

**STATE OF GEORGIA  
DEPARTMENT OF NATURAL RESOURCES  
ENVIRONMENTAL PROTECTION DIVISION**

**FACT SHEET**

**APPLICATION FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMITS TO DISCHARGE STORM WATER FROM PHASE I LARGE MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s) INTO THE WATERS OF THE STATE OF GEORGIA.**

February 20, 2019

**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 (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.

These CWA provisions are reflected in the Georgia Rules and Regulations for Water Quality Control (Rules) Chapter 391-3-6-.16 and also O.C.G.A. §12-5-29 and O.C.G.A. §12-5-30.

The requirements of Phase I Large MS4 permits are addressed in 40 CFR 122, which specifies the NPDES permit program. A list of permit requirements correlated to code citations is included as Attachment A.

**NPDES Permits**

General

These NPDES Permits will authorize stormwater discharges to the waters of the State of Georgia from the 45 Phase I Large MS4s owned or operated by local governments in Georgia (Attachment B).

The Phase I Large MS4 permits were first issued in 1994. In previous iterations, the permits incorporated by reference a Stormwater Management Program (SWMP) to be implemented by

the permittee over the term of the permit. The SWMP describes the permittee's program to eliminate or minimize, to the maximum extent practicable (MEP), the discharge of pollutants to the waters of the State from stormwater discharges. This iteration of the permit has been revised to further clarify the requirements for municipal employee training (Part 3.3.8), public education, (part 3.3.9), and public involvement (Part 3.40). Permittees are required to submit Annual Reports to the Division providing their status in implementing the SWMP and permit requirements.

Numeric effluent limitations have not been included in the proposed permits. The Division has determined that it is infeasible to derive numeric effluent limitations for intermittent stormwater discharges from MS4s 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. The Division has determined, based upon best professional judgment and guidance from EPA, that compliance with permit conditions can be well evaluated through the Annual Report.

The proposed permits 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 permits comply with the anti-degradation requirements in the Division Rules and Regulations for Water Quality Control, subparagraph 391-3-6-.03. Existing water quality will not be degraded by the issuance of these permits. The stormwater discharges authorized by these permits have been on-going since the Federal regulations requiring an NPDES permit were adopted. The permits will reduce the current level of pollution discharged from the MS4. The Division 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 permits require the permittees to implement controls to reduce pollutants to the MEP. The focus of the permits is a net reduction in pollutant loadings over the five-year permit term, during which a range of programs will be implemented and enhanced to minimize pollution in stormwater discharges. Therefore, the issuance of these permits will protect and improve existing water quality and is consistent with the Division'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. The permittee will implement best management practices (BMPs) to address the pollutant(s) of concern. 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. Monitoring for the pollutant of concern will be performed to evaluate BMP effectiveness and TMDL attainment. Outfall or 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 be implemented if the evaluation determines the current BMPs are not effective in TMDL attainment and/or in

reducing the pollutant of concern for impaired waterbodies where the TMDL has not yet been approved.

### Specific Permit Changes

The permit was revised from the previous iteration. These revisions include:

- Additional requirements for the IDDE Plan, which:
  - Allow for alternatives to dry weather screening (DWS);
  - Clarify stream walk requirements;
  - Allowing standard DWS and DWS during stream walks;
  - And outline investigative efforts for documented illicit discharges.
- Inclusion of a Sampling Quality and Assurance Plan for impaired waters listed for fecal coliform bacteria when two years of the permittee's monitoring data demonstrate that the level of fecal coliform bacteria is consistently below numeric criteria
- Inclusion of a Municipal Employee Training requirement and suggested topics
- Revision of the Public Education requirement
- Revision of the Public Involvement requirement
- Inclusion of the standards for new development and redevelopment from the Georgia Stormwater Management Manual (GSMM), 2016 Edition of Volume 2, instead of incorporation by reference.
  - The draft permit allows for permittees to use either the Runoff Reduction or Water Quality Treatment standards, as outlined in the GSMM, to achieve compliance with water quality control standards from the issuance date of the permit until December 10, 2020.
  - The draft permit requires full implementation of the Runoff Reduction standard no later than December 10, 2020, and recommends the use of training, stakeholder meetings, and pilot projects to facilitate successful implementation of the Runoff Reduction standard.
- A Trout Stream Protection requirement, which requires permittees to address the protection of trout waters.
- A Linear Transportation Projects section, which allows permittees to develop a feasibility program.
- An eReporting requirement. EPD is preparing an electronic method of reporting (eReporting). EPD will notify the permittee when the system is available for use. Upon notification, the permittee will be required submit the annual report electronically.
- Inclusion of an inspection requirement that permittees must conduct inspections on 100% of all required structures and inventoried facilities within the 5-year permit term.

### **Procedures for the Formulation of Final Determinations**

#### Comment Period

The draft permits and supporting documents are available for review at the Division's offices, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except official State holidays), and at the City/County office buildings of the proposed permittees.

Persons wishing to comment upon or object to the determinations are invited to submit same in writing to the Division address below by April 3, 2019. All comments received on or prior to that date will be considered in the formulation of final determinations regarding this permit. All comments received before or on that date will be considered in the formulation of final determinations for these permits. “Draft Permit GAS000XXX” should be placed at the top of the first page of comments.

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

Comments may also be e-mailed to [EPDComments@dnr.ga.gov](mailto:EPDComments@dnr.ga.gov). If you choose to email your comments, please be sure to include the words “Draft Permit GAS000XXX” in the subject line to ensure that your comments will be forwarded to the correct staff. For additional information contact Cameron Wolfe at 404-651-8511 or Mildred Granderson at 404-651-8544 of the Stormwater Unit.

#### Contested Hearings

Any person who is aggrieved or adversely affected by the issuance or denial of a permit by the Director of the Division 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 the Division 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.

#### Public Hearing

A public meeting has been scheduled for 9:00 a.m. on Wednesday, March 27, 2019, at Division’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. The purpose of the public hearing will be to present and receive formal comments on the proposed permits for the official record. Additional information regarding public hearing procedures is available by writing the Division.

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 and to those persons or groups who submitted written comments to the Director on the proposed permit within thirty (30) days from the date of the public notice.

## Attachment A

Phase I Large Municipal Separate Storm Sewer Systems (MS4s)  
NPDES Permit No. GAS000XXX

| <b>Permit Part</b>                                       | <b>Permit Section</b>                         | <b>Regulatory Citing</b>  |
|--|---|---|
| <b>Part I</b>  | Permit Coverage                               | 40 CFR Part 122.32  |
|  | Definitions                                   | 40 CFR Part 122.26(b) and Chapter 391-3-6-.16 of the Georgia Rules  |
| <b>Part II</b>   | Criteria for Receiving Waters                 | Chapter 391-3-6-.03(5) of the Georgia Rules                         |
| <b>Part III</b> (Storm Water Management Program-SWMP)    | Requirements                                  | 40 CFR Part 122.26(d)(2)(iv)  |
|  | Annual Report                                 | 40 CFR Part 122.42(c)   |
|  | Enforcement Response Plan                     | Permit requirement  |
|  | Impaired Waters                               | Permit requirement  |
|  | Municipal Employee Training                   | Permit requirement  |
|  | Public Education                              | Permit requirement  |
|  | Public Involvement                            | Permit requirement  |
|  | Post-Construction                             | Permit Requirement  |
|  | Stormwater Design Manual                      | Permit Requirement  |
|  | Green Infrastructure/LID                      | Permit Requirement  |
|  | <del>Stormwater Design Manual</del>           | <del>Permit Requirement</del>                                       |
| <b>Part IV</b> (Monitoring, Recordkeeping and Reporting) | Monitoring Requirements                       | 40 CFR Part 122.41(j)   |
|  | Monitoring Requirements                       | 40 CFR Part 122.41(j)   |
|  | Retention of Records                          | 40 CFR Part 122.41(j)   |
| <b>Part V</b> (Standard Permit Conditions)               | Duty to Comply                                | 40 CFR Part 122.41(a)   |
|  | Duty to Reapply                               | 40 CFR Part 122.41(b)   |
|  | Need to Halt or Reduce Activity Not a Defense | 40 CFR Part 122.41(c)   |
|  | Duty to Mitigate                              | 40 CFR Part 122.41(d)   |
|  | Proper Operation and Maintenance              | 40 CFR Part 122.41(e)   |
|  | Permit Actions                                | 40 CFR Part 122.41(f)   |
|  | Property Rights                               | 40 CFR Part 122.41(g)   |
|  | Duty to Provide Information                   | 40 CFR Part 122.41(h)   |
|  | Other Information                             | 40 CFR Part 122.41(l)(8)  |
|  | Inspection and Entry                          | 40 CFR Part 122.41(i)   |
|  | Availability of Reports                       | Permit requirement  |
|  | Signatory Requirements                        | 40 CFR Part 122.41(k) and 391-3-6-.16(5)(a)(7) of the Georgia Rules |
|  | Severability                                  | Permit requirement  |

|                          |   |                                 |
|--------------------------|---|---------------------------------|
|                          | Civil and Criminal Liability            | Permit requirement              |
|                          | Contested Hearings                      | Permit requirement              |
|                          | Transfer of Ownership                   | 40 CFR Part 122.41(l)(3)        |
| <b>Appendix A (SWMP)</b> |   |                                 |
|                          | Structural and Source Control Measures  | 40 CFR Part 122.26(d)(2)(iv)(A) |
|                          | Illicit Discharge Detection Elimination | 40 CFR Part 122.26(d)(2)(iv)(B) |
|                          | Industrial Facilities/HVPS              | 40 CFR Part 122.26(d)(2)(iv)(C) |
|                          | Construction Site Management            | 40 CFR Part 122.26(d)(2)(iv)(D) |
|                          | Assessment of Controls                  | 40 CFR Part 122.26(d)(2)(v)     |
|                          | Fiscal Analysis                         | 40 CFR Part 122.26(d)(2)(vi)    |

Attachment B

**List of Phase I Large MS4 NPDES Permittees**

| <b><u>Permittee</u></b> | <b><u>Permit Number</u></b> |
|-------------------------|-----------------------------|
| Acworth                 | GAS000101                   |
| Alpharetta              | GAS000102                   |
| Atlanta                 | GAS000100                   |
| Austell                 | GAS000103                   |
| Avondale Estates        | GAS000137                   |
| Berkeley Lake           | GAS000138                   |
| Buford                  | GAS000104                   |
| Chamblee                | GAS000105                   |
| Clarkston               | GAS000106                   |
| Clayton County          | GAS000107                   |
| Cobb County             | GAS000108                   |
| College Park            | GAS000109                   |
| Dacula                  | GAS000139                   |
| Decatur                 | GAS000110                   |
| DeKalb County           | GAS000111                   |
| Doraville               | GAS000113                   |
| Duluth                  | GAS000112                   |
| East Point              | GAS000114                   |
| Fairburn                | GAS000115                   |
| Forest Park             | GAS000116                   |
| Fulton County           | GAS000117                   |
| Grayson                 | GAS000140                   |
| Gwinnett County         | GAS000118                   |
| Hapeville               | GAS000119                   |
| Jonesboro               | GAS000120                   |
| Kennesaw                | GAS000121                   |
| Lake City               | GAS000141                   |
| Lawrenceville           | GAS000122                   |
| Lilburn                 | GAS000123                   |
| Lithonia                | GAS000124                   |
| Lovejoy                 | GAS000142                   |
| Marietta                | GAS000125                   |
| Morrow                  | GAS000126                   |
| Norcross                | GAS000127                   |
| Palmetto                | GAS000128                   |
| Pine Lake               | GAS000143                   |
| Powder Springs          | GAS000129                   |
| Riverdale               | GAS000130                   |
| Roswell                 | GAS000131                   |
| Smyrna                  | GAS000132                   |
| Snellville              | GAS000133                   |
| Stone Mountain          | GAS000134                   |
| Sugar Hill              | GAS000135                   |
| Suwanee                 | GAS000144                   |
| Union City              | GAS000136                   |