



## **FACT SHEET**

The Georgia Environmental Protection Division (Division) proposes to reissue General NPDES Stormwater Permit GAR041000, which authorizes discharges of all new and existing point source discharges from the Georgia Department of Transportation (GDOT) municipal separate storm sewer system. The draft permit places conditions on the discharge of pollutants from the municipal stormwater system to waters of the State.

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**Draft permit:** ☐ First Issuance  
☐ Reissuance with no or minor modifications from previous permit  
☒ Reissuance with substantial modification from previous permit  
☐ Modification of existing permit  
☒ Requires EPA review

### **1.0 FACILITY INFORMATION**

**1.1 NPDES Permit No.:** GAR041000

#### **1.2 Eligibility for Coverage**

This permit covers all new and existing point source discharges of stormwater from a municipal separate storm sewer system (MS4) owned and/or operated by the GDOT to the waters of the state of Georgia.

#### **1.3 Description**

This permit will authorize point source discharges from general roadway drainage and GDOT facilities to include:

- Maintenance Facilities
- Sand/Salt Storage Yards
- Welcome Centers, Rest Areas, and Weigh Stations Owned and/or Operated by GDOT
- Detention/Retention Ponds (and other control structures) Owned and/or Operated by GDOT
- Bridges and Bridge Drainage

- Any other municipal-type facilities and/or activities determined to have the potential to cause pollutant runoff

#### 1.4 Type of Stormwater Discharge

☒ Municipal

☐ Industrial

## 2.0 **REGULATORY BACKGROUND**

### 2.1 State Regulations

Chapter 391-3-6-.06 of the Georgia Rules and Regulations for Water Quality Control

### 2.2 Federal Regulations

Source	Activity	Applicable Regulation
Municipal Separate Stormwater 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 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 by Section 1328 and 1344 under Title 402(a), the 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.

### 2.3 NPDES Permits

An 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

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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 GDOT permit was originally issued on December 15, 2011, with an effective date of January 3, 2012. The first permit was issued as a general permit because the permit covered a State-wide area. It was unknown if additional permittees would require coverage, such as GDOT District offices or County departments of transportation. The Division is evaluating whether an individual permit would be a more appropriate permit type, since no other permittees will be covered under this permit. If appropriate, the Division will progress towards issuing an individual permit, in place of a general permit, for the 2027 permit iteration.

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

Numeric effluent limitations are not included in the proposed permit. 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, GDOT will employ best management practices (BMPs) to eliminate or minimize, to the maximum extent practicable, the discharge of pollutants to the waters of the State from stormwater discharges. GDOT is required to submit an Annual Report to the Division demonstrating the status of implementing each BMP. The Division has determined, based upon best professional judgment and guidance from the Environmental Protection Agency (EPA), the permit compliance can be evaluated through the Annual Report review.

## **3.0 PERMIT CONDITIONS**

### **3.1 Stormwater Management Program (SWMP)**

The Federal Regulations, 40 CFR Part 122, specify who must apply for NPDES permit coverage and the requirements that must be included in an NPDES permit. On December 8, 1999, EPA published the Phase II stormwater regulations, which outlined criteria for designating which small MS4s would be covered, including municipalities and facilities with operations similar to a municipality, such as state highway systems. 40 CFR Part 122.34 specifies that a permittee subject to the Phase II regulations must develop and implement a stormwater management program (SWMP) that includes six minimum control measures:

- Public Education and Outreach
- Public Involvement/Participation
- Illicit Discharge Detection and Elimination
- Construction Site Stormwater Runoff Control
- Post-Construction Stormwater Management in New Development and Redevelopment
- Pollution Prevention/Good Housekeeping for Municipal Operations

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On December 9, 2016, EPA published the MS4 Permit Remand Rule, which provides States with a choice of two options for issuance of general Permits: a Comprehensive General Permit or a Two-Step General Permit. Georgia has chosen to issue the GDOT MS4 Permit as a Comprehensive General Permit. In accordance with 40 CFR Part 122.34(a), the permit will contain specific requirements with which the Phase II MS4 must comply. However, as in the past, GDOT will be required to submit a SWMP. The SWMP will contain procedural documents and other specific information describing details on how the permittee will implement the permit requirements (see 40 CFR Part 122.34(b)).

## **4.0 OTHER PERMIT CONSIDERATIONS**

### **4.1 Anti-Degradation**

The proposed Permit complies with the anti-degradation requirements in the Division's 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. This permit will reduce the current levels of pollution discharged from the MS4 through the implementation of best management practices. The Division expects the pollution reduction measures implemented by GDOT 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 re-development. The permit requires GDOT to regularly review and refine their BMPs to reduce pollutants to the maximum extent practicable. The focus of the permit 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 permit will protect and improve existing water quality and is consistent with the Division's antidegradation policy.

### **4.2 Total Maximum Daily Load (TMDL)**

If a TMDL containing a wasteload allocation specific to one or more of the permittee's outfalls is approved, then GDOT will be required to address the wasteload allocation. Effluent limits will be included in the permit in the form of BMPs. 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 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. 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.

### **4.3 Permitted Areas**

The permit requires GDOT to administer the SWMP within permitted areas of the State, which includes those areas covered by a Phase I or Phase II MS4 NPDES Permit. The Phase II MS4s are based upon the latest decennial United States Census. The 2020 United States Census results have not been released at this time. When the results are released, the Division will make a determination on the designation of additional Phase II MS4s. Because the Census results will not become available in time to determine newly

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designated areas prior to the reissuance of the permit, the addition of any new Phase II permitted areas will be considered in the next iteration of the permit.

#### **4.4 Litter Reduction**

EPA has initiated a nationwide program titled “Trash Free Waters” which aims to reduce and prevent trash from entering U.S. waters and the ocean. At the time of this permit development, GDOT is spending approximately \$10 million in labor and equipment costs each year to pick-up and dispose of litter. To address the litter issue, GDOT has recently launched a state-wide anti-litter campaign titled, “Keep It Clean Georgia”. This program focuses on public education and public involvement using community efforts to reduce and eliminate litter in Georgia. GDOT has partnered with the Governor’s Office, the Office of Economic Development, the Keep Georgia Beautiful Foundation, and local cities and counties to implement this state-wide program. The “Keep It Clean Georgia” initiative aligns with the goals of EPA’s “Trash Free Waters” program. In addition, the NPDES Permit, Public Education minimum control measure, BMP #1, requires GDOT to educate the public about litter prevention and requires GDOT to support an Adopt-A-Highway program.

#### **4.5 Stormwater Runoff Quality/Reduction**

GDOT is required to address the performance standards from the Georgia Stormwater Management Manual (GSMM) on every construction project, including runoff reduction, stream channel protection, overbank flood protection, extreme flood protection, and trout stream protection. Due to site constraints or other factors, it is sometimes infeasible to implement the runoff reduction performance standard. GDOT has procedures for evaluating the feasibility of implementing runoff reduction practices on each site. The evaluation is presented in a feasibility report.

GDOT has been preparing the feasibility reports for Division review since the 2017 NPDES permit iteration. The Division and GDOT evaluated this procedure at the end of the 5-year period and determined that the preparation of feasibility reports should be targeted towards those projects where GDOT has a greater potential to impact the receiving stream. GDOT will continue to ensure that the performance standards are applied on each construction project. However, feasibility reports will only be required for those projects with outfalls that potentially discharge to a stream included on the 303(d) list, which is listed as impaired due to a pollutant that GDOT would be reasonably expected to discharge. This will include all projects potentially discharging to streams impaired for Bio F, Bio M, and any trout streams. This approach will allow GDOT to target impaired or sensitive waters and reduce the cost and time of preparing and reviewing feasibility reports that have little or no benefit to the waters of the State.

#### **4.6 MS4 Structure Mapping**

The 2012 and 2017 Permit iterations required GDOT to complete mapping of the MS4 outfalls, post-construction structures, and MS4 structures within the permitted areas at a rate of 10% annually. Due to the magnitude of the number of identified outfalls and MS4 structures, the schedule for mapping these structures will be extended until December 31, 2023 including new areas that have been created due to incorporation of previously

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unincorporated areas, resulting in designation by EPD of newly permitted areas. The Division will notify the GDOT upon designation of any new areas. Within 90 days of notification by the Division, GDOT must submit a schedule for mapping of these newly designated areas. The Division will review the schedule for approval or denial.

#### **4.7 Impaired Waters Monitoring**

GDOT was required under previous permit iterations to prepare an Impaired Waters Plan (Plan). The Plan requires GDOT to monitor impaired streams for pollutants of concern that they are expected to discharge. EPD has determined that GDOT has the potential to cause stream impacts due to sediment; therefore, those streams that are listed for Bio F or Bio M will require monitoring. Because the impacts are due to sediment, EPD will allow GDOT to conduct monitoring for Total Suspended Solids (TSS) as a surrogate for conducting fish or macroinvertebrate studies. Allowing the monitoring of TSS as a surrogate parameter on Bio F or Bio M impaired streams is consistent with monitoring required of the Phase I MS4s and those Phase II MS4s with a population exceeding 10,000. As with the other impaired water monitoring, if another MS4 is conducting monitoring of the Bio F or Bio M impaired stream, then GDOT does not have to duplicate monitoring of that stream.

#### **4.8 Trout Stream Study**

Part 4.2.5.1(a) of the permit includes a performance standard requiring GDOT to address impacts to trout streams. In order to determine if discharges through GDOT outfalls are adversely impacting trout streams, GDOT will be required to prepare a study plan to evaluate any potential impacts specifically related to temperature and dissolved oxygen levels. The study plan will be due to the Division with the 2022 annual report, due March 31, 2023. Upon Division approval, GDOT must begin monitoring trout streams in accordance with the plan. During the final year of the permit, GDOT must evaluate if discharges from its outfalls are causing an adverse impact. If insufficient data is available to complete the evaluation, then GDOT must submit a revised study plan to the Division. If GDOT determines adequate monitoring data is available and the results of the study indicate an impact on the trout streams, then GDOT must propose best management practices to be used to prevent any further impacts on trout streams. This final study report must be submitted by December 31, 2026.

#### **4.9 Compliance Schedule**

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

#### **4.10 Anti-Backsliding**

The requirements in this permit are in compliance with the 40 C.F.R. 122.44(l), which requires a reissued permit to be as stringent as the previous permit.

### **5.0 REPORTING**

#### **5.1 Compliance Office**

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

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

## **5.2 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.

## **6.0 REQUESTED VARIANCES OR ALTERNATIVES TO REQUIRED STANDARDS**

Not applicable

## **7.0 PERMIT EXPIRATION**

The permit will expire five years from the effective date.

## **8.0 PROCEDURES FOR THE FORMULATION OF FINAL DETERMINATIONS**

### **8.1 Comment Period**

The Division proposes to issue a permit subject to the special conditions outlined above. These determinations are tentative.

Georgia Environmental Protection Division  
NonPoint Source Program  
2 Martin Luther King Jr. Drive  
Suite 1462 East  
Atlanta, Georgia 30334

The draft permit and other information are available electronically upon request or on the Division's website at <https://epd.georgia.gov/>. 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, Watershed Protection Branch file room, 2 MLK Jr. Drive, SW, West Tower, Balcony, Suite 418, Atlanta, Georgia, 30334. To set an appointment, email [gorarequest.water@dnr.ga.gov](mailto: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.

### **8.2 Public Comments**

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Persons wishing to comment upon or object to the proposed determinations are invited to submit same in writing to the Division address above, or via e-mail at [EPDcomments@dnr.ga.gov](mailto:EPDcomments@dnr.ga.gov), no later than Friday, November 12, 2021. All comments received prior to that date will be considered in the formulation of final determinations regarding the application. The permit number should be placed on the top of the first page of comments and in the e-mail subject line (if sent via e-mail) to ensure that your comments will be forwarded to the appropriate staff.

### **8.3 Public Meeting/Hearing**

A virtual public meeting has been scheduled, with a public hearing held immediately following the public meeting. The purpose of the public meeting is to present information on the proposed permit and answer any related questions. A public hearing will be held immediately following the public meeting also on the Zoom web conferencing platform. The purpose of the public hearing will be to receive formal comments on the proposed permit for the official record.

#### **Zoom Meeting Details:**

November 1, 2021, beginning at 10:00 a.m.

Link to join:

<https://gaepd.zoom.us/j/94233165126?pwd=TTVFcFFTZUFPUitHNjkrSXFkckU2QT09>

Meeting ID: 942 3316 5126

Passcode: 918674

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

Dial-in number: 1-877- 853-5247 (with same Meeting ID & Passcode as above)

During the public hearing, oral 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. Written comments must be received by close of business on November 12, 2021.

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 permit.

### **8.4 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>

### **8.5 Contested Hearings**

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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 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.