

## FACT SHEET

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

#### NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM GENERAL PERMITS NO. GAR100001, NO. GAR100002 and NO. GAR100003 FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY

July 29, 2013

#### **EXECUTIVE SUMMARY**

The proposed permits will authorize storm water discharges to the waters of the State of Georgia from construction activities. Permit coverage may be obtained by submitting the applicable *Notice of Intent (NOI) - Version 2013* form which will be available on EPD's website upon issuance of the permits. Facilities with an existing storm water discharge associated with construction activity must submit a *NOI - Version 2013* form within ninety (90) days after the effective date of the permits.

#### **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. In September 1992, EPD issued the first of seven different general NPDES permits for construction activities. Each of these permits was administratively appealed and did not become effective. NPDES General Permit No. GAR100000 (permit) for storm water discharges associated with construction activity was issued on August 1, 2000 and regulated

construction activities that disturbed five (5) or more acres. That permit expired on July 31, 2003. The permit was reissued on August 13, 2003 as three general permits that regulate construction activities that disturb one (1) or more acres. No. GAR100001 regulates stand alone construction sites, No. GAR100002 regulates infrastructure construction sites, and No. GAR100003 regulates common development construction sites. These permits were reissued on August 1, 2008 and are scheduled to expire July 31, 2013.

### **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 occur. The proposed permits define construction activities as those disturbing a land area 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 general permits will expire July 31, 2018. The proposed permits comply with the anti-degradation requirements in the EPD Rules and Regulations for Water Quality Control, subparagraph 391-3-6-.03. 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) - Version 2013* form supplied by EPD. The NOI will include basic information about the construction site and the receiving waters where the discharges occur. 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 in order to check for new stream segment listings.

Existing construction sites must submit the new *NOI – Version 2013* 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. NOI forms must be submitted by return receipt certified mail or a similar service.

Upon issuance of the permits, the NOI forms will be available on EPD's website at <http://www.gaepd.org> (under "Documents, Publications and Forms," "Regulatory Forms," "Watershed Protection Branch" and "Storm Water"). Copies of the permits and the 305(b)/303(d) List Documents, sorted by county, will be available on the EPD website (under "Technical Guidance," "Watershed Protection Branch" and "Storm Water"). All of these documents may also be obtained by calling EPD at (404) 675-6240.

### **SUMMARY OF CHANGES TO PART I. COVERAGE UNDER THIS PERMIT**

The following definitions were revised as delineated below:

"Common Development" means a contiguous area where multiple, separate, and distinct construction activities will be taking place at different times on different schedules under one plan of development on or after August 1, 2000.

"CPESC" means Certified Professional in Erosion and Sediment Control with current certification by EnviroCert International, Inc. ([www.EnviroCertIntl.org](http://www.EnviroCertIntl.org)).

"Design Professional" means a professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a Certified Professional in Erosion and Sediment Control (CPESC) with a current certification by EnviroCert International, Inc. provided said person is in compliance with applicable Georgia law governing professional licensure.

For stand alone and common development construction projects, "Final Stabilization" means that all soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater, or landscaped according to the Plan (uniformly covered with landscaping materials in planned landscaped areas), or equivalent permanent stabilization measures as defined in the Manual (excluding a crop of annual vegetation and seeding of target crop perennials appropriate for the region).

For infrastructure construction projects, "Final Stabilization" means that 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 landscaped according to the Plan (uniformly covered with landscaping materials in planned landscaped areas), or equivalent permanent stabilization measures as defined in the Manual (excluding a crop of annual vegetation and seeding of target crop perennials appropriate for the region).

"Infrastructure Construction" or "Infrastructure Construction Project" means construction activities that are not part of a common development that include the construction, installation and maintenance of roadway and railway projects and conduits, pipes, pipelines, substations, cables, wires, trenches, vaults, manholes and similar or related structures for the conveyance of natural gas (or other types of gas), liquid petroleum products, electricity, telecommunications (telephone, data, television, etc.), water, storm water or sewage.

"Infrastructure Company" or "Infrastructure Contractor" means, for the purposes of this Permit, an entity or sub-contractor that is responsible, either directly or indirectly, for infrastructure construction or an infrastructure construction project.

"Sub-contractor" means an entity employed or retained by the permittee to conduct any type of construction activity (as defined in this permit) at an infrastructure construction site. Sub-contractors must complete the appropriate certification course approved by the Georgia Soil and Water Conservation Commission in accordance with the provisions of O.C.G.A. 12-7-19.

"Tertiary Permittee" means either the Owner or Operator of a remaining lot(s) within a common development (as defined in this permit) conducting a construction activity where the primary permittee and all secondary permittees have submitted a Notice of Termination in accordance with Part VI.A.2. of this permit (excluding utility companies and/or utility contractors working under a Blanket NOI) or where a primary permittee no longer exists.

"Utility Company or Utility Contractor" means, for purposes of this Permit, an entity or sub-contractor that is responsible, either directly or indirectly, for the construction, installation, and maintenance of conduits, pipes, pipelines, cables, wires, trenches, vaults, manholes, and similar structures or devices for the conveyance of natural gas (or other types of gas), liquid

petroleum products, electricity, telecommunications (telephone, data, television, etc.), water, storm water or sewage.

“Waters Supporting Warm Water Fisheries” means all waters of the State that sustain, or have the potential to sustain, aquatic life but excluding trout streams.

Definitions for “Normal Business Hours” and Roadway Project(s)” were added and the definitions for “Primary Trout Waters” and “Secondary Trout Waters” were deleted.

The NOI for primary permittees and tertiary permittees must include the following certification:

“I certify that to the best of my knowledge and belief, that the Erosion, Sedimentation and Pollution Control Plan (Plan) was prepared by a design professional, as defined by this permit, that has completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission in accordance with the provisions of O.C.G.A. 12-7-19 and that I will adhere to the Plan and comply with all requirements of this permit.”

For infrastructure construction projects, contiguous areas of land disturbances include those areas of land disturbances solely separated by drilling and boring activities, waters of the State and adjacent State-mandated buffers, roadways and/or railways. In addition, contiguous areas of land disturbances include all areas of land disturbances at a sole roadway intersection and/or junction.

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 routine maintenance for the original purpose of the facility that is performed to maintain the original line and grade and the hydraulic capacity. In order to be eligible for this exemption, the infrastructure construction 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) the project shall have a duration of less than 120 calendar days, and (4) final stabilization must be implemented at the end of the maintenance project.

## **SUMMARY OF CHANGES TO PART II. NOTICE OF INTENT REQUIREMENTS**

For sites where construction activities, subject to this permit, are occurring on the effective date of the permits, the owner or operator or both must submit a “re-issuance” NOI no later than ninety (90) days after the effective date of this permit.

Failure to comply with the requirements of Part II.A.2 and Part II.A.4 shall constitute a violation of the Georgia Water Quality Control Act for each day until the Owner or Operator or both submit an “initial” NOI for a new construction site in accordance with Part II.A.1., comply with the special conditions in Part III., prepare and submit a new Erosion, Sedimentation and Pollution Control Plan in accordance with Part IV., and pay all applicable fees in accordance with Part II.D.

### **SUMMARY OF CHANGES TO PART III. SPECIAL CONDITIONS, MANAGEMENT PRACTICES, PERMIT VIOLATIONS AND OTHER LIMITATIONS**

The permits prohibits the discharge of soaps or solvents used in vehicle and equipment washing and the discharge of wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials.

Sites that discharge 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 listed as “not supporting” its designated use(s) as shown on Georgia’s most current “305(b)/303(d) List Documents (Final)” at the time of NOI submittal must satisfy the requirements of Part III.C of the permit if the Impaired Stream Segment has been listed for the criteria violated, “Bio F” (Impaired Fish community) and/or “Bio M” (Impaired Macroinvertebrate Community), within Category 4a, 4b or 5, and the potential cause is either “NP” (nonpoint source) or “UR” (urban runoff).

If a Total Maximum Daily Load (TMDL) Implementation Plan for sediment was finalized at least six (6) months prior to the permittee’s submittal of the NOI, the Erosion, Sedimentation and Pollution Control Plan (Plan) must address any site-specific conditions or requirements included in the TMDL Implementation Plan that are applicable to the permittee’s discharge(s) to the Impaired Stream Segment within the timeframe specified in the TMDL Implementation Plan.

In order to ensure that the permittee’s discharge(s) do not cause or contribute to a violation of State water quality standards, the Plan must include at least four (4) best management practices (BMPs) listed in Part III.C.2. of the permits for those areas of the site which discharge into, or within one (1) linear mile upstream and within the same watershed as, the Impaired Stream Segment.

The requirements of Part III.C are not applicable to tertiary permittees with an Erosion, Sedimentation and Pollution Control Plan(s) for a typical individual lot(s),

if the total land disturbance within the construction site is less than five (5) acres and the total land disturbance within each individual lot is less than one (1) acre.

In addition, the initial sediment storage requirements and perimeter control BMPs must be installed and implemented prior to conducting any other construction activities (e.g., clearing, grubbing and grading) within the construction site or when applicable, within phased sub-parts or segments of the construction site. Failure to comply shall constitute a violation of the permits for each day on which construction activities occur. The design professional who prepared the Plan must inspect the initial sediment storage requirements and perimeter control BMPs in accordance with Part IV.A.5. within seven (7) days after installation.

### **SUMMARY OF CHANGES TO PART IV. EROSION, SEDIMENTATION AND POLLUTION CONTROL PLAN**

Exemptions from stream buffer requirements include construction activities along any ephemeral stream and where bulkheads and seawalls must be constructed to prevent the erosion of the shoreline on Lake Oconee and Lake Sinclair were added to the permits.

An exemption was added to the Stand Alone permit for the maintenance (excluding dredging), repair and/or upgrade of Soil and Water Conservation District watershed dams when under the technical supervision of the USDA Natural Resources Conservation Service.

Exemptions from stream buffer requirements were also added to the Stand Alone and Infrastructure permits for the following:

- (1) stream crossing for utility lines of any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in Code Section 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission or distribution of power, provided that: (a) the stream crossings occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream and cause a width of disturbance of not more than 50 feet within the buffer, (b) native riparian vegetation is re-established in any bare or disturbed areas within the buffer and (c) the entity is not a secondary permittee for a project located within a common development or sale under this permit;
- (2) right-of-way posts, guy-wires, anchors, survey markers and the replacement or maintenance of existing utility structures within the current

- right-of-way undertaken or financed in whole or in part by the Department of Transportation, the Georgia Highway Authority or the State Road and Tollway Authority or undertaken by any county or municipality, provided that: (a) the area of land disturbance does not exceed 100 square feet per structure, (b) the area of buffer vegetation to be cut (not grubbed) does not exceed 1,000 square feet per structure, and (c) native riparian vegetation is re-established in any bare or disturbed areas within the buffer; and
- (3) right-of-way posts, guy-wires, anchors, survey markers and the replacement or maintenance of existing utility structures within the current right-of-way undertaken by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in Code Section 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission or distribution of power, provided that: (a) the area of land disturbance does not exceed 100 square feet per structure, (b) the area of buffer vegetation to be cut (not grubbed) does not exceed 1,000 square feet per structure, and (c) native riparian vegetation is re-established in any bare or disturbed areas within the buffer.

For stand alone and common development projects, the primary permittees and tertiary permittees must retain the design professional who prepared the Erosion, Sedimentation and Pollution Control Plan (Plan), or an alternative design professional approved by EPD in writing, to inspect the installation of the initial sediment storage requirements and perimeter control BMPs within seven (7) days after installation. However, this requirement is not applicable to tertiary permittees with a Plan(s) for a typical individual lot(s), if the total land disturbance within the construction site is less than five (5) acres and the total land disturbance within each individual lot is less than one (1) acre.

For infrastructure construction projects, the primary permittee must retain the design professional who prepared the Erosion, Sedimentation and Pollution Control Plan (Plan), or an alternative design professional approved by EPD in writing, to inspect the installation of the initial sediment storage requirements and perimeter control BMPs within seven (7) days after installation. Alternatively, for linear infrastructure construction projects, the primary permittee must retain the design professional who prepared the Plan, or an alternative design professional approved by EPD in writing, to inspect the installation of the sediment storage requirements and perimeter control BMPs for the initial phased sub-part or segment of the linear infrastructure project and all sediment basins within the entire linear infrastructure project within seven (7) days after installation. The disturbed acreage of the initial phased sub-part or segment must be equal to or greater than 10% of the total estimated disturbed acreage for the linear infrastructure project but not less than one (1) acre.



When discharging from sediment basins and impoundments, all primary permittees and tertiary permittees are required to utilize outlet structures that withdraw water from the surface, unless infeasible. If outlet structures that withdraw water from the surface are not feasible, a written justification explaining this decision must be included in the Plan. This requirement is not applicable for construction activities where the NOI is submitted prior to January 1, 2014.

All permittees are required to comply with all applicable State and local regulations of waste disposal, sanitary sewer, septic and petroleum storage systems and to minimize the discharge of pollutants from dewatering trenches and excavations. Discharges from dewatering trenches and excavations are prohibited unless managed by appropriate controls.

A detailed description and chart or timeline of the intended sequence of major activities, an estimate of the runoff coefficient or peak discharge flow of the site prior to the construction activities and after construction activities are completed, and existing data describing the soil or the quality of any discharge from the site are not requirements for tertiary permittees with Plan(s) for a typical individual lot(s), if the total land disturbance within the construction site is less than five (5) acres and the total land disturbance within each individual lot is less than one (1) acre.

Primary permittees and tertiary permittees must measure rainfall once every 24 hours except any non-working Saturday, non-working Sunday and non-working Federal holiday until a Notice of Termination is submitted. Measurement of rainfall may be suspended if all areas of the site have undergone final stabilization or established a crop of annual vegetation and a seeding of target perennials appropriate for the region.

For areas of a site that have undergone final stabilization or established a crop of annual vegetation and a seeding of target perennials appropriate for the region, certified personnel (provided by the primary, secondary or tertiary permittees) must inspect these areas of the site at least once per month until a Notice of Termination (NOT) is submitted.

Sampling by the primary permittees and tertiary permittees is required for the following qualifying events:

- (1) The first rain event that reaches or exceeds 0.5 inch with a storm water discharge that allows for sampling during normal business hours after all clearing and grubbing operations have been completed, but prior to completion of mass grading operations.
- (2) The first rain event that reaches or exceeds 0.5 inch with a storm water discharge that occurs during normal business hours either 90 days after

the first sampling event or after all mass grading operations have been completed, but prior to submittal of a NOT.

Where sampling is required but not possible (or not required because there was no discharge), the primary permittees and tertiary permittees must include a written justification in the inspection report of why sampling was not performed. Providing this justification does not relieve the permittee of any subsequent sampling obligations.

All sampling reports must include the following information:

- (a) Rainfall amount, date, exact place and time of sampling or measurements;
- (b) Name(s) of the certified personnel who performed the sampling and measurements;
- (c) Date(s) analyses were performed;
- (d) Time(s) analyses were initiated;
- (e) Name(s) of the certified personnel who performed the analyses;
- (f) References and written procedures, when available, for the analytical techniques or methods used;
- (g) Results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results;
- (h) Results which exceed 1000 NTU shall be reported as "exceeds 1000 NTU;" and
- (i) Certification statement that sampling was conducted as per the Plan.

#### **SUMMARY OF CHANGES TO PART V. STANDARD PERMIT CONDITIONS**

An expired general permit continues in force and effect until a new general permit is issued, final and effective.

#### **SUMMARY OF CHANGES TO PART VI. TERMINATION OF COVERAGE**

For infrastructure construction projects, the permittee may also submit a Notice of Termination for each phase of the infrastructure project, not to exceed four (4) phases, that have undergone final stabilization and all storm water discharges associated with construction activity for that phase authorized by this permit have ceased. The disturbed acreage for each phase must be equal to or greater than 25% of the total estimated disturbed acreage for the infrastructure project. Except for the final phase, the disturbed acreage for the final phase must be equal to or greater than 10% of the total estimated disturbed acreage for the infrastructure project.

For common development construction projects, if the primary permittee decides not to proceed with all permitted construction activities, the primary permittee may submit a Notice of Termination, if and only if, (a) all construction activities have ceased for a minimum of 90 days; (b) final stabilization has been implemented by the primary permittee and by all secondary permittee(s); (c) all secondary permittees have submitted a NOT; d) the site is in compliance with this permit; and (e) all temporary BMPs have been removed .

The primary permittee must then notify the subsequent legal title holder of each remaining lot(s) that these lot owners or operators will become tertiary permittees. A tertiary permittee must prepare and submit a new Erosion, Sedimentation and Pollution Control Plan; however, if the total land disturbance within the tertiary permittee's construction site is less than five (5) acres and the total land disturbance within the individual lot(s) is less than one (1) acre, a tertiary permittee may submit a single Notice of Intent and a Plan(s) for a typical individual lot(s).

If the total land disturbance within the tertiary permittee's construction site is less than five (5) acres, tertiary permittees may also submit a Notice of Termination for each individual lot resulting in land disturbance of less than one (1) acre with a Plan for a typical individual lot within the tertiary permittee's construction site.

### **TERM OF PERMIT**

The proposed general permits will expire July 31, 2018. 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.

### **PUBLIC NOTICE AND COMMENT PERIOD**

This notice is being distributed by newspapers in order to satisfy requirements of the Georgia Administrative Procedures Act and the Georgia Water Quality Control Act. The proposed general permits may be reviewed on EPD's website at [www.gaepd.org/npdes](http://www.gaepd.org/npdes). The proposed permits are provided in pdf format. Hard copies of the proposed general permit will be mailed upon request by calling (404) 675-6240 or by writing the EPD at the address provided below.

Persons wishing to comment on the proposed NPDES General Permits No. GAR100001, No. GAR100002 and No. GAR100003 are invited to submit written comments to Ms. Jan Sammons, Acting Program Manager, at the address provided below:

Georgia Environmental Protection Division  
Watershed Protection Branch  
NonPoint Source Program  
4220 International Parkway, Suite 101  
Atlanta, Georgia 30354

All written comments received on or before August 30, 2013 will be considered in the formulation of the final determinations regarding this permit.

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 public notice of such permit issuance or denial. Such hearing will be held in accordance with the EPD Rules and Regulations for 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 or denial of the permit;
3. The reason or reasons why the petitioner takes issue with the action of the Director; and
4. All other matters asserted by the petitioner that are relevant to the action in question.