule 391-3-6-.26. The Director shall provide an opportunity for public hearing on the revised determinations. Such opportunity for public hearing and the issuance or denial of a permit thereafter shall be in accordance with the procedures as are set forth above.

Attachment A

Phase I Large Municipal Separate Storm Sewer Systems (MS4s)
NPDES Permit No. GAS000XXX

Permit Part	Permit Section	Regulatory Citing
Part I	Permit Coverage	40 CFR Part 122.32
	Definitions	40 CFR Part 122.26(b) and Chapter 391-3-6-.16 of the Georgia Rules
Part II	Criteria for Receiving Waters	Chapter 391-3-6-.03(5) of the Georgia Rules
Part III (Stormwater Management Program-SWMP)	Requirements	40 CFR Part 122.26(d)(2)(iv)
	Annual Report	40 CFR Part 122.42(c)
	Enforcement Response Plan	Permit requirement
	Impaired Waters	Permit requirement
	Municipal Employee Training	Permit requirement
	Public Education	Permit requirement
	Public Involvement	Permit requirement
	Post-Construction	Permit Requirement
	Stormwater Design Manual	Permit Requirement
	Green Infrastructure/LID	Permit Requirement
Part IV (Monitoring, Recordkeeping and Reporting)	Monitoring Requirements	40 CFR Part 122.41(j)
	Monitoring Requirements	40 CFR Part 122.41(j)
	Retention of Records	40 CFR Part 122.41(j)
Part V (Standard Permit Conditions)	Duty to Comply	40 CFR Part 122.41(a)
	Duty to Reapply	40 CFR Part 122.41(b)
	Need to Halt or Reduce Activity Not a Defense	40 CFR Part 122.41(c)
	Duty to Mitigate	40 CFR Part 122.41(d)
	Proper Operation and Maintenance	40 CFR Part 122.41(e)
	Permit Actions	40 CFR Part 122.41(f)
	Property Rights	40 CFR Part 122.41(g)
	Duty to Provide Information	40 CFR Part 122.41(h)
	Other Information	40 CFR Part 122.41(l)(8)
	Inspection and Entry	40 CFR Part 122.41(i)
	Availability of Reports	Permit requirement
	Signatory Requirements	40 CFR Part 122.41(k) and 391-3-6-.16(5)(a)(7) of the Georgia Rules

	Severability	Permit requirement
	Civil and Criminal Liability	Permit requirement
	Contested Hearings	Permit requirement
	Transfer of Ownership	40 CFR Part 122.41(1)(3)
Appendix A (SWMP)		
	Structural and Source Control Measures	40 CFR Part 122.26(d)(2)(iv)(A)
	Illicit Discharge Detection Elimination	40 CFR Part 122.26(d)(2)(iv)(B)
	Industrial Facilities/HVPS	40 CFR Part 122.26(d)(2)(iv)(C)
	Construction Site Management	40 CFR Part 122.26(d)(2)(iv)(D)
	Assessment of Controls	40 CFR Part 122.26(d)(2)(v)
	Fiscal Analysis	40 CFR Part 122.26(d)(2)(vi)

Attachment B

List of Phase I Large MS4 NPDES Permittees

<u>Permittee</u>	<u>Permit Number</u>
Acworth	GAS000101
Alpharetta	GAS000102
Atlanta	GAS000100
Austell	GAS000103
Avondale Estates	GAS000137
Berkeley Lake	GAS000138
Buford	GAS000104
Chamblee	GAS000105
Clarkston	GAS000106
Clayton County	GAS000107
Cobb County	GAS000108
College Park	GAS000109
Dacula	GAS000139
Decatur	GAS000110
DeKalb County	GAS000111
Doraville	GAS000113
Duluth	GAS000112
East Point	GAS000114
Fairburn	GAS000115
Forest Park	GAS000116
Fulton County	GAS000117
Grayson	GAS000140
Gwinnett County	GAS000118
Hapeville	GAS000119
Jonesboro	GAS000120
Kennesaw	GAS000121
Lake City	GAS000141
Lawrenceville	GAS000122
Lilburn	GAS000123
Lithonia	GAS000124
Lovejoy	GAS000142
Marietta	GAS000125
Morrow	GAS000126
Norcross	GAS000127
Palmetto	GAS000128
Pine Lake	GAS000143
Powder Springs	GAS000129
Riverdale	GAS000130
Roswell	GAS000131
Smyrna	GAS000132
Snellville	GAS000133
Stone Mountain	GAS000134
Sugar Hill	GAS000135
Suwanee	GAS000144
Union City	GAS000136