



# *State Water Determinations, Stream Buffers and Variances*



*September 2011*



# State Water Determinations, Stream Buffers and Variances

- As per the ***Georgia Erosion and Sedimentation Act*** and *local Erosion and Sedimentation Control Ordinances*:

***STATE WATERS*** includes any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State, which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.



# State Water Determinations, Stream Buffers and Variances

- The ***Field Guide for Determining The Presence of State Waters That Require a Buffer*** is available on the GAEPD website, [www.gaepd.org](http://www.gaepd.org).





# State Water Determinations, Stream Buffers and Variances

## ***Stream Buffer Requirements:***

- Non-trout (warm water) streams: 25-ft buffer on perennial and intermittent streams.
- Trout (cold water) streams: 50-ft buffer on perennial, intermittent and ephemeral streams.
- The 25-ft or 50-ft buffer requirements **can** be applicable to ponds – including detention and retention ponds, lakes, and reservoirs (*Draft Guidance March 2011*).

*(Model E&SC Ordinance Reference: Section IV.C.)*

*(Permit Reference: Part IV. (i), (ii))*



# Stream Buffer Exemptions

- **Water Line and Sewer Line Crossings,**
- **Drainage Structures** only on non-trout (warm water) streams,
- **Roadway Drainage Structures** on both warm water and trout streams,
- **Fences** (Infrastructure Construction),
- **Construction of Public Water System Reservoirs,** and
- **Construction of bulkheads or seawalls on Lake Sinclair and Lake Oconee** (to prevent shoreline erosion).



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## ***Stream Buffer Variance Criteria:***

- The minimum 25-ft or 50-ft (trout streams) undisturbed State-mandated buffers shall be maintained, except where the **EPD Director** determines to allow a variance that is at least as protective of natural resources and the environment.
- Buffer variances will only be considered for the applicable criteria (a – k) delineated in the E&SC Rules and Regulations.
- Buffer Variance Applications – ***Revised March 2011.***



# State Water Determinations, Stream Buffers and Variances

## **CONTACT INFORMATION :**

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## ***Buffer Encroachments Without GAEPD Approval:***

- **Immediate Stop Work Order**
- In effect until all corrective action or mitigation has occurred.
- Applies to all land-disturbing activities on the site except for the installation or maintenance of BMPs.





# *Erosion and Sedimentation Act and local Erosion and Sedimentation Control Ordinances - EXEMPTIONS*





## *Exemption (1)*

- **SURFACE MINING** , as defined in the Georgia Surface Mining Act of 1968, are exempt from Local Issuing Authority permitting requirements.
- If activities are subject to the provisions of the State General Permit (e.g., office building construction), then GAEPD is responsible for confirming State Waters and buffer delineations as shown on ES&PC Plans.



## *Exemption (2)*

- **GRANITE QUARRYING** and land clearing for such quarrying are exempt from Local Issuing Authority permitting requirements.
- If activities are subject to the provisions of the State General Permit (e.g., office building construction), then GAEPD is responsible for confirming State Waters and buffer delineations as shown on ES&PC Plans.



## *Exemption (3)*

- **MINOR LAND-DISTURBING ACTIVITIES** –defined as home gardens and individual home landscaping, repairs, maintenance work, fences and other related activities that may result in minor soil erosion.
- Minor Land-Disturbing Activity Guidelines – Revised September 2009
- **Not applicable to activities located within the State-mandated buffers on sites covered by the State General Permits.**



## *Exemption (4)*

- **SINGLE-FAMILY RESIDENCES** – when such construction disturbs less than one acre and is not part of a common development – are exempt from Local Issuing Authority permitting requirements.
- **Minimum requirements in O.C.G.A. § 12-7-6 are applicable (e.g., ES&PC Plan, buffer requirements) shall be enforced by LIA.**



## *Exemption (5)*

- **AGRICULTURAL OPERATIONS** are exempt from Local Issuing Authority permitting requirements.
- If activities are subject to the provisions of the State General Permit (e.g., poultry houses, barns), then GAEPD is responsible for reviewing ES&PC Plans.



## *Exemption (6)*

- **FORESTRY LAND MANAGEMENT PRACTICES** are exempt – however, if land-disturbing activities occur within the State-mandated buffers, then no other land-disturbing activities (except for normal forestry management practices) shall be allow on the **entire** property for a period of 3 years after completion of forest practices.
- Forestry Land Management Practices/Silvicultural Practices Exemption Guidelines – March 2010.



## *Exemption (7)*

- Any project carried out under the technical supervision of **NRCS** are exempt from Local Issuing Authority permitting requirements.
- If activities are subject to the provisions of the State General Permit, then GAEPD is responsible for confirming State Waters and buffer delineations as shown on ES&PC Plans.



## *Exemption (8)*

- **EXEMPTION (8)** – if the applicable land-disturbing activity is less than one acre AND not within 200 feet of any perennial State waters, a local LDA permit is not required, the State General Permit is not applicable, and an ES&PC Plan is not required.
- **EXEMPTION (8)** – not applicable to **Common Developments** or **Single-Family Residences**.
- **EXEMPTION (8)** – applicable to **Stand Alone** or **Infrastructure** construction projects.



## *Exemption (8) - Continued*

- If an **applicable** land-disturbing activity is within 200 feet of any **perennial** State waters, a local LDA permit and an ES&PC plan are required.
- If applicable land-disturbing activity is within the State-mandated buffers (25-ft or 50-ft), a **buffer variance** application must be submitted to the GAEPD for review and approval.
- *Coverage under NPDES General Permits for Storm Water Discharges Associated with Construction Activity is NOT required for these projects when land-disturbing activities are less than one (1) acre.*



## *Exemption (9)*

- **DEPARTMENT OF TRANSPORTATION, GEORGIA HIGHWAY AUTHORITY, STATE ROAD AND TOLLWAY AUTHORITY, AND *COUNTY/MUNICIPALITY ROAD CONSTRUCTION*** – exempt from Local Issuing Authority permitting requirements.
- Road construction and/or road maintenance projects include sidewalks, bike routes and multi-use paths and trails – September 2010 EPD Memorandum.
- *Coverage under NPDES General Permits for Storm Water Discharges Associated with Construction Activity is required for these projects if land-disturbing activities are equal to or greater than one (1) acre.*



## *Exemption (9)*

- Land disturbance equal to or greater than one acre require coverage under State General Permit - GAEPD then responsible for reviewing ES&PC Plans, conducting complaint investigations and initiating any enforcement actions.
- GAEPD Contact Information –  
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## *Exemption (10)*

- **PUBLIC UTILITIES** under the jurisdiction of the **Public Service Commission** or the **Federal Energy Regulatory Commission** – exempt from Local Issuing Authority permitting requirements.
- If a secondary permittee within a Common Development, LIA shall enforce minimum requirements in O.C.G.A. § 12-7-6 as if a permit had been issued.

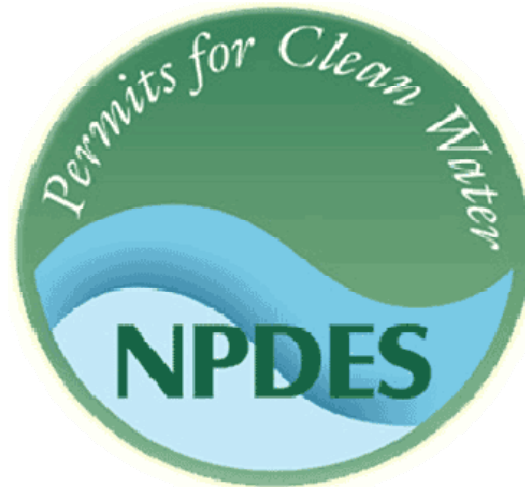


## *Exemption (11)*

- **PUBLIC WATER SYSTEM RESERVOIRS** are exempt from Local Issuing Authority permitting requirements.
- *Coverage under NPDES General Permits for Storm Water Discharges Associated with Construction Activity is required for these projects if land-disturbing activities are equal to or greater than one (1) acre.*
- If activities are subject to the provisions of the State General Permit, then GAEPD is responsible for reviewing ES&PC Plans.



*NPDES General Permits  
For Storm Water Discharges  
Associated with Construction  
Activity*





# NPDES General Permits

- **No. GAR100001 – Stand Alone Construction**
- **No. GAR100002 – Infrastructure Construction**
- **No. GAR100003 – Common Development Construction**

*Permits are available on both the  
GAEPD and GSWCC websites:  
[www.gaepd.org](http://www.gaepd.org) AND [www.gaswcc.org](http://www.gaswcc.org)*



# NPDES General Permits

**Reading and understanding the Permits is essential to maintaining compliance.**

General Permit  
No. GAR100003

**State of Georgia  
Department of Natural Resources  
Environmental Protection Division**



**Authorization To Discharge Under The  
National Pollutant Discharge Elimination System  
Storm Water Discharges Associated With Construction Activity  
For Common Developments**

In compliance with the provisions of the Georgia Water Quality Control Act (Georgia Laws 1964, p. 416, as amended), hereinafter called the "State Act," the Federal Clean Water Act, as amended (33 U.S.C. 1251 et seq.), hereinafter called the "Clean Water Act," and the Rules and Regulations promulgated pursuant to each of these Acts, new and existing storm water point sources within the State of Georgia that are required to have a permit, upon submittal of a Notice of Intent, are authorized to discharge storm water associated with construction activity to the waters of the State of Georgia in accordance with the limitations, monitoring requirements and other conditions set forth in Parts I through VI hereof.

This permit shall become effective on August 1, 2008.

This permit and the authorization to discharge shall expire at midnight, July 31, 2013.

Signed this 1st day of August 2008.

  
  
Director,  
Environmental Protection Division



# Terms of Permits

- **Part I – Coverage under the Permits:**

***CERTIFIED PERSONNEL*** means a person who has successfully completed the appropriate certification course approved by the GSWCC. (O.C.G.A. § 12-7-19)

**Level I** – Subcontractors retained by a Permittee

**Level IA** – E&SC Inspectors retained by a Permittee.

*(NOTE: Permittees must have as a minimum, one person, Level IA certified, on site responsible for E&SC.)*

**Level IB** – Regulatory Enforcement Inspectors

**Level II** – Design Professionals and Plan Reviewers



# Terms of Permits

- **Part II – Notice of Intent Requirements and Fees:**
  - NOIs must be submitted to ***both*** the appropriate ***GAEPD District Office*** and to the ***Local Issuing Authority*** (LIA) in jurisdictions authorized to issue local Land Disturbance Activity permits.
  - \$80 per acre disturbed (to the nearest 1/10<sup>th</sup> acre).

*(Model E&SC Ordinance Reference: – Section V.B.1)  
(Permit Reference: Part II.C.)*



# Terms of Permits

## **Part IV – ES&PC Plan Requirements:**

- ES&PC Plans – Level II Design Professional
- Daily Inspections; Weekly Inspections and within 24 Hours of each ½ Inch Rainfall or Greater; and Monthly Inspections – Level IA Certified Personnel
- Water Quality Sampling – Level I Certified Subcontractor

*(Permit Reference: Part IV.)*



# Terms of Permits

## Part VI – Notice of Termination Submittal:

- All **planned** construction activities have been completed and the entire development has undergone **final stabilization**.
- NOTs must be submitted to **both** the appropriate **GAEPD District Office** and to the **Local Issuing Authority** (LIA) in jurisdictions authorized to issue local Land Disturbance Activity permits.

*(Permit Reference: Part VI.C.)*



# Contact Information

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