



### **Fact Sheet**

The Georgia Environmental Protection Division (Division) proposes to reissue the General Phase II NPDES Stormwater Permit GAG610000, which authorizes the discharges from all new and existing small municipal separate storm sewer systems (MS4s). The draft permit places conditions on the discharge of pollutants from the municipal stormwater systems 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 modifications from previous permit
- ☐ Modification of existing permit
- ☒ Requires EPA review

## **1.0 FACILITY INFORMATION**

**1.1 NPDES Permit No.:** GAG610000

### **1.2 Eligibility for Coverage**

The NPDES permit authorizes all new and existing point source discharges from municipal separate storm sewer systems owned and/or operated by the Phase II small MS4s. For a City, the permitted area refers to the entire City limits. For a County, the permitted area refers to the part of the County contained within an urbanized area, as defined by the latest Decennial Census conducted by the Bureau of the Census.

### **1.3 Type of Stormwater Discharge**

- ☒ Municipal
- ☐ Industrial

## **2.0 REGULATORY BACKGROUND**

### **2.1 State Regulations**

Chapter 391-3-6, Georgia Rules for Water Quality Control

## 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 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 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.

## 2.3 NPDES Permits

An NPDES permit authorizes the discharge of a pollutant or pollutants into a receiving water under certain circumstances. 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 years. A general permit covers multiple facilities, sites, and activities within a specific category for a specific time period, not to exceed five years. Both types of permits are subject to public comment prior to permit issuance. EPD regulates stormwater discharges from Phase II small MS4s by a general permit.

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. 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:

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- 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

On December 9, 2016, EPA published the MS4 Permit Remand Rule, which addresses how small MS4s obtain permit coverage, including public notice and permit requirements. The Remand Rule provided 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 Phase II 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 past, the permittee 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)).

## **2.4 General NPDES Permit No. GAG61000**

Georgia is a fully authorized State and administers its own NPDES program. NPDES Permit No. GAG61000 was first issued as a general permit in 2002 and reissued in 2007, 2012, and 2017.

The format of NPDES Permit No. GAG610000 consists of six minimum control measures containing two tables, one for existing Phase II small MS4s and one for new Phase II small MS4s, which may be designated after the issuance date of the permit. Each table specifies the best management practices (BMPs) to be employed by the permittee and the measurable goal(s) for each of the BMPs. Each permittee will develop a SWMP containing these BMPs. The BMPs to be employed by the permittee will eliminate or minimize, to the maximum extent practicable, the discharge of pollutants to the waters of the State from stormwater discharges in order to protect water quality. In addition, the permit references the SWMP, which contains the BMPs listed in the permit, procedures for implementing these BMPs, and the method(s) used to document implementation of the BMPs. Permittees are required to submit annual reports to the Division providing the status of implementing the permit requirements.

## **2.5 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, the permittees will employ BMPs 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

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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 Annual Report reviews and on-site inspections.

### **3.0 Permit Considerations**

#### **3.1 Antidegradation**

The proposed permit complies with the antidegradation 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. The permit will reduce the current level of pollution discharged from the MS4s through implementation of BMPs. 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 permit requires the permittees 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.

#### **3.2 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. Effluent limits will be included in the permit in the form of BMPs. BMPs 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 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.

#### **3.3 Litter Reduction**

The EPA has initiated a nationwide program titled "Trash Free Waters". The proposed permit, Tables 4.2.6(a) and (b), BMP # 4, requires the permittee to conduct street and parking lot cleaning. This requirement can be accomplished through street sweeping, litter removal programs, or a combination of both. Litter removal can be performed by municipal employees or volunteer organizations. In addition, the permittee is required to routinely inspect and conduct maintenance on the storm sewer system. The routine maintenance will include removal of debris from the MS4 structures, including catch basins, ditches, and other conveyances. The permittee is also required to implement public education and public involvement activities. The Division strongly encourages that at least some of these outreach activities focus on litter reduction. The combination of these permit requirements will fulfill the intent of EPA's "Trash Free Waters" initiative.

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### **3.4 Post-Construction Stormwater Management**

The proposed permit, Table 4.2.5(a), BMP #2, requires the permittee to develop an inventory of post-construction structures (i.e. detention ponds, retention ponds, water quality vaults). In the 2007 permit iteration, the Division required the adoption of the Georgia Stormwater Management Manual (GSMM) by December 9, 2008, which was one year after the permit effective date. The permittee was also required to develop an inventory of post-construction structures, both permittee-owned and privately-owned. For privately-owned post-construction structures, they needed to be included on the inventory if they were designed after the December 9, 2008 date that the GSMM became effective. In the 2012 permit iteration, the Division added requirements for the permittee to inspect and ensure the post-construction structures were maintained. The GSMM requires the procurement of maintenance agreements for post-construction structures. Because of this, the 2012 proposed permit required the permittee to either maintain private structures or provide a list of maintenance agreements executed since the December 9, 2008 date of GSMM adoption. During the stakeholder process for the 2012 permit, the permittees stated that they were not aware of the GSMM requirement to obtain maintenance agreements. The proposed permit still required post-2008 private structures to be included on the inventory and inspected, but the permit was modified to only require the permittees to procure maintenance agreements for those structures constructed after the permit issuance date of December 6, 2012. This resulted in the permittees being required to address maintenance at all privately-owned structures and publicly-owned structures owned by other entities (e.g. Board of Education) with construction completed after December 6, 2012. The construction completion date was used instead of the project design date, since projects could have been designed several years prior to the 2012 deadline date.

### **3.5 Permit Changes**

The revisions to the permit template from the previous iteration consisted of wording changes in order to clarify requirements. Additional permit revisions include:

- Table 4.2.5(a) – In the 2017 permit iteration, BMP #2 required the permittee to develop an inventory of publicly-owned structures and those privately-owned structures designed after December 9, 2008. BMP #4 required the permittee to address maintenance at publicly-owned post-construction structures, privately-owned structures with construction completed after December 6, 2012 and publicly-owned structures owned by other entities (e.g. Board of Education) with construction completed after December 6, 2012. BMP #2 did not clearly state that publicly-owned structures owned by other entities must be included on the inventory. The requirement to include publicly-owned structures owned by other entities on the inventory has been added to provide consistency between BMP #2 and BMP #4.
- Table 4.2.6 (b) – added the requirement for new permittees to develop a Green Infrastructure/Low Impact Development (GI/LID) program, conduct inspections, and address maintenance of GI/LID structures. The addition of the GI/LID program for new permittees serves to align the requirements for new and existing permittees.

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- Part 4.4.2 – added a requirement to the Impaired Waters section that permittees with a population equal to or exceeding 10,000 must increase the frequency of sampling for bacteria to 16 samples per reporting period in order to obtain 4 geometric means. If two years of data indicate the water quality is below criteria, then the permittee must prepare a Sampling Quality Assurance Plan and conduct sampling in an effort to remove the impaired water from the 305(b)/303(d) list. In addition, the text was modified to provide for the monitoring of *E. coli* and enterococcus in place of fecal coliform bacteria, in anticipation of the Division's revised water quality standards. The revisions to the impaired waters monitoring are intended to allow for the greater possibility of delisting impaired waters, leading to an overall reduction of activities including any additional Best Management Practices needed to control and reduce the pollutant(s) of concern.

### **3.6 Compliance Schedules**

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

### **3.7 Anti-Backsliding**

The requirements of the permit 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 permittees have 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

### **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 five years from the effective date.



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

### **7.1     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.

Georgia Environmental Protection Division  
Nonpoint Source Program  
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, 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](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.

### **7.2     Public Comments**

Persons wishing to comment upon or object to the proposed determination 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) by Tuesday, October 4, 2022. 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 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.

### **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.

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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



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4. Director;  
All other matters asserted by petitioner which are relevant to the action in question.