

FACT SHEET

APPLICATION FOR GENERAL NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT NO. GAG610000 TO DISCHARGE STORM WATER FROM PHASE II SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s) INTO THE WATERS OF THE STATE OF GEORGIA.

Regulatory Background

Clean Water Act

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 in Section 1328 and 1344 under Title 402(a), the Environmental Protection Division (EPD) 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.

These CWA provisions are reflected in the O.C.G.A §12-5-29 and O.C.G.A §12-5-30 and also in the Georgia Rules and Regulations for Water Quality Control (Rules) Chapter 391-3-6-.16, which specifies requirements for stormwater permits. In addition, the Rules Chapter 391-3-6-.03 defines the waters of the State.

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 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 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:

- Public Education and Outreach
- Public Involvement/Participation
- Illicit Discharge Detection and Elimination
- Construction Site Storm Water Runoff Control
- Post-Construction Storm Water 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 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 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 the 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)).

General NPDES Permit No. GAG610000

Georgia is a fully authorized State and administers its own NPDES program. NPDES Permit No. GAG610000 authorizes stormwater discharges to the waters of the State from Phase II small MS4s. NPDES Permit No. GAG610000 was first issued as a general permit in 2002 and reissued in 2007 and 2012. The reissuance of NPDES Permit No. GAG610000 will continue as a general permit.

The format of NPDES Permit No. GAG610000 consists of the 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 EPD providing their status in implementing the Permit requirements.

Numeric effluent limitations have not been included in the proposed permit. EPD has determined that it is infeasible to derive numeric effluent limitations for intermittent 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. EPD has determined, based upon best professional judgment and guidance from EPA, that compliance with permit conditions can be evaluated through the Annual Report summarizing implementation of the BMPs contained in the Permit.

The proposed permit will be valid for a term of five (5) years in accordance with Federal regulations, which limit NPDES permits to a maximum term of five (5) years.

The proposed permit complies with the anti-degradation requirements in the EPD 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 stormwater discharges authorized by this permit have been on-going since the federal regulations requiring an NPDES permit were adopted. This permit will reduce the current level of pollution discharged from the MS4. EPD expects the pollution reduction measures implemented by the permittees 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 redevelopment. The permit requires the permittee 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. Therefore, the issuance of this permit will protect and improve existing water quality and is consistent with EPD's antidegradation policy.

If a Total Maximum Daily Load (TMDL) containing a wasteload allocation specific to one or more of the permittee's outfalls is approved, then the wasteload allocation must be incorporated into the SWMP. As expressed above, 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 pollutants of concern in the impaired waterbody. For those permittees with a population exceeding 10,000, monitoring for the pollutant of concern will be performed in order to evaluate BMP effectiveness and TMDL attainment. Permittees with a population less than 10,000 will not be required to conduct monitoring, but will be required to implement practices designed to address the pollutant of concern. The permittees must perform an annual assessment to determine the effectiveness of the chosen practices. The iterative process will require new, expanded or better-tailored BMPs to be implemented if the evaluation determines the BMPs are not effective in pollutant reduction or TMDL attainment.

Specific Permit Changes

NPDES Permit No. GAG610000 includes minor revisions from previous iterations, including:

- An increased focus on public education and public involvement, setting the specific number of BMPs that must be implemented based on the MS4 population;

- The addition of the standard for stormwater runoff quality/reduction for new development and redevelopment from the 2016 Georgia Stormwater Management Manual (GSMM) and the Coastal Stormwater Supplement to the GSMM;
- The addition of a standard for trout stream protection; and
- A requirement for permittees with a population greater than 10,000 to implement a Green Infrastructure/Low Impact Development (GI/LID) program and an inspection and maintenance program of GI/LID structures.

Procedures for the Formulation of Final Determinations

Comment Period

The draft permit and supporting documents are available for review at the EPD office located at 2 Martin Luther King Jr. Drive, Atlanta, Georgia, 30334, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday.

Persons wishing to comment upon or object to the determinations are invited to submit same in writing to the EPD address below, within 30 days of the date of the public notice. All comments received prior to that date will be considered in the formulation of final determinations regarding this permit. “Draft NPDES Permit No. GAG610000” should be placed on the top of the first page of comments.

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

Comments may also be e-mailed to EPDComments@dnr.ga.gov. If you choose to email your comments, please be sure to include the words “Draft NPDES Permit No. GAG610000” in the subject line to ensure that your comments will be forwarded to the correct staff. For additional information, contact: Anna Truszczynski at 404/651-8548 or Lisa Perrett at 404/651-8546.

Public Hearing

A public meeting has been scheduled for 9:00 a.m. on October 16, 2017, at EPD’s Training Room at 4244 International Parkway, Suite 114, Atlanta, Georgia 30354. A public hearing will be held at 10:00 a.m. at the same location, following the public meeting. Both oral and written comments will be accepted at the public hearing; 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 that person deems appropriate.

Following the public hearing, the Director, unless it should be 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 shall be circulated to those

persons or groups who participated in the hearing; to those persons or groups who submitted written comments to the Director of the proposed permit within 30 days of the public notice; and to all persons or groups included on the EPD mailing list.

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. Such hearing shall be held in accordance with 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 the petitioner alleges to be aggrieved or adversely affected by the issuance 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.

Issuance of the Permit When No Public Hearing is Held

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 his 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 circulated to those persons who submitted written comments to the Director on the proposed permit within thirty (30) days from the date of the public notice of such proposed permit, and to all persons or groups included on the EPD mailing list.

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 set forth above.