
2.2 Federal Regulations

Source	Activity	Applicable Regulation
Municipal Separate Storm Sewer System	Stormwater Discharges	40 CFR 122 40 CFR 125

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 outer 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 a 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.

Section 301(b)(1)(C) of the Clean Water Act (CWA) requires the development of limitations in permits necessary to meet water quality standards. Federal Regulations 40 CFR 122.4(d) require that conditions in NPDES permits ensure compliance with the water quality standards which are composed of use classifications, numeric and or narrative water quality criteria and an anti-degradation policy. The use classification system designates the beneficial uses that each waterbody is expected to achieve, such as drinking water, fishing, or recreation. The numeric and narrative water quality criteria are deemed necessary to support the beneficial use classification for each water body. The antidegradation policy represents an approach to maintain and to protect various levels of water quality and uses.

2.3 NPDES Permit

The NPDES permit will authorize stormwater discharges to the waters of the State of Georgia from the Phase I Medium MS4 owned or operated by Augusta-Richmond County. The Phase I Medium MS4 permits were first issued in 1995. This permit iteration will be in effect for the remainder of the original 5-year permit term. As with previous permit iterations, this permit will incorporate by reference a Storm Water 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, the discharge of pollutants to the waters of the State from stormwater

discharges.

2.4 Municipal Separate Storm Sewer System Effluent Limit Guideline(s)

Numeric effluent limitations are not included in the proposed permits. The Division has determined that it is infeasible to derive numeric effluent limitations for MS4 stormwater discharges 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. In place of numeric limits, the permittees will employ best management practices to eliminate or minimize, to the maximum extent practicable, the discharge of pollutants to the waters of the State from stormwater discharges. Permittees are required to submit Annual Reports to the Division demonstrating the status of SWMP implementation and permit compliance. The Division has determined, based upon best professional judgment and guidance from EPA that permit compliance can be evaluated through the Annual Report review.

3.0 Permit Considerations

3.1 Compliance Schedules

The permittee shall attain compliance with all permit requirements on the effective date of the permit.

3.2 Anti-Degradation

The proposed permits comply with the anti-degradation requirements in the Division Rules and Regulations for Water Quality Control, subparagraph 391-3-6-.03. Existing water quality will not be degraded by the issuance of these permits. The permits will reduce the current level of pollution discharged from the MS4s through implementation of best management practices. The Division expects these pollution reduction measures to offset any expansion of stormwater conveyance systems and outfalls because of the permit requirements to implement a broad range of pollution reduction measures, including measures to address impacts from new development and redevelopment. The permits require the permittees to implement controls to reduce pollutants to the maximum extent practicable. The focus of the permits is a net reduction in pollutant loadings over the five-year permit term. Over the five-year permit term, a range of programs will be implemented and enhanced to minimize stormwater pollution discharges. The permits will protect and improve existing water quality and are consistent with the Division's antidegradation policy.

3.3 Total Maximum Daily Load (TMDL)

If a TMDL containing a wasteload allocation specific to one or more of a permittee's outfalls is approved, then that permittee will be required to address the wasteload allocation in the SWMP. The permittee will implement best management practices (BMPs) to address the pollutant(s) of concern. These practices must be consistent with any approved TMDL and implementation of the practices must be sufficient to address any stormwater point source wasteload allocation portion of a TMDL, reducing the pollutant of concern in the impaired water. Monitoring for the pollutant of concern will be performed in order to

evaluate BMP effectiveness and TMDL attainment. Instream or outfall 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 to be implemented if the evaluation determines the BMPs are not effective in TMDL attainment.

3.5 Permit Changes

Please note the proposed NPDES permit modification includes the following changes:

- Part 3.3.1. – Structural and Source Control Measures
 - Reinserted the word “control” when referring to MS4 structures.
 - Provided for further definition of an MS4 structure in the SWMP.
- Part 3.3.7. – Impaired Waters
 - Removed language referencing the bacterial indicator change from fecal coliform to *E. coli* or enterococci.
 - Removed requirement to collect bacteriological samples instream.
 - Added language stating permittee will develop and submit for review and approval an alternative protocol for evaluating the impact of the MS4 on bacteria loads in impaired waters.¹

3.6 Anti-Backsliding

The requirements of the permits are in compliance with 40 CFR 122.44(1), which requires reissued permits to be as stringent as the previous permits.

4.0 REPORTING

4.1 Compliance Office

The facility has been assigned to the following EPD office for reporting, compliance and enforcement:

Georgia Environmental Protection Division
Nonpoint Source Program, Municipal Stormwater Team
2 Martin Luther King Jr. Drive
Suite 1462 East
Atlanta, Georgia 30334

¹ Augusta has submitted Impaired Waters Plans for 3 streams impaired for bacteria, and EPD has reviewed and approved these Plans to meet the alternative protocol requirement. The Plans are available for inspection as part of the public notice of the proposed permit modification. Augusta has included instream bacteriological sampling in their Plans.

4.2 E-Reporting

An electronic method of reporting is being developed. Once the system is available, the permittee will be required to electronically submit documents in accordance with 40 CFR Part 127.

5.0 REQUESTED VARIANCES OR ALTERNATIVES TO REQUIRED STANDARDS

Not applicable

6.0 PERMIT EXPIRATION

The permit will expire April 11, 2027.

7.0 PROCEDURES FOR THE FORMULATION OF FINAL DETERMINATIONS

7.1 Public Review

The draft permit and other information are available electronically upon request or on the Division's website at <https://epd.georgia.gov/watershed-protection-branch/stormwater/municipal-stormwater>. In addition, the draft permit 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 Kristopher Ballou of the Municipal Stormwater Team at kristopher.ballou@dnr.ga.gov or (470) 604-9319.

7.2 Public Comments

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 within 30 days of the initiation of the public comment period. All comments received prior to that date will be considered in the formulation of final permit determinations. The permit number 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.

Georgia Environmental Protection Division
Nonpoint Source Program, Municipal Stormwater Team
2 Martin Luther King Jr. Drive
Suite 1462 East
Atlanta, Georgia 30334

7.3 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 application if such request is filed within thirty (30) days following the date of the public notice for such application. 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 application 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 of application was given and written comments accepted pursuant to EPD Rules, Water Quality Control, subparagraph 391-3-6-.06(7)(b). 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.

7.4 Final Determination

At the time that any final permit decision is made, the Director shall issue a response to comments. The issued permit and responses to comments can be found at the following address:

<http://epd.georgia.gov/watershed-protection-branch-permit-and-public-comments-clearinghouse-0>

7.5 Contested Hearings

Any person who is aggrieved or adversely affected by the issuance or denial of a permit by the Director of EPD 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 or denial. Such hearing shall be held in accordance with the EPD Rules, Water Quality Control, subparagraph 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 petitioner alleges to be aggrieved or adversely affected by the issuance or denial 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.