

**GEORGIA ENVIRONMENTAL PROTECTION DIVISION**

**RESPONSE TO COMMENTS**

**NPDES GENERAL PERMITS NO. GAR100001, NO. GAR100002 AND NO. GAR100003 FOR  
STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY**

**SEPTEMBER 23, 2013**

<b>NPDES GENERAL PERMIT NO.</b>	<b>PERMIT REFERENCE</b>	<b>COMMENTS</b>	<b>RESPONSES</b>
GAR100001 GAR100002 GAR100003	Part I.B. Definitions "Design Professional"	<p>The references to person that are Certified Professional in Erosion and Sediment Control (CPESC) in the revised definition of Design Professional are vague and confusing. The definition should be clarified to ensure that persons with a current CPESC certification will continue to be Design Professionals.</p> <p>Will EPD provide copies of the applicable laws governing professional licensure in Georgia?</p> <p>Which agency is responsible for verifying that persons that are CPESC are in compliance with the applicable laws governing professional licensure in Georgia?</p>	<p>The language contained in the definitions related to Design Professional merely states existing law in Georgia. EPD's interpretation regarding existing law has not changed, and EPD, GSWCC, local Soil and Water Conservation Districts and Local Issuing Authorities will continue to review Erosion and Sediment Control documents as they have in the past. In response to comments received on this issue, EPD did revise the proposed permits by breaking the lengthy sentence into two sentences in order to make the definition clearer.</p> <p>EPD, GSWCC, local Soil and Water Conservation Districts and Local Issuing Authorities will continue to process plans drafted by persons that are CPESC with a current certification by EnviroCert International, Inc. and issues related to professional licensure should be referred to the P.E. Board or the Attorney General's office.</p>
GAR100001 GAR100002 GAR100003	Part I.B. Definitions "Erosion, Sedimentation and Pollution Control Plan" or "Plan"	No definition for Erosion, Sedimentation and Pollution Control Plan (Plan) is included in the permits. Due to the nature of these permits (i.e., construction), it is strongly recommended that the definition of a Plan be added to the permits.	In response to comments received on this issue, the following definition of an Erosion, Sedimentation and Pollution Control Plan (Plan) has been added: "Erosion, Sedimentation and Pollution Control Plan" or "Plan" means a plan for the control of soil erosion, sediment and pollution resulting from a construction activity.
GAR100001 GAR100002 GAR100003	Part I.B. Definitions "Final Stabilization"	<p>The proposed definitions of Final Stabilization are arbitrary and imprudent and create an unnecessary conflict between the permits and the "Manual for Erosion and Sediment Control in Georgia." This revision would establish an arbitrary limitation on the ability of permittees to file a Notice of Intent.</p> <p>The proposed definitions of Final Stabilization exclude a "crop of annual vegetation and a seeding of target crop of perennials" and prohibit permittees from submitting Notices of Intent until permanent vegetation has been established (possibly, excluding winter and summer months).</p>	The definitions of Final Stabilization were developed during collaborative discussion with the stakeholders and should address problems that have been observed statewide where permittees have submitted a NOT but the "seeding of a target crop of perennials" has not been permanently established. EPD continues to believe that the language in the proposed permits appropriately address this issue.

<p>GAR100001 GAR100002 GAR100003</p>	<p>Part I.B. Definitions "Final Stabilization"</p>	<p>The definitions of Final Stabilization in the permits are not consistent with the definition of Final Stabilization in the "Manual for Erosion and Sedimentation Control in Georgia" (Manual) published by the GSWCC. The permits and the Manual should be consistent.</p> <p>Identify all acceptable final stabilization products and BMPs.</p> <p>Permanent mulch is an effective use of materials generated and recycled from an infrastructure project and should not be deleted from the definition for Final Stabilization in NPDES General Permit No. GAR100002.</p>	<p>It would be impractical to prescribe specific products and BMPs applicable to all construction sites.</p> <p>Permanent mulch may be used as a permanent stabilization measure if approved as an alternative BMP. As delineated in the permits, <i>"the use of alternative Best Management Practices (BMPs) whose performance has been documented to be equivalent or superior to conventional BMPs as certified by a Design Professional may be allowed unless disapproved by EPD or the State Soil and Water Conservation Commission."</i></p> <p>No changes to the proposed permits were made as a result of these comments.</p>
<p>GAR100001 GAR100002</p>	<p>Part I.B. Definitions "Roadway Projects"</p>	<p>Identify sidewalks as <i>"accessory components to a roadway project."</i></p> <p>Do not identify stormwater drainage ditches and structures, guardrails, lighting, signage, cameras and fences as <i>"accessory components to a roadway project"</i> necessary for the structural integrity of the roadway and applicable safety requirements.</p>	<p>Due to the varied nature of construction projects, the definition of roadway projects was added to the permits during the stakeholder process. The definition of roadway projects was developed during extensive discussions with the stakeholders and was negotiated accordingly.</p> <p>EPD continues to believe that the language in the proposed permits appropriately address this issue. No changes to the proposed permits were made as a result of these comments.</p>
<p>GAR100001 GAR100002 GAR100003</p>	<p>Part I.B. Definitions "Sub-Contractor"</p>	<p>Requiring sub-contractors to complete a certification course approved by the GSWCC (under the provisions of O.C.G.A § 12-7-19) is unnecessary and unlawful.</p> <p>This requirement would add a redundant, unlawful and unenforceable burden on sub-contractors and permittees.</p>	<p>As delineated in the Georgia Erosion and Sedimentation Act (GESA), any persons or entities involved in land-disturbing activities and operating in a sub-contractor capacity for State general permittees must complete the appropriate certification course approved by the GSWCC (O.C.G.A. § 12-7-19).</p> <p>EPD continues to believe that the language in the proposed permits appropriately address this issue. No changes to the proposed permits were made as a result of these comments.</p>
<p>GAR100002</p>	<p>Part I.C. Eligibility 1. Construction Activities</p>	<p>The eligibility requirements for infrastructure projects from the 2008 NPDES General Permit No. GAR100002 should be maintained. References to "contiguous areas of land disturbance" should be deleted.</p> <p>The requirements for infrastructure maintenance project from the 2008 NPDES General Permit No. GAR100002 should be maintained – such as, projects that result in land disturbance of less than five (5) acres and projects that have duration of less than 90 calendar days.</p> <p>Remove or extend the temporal limits (i.e., 120 calendar day).</p>	<p>Due to the nature of infrastructure maintenance projects, the revision, <i>"projects shall have a duration of less than 120 calendar days,"</i> provides a reasonable time frame for completing infrastructure maintenance projects. It is important to note, as delineated in this permit, <i>"final stabilization must be implemented at the end"</i> of all infrastructure maintenance projects. The revised requirements for infrastructure maintenance projects have been determined to be the most practical for ensuring the protection of water quality.</p> <p>EPD continues to believe that the language in the proposed permits appropriately address this issue. No changes to the proposed permits were made as a result of these comments.</p>

<p>GAR100001 GAR100002 GAR100003</p>	<p>Part II.A. NOI Requirements Notification Deadlines</p>	<p>Timeline for re-submittals of Notices of Intent should remain at sixty (60) days and not extended to ninety (90) days.</p>	<p>The permit language requiring permittees to submit a <u>re-issuance</u> NOI for existing construction sites “no later than ninety (90) days after the effective date of the permits” was developed during collaborative discussions with the stakeholders and provides for a reasonable transition period. Failure to comply with this requirement constitutes a violation of the Georgia Clean Water Control Act for each day until an <u>initial</u> NOI and a <u>new</u> Plan are prepared and submitted and all applicable fees are paid for a <u>new</u> construction site.</p> <p>EPD continues to believe that the language in the proposed permits appropriately address this issue. No changes to the proposed permits were made as a result of these comments.</p>
<p>GAR100001 GAR100002 GAR100003</p>	<p>Part II.B. NOI Contents Certification Statements</p>	<p>Certification statements should not be omitted.</p>	<p>Certification statements have not been deleted from required contents of the Notices of Intent. The NOI for primary and tertiary permittees must include the following <u>revised</u> 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.”</p> <p>No changes to the proposed permits were made as a result of these comments.</p>
<p>GAR100001 GAR100002 GAR100003</p>	<p>Part III.C. Discharges into Biota Impaired Streams Segments</p>	<p>Delete both Part III.C.2.h. and Part III.C.2.u. from NPDES General Permit No. GAR100002 because linear infrastructure project (excluding roadways) do not include significant areas of impervious surfaces.</p> <p>The list of BMPs delineated in Part III.C. have little or no impact on water quality during construction activities.</p> <p>Include the use of “surface draining devices” to drain temporary sediment basins and retrofitted storm water management basins to the list of BMPs delineated in Part III.C.</p> <p>The requirements of Part III.C. should be applicable to <u>all</u> tertiary permittees.</p> <p>Whether or not a TMDL Implementation Plan has been finalized, permits must contain effluent limits consistent with the assumptions and requirements that all TMDL Implementation Plans have been prepared by the State and approved by EPA.</p>	<p>The list of BMPs delineated in Part III.C. was developed during collaborative discussions with the stakeholders and was negotiated accordingly. Due to the varied nature of construction projects, this list allows design professionals to select the most appropriate BMPs for each construction site. EPD continues to believe that the language in the proposed permits appropriately address this issue.</p> <p>The requirements of Part III.C. are not applicable to “tertiary permittees with a Plan(s) for typical individual lot(s), if the total land disturbance within the construction site is less than five (5) acres and total land disturbance for each individual lot is less than one (1) acre.”</p> <p>During extensive discussion with the stakeholders, it was determined that the requirements of Part III.C. for both primary and tertiary permittees will ensure the protection of biota impaired streams. EPD continues to believe that the language in the proposed permits appropriately address this issue.</p> <p>Compliance with the permits should lead to sediment loadings from construction sites at or below applicable TMDL targets.</p> <p>No changes to the proposed permits were made as a result of these comments.</p>
<p>GAR100001 GAR100002 GAR100003</p>	<p>Part III.D.1. Management Practices Permit Violations</p>	<p>Compliance with the permit limits for turbidity is problematic.</p>	<p>As delineated in Part III.D.1. of the permits, “proper design, installation and maintenance of best management practices shall constitute a complete defense to any action by the Director or any other allegation of noncompliance” resulting from sediment deposition into State waters and/or turbidity values exceeding the permit limits.</p>

			EPD continues to believe that the language in the proposed permits appropriately address this issue. No changes to the proposed permits were made as a result of these comments.
GAR100001 GAR100002 GAR100003	Part III.D.2. Management Practices Permit Violations	Delete the permit requirement that the <i>“initial sediment storage requirements and perimeter control BMPs must be installed and implemented prior to conducting any other construction activities.”</i> This permit requirement is unnecessary and confusing.	This permit requirement was revised during rigorous discussions with the stakeholders, negotiated accordingly and determined to be the most appropriate for construction projects.  EPD continues to believe that the language in the proposed permits appropriately address this issue. No changes to the proposed permits were made as a result of these comments.
GAR100001	Part IV. Buffers	Delete the exemptions in Part IV.(i) (3) – (7) and Part IV.(ii) (3) – (7) from NPDES General Permit No. GAR100001. These buffer exemptions are applicable only to linear infrastructure projects.	The buffer exemptions delineated in Part IV. of the permits were developed during intensive discussions with the stakeholders and are consistent with GESA (O.C.G.A. § 12-7-6(b)). EPD continues to believe that the language in the proposed permit appropriately addresses this issue. No changes to the proposed permit were made as a result of these comments.
GAR100002	Part IV.A.5. Design Professional Inspection	Delete the requirement that an alternative design professional may inspect the initial sediment storage requirements and perimeter control BMPs if “approved by EPD in writing.”  For linear infrastructure projects, the design professional must inspect the sediment storage requirements and perimeter control BMPs when the disturbed acreage is equal to or greater than 50% of the total estimated disturbed acreage.  The revised requirements are unacceptable. For linear infrastructure projects, the design professional should inspect the sediment storage requirements and perimeter control BMPs when the disturbed acreage is equal to only 3% of the total estimated disturbed acreage.  The revised requirements are confusing. The design professional should inspect the construction site after the completion of clearing and grubbing or within 15 days of initial land disturbance and after all perimeter BMPs have been installed or within 30 days of initial land disturbance, whichever occurs first.  Remove the 10% limit on the initial “phased sub-part or segment” of a linear infrastructure project. Delete references to the “phase sub-part” of a linear infrastructure project.	This permit requirement was revised during rigorous discussions with the stakeholders, negotiated accordingly and determined to be the most practical for linear infrastructure projects. EPD continues to believe that the language in the proposed permit appropriately addresses this issue.  As a result of comments received on this issue, the requirement for linear infrastructure projects has been further clarified in NPDES General Permit No. GAR100002:  <i>“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 (a) the sediment storage requirements and perimeter control BMPs for the <b>“initial segment”</b> of the linear infrastructure project and (b) all sediment basins within the entire linear infrastructure project within seven (7) days after installation. <b>For the purposes of the specific requirements in Part IV.A.5., the disturbed acreage of the “initial segment” of a linear infrastructure project 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.</b></i> ”
GAR100001 GAR100002 GAR100003	Part IV.D.3.a.(3) Sediment Basins	The permits already have turbidity requirements; therefore, there are no reasons why a permittee should be required to utilize outlet structures that withdraw water from the surface of a sediment basin.	When discharging from sediment basins and impoundments, all primary and tertiary permittees will be required to utilize outlet structures that withdraw water from the surface, unless infeasible. This permit requirement is consistent with the policies of the United States Environmental Protection Agency (EPA) – (40 CFR Part

		<p>In general, there is less than 10% difference in sediment removal efficiency between conventional sediment basins and those that withdraw from the water surface. However, construction and maintenance cost are significantly higher for outlet structures that withdraw water from the surface.</p> <p>This requirement is not warranted by the Clean Water Act and should be deleted from the permits.</p> <p>This requirement should be effective on the issuance date of the new permits.</p> <p>Sediment basins should provide 3600 cubic feet of storage per acre drained or provide storage for the calculated runoff from a 2-year, 24-hour storm.</p>	<p>450.21(f)).</p> <p>This requirement is not for applicable for construction activities where the NOI is submitted prior to January 1, 2014. This effective date was developed during collaborative discussions with the stakeholders and provides for a reasonable transition for construction projects.</p> <p>The permit requirement that sediment basins must provide 1800 cubic feet of storage per acre drained is consistent with the Manual.</p> <p>EPD continues to believe that the language in the proposed permits appropriately address this issue. No changes to the proposed permits were made as a result of these comments.</p>
<p>GAR100001 GAR100002 GAR100003</p>	<p>Part IV.D.3.b.(3) Green Infrastructure</p>	<p>The installation and use of Green Infrastructure are unwarranted costly requirements and difficult to manage after coverage under these permits has been terminated. It is requested that EPD remove Part IV.D.3.b.(3) from the permits.</p>	<p>The language <u>recommending</u> the “<i>installation and use of Green Infrastructure approaches and practices</i>” is consistent with the most recent objectives of EPA. EPD continues to believe that the language in the proposed permits appropriately address this issue. No changes to the proposed permits were made as a result of these comments.</p>
<p>GAR100001 GAR100002 GAR100003</p>	<p>Part IV.D.3.c.(6) Dewatering</p>	<p>Appropriate controls for dewatering trenches and excavations should be defined.</p>	<p>This permit requirement is consistent with the policies of the United States Environmental Protection Agency (EPA) – (40 CFR Part 450.21(c)). It would be impractical to prescribe specific BMPs applicable to all construction sites. EPD continues to believe that the language in the proposed permits appropriately address this issue. No changes to the proposed permits were made as a result of these comments.</p>
<p>GAR100001 GAR100002 GAR100003</p>	<p>Part IV.D.4. Inspections</p>	<p>The requirements for the measurement of rainfall should not be revised. Permittees should be required to measure rainfall every 24 hours until a NOT is submitted.</p> <p>It is unreasonable to require permittees to measure rainfall on “non-working business days.”</p>	<p>This permit requirement was developed during extensive discussions with stakeholders and provides a reasonable time frame for measuring rainfall - primary and tertiary permittees must “<i>measure rainfall once every 24 hours except any non-working Saturday, non-working Sunday and non-working Federal holiday until a NOT is submitted.</i>”</p> <p>It is reasonable for permittees to measure rainfall on “non-working business days.” EPD continues to believe that the language in the proposed permits appropriately address this issue. No changes to the proposed permits were made as a result of these comments.</p>
<p>GAR100001 GAR100002 GAR100003</p>	<p>Part IV.D.6. Sampling Requirements</p>	<p>The requirements of Part IV.D.6. should be applicable to <u>all</u> tertiary permittees.</p> <p>The sampling requirements of Part IV.D.6 should be revised and the protocols and equipment use for the analysis of turbidity need to be reassessed.</p> <p>Delete the requirements that a written justification must be included in the inspection report when sampling was not conducted following a qualifying</p>	<p>The sampling requirements were revised during extensive discussions with the stakeholders and were negotiated accordingly. These revisions have added clarity to the sampling requirements in the permits and have strengthened the overall provisions of the permits.</p> <p>As outlined in NPDES General Permit No. GAR100003, the sampling requirements are not applicable to “<i>tertiary permittees with a Plan(s) for typical individual lot(s), if</i></p>

		event.	<p><i>the total land disturbance within the construction site is less than five (5) acres and total land disturbance for each individual lot is less than one (1) acre.</i>” In general, this revision is more restrictive than the existing permit, requiring sampling by the applicable tertiary permittees in addition to any sampling previously conducted by the primary permittee.</p> <p>EPD continues to believe that the language in the proposed permits appropriately address this issue. No changes to the proposed permits were made as a result of these comments.</p>
GAR100001 GAR100002 GAR100003	Part V.A.2 Duty to Comply	Delete Part V.A.2, <i>“Each permittee must document in their records any and all known violations ... A summary of these violations must be submitted to EPD by the permittee ...”</i>	This permit requirement has not been amended from the previous permit issued in 2008. Self-reporting violations is a needed element in this type of permit. EPD continues to believe that the language in the proposed permits appropriately address this issue. No changes to the proposed permits were made as a result of these comments.
GAR100002	Part VI.A. NOT Eligibility	<p>Delete the NOT requirement that the “site is in compliance with the permit.” Once all stormwater discharges associated with construction activities have ceased, EPD has no authority to regulate this site.</p> <p>Delete the NOT requirement that all temporary BMPs should be removed – temporary BMPs may serve an important secondary purpose such as “restricting entry, discouraging trespassing and prohibiting all-terrain vehicles.”</p> <p>The NOT eligibility requirements from the 2008 NPDES General Permit No. GAR100002 should be maintained.</p>	<p>These permit requirement was revised during rigorous discussions with the stakeholders, negotiated accordingly and determined to be the most appropriate for infrastructure construction projects. The intent of the NOT requirements is to clarify and strengthen the overall provisions of NPDES General Permit No. GAR100002.</p> <p>As per EPD guidance document, “Developing Your Stormwater Pollution Prevention Plan, A Guide for Construction Sites,” all temporary BMPs such as silt fence should be removed. However, if “traditional” temporary BMPs will be used as post-construction BMP controls, the BMPs should be clearly delineated on the Plans as such.</p> <p>EPD continues to believe that the language in the proposed permit appropriately addresses this issue. No changes to the proposed permit were made as a result of these comments.</p>
GAR100001 GAR100002 GAR100003	Part VI.B. NOT Contents	Delete the requirements that copies of all sampling reports and/or written justification why sampling was not conducted and copies of the permittees’ most current Notices of Intent be submitted with the Notice of Termination.	<p>This permit requirement was revised during rigorous discussions with the stakeholders and determined to be reasonable. The intent of this requirement is to strengthen the overall provisions of the permits.</p> <p>EPD continues to believe that the language in the proposed permits appropriately address this issue. No changes to the proposed permits were made as a result of these comments.</p>