

STATE OF GEORGIA
DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION

FACT SHEET

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
GENERAL PERMIT NUMBERS GAR100001, GAR100002, AND GAR100003
FOR STORM WATER DISCHARGES
ASSOCIATED WITH CONSTRUCTION ACTIVITY

June 26, 2003

The 1972 amendments to the Federal Water Pollution Control Act (FWPCA, also referred to as the Clean Water Act or CWA) prohibit the discharge of any pollutant to waters of the United States from a point source unless the discharge is authorized by a National Pollutant Discharge Elimination System (NPDES) permit. Efforts to improve water quality under the NPDES program have focused traditionally on reducing pollutants in discharges from industrial and municipal wastewater treatment plants. Prior to 1990, efforts to address storm water discharges under the NPDES program have generally been limited to a few industrial categories with storm water effluent limitations.

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 (USEPA) to establish phased NPDES requirements for storm water discharges. To implement these requirements, USEPA published the Phase I 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 April 2, 1992 (57 FR 11394).

In conjunction with the federal regulations, 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 NPDES permits. In January 1991, USEPA granted authority to EPD to issue general NPDES permits.

In September 1992, EPD issued the first of five different general NPDES permits for construction activities. Each of these permits was administratively appealed and did not become effective.

The Phase I general NPDES permit developed during the course of settlement negotiations with the participating parties became effective on August 1, 2000, and regulated construction activity disturbing between five and 250 acres. This permit is set to expire on July 31, 2003.

The USEPA established the Phase II storm water regulations on December 8, 1999, in order to regulate construction sites that disturb between 1 and 5 acres. In conjunction with the federal regulations, the Georgia Environmental Protection Division (EPD) amended the Georgia Rules and Regulations for Water Quality Control (Rules) in April 2001 to incorporate all Phase II regulations.

EPD proposes to issue three NPDES general permits that will authorize the discharge of storm water from three distinct types of construction activity. These permits are expected to become effective on or about August 1, 2003, and will regulate all construction activity disturbing 1 or more acres. The first permit regulates stand-alone construction activity (GAR100001); the second regulates infrastructure (i.e., linear) construction sites (GAR100002); the third regulates common development construction (GAR100003). Each permit will contain significant common language and requirements as well as individual differences specific to each type of activity. In preparing the proposed permits, the Director of the EPD considered the goals, objectives, and public policies embodied in the Georgia Water Quality Control Act, O.C.G.A. §§ 12-5-20 *et seq.*, and the Erosion and Sedimentation Act, O.C.G.A. §§ 12-7-1 *et seq.*, the authority contained therein to promulgate the proposed permits, the methodologies available to insure compliance with the provisions of the proposed permits, and the important public policy of reducing sedimentation in the waters of the State from construction activities.

The proposed permits are being issued pursuant to the authority contained in O.C.G.A. §§ 12-5-27 and 12-5-30. As required, the permits incorporate the applicable provisions of O.C.G.A. §§ 12-7-6. The proposed permits include the requirement that regulated activities perform turbidity

sampling on all receiving water(s), or all storm water outfalls, or a combination of receiving water(s) and outfall(s). The numbers applicable to the alternative outfall monitoring were established as estimated surrogates for the otherwise applicable in-stream turbidity levels using factors applicable on average basis statewide.

The proposed permits define construction activities as those disturbing a land area of 1 acre or greater, or tracts of less than 1 acre that are part of a larger overall development with a combined disturbance of 1 acre or greater (i.e., common plan of development or sale). EPD can require an applicant to submit an 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 authorizes 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 major provisions of the proposed permits are: notification of the facility/site's intent to comply with the permit by submitting a Notice of Intent (NOI); the preparation of an Erosion, Sedimentation and Pollution Control Plan (Plan); and the implementation of this Plan. Coverage under the proposed permits is achieved by submitting a NOI to EPD by the permittee(s). A permittee structure for common developments remains similar to the previous permit. A primary permittee is the facility/site owner or operator. A secondary permittee is a home builder, a utility contractor, or similar entity conducting land disturbance activities within a common development. Both stand-alone and infrastructure construction activities have primary permittees only. NOIs are required to be submitted to EPD by all permittees at least fourteen (14) days prior to the commencement of the construction activity, with certain exceptions specified in the permits. The NOI will include basic information about the facility/site including the specific waters of Georgia where the discharges will occur, except in the case of Blanket NOIs for utility companies and utility contractors that are secondary permittees. Specific forms will be available from EPD and must be used for the NOI. NOIs are required to be submitted to EPD by return receipt certified mail or similar service. Coverage by the general NPDES permit is provided without acknowledgment from EPD. When final stabilization of the facility/site is achieved, the permittee must notify EPD they are terminating coverage under the general NPDES permit by submitting a Notice of Termination (NOT).

The Plan will detail those best management practices to be used at the facility/site to control erosion, sedimentation and other pollutants. The primary permittee is responsible for developing and implementing the Plan for the entire infrastructure, stand-alone, or common development construction site. The Plan must be prepared, on the behalf of the primary permittee, by an individual licensed by the State of Georgia in the field of engineering, architecture, landscape architecture, forestry, geology or land surveying; or by a person that is a Certified Professional in Erosion and Sediment Control (CPESC) with a current certification by the International Erosion Control Association.

The Plan is also required to establish procedures to collect and analyze samples from the receiving stream(s) or the storm water outfall(s) based on the methodologies set forth in the proposed permits. Permittees are required to perform sampling of turbidity levels as a means of determining whether an additional violation of the permit terms and conditions has occurred in the event best management practices (BMPs) were not properly designed, installed or maintained. Sampling shall be performed during qualifying rain events following distinct points in the construction process as outlined in the permits.

As a result of work done by the Erosion and Sediment Control Overview Council and the stakeholders on the General Permit Advisory Committee during the last two years, House Bill 285 was passed by the Georgia General Assembly and signed by the Governor in 2003. This bill establishes the development of a mandatory education and training program for persons involved in the land disturbance process, and the establishment of an NPDES permit fee system to offset the costs of the state-wide implementation of the NPDES general permits for construction activities. The proposed permits include these provisions, as well as reduced monitoring requirements as compared to the current general permit.

Permittees must maintain records of their activities relative to compliance with the terms and conditions of the proposed general NPDES permits. These records include copies of the NOI, Plan, site inspections, sampling results and NOT. For new facilities/sites disturbing more than 50 acres, the Plan must be submitted to EPD with the NOI. For new facilities/sites disturbing

between one and 50 acres and where there is no local issuing authority pursuant to the Georgia Erosion and Sedimentation Act, the Plan must be submitted to EPD with the NOI.

Public notice of the proposed general NPDES permits is being distributed by newspaper and mailing to all those persons who have requested notice of NPDES permits in order to satisfy requirements of the Georgia Administrative Procedures Act and the Georgia Water Quality Control Act. The proposed permits are available on EPD's website at www.dnr.state.ga.us/dnr/environ. Copies of the proposed general NPDES permits will be mailed upon request by calling (404) 675-6240 or by writing the EPD at the address below.

Persons wishing to comment on the proposed general NPDES permits are invited to submit same in writing to Mr. Lawrence W. Hedges, Program Manager, NonPoint Source Program, at the address below, no later than 4:30 P.M. on July 29, 2003. All comments received prior to or on that date will be considered in the formulation of final determinations regarding these permits.

A public hearing has been scheduled for 10:00 A.M. on July 29, 2003 at the Tradeport Training Facility located at 4244 International Parkway, Suite 116, Atlanta, Georgia. Please refer to EPD Public Notice No. 2003-12 for hearing details. Additional information regarding public hearing procedures is available by writing the Environmental Protection Division at:

Georgia Environmental Protection Division
4220 International Parkway, Suite 101
Atlanta, Georgia 30354

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 notice of such permit issuance or denial. Such hearing will be held in accordance with the EPD 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 petitioner alleges to be aggrieved or adversely affected by the issuance or denial of a 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 which are relevant to the action in question.