

**EPD Response to Comments on
2022 Phase II MS4 NPDES Draft Permit No. GAG610000**

Permit Part	Comment/Requested Change	EPD Response
Part 4.2.5	<p>The commenter is concerned that not including the list of project categories that are exempt from post-construction stormwater management per the GSMM (Volume 1, Page 108) could lead to the EPD charging an MS4 with permit violations even though the full requirements of the GSMM have been met. It stands to reason that the six categories of projects that are exempted in the GSMM from the requirements to meet the post-construction stormwater management should also be included in the permit. The EPD’s response in August 2022 to the April comment was that applying exemptions from the GSMM to certain categories of projects involves a local determination of infeasibility. The commenter does not believe that is the way this should be viewed. The commenter believes that the issue at hand is adhering to the published standard (the GSMM) that is stated in the same section of the permit to be the standard that must be implemented.</p>	<p>The six exemptions listed in the GSMM are not intended to be required to be adopted by all jurisdictions and the GSMM explicitly states “...since runoff from smaller developments can cause water quality and quantity impacts as well, an individual community may choose not to adopt these exemptions.”</p> <p>No change made.</p>
Table 4.2.5(a), BMP 2	<p>The section has three dates mentioned. The first is that all privately-owned post-construction stormwater management structures designed after December 9, 2008, must be included in the inventory. The second is that all non-permittee owned publicly-owned structures with construction completed after December 6, 2012, must be included in the inventory. Third is that all non-permittee owned structures “prior to the December 9, 2008 deadline” may be added to the inventory if the permittee so chooses. The commenter wonders whether the second date (December 6, 2012) is a mistake and it should actually be the 2008 date.</p>	<p>Table 4.2.5(a), BMP #2, requires the permittee to develop an inventory of post-construction structures (i.e. detention ponds, retention ponds, water quality vaults). In the 2007 permit iteration, the Division required the adoption of the Georgia Stormwater Management Manual (GSMM) by December 9, 2008, which was one year after the permit effective date. The permittee was also required to develop an inventory of post-construction structures, both permittee-owned and privately-owned. For privately-owned post-construction structures, they needed to be included on the inventory if they were designed after the December 9, 2008 date that the GSMM became effective. In the 2012 permit iteration, the Division added requirements for the permittee to inspect and ensure the post-construction structures were maintained. The GSMM</p>

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		<p>requires the procurement of maintenance agreements for post-construction structures. Because of this, the 2012 proposed permit required the permittee to either maintain private structures or provide a list of maintenance agreements executed since the December 9, 2008 date of GSMM adoption. During the stakeholder process for the 2012 permit, the permittees stated that they were not aware of the GSMM requirement to obtain maintenance agreements. The proposed permit still required post-2008 private structures to be included on the inventory and inspected, but the permit was modified to only require the permittees to procure maintenance agreements for those structures constructed after the permit issuance date of December 6, 2012. This resulted in the permittees being required to address maintenance at all privately-owned structures and publicly-owned structures owned by other entities (e.g. Board of Education) with construction completed after December 6, 2012. The construction completion date was used instead of the project design date since projects could have been designed several years prior to the 2012 deadline date.</p> <p>No change made.</p>
<p>Table 4.2.5(a), BMP 5</p>	<p>A new requirement to “annually evaluate the GI/LID program and provide the results of the evaluation in each annual report” has been added. The commenter has been greatly encouraged that some other “annual” evaluations have been changed in the proposed permit, and would like to recommend to similarly change this item to require an evaluation in the first year of the permit (almost certainly to be done as part of</p>	<p>In order to ensure consistency with evaluations of other required programs and associated ordinances in the permit (e.g., IDDE), the proposed language regarding annual evaluations of the GI/LID program has been removed. The expectation remains that existing permittees will evaluate the GI/LID program prepared during the previous permit iteration and will submit a</p>

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	<p>preparing the new SWMP), with only a requirement in years two to five that any subsequent changes made to the program be submitted to the EPD (as stated in the last sentence of this section).</p>	<p>revised GI/LID program with the stormwater management program (SWMP) submittal. Any revisions to the GI/LID program during the permit term must be submitted to EPD for review.</p>
<p>Table 4.2.6(a), BMP 7</p>	<p>The commenter is confused by the permit’s requirement given the new wording in this section and the EPD’s explanation in the table of significant changes. The commenter always understood this item to be referring to the requirement that all new detention/retention ponds were to also be evaluated to make sure they meet water quality requirements. This is a topic that is already addressed in the post-construction stormwater management section of the permit and SWMP, but the commenter has traditionally met the documentation requirement of this BMP by providing a copy of the site development review tool for each project that was approved. The commenter believed the reviewers at EPD have always understood it this way as well, since the commenter has never received comments requiring a change to the SWMP nor providing documentation other than what was provided. The commenter wants confirmation of whether or not the proposed wording change is intended to alter the meaning of this requirement.</p>	<p>In order to ensure consistency between the evaluation of new and existing flood management projects, the proposed language revisions in Tables 4.2.6(a) and 4.2.6(b) BMP 7.a. have been removed. However, EPD retained the proposed language requiring permittees to describe the assessment procedures in the SWMP. Tables 4.2.6(a) and 4.2.6(b), BMP 7.b. were clarified to state that the permittee must provide a list of plans reviewed where flood management projects were assessed for water quality impacts and must note the plans that resulted in improved pollutant reduction as a result of the assessment in each annual report.</p> <p>According to EPA’s MS4 Program Evaluation Guidance (EPA-833-R-07-003), permittees should assure that the impacts on the water quality of receiving water bodies are assessed in municipal or regional flood management projects and that existing structural flood control devices have been evaluated to determine if retrofitting the device to provide additional pollutant removal from stormwater is feasible.</p>