

## UNDERSTANDING PERMITS

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### BASIC REQUIREMENTS OF THE GENERAL PERMIT

### NPDES GENERAL PERMIT

#### When is a Permit Required?

Section A Permit is required whenever there are construction activities that disturb a land area of one acre or greater, or tracts of less than one acre that are part of a larger overall development with a combined disturbance of one acre or greater. There are three different permits based on the type of construction activity. The types of permits are as follows:

- **Common Development** – A contiguous area where multiple, separate, and distinct construction activities may be taking place at different times on different schedules under one plan of development or sale.
- **Stand Alone** – Construction activities that are not part of a common development where the primary permittee chooses not to use secondary permittees.
- **Infrastructure** – Construction activities being conducted by an infrastructure company or infrastructure contractor.

#### Who Needs a Permit?

There are three tiers of Permittees:

- **Primary:** Owner/operator (day-to-day control)
- **Secondary:** Individual builders, utility company/contractor, etc.; and
- **Tertiary:** Individual builders within a surface water drainage area where the primary permittee has submitted a notice of termination from prior permit coverage

#### Requirements of the Permit

The three permits have a great deal of common language and the basic requirements are:

- **Notice of Intent (NOI)** to discharge must be submitted to EPD and the LIA at least 14 days **prior** to commencement of construction activities. Specific NOI forms are provided by EPD.
  - The following information must be contained in the NOI:
    - Site/project name, GPS location of the construction exit, subdivision name, city, county, contact information for the contractor;
    - Receiving waters on a map or drawing;
    - Start/completion dates;
    - Certification that the Erosion, Sedimentation and Pollution Control Plan has been properly prepared;
    - A description of the type of activity; and
    - If the project is over 50 acres, the Erosion, Sedimentation and Pollution Control Plan or if there is no Local Issuing Authority, the Plan must be submitted along with the NOI.

Coverage by the general NPDES permit is provided without acknowledgment from EPD. EPD can require an individual permit based on the NOI or other information.

- **Erosion, Sedimentation and Pollution Control Plan (ESPCP or the Plan)** which outlines Best Management Practices (BMP) and sampling locations and is to be completed prior to submittal of NOI or commencement of construction activities.
  - The primary permittee is responsible for developing and implementing this plan.
  - The plan must be certified and prepared by a design professional. By December 2006, that person must have completed a certification course approved by the State Soil & Water Commission.



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- The Plan must include BMPs, sound conservation and engineering practices to prevent and minimize erosion consistent with the Manual for Erosion and Sediment Control (the “Green Book”) in Georgia published by the State Soil and Water Conservation Commission.
  - No construction activities are allowed within a 25 foot buffer (50 feet for trout streams) along the banks of all state waters without a variance unless they meet specific exemptions. Local governments may require additional buffers. Activities must comply with the most stringent requirement.
  - The Plan must be kept current
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- **Notice of Termination** (NOT) must be filed when final stabilization of the site is achieved which could be a result of a certain portion of the project being completed, the entire project being completed, or where the owner/operator under the NOI is no longer the owner/operator. Final stabilization occurs were all soil disturbing activities have been completed and unpaved areas 100% covered with vegetation with a 70% density

### **Inspections**

The Permit also requires inspections on the following schedule:

- Each day, the following areas must be inspected:
  - Areas where petroleum products are stored/used/handled
  - Where vehicles enter/leave the site
  - Rainfall once each 24-hour period at the site
- Once a week (qualified personnel) & within 24 hours of each ½ inch rain event, the following areas must be inspected:
  - Disturbed areas that have not undergone final stabilization
  - Structural control measures to ensure they are operating correctly
  - Outfall locations
- Once a month (qualified personnel), the following areas must be inspected:
  - Areas that have undergone final stabilization for evidence of erosion

The Plan must be revised within 7 days if based on the inspection, the controls in place are not adequate. A report of the inspections must be prepared and retained on site. In addition, for new sites, the design professional who prepared the ESPC Plan must inspect the site within seven days after initial construction begins.

### **Sampling**

- The permittee must develop a sampling plan that includes
  - USGS Topographical map/drawing
  - Location of each outfall
  - All streams (receiving water &/or outfall samplings locations)
  - The sampling method
  - The rationale for the sampling plan

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- Two sampling events must occur **within each surface drainage area** over the course of the project. Qualifying events for sampling include:
  - The first rain event after clearing/grubbing that reaches .5 inches and allows for monitoring during normal business hours
  - First rain event after all mass grading operations have been completed or 90 days, whichever comes first, and is .5 inches or more and allow for monitoring during normal business hours
- Where BMP deficiencies exist, corrective action must be implemented within two days. Additional sampling must be conducted for every ½ inch rainfall during normal business hours until the deficiencies are corrected or the turbidity standard is attained.

### Reporting

A summary of monitoring results must be submitted by the 15<sup>th</sup> of the month following the reporting period. These reports must be submitted to the EPD District Office and should include the name and location of the project, the name(s) of the sampling personnel, sampling locations, date and time of sampling, and the sampling results. Violations of the permit must be submitted to EPD within 14 days of discovery of the violation.

### Violations of the Permit

The following can be violations of the Permit:

- Failure to submit an NOI
- Failure to properly design, install or maintain BMPs
- Failure to monitor/sample
- Failure to pay fees
- Failure to report
- Violating the buffer without a variance and/or a nationwide permit
- Violating water quality standards including but not limited to the following:
  - “All waters shall be free from ... floating debris ... in amounts sufficient to be unsightly or to interfere with legitimate water uses”
  - “All waters shall be free from material ... which produce turbidity, color, odor or other objectionable conditions which interfere with legitimate water uses”
  - “All waters shall be free from turbidity which results in a substantial visual contrast in a water body due to man-made activity”
  - “Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected”

It is also a separate violation for each day on which the receiving water is increased by greater than 10 NTUs for trout streams; 25 NTU for other streams. If the permittee monitors their outfall, the NTU required to be a violation is dependent on a chart based on the size of the facility, the receiving waters, etc.



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There is a "BMP defense". Even if there are discharges, if all of the BMPs are properly designed and maintained, there is no violation of the turbidity limit.

Aside from violations of the General Permit, activities on the site can also violate other provisions of the Clean Water Act. For example, the discharge of dredged or fill material into waters of the United States without a permit from the U.S. Army Corps of Engineers or in violation of a permit from the Corps of Engineers is a violation of the Clean Water Act. (A discharger of fill material into waters of the United States can either obtain an individual Section 404 permit or comply with the terms of an applicable Nationwide Permit, ("NWP"), which is a type of "general" permit.). In addition, all Nationwide Permits require appropriate erosion and sediment controls to be used and maintained. ☺