

Response to Comments on the 2022 Draft
Phase I Medium MS4 NPDES Permit
December 30, 2021

Page	Permit Section	Comment	Response
4	2.1	The commenter expressed concern that replacing the narrative water quality standard text with a reference to the Rule citing was a precursor to including numeric effluent limits in the permit.	The Division has determined that at this time it is infeasible to include numeric standards in a MS4 permit due to the treatment cost, the variability and duration of stormwater discharges, and the variability in the quantity and types of pollutants. Replacing the narrative text with a Rule citing was for the sole purpose that if a change in the narrative standards listed in the EPD Rules occurs, then the Permit would not need to be re-opened to revise the permit language. However, upon further review, it was determined that the text should be revised to clarify that only the narrative standards in Rules 391-3-6-.03(5) (a)-(e) apply, and the numeric standards, in Rules 391-3-6-.03(5)(e)(i)-(e)(vii), (f), and (g) do not apply.
4	2.1	The commenter requested that the language allowing for programs to be implemented to the maximum extent practicable (MEP) be retained.	The term “MEP” will be retained. No change made.
5	3	The commenter asked for clarification on why the statement was added that the permittee must comply with the permit requirements, regardless if the Stormwater Management Program (SWMP) has been approved.	The NPDES permit is the legal mechanism for allowing the discharges from the MS4 to the waters of the State and sets specific requirements for the MS4. The purpose of the Stormwater Management Program (SWMP) is to describe how the permittee will comply with the permit requirements. It may take time to receive Division approval of the SWMP. The failure to have an approved SWMP does not preclude compliance with the permit requirements. No change made.

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5	Part 3	The commenter requested a modification allowing the permittee to comply with either the permit or the most recently approved SWMP, since this will allow the permittee time to comply with any newly set permit requirements.	The permittees are apprised of possible permit revisions during the draft permit stage and stakeholder process. Also, the permittee has 180 days after the permit issuance to prepare and submit a SWMP. The Division believes this is adequate time to plan and implement any new permit requirements. No change made.
6	Part 3.3	The commenter requested clarification on why the text states what must be provided for each SWMP component.	The text is necessary to clarify the format of each stormwater component to be included in the SWMP to ensure consistency, but does not add any additional requirements. No change made.
7	Table 3.3.1, #1	A commenter stated that “control structures” only refers to detention ponds and does not include catch basins, ditches, and pipes. Another commenter requested a definition of “MS4 control structure” or “control structure”.	The term “MS4 control structure” has been revised to remove the word “control” to clarify that the permit text is referring to MS4 structures.
8	Table 3.3.1, #4	The commenter stated that “street cleaning” is not appropriate language since the regulations refer to the operation and maintenance of streets, not litter removal.	The term “street cleaning” is a broad category addressing various types of activities. The Division and EPA have determined that litter is a significant pollution problem. Street cleaning, whether through street sweeping or other types of litter removal, is an important method of addressing this problem. No change made.
8	Table 3.3.1, #5	The commenter asked why an assessment of existing structures was being required if the structures have been assessed in the past.	Text has been added clarifying that if documentation of previously performed evaluations on existing flood management structures can be provided, then an additional evaluation is not necessary.
10	Table 3.3.2, #3	A commenter requested information on alternate methods for conducting dry weather screening inspections.	The Division developed Coastal IDDE Plan Guidelines, which were transmitted to the permittees in February 2020. These guidelines are attached to this “Response to Comments” document. No

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			change made.
11	Table 3.3.2, #3	A commenter expressed concern that stream walks performed for reasons other than dry weather screening must be documented and reported in the annual report, such as streams walked by Adopt-A-Stream volunteers.	The MS4 is not required to report on stream miles walked by volunteers. The MS4 must provide documentation of any stream miles walked by permittee employees/contractors engaged in an investigatory activity, such as viewing sewer line crossings for leaks, looking for illicit discharge sources, etc. No change made.
12	Table 3.3.2, #6	The commenter asked if the one activity facilitating the proper disposal of used oil could include either collection activities or educational activities.	The one activity can include either a collection event or an educational activity. No change made.
13	Table 3.3.2, #7	Several commenters asked for clarification on the required one activity related to sanitary sewer infiltration.	The one activity can be an existing activity that the permittee is engaged in, such as an infiltration/inflow study, high level alarm system operation, sewer line inspections, etc. The permittee does not need to implement an additional activity for the MS4 permit. No change made.
16	Table 3.3.4, #2	The commenter requested that the term “100%” be deleted.	Because the activity must include a measurable goal, the 100% will be retained. However, the text for 2.a will be revised to state “Ensure that 100% of all Erosion Sedimentation Pollution Control Plans (ESPCP) for those projects requiring a land disturbance permit are reviewed, unless specifically exempted by the Georgia Erosion & Sedimentation Act, in accordance with the site review plan procedures described in the SWMP.”
17	Table 3.3.5, #1	Several commenters expressed concern regarding the requirement to treat municipal facilities owned by other municipalities, but located within their jurisdiction, as highly visible pollutant sources, including inventorying and inspecting these	The text was relocated to Table 3.3.1, #6, under municipal facilities. The permittee will be required to include any municipal facility they own on their inventory and inspect these facilities, even if they are located within another jurisdiction.

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		facilities.	
19	Part 3.3.6	The commenter requested that the Enforcement Response Plan (ERP) be reviewed as necessary, instead of each reporting period. Also, the commenter asked if the review was done by the Division or the MS4.	The MS4 will be expected to review the ERP each reporting period. If ordinances or other relevant documents have changed, then the ERP may require revision and submittal to the Division for review and approval. If the annual evaluation indicates that no changes are needed, then this statement can be made in the annual report. No change made.
19	Part 3.3.7	The commenter expressed concern about the Division's decision to replace monitoring for fecal coliform bacteria with monitoring for <i>E. coli</i> and enterococci. Commenter requested a schedule for when the revision will occur.	The Division has determined based on review of technical studies and EPA recommendations that <i>E. coli</i> and enterococci bacteria are more representative of the gastrointestinal illness risk caused by pathogenic bacteria. The revision is subject to EPA review and approval. The Division will notify MS4 permittees when the bacterial water quality standard has been changed and the permittee should cease sampling for fecal coliform bacteria and start sampling for <i>E. coli</i> and enterococci bacteria. No change made.
19	Part 3.3.7	The commenter requested that EPD search for identifiers of human fecal contamination (e.g. caffeine, artificial sweeteners), which would allow a municipality to trace the source of point pollution and target remediation efforts.	While this is a worthwhile approach, it is outside the scope of the NPDES permit. Additional sampling and analysis can always be performed by a permittee in order to better understand the water quality issues within their jurisdiction. Historically, many municipalities have conducted testing for DNA markers to isolate the fecal coliform sources. No change made.
20	Part 3.3.7	The commenter requested information on the basis for using a population of 10,000, stating that more people does not mean more resources are available.	The Division has determined that the population of smaller communities typically results in a lower tax base and therefore, fewer resources. Therefore, these smaller communities are exempted from

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			certain permit requirements. Additionally, inclusion of this population threshold results in consistency with other existing issued MS4 permits (i.e. Phase I Large, Phase II). No change made.
20	Part 3.3.7	The commenter requested that the text “without regards to weather” be deleted from the sampling requirements.	The water quality standards apply in all types of weather. The purpose behind requiring a geometric mean is to procure a representative sample, which accounts for both wet and dry weather samples. Collecting a sample regardless of weather conditions prevents a “biased” sample result. No change made.
20	Part 3.3.7	The commenter is requesting language be added allowing for an “alternate plan development” in place of the Impaired Waters Plan, in order to allow for collecting additional data (e.g. background levels).	For consistency purposes, all permittees with an impaired water within their jurisdiction must prepare an Impaired Waters Plan, meeting the monitoring requirements specified in the permit. It is acceptable for the permittee to conduct additional monitoring to collect data they determine is needed to derive background levels, etc. No change made.
20	Part 3.3.7	The commenter requested clarification on the requirement to provide monitoring data to another MS4 upon request.	The monitoring data only needs to be provided upon request. The MS4 does not have to provide this data on a scheduled basis. No change made.
20	Part 3.3.7	The commenter stated that enterococci is not a good indicator, due to its persistence in sediment, and requested that the parameter be removed from the permit.	Research and epidemiological studies in the 1970s and early 1980s showed the efficacy of enterococci as an indicator of fecal contamination and gastrointestinal illness risk in marine waters. As part of the 2019 Triennial Review, the Division proposed <i>E. coli</i> and enterococci criteria for waters designated as fishing, coastal fishing, and drinking water. The permit is being revised to reflect the anticipated change in in-stream water quality standards. No change made.
20	Part 3.3.7	The commenter stated that the Division does not	This requirement was added to other MS4 permits

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		have the legal authority to require one MS4 to provide data to another MS4.	based upon comments from EPA. The Division expects MS4s to work cooperatively with adjoining MS4s in an effort to identify and eliminate water quality issues. The text will be retained in order to provide consistency between all MS4 permits. No change made.
21	Part 3.3.8	The commenter requested that the text be expanded to include more specific descriptive language.	The permit language is general in order to allow the permittees flexibility in developing their municipal employee training program. This program may change during the permit cycle as the MS4 identifies various training needs. Also, the complexity of the program will vary based on the size of the municipality. Revisions have been made to clarify training program components.
21	Part 3.3.9	The commenter asked why “pet wastes” and “fats, oils, and grease” were added to the text.	The Division has identified these topics as a concern with regards to water quality impacts. The text was added as an example of topics on which the MS4 might want to focus on in the public education program. No change made
22	Parts 3.3.9 and 3.3.10	Two commenters requested why the number of public education activities and public involvement activities were increased from 3 to 4 activities for those MS4s with a population greater than 10,000.	The revision was made to ensure consistency with other MS4 permits. The Division believes that there are a large number of options for public education and public involvement activities that can be easily implemented and will not prove to be a resource burden for larger MS4s. No change made.
22	Part 3.3.9	Several commenters expressed concern with the requirement that public education activities must receive EPD approval, even though there may be a delay in SWMP approval.	The Division is aware that it can take time to receive approval of a SWMP. The MS4 will need to propose public education activities in the SWMP. Even though the SWMP approval is pending, any concerns that the Division has with an implemented activity will be conveyed to the permittee at the time

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			of the annual report review. No change made.
23	Part 3.3.10	The commenter asked if public involvement events could be implemented in conjunction with other MS4s. Also, a request was made for an explanation on the bulleted items contained in the list that are referencing various committees.	The MS4s are encouraged to implement public involvement activities jointly, in order to share resources and to obtain a large pool of volunteers. The items in the bulleted list (i.e. local stormwater management panel, comprehensive planning committees, stakeholder advisory committees) were suggested by EPA. These committees serve to advise and assist MS4s in stormwater program development and decision-making. No change made.
24	Part 3.3.11(a)(1)	The commenter is concerned that the last sentence in the section states the permittee must implement the GSMM or the Coastal Stormwater Supplement (CSS), but does not address a local design manual.	The paragraph states that the permittee's ordinance must adopt the GSMM or an equivalent or more stringent local design manual. Those permittees located within Chatham County must also adopt the CSS. The last sentence will be revised to clarify that the permittee must implement the GSMM, the CSS, or an equally stringent local design manual, to the maximum extent possible.
25	Part 3.3.11(a)(2)	The commenter referenced the post-construction standard for redevelopment sites that include projects less than one acre if they are part of a larger common development and indicated that these sites are not being inspected.	This section of the permit covers the post-construction design for a site. Inspections are covered under the construction site management program. No change made.
25	Part 3.3.11(a)(2)	Two commenters requested clarification on if a subdivision has been closed and a developer goes back in to develop a single lot, would there be a requirement to design a post-construction BMP for that single lot.	Development of a single lot in a previously planned and permitted subdivision meets the definition of new development. If the single lot meets the threshold criteria of >5,000 square feet of impervious surface or involves land disturbance of 1 acre or more, then the lot would need to be evaluated to ensure the post-construction standards

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			are met. No change made.
25	Part 3.3.11(a)(2)	The commenter recommended that language be added establishing criteria for proximity to State waters for those sites on which performance standards must be applied.	The performance standards must be applied to any site meeting the size criteria for new development or redevelopment. The size criteria is established by the GSMM and the CSS. Additional criteria (i.e. proximity to State waters) is not appropriate. No change made.
27	Table 3.3.11(b), #1	Several commenters requested clarification on what the review of the legal authority each reporting period includes. Also, the question was if no ordinance revisions occur, what happens.	The preferred method for completing the ordinance review is through the use of either the Center for Watershed Protection’s code and ordinance worksheet or the EPA Scorecard. If one of these worksheets is completed the first year of the permit, then in subsequent annual reports, the MS4 can reference this completed worksheet and state that no ordinance revisions were needed during the reporting period. No change made.
27	Table 3.3.11(b), #3	The commenter requested clarification on what is included in “GI/LID structures publicly-owned by other entities”.	This is referring to GI/LID structures owned by public entities, such as the Board of Education. It does not include any GI/LID structures owned by a public entity, such as GDOT, which holds their own NPDES Permit. A statement has been added to the text to clarify this.
27	Table 3.3.11(b), #3	The commenter questioned whether “publicly-owned by other entities” included private schools or only public schools.	Private schools are privately-owned and are covered by the category “privately-owned non-residential”. No change made.
28	Table 3.3.11(b), #4	The commenter stated that the local government does not have the authority to enforce maintenance on GI/LID structures publicly-owned by other entities.	The GSMM requires the permittee to enter into maintenance agreements with the owners of post-construction structures. In addition, the MS4 should have a post-construction ordinance that allows the MS4 to require an owner to maintain the structure. Because the addition of “publicly-owned structures

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			owned by other entities” is a new requirement, the text of Table 3.3.11(b) #3 and #4 has been modified to state that any of those structures designed after the effective date of the permit must be included on the inventory and that the MS4 must inspect and require maintenance of these structures. This will provide time for the MS4 to begin executing maintenance agreements for these structures.
28	Table 3.3.11(b), #4	The commenter requested that the permit be revised to allow inspections performed by private owners to substitute for inspections performed by the MS4.	The MS4 can require the inspection of privately-owned structures by the owner through the use of maintenance agreements. However, the MS4 is still required to conduct an inspection on 100% of the GI/LID structures on the inventory within the 5-year permit term. No change made.
29	Part 4.1	The commenter requested a timeline for when electronic reporting will be required.	The Division is currently working on a system allowing for annual report and permit application submittal electronically. There is currently not a timeline available. When the system is operational, then the Division will notify permittees and provide training on the use of the reporting system. No change made.
37	Appendix A	The commenter requested that the definition of Green Infrastructure/Low Impact Development be revised to include “proprietary systems”.	The GSMM, Volume 2, includes many best management practices that are considered types of green infrastructure, with proprietary systems being one of the types. The Appendix A definition does not specify any of the best management practices that are allowable. No change made.
38	Appendix A	The commenter stated that the definition of “Outfall” does not comply with the definition found in 40 CFR Part 122.26.	The outfall definition cited by the commenter refers to “major outfall”. This term applied during the preparation of the Part 1 application at the inception of the MS4 permitting program. The purpose

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			behind setting a 36" minimum size was to limit the monitoring that the permittee needed to do to characterize the discharges from the storm sewer system. The definition contained in the permit is applicable to the current status of mapping and monitoring being performed by the permittees. No change made.
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