

## **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**

**June 9, 2008**

#### **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 2008 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 2008 within sixty (60) 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 are scheduled to expire July 31, 2008.

### **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 be valid for a term of five (5) years. 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 2008 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 2008 and subsequent "305(b)/303(d) List Documents (Final)." Georgia's 305(b)/303(d) List Documents may be reviewed on EPD's website. The 305(b)/303(d) List Documents is typically published every two (2) years. All permittees are responsible for reviewing each new version of the 305(b)/303(d) List Documents during the term of the permit in order to check for new stream segment listings.

Existing construction sites must submit the new NOI – Version 2008 within sixty

(60) 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 days prior to beginning construction activities. NOI forms must be submitted by return receipt certified mail or a similar service. Permitted construction sites must now retain proof of submittal of the completed NOI form.

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**

Coverage under the permits is not required for discharges of storm water associated with minor land disturbing activities (such as home gardens and individual home landscaping, repairs, maintenance work, fences and other related activities which result in minor soil erosion) if these activities are conducted outside the 25 or 50 foot buffer of all State waters that require a buffer on individual residential lots sold to homeowners where all planned construction activities have been completed and have undergone final stabilization.

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

In the event a lender or other secured creditor who acquires legal title to a construction site (e.g., foreclosure), such party must, as the new owner, file a new NOI in accordance with Part II of the permits by the earlier to occur of either seven (7) days before beginning work at the construction site or thirty (30) days from acquiring legal title to the construction site.

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

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 2008 and

subsequent “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.

Part III.C will not apply to construction activities if the NOI is submitted within 90 days after the effective date of the Stand Alone Permit and the Common Development Permit. Part III.C requirements will not be applicable for construction activities if the NOI for the Infrastructure Permit is submitted prior to January 1, 2009.

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

Exemptions from stream buffer requirements were added to the Infrastructure Permit for public drinking water system reservoirs, fences and stream crossings for aerial utility lines. In order to be exempt, aerial utility lines must have a new utility line right-of-way width that does not exceed 200 linear feet, be routed and constructed so as to minimize the number of stream crossings and disturbances to the buffer, only remove trees and tree debris from within the buffer causing no more than minor soil erosion, and include the re-establishment of any bare or disturbed areas within the buffer with native riparian vegetation.

Exemptions from stream buffer requirements were added to the Stand Alone and the Common Development Permits for public drinking water system reservoirs, buffer crossings for fences and stream crossings for aerial utility lines. In order to be exempt, aerial utility lines must have a new utility line right-of-way width that does not exceed 100 linear feet, be routed and constructed so as to minimize the number of stream crossings and disturbances to the buffer, only remove trees and tree debris from within the buffer causing no more than minor soil erosion,

and include the re-establishment of any bare or disturbed areas within the buffer with native riparian vegetation.

For projects which where there is no certified Local Issuing Authority regulating that construction activity, a copy of the Plan, in addition to the one submitted to the Watershed Protection Branch, must also be submitted to the appropriate EPD District Office. The EPD Watershed Protection Branch will review the Plan for deficiencies using the applicable Erosion, Sedimentation and Pollution Control Plan Checklist.

A Plan developed for coverage under any of the three Permits shall include the applicable Erosion, Sedimentation and Pollution Control Plan Checklist established by the State Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted.

The Plan shall limit the amount of disturbed area to no greater than 50 acres at any one time without prior written authorization from the appropriate EPD District Office. EPD will approve or disapprove such requests within 35 days of receipt. Failure of EPD to act within 35 days shall be considered an approval of such requests. If the EPD District Office approves a request to disturb 50 acres or more at any one time, the Plan must include at least four (4) of the best management practices listed in Part III.C.2 of this permit. In the Common Development Permit, each individual permittee (i.e., primary, secondary or tertiary) can disturb no more than 50 acres at any one time, and no more than 50 contiguous acres total at any one time, without prior authorization.

The use of alternative BMPs are allowed in the Plan as long as the performance of the BMPs has been documented to be equivalent or superior to conventional BMPs as certified by a Design Professional.

In the Common Development Permit, utility companies that are secondary permittees shall utilize certified personnel to inspect the following each day any type any construction activity has taken place at the construction site:

- a. areas of the construction site disturbed by the utility companies and utility contractors that have not undergone final stabilization;
- b. areas used by the utility companies and utility contractors for storage of materials that are exposed to precipitation that have not undergone final stabilization; and
- c. structural control measures.

The primary permittee shall retain the following records at the construction site or the records shall be readily available at a designated alternative location from commencement of construction until such time as a NOT is submitted in accordance with Part VI:

- a. A copy of all Notices of Intent submitted to EPD;
- b. A copy of the Erosion, Sedimentation and Pollution Control Plan required by the permit;
- c. The design professional's report of the results of the inspection conducted in accordance with Part IV.A.5. of the permit;
- d. A copy of all monitoring information, results and reports required by the permit;
- e. A copy of all inspection reports generated in accordance with Part IV.D.4.a. of the permit;
- f. A copy of all violation summaries and violation summary reports generated in accordance with Part III.D.2. of the permit; and
- g. Daily rainfall information collected in accordance with Part IV.D.4.a. of the permit.

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

There were no substantive changes to this section.

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

In the Common Development Permit, the Primary Permittee may submit a Notice of Termination only after all construction activities have ceased for a minimum of 90 days, final stabilization has been implemented by the primary permittee and by all secondary permittee(s), all secondary permittee(s) have submitted a NOT signed in accordance with Part V.G. of the permit (excluding utility companies and/or utility contractors working under a blanket NOI), and the site is in compliance with the permit.

After filing of the Notice of Termination, the primary permittee shall notify by written correspondence to the subsequent legal title holder of each remaining lot(s) that these lot Owners or Operators will become tertiary permittees for purposed of this permit and these tertiary permittees will be responsible for off-site best management practices, as applicable.

If a person purchases one of more of the remaining undeveloped lots within a common development for the purpose of engaging in construction activity in which a Notice of Termination has been filed by the primary permittee and all secondary permittee(s), excluding utility companies and/or utility contractors

working under a Blanket NOI, then the person shall file a Notice of Intent as a tertiary permittee (as set forth in Part II.B.3.) The tertiary permittee shall be required to create and implement a Erosion, Sedimentation and Pollution Control Plan (Plan) to control storm water discharges from its individual lot(s). This Plan, created and implemented by certified personnel, shall include all best management practices in the primary permittee's Erosion, Sedimentation and Pollution Control Plan, as applicable, to control storm water discharges from the tertiary permittee's lots and shall include any additional best management practices as required in the permit. The tertiary permittee shall be responsible for the installation and maintenance of these best management practices in accordance with the permit and any off-site best management practices, as applicable. EPD may notify the tertiary permittee at any time that the Plan does not meet one or more of the minimum requirements for the permit. The tertiary permittee must correct and implement any required changes to the Plan in accordance with Part IV.B.3. of the permit within the time frame established by EPD.

### **TERM OF PERMIT**

The proposed general permits will be valid for a 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.

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

This notice is being distributed by newspaper 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 Microsoft Word 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 Mr. Lawrence W. Hedges, 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 July 14, 2008 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.