



FACT SHEET

**APPLICATION FOR GENERAL NATIONAL POLLUTANT DISCHARGE
ELIMINATION SYSTEM PERMITS NOS. GAR100001, GAR100002, AND GAR100003
FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION
ACTIVITY**

December 15, 2017

Regulatory Background

The 1972 amendments to the Federal Clean Water Act (CWA), also referred to as the Federal Water Pollution Control Act (FWPCA), prohibit the discharge of any pollutant to the waters of the United States from a point source unless the discharge is authorized by a National Pollutant Discharge Elimination System (NPDES) permit. Initial efforts to improve water quality under the NPDES program focused on reducing pollutants in discharges of industrial process wastewater and from municipal sewage treatment plants.

In response to the need for comprehensive NPDES requirements for discharges of storm water, Congress amended the CWA in 1987 to require the U.S. Environmental Protection Agency (EPA) to establish phased NPDES requirements for storm water discharges. EPA published initial permit application and other requirements for certain categories of storm water discharges associated with industrial activity, including construction activities, on November 16, 1990 (50 FR 47990) and on April 2, 1992 (57 FR 11394).

The Georgia Environmental Protection Division (EPD) amended the Georgia Rules and Regulations for Water Quality Control (Rules) in April 1990 to allow the issuance of general permits. EPD was granted the authority to issue NPDES general permits by EPA in January 1991. Therefore, Georgia is a fully authorized State and administers its own NPDES program.

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.

General NPDES Permit No. GAR100001, No. GAR100002 and GAR100003

NPDES General Permit No. GAR100000 (permit) for storm water discharges associated with construction activity was issued in 2000 and regulated construction activities that disturbed five (5) or more acres. In 2003, the permit was reissued as three general permits that regulate construction activities that disturb one (1) or more acres. NPDES Permit No. GAR100001 regulates stand-alone construction sites, NPDES Permit No. GAR100002 regulates infrastructure construction sites, and NPDES Permit No. GAR100003 regulates common development construction sites. These permits were reissued in 2008 and 2013. The current permits are scheduled to expire July 31, 2018.

Regulated Construction Activities

NPDES General Permits No. GAR100001, No. GAR100002 and No. GAR100003 will authorize the discharge of storm water from sites where construction activities will result in contiguous land disturbances equal to or greater than one (1) acre or tracts of less than one (1) acre that are part of a larger overall development with a combined disturbance one (1) acre or greater (i.e., common plan of development). EPD can require an applicant to submit a NPDES permit application for an individual NPDES permit upon written notification to the applicant. In addition to storm water discharges, the proposed general NPDES permits authorize certain non-storm water discharges such as fire fighting water and uncontaminated groundwater.

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 issuance of this permit will protect and improve existing water quality and is consistent with EPD's antidegradation policy. The proposed permits are being issued pursuant to the authority contained in O.C.G.A. §§ 12-5-27 and 12-5-30.

Permit Coverage

Permit coverage must be obtained by submitting a fully completed *Notice of Intent (NOI)* through EPD's electronic submittal portal. The NOI will include basic information about the construction site and the receiving waters where the discharges occur.

Upon issuance of the permit, all NOIs for coverage under the General Construction Permits must be submitted through EPD's electronic submittal portal. Existing construction sites must submit a new NOI within ninety (90) days after the effective date of the permits in order to obtain coverage. New sites that begin construction activities after the issuance date of the permits must submit the NOI form at least fourteen (14) days prior to beginning construction activities.

The permittee must specify on the NOI whether or not the facility discharges storm water associated with construction activity into an Impaired Stream Segment, or within one (1) linear mile upstream of and within the same watershed as, any portion of an Impaired Stream Segment identified as "not supporting" its designated use(s) as shown on Georgia's most current "305(b)/303(d) List Documents (Final)." Georgia's 305(b)/303(d) List Documents may be

reviewed on EPD's website. All permittees are responsible for reviewing each new version of the 305(b)/303(d) List Documents during the term of the permits to check for new stream segment listings.

Term of the Permit

The proposed permit will be valid for a term of five (5) years in accordance with Federal regulations, which limit NPDES permit to a maximum term of five (5) years. The EPD can require an applicant to submit an application for an individual NPDES permit or an alternative general NPDES permit upon written notification to the applicant

Permit Changes

Summary of General Permit Changes throughout Permit Nos. GAR100001, GAR100002, and GAR100003

The General Construction Permits contain the following revisions throughout multiple parts of the permits:

- To improve accuracy and reduce the need for minor permit revisions, hyperlinks have been removed from the permits and can now be found on EPD's website in the document titled "NPDES General Construction Permit References".
- Miscellaneous redundant language has been removed from the draft permits.
- The term "projects" has been changed to "sites" for consistency with the permit definitions.
- The draft permits contain changes as a result of EPD's implementation of the NPDES Electronic Reporting Rule. Specific changes are listed below:
 - Beginning on the effective date of the permit, All Notices of Intent (NOI), Modifications and Notices of Terminations (NOT) must be submitted through EPD's electronic submittal portal.
 - The term "Change of information" has been replaced to "a modification".
 - EPD is preparing an electronic method for submitting sampling reports. EPD will notify the permittee when the sampling report electronic submittal system is available for use. Upon notification, the permittee will be required to submit sampling reports electronically.
 - ES&PC Plans required to be submitted to the EPD District Offices must now be submitted electronically through EPD's electronic submittal portal or as a PDF on CD-ROM or other storage device.

Summary of Changes to Part I. Coverage Under This Permit

- Part I.B. – The following definitions have been revised for clarity and/or consistency with established Regulations: Permittee, Phase or Phased, and Primary Permittee.
- Part I.E. – The continuing obligations of permittees has been revised for clarification.

Summary of Changes to Part III. Special Conditions, Management Practices, Permit Violations and Other Limitations

- Part III.C.2. – All references to anionic polyacrylamide (PAM) have been replaced by “flocclulants or coagulants”, and “matting or blankets” has been replaced with “slope stabilization” to be consistent with the most recent Manual for Erosion and Sediment Control.
- Part III.C.2. – BMP options which were no longer “over and beyond” have been removed from the options to address impaired waters.
- Part III.C.2.d. has been revised as follows: *“A large sign (minimum 4 feet x 8 feet) must be posted on site by the actual start date of construction. The sign must be visible from a public roadway. The sign must identify the following: (1) the construction site, (2) the permittee(s), (3) the contact person(s) along with their telephone number(s), and (4) the permittee-hosted website where the ES&PC Plan can be viewed. The permittee-hosted website where the ES&PC Plan can be viewed must be provided on the submitted NOI. The sign must remain on site and the ES&PC Plan must be available on the provided website until a NOT has been submitted”.*
- Part III.C.2.u. – EPD has added the following BMP option to address impaired waters: *“Conduct inspections during the intermediate grading and drainage BMP phase and during the final BMP phase of the project by a certified Level II design professional to improve overall site management quality control.”*
- Part III.C.2.v. – EPD has added the following BMP option to address impaired waters: *“Install Post Construction BMPs which remove 80% TSS as outlined in the Georgia Stormwater Management Manual known as the Blue Book.”*
- Part III.D.3. has been revised for clarity and the following language has been added:

“6. Whenever a permittee finds that a BMP has failed or is deficient (beyond routine maintenance) and has resulted in sediment deposition into waters of the State, the permittee shall submit a summary of the violations to EPD in accordance with Part V.A.2. of this permit and shall correct such BMP as follows:

- a. *When the repair does not require a new or replacement BMP or significant repair, the BMP failure or deficiency must be repaired by the close of the next business day from the time of discovery;*
- b. *When the repair requires a new or replacement BMP or significant repair, the installation of the new or modified BMP must be completed and the BMP must be operational by no later than seven (7) days from the time of discovery. If it is infeasible to complete the installation or repair within seven (7) days, the permittee must document why it is infeasible to complete the installation or repair within the seven (7) day timeframe and document the schedule for installing or repairing the BMPs and making the BMPs operational as soon as feasible after the seven (7) day timeframe.”*

Summary of Changes to Part IV. Erosion, Sedimentation and Pollution Control Plan

- Part IV.D.3.a.(1).(b). has been removed from the permits to be consistent with the minimum Federal requirements for stabilization.
- In accordance with 40 CFR Section 450.21(d)(2), Part IV.D.3.c.(2). of the permits has been revised as follows: *“For building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site, provide cover (e.g. plastic sheeting, temporary roofs) to minimize the exposure of these products to precipitation and to stormwater, or a similarly effective means designed to minimize the discharge of pollutants from these areas. Minimization of exposure is not required in cases where exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk to stormwater contamination (such as final products and materials intended for outdoor use).”*
- For clarification, Part IV.D.4.a.(2) has been revised as follows: *“Measure and record rainfall within disturbed areas of the site that have not met final stabilization once every 24 hours except any non-working Saturday, non-working Sunday and non-working Federal holiday. The data collected for the purpose of compliance with this permit shall be representative of the monitored activity.”*

Appendix A – has been updated to reflect current addresses.

Summary of Permit Changes Specific to Permit No. GAR100002

- Part I.C. – Coverage under the permit for infrastructure construction projects is not required for discharges of storm water associated with infrastructure construction projects that consist solely of the installation of cable barriers and guardrail within existing rights-of-way, and for the installation of buried utility lines. Therefore the following language has been added to permit No. GAR100002:

“f. coverage under this permit is not required for discharge of storm water associated with infrastructure road construction sites that consist solely of the installation of cable barriers and guard rail for an existing facility within the existing rights-of-way. The construction activity shall, as a minimum, implement and maintain best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the “Manual for Erosion and Sediment Control in Georgia” (Manual) published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity is being conducted. In order to be eligible for this exemption the project must comply with the following conditions: (1) no mass grading shall occur on the project, (2) the project shall be stabilized by the end of each day with temporary or permanent stabilization measures, (3) final stabilization must be implemented at the end of the project.

g. coverage under this permit is not required for discharge of storm water associated with infrastructure construction sites that consist of the installation of buried utility lines and comply with the following conditions: (1) solely installed via vibratory plow, (2) the conduit does not exceed 4 inches in diameter, and (3) occurs within an existing stabilized right-of-way. The construction activity shall, as a minimum, implement and maintain best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the “Manual for Erosion and Sediment Control in Georgia” (Manual) published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity is being conducted. In order to be eligible for this exemption the project must comply with the following conditions: (1) no mass grading shall occur on the project, (2) no tree clearing, (3) no change in grade, (4) the project shall be stabilized by the end of each day with temporary or permanent stabilization measures, and (5) final stabilization must be implemented at the end of the project.”

- Part II.B.1.k. has been revised for clarity.

Procedures for the Formulation of Final Determination

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 (except official State holidays).

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 Permits GAR100001, GAR100002 and GAR100003” 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 Permits GAR100001, GAR100002 and GAR100003” in the subject line to ensure that your comments will be forwarded to the correct staff. For additional information, contact: Michael Berry, Unit Manager, Erosion and Sedimentation Unit, NonPoint Source Program, at 404-651-8554.

Public Hearing

A public meeting has been scheduled for January 31, 2018 at 9:00 a.m., followed by a public hearing at 10:00 a.m., at EPD’s Training Room located at 4244 International Parkway, Suite 114, Atlanta, Georgia, 30354. 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.