

FACT SHEET

APPLICATION FOR GENERAL NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMITS NO. GAR100001, NO. GAR100002 AND NO. GAR100003 FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY

March 2023

Regulatory Background

The 1972 amendments to the Federal Clean Water Act (CWA), also referred to as the Federal Water Pollution Control Act (FWPCA), prohibit the discharge of any pollutant to the waters of the United States from a point source unless the discharge is authorized by a National Pollutant Discharge Elimination System (NPDES) permit. Initial efforts to improve water quality under the NPDES program focused on reducing pollutants in discharges of industrial process wastewater and from municipal sewage treatment plants.

In response to the need for comprehensive NPDES requirements for discharges of stormwater, Congress amended the CWA in 1987 to require the U.S. Environmental Protection Agency (EPA) to establish phased NPDES requirements for stormwater discharges. EPA published an initial permit application and other requirements for certain categories of stormwater discharges associated with industrial activity, including construction activities, on November 16, 1990 (50 FR 47990) and on April 2, 1992 (57 FR 11394).

The CWA provisions are reflected in O.C.G.A. § 12-5-29 and O.C.G.A. § 12-5-30 and also in the Georgia Rules and Regulations for Water Quality Control (Rules) Chapter 391-3-6-.16 which specifies requirements for stormwater permits. In addition, the Rules Chapter 391-3-6-.03 defines waters of the state.

The Georgia Environmental Protection Division (EPD) amended the Georgia Rules and Regulations for Water Quality Control (Rules) in April 1990 to allow the issuance of general permits. EPD was granted the authority to issue NPDES general permits by EPA in January 1991. Georgia is a fully authorized State and administers its own NPDES program.

NPDES Permits

A NPDES permit authorizes the discharge of a pollutant or pollutants into a receiving water under certain conditions. The NPDES program relies on two types of permits: individual permits and general permits. An individual permit is a permit specifically tailored for an individual discharger for a specific time period (not to exceed five (5) years). A general permit covers multiple facilities, sites

and activities within a specific category for a specific time period (not to exceed five (5) years). Both types of permits are subject to public comment prior to permit issuance. The Federal Regulations, 40 CFR Part 122.26, specify who must apply for NPDES coverage and the requirements that must be included in a NPDES permit.

General NPDES Permits No. GAR100001, No. GAR100002 and GAR100003

NPDES General Permit No. GAR100000 (permit) for stormwater discharges associated with construction activity was issued in 2000 and regulated construction activities that disturbed five (5) or more acres. In 2003, in response to the December 1999 Phase II final rule, the permit was reissued as three general permits that regulate construction activities that disturb one (1) or more acres. NPDES Permit No. GAR100001 regulates stand-alone construction sites, NPDES Permit No. GAR100002 regulates infrastructure construction sites and NPDES Permit No. GAR100003 regulates common development construction sites. These permits were reissued in 2008, 2013 and 2018. The current permits are scheduled to expire July 31, 2023.

Regulated Construction Activities

NPDES General Permits No. GAR100001, No. GAR100002 and No. GAR100003 will authorize the discharge of stormwater from sites where construction activities will result in contiguous land disturbances equal to or greater than one (1) acre or tracts of less than one (1) acre that are part of a larger common plan of development with a combined disturbance one (1) acre or greater. EPD can require an applicant to submit a NPDES permit application for an individual NPDES permit upon written notification to the applicant. In addition to stormwater discharges, the proposed general NPDES permits authorize certain non-stormwater discharges such as firefighting water and uncontaminated groundwater.

The proposed permits comply with the anti-degradation requirements in the EPD Rules and Regulations for Water Quality Control, subparagraph 391-3-6-.03. Existing water quality will not be degraded by the issuance of this permit. The issuance of this permit will protect and improve existing water quality and is consistent with EPD's antidegradation policy. The proposed permits are being issued pursuant to the authority contained in O.C.G.A. §§ 12-5-27 and 12-5-30.

Permit Coverage

Permit coverage for Primary and Tertiary Permittees must be obtained by submitting a fully completed Notice of Intent (NOI). The NOI will include basic information about the construction site and the receiving waters where the discharges occur. Permit coverage for Secondary Permittees must be obtained by signing the certification that the provisions of the primary permittee's Erosion, Sedimentation and Pollution Control Plan applicable to the secondary permittee's activities will be adhered to while conducting any construction activity at the site and until final stabilization is reached for their portion of the site.

Upon issuance of the permit, all NOIs for coverage under the General Construction Permits must be submitted through EPD's electronic submittal portal as required by EPA's Electronic Reporting Rule. Primary and Tertiary Permittees must submit a new NOI within ninety (90) days after the effective date of the permits in order to obtain coverage. Responsible officials of new sites that begin

construction activities after the effective date of the permits must submit the NOI form or sign the certification at least fourteen (14) days prior to beginning construction activities.

The permittee must specify on the NOI whether or not the facility discharges stormwater associated with construction activity into an Impaired Stream Segment, or within one (1) linear mile upstream of and within the same watershed as, any portion of an Impaired Stream Segment identified as “not supporting” its designated use(s) as shown on Georgia’s most current “305(b)/303(d) List Documents (Approved).” Georgia’s 305(b)/303(d) List Documents may be reviewed on EPD’s website. All permittees are responsible for reviewing each new version of the 305(b)/303(d) List Documents during the term of the permits to check for new stream segment listings.

Term of the Permit

The proposed permit 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 EPD can require an applicant to submit an application for an individual NPDES permit or an alternative general NPDES permit upon written notification to the applicant.

Permit Changes

Summary of General Permit Changes throughout Permits No. GAR100001, No. GAR100002 and No. GAR100003.

The General Construction Permits contain the following revisions throughout multiple parts of the permits:

Summary of Changes to Part I. Coverage Under This Permit

- In Part I.B, the definition of “Design Professional” has been modified to include “and that has completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission in accordance with O.C.G.A. 12-7-9.”
- In Part I.B, the definition of “Division” has been modified to include “or EPD” for clarity.
- In Part I.B, the definition of “Drainage Structure” has been added as follows: “Drainage Structure” means a device composed of virtually nonerodable material such as concrete, steel, plastic, or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for storm water management, drainage control, or flood control purposes.
- In Part I.B, the definition of “Roadway Drainage Structure” has been added as follows: “Roadway Drainage Structure” means a device, such as a bridge, culvert, or ditch, composed of a virtually nonerodable material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled way consisting of one or more

defined lanes, with or without shoulder areas and carrying water to a release point on the other side.

Summary of Changes to Part II. Notice of Intent Requirements

- In Part II.A.1, the language “this Part” has been changed to “Part II”.

Summary of Changes to Part III. Special Conditions, Management Practices, Permit Violations and Other Limitations

- In Part III.C.2.e, the terms “flocculants and coagulants” have been removed and replaced with “tackifiers” for procedural accuracy.
- In Part III.C.2.k, the language “Conduct soil test representative of conditions at the time of planting to identify and to implement site-specific fertilizer needs and/or” has been added for clarity. Combined from item p.
- In Part III.C.2.p, removed, “Conduct soil tests to identify and to implement site-specific fertilizer needs.” Combined to item k.
- In Part III.D.6, the term “contaminated surfaces” has been removed and replaced with “impacted areas”.
- In Part III.D.6, the term “post-storm events” was revised to “post-rain events”.

Summary of Changes to Part IV. Erosion, Sedimentation and Pollution Control Plan

- In Part IV.A.4.a, the language “as a PDF on CD-ROM or other storage device” has been removed.
- In Part IV.D.4.a(3), the language has been modified to provide clarification of Certified Personnel site inspection requirements for qualified post-rain events, which will serve as a 7-day inspection and reset the requirement from date of completion. The language “Certified personnel shall also conduct inspections within 24 hours of the end of a storm that is 0.5 inches rainfall or greater (unless such storm ends after 5:00 PM on any Friday or on any non-working Saturday, non-working Sunday or any non-working Federal holiday in which case the inspection shall be completed by the end of the next business day and/or working day, whichever occurs first). Post-rain inspections will reset the 7-day inspection frequency requirement” has been added to the Permit.
- In Part IV.D.6.a(1), the language referencing to the USGS topographic map has been replaced with “Initial, Intermediate, and Final Plan.”
- In Part IV.D.6.d(3)(a) and Part IV.D.6.d(3)(b), the language “as defined in this permit” has been removed to reflect the changes made in Part I.B.

- In Part IV.D.6.d(3)(c), the term “storm events” was revised to “rain events”.
- In Part IV.E.3, the language “to the appropriate EPD District Office or delivery receipt email to the appropriate EPD District Office resource mailbox” has been added to reflect the updates to EPD District Office reporting methods.

Summary of Changes to Part V. Standard Permit Conditions

- In Part V.A.2, the reference to “Part II.C” has been removed and replaced with “Appendix A”.

Summary of Changes to Part VI. Termination of Coverage

- In Part VI.C, the language has been modified to require that a NOT shall be submitted to EPD no more than 14 days after the site has completed construction related activities, achieved final stabilization and temporary BMPs have been removed.

Appendix A has been updated to reflect reassignment of Gwinnett County to Cartersville District Office, current mailing addresses and e-mail addresses.

Summary of Permit Changes Specific to Permit No. **GAR100001**

- In Part I.B, the definition of “Normal Business Hours” has been removed from the Permit.
- In Part IV.A.5, the language “and certify” and “prior to commencing with construction activities as required by Part III.D.2 of this Permit” has been added to clarify that inspection reports for BMP perimeter controls are required prior to commencing with construction activities.
- In Part IV.D.3, the term “no greater” has been removed and replaced with “less”.
- In Part VI.B.5, the language has been modified to require that a written justification for why a sampling report was not conducted be provided to EPD within electronic NOT submittal.

Summary of Permit Changes Specific to Permit No. **GAR100002**

- In Part I.B, the definition of “Infrastructure Construction” or “Infrastructure Construction Project” has been modified to “not include the construction of solar farms.”
- In Part I.B, the definition of “Normal Business Hours” has been removed to maintain consistency in the Permit.
- In Part I.C.1.g, condition “(2) no tree clearing” for exemption was revised to “(2) no clearing of trees with greater than a 6-inch Diameter at Breast Height (DBH).”
- Part I.C.1.h has been added to the Permit to address coverage exemptions for buried fiber optic utility line projects.

- In Part IV.A.4.a, the language “which begin after the effective date of this permit” has been added to maintain consistency across permits.
- In Part IV.A.5, the language “and certify” has been added to the Permit.
- In Part VI.B.5, the language has been modified to require a written justification for why a sampling report was not conducted be submitted to EPD.

Summary of Permit Changes Specific to Permit No. **GAR100003**

- In Part I.B, the definition of “Blanket NOI” has been removed from the Permit.
- In Part I.B, the definition of “Landfill” has been removed from the Permit.
- In Part I.B, the definition of “Landfill Cell(s)” has been removed from the Permit.
- In Part I.B, the definition of “Final Stabilization” has been modified to remove “and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal” from the Permit.
- In Part I.B, the definition of “Permittee” has been revised to “any entity that has submitted a Notice of Intent or completed a Secondary Certification Statement and obtained permit coverage.”
- In Part I.B, the language "and all secondary permittees" and “(excluding utility companies and/or utility contractors working under a Blanket NOI)” has been removed from the definition of “Tertiary Permittee”.
- In Part I.D.1, Part I.D.2 and Part I.D.3, language pertaining to the Secondary Permittee’s NOI submission has been removed from the Permit.
- In Part I.D.1, the language "Any person desiring coverage under this permit as a secondary permittee must adhere to Part IV.B.1 in order for stormwater discharges from construction sites to be authorized" has been added for procedural clarity.
- In Part I.D.3, the language “A secondary permittee is not required to submit a new NOI when a new primary permittee is named.” has been removed from the permit.
- In Part II.A.2, language has been inserted to describe the process through which Secondary Permittees with or without 2018 Permit coverage may obtain 2023 Permit coverage for a construction site where the Primary Permittee has obtained a 2023 re-issuance NOI for an existing construction site.
- In Part II.A.4, language pertaining to the Secondary Permittee’s NOI submission has been removed from the Permit.

- In Part II.B.2, language pertaining to the Secondary Permittee's NOI submission has been removed and replaced with language regarding the completion of a Secondary Certification Statement, to be incorporated into the Primary Permittee's Erosion, Sedimentation and Pollution Control Plan.
- In Part IV.A.5, the language "and certify" and "prior to commencing with construction activities as required by Part III.D.2 of this Permit" has been added to clarify that inspection reports for BMP perimeter controls are required prior to commencing with construction activities.
- In Part IV.B.1, the language "In addition, the secondary permittee shall sign the certification that the provisions of the primary permittee's Erosion, Sedimentation and Pollution Control Plan applicable to the secondary permittee's activities will be adhered to while conducting any construction activity at this site and until final stabilization is reached for their portion of the site in accordance with the definition in Part I.B" has been added.
- In Part IV.D.3, the term "no greater" has been removed and replaced with "less".
- In Part IV.D.4.a(2), the language "and provided to the Secondary Permittee, if applicable" was added pertaining to rainfall data availability.
- In Part IV.D.4.b(1), the language "These inspections must be conducted until a "Notice of Termination" has been revised to "These inspections must be conducted until a Final Stabilization Certification is signed."
- In Part IV.D.4.b(3) and Part IV.D.4.c(3), the language has been modified to provide clarification of Certified Personnel site inspection requirements for qualified post-rain events, which will serve as a 7-day inspection and reset the requirement from date of completion. The language "Certified personnel shall also conduct inspections within 24 hours of the end of a storm that is 0.5 inches rainfall or greater (unless such storm ends after 5:00 PM on any Friday or on any non-working Saturday, non-working Sunday or any non-working Federal holiday in which case the inspection shall be completed by the end of the next business day and/or working day, whichever occurs first). Post-rain inspections will reset the 7-day inspection frequency requirement" has been added to the Permit.
- In Part IV.D.4.b(3), Part IV.D.4.b(4) and Part IV.D.4.b(6), the language "Notice of Termination is submitted" has been revised to "Final Stabilization Certification is signed".
- In Part IV.F.2, the language "Notice of Termination is submitted" has been revised to "Final Stabilization Certification is signed".
- In Part IV.F.2.a, the Secondary Permittee's retention of records requirements have been revised to "A copy of the certification that the provisions of the Primary Permittee's Erosion, Sedimentation and Pollution Control Plan applicable to the Secondary Permittee's activities will be adhered to."
- In Part VI.A.1 and Part VI.A.2(i), language pertaining to Secondary Permittee NOT submission has been removed from the Permit.

- Part VI.A.5 concerning Secondary Permittee NOT submission under a Blanket NOI has been removed from the Permit.
- In Part VI.B.4, language pertaining to Secondary Permittee NOT submission has been removed from the Permit.
- In Part VI.B.5, the language “When the NOT is submitted by a secondary permittee, the primary permittee’s legal name, address, telephone number, and email address” has been revised to “When the NOT is submitted by a primary permittee, the NOT will not be accepted until Final Stabilization is attained for secondary permittees.”
- Part VI.B.6, “A listing of the legal name, address, telephone number and email address of all secondary permittees at the site for which this notification is submitted, if applicable” has been removed from the Permit.
- In Part VI.B.7, the language has been modified to require that a written justification for why a sampling report was not conducted be submitted to EPD.
- In Part VI.B.9, language has been added to address the Final Stabilization Certification contents for Secondary Permittees.

Procedures for the Formulation of Draft

Public Comment Period

The Division proposes to issue this general permit, with coverage applied to specific municipalities, subject to the special conditions outlined above. These determinations are tentative.

The draft permit and other information are available electronically upon request or on the Division’s website at <https://epd.georgia.gov/forms-permits/watershed-protection-branch-forms-permits/storm-water-forms/npdes-construction-storm>. In addition, the documents are available for review on Tuesdays between 8:00 a.m. to 4:30 p.m. at the Georgia Environmental Protection Division, Water Protection Branch file room, at 2 Martin Luther King Jr. Drive SW, West Tower, Balcony, Suite 418, Atlanta, Georgia 30334. 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.

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Persons wishing to comment upon or object to the proposed permits are invited to submit same in writing to the Division address above, or via e-mail at EPDcomments@dnr.ga.gov by Friday, April

28, 2023. All comments received prior to close of business that date will be considered in the formulation of final determinations regarding the application. The permit number(s) should be placed on 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.

Public Meeting/Hearing

A virtual public meeting has been scheduled, with a public hearing held immediately following the public meeting. During the public meeting, the public is allowed to ask questions or offer comments. The purpose of the public hearing will be to present and receive formal comments on the proposed permits for the official record. The public meeting/hearing will be held using a Zoom web conferencing platform:

Zoom Meeting Details:

April 20, 2023, beginning at 10:00 a.m.

Link to join:

<https://gaepd.zoom.us/j/93865073656?pwd=Z3VsSldCUEdBTVhmZHk5ZlV5Mk1ldz09>

Meeting ID: 93865073656

Passcode: 603317

Those joining via computer can use their computer audio, or may also dial-in.

Dial by your location

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During the public hearing, oral comments will be accepted; however, for the accuracy of the record, written comments are encouraged. The Director or designee reserves the right to fix reasonable limits on the time allowed for oral statements and such other procedural requirements, as deemed appropriate. Written comments must be received by close of business on April 28, 2023.

Following the 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. 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 permits.