

Response to Comments on the 2022 Draft  
Phase II MS4 NPDES Permit  
Stakeholder Meeting  
August 17, 2022

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|      | General        | The commenter stated the requirements of the permit for small MS4 systems continue to expand and are becoming increasingly burdensome and costly. The commenter requests that the required activities and documentation be limited to only what is reasonable and necessary for achieving the goals of the permit. | The only new provisions included in the stakeholder version of the Permit are the requirement to include publicly-owned structures owned by other entities on the post-construction stormwater management structure inventory, the added requirement for new permittees to develop and implement a GI/LID program and the added requirement in the Impaired Waters section that permittees with populations exceeding 10,000 increase the frequency of sampling for bacteria and submit a SQAP if data indicates the water is meeting water quality standards. The inclusion of publicly-owned structures owned by other entities on the inventory provides consistency with the pre-existing maintenance program requirement to address these structures. The addition of the GI/LID program for new permittees serves to align the requirements for new and existing permittees. Finally, over time, EPD has determined that additional monitoring would be useful for both EPD and the permittee. For EPD, the monitoring provides additional useful information for prioritizing EPD ambient water monitoring efforts and helps better characterize up-to-date conditions of those impaired waters. For permittees, the additional effort may result in quicker delisting of the waterbody, which would remove all impaired waters requirements associated with that waterbody. EPD |

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|           |                                   |  | believes that the additional requirements will not prove to be a resource burden for MS4s. No change made.   |
|           | Multiple                          | The commenter stated that an annual evaluation of local ordinances seems to be unnecessary if no changes to the ordinance or to overlying federal and state legislation and/or regulations have taken place during the reporting period.   | EPD agrees that an annual evaluation of local ordinances is unnecessary if there were no changes to the ordinance or other governing regulations. The Permit provides the option for a permittee to either complete a comprehensive evaluation or reference the first year evaluation and certify that additional revisions to the codes and ordinances are not necessary. No change made.   |
|           | Multiple                          | The commenter recommended using consistent language throughout the permit when referring to the “a 5-year permit term” or “5-year period.”   | The text has been revised to use the term “5-year period” for the requirements associated with new permittees who may be designated inside of the permit term to allow for the time necessary to conduct certain activities consistent with existing permittees. The term “5-year permit term” is being applied to requirements associated with existing permittees.   |
| 20 and 22 | Tables 4.2.4(a) and (b), BMP #2.a | The commenter questioned why the reference to the Georgia Soil and Water Conservation Commission (GSWCC) was removed from this section. They stated that GSWCC is the governing authority for erosion control requirements in Georgia and local issuing authorities (LIAs) work under its authorization, guidance and oversight. | Although GSWCC provides training for and reviews the performance of LIAs, the certification and decertification of a Local Issuing Authority is an action of the Director of EPD, per O.C.G.A. § 12-7-8 and Ga. Comp. R. and Regs. 391-3-7-.09. O.C.G.A. § 12-7-8 also states that EPD may periodically review the action of counties and municipalities which have been certified as local issuing authorities. However, EPD acknowledges the effective work of the GSWCC, therefore, returned the reference to their requirements in the Permit. |

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| 20 and 22 | Tables 4.2.4(a) and (b), BMP #2.c | The commenter questioned the addition of the requirement to submit a list or table of all LDA permits issued within the reporting period when the GSWCC does not require this information in the quarterly and semi-annual reporting that LIAs are required to submit to that agency   | EPD agrees that providing a list or table is above the current GSWCC reporting requirements and does not provide enhanced information regarding Permit compliance. The permit text has been revised to require the submittal of the total number of LDA permits issued.  |
| 20        | Table 4.2.4(a), BMP #3.a          | The commenter requested the language be revised to remove the inspection frequency of at least one site inspection at each active construction site during the reporting period, since this inspection frequency is not required by GESA or the GSWCC's E&S Manual.  | The Manual for Erosion and Sediment Control in Georgia - 2016 Edition (Manual) provides the recommendation that the LIA should inspect each project site at least once every seven calendar days and within 24 hours of each significant rainfall event. Although the Manual and GESA do not set required inspection frequencies, the requirement to conduct a minimum number of inspections on construction sites is not a conflict with these documents. Also, the Permit must contain a specific measurable goal as required in 40 CFR 122.34(a) and reinforced in EPA's 2010 MS4 Permit Improvement Guide and 2016 Compendium of MS4 Permitting Approaches. The EPD believes that one inspection during a 12-month period is achievable. No change made. |
| 21        | Table 4.2.4(a), BMP #4.a          | The commenter believes the new requirement that "the amount of any assessed penalties" be reported in each annual report is unnecessary because EPD can verify enforcement activities by being given the number of fines that were issued, just as it can with the numbers of Notices and Stop Work Orders that were issued. Additionally, some stakeholders commented that this new requirement adds an | Each fiscal year, EPD is required to report the amount of penalties assessed to the U.S. Environmental Protection Agency per the terms of the 2015 NPDES Electronic Reporting Rule (NPDES eRule). No change made.  |

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|           |   | additional administrative burden to them because all fines are handled through the courts.  |   |
| 24        | Part 4.2.5  | A commenter requested that the permit should include the categories of exemption that are found in the GSMM within this section of the permit.  | This comment is an exact restatement of a comment from the 2017 Permit reissuance and in the intervening 5 years EPD did not identify anything to indicate that additional exemptions should be included in the Permit as opposed to the ability of an MS4 to determine if it is feasible to apply the standards for a project. No change made. |
| 27        | Part 4.2.5.2                                      | Several commenters requested the Linear Transportation Projects text be revised to delete the text stating that the infeasibility criteria only applies to the “Stormwater Runoff Quality/Reduction” performance standard, and not the other standards. | Because it may be infeasible to implement any of the performance standards on a linear transportation project, the text has been revised to clarify that the infeasibility criteria may be applied for all of the performance standards.  |
| 28        | Part 4.2.5.3                                      | The commenter requested the language be expanded to explain the sentence, “If necessary, the permittee should include a report on any proposed revisions to the ordinances and codes...”  | The text has been revised to read “if revisions to the ordinances and codes are necessary, the permittee should include a report on any proposed revisions, including a schedule for completion of the revisions” in order to clarify when a report may be needed.  |
| 29 and 35 | Tables 4.2.5 (a) and (b), BMPs 2.a, 4.a. and 6.a. | The commenter requested that the term “...the permittee has the legal authority to regulate...” be revised to “...the permittee has the legal authority to inspect...” to be consistent with the Phase I Medium permit wording.                         | The recommended language revision was accepted. To ensure consistency between permits, the text has been changed from “regulate” to “inspect”.  |
| 29 and 35 | Tables 4.2.5(a) and (b), BMP #2                   | A commenter requested that the term “water quality vaults” be revised to “underground detention”, in order to more fully align with the language in the Georgia Stormwater Management Manual.   | The requested language revision was made.   |
| 32        | Table 4.2.5(a), BMP #5.a                          | The commenter requested the removal of the wording that was added to the draft permit requiring   | All Phase II permittees are required to develop and submit a GL/LID Program. The permittees are   |

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|           |   | “specific feasibility criteria” for evaluating different GI/LID techniques and practices to be considered in the GI/LID program.   | required to include procedures for evaluating feasibility. The text was added to require the permittees to include the specific feasibility criteria (i.e., how does the permittee determine if a site is feasible). Some permittees include GI/LID inspection forms from the GSMM. All permittees do not have the same GI/LID structures and may refer to the GSMM and restate the G/LID techniques and practices for the specific GI/LID structures included within their inventory (i.e., proposed or actual). Therefore, each permittee’s GI/LID Program will be case specific and include the details that are relevant for their permitted area or jurisdiction. No change made. |
| 42 and 47 | Tables 4.2.6(a) and (b), BMP 5.a                  | The commenter requested the language be revised to clarify if “employee categories” applies to a position, department, or some other item.   | The general language provide flexibility to allow the permittee to determine which of their employees should be trained. The permittee should clarify in the Stormwater Management Plan who will be trained on an annual basis. No change made.  |
| 44 and 48 | Table 4.2.6(a), BMP #6 and Table 4.2.6(b), BMP #6 | The commenter requested that a definition for “waste” be added to Appendix A in order to better define the type of waste that must be tracked. The commenter was concerned with trying to track household waste. | The permit specifies that “waste removed from the MS4” must be properly disposed of and that the amount and disposal method must be tracked and reported in each annual report. Because it is waste from the MS4, this is any debris, litter, vegetative matter, or other materials that are removed from the MS4 structures. This includes materials removed from conveyances, detention structures, and streets during cleaning and repair of the structures. This does not include all waste from within the MS4 permitted area. No change made.  |

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| 44 | Table 4.2.6(a),<br>BMP #8 | The commenter requested that the requirement regarding the evaluation of permittee-owned ponds to determine feasibility for retrofitting be deleted, noting concerns for staff resource and funding concerns.  | The requirement to evaluate existing permittee-owned ponds for retrofitting is not a new requirement. The language was revised to clarify what the evaluation must consist of and that previously evaluated ponds do not need to be re-evaluated. If a municipality or County has a large inventory of ponds to evaluate, they should evaluate their inventory to ensure that only those ponds located within the permitted area (i.e. urbanized area) are included on the inventory. No change made.  |
| 52 | Part 4.4.2                | The commenter noted that the requirements of Section 4.4.2 (Impaired Waters) of the draft permit parallel the requirements for having a water body removed from the State's list of Impaired Waters (303(d) list). The commenter would like to see consistency in the criteria the State applies to putting water bodies on that list. | Georgia's 2022 305(b)/303(d) Listing Assessment Methodology (found on <a href="#">EPD's Watershed Planning and Monitoring Program webpage</a> ) provides the listing assessment methodology used for the solicitation, review, consideration, and assessment of data for Georgia's 2022 305(b)/303(d) List of Waters. Each biennial listing cycle, the Listing Assessment Methodology is updated to include needed changes and to reflect the most current Listing Guidance provided by the USEPA. Changes to the listing procedures are outside of the scope of the NPDES permit but EPD welcomes additional dialog on this issue through the Triennial Review process. You can sign up for notifications regarding this process <a href="#">here</a> . No change made. |
| 53 | Part 4.4.2                | Several commenters expressed concern with the increase in bacteriological sampling from 2 geometric means to 4 geometric means during the reporting year, noting staff and funding concerns. Under the Watershed Protection Plan, the  | The purpose of the Impaired Waters Monitoring and Implementation Plan is to conduct monitoring in order to evaluate water quality and to implement activities with the goal of improving water quality. Monitoring performed for the Watershed Protection  |

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|    |            | <p>municipalities are collecting 2 geometric means. One commenter also requested an acceptable spreadsheet or data table for reporting monitoring activities.</p>  | <p>Plan is conducted only during May to October, to evaluate the human contact risk. Whereas, for the Monitoring and Implementation Plan, the focus of the increased monitoring is the evaluation of water quality under various conditions to develop trends over time. As stated above, the increased monitoring of 4 geometric means will provide data useful to EPD and the permittee. EPD also believes that the information the 8 additional sampling events per waterbody provides will outweigh the costs incurred and more closely connects MS4 activities year-round with environmental impacts.</p> <p>EPD will provide a template spreadsheet or data table for reporting monitoring activities on EPD's website along with the revised Phase II annual report form.</p> <p>No change made.</p> |
| 53 | Part 4.4.2 | <p>The commenter requested that the text in the section be corrected to replace the term "IWP" with the correct term "MIP" in two places.</p>  | <p>The revision has been made.</p>  |
| 53 | Part 4.4.2 | <p>A commenter requested that DNA tracking results showing the source of fecal coliform bacteria be allowed for de-listing purposes. The commenter also noted that recent DNA testing of some streams impaired for bacteria concluded that non-human, wild animal sources were the sole cause.</p> | <p>Georgia's 2022 305(b)/303(d) Listing Assessment Methodology (found on <a href="#">EPD's Watershed Planning and Monitoring Program webpage</a>) provides the listing assessment methodology used for the solicitation, review, consideration, and assessment of data for Georgia's 2022 305(b)/303(d) List of Waters. Each biennial listing cycle, the Listing Assessment Methodology is updated to include needed changes and to reflect the most current Listing Guidance provided by the USEPA. Changes to the delisting procedures are outside of the scope of the NPDES</p>  |

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|    |            |  | permit but EPD welcomes additional dialog on this issue through the Triennial Review process. EPD sees value in determining sources of bacteria by DNA testing and believes that the information gathered may be very useful for an MS4 in selecting targeted BMPs and ensuring that those BMPs continue to be appropriate given the potential for additional and new sources of pollutants. No change made.   |
| 53 | Part 4.4.2 | The commenter requested that if the permittee has an approved Watershed Protection Plan (WPP) requiring only two geometric means to be collected, that the permittee have a choice to collect the four geometric means set in the Permit or implement the WPP and collect two geometric means. | As stated above, the goals of the Watershed Protection Plan and Impaired Waters Monitoring differ. Impaired waters monitoring is associated with meeting the antidegradation requirements in the Division's Rules and Regulations for Water Quality Control. The expectation is that compliance with the permit will reduce the current level of pollution discharged from the MS4s through implementation of BMPs. The monitoring serves to evaluate BMP performance and inform the permittee of any additional BMP measures that may be necessary. Over time, EPD has determined that additional monitoring would be useful for both EPD and the permittee. For EPD, the monitoring provides additional useful information for prioritizing EPD ambient water monitoring efforts and helps better characterize up-to-date conditions of those impaired waters. For permittees, the additional effort may result in quicker delisting of the waterbody, which would remove all impaired waters requirements associated with that waterbody. No change made. |



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| 55 | Part 4.6   | The commenter requested that language be added clarifying if the permittee should operate under the approved SWMP until modifications are approved by EPD.   | Part 4 of the Permit states that the permittee must comply with the permit, regardless of if the SWMP has been approved by EPD. No change made.   |
| 63 | Appendix A | The commenter noted that, in the definition for “Green Infrastructure/Low Impact Development”, the reference to “any of the stormwater best management practices described in the [GSMM]” should be revised to apply only to those practices that are specifically identified as green infrastructure. | The Phase I Medium MS4 permits, reissued in 2022, contain the same definition of Green Infrastructure/Low Impact Development, and therefore this definition is consistent with other MS4 permits. EPD also believes that the context of this reference in the definition should be clear to most readers. No change made. |