

EPD Response to Public Comments on December 2017 Draft NPDES Construction General Permits
Nos. GAR100001, GAR100002, and GAR10003

Permit Part	Comment/Requested Change	EPD Response
<p>Parts I.B. and Part IV.D.6.c.1.g. (Final Stabilization Definition)</p>	<p>EPD proposed changes “consistent with the Green Book,” however, the definition for final stabilization does not follow the Green Book. EPD should remove “(excluding a crop of annual vegetation and a seeding of target crop perennials appropriate for the region)” from the definition for final stabilization as the Green Book allows “a crop of annual vegetation and a seeding of target crop perennials appropriate for the region such that within the growing season a 70% by perennial vegetation shall be achieved”.</p>	<p>This definition is identical to that in the 2013 permits and was developed through extensive collaborative discussion with stakeholders conducted during the reissuance process for the 2013 permits. The changes to the definition were introduced in 2013 because EPD identified water quality violations caused by construction sites that terminated permit coverage prior to achieving 70% density coverage during the growing season when using a crop of annual vegetation and a seeding of target crop perennials. The language in the Permit is consistent with the Green Book, which defines final stabilization to include “100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater.” <i>See Green Book Section Ds3, “Requirement for Regulatory Compliance”.</i> Accordingly, the Permit definition is consistent with the definition and the intent of the Green Book. Further, this language allows EPD and LIAs to assess accurately when a construction site can terminate coverage under the Construction General Permit by providing a clear metric for determining when final stabilization has been achieved, thus protecting water quality.</p> <p>EPD has determined the definition for final stabilization must remain as worded in order to protect water quality in the State of Georgia. No changes to the proposed permits were made as a result of this comment.</p>
<p>Part I.B. (Infeasible Definition)</p>	<p>EPD should consider including the definition for “infeasible” found in 40 CFR Part 450.11.</p>	<p>To be consistent with the EPA 2014 Construction and Development Rule, a definition for “infeasible” has been added to the permits.</p>

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Part I.B. (Permittee Definition)	<p>EPD stated on the December 2017 Response to Stakeholder Comments that “The permit coverage process remains unchanged from the previous permits.” However, the introduction of electronic NOI submittal does change the process. EPD should include provisions in the permit in the event the electronic system provided by EPD fails to provide a confirmation e-mail through no fault of the permittee.</p> <p>Is there a difference between submitting your NOI electronically and obtaining coverage or are they the same thing?</p>	<p>EPD is aware that electronic systems can malfunction and has established internal procedures to address electronic system malfunctions as appropriate. No changes to the proposed permits were made as a result of this comment.</p> <p>Coverage begins 14 days after the submittal of a complete NOI.</p>
GAR100002 & GAR100003 Part I.B. (Phase or Phased Definition)	<p>The definition is unclear and should be revised to clarify that sub-parts, sections or segments could be phases during the construction process, not only once construction is complete and the area stabilized.</p> <p>It appears that EPD is no longer using the word “projects or activity” as in definition page 6 number 31 but is still using construction activity Page 9 Items 1a-c (GAR100003).</p>	<p>EPD believes the definition is appropriate. Phases should be constructed and stabilized prior to the completion of the entire project. No changes to the proposed permits were made as a result of this comment.</p> <p>The definition of “Phase” or “Phased” (#31 in GAR100003) has been amended to substitute the word “sites” for “projects.” The definition for “Construction Activity” (#7 in GAR100003) has not been revised. The Permit uses the term “Construction Activities” on Page 9 Items 1a-c appropriately.</p>

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Continued GAR100002 & GAR100003 Part I.B. (Phase or Phased Definition)	It appears that EPD is no longer using the word “projects” and has replaced it with “sites”, but “projects” still remain on Pages 8,9,10 A-G (GAR100002).	The definition of “Phase” or “Phased” (#30 in GAR100002) has been amended to substitute the word “sites” for “projects.” The definition for “Infrastructure Construction” or “Infrastructure Construction Project” (#17 in GAR100002) has not been revised. The Permit uses the term “infrastructure construction projects” on Pages 8,9,10 A-G appropriately.
GAR100003 Part I.C. (Eligibility)	Add an item “D” with A-C. “Tertiary permittees with a total planned land disturbance less than one acre shall not have to submit their plan for review for erosion sediment and pollution control. If a plan is found to be deficient after submittal at any time, this plan can be required by the certified LIA or EPD to go through the full review process.”	The requested revisions are inconsistent with regulatory requirements. No changes to the proposed permits were made as a result of this comment.
Part I.D. (MS4 Notification)	Recommend that the permittee, at the same time, submits a copy of the NOI to the pertinent MS4 when the MS4 is not an LIA.	All NOIs are available for download on GEOS public portal. EPD recommends that non-LIAs who are interested review this portal periodically.
Part II.A.4. (Modification Submittals)	A commenter requested clarification on what EPD means by submitting a modification NOI as opposed to a change of information NOI.	Those two terms are functionally the same.
GAR100003 Part II.B. (Notice of Intent Contents)	Page 14 Primary Permittee and Page 17 Tertiary Permittee - Why is Item L wording different from the infrastructure permit? Could this be the same in all permits?	The proposed changes within GAR100002 are to emphasize the fact that infrastructure construction projects may submit multiple NOIs for one project and each NOI may have multiple phases. EPD believes this will encourage the phasing of infrastructure construction projects. No changes were made as a result of this comment.
GAR100003 Part II.B. (Numbering)	l. should be k, m. should be l	The correction has been made.

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Part II.B.3. (Tertiary Permittee)	Recommend that the State remove or reduce the construction permit allowance of individual NOIs for multiple lots that are part of a common plan of development. The current permit language results in significantly increased workload for EPD and LIA's to review, inspect and manage the permits. It also is more likely to lead to the installation of less effective best management practices (BMPs).	Secondary permittees already are required to follow the primary permittee's ES&PC Plans. Tertiary permittees exist only where there are no primary or secondary permittees. Allowing tertiary permittees to submit NOIs and gain coverage under the permit ensure that those projects will have updated ES&PC Plans that comply with current requirements.
Parts II.C., II.D. IV.A.4.a., VI.B.5. and VI.C. (Electronic Submittals)	<p>EPD did not explain why it rejected proposed language to address technical failures of the GEOS portal through no fault of the permittee.</p> <p>Can the electronic receipts generated by GEOS for NOIs and NOTs submitted be altered to include something more than the Submittal ID Number?</p> <p>Can fees be paid by credit card?</p> <p>Can instructions be provided in the FAQs to explain how eChecks work?</p> <p>Will a separate Fee Payment document still be required, as current practice requires?</p> <p>Are project schedules no longer a required submittal attachment for NOIs?</p>	<p>EPD is aware that electronic systems can malfunction and has established internal procedures to address electronic system malfunctions as appropriate. No changes were made as a result of this comment.</p> <p>Including additional Submittal Receipt information will be evaluated for future software updates.</p> <p>Not at this time.</p> <p>We will take this into consideration for FAQ updates. However, financial payment mechanisms are not specific to the GEOS system. Additional information on Automated Clearing House (ACH) payments or eChecks may be obtained from your financial institution.</p> <p>No. Fees will be paid at the time of submittal, electronically or by mail, accompanied by your GEOS Submittal Receipt.</p> <p>Project schedules are still required as an upload.</p>

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Part III.C. (Impaired Waters)	<p>1. Include the definition of “Impaired Stream Segment” in the definitions section.</p> <p>2. Recommended updating language regarding impaired waters and 305(b)/303(d) list documents.</p> <p>3. Recommended the addition of website links regarding impaired waters and 305(b)/303(d) list documents.</p> <p>4. Commenter questioned whether or not the list of TMDL Implementation Plans can be found on the EPD website.</p>	<p>The definition is provided in the appropriate section. No change is needed.</p> <p>As a result of the comment, the permit language has been updated.</p> <p>Resources will be available on EPD’s website. No changes to the proposed permits were made as a result of the comment.</p> <p>TMDLs and TMDL Implementation Plans are available on EPD’s website. No changes to the proposed permits were made as a result of the comment.</p>
Part III.C.2.d. (Additional BMPs for Impaired Waters – Sign and Website Posting)	<p>Recommend that signs, as described, be required for any construction site disturbing 50 acres or more and/or for sites that discharge to an impaired water.</p> <p>Recommend removing the sign as an option under the list of BMPs. A sign is not a best management practice that addresses water quality.</p> <p>Recommend that the BMP options be reviewed and revised to make sure that they are functionally equivalent, meaning equally protective of aquatic resources.</p>	<p>Sites disturbing 50 acres or more at one time are required to follow specific criteria for pre-approval. EPD feels that the current permit requirements are sufficient for both situations. No changes to the proposed permits were made as a result of the comment.</p> <p>The sign is just one option, and some permittees find it effective. Furthermore, EPD updated this option to include a publicly available website, increasing accessibility of the project to the public. No change made.</p> <p>EPD reviews BMP options regularly to ensure that they are protective of aquatic resources.</p>

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<p>Part III.C.2.u. (Additional BMPs for Impaired Waters - Additional Inspections)</p>	<p>Instead of the changes proposed on the December 2017 draft, this permit language should revert to the language proposed during the version of the permit developed during the stakeholder process, with a minor revision to allow a Level II certified person to conduct the inspection.</p> <p>The terms “intermediate grading and drainage BMP phase or final BMP phase” are not defined anywhere in the permit and have no meaning or relevance for linear projects.</p> <p>This option should include a requirement of a written report with recommendations to the permittee following each inspection.</p> <p>Item U: a. How is this verified? By report, by word of mouth, email? b. Does this have to be submitted through the electronic process?</p>	<p>EPD received numerous comments during the stakeholder comment period in regards to proposed language for additional inspections. In consideration of the comments received, EPD determined “quarterly” was too ambiguous and revised the December 2017 draft to require a more specific inspection frequency. EPD has retained the language allowing Level II certified individuals to conduct such inspections.</p> <p>EPD incorporated the terms “intermediate grading and drainage BMP phase and final BMP phase of the project” as this language is already used in Part IV of all the construction permits. As Part IV of the permits reference the Manual for Erosion and Sediment Control in Georgia it is not necessary to introduce additional definitions to the permits.</p> <p>As a result of the additional comments received following the December 2017 draft permit, EPD has determined the most efficient and consistent way to conduct additional inspections is to match the process of the initial BMP review by the design professional as established in Part IV.A.5. of previous permits. EPD believes that inspections conducted by the design professional will provide for a more accurate evaluation of the BMPs installed during the intermediate and final phases and provides simplicity as it follows an already established procedure. EPD agrees the additional inspections should be verified; therefore, Part III.C.2.u. has been revised as follows: “Conduct inspections 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.”</p>

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<p>Part III.C.2. (Additional BMPs for Impaired Waters – Hydrologic Modeling)</p>	<p>EPD should provide additional guidance on acceptable hydrologic modeling and retain this BMP option.</p>	<p>EPD received numerous comments during the stakeholder comment period in regards to proposed language for hydrologic modeling. Based on those comments, EPD determined that it was more appropriate to adopt a BMP option from the Blue Book and removed the hydrologic modeling BMP option from the December 2017 draft. No changes to the December 2017 draft were made as a result of his comment.</p>
<p>Parts III.C.2.v., and IV.D.3.b.3. (Georgia Stormwater Management Manual)</p>	<p>EPD should add language to allow the use of equivalent stormwater management manuals developed under the MS4 program which have been adopted by local governments, as only using the Blue Book, could create conflict with locally adopted stormwater management manuals.</p>	<p>As a result of this comment, Part III.C.2.v. has been revised to include: “or an equivalent or more stringent design manual.”</p>
<p>Part III.C.2.v. (Additional BMPs for Impaired Waters – Post Construction BMPs)</p>	<p>The MS4 permit establishes the post construction control best management practices, not the GA Stormwater Management Manual. GA is requiring, in their recently reissued MS4 permits, that post construction controls be evaluated for runoff reduction of the first 1 inch of rainfall. The 80% TSS requirement is only to be applied to the portion of the post construction controls that cannot be addressed by the green infrastructure best management practices. Recommend revising this section to specify using the runoff reduction option required in the MS4 permit.</p>	<p>Many projects occur outside of MS4 areas and are not subject to MS4 permit requirements. Where feasible, runoff reduction BMPs are encouraged but not required. As a result of this comment, “e.g., runoff reduction BMPs” has been added to Part III.C.2.v.</p>

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Part III.D.6. (Summary of violations)	<p>Is a summary of violations required if there is sediment deposition into state waters when BMPs have been properly designed, installed and maintained?</p> <p>Page 23 number 6 a and b should they be combined under number three on page 22 appear they are saying the same thing?</p>	<p>No. As per Part III.D.1., if BMPs are properly designed, installed and maintained, there is no violation. However, if there is a BMP deficiency the permittee must do the necessary repairs.</p> <p>EPD believes that the language in the proposed permits is appropriate. No changes to the proposed permits were made as a result of this comment.</p>
Part III.D.6.a. (BMP Repairs)	EPD should change “by the close of the next business day” in Part III.D.6.a. to (2) two business days or to 48 hours.	EPD has revised Part III.D.6.a. to “two (2) business days” for consistency with previously established permit timelines.
Part III.D.6.b. (BMP Repairs)	Recommend revising this language. It appears to suggest that a BMP failure can be allowed to continue and have continuous, active deposition of sediment into waters of the State for 6 days without recourse or penalty.	As a result of this comment, Part III.D.6. has been revised as follows, “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 immediately take all reasonable steps to address the condition, including cleaning up any contaminated surfaces so the material will not discharge in subsequent storm events. 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:”
Part IV. (ES&PC Plans)	Commenters questioned if a permittee that obtained coverage under the 2013 permit be required to update ES&PC Plans to meet the requirements under the 2018 permit.	A previously covered permittee, who submits a NOI for coverage under the 2018 permit in accordance with Part II.A.2, will not be required to update ES&PC Plans as long as they submit a re-issuance NOI no later than 90 days of the effective date of the permit.

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Part IV.A.4.a. (ES&PC Plan - Submittals)	A commenter requested that EPD remove the phrase “in a jurisdiction where there is no certified Local Issuing Authority regulating the project” which relieves the permittee from submitting ES&PC Plans to EPD if they submit to the Local Issuing Authority.	Upon EPDs request, Local Issuing Authorities must provide EPD with access to ES&PC Plans. In addition, the public can also view ES&PC Plans submitted to the Local Issuing Authorities. Therefore, additional submittals to EPD are not necessary.
Part IV.A.4.b. (Approval of Land Disturbance Greater than 50 Acres)	Since Part IV.A.4.b. is being removed, is EPD changing its process for approving projects over 50 acres?	No. The NOI and Plan copies previously requested in Part IV.A.4.b. were never part of the approval process for projects over 50 acres. The approval process of projects over 50 acres required in Permits No. GAR100001 and GAR100003 remains the same. Approval of infrastructure projects over 50 acres is not required and therefore, language in Permit No. GAR100002 which referenced projects over 50 acres was removed for clarity.
Part IV.A.5. (Design Professional Deficiency Notification)	The change to decrease the requirement of design professionals to report the results of the initial BMP inspection within 2 days instead of 7 days proposed during the stakeholder process should be retained.	EPD received significant input from design professionals to justify a 7 day reporting allowance for the initial BMP inspection. As a result of the comments and justifications received during the stakeholder process on this issue, this permit requirement remains unchanged from the 2013 permit.
Part IV.D.1. (Checklist)	Can the annual plan review checklists include comments on the cover to highlight which items on each checklist that have changed/updated for that respective year?	Georgia Soil & Water Conservation Commission is responsible for any revision to the ES&PC Plan Review Checklist.
Part IV.D.3. (Approval of Land Disturbance Greater than 50 Acres)	50 acres of land disturbance approval is required prior to authorization by EPD. Appears infrastructure permit does not have to do this. Recommendation, make all three permits the same: Either remove from all or add to all to be fair.	The decision to require pre-approval for over 50 acres of land disturbance at any one time for stand alone and common development construction projects was made after extensive collaborative discussion with stakeholders during the reissuance process for the 2008 permits. EPD believes that the language in the proposed permits is appropriate. No changes to the proposed permits were made as a result of this comment.

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Part IV.D.3.a (Stabilization Time Frame)	Recommend reducing the amount of time allowed to immediately stabilize the site, once construction has been suspended, to 7 work days for both construction sites of 5 acres or more and for sites discharging to impaired (sensitive) waters.	Current permit language requires the permittee to initiate stabilization measures as soon as practicable but no later than 14 days after construction activity has ceased. This language is consistent with 40 CFR 450.21.b. No changes were made as a result of this comment.
Part IV.D.3.a.(3). (Sediment Storage)	The sediment basin storage requirement should be revised to 3,600 cubic feet or 134 cubic yards per acre drained for consistency with EPA's Construction General Permit and other States in Region IV.	The permit requirement that sediment basins must provide 1800 cubic feet of storage per acre drained is consistent with the Manual for Erosion and Sediment Control in Georgia, which is identified as the standard for best management practices in the Erosion and Sedimentation Act (12-7-6(a)). No changes to the proposed permits were made as a result of this comment.
Part IV.D.3.c. (Inspections)	Add a provision that permittees be required to conduct inspections when snow melts on the site.	Snow melt runoff is included in the definition for storm water; therefore, the event is addressed in current inspection requirements. No changes were made as a result of this comment.
Part IV.D.4.a.2. (Rainfall Monitoring)	A commenter recommended EPD uses "met" versus "undergone" in this section for consistency.	EPD believes that the language in the proposed permits is clear. No changes to the proposed permits were made as a result of this comment.
Part IV.D.6.c.6. (Sampling Requirements)	Part IV.D.6.c.6. addresses when sampling may cease, but does not address when sampling must begin. Sampling should not begin until the project can impact State waters.	Part IV.D.6.d. Sampling Frequency addresses when permittees are required to sample by outlining qualifying sampling events and timelines. No changes were made as a result of this comment.
Part IV.D.6.d.3.c. (BMP Repairs)	This section should be revised to match Part III.D.6.a.	Part III.D.6.a. has been revised to match Part IV.D.6.d.3.c.

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Part IV.E.3. (Availability of storm water sampling results through GEOS)	A commenter expressed concerns about the availability of stormwater sampling results through the electronic portal and potential public misconceptions for NTU values.	Stormwater sampling results are currently available for public review through a Georgia Open Records Act request. Electronic submittals will be held to the same requirements.
Part V.G. (Signatory Requirements)	Can an RO delegate their NOI signature/submittal authority to someone else?	Signatory authority is defined in 40 CFR 122.22(a) and Part V.G of the Permit, and the Responsible Official must meet that definition. Staff may be delegated responsibility as a Preparer, allowing them to prepare the NOI, but submittal responsibility would remain with the Responsible Official.
Part VI.B. (NOT- Sampling Reports)	Page 54 item 8, Does this statement contradict previously stated reporting requirements, is it now ok to hold all of them until the end?	No. This statement provides a method to submit any sampling reports not previously submitted.
Part VI.C. (NOT submittals to MS4s)	Recommend providing a copy of the NOT to the MS4 when it is not the LIA.	All NOTs are available for download on GEOS public portal. We recommend non LIAs who are interested review this portal periodically.
GAR100002 Part I.B., C.1.a. and C.1.b. (Contiguous Areas Definition)	EPD should provide additional explanation for not revising the contiguous area definition to include noncontiguous laydown areas associated with an infrastructure project, but instead require coverage under General Permit GAR100001. Managing an entire project under one permit instead of multiple permits would simplify the regulatory process.	EPD has determined that limiting infrastructure projects to contiguous areas is more practical for ensuring the protection of water quality. EPD believes the descriptions of contiguous areas provided in Part I.C. are appropriate for infrastructure projects and continues to believe laydown areas located away from a project should be permitted through a separate permit. No changes to the proposed permits were made as a result of this comment.
GAR100002 Part I.C.1.	How can a construction activity implement and maintain best management practices as now stated, would this be done by the permittee?	This section refers specifically to situations exempt from permit coverage. There would be no permittee in these cases.

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GAR100002 Part I.C.1.c. & I.C.1.d.	EPD did not address the lack of EPDs authority to impose requirements within a permit in situations where the permit does not apply.	EPD has determined that permit coverage for the construction activities identified in Part I.C.1.c through g. is not required only if the conditions specified in Part I.C.1.c through g. are met.
GAR100002 Part I.C.1.g. (Buried Utility Lines Installation Exemption)	<p>Commenters requested that EPD consider including the use of directional boring under this exemption.</p> <p>EPD did not explain why additional language recommended by commenters in regards to additional materials associated with buried utility line installation was not included.</p> <p>Two sets of numbers (1)-(3) is confusing - suggest formatting separately.</p> <p>Is installing silt fence with a vibratory plow not a land disturbance activity?</p>	<p>Bore pits and associated spoils result in land disturbances not included in this exemption.</p> <p>EPD has made the assumption that buried utilities line installation would be performed and include any materials to achieve adequate utility transmission. As such, EPD does not deem it necessary to add permit language to specifically identify any associated materials installed with or within the conduit of a buried utility line.</p> <p>EPD believes the language in the permit is appropriate. No changes to the proposed permit were made as a result of the comment.</p> <p>The exemption is associated with infrastructure construction projects that consist of the installation of buried utility lines and comply with the listed conditions. The use of a vibratory plow for the installation of silt fence does not meet the exemption criteria.</p>
GAR100002 Part VI.B.2. (Grammar)	“The construction site location information must be sufficient to accurate (accurately) locate the construction site”.	The correction has been made.

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<p>GAR100003 Part II.B.2.1. (Blanket NOI)</p>	<p>Please provide clarification and revise the language to be clear on what EPD means by the “no less than seven (7) days” timeframe for secondary permittees to provide a copy of the Blanket NOI to the primary permittee.</p> <p>EPD should remove the requirement for the primary permittee to post or make available copies of a Blanket NOI from a utility company, as a primary permittee does not necessarily have the legal right to demand such documents from a secondary permittee.</p>	<p>Part II.B.2.1. establishes conditions pertaining the submittal of annual Blanket NOIs for coverage under General Permit GAR100003. The conditions are as follows:</p> <ol style="list-style-type: none"> 1. Requires a utility company (secondary permittee) to submit a Blanket NOI by January 15 of the year in which coverage is desired or at least 7 days prior to commencing construction activities; 2. Establishes the information that must be contained in the Blanket NOI; 3. Requires the secondary permittee to provide a copy of the Blanket NOI or equivalent contact information to the primary permittee at least 7 days prior to commencing construction activities; 4. Requires the primary permit to provide a means of posting or make Blanket NOIs available to public once received. <p>As explained above, EPD is not making the primary permittee responsible for obtaining Blanket NOI, but instead makes the primary permittee responsible for publicly sharing Blanket NOIs. The secondary permittee would still be responsible for providing the Blanket NOI. Therefore, this requirement will remain unchanged in the permit.</p>