



## **Guidance for Requests to Disturb 50 Acres or More under the NPDES Construction Stormwater Permits**

The National Pollutant Discharge Elimination System Storm Water Discharges Associated With Construction For Stand Alone Construction Projects (GAR100001) and for Common Development (GAR100003) (collectively, the NPDES Permits) each mandate that the permittee shall limit the amount of disturbed area to less than 50 acres at any one time unless the permittee has received prior written authorization from the appropriate EPD District Office. The permittee for any such site (Site) must provide this information sufficiently in advance of disturbing 50 or more acres for EPD to evaluate the request and to determine what additional conditions will be applied to that activity. This Guidance outlines the review criteria and specifies design components expected for such requests.

This Guidance may also inform consideration by EPD and by Local Issuing Authorities (LIAs) of factors to evaluate when considering compliance of sites with 50 or more acres of disturbance with the Georgia Erosion and Sedimentation Control Act (GESA), O.C.G.A. § 12-7-1 *et seq.* and local land disturbance permits issued by LIAs.

EPD approval will be based on site-specific design criteria. Applicants may incorporate alternative design criteria from those specifically outlined below, with the understanding that the plan must be deemed equally protective, and the applicant must demonstrate that the alternate design criteria when considered with the totality of site specific criteria is equally protective.

- 1. Request and Review Process.** Note that EPD has developed a “50+ Acre Clearing Decision Rationale” (Rationale) which is used to assess these requests. This Rationale requires site-specific information that is used, along with other material, to determine whether such requests will be approved or denied.
  - A.** A request for the Site must be submitted in advance of any conducting any land disturbing activity to the EPD District Office where the Site is located. Information about the assigned counties for each EPD District Office may be found here: <https://epd.georgia.gov/about-us/epd-district-offices>.
  - B.** The following information must be included in the request:
    - i.** The technical justification of why it is necessary to grade 50 or more contiguous acres or to grade 50 or more acres of a project site at any one time.
    - ii.** Total planned acres of disturbance.

- iii. The Owner's legal name, address, and telephone number or the Operator's legal name, address, and telephone number.
- iv. A project description including all of the following:
  - 1. The site/project name.
  - 2. Latitude and longitude of the property in the form of decimal degrees. The site location information must be sufficient to accurately locate the proposed construction site.
  - 3. The nature of the proposed construction activity.
  - 4. Any additional information the requester feels is relevant to justify the request.
- v. A list of the certified site inspectors for the Site and their certifications.
- vi. A site map showing all of the following:
  - 1. The Site in relation to surrounding property(ies).
  - 2. The proposed limits of disturbance at the Site, including any proposed phases for conducting such disturbance, if applicable.
  - 3. Soil types and delineation.
  - 4. Site topography.
  - 5. All state waters on the Site and within 200 feet of borders of the Site
  - 6. Any stream segments on the Site or within one (1) linear mile upstream of and within the same watershed as any portion of stream segment identified as "not supporting" its designated use(s) (Impaired Stream Segment), as shown on the most up to date version of Georgia's "305(b)/303(d) List Documents (Final)" if the Impaired Stream Segment has been listed for either of the following criteria: a) "Bio F" (Impaired Fish Community); or b) Bio M" (Impaired Macroinvertebrate Community), and is within Category 4a, 4b or 5, and the potential cause is either "NP" (nonpoint source) or "UR" (urban runoff). The most current 303/305 list is available here: <https://epd.georgia.gov/https%3A/epd.georgia.gov/assessment/water-quality-georgia>.
  - 7. Proximity of the Site to sensitive areas such as drinking water intakes, marshes, and trout streams, etc.

## **2. Conditions Applicable to All Sites Receiving Approval.**

- A. Total acreage disturbed at any one time during the project should be minimized. Disturbance should be segmented (i.e., staged into smaller sections of the overall planned disturbance), using naturally existing land characteristics or drainage basins wherever possible.

- B.** No more than 400 acres may be disturbed at any one time unless EPD's approval for the Site explicitly approves a disturbance in excess of 400 acres.
- C.** As outlined in part IV.D.3. of the NPDES Permit, Sites that have been approved to disturb 50 acres or more at any one time must include at least four (4) of the best management practices listed in Part III.C.2. in the design of the Erosion and Sedimentation Pollution Control Plan (ESPCP). Incorporation of additional BMPs above and beyond the minimums in the NPDES Permit is encouraged.

### **3. Additional Considerations for Certain Types of Sites.**

- A.** For all Sites disturbing a total of 150 acres or more, as well as any Site where EPD determines topography or other considerations dictate, the below applies to the additional BMPs required in part IV.D.3. of the NPDES Permit.
  - i.** The following three (3) BMPs from the list in Part III.C.2 of the NPDES Permit should be incorporated in the ESPCP for each Site:
    - 1.** Increase all temporary sediment basins and retrofitted stormwater management basins to provide sediment storage of at least 3600 cubic feet (134 cubic yards) per acre drained.
    - 2.** Conduct inspections and prepare a seven (7) day letter during the intermediate grading and drainage BMP phase and during the final BMP phase of the project by the design professional who prepared the Plan in accordance with Part IV.A.5. of the permit. (Note: This needs to be done for each segment of the Site.)
    - 3.** Install Post Construction BMPs which remove 80% TSS as outlined in the Georgia Stormwater Management Manual known as the Blue Book or an equivalent or more stringent design manual.
  - ii.** At least one (1) of the following BMPs from the list in Part III.C.2 of the NPDES Permit should be incorporated in the ESPCP for each Site:
    - 1.** During all construction activities as defined in this permit, double the width of the 25-foot undisturbed vegetated buffer along all State waters requiring a buffer and the 50 foot undisturbed vegetated buffer along all State waters classified as "trout streams" requiring a buffer. During construction activities, EPD will not grant variances to any such buffers that are increased in width pursuant to this section.
    - 2.** Use baffles in all temporary sediment basins and retrofitted stormwater management basins to at least double the conventional flow path length to the outlet structure.
    - 3.** Use tackifiers and/or mulch to stabilize all areas left disturbed for more than seven (7) calendar days in accordance with Part III.D.1. of the permit.
    - 4.** Conduct turbidity sampling after every rain event of 0.5 inch or greater within any 24-hour period, recognizing the exceptions specified in Part IV.D.6.d. of the permit.

5. Use mulch filter berms, in addition to a silt fence, on the site perimeter wherever construction stormwater (including sheet flow) may be discharged. Mulch filter berms cannot be placed in waterways or areas of concentrated flow.
6. Use alternative BMPs whose performance has been documented to be superior to conventional BMPs as certified by a Design Professional (unless disapproved by EPD or the Georgia Soil and Water Conservation Commission).

**B. Solar Facilities.** The following considerations apply for all solar facility construction, in addition to, where applicable, the considerations in part 3.A. of this guidance.

- i. The request for approval submitted to EPD must include a construction schedule for development of the Site. That construction schedule must be developed to ensure the completion of all land disturbance (including trenching, foundation installation, and superstructure installation) and the establishment of, at minimum, temporary stabilization on all disturbed acreage before the installation of solar panels can be completed. The schedule must include the Site's intent to:
  1. Establish, at minimum, temporary stabilization for the entire project before the installation of solar panels, OR
  2. Establish, at minimum, temporary stabilization on each segment of the site before the installation of panels and the commencement of the next segment.
- ii. Solar panels are to be considered impervious areas when determining the calculations. The post-construction impervious area shall be calculated as 70% of the square footage of the solar panels.<sup>1</sup>

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<sup>1</sup> Note that this requirement was included in Part IV.D.2 of the version of the Permits issued in 2023, which went through all required public notice and comment procedures. Due to the administrative appeal of those Permits on other, unrelated, grounds, those Permits are stayed effective July 2023 and the 2018 permits remain in effect until the case is resolved. See O.C.G.A. § 12-2-2(c)(2). For purposes of clarity, EPD is referencing this requirement in this guidance.