

Georgia Department of Natural Resources

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Reply To:
NonPoint Source Program
404/675-6240

November 1, 2004

MEMORANDUM

TO: Landfill Owners and Operators

THRU: Vince Williams, Acting Branch Chief
Water Protection Branch

FROM: Lawrence W. Hedges, Program Manager
NonPoint Source Program

RE: Storm Water Permitting for Construction of New Cells at Existing Landfills
Submittal of Notice of Termination

This memorandum will clarify the Georgia Environmental Protection Division (EPD)'s position regarding when Notice of Intent (NOI) and Notice of Termination (NOT) forms should be submitted for new cell construction projects at landfills.

As stated in a memorandum dated January 20, 2004 (copy attached), EPD has determined that storm water discharges from the construction of new cells at landfills require the submittal of an NOI for coverage under Georgia's NPDES General Permit No. GAR100001 for Storm Water Discharges Associated with Construction Activity for Stand Alone Projects (Construction Storm Water General Permit), provided the total planned disturbance for the entire landfill project is equal to or greater than one acre. Once the construction of a new cell has been completed, the permittee may submit a Notice of Termination (NOT) form in accordance with the permit requirements for construction activity. Please note that storm water discharges from the operation of the new cell are regulated under the NPDES General Permit No. GAR000000 for Storm Water Discharges Associated with Industrial Activity (Industrial Storm Water General Permit), in accordance with NPDES regulations.

The Construction Storm Water General Permit requires the NOI submittal and fee payment at least fourteen (14) days prior to beginning construction activity. EPD understands that landfills often conduct soil borrow operations in areas that are planned for construction of future cells. The operation of a soil borrow pit is covered under the Industrial Storm Water General Permit. However, once the new cell construction begins, the area must be reclassified as a construction project. The NOI and fee

MEMORANDUM

Page 2

payment for the Construction Storm Water General Permit must be submitted for the new cell project at least fourteen (14) days before beginning implementation of the land disturbing activities defined in the new cell construction plans.

The Construction Storm Water General Permit allows the permittee to submit an NOT when “the entire stand alone development has undergone final stabilization and all storm water discharges associated with construction activity that are authorized by this permit have ceased.” The permit defines “Final Stabilization” as the point at which “all soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures, 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater, or equivalent permanent stabilization measures (such as the use of rip rap, gabions, permanent mulches or geotextiles) have been used.” Members of the regulated community have expressed concerns over the legal ramifications of submitting an NOT certifying to a condition of final stabilization when in fact, the new cell will not technically meet the definition of final stabilization once construction has been completed. In addition, landfill operations involve almost continual disturbance associated with filling of the cell and the installation of daily cover.

It has been and will remain EPD’s interpretation that for storm water discharges associated with the construction of new cells at a landfill, coverage under the Construction Storm Water General Permit is only necessary up until the point at which construction of the new cell has been completed. An NOT for the Construction Storm Water General Permit should be submitted when the landfill owner receives a letter from EPD’s Solid Waste Program, following inspection of the constructed cell, which gives official EPD approval of the cell construction and approval to begin receiving waste for disposal into the cell. Storm water discharges associated with the operation of the new cell will be authorized under the Industrial Storm Water General Permit, provided that such permit has been obtained and the facility’s Storm Water Pollution Prevention Plan (SWP3) has been amended and updated accordingly.

The Construction Storm Water General Permit was effective on August 13, 2003. However, in consideration of the aforementioned concerns by the regulated community, EPD will not require the submittal of a Notice of Intent (NOI) and the required NPDES permit fee for any new or ongoing construction of cells at landfills until January 1, 2005. Owners and operators of landfill construction projects that have already submitted a valid NOI for the Construction Storm Water General Permit will remain covered by the permit and need not resubmit an NOI at this time.

Please be advised that any new or ongoing construction activities at landfills that are not in compliance with the Construction Storm Water General Permit and the associated fee regulation by January 1, 2005 are subject to possible enforcement action.

MEMORANDUM

The U.S. Environmental Protection Agency has delegated to EPD the regulatory authority to issue and enforce NPDES permits in the State of Georgia. This includes the authority and responsibility to provide interpretations of the terms and applicability of these permits whenever necessary. The interpretation provided in this memorandum is not a change in EPD's Storm Water Rules, and therefore does not require any rule-making procedures to be undertaken. EPD, along with a number of other states, has determined that the nature of storm water discharges occurring during the construction of new cells at a landfill differs from that of storm water discharges that occur during the operation of the cell and is more appropriately addressed by the Construction Storm Water General Permit. The Storm Water Unit understands the regulated community's concern over the number of environmental permits required for operating a landfill. However, compliance with all applicable regulations is necessary to meet State and Federal requirements. The need to obtain and comply with multiple permits that are administered by state programs is not unique to the landfill industry.

EPD sincerely appreciates the considerable efforts by landfill owners and operators to protect Georgia's environment. If you should have any questions concerning this memorandum, or other storm water permitting requirements for landfills, please do not hesitate to contact either Drew Zurow or Chip Scroggs of my Storm Water Unit at (404) 675-6240.

cc: Harold Gillespie, Manager, Solid Waste Management Program
EPD District Managers

LWH: cs