

EROSION AND SEDIMENT CONTROL INSPECTION AND ENFORCEMENT PROGRAM

FREQUENTLY ASKED QUESTIONS

1. What are the federal Phase II stormwater regulations?

The Phase II stormwater regulations are a set of regulations that were published in December 1999, becoming effective March 2003, that are intended to guide local communities in the development of strategies to educate the public, to prepare local legislation, and to inspect stormwater collection and conveyance systems to promote the protection and preservation of water quality through stormwater management.

The Phase II stormwater regulations were an extension of the Phase I stormwater program that was initiated by Congress in 1992. The Phase I regulations required large communities with populations greater than 100,000 to apply for individual stormwater permits.

2. Who is governed by the Phase II stormwater regulations?

The regulations define Phase II Municipal Separate Storm Sewer Systems (MS4s) as *"Systems located in 'urbanized areas' as defined by the U.S. Bureau of the Census, having a population of at least 50,000 and an overall population density of at least 1,000 people per square mile."*

3. Why is the City of Auburn governed by the Phase II stormwater regulations?

The City of Auburn is considered a Phase II MS4 due to the urbanized area of Lee County. The City of Opelika, Auburn University and Lee County are also considered Phase II MS4s due to this urbanized area.

4. When did the City of Auburn receive its Phase II Stormwater Permit?

The City of Auburn applied for and received a National Pollutant Discharge Elimination System (NPDES) Phase II Stormwater Permit in March 2003. The original permit was issued for a 5-year time period ending in March 2008. ADEM revised & reissued this permit on February 1, 2011. The current permit will expire on January 21, 2016.

5. What do the Phase II stormwater regulations require of permittees?

The Phase II stormwater regulations outline six (6) minimum control measures that all Phase II Permittees must address when establishing individual stormwater programs. The six (6) minimum control measures are: (1) Public Education and Outreach; (2) Public Involvement and Participation; (3) Illicit Discharge Detection and Elimination; (4) Construction Site Stormwater Runoff Control; (5) Post-Construction Stormwater Management; (6) Pollution Prevention and Good Housekeeping.

6. Is the City of Auburn required to have an erosion and sediment control program?

According to Appendix D of the Alabama Notice of Intent (ALNOI) General Permit for Phase II Small MS4s (2003), *"ADEM Administrative Code Ch. 335-6-12 implements a Statewide construction stormwater regulatory program consistent with NPDES requirements for construction activities. As provided by 40 CFR Part 122.35(b), this NOI does not require an MS4 to implement a local construction stormwater control program."* ADEM has implemented a Statewide construction site stormwater regulatory program that addresses the minimum control measure outlined in the federal Phase II regulations. The City of Auburn recognized a need to develop a construction site erosion and sediment control program to aid in the protection of local water resources. While City of Auburn regulations do not supersede ADEM's regulations, they are intended to support the ADEM regulations.

7. When did the City of Auburn establish an erosion and sediment control ordinance?

The original Erosion and Sediment Control Ordinance (Ordinance) adopted by the City was drafted by the Auburn, Lee County, Opelika and Auburn University (ALOA) Citizen Advisory Group in 2002. The ALOA group was formed to incorporate the diverse input of individuals representing the four regulated organizations, business leaders, developers and local citizens interested in environmental protection. ALOA developed a base set of regulations that were common to all. Once drafted, City of Auburn, Lee County, City of Opelika and Auburn University representatives presented the Ordinance to their respective governing bodies. The Ordinance was adopted by the Auburn City Council in July 2002.

8. Where can I find a copy of the Erosion and Sediment Control Ordinance?

The Erosion and Sediment Control Ordinance can be found in the Auburn City Code, Chapter 7, Article III. A copy of the Ordinance can be downloaded from the City's website at <http://www.auburnalabama.org/code/>.

9. Has the Erosion and Sediment Control Ordinance ever been amended?

Yes. In December 2004, the Auburn City Council amended the Ordinance to establish protocol for the enforcement of the Ordinance and to enable City personnel to issue citations and/or stop work orders to developers/contractors in violation of the Ordinance. This amendment added the necessary enforcement authority to enable staff to more effectively implement the requirements of the Ordinance.

10. What roles and responsibilities does the City of Auburn have related to erosion and sediment control?

a. The City reviews erosion and sediment control construction best management practices plans (CBMPPs) submitted for individual developments by the engineer of record and provides comments to the engineer. The City has adopted statewide standards (i.e. *The Alabama Handbook for Erosion Control, Sediment Control and Stormwater Management on Construction Sites and Urban Areas, latest edition*) to encourage uniformity in BMP design, construction and maintenance.

b. The City conducts initial on-site walk-through inspections of construction site best management practices (BMPs) to ensure that all BMPs are installed in accordance with the approved CBMPP.

c. The City conducts site inspections after each 3/4-inch, 24-hour rainfall event or a minimum of once per month. The purpose of these inspections is to document failures/deficiencies in BMPs on-site and to communicate those deficiencies to the respective permit holder. Follow-up inspections are made as necessary to ensure that corrections are being made promptly to correct any deficiencies and to restore the BMPs.

11. What roles and responsibilities does ADEM have related to erosion and sediment control?

a. ADEM reviews and approves/rejects NPDES Construction Stormwater Permits. All sites with planned disturbance greater than one (1) acre are required to obtain an individual NPDES Construction Stormwater Permit. Sites less than one (1) acre, but that have the potential to have an adverse impact on downstream water quality, can also be required to obtain a permit. Sites that are less than one (1) acre, but are part of a larger common-plan development, are also required to obtain a permit.

b. ADEM conducts site inspections in accordance with the NPDES Construction Stormwater Permit Program and responds to citizen concerns.

c. ADEM issues enforcement in the form of consent orders and fines if deficiencies are evident on-site that result in a negative impact on downstream water quality.

12. How does the City of Auburn CBMPP review and approval process work?

a. CBMPPs are submitted by the engineer of record for the project, along with other applicable engineering plans, where they are reviewed by staff as part of the Development Review Team (DRT) plan review process.

b. Once the plans have been approved, a pre-construction meeting with the developer, contractor and engineer of record is scheduled by the Public Works Inspection Division Manager.

c. At the conclusion of the pre-construction meeting, an erosion & sediment control permit is issued to the permit holder provided that the permit holder has provided a copy of the ADEM permit, as well as any other applicable state/federal permits, to the City. This erosion & sediment control permit allows the contractor to begin erosion & sediment control implementation of the site CBMPP. It does not permit mass grading to occur.

d. Once all BMPs have been properly installed, the contractor schedules an initial walk-through inspection with either the Watershed Division Manager or the Public Works Inspection Division Manager. If all BMPs have been satisfactorily installed, the Public Works Inspection Division Manager will issue a grading and utility permit to the permit holder authorizing the permit holder to begin grading operations and utility installation on-site. If the BMPs have not been satisfactorily installed in accordance with the CBMPP, the Division Manager will notify the contractor of the issues on-site and will schedule a follow-up inspection prior to issuing the grading and utility permit.

13. Please explain the City of Auburn erosion and sediment control inspection process.

The City of Auburn has developed an inspection and enforcement strategy that monitors sites in a proactive manner and provides response to deficiencies as necessary to ensure that City standards are being met to the maximum extent practicable. Inspections are conducted after each $\frac{3}{4}$ -inch, 24-hour rainfall event, or at a minimum of once per month. Site inspections typically fall into three (3) categories: (1) No deficiencies found; (2) Minor deficiencies documented; and (3) Major deficiencies documented.

14. Please explain the City of Auburn erosion and sediment control enforcement process.

If major deficiencies (i.e. sediment is leaving the site, failure to correct minor deficiencies since the last inspection, etc.) are noted on-site, the City initiates an enforcement process to ensure that noted deficiencies are being addressed in a proactive manner. The first step in the enforcement process is issuance of a 72-hour hand-delivered Notice of Violation (NOV) to the permit holder that outlines the deficiencies and proposed corrective measures on-site. If the permit holder fails to address the deficiencies at the end of the 72-hour timeframe, a 24-hour verbal warning is given to the permit holder. If the permit holder fails to satisfactorily address the issues at the end of this 24-hour timeframe, then a citation is issued to the permit holder by the City to appear in Municipal Court for violations of the Erosion and Sediment Control Ordinance. City personnel also have the ability to issue a stop work order on-site if conditions warrant. Penalties for violating the Erosion and Sediment Control Ordinance are \$500 per day per offense and/or possible jail time as determined by the Municipal Court.

15. Does the City have any authority to develop water quality standards?

The City of Auburn has not been delegated the authority to directly develop water quality standards. Water quality standards are set at the state and federal level and are managed through ADEM, the United States Army Corps of Engineers (USACE) and the United States Environmental Protection Agency (USEPA). The City works closely with these governing agencies when deficiencies

occur that may have resulted in adverse water quality or environmental impacts as well as to learn ways to improve the existing City program.