

Georgia Department of Natural Resources
Environmental Protection Division

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Judson H. Turner, Director
(404) 656-4713

April 25, 2013

MEMORANDUM

TO: Local Issuing Authorities and Other Interested Parties

FROM: Jim Ussery, P.E., Assistant Director
Environmental Protection Division

SUBJECT: Revised Enforcement Protocol – Notice of Intent / Notice of Termination

The intent of the attached guidance document dated May 2013 is to clarify the enforcement protocol applicable to the Notice of Intent (NOI) and Notice of Termination (NOT) requirements delineated in the *NPDES General Permits for Storm Water Discharges Associated with Construction Activity*.

During the recent economic downturn, the Environmental Protection Division (EPD) allowed for an extended time period after the deadline for owners to submit an *NOI – Re-Issuance Notification*. Effective May 1, 2013 EPD will no longer accept an *NOI – Re-Issuance Notification* for these construction sites. Please implement this enforcement protocol for all applicable construction sites immediately. If additional information is required, please contact Frank Carubba with the EPD Watershed Protection Branch at (404) 675-1634.

JU:fmc
Attachment

cc: Bert Langley
Linda MacGregor

**NOTICE OF INTENT / NOTICE OF TERMINATION
RECOMMENDED ENFORCEMENT PROTOCOL
*UPDATED MARCH 2014***

SCENARIO (1)

The current owner did not submit a valid Notice of Termination (NOT) prior to August 1, 2008 OR the current owner did not submit a Notice of Intent (NOI) – Re-Issuance Notification for continued coverage under the **2008 NPDES General Permits for Storm Water Discharges Associated with Construction Activity (August 1, 2008 – July 31, 2013)** prior to October 29, 2008:

During the recent financial crisis, EPD allowed for an extended time period after the October 29, 2008 deadline for owners to submit a **NOI – Re-Issuance Notification**; however, effective April 1, 2013 EPD will no longer accept a **NOI – Re-Issuance** Notification for these construction sites.

If the current owner does not intend to initiate any construction activities, EPD will then issue a Consent Order that requires the current owner to stabilize the entire construction site (i.e., 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater) but would not require the current owner to submit a Notice of Intent. This Consent Order would document that it would be in the best interests of the State that these construction sites are stabilized as soon as possible. These owners may include, but are not limited to, owners of **foreclosed** properties such as lending institutions, secured creditors and the FDIC. These owners will not initiate any construction activities, other than those necessary to obtain final stabilization.

However, if the current owner intends to initiate any construction activities, the owner must submit a **Notice of Intent – Initial Notification** for a **new** project at least 14 days prior to commencement of construction activities for coverage and compliance under the applicable 2008 NPDES General Permit. Failure to comply with this requirement shall constitute a violation of the Georgia Water Quality Control Act for each day until a **Notice of Intent – Initial Notification** is submitted in accordance with Part II.A.1., a **new** Erosion, Sedimentation and Pollution Control Plan is prepared and submitted in compliance with the special conditions in Part III and in accordance with Part IV, and **all applicable fees** are submitted in accordance with Part II.D. of the 2008 NPDES General Permit for a **new** project.

The 2013 re-issuance of the NPDES General Permits for Storm Water Discharges Associated with Construction Activity was effective on September 24, 2013. If the permittee's **NOI – Re-Issuance Notification** was not postmarked by **December 24, 2013**, the permittee must then submit a **Notice of Intent – Initial Notification**, prepare and submit a **new** Erosion, Sedimentation and Pollution Control Plan and pay **all applicable fees** for a **new** project.

**NOTICE OF INTENT / NOTICE OF TERMINATION
RECOMMENDED ENFORCEMENT PROTOCOL
*UPDATED MARCH 2014***

SCENARIO (2)

The current owners of lots within an existing Common Development without a designated Primary Permittee. If a Common Development does not have a designated Primary Permittee, Secondary Permittees are not authorized under the 2008 and subsequent NPDES General Permits. The following protocol is applicable to all Tertiary Permittees:

If the current owner does not intend to initiate any construction activities, EPD will then issue a Consent Order that requires the current owner to stabilize the lot(s) (i.e., 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater) but would not require the current owner to submit a Notice of Intent. This Consent Order would document that it would be in the best interests of the State that these lots are stabilized as soon as possible. These owners may include, but are not limited to, owners of **foreclosed** properties such as lending institutions, secured creditors and the FDIC. These owners will not initiate any construction activities, other than those necessary to obtain final stabilization.

However, if the current owner intends to initiate any construction activities, the owner must submit a **Notice of Intent – Initial Notification** for a **new** project as a **Tertiary Permittee** at least 14 days prior to commencement of construction activities for coverage and compliance under the applicable 2008 and subsequent NPDES General Permits. Failure to comply with this requirement shall constitute a violation of the Georgia Water Quality Control Act for each day until a **Notice of Intent – Initial Notification** for a **new** project is submitted in accordance with Part II.A.1. and a **new** Erosion, Sedimentation and Pollution Control Plan is prepared and submitted in compliance with the special conditions in Part III and in accordance with Part IV with Part II.D. of the 2008 and subsequent NPDES General Permits.

The 2013 re-issuance of the NPDES General Permits for Storm Water Discharges Associated with Construction Activity was effective on September 24, 2013.

The Primary Permittee is solely responsible for the payment of NPDES General Permit fees for all **planned** land disturbing activities, including all land disturbing activities within a Common Development planned by Secondary Permittees and/or Tertiary Permittees. **Only the Primary Permittee is responsible for paying the NPDES General Permit fees.**

**NOTICE OF INTENT / NOTICE OF TERMINATION
RECOMMENDED ENFORCEMENT PROTOCOL
*UPDATED MARCH 2014***

SCENARIO (3)

Current owner submitted a Notice of Intent (NOI) – Re-Issuance Notification for continued coverage under the 2008 NPDES General Permits for Storm Water Discharges Associated with Construction Activity (August 1, 2008 – July 31, 2013):

If the permittee decides not to proceed with all permitted construction activities, the permittee may submit a **Notice of Termination (NOT)** if the construction site has undergone final stabilization, all storm water discharges associated with construction activities have ceased, the site is in compliance with this permit and all temporary best management practices have been removed.

If the construction site has undergone final stabilization, all storm water discharges associated with construction activities have ceased, the site is in compliance with this permit and all temporary best management practices have been removed but the permittee has not submitted a **Notice of Termination (NOT)**, the construction site is still subject to all of the requirements of the applicable 2008 and subsequent NPDES General Permits (i.e., inspections, water quality sampling, reporting and retention of records).

The 2013 re-issuance of the NPDES General Permits for Storm Water Discharges Associated with Construction Activity was effective on September 24, 2013.

If the permittee has not submitted a valid **Notice of Termination (NOT)** and the construction site is not in compliance with this permit (e.g., inspections, maintenance of vegetation and erosion and sediment control measures, water quality sampling, reporting and retention of records), EPD will then issue a Consent Order with the appropriate penalties.