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Exempt Action Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) citation(s)	9 VAC25-890
Regulation title(s)	General Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation to Amend and Reissue the Small Municipal Stormwater Separate Sewer Systems (MS4s)
Action title	Amend and Reissue the Small Municipal Stormwater Separate Sewer Systems Permit
Final agency action date	August 21, 2018
Date this document prepared	July 6, 2018

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This rulemaking is proposed in order to amend and reissue the existing VPDES general permit which expires on June 30, 2018. The general permit governs local governments and state and federal agencies that discharge stormwater from "small" municipally owned separate storm sewer systems located within the Census Urbanized Area as determined by the U.S. Census Bureau.

Proposed substantive changes to the existing regulation include (i) revising the permit in accordance with the U.S. Environmental Protection Agency's small MS4 federal regulations (Small MS4 Remand Rule) promulgated on

January 9, 2017, such as revising registration statement requirements to eliminate submittal of the permittee's MS4 Program Plan, including more specific best management practices (BMPs) and strategies for implementation as part of the permit, and removing the requirement approval of MS4 program plans and TMDL action plans by the Department of Environmental Quality; (ii) requiring permittees to provide MS4 maps in a geographic information system shapefile format; (iii) streamlining construction site stormwater runoff control and post-construction stormwater management for new development and development on prior developed lands by incorporating existing erosion and sediment control and Virginia Stormwater Management Program regulations by reference; (iv) revising existing and new source load reductions to be [implemented] during the permit term for those permittees discharging to the Chesapeake Bay watershed in accordance with the Chesapeake Bay TMDL and Watershed Implementation Plans; and (v) adding a requirement that local TMDL action plans be made available for public review.

Acronyms and definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

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- APA: Administrative Process Act
 - BMP: Best Management Practices
 - CB: Chesapeake Bay
 - CFR: Code of Federal Regulations
 - DEQ: Department of Environmental Quality
 - EPA (U.S. EPA): United States Environmental Protection Agency
 - ESC: Erosion and Sediment Control
 - IDDE: Illicit Discharge Detection and Elimination
 - MS4: Municipal Separate Storm Sewer System
 - NPDES: National Pollutant Discharge Elimination System
 - PCSM: Post-Construction Stormwater Management
 - TAC: Technical Advisory Committee
 - TMDL: Total Maximum Daily Load
 - USC: United States Code
 - VAC: Virginia Administrative Code
 - VPDES: Virginia Pollutant Discharge Elimination System
 - VSMP: Virginia Stormwater Management Regulation

Statement of final agency action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On August 21, 2018, the State Water Control Board adopted the amendments to the General Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation for Discharges of Stormwater from Small Municipal Storm Sewer Systems (MS4s).

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This regulation is not expected to have a direct impact on the institution of the family or family stability.

Periodic review/small business impact review report of findings

[This section may be used to report the results of a periodic review/small business impact review. Otherwise, delete this section.]

Please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review and (2) indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by §2.2-4007.1 E and F, please include a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

There were no comments received following the publication of the Notice of Periodic Review. The proposed regulatory action is needed in order to establish appropriate and necessary permitting requirements for discharges of stormwater to surface waters from small municipal separate storm sewer systems (MS4). Protecting water quality in the Commonwealth’s surface waters is necessary to protect the health, safety and welfare of citizens. These discharges are considered to be point sources of pollutants and thus are subject to regulation under the VPDES permit program. The primary issue that needs to be addressed is that the existing general permit expired on June 30, 2018 and must be reissued in order to continue making it available to authorized permittees. The complexity of the regulation and ideas to make it clearer were discussed in the technical advisory committee and appropriate changes were made. The regulation does not overlap, duplicate, or conflict with federal or state law or regulation as the State Water Control Board is the delegated authority to regulate point source discharges to surface water. The regulation was evaluated in 2013 when the permit was reissued last permit term.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

Current Section number	Requirement at proposed stage	What has changed	Rationale for change
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Contact Information	This section provides agency contact information.	Agency contact person has been changed with revised phone and e-mail contact information.	Update contact information.
MS4 General Permit Summary	This section provides a summary of proposed regulatory action.	The word implanted was corrected to <u>implemented</u> .	This revision was to correct a word to <u>implemented</u> .
1	This section provides the definitions for terms used throughout the permit.	The word on line has been corrected to <u>online</u> .	This was changed to provide consistency on use of the term throughout the document.
1	Provided the definition for the term “High-priority facilities”.	The word engaged was changed and the sentence to read as follows: “... <u>engage in one or more of</u> in the following activities...”. A revision was also made to remove the words “facilities” and “yards” after each listed item and add <u>storage for</u> before “public works” for the sentence to read as follows: “(i) <u>composting facilities, (ii) equipment storage and maintenance facilities, (iii) materials storage yards, (iv) pesticide storage facilities, (v) storage for public works yards, (vi) recycling facilities, (vii) salt storage facilities, (viii) solid waste handling and transfer facilities, and (ix) vehicle storage and maintenance yards.</u> ”	The intent of this change is to clarify that the listed items for “High-priority facilities” should be activities conducted and not locations and specify “storage for” public works. A grammatical error was also corrected.
10.A	Provided purpose, delegation of authority information and effective date of the state permit.	Changed a permit reference from 9VAC25-890-20.C to 9VAC25-890-20.D to clarify nonmunicipal stormwater or wastewater discharges are not authorized by the permit except in accordance to 9VAC25-890-20.D.	Correction for a permit reference.
10.B	Provided effective date of the permit.	Changed the effective date of the state permit to November 1, 2018 and expiration to October 31, 2023.	Correction to update the permit effective and expiration dates.
15	Provided the reference and incorporation of U.S. Environmental	Added the following sentence as follows: “The final rule published in the Federal Register on	To update the correct federal regulation and date information.

	Protection Agency Title 40 CFR regulation and published date.	August 28, 2017 (82 FR 40836) which amends 40 CFR Part 136 is also incorporated by reference in this chapter.”	
20.A.4	Authorization to discharge information.	Changed the term owner to <u>operator</u> .	Changed the term to provide consistency throughout the document.
20.C.3		Defined what the term “MEP” is, added that implementing BMPs was to <u>reduce pollutants</u> and added regulatory reference to <u>9VAC25-31-220.K.2.</u>	Further clarification based on comments received and regulatory reference.
20. D.3		Changed “Dechlorinated water line flushing” to “ <u>Water line flushing, managed in a manner to avoid an instream impact.</u> ”	Revised term to allow water line flushing which must be managed in a manner to avoid instream impact as authorized in non-stormwater discharges listed in 9VAC25-890-20.D.3. The following item was also added to the list, “discharges from noncommercial fundraising car washes if the washing uses only biodegradable, phosphate-free, water-based cleaners” as required by the amendment to the Code of Virginia, Section 15.2-2114.1.
30.B.3 and 4	Registration Statement	Revised to make a grammatical correction and clarify the “...type of the small MS4...” for the information that must be submitted on the Registration Statement.	Further clarification based upon comments received.
30.B.6		Revised information requirements for the Registration Statement. Changed the submittal requirement in the Registration Statement to “The <u>names</u> of receiving surface <u>waters</u> to which the outfall <u>MS4 system</u> discharges;” and the reference for the Virginia 305(b)/303(d) Water Quality Assessment Integrated Report was updated to reflect the most recent 2016 date.	Revised the required information for the Registration Statement application and updated report reference dates.

<p>30.B.6 30.B.7 30.B.8</p>		<p>Removed the Registration Statement submittal requirement for the following information:</p> <ul style="list-style-type: none"> • the unique outfall identifier; • the estimated MS4 acreage served for the outfall; • the name of any applicable TMDL for the segment of the receiving water; • the 6th Order Hydrologic Unit Codes currently receiving discharges from the small MS4; • the estimated drainage area served by the MS4 directly discharging to an impaired receiving surface water; and description of the land use for each such drainage area; <p>These requirements have been revised and are now included as part of MCM 3.a.</p>	<p>This information was removed from the Registration Statement to simplify the permit application process. The necessary information is still required and will be submitted following the reporting requirements as listed in MCM 3.</p> <p>The numbering for 30.B.6-12 was adjusted after the referenced sections were removed.</p>
<p>40</p>	<p>General Permit introduction and regulatory reference</p>	<p>The opening paragraph was changed as follows: “Any MS4 operator whose registration statement is accepted by the board will receive <u>coverage under</u> the following general permit and shall comply with the requirements in this general permit <u>and be subject to all applicable</u> requirements of <u>the Virginia Stormwater Management Program (VSMP) Regulations (9VAC25-870)9VAC25-870 and the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulations, (9VAC25-31),9VAC25-31”.</u></p>	<p>Further clarification based on comments received from both public comments and EPA comments to reference the appropriate regulations and that the permittee is provided “coverage under” and “...subject to all applicable” requirements of the referenced regulations.</p>
<p>40</p>	<p>General Permit effective and expiration dates</p>	<p>Effective date of permit November 1, 2018 to October 31, 2023.</p>	<p>Updated effective dates of the permit November 1, 2018 to October 31, 2023.</p>

40	General Permit	Revised terms within the permit.	Changed the term “operator” to permittee to provide consistency throughout the permit. The term “DEQ” was revised to “the department” based on comment received.
40 Part I.A	General Permit - Discharge Authorization and Special Conditions	Provides reference for authorized nonstormwater discharges.	Revised the reference for authorized nonstormwater discharges from 9VAC25-890-20 C to 9VAC25-890-20 D.
40 Part I.B	General Permit - Discharge Authorization and Special Conditions	Provides requirements for compliance with the small MS4 permit including definition of “maximum extent practicable”.	Clarified the definition of “maximum extent practicable” and MS4 permittee requirements to include as follows: “The permittee shall develop, implement, and enforce a MS4 program designed to reduce the discharge of pollutants from the small MS4 to the maximum extent practicable (MEP) in accordance with this permit, to protect water quality, and to satisfy the appropriate water quality requirements of the State Water Control Law and its attendant regulations. The permittee shall utilize the legal authority provided by the laws and regulations of the Commonwealth of Virginia to control discharges to and from the MS4. This legal authority may be a combination of statute, ordinance, permit, policy, specific contract language, order or interjurisdictional agreements. The MS4 program shall include the minimum control measures (MCM) described in Part I.E. For the purposes of this permit term, implementation of MCMs in Part I.E and the Chesapeake Bay and Local TMDL requirements in Part II (as applicable) consistent with the provisions of an iterative MS4 program required pursuant to this general permit constitutes compliance with the standard of reducing pollutants to the “maximum extent practicable,” provides adequate progress in meeting water quality standards

			and satisfies the water quality requirements of the State Water Control Law and its attendant regulations.” This revision included additional language to clarify the definition of MEP based on public and EPA comments received.
40 Part I.C	This section includes MS4 program plan requirements.	Revised a sentence in Part I.C.1 to read as follows: “The MS4 program plan shall include, at a minimum, the following <u>written items</u> .” Part I.C.1.c.(2) was revised as follows: “A description of the BMPs <u>or strategies</u> that the permittee anticipates will be implemented...”	Part I.C.1.was revised according to EPA comment received and Part I.C.1.c.(2) was revised in response to a public comment received.
40 Part I.C.3	MS4 Program Plan requirements	Revised to include a provision to update the MS4 program plan to meet the requirements of the permit no later than six months after permit effective date unless otherwise specified in another permit condition. This section also was revised to include posting of the most up-to-date version of the MS4 program plan on the permittee’s website or location it can be obtained within 30 days of updating the MS4 program plan.	Changes made to indicate the date by which the MS4 program plan must be updated and that the permittee make updates available on the permittee’s website within 30 days of a revision. This permit change was made based on a comments received.
40 Part I.E.1	Public education and outreach requirements as part of MCM 1.	Revised Table 1 heading from Public Outreach and Education to <u>Public Education and Outreach</u> . Revised contact information in Part I.E.1.c.(4) to include addition of website information. Added an annual requirement that the permittee use the 2 or more strategies listed in Table 1.	The use of two or more strategies from Table 1 was clarified to be a yearly requirement. Changes were made to the heading of Table 1 and the term “operator” was changed to “ <u>permittee</u> ” to provide consistency within the section. The term “website” was added to provide additional information location. Revisions were based on comments received.
40 Part I.E.2.	Public involvement and participation requirements as part of MCM 2.	Additions were made as part of MCM 2 to clearly reference that term “MS4 program plan” in the list for procedures to be developed and implemented as part of the plan.	Revisions were made to provide consistency in the section and clearly delineate the actions necessary for the MS4 program plan. The revisions were based on comments received.

<p>40 Part I.E.2.</p>	<p>Public involvement and participation requirements as part of MCM 2.</p>	<p>For the annual reporting requirements, Part I.E.2.f, the term “address” was added after “webpage” and Part I.E.2.f.(5) the sentence was revised as follows: “The name of the MS4 permittees <u>with whom the permittee collaborated in the public involvement opportunities.</u>” Also, the requirement in Part I.E.2.f.(1) <u>specifies as part of the summary of public input on the MS4 program that stormwater complaints be included.</u></p>	<p>Revisions were made based on comments received to clarify the information required as part of the annual report. The revision for “stormwater complaints” is from an EPA comment in Part I.E.4.c.</p>
<p>40 Part I.E.3.</p>	<p>Illicit discharge detection and elimination as part of MCM 3.</p>	<p>MCM 3.a was revised to include additional information that was originally provided as part of the Registration Statement. The following information was added in MCM 3.a: the MS4 regulated service area; stormwater management facilities owned or operated by the permittee; and the predominant land use for each outfall discharge to an impaired water. Additionally, as part of Part I.E.3.a.(3), the due date for the permittee to submit to DEQ a GIS-compatible shapefile of the permittee’s MS4 map or map in a PDF format was extended to July 1, 2019. Language was also added to Part I.E.3.a.(1).(a).(ii) to clarify mapping requirements for MS4 outfall discharges to receiving water channelized underground.</p>	<p>Revisions were made based on a comment received from the EPA and public comments. The map requirements were moved to MCM 3 to provide consistency and clear submittal requirements. The land use requirement was changed to specify land use for each outfall discharging to an <i>impaired water</i>. Language was also added for mapping outfall discharges to receiving water channelized underground to provide an additional mapping option the permittee may use.</p>
<p>40 Part I.E.3.b and c</p>	<p>Illicit discharge detection and elimination as part of MCM 3.</p>	<p>A reference to nonstormwater discharges was corrected to 9VAC25-890-20 D. In Part I.E.3.c the section was revised to read as follows: “The permittee shall maintain, and implement, <u>and enforce</u> illicit discharge detection and elimination (IDDE) written procedures <u>designed</u> to detect, identify, and address unauthorized nonstormwater discharges, including illegal dumping, to the small MS4 with the goal of eliminating to</p>	<p>Revisions were made based on comments received to correct a reference and to clarify MS4 permittee responsibilities for illicit discharge and detection.</p>

		<u>effectively eliminate the unauthorized discharge.</u> "	
40 Part I.E.3.c	Illicit discharge detection and elimination as part of MCM 3.	The screening criteria for outfalls was revised to include as follows: "If the total number of MS4 outfalls is greater than 50, a schedule to screen a minimum of 50 outfalls annually such that no more that 50% are screened in the previous 12-month period. <u>The 50% criteria is not applicable if all outfalls have been screened in the previous three years;</u> " Several grammatical changes were made in this section to clarify the requirement.	The revision was made to clarify the requirement for screening outfalls under the dry weather field screening protocol section based on EPA comment received. Grammatical changes were made to clarify the section and provide better understanding including word order changes according to comments received.
40 Part I.E.3.c.(5) and (6)	Illicit discharge detection and elimination as part of MCM 3.	A revision added as follows: "... Methodologies for conducting a follow-up investigation as necessary for illicit discharges that are continuous or permittees expect to occur more frequently than a one-time discharge to verify that the discharge has been eliminated <u>except as provided for in Part I.E.3.c.(4).</u> A revision was also made to add terminology to Part I.E.3.c.(6) for a mechanism to track all illicit discharges investigations as follows: "The date <u>or dates</u> that the illicit discharge was initially observed, reported <u>or both.</u> "	The revision was made to clarify that follow up investigations are necessary except as provided for in situations that the source remains identified after attempts to observe the discharge flowing were unsuccessful as detailed in Part I.E..3.c.(4). These revisions were made based on comments.
40 Part I.E.3.e	Illicit discharge and detection and elimination	The language for annual reporting requirements was changed in Part I.E.3.e and revised to add as follows: "A confirmation statement that the MS4 map and information table have been updated <u>to reflect any changes to the MS4 occurring on or before</u> June 30 of the reporting year;" Part I.E.3.e.(3).(b) was revised to add <u>or dates</u> to clarify the requirements within the permit.	The revision was made to clarify the requirements for updating MS4 map and information table. All revisions were made in response to a comments received.

<p>40 Part I.E.4</p>	<p>Construction site stormwater runoff control</p>	<p>In Part I.E.4.a. was revised to add "<u>from regulated construction site stormwater runoff</u>" to clarify the source of discharges entering the MS4 in this section. Revisions were made to clarify town requirements when a town is not a VESCP in Part I.E.4.a.(2).</p>	<p>The language was changed to allow towns to utilize the surrounding county VESCP consistent with the Virginia Erosion and Sediment Control law and regulations and this would constitute compliance with the requirement and details that the town shall notify the surrounding county of ESC or other construction stormwater runoff problems. This revision was made based on comment made.</p>
<p>40 Part I.E.4.b</p>	<p>Construction site stormwater runoff control</p>	<p>The following has been added: "The permittee shall require implementation of appropriate controls to prevent nonstormwater discharges to the MS4, such as wastewater, concrete washout, fuels and oils, and other illicit discharges identified during land disturbing activity inspections of the MS4. The discharge of nonstormwater discharges other than those identified in 9VAC25-890-20 D through the MS4 is not authorized by this state permit." Numbering within this section was also revised with the additional paragraph and a grammatical revision.</p>	<p>The revision was made based upon EPA comment received to provide appropriate controls to prevent nonstormwater discharges to the MS4.</p>
<p>40 Part I.E.5.a</p>	<p>Post-construction stormwater management for new development and development of prior developed lands.</p>	<p>Revisions were made to Part I.E.5.a.(2) similar to Part I.E.4.a above to provide a town that has not adopted a VSMP to utilize the surrounding county program and requires the town to notify the surrounding county of erosion, sedimentation or other post construction stormwater runoff problems. The term "program" was also added within two sections to clarify that "...the permittee shall implement a post-construction stormwater runoff control <u>program...</u>"</p>	<p>This revision was to clarify requirements for towns that do not have their own VSMP programs and utilize the surrounding county VSMP program. The revision was made based on a comment made.</p>
<p>40 Part I.E.5.b.(2)</p>	<p>Post-construction stormwater management for new</p>	<p>Terminology has been added to the stormwater management facilities inspection requirement</p>	<p>The revision was to specify an alternative inspection frequency requirement for permittee owned</p>

	development and development of prior developed lands.	as follows: <u>“The alternative inspection frequency shall be no less than once per five years...”</u>	BMPs and was made based on a comment received.
40 Part I.E.c.(1).(b)	Post-construction stormwater management for new development and development of prior developed lands.	A revision for long-term operation and maintenance by the owner of a stormwater management facility requires the owner “...to develop <u>and record a maintenance agreement, including an inspection schedule</u> to the extent allowable under state or local law or other legal mechanism...:	This revision was to clarify adequate long-term O&M of privately owned BMP requirements by developing and recording a maintenance agreement and was made based on comments received.
40 Part I.E.5.d and h	Post-construction stormwater management for new development and development of prior developed lands.	Language was added in this section to clarify stormwater management facility <u>“or BMP”</u> reference. Clarification was also added to specify a “webpage address” in Part I.E.5.h.(6) for the location of the stormwater management facility spreadsheet or database. One revision for ordinances as part of Part I.E.5.h.(3) was added to include as follows: “A description of the legal authorities utilized to ensure compliance with Part I.E.5.a for post-construction stormwater runoff control such as <u>ordinances (provide citation as appropriate)...</u> ”.	The revisions were based on comments received.
40 Part I.E.5.i	Post-construction stormwater management for new development and development of prior developed lands, Annual Reporting	Changes were made to Part I.E.5.i for annual reporting to clarify maintenance of stormwater management facilities owned or operated by the permittee as follows: “A description of the significant <u>maintenance, repair, or retrofit</u> activities performed on the stormwater management facilities owned or operated by the permittee...This does not include <u>routine</u> activities ...”.	Changes were made to clarify the maintenance requirements for permittee owned stormwater management facilities to include maintenance, repair and retrofit, but routine activities. This change was based upon a comment received.

<p>40 Part I.E.6</p>	<p>Pollution prevention and good housekeeping for facilities owned or operated by the permittee within the MS4 service area MCM 6</p>	<p>Revisions include a reference to employee training program requirements within the permit in Part I.E.6.m.</p> <p>Other revisions include term changes, typo corrections, and a revision in the clarification of high priority facilities that have a high potential for discharging pollutants. The revision in Part I.E.6.c includes that the permittee shall maintain and implement a <u>site specific stormwater pollution prevention plan for each facility identified.</u></p> <p>This MCM 6 also included a clarification to the inspection and maintenance of site specific source controls as follows: <u>An inspection frequency of no less than once per year and maintenance scheduler requirements for site specific controls. Part I.E.6.d.(8) was deleted.</u></p> <p><u>MCM 6 changes also include clarification in Part I.E.6.l of the use of contract language, training, standard operating procedures "...or other measures within the permittee's legal authority..."</u></p> <p>A reference was added to Part I.6.l.(4) to include as follows: <u>"Certification by the Virginia Department of Agriculture and Consumer Services (VDACS) Pesticide and Herbicide Applicator program shall constitute compliance with this requirement."</u></p> <p>Finally, one item was amended to delete a repetitious statement regarding the MS4 program already referenced. The word daily was also removed to maintain consistency from the annual reporting requirement for summary of any operational</p>	<p>These changes were made based on comments received. The clarification for high-priority facilities that have a high potential of discharging pollutants provides additional definition for those facilities to be considered.</p> <p>The requirements for maintenance and inspection were defined to include a specific frequency of no less than once per year.</p> <p>Part I.E.6.d.(8) was deleted from the permit since the requirements listed duplicated the requirements found in Part I.E.6.d.(7).</p> <p>Certification requirements by VDACS was added to the Part I.6.l.(4) to clarify certification standards for contactors and employees who apply the pesticides and herbicides.</p> <p>A clarification statement was added to Part I.6.n to state that the permittee shall maintain documentation of each training event conducted <u>by the permittee....</u></p>
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		<p>procedures developed or modified in accordance with Part I.E.6.a.</p> <p>The annual reporting requirement added as follows: A summary of any SWPPPs modified in accordance with Part I.E.6.f <u>or the rationale of any high priority facilities delisted in accordance with Part I.E.6.h</u> during the reporting period.”</p>	
<p>40 Part II.A</p>	<p>Chesapeake Bay TMDL Special Condition</p>	<p>Revisions in this Part II.A include revision of Tables 3a – 3d to change the terms in columns C and D to better define the necessary calculations. The calculation for Column F in the notes was also revised.</p> <p>Additional terminology was added to clearly state the required total reduction at the end of the permit term for the reduction of at least 40% of the L2 scoping run in separate sections to clarify the needed requirements.</p> <p>Basic terminology was revised within Part II.A to clearly reference the tables, correct grammatical errors,, and change the tense of a word.</p> <p>Part II.A.13 was deleted since that was a section that referenced requirements from the previous permit. Subsequent numbering was also changed to make this revision.</p>	<p>Changes to the tables were proposed by DEQ to accurately reflect the resulting calculations and as a result of comments received.</p> <p>Other changes were based upon comments received.</p>

<p>40 Part II.B</p>	<p>Local TMDL special condition</p>	<p>Part II.B.2 was changed to include: <u>“The permittee shall complete implementation of the TMDL Action Plans as soon as practicable.”</u></p> <p><u>Two references were corrected in Part II.B.4 for Bacterial TMDLs to Part II.B.3.d.</u></p> <p>The term “Marinas” was removed from Table 5.</p>	<p>These revisions were made based upon comments received.</p> <p>The TAC had discussed adding a Marina strategy to Table 5, however, upon further review by DEQ staff, this type of strategy would not result in a reduction in load from the MS4.</p>
<p>40 Part III</p>	<p>Conditions Applicable to All State and VPDES Permits</p>	<p>The note at the beginning of Part III was revised to read as follows: “Discharge monitoring is not required for <u>compliance purposes by this general permit.</u> If the operator chooses to monitor stormwater discharge for control measures, the operator must comply with the requirements of Part III A, B, and C as appropriate <u>informational or screening purposes, the operator does not need to comply with the requirements of Part III A, B, or C.</u>”</p> <p>Revisions were made to the certification statement in Part III.K.4 to change the terminology to maintain consistency throughout all documents.</p>	<p>The change to the “Note” was made in response to comments received and distinguishes that testing conducted for informational or screening purposes does not need to comply with the requirements Part III, A,B,C.</p> <p>Revision was made based on comments received.</p>

Public Comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment Received	DEQ Response
City of Alexandria	Line 52 - reductions to 'implemented' not 'implanted'	The noted correction has been made.
City of Alexandria	Line 70 - The listed items should be activities not locations. Consider deleting "facilities" and "yards."	The noted correction has been made.
VAMSA	"High-priority facilities" means facilities owned or operated by the permittee that are actively engaged in the following activities: (i) composting facilities, (ii) equipment storage and maintenance facilities, (iii) materials storage yards; (iv) pesticide storage facilities; (v) storage for public works yards, (vi) recycling facilities, (vii) salt storage facilities, (viii) solid waste handling and transfer facilities, and (ix) vehicle storage and maintenance yards. (VA Register, p. 991)	Revisions to that section have been made as noted in the City of Alexandria's response to remove "facilities" and "yards" to clearly state that definition of "High-priority facilities" are actively engaged in the activities as listed and does not reference locations.
City of Charlottesville	Line 71 – please consider replacing "engaged" with "engage".	The noted correction has been made.
City of Charlottesville	Line 74 – please consider replacing "and" with "or" since a high priority facility by definition only has to be engaged in one of the listed activities, not all of them.	DEQ agrees that it is appropriate to clarify this definition and proposes to add the following language to the definition: "...engage in <u>one or more of</u> the following activities..."
Navy	As written, the MS4 service area definition appears to make non-traditional MS4s responsible for drainage received from outside its property boundary. This could also be interpreted to require traditional MS4s to be responsible for drainage received outside its jurisdictional boundary. Recommendation: Given that non-traditional MS4s have no legal mechanisms to require load reductions from land outside their property boundary, this section should be modified to clearly demonstrate that non-traditional MS4s are not responsible for drainage received from outside their property boundary and traditional MS4s are not responsible for drainage received outside their jurisdictional boundary. Suggested language is "MS4 regulated service area" or "service area" means for Phase II permittees, the drainage area served by the permittee's MS4 that is located within an urbanized area as determined by the 2010 decennial census, performed by the Bureau of the Census, and drainage originating within the property boundary of a non-traditional MS4 or within the jurisdictional boundary of a traditional MS4.	DEQ discussed the proposed definition of <i>regulated service area</i> with the technical advisory committee for the MS4 General Permit, and the definition proposed is consistent with DEQ's expectations. Also the definition of <i>regulated land</i> in DEQ's guidance document GM15-2005 for the Chesapeake Bay TMDL Special Condition requirements in the 2013-2018 MS4 General Permit. Land within the Census Urbanized Area that drains to a regulated MS4 is part of the service area of that regulated MS4 regardless of the land's ownership or control. No change proposed.

Commenter	Comment Received	DEQ Response
Department of Defense	<p>As written, this definition appears to make non-traditional MS4s (such as federal installations) responsible for drainage received from outside the permittee's property boundary. This could also be interpreted to require traditional MS4s to be responsible for drainage received outside its jurisdictional boundary. Recommendation: Given that non-traditional MS4s have no legal mechanisms to require load reductions from land outside their property boundary, this section should be modified to clearly demonstrate that non-traditional MS4s are not responsible for drainage received from outside their property boundary and traditional MS4s are not responsible for drainage received outside their jurisdictional boundary. Suggested language is "MS4 regulated service area" or "service area" means for Phase II permittees, <i>"the drainage area served by the permittee's MS4 that is located within an urbanized area as determined by the 2010 decennial census, performed by the Bureau of the Census, and drainage originating within the property boundary of a non-traditional MS4 or within the jurisdictional boundary of a traditional MS4."</i></p>	<p>Please see proposed comment to 9VAC25-890-1 above.</p>
VAMSA	<p>This general permit regulation governs point source stormwater discharges from regulated small municipal separate storm sewer systems (small MS4s) to surface waters of the Commonwealth of Virginia. Nonmunicipal stormwater or wastewater discharges are not authorized by this permit except in accordance with 9VAC25-890-20 C & D. (<i>VA Register</i>, p. 992)</p> <p>There are similar references at Part I(A) and I(B) of the Proposed GP (<i>VA Register</i>, p. 997, p.1004).</p>	<p>The references in 9VAC25-890-40 Part I A and Part I B for non-stormwater discharges have been changed from 9VAC25-890-20 C to 9VAC25-890-20 D. The noted correction has been made.</p>
Chesapeake Bay Foundation	<p>The Draft Permit proposes to allow the DEQ Director or his designee to perform any act of the State Water Control Board (Board) specified within the permit, except as limited by a specific Virginia Code prohibition. While we recognize the goal of efficiency associated with this provision, we believe that it would further the continuing erosion of the meaningful citizen review for which the Board was created. We urge the deletion of this provision—or at least a limitation on its</p>	<p>Under the State Water Control Law, the Director of DEQ is delegated authority to make case decisions on behalf of the State Water Control Board except under certain situations provided for in law or regulation. The language that is referenced in this comment is language that appears in all of DEQ's VPDES and VSMP general permits. Additionally, this language was part of the 2013 MS4 General Permit regulation as 9VAC 25-890-50. No change necessary</p>

Commenter	Comment Received	DEQ Response
	use to specific, identified tasks for which DEQ’s administration is essential.	
EPA	Why do 1-3 refer to the operator, but 4 uses the term owner?	DEQ will ensure consistent use of terms.
City of Alexandria	Line 101 - ‘Operator’ stricken from the definitions and appears the term should be ‘permittee’ here instead of ‘operator’. Permittee is used elsewhere in place of operator when the discussion is regarding items after the permit is issued.	Changes were made throughout the permit (9 VAC 25-890-40) to update “operator” to “permittee.” The point at which the general permit 9VAC 25-890-40 becomes applicable, DEQ has granted coverage under the general permit. The base regulation of 9VAC 25-890 provides regulatory requirements and additional regulatory information to “operators” for which coverage under the general permit has not yet been extended. As written in this section, use of the word “operator” is correct. No change necessary.
EPA	Flagging the language “to the MEP standard” as a potential issue. This may be addressed later in the permit, where the MEP standard may be defined by the permit requirements. As it stands though, it could be deferring discretion to the permittees to determine this.	DEQ is not deferring MEP decision to permittee. DEQ has determined that the requirements of the permit meet MEP and therefore by complying with the permit, the permittee demonstrates compliance with the MEP standard. This is addressed in the accompanying fact sheet.
EPA	When/how is this evaluated/determined?	MEP was determined by DEQ and results in the items that are included in the MS4 GP. This is addressed in the accompanying fact sheet.
City of Charlottesville	Line 119: The term “MEP” has not yet been defined for use as an abbreviation.	The noted correction has been made.
VAMSA	<p>9VAC25-890-20(C)(3) states that the SWCB will notify an MS4 operator that it is not eligible for GP coverage if the operator “fails to implement BMPs to the MEP standard in order to demonstrate progress toward meeting the water quality requirements as listed in 9VAC25-31-220 D 1 a.” (VA Register, p. 992).</p> <p>9VAC25-31-220(D)(1)(a) is part of the VPDES regulations (9VAC25-31-10, et seq.), and mandates that VPDES permits include limitations that “control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the board determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any Virginia water quality standard, including Virginia narrative criteria for water quality.” VAMSA submits that the Virginia Stormwater Management Programs (VSMP) regulations, not the VPDES regulations, are the appropriate cross-reference for the</p>	<p>MS4s are regulated under both the VSMP (9VAC25-870) and the VPDES permit (9VAC25-31) regulations. As such, DEQ believe it is appropriate to maintain a reference to the provisions of the VPDES regulations. However, DEQ agrees that as part of this section of the regulation further clarification is appropriate. DEQ has revised the proposed permit language to incorporate VAMSA’s 2nd suggestion:</p> <p>3. The operator fails to implement BMPs <u>to reduce pollutants</u> to the maximum extent practicable (MEP) standard in order to demonstrate progress toward meeting the water quality requirements as listed in 9VAC25-31-220 D 1 a in accordance with 9VAC25-31-220 K 2.</p> <p>Please note that revisions to include “to reduce pollutants” are not proposed by VAMSA but are initiated by DEQ as a result of further review of the permit.</p>

Commenter	Comment Received	DEQ Response
	<p>Proposed GP. The VSMP regulations directly address stormwater, and explicitly provide a Small MS4 compliance standard:</p> <p>“Your MS4 state permit will require at a minimum that you develop, implement, and enforce a stormwater management program designed to reduce the discharge of pollutants from your MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act, the Virginia Stormwater Management Act, and the State Water Control Law.” 9VAC25-870-400(D)(1).</p> <p>If DEQ will not substitute the 9VAC25-870-400(D)(1) reference, VAMSA suggests the following alternatives to the current text:</p> <p>3. The operator fails to implement BMPs to the MEP standard in order to demonstrate progress toward meeting the applicable water quality requirements as listed in 9VAC25-31-220 D 1 a.</p> <p>3. The operator fails to implement BMPs to the MEP standard in order to demonstrate progress toward meeting the water quality requirements as listed in 9VAC25-31-220 D 1 a in accordance with 9VAC25-31-220 K 2.</p> <p>3. The operator fails to implement BMPs to the MEP standard in order to demonstrate progress toward meeting the applicable water quality requirements as listed in 9VAC25-31-220 D 1 a in accordance with 9VAC25-31-220 K 2.</p> <p>Similar edits should be made to the Draft Fact Sheet, specifically under the discussion of “Activities covered by this general permit” (p. 2). DEQ has also stated in the Draft Fact Sheet that the pollution prevention and good housekeeping programs (MCM-6) are “key elements for minimizing the impact from any activity exposed to stormwater that has the potential to discharge to surface waters.” (p. 11). The compliance standard for an MS4 is reducing pollutants</p>	
City of Charlottesville	Line 120 – the City feels that the cross-reference to 9VAC 25-31-220.D.1.a is not	Please see response to similar VAMSA comment above.

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	<p>the most appropriate reference to make. In our opinion, the more appropriate cross-reference is to 9VAC25-870-400.D.1, which specifically addresses the VSMP regulations and requires permittees to develop, implement, and enforce a stormwater management program designed to reduce the discharge of pollutants from the MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act, the Virginia Stormwater Management Act, and the State Water Control Law.</p>	
<p>City of Suffolk</p>	<p>9VAC25-890-20(C)(3) cross references the Virginia Pollutant Discharge Elimination System (VPDES) regulations for water quality requirements. Suffolk believes that the Virginia Stormwater Management Programs (VSMP) regulations are the appropriate cross reference for the MS4 GP.</p>	<p>Please see response to similar VAMSA comment above.</p>
<p>City of Suffolk</p>	<p>The City supports including a list of authorized non-stormwater discharges in 9VAC25-890-20(D)(3). However, we believe the list should be consistent with existing federal and state law. The list currently provided in the proposed MS4 GP adds "dechlorinated" to water line flushing making this GP inconsistent with federal and state law as well as the individual permit issued to Virginia Department of Transportation on June 29, 2017. Suffolk requests that DEQ delete the word -dechlorinated- from the proposed MS4 GP.</p>	<p>We have revised 9VAC25-890-20 D 3 a to include "Water line flushing, managed in a manner to avoid an instream impact" with the intent that this has not been identified by the operator or board as a significant contributor of pollutants as long as it is managed to avoid instream impact. This reflects the requirement of 9VAC25-870-400 D 2 c (3) which states: <i>"You need to address the following categories of nonstormwater discharges or flows (i.e., illicit discharges) only if you identify them as significant contributors of pollutants to your small MS4: water line flushing, landscape irrigation, diverted stream flows, rising groundwaters, uncontaminated groundwater infiltration (as defined in 40 CFR 35.2005(20)), uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water. (Discharges or flows from fire-fighting activities are excluded from the effective prohibition against nonstormwater and need only be addressed where they are identified as significant sources of pollutants to surface waters.)"</i></p>
<p>HRPDC</p>	<p>The HRPDC supports including a list of authorized non-stormwater discharges in 9VAC25-890-20 (D)(3). However, the list</p>	<p>Please see revision of the regulatory language in 9VAC25-890-20 D.3 described in the response to the comment above.</p>

Commenter	Comment Received	DEQ Response
	<p>provided in the draft MS4 GP includes dechlorinated water line flushing. The addition of "dechlorinated" makes the water line flushing condition more restrictive than existing federal (40 C.F.R. §122.26(d)(2)(iv)(13)(1), 40 C.F.R. §122.34(b)(3)(ii)) and state law (9VAC25-870-380(C)(2)(d)(2)(a), 9VAC25-870-400 (D)(2)(c)(3)). It is also inconsistent with the individual MS4 permit issued to the Virginia Department of Transportation on June 29, 2017. Recommendation: delete "dechlorinated" from the water line flushing condition in 9VAC25-890-20(D)(3).</p>	
JMU	<p>Line 133: The word “dechlorinated” has been added to the allowable discharge for water line flushing. Implications if the wording is changed:</p> <ul style="list-style-type: none"> i. State fire code (NFPA 25) requires that all fire sprinkler lines are flushed on a quarterly basis. The building discharge points for sprinkler lines are an open outlet (end pipe) without a way to attach a dechlorination device. So while it would be possible to dechlorinate discharge from regularly scheduled draining of building sprinkler systems, our current system would need to be re-worked on 68 buildings to attach an apparatus on the main drain. Also the inspector test valves would require considerably more effort to capture/dechlorinate if they even make an apparatus that size. ii. Fire pump discharge filtration is out of the question on annual inspections. Anything that will alter the flow characteristics coming out of the 2.5” hose valves will alter pressure readings and we will not be able to accurately chart how our pump is performing compared to past years. Several fire pump manifolds have up to (8) 2.5” hose valves, so a dechlorinating unit would need to be provided for each discharge point. This would be a significant cost to implement across the campus. Several fire pumps discharge at rates higher than ‘commercially available’ dechlorinating units support with regards to flow rates. Recommendation: remove “dechlorinated” 	<p>Please see revision of the regulatory language in 9VAC25-890-20 D.3 described in the response to the comment above.</p>
VAMSA	<p>VAMSA objects to limiting acceptable nonstormwater discharges to “dechlorinated water line flushing.” VAMSA was surprised that DEQ included “dechlorinated” in the</p>	<p>Please see revision of the regulatory language in 9VAC25-890-20 D.3 described in the response to the comment above.</p>

Commenter	Comment Received	DEQ Response
	<p>proposed regulations. We understood from TAC discussions that DEQ would not be doing so; in fact, DEQ did not include the “dechlorinated” limitation in the final permit it issued the Virginia Department of Transportation (VDOT) on June 29, 2017. VAMSA acknowledges DEQ’s concerns; small MS4 operators across the State work diligently to reduce the flow of nonstormwater into their MS4s in order to positively impact local waterways. However, there are numerous reasons why adding “dechlorinated” to “water line flushing” is problematic and should be stricken.</p> <p>From a legal perspective, adding “dechlorinated” to the Proposed GP conflicts with other sections of state and federal law.⁴This will cause confusion among permittees. Many localities will also have to revise current ordinances to incorporate the new word “dechlorinated.” This is a time-consuming process that can take many months to complete.</p> <p>For all of these reasons, VAMSA requests that DEQ delete the word “dechlorinated” from the Proposed GP.</p> <p>VAMSA respectfully requests clarification on this point. Although there appears to be no consensus across the U.S., VAMSA has found some instances where fire hydrant flushing is an authorized nonstormwater discharge, presumably because fire departments flush the hydrants, at least in part, as “firefighting activities” (i.e., they are flushing lines to ensure there is enough available flow should a fire occur on the system). Fire hydrant flushing also occurs as a part of general maintenance of the water distribution system</p>	
City of Richmond	"Dechlorinated water line flushing" is not discussed in the Fact Sheet and is not clearly defined in the permit or the Fact Sheet. This provision needs to be changed to be consistent with EPA issued permits	Please see revision of the regulatory language in 9VAC25-890-20 D.3 described in the response to the comment above.
City of Charlottesville	Line 133 – please consider deleting “Dechlorinated”. The TAC discussed this issue at length and DEQ had agreed to not include this term in the final permit language, as it is more restrictive than the federal statute and presents serious logistical challenges to permittees.	Please see revision of the regulatory language in 9VAC25-890-20 D.3 described in the response to the comment above.

Committer	Comment Received	DEQ Response
City of Alexandria	Line 133 - The addition of "Dechlorinated" water line flushing;" is inconsistent with 9VAC25-870-400 D.2.c.(3). We recommend keeping the list of authorized nonstormwater discharges as outlined in the above-referenced VSMP section.	Please see revision of the regulatory language in 9VAC25-890-20 D.3 described in the response to the comment above.
DoD	Landscape irrigation and irrigation water seem to be redundant. Add language to clarify the difference between these two types of discharges.	Irrigation water refers to a spray irrigation systems associated with large parcels such as agriculture fields whereas landscape irrigation is the runoff typically associated with lawn watering such as from sprinkler systems typically associated with residential or commercial sites. No change required.
EPA	Where is the term immediate defined?	As was discussed with EPA, the first responding emergency personnel determine the need of a discharge in order to protect public safety. DEQ understands the concerns of EPA but believes defining "immediate" beyond the context of protecting public safety is not practical or appropriate. No change proposed.
EPA	Coverage under the July 1, 2013 permit commences upon its expiration, unless it is administratively extended by DEQ. Once a new permit is issued and effective, coverages must comply with the new permit.	9VAC 25-890-20 K gives DEQ the authority to administratively continue coverage under the MS4 GP if certain conditions are met. No change proposed.
DoD	The permit states, "If coverage is denied, permittee would be required to cease the activities authorized by the continued general permit." If the activity covered under this general permit involves point source stormwater discharges from regulated small municipal separate storm sewer systems to surface waters of the Commonwealth of Virginia, it is unclear how the permittee would be expected to cease stormwater from flowing to surface waters of the Commonwealth of Virginia. Would there be expectation that the permittee must block the outfalls that are discharging and allow flooding? Recommendation: Add language to clarify how the permittee would be expected to cease the activities authorized by the general permit .	This language is boilerplate language found in all VPDES general permit regulations. In the case of an MS4 operator who may not be eligible for coverage under the general permit, DEQ would work with the operator to obtain a complete permit application for an individual MS4 permit and discuss terms coverage in the interim. No change necessary.
EPA	Was the notification sent by DEQ? If so, did all required entities respond properly by submitting a registration statement?	This notification applies for newly designated MS4s. There are no newly designated MS4s associated with the 2018 MS4 GP reissuance. Note that those permittees identified during the 2010 Census were previous notified and have been issued coverage under the 2013 MS4 GP. Additionally, this condition will apply if any existing MS4s are identified during the term of the permit that DEQ determines should be regulated. No change proposed.

Commenter	Comment Received	DEQ Response
City of Charlottesville	Line 226: please consider replacing “of” with “or”.	The noted correction has been made.
City of Charlottesville	Line 229: please consider retaining “of small MS4”.	The noted correction has been made.
City of Charlottesville	Line 236: please consider rephrasing as follows, “The following information for each regulated MS4 outfall”. This language would clarify the information DEQ is seeking.	Please see revision to registration requirements in 9 VAC 25-890-30 B and comment below.
City of Suffolk	Acknowledging the fact that we will be submitting a GIS compatible shapefile of the MS4 map that includes information on outfalls, impaired waters, and HUC codes on December 31, 2018, 6 months after permit coverage, it is unclear why DEQ wants this information with the Registration Statement. The requested revision is to remove section 9VAC25-890-30(B)(6) from the proposed MS4 GP and the resulting table in Section II A. of the draft Registration Statement	DEQ has reviewed several comments pertaining to the requirement to provide outfall information, receiving waters, and other associated information as part of the registration (9VAC 25-890-30 B 6, 7, and 8.) Upon further review, DEQ agrees that since Minimum Control Measure 3 (Part I.E.3) requires permittees to submit a GIS file of the MS4 service area and associated informational table, that requiring this information with the registration statement results in a duplicative effort. As such, DEQ is proposing to remove following items: 6.a; 6.b; 6.e; 7; and 8 from the proposed Registration Statement and revise any requirements in MCM 3 to ensure all required information previously requested as part of the registration statement will be submitted with the GIS information. Additionally, for any permittee that does not have their system mapped in a GIS format, the allowed PDF map must be accompanied by a table with this same information included. The submittal date for the GIS-compatible shapefile of the permittee’s MS4 map has been revised to July 1, 2019.
EPA	The state should consider providing this information in the permit to ensure accuracy, especially since it is in the best position to access the TMDL documents and interpret which are applicable to the regulated MS4s.	Approved TMDL reports are available on DEQ’s website. Permittees and stakeholders are aware that they can access this information online or by contacting DEQ staff. No change proposed.
EPA	Has the 2016 list been approved yet?	DEQ has received EPA approval of the 2016 Water Quality Assessment Integrated Report (WQIR) and has updated all references to the 2016 WQIR date.
James River Association	The current draft of the permit does not require the submittal of an MS4 Program Plan with the Registration Statement. While we acknowledge the Department’s position that the MS4 Program Plan is no longer considered an enforceable part of the permit, the MS4 Program Plan must still meet the requirements of the permit. Accordingly, the submittal of a consistent MS4 Program Plan should be required with the Registration Statement.	MCM 2 (Part I E.2) of the MS4 General Permit requires permittees to develop a webpage dedicated to the MS4 Program and must also post the MS4 Program Plan on that webpage or provide information on how a copy can be reviewed or obtained. Based on this requirement, DEQ and the public will have access to the most current version of the MS4 Program Plan for review to ensure that the plan meets the minimum requirements of the permit. Additionally, having the permittee submit a MS4 Program Plan that was developed under the 2013 MS4 General Permit would not be of value

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		since there are many aspects of the plan that will need to be updated in accordance with the requirements of the new permit. No change necessary.
EPA	The action plan is submitted as part of the registration statement. Is the plan reviewed and approved in a second permitting step? If not, will need to evaluate whether the specifics of the plan are still consistent with the requirements for Comprehensive Gen. Permits in 40 CFR 122.28(d).(1). Otherwise, the plans will need to be reviewed and approved consistent with the Two-Step Gen. Permit requirements.	The requirement is the reduction. The action plan is the tool used to demonstrate compliance with the reduction requirement. This is explained in the fact sheet for this MS4 GP. DEQ will be reviewing the plans to ensure that they are consistent with the requirements of the permit. If the plan does not contain certain requirements of the permit, then the agency may determine that the permittee is in violation of the permit. No change is proposed.
City of Alexandria	Lines 281- 283 - Given that many changes to the Chesapeake Bay Action Plan Guidance for the first AP, and given that DEQ has not provided the Guidance for the draft second Bay TMDL Action Plan to date, localities should not be required to provide many changes to the Second AP draft due June 2018 in the absence of clear guidance	The draft Chesapeake Bay TMDL action plans due with the 2018 MS4 General Permit registration statements should be developed using the most current agency approved action plan guidance (GM15-2005). In the near future DEQ will be updating the action plan guidance document, however, it will not occur in time for permittees to use in developing the draft action plans. At this time DEQ does not anticipate substantial changes to the guidance document in terms of BMPs or reduction efficiencies previously established. No change necessary.
VAMSA	Section B(12) and Proposed GP 9VAC25-890-40 Part III(K)(4) have different verb tenses in the certification language. B(12) references a system “designed to assure that qualified personnel properly gather and evaluate...” (VA Register, p. 995). Part III(K)(4) references a system “designed to assure that qualified personnel properly gathered and evaluated.” (VA Register, p. 1034).	Revisions have been made to Part III K 4 of this permit according to 9VAC25-870-370 D to read as follows: “to assure that qualified personnel properly gather and evaluate the information submitted.” and to provide consistency with both certification statements in the permit. The same statement is in the Registration Statement.
City of Alexandria	Under Section II, populating the data required under Tables A and B is very time consuming for the applicant and of limited benefit. The City has hundreds of outfalls that would need to be listed. The purpose of providing this information is unclear, especially since an MS4 map will be submitted in accordance with the permit. In addition, Line 247 of the permit asked from the drainage area served by the small MS4 discharging to impaired waters. It does not indicate that this needs to be broken out by specific outfall.	Please see revision to registration requirements in 9 VAC 25-890-30 B and response to comment above.
City of Alexandria	Item F is to list the names of all regulated MS4s to which the MS4 is interconnected while Line 253 of the permit states “to which the small MS4 discharges.” Therefore, there	Item F of the Registration Statement has been changed to reflect what is required in 9VAC25-890-30 B 6 for “ The names of any physically interconnected MS4s to which the small MS4

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	is a discrepancy in whether applicants should list any interconnection(s) or just a downstream interconnection(s).	discharges;" to provide clarification of registration requirements.
VAMSA	The draft Registration Statement circulated to TAC members in January 2018 requires that an applicant seeking GP coverage provide "the estimated MS4 acreage served" for each outfall listed on Section II, Table A. Applicants must also provide "a description of the land use for each drainage area" for each outfall to impaired waters on Section II, Table B, and the HUC information for waters receiving or with the potential to receive MS4 discharges on Section II, Table C. With regard to Tables A and B, VAMSA submits that this will be a very labor-intensive process for Small MS4s. It is unclear why DEQ wants this information, and whether it feels it is necessary in light of the work involved to provide the information at this scale. GP permittees will be submitting an MS4 map that includes detailed information on outfalls, impaired waters, and HUC codes by December 31, 2018. VAMSA requests that DEQ consider streamlining the Registration Statement to only request a list of receiving waters and impaired waters receiving MS4 discharges (not broken out by outfall) based on this later submittal.	<p>The 2013 MS4 General Permit required most all of the requirement information that was required in 9VAC25-890-30 B 6, 7, and 8 and which in turn were included on the registration statement form. Assuming permittees were in compliance with the requirements of the 2013 MS4 General Permit, this should be information existing permittees already have tracked. Regarding land use information, this information is necessary for review by agency staff in the development of local TMDLs as well as by staff for reviewing TMDL action plans.</p> <p>Please note, however, DEQ is proposing some changes to the registration statement as a result of comments received during the comment period. Please see revision to registration requirements in 9 VAC 25-890-30 B and response to comment above.</p>
VAMSA	VAMSA requests that DEQ clarify that the HUC information requested on Table C is intended to be broader than HUC codes for each outfall. This appears to be DEQ's intent, but given the placement of the Table, clarification would be helpful.	Please see revision to registration requirements in 9 VAC 25-890-30 B and response to comment above.
City of Suffolk	The requirement to provide estimated drainage areas and land use descriptions for each outfall in Section II.B. of the draft Registration Statement is inconsistent with section 9VAC25-890-30(B)(8) of the proposed MS4 GP. The suggested revision is to replace "unique outfall identifier" with "impaired receiving surface water" for consistency with the proposed MS4 GP language.	Please see revision to registration requirements in 9 VAC 25-890-30 B and response to comment above.
HRPDC	It is unclear why land use information is requested for each outfall when permit language does not require it. 9VAC25-890-30 (B) (8) requires permittees to provide "the estimated drainage area, in acres, served by the small MS4 directly discharging to any impaired receiving surface waters listed in the 2014 Virginia 305(b)/303(d) Water	Please see revision to registration requirements in 9 VAC 25-890-30 B and response to comment above.

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	<p>Quality Assessment Integrated Report, and a description of the land use for each such drainage area." Recommendation: delete the phrase "for each outfall" from the instructions and revise the column header from "Unique Outfall Identifier" to "Impaired Receiving Surface Water" in the table in Section II.B. of the Registration Statement form so that it will be consistent with the permit language.</p>	
<p>City of Charlottesville</p>	<p>Section II. B, Impaired waters information: a land use description is being requested for every regulated MS4 outfall's drainage area, versus a land use description for each impaired water's entire drainage area. It would entail much more work to identify the land use description for each outfall's drainage area. For the City, this would mean providing over 400 land use descriptions instead of 6 such descriptions. The City feels that providing land use descriptions by impaired water drainage area, which was the requirement when we registered for the current MS4 general permit, is more appropriate than providing this information for every MS4 outfall. In the City's opinion, providing land use information at the outfall level, in addition to being arduous, would not provide additional useful information in this instance.</p>	<p>DEQ believes that having land use information by outfall for all stormwater discharges to impaired waters will assist in the development of TMDLs and in the development and review of TMDL action plans. No change required.</p>
<p>EPA</p>	<p>This term should remain. The state grants coverage under a GP.</p>	<p>The language has been revised to reinstate "...coverage under..." in the second line of 9VAC25-890-40.</p>
<p>City of Richmond</p>	<p>"Any MS4 operator whose registration statement is accepted by the department board will receive coverage under the following state general permit and shall comply with the requirements therein in this general permit and be subject to the requirements of 9VAC25-870 and 9VAC25-31."</p> <p>9VAC25-870 is the Virginia Stormwater Management Program (VSMP) Regulation and 9VAC25-31 is the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation. The above statement "be subject to the requirements of 9VAC25-870 and 9VAC25-31" for all practical purposes negates the need for the rest of the permit. The statement means the regulations are incorporated by reference. This reference to the regulations needs to be removed otherwise any permit shield normally</p>	<p>DEQ disagrees that this statement incorporates the VSMP and VPDES regulations by reference. This statement provides the regulatory programs to which a permittee is subject if coverage is issued under the general permit. This is language that is provided in all of the VPDES general permits which have been reviewed and approved by the Attorney General's office. No change necessary.</p>

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	<p>provided would become questionable at best. How would the following section of the regulation be interpreted where there is potential disagreement between the regulation (which requires interpretation by the permit writer) and what is written in the permit?</p>	
<p>VAMSA</p>	<p>VAMSA requests that DEQ revise the first sentence of the Proposed GP to make clear that a permittee who complies with this GP will have fully complied with all applicable state laws (“Any MS4 operator whose registration statement is accepted by the department board will receive coverage under the following state general permit and shall comply with the requirements therein in this general permit which implements all applicable and be subject to all applicable requirements of the Virginia Stormwater Management Act (Article 2.3 (§62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia) and the Virginia Stormwater Management Program (VSMP) Regulations (9VAC25-870)the requirements of 9VAC25-870 and 9VAC25-31.) (VA Register, p. 995).</p>	<p>Changes were made to the opening paragraph of 9VAC25-890-40 to include as follows: “Any MS4 operator whose registration statement is accepted by the department board will receive coverage under [coverage under] the following state general permit and shall comply with the requirements therein in this general permit [and be subject to all applicable] all applicable requirements of the Virginia Stormwater Management Act (Article 2.3.(§ 62.1 44.15:24 et seq.) of chapter 3.1 of Title 62.1 of the Code of Virginia) and the Virginia Stormwater Management Program (VSMP Regulations (9VAC25-870) requirements of [the Virginia Stormwater Management Program (VSMP) Regulations (VAC25-870)9VAC25-870] and [the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulations. (9VAC25-31)9VAC25-31]. This revision was made to clarify the coverage is “subject to all applicable requirements” and regulatory references. The changes were made based on comments received.</p>
<p>City of Charlottesville</p>	<p>Lines 304-309: please consider adding “applicable” to Line 309 directly before “requirements of 9VAC25-870 and 9VAC25-31”. As there are significant sections of the referenced regulations that are not directly applicable to the MS4 program, this qualifier is necessary.</p>	<p>Please see revision to the opening paragraph of 9VAC25-890-40 in the response immediately above.</p>
<p>City of Suffolk</p>	<p>Suffolk requests that DEQ restore the word "applicable" in the first sentence of the General Permit. The requested revision is "Any MS4 operator whose registration statement is accepted by the board will receive the following general permit and shall comply with the requirements in this general permit and be subject to the applicable requirements of 9VAC25-870 and 9VAC25-31".</p>	<p>Please see revision to the opening paragraph of 9VAC25-890-40 in the response immediately above.</p>
<p>City of Alexandria</p>	<p>Line 326 - The use of “DEQ” or “department” should be used consistently in the permit.</p>	<p>The noted correction has been made.</p>
<p>City of Alexandria</p>	<p>Line 341 - We believe Part I should be entitled “Discharge Authorization and Municipal Separate Storm Sewer System Management Program” since the Special Conditions were moved to Part II.</p>	<p>Please note that any permit requirement that is not part of the “Conditions Applicable to All” listed in the VPDES or VSMP regulations, is considered a “special condition; therefore, the</p>

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		title as proposed is appropriate. No change necessary.
City of Charlottesville	Line 345: please confirm the proper reference is cited; the City believes the correct reference is 9VAC25-890-20.D.	The noted correction has been made.
EPA	I'm confused by the interchanging use of the terms MS4 program and MS4 program plan. Are these meant to mean the same thing? If they are different, then the permit should clarify. If they are the same, then consistent use of one term is necessary.	MS4 program is the municipal stormwater program that the permittee must implement in accordance with federal and state requirements. The MS4 program plan is the written documentation on how the MS4 program will be implemented. An MS4 program plan is the equivalent of what EPA calls a SWMP. No change proposed.
EPA	Flagging this language. The permit must establish what is considered necessary to meet the MS4 standard, and not leave it up to the permittee to determine. It could be that this language is made unnecessary by the sentence further down in the paragraph – "Implementation of best management practices (BMP) consistent with the provisions ...". In which case, maybe this highlighted sentence could be removed.	DEQ, as the permitting authority, has determined that the requirements of the MS4 GP constitutes MEP; therefore, by complying with the requirements of the permit, the permittee is meeting the MEP standard. To clarify, the phrase "in accordance with this permit" has been added after "(MEP)".
VAMSA	DEQ references the need for a permittee to design a program "to reduce the discharge of pollutants from the small MS4 to the maximum extent practicable (MEP), to protect water quality, to ensure compliance by the operator permittee with water quality standards, and to satisfy the appropriate water quality requirements of the Clean Water Act, State Water Control Law and its attendant regulations." (<i>VA Register</i> , p. 1004). Although there is reference further down in the same paragraph that clarifies that implementation of a BMP based program "ensures compliance by the operator permittee with water quality standards," referencing compliance with WQS must be associated with and subject to the MEP compliance standard. To avoid confusion, VAMSA requests that DEQ delete the phrase "to ensure compliance by the permittee with water quality standards" in both instances. Alternatively, after "WQS" insert "to the MEP."	Part I.B. has been revised to more accurately reflect the requirements of Section 402(p)(3)(B)(iii) of the Clean Water Act. The reference to the permittee ensuring compliance with water quality standards has been removed and the condition has been modified to clearly define "maximum extent practicable" for this permit term. The revised Part I.B. permit condition reads as follows: "The permittee shall develop, implement, and enforce a MS4 program designed to reduce the discharge of pollutants from the small MS4 to the maximum extent practicable (MEP) in accordance with this permit, to protect water quality, and to satisfy the appropriate water quality requirements of the State Water Control Law and its attendant regulations. The permittee shall utilize the legal authority provided by the laws and regulations of the Commonwealth of Virginia to control discharges to and from the MS4. This legal authority may be a combination of statute, ordinance, permit, policy, specific contract language, order, or inter-jurisdictional agreements. The MS4 program shall include the minimum control measures (MCMs) described in Part I E. For the purposes of this permit term, implementation of MCMs in Part I E and the Chesapeake Bay and Local TMDL requirements in Part II (as applicable) consistent with the provisions of an iterative MS4 program required pursuant to this general permit constitutes

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		compliance with the standard of reducing pollutants to the MEP, provides adequate progress in meeting water quality standards, and satisfies the appropriate water quality requirements of the State Water Control Law and its attendant regulations.”
City of Richmond	The Clean Water Act requires permits for municipal stormwater discharges to include requirements to reduce the discharge of pollutants to the maximum extent practicable. If the Commonwealth of Virginia has decided to require more stringent limitations such as compliance with water quality standards and total maximum daily loads (TMDLs), the permit fact sheet must clearly explain its statutory authority for this given it is different than what is required under the Clean Water Act. What is the statutory authority DEQ is using to require more than the MEP standard set out in Clean Water Act sec 402(p)?	Please see response to similar VAMSA comment above in Part I B.
City of Charlottesville	Lines 584-600: as the legal compliance standard for MS4s is MEP, all references to compliance with water quality standards should be deleted. This language appears on Lines 586-587 and 597. If reference to compliance with water quality standards remains, it must be accompanied by reference to MEP. For example, the reference would read “...to ensure compliance by the permittee with water quality standards to the maximum extent practicable (MEP)”.	Please see response to similar VAMSA comment above in Part I B.
City of Charlottesville	Lines 584-600: reference to the Clean Water Act is struck and replaced with reference to the State Water Control Law in the first part of this provision (Line 588) but left intact in the second part of the provision (Line 598). Please ensure this is appropriate for the final version of the permit, or consider whether striking “Clean Water Act” and replacing it with “State Water Control Law” at Line 598 is more appropriate.	The proposed revised language will strike “Clean Water Act” and replace it with “State Water Control Law and its attendant regulations” to maintain consistency throughout the section where compliance with the State Water Control Law constitutes compliance with the Clean Water Act.
VAMSA	VAMSA supports having a statement in the later part of the paragraph supporting a BMP-based approach, there should be a reference to the State Water Control Law in addition to the Clean Water Act so it is clear the BMP program will satisfy appropriate parts of the state law as well as the federal law.	Please see response to similar City of Charlottesville comment above.

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EPA	The Remand Rule requires each permit to require a written SWMP. The state could add something like that here: “The permittee is required to develop a written MS4 program plan that describes how the permittee intends to comply with the permit’s requirements.”	Use of the phrase “MS4 program plan” is meant to indicate the written documentation of how the permittee will implement an MS4 program. To clarify intentions, DEQ proposes to revise item Part I C 1 to read “The MS4 program plan shall include, at a minimum, the following <u>written items</u> .”
City of Alexandria	Line 612 - “A description of the BMPs <u>or strategies</u> that the permittee anticipates...”	The noted correction has been made.
EPA	Potentially problematic since “measurable goals” are required to be established in the permit for “Comprehensive General Permits”, not left up to the permittee to establish for itself. Recommend deleting this.	Per standards of the MS4 Remand Rule, the permit contains conditions that are measurable in the context that the permitting authority and EPA, as well as the permittee, can decidedly determine whether or not the permittee is in or out of compliance with the permit condition. This requirement for a “measurable goal” for the permittee to assess whether or not the strategies they are employing are effective as part of the adoptive, iterative process. If the strategies are not effective then the permittee has the ability to choose other strategies as authorized by the permit. No change is proposed.
EPA	It may be helpful to add here that permit modification is not required because the underlying permit requirements are not changed, just the way in which the permittee is meeting the requirement.	This type of explanatory information is more appropriate in the fact sheet. DEQ will ensure that this is addressed in that documentation.
NRDC	The permit should not direct MS4s to develop their own measurable goals in their MS4 program plans (as proposed in Part I.C.1 on page 19-20 of the draft permit document). EPA’s regulations clearly state that the permit itself must contain the measurable standards by which a permittee’s compliance will be judged. (By contrast, the alternative permitting approach—the “procedural approach”—allows the permittee to propose its own measurable goals that will be reviewed by the permitting authority and the public. ⁶) As a result, DEQ must ensure that all requirements in the draft permit contain a measurable component.	DEQ contends that as drafted the 2018 MS4 General Permit meets the clear, specific, and measurable requirements of EPA’s remand rule. The items in the permit establish means by which the permitting authority, EPA, or the public can determine if the permittee is demonstrating compliance with the terms of the permit. However, the permit does allow some flexibility for permittee’s by providing a variety of strategies for some MCMs by which the MS4 permittee can demonstrate compliance. As such, and as part of the adaptive, iterative process, it is incumbent for permittees to review the MS4 program implementation to determine “what is working, and what is not” and also to determine the most effective and efficient means of program implementation. Permittees need measures to determine the effectiveness of their program implementation that go beyond the requirements of the permit. Therefore, permittees are required to include the measurable goals of their MS4 program. Since the permit includes measurable requirements to demonstrate compliance with the permit, DEQ believes it is appropriate to require permittees to include additional goals as part of

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		their program plan that is ultimately a planning tool. No change necessary.
City of Alexandria	Lines 632 – 634 - What is the schedule for updating the program plan to meet new permit requirements? Need to know how long a locality will 'continue to implement' the previous program plan, versus when the program plan needs to be changed per Part I.E., and are required to be placed into practice. Should the program plan be revised by July 1, 2018?	<p>DEQ agrees that a statement is necessary in the permit to indicate the date by which the MS4 program plan must be updated and proposes to revise language in Part I.C.3 as follows:</p> <p>If the permittee was previously covered under the General VPDES Permit for the Discharge of Stormwater from the MS4 effective July 1, 2013, the permittee shall <u>update the MS4 program plan to meet the requirements of this permit no later than six months after the effective date of this state permit unless otherwise specified in another permit condition</u> and shall post the most up-to-date version of the MS4 program plan on the permittee's website or location where the small-MS4 program plan can be obtained as required by Part I E 2 <u>within 30 days of updating the MS4 program plan.</u></p>
City of Alexandria	Lines 638 -639 - There are some changes needed to the program plan as part of an iterative process, while there are also updates needed to the program plan due to meeting new permit requirements.	Please see proposed revisions to MS4 program plan requirements in response to similar comments above.
EPA	Electronic reporting requirements will eventually be required as part of the permitting process and this should be addressed.	DEQ proposes to revise this section to include as follows: "The permittee shall submit an annual report to the department no later than October 1 of each year <u>in a format as specified by the department.</u> The report shall cover the previous year from July 1 to June 30."
City of Richmond	It is not clear what is meant by "effectiveness" or how this is to be measured. This provision should be dropped or more clarity provided. This also needs to be fully explained in the Fact Sheet.	DEQ believes that the proposed use of the word "effectiveness" is necessary to convey the intent of the requirement. No change required.
City of Alexandria	Line 678 - 'Effectiveness' is hard to determine without more objective criteria and doesn't fit the measure of MEP, whereas 'appropriateness' was included in the previous permit and is more applicable to MEP.	Please see the response to the similar comment above.
City of Charlottesville	Line 678: please consider replacing "effectiveness" with "appropriateness"; the current requirement is to evaluate the appropriateness of the identified BMPs. The City feels the current requirement is more appropriate.	Please see the response to the similar comment above.

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VAMSA	<p>The Proposed GP requires that an MS4 file an annual report that evaluates each MCM “to determine the MS4 program’s effectiveness and whether or not changes to the MS4 program plan are necessary.” 9VAC25-890-40 Part I(D)(1)(e). (<i>VA Register</i>, p. 1006). VAMSA requests that DEQ edit this requirement to have an MS4 permittee evaluate the “appropriateness,” not the “effectiveness,” of its MS4 program. Perhaps because it is a word that is often used in the context of specific BMPs and removal rates for particular pollutants, “effectiveness” suggests an MS4 should be reviewing its program against some objective (even numeric) criteria. There is no objective criteria, leaving an MS4 open to criticism that it has not complied with this requirement. The current GP uses the term “appropriateness;” VAMSA requests that DEQ retain the current terminology.</p>	<p>Please see the response to the similar comment above.</p>
NRDC	<p>The permit requires the permittee to use two or more public education and outreach strategies, but no frequency is established for how often the permittee must implement these strategies. In the preamble to the recent EPA rulemaking, the agency explained that a permit term that “includes no minimum frequency that can be used to measure adequacy . . . would not constitute a measurable requirement for the purposes of the rule.” DEQ should require these strategies to be implemented once per year, similar to what is required of permittees under the Public Participation and Involvement MCM.</p>	<p>DEQ is proposing to revise the MCM 1 public education and outreach MCM, Part I E 1 d to add language requiring the permittee to conduct 2 activities per year at a minimum. This was the intent of the originally drafted permit language but unfortunately, the annual measure was left out. The requirement for public education and outreach strategies in the MS4 permit has been changed to “<i>The permittee shall use two or more strategies listed in Table 1 below “per year” to communicate to the public the high-priority stormwater issues identified in accordance with Part I E 1 b including how to reduce stormwater pollution.</i>” to provide an established frequency.</p>
NRDC	<p>The strategies offered as options under this section vary widely in terms of both the permittee’s level of effort and the actual impact in terms of public education. For example, a presentation to a church group would have a smaller impact than inserting information into the utility bills for an entire community, which in turn would have a smaller impact than disseminating information through a radio or TV advertisement that runs statewide. As a result, allowing the permittee to select any two strategies from this list does not ensure that the permittee will meet the Clean Water Act’s “maximum extent practicable” standard. As an alternative, we suggest a “points system” such as the one contained in New Jersey’s small MS4 permit, under</p>	<p>The strategies offered in this section provide the needed action items to comply with permit requirements and can be improved as part of iterative process and evaluation after a strategy has been completed. The implementation of a point system to weigh the effectiveness of different options may be considered as part of the next permit cycle. No change required.</p>

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	<p>which permittees must achieve a certain number of points and the strategies offered as options are “weighted” so that the most effective strategies are worth more points.</p>	
<p>James River Association</p>	<p>Additional specificity is needed within the permit with regard to the individuals or groups that will be reached as a part of each public education and outreach program. As a part of the MS4 Program Plan for each high priority stormwater issue, the permittee should submit the strategies (e.g., printed brochures, newspapers, media, workshops, etc.) they will use to reach the target individuals or groups, how many people the permittee expects to reach, and what degree of behavioral change the permittee expects the outreach strategy to achieve over the permit term. This is necessary in order ensure that the permit is “clear, specific, and measurable” as required.</p>	<p>As drafted, DEQ has determined the language in the permit to be clear, specific and measurable in accordance with the MS4 Remand Rule. No change required.</p>
<p>City of Alexandria</p>	<p>Line 756 - Leaving the requirement to be a “contact” instead of a “contact name” would allow permittees to use their division/department name in case of employees changing positions. Also, can “website” be added as another option to “telephone number or location”?</p>	<p>DEQ is proposing to revise the permit language in this condition as follows: “Provide a contact name and telephone number, <u>website</u> or location where the public...”</p>
<p>City of Alexandria</p>	<p>Line 760 - Recommend changing table name to “Strategies for Public Education and Outreach” to be consistent with name of the MCM.</p>	<p>The noted correction has been made.</p>
<p>City of Alexandria</p>	<p>Lines 774 – 784 - When should the program plan be revised with this information and implementation begin?</p>	<p>Please see revisions to Part I C 3 to the MS4 program plan.</p>
<p>EPA</p>	<p>Recommendation to include some type of specific milestones here, such as deadline to develop the materials, and deadline to disseminate. Otherwise, the permittee can wait until the end of the permit term and still be considered in compliance.</p>	<p>The intention is that the permittee will implement two or more strategies PER YEAR to communicate their stormwater message. To clarify, it is proposed that Part I E 1 d be revised to include the phrase “ per year” as follows: “The permittee shall use two or more of the strategies listed in Table 1 below <u>per year</u> to communicate...”</p>
<p>City of Richmond</p>	<p>This section goes well beyond what is listed in the federal regulations at 122.34(b)(2). The Fact Sheet must provide the basis for why the requirements exceed those established in the federal regulations. Further, the language is not clear with regard to what is to be implemented, for instance paragraphs 2.a(1) and 2.b(4) are similar yet different and it is not clear why both sections are in the permit.</p>	<p>In accordance with the MS4 Remand Rule, requirements are to be clear, specific and measurable. As part of the public involvement and participation MCM, Part I.E.2.a.(1), includes a listing of specific activities to record for public reporting. Part I.E.2.b.(4) requires the development and maintenance of a webpage which must include the actual method or mechanism the public will use to report the information. No change required.</p>

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EPA	Add plan as suggested by EPA edit.	DEQ has revised the sentence to read, “The public to provide input on the permittee’s MS4 program plan.”
City of Alexandria	Lines 821 and 865 - Including a summary of any public input received on the MS4 program seems excessive and too broad. Suggest rewording to summary of public input received on the MS4 program plan and annual report.	DEQ staff agrees further clarification is necessary for this condition. As such the following revision is being proposed: (2) The public to provide input on the permittee’s MS4 program <u>plan</u> ; (4) Responding to public input <u>received on the MS4 program plan</u> or complaints;
EPA	Input received for what?	This is meant to be public input received on the MS4 program and associated plan. To clarify, it is proposed that language is added to Part I E 2 a 5 as follows: “Maintain documentation of public input received on the <u>MS4 program and associated MS4 program plan...</u> ”
EPA	This is a good requirement. Recommend that the launch or continued availability of the website be announced through newsletters, emails, and/or other communications to boost the public’s awareness of it.	Thank you. At this time, we believe the requirement to set up and manage an MS4 website is appropriate and will consider the suggestion for announcements of continued availability in future permit iteration. No change proposed.
EPA	How is this different from (4) just above it?	Item (4) is specific to illicit discharge reporting, etc. Item (5) is specific to receiving public input on the MS4 program plan. These may be the same or the permittee may choose to separate the reporting/complaint/comment procedures. No change is proposed.
DoD	Though the table is noted as not being comprehensive, public/private partnership opportunities are a valuable public engagement tool. Recommendation: Provide clarification indicating that public/private partnerships, such as the DoD Readiness and Environmental Protection Integration (REPI) Program, are creditable activities under public involvement opportunities for this minimum control measure.	DEQ does not believe it is appropriate to include a reference to a specific permittee’s program such as REPI in a general permit. No change necessary.
City of Charlottesville	Line 858: please consider inserting “types of” before “public involvement activities”. In the vein of the MS4 Action Plan being an implementation planning tool, this would allow the City the needed flexibility in planning for the expected public involvement activities without committing to specific activities that may or may not end up coming to fruition. The Annual Report is the appropriate place to report on the specific	While DEQ agrees that the MS4 program plan is an implementation tool, we believe that it does need to include specificity as to what the permittee is planning to meet the permit requirements. As such, no change is being proposed in response to this comment. It should be noted that permittees are able to revise MS4 program plans as needed to incorporate changes in program implementation.

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	activities that the City participates in during the permit year.	
City of Alexandria	Lines 851 – 862 - When does the program plan need to be updated for all this information? Lines 825-836 gives three months for the locality to have a webpage (much like the last permit), should we assume that is also the timeframe for the program plan update items?	Please see revisions to Part I C 3 regarding revisions to the MS4 program plan.
City of Alexandria	Lines 853 -867 - Be consistent with the use of “webpage address” or “webpage link”	The proposed language has been revised for consistency.
EPA	Same comment here as in the previous MCM (public education and outreach). The permit should specify deadlines here so that permittees aren’t able to wait until the final year to carry this out. Maybe the 4 activities can be spaced out so that at least one is carried out per year.	Part I E 2 C includes language that the permittee is required to implement 4 activities per year from 2 or more categories that addresses this comment. No change is proposed.
City of Alexandria	Line 859 - Is the term “metric” being used in place of “measurable goal”? “Measurable goal is still used in line 615.	DEQ has reviewed the permit language and found use of the term metric to be appropriate. No change required.
City of Alexandria	Line 871 - Listing all MS4 permittees who participated in a public involvement opportunity may be difficult and overly time consuming. If multiple MS4 permittees participate in a regional event each permittee may not be aware of all the other permittees also participating in that event. If this applies only to joint efforts, please clarify.	<p>The intent of this provision is for permittees to report the listing of permittees who participated in joint efforts and is not meant to apply to regional events that may have been organized by a 3rd party. Revisions to the permit language is proposed as follows:</p> <p>(5) The name of other MS4 permittees who participated <u>with whom the permittee collaborated</u> in the public involvement opportunities.</p>
EPA	What does DEQ consider as “the system”? There are many more components to a system other than outfalls.	The system consists of the MS4 regulated service area, conveyances, and stormwater management facilities owned or operated by the permittee. Mapping of all system elements have been included as part of this permit term with the exception of conveyances which will likely be addressed in future permit cycles. Mapping requirements have been moved to MCM3.a and the due date for the mapping has been extended to July 1, 2019.
City of Richmond	This section needs to be re-drafted and many of the terms utilized need clearer definition. For instance, in many places the provisions of this section pertain to "point of discharge" and/or "outfalls." In the VSMP regulations it states,	DEQ has clarified the noted section of the permit to read as follows: ii) In cases where the MS4 outfall discharges to receiving water channelized underground, the permittee may elect to map the point downstream at which the receiving water emerges above ground as an outfall discharge

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	<p>"Point of discharge" means a location at which concentrated stormwater runoff is released, "Outfall" means, when used in reference to municipal separate storm sewers, a point source at the point where a municipal separate storm sewer discharges to surface waters and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other surface waters and are used to convey surface waters. The permit states,</p> <p>(ii) In cases where the MS4 outfall discharges to receiving water channelized underground, the permittee may elect to map the point downstream at which the receiving water emerges above ground as a point of discharge. If there are multiple outfalls discharging to an underground channelized receiving water, the map shall identify that the point of discharge represents more than one outfall.</p> <p>How can a "receiving water" be a point of discharge? And how can a "point of discharge" represent more than one outfall?</p> <p>Also, the map of the system is referenced a number of times in the permit with varying dates related to completion and updating of the map. The dates need to be reconciled and one clear date needs to be referenced.</p>	<p>location. If there are multiple outfalls discharging to an underground channelized receiving water, the map shall identify that the outfall discharge location represents more than one outfall. This is an option a permittee may choose to use and recognizes the difficulties in accessing outfalls to underground channelized stream conveyances for purposes of mapping, screening or monitoring.</p> <p>The mapping information requirement is now listed in Part I.3.a as part of the illicit discharge and detection MCM with the submittal deadlines for mapping information clearly detailed for submittal of the GIS-compatible shapefile and the date of submittal of annual report mapping information.</p>
City of Alexandria	Line 917 - Line 917 seems to indicate that the shapefile is the MS4 map. Is the only shapefile required the one that includes the outfalls and, if needed, points of discharge?	DEQ has revised the requirement regarding the MS4 map and associated information table to include outfall information, and other necessary information as listed in Part I.E.3.a. Please see City of Richmond comment above.
City of Alexandria	Line 924 and 1029 - Line 924 states that "No later than October 1 of each year, ...the permittee shall update the storm sewer system map and outfall information table" while line 1029 requires a confirmation statement that it is up-to-date as of June 30 of the reporting year. Please make consistent.	<p>The intent of the permit language is to require permittees to confirm with submittal of the annual report due October 1st that the map reflects the assets of the MS4 regulated service area as of June 30th. DEQ agrees that this may be confusing and is proposing to clarify the requirements. It should be noted that the 3 month discrepancy is to allow permittees time to incorporate any BMPs, pipes, outfalls, etc that were placed in service on or before June 30th by the time that the annual report (with the certification statement) is due.</p> <p>The revised proposed language for annual reporting requirements in Part I.E.3.e.(1):</p>

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		<p>“A confirmation statement that MS4 map and information table are up to date as of <u>have been updated to reflect any changes to the MS4 occurring on or before</u> June 30 of the reporting year;</p>
EPA	<p>Suggest including a definition here as to what an “unauthorized non-stormwater discharge” is. It could be as simple as saying that this includes all non-stormwater that is not identified in 9VAC25-890-20 C 3. I haven’t looked at this section but it looks like this is the section where the list of authorized non-stormwater discharges is specified.</p>	<p>DEQ believes that a definition of “unauthorized stormwater discharge” is unnecessary. Authorized stormwater discharges are listed in 9 VAC 25-880-20 D.3; therefore, anything not listed in that regulation would not be authorized. Additionally, the list of unauthorized discharges is too extensive to be all encompassing. No change is proposed.</p>
City of Charlottesville	<p>Lines 934-935: please confirm the proper reference is cited; the City believes the correct reference is 9VAC25-890-20.D.3.</p>	<p>The noted correction has been made.</p>
EPA	<p>Added “and enforce”and “to effectively eliminate”</p>	<p>Condition has been revised as suggested.</p>
City of Alexandria	<p>Line 944 - If IDDE written procedures, which were previously required to be incorporated into the program plan, need to be revised per the new permit, what is the timeframe for revision?</p>	<p>Please see Part I C 3 regarding revisions to the MS4 program plan.</p>
EPA	<p>Suggest reframing this as a requirement, not just as examples. Consider something like this: “A prioritized schedule of field screening activities and rationale for prioritization determined by the permittee, with the highest priority given at a minimum to older areas of the system, areas with a history of illegal discharges, dumping, or cross connections, and areas with higher concentrations of land uses, such as commercial and industrial, that are more likely to contribute pollutants of concern.”</p>	<p>DEQ staff believes that various permittees may identify other criteria that would be appropriate for consideration in prioritizing outfall screening, and therefore, do not think it is appropriate to limit the criteria available to permittees. No change proposed.</p>
EPA	<p>Discussed revising 50% screening requirement.</p>	<p>DEQ has added the following sentence at the end of Part I.E.3.c.(1).(c): “The 50% criteria is not applicable if all outfalls have been screened in the previous three years.”</p>
City of Charlottesville	<p>Line 965: the identifier being described has previously been phrased the “unique outfall identifier”. It appears that the words may have been inadvertently transposed in this section. For consistency, please consider replacing “outfall unique identifier” with “unique outfall identifier”.</p>	<p>The noted correction has been made.</p>
City of Charlottesville	<p>Line 967: please consider whether it would be more beneficial to specify that the reported quantity of the last precipitation event should be described in a point precipitation frequency estimate. Understanding whether a precipitation event</p>	<p>DEQ reviewed the language as written and found it appropriate. Each permittee may track the information appropriate to their dry weather screening program.</p>

Commenter	Comment Received	DEQ Response
	was 1” in 15-minutes or 1” in two days may prove useful.	
City of Charlottesville	Line 973: please consider whether “order” is the appropriate characteristic or whether it should be “odor”.	The noted correction has been made.
City of Alexandria	Line 973 - (vii) should be moved up to (vi) since the permittee can only document the visual characteristics of the discharge if one was observed.	<p>DEQ agrees that a revision is needed to clarify this requirement and proposes to combine (v) and (vi) as suggested.</p> <p>(v)...; <u>and</u> (vi)...; <u>and visual characteristic of the discharge (e.g.,...)</u> (vii)Visual characteristics of the discharge...</p>
EPA	Change to “unauthorized non-stormwater discharge”	<p>Agree suggested change is appropriate and the revision has been made to Part I E 3 c (3). DEQ proposes to change the order of the wording from “nonstormwater unauthorized” to “unauthorized nonstormwater”. Only those unauthorized discharges need to be investigated. There may be times in which discharge is observed and the permittee is aware that it is an authorized non-stormwater discharge or seasonal groundwater flow etc.</p>
EPA	Are those discharges even regulated by this permit? This seems like it could be confusing language.	<p>Discharges covered under a separate VPDES permit are not covered under this permit; however, DEQ believes this language is appropriate to advise permittees how to proceed if a discharge from a separate VPDES permitted entity is discharged during an illicit discharge investigation. Additionally, MS4 permittees like the explicit clarity of DEQ’s expectations regarding this situation. No change is proposed.</p>
City of Alexandria	Line 977 - Consider removing “unauthorized” since the authorization will depend on the investigation into the source (landscape irrigation, dechlorinated swimming pool water, etc.)	<p>DEQ proposes to change the order of the wording from “nonstormwater unauthorized” to “unauthorized nonstormwater”. Only those unauthorized discharges need to be investigated. There may be times in which discharge is observed and the permittee is aware that it is an authorized non-stormwater discharge or seasonal groundwater flow etc.</p>
EPA	The use of “as necessary” here makes this requirement potentially ambiguous, and doesn’t seem to be necessary. Suggest deleting it.	<p>DEQ concurs that a revision is needed to remove “as necessary.” This phrase was meant to refer to item (4) above for when a permittee is able to identify the source of an illicit discharge. DEQ proposes to revise this language as follows:</p> <p>(5) Methodologies for conducting a follow-up investigation as necessary for illicit discharges that are continuous or that permittees expect to occur more frequently than a one time discharge to verify that the discharge has been eliminated except as provided for in Part I E 3 c (4)..</p>

Commenter	Comment Received	DEQ Response
EPA	Noting that there is no general timeframe for eliminating the illicit discharge. Suggest that some type of timeframe be used here.	DEQ staff believes that setting a drop dead time frame for eliminating the illicit discharge could be problematic. DEQ reviews the IDDE program and illicit discharge investigation information during program audits and annual report reviews. No change is proposed.
City of Charlottesville	Line 1004: please consider making the requirement here consistent with the reporting requirement found in line 1040.	Part I.E.3.c.(6).a has been revised to be consistent with Part I.E.3.e.(3).(b) to include the requirement for the date that an illicit discharge was observed, reported, or both..
EPA	If this is a requirement of the contents of the plan, how can they be incorporated by reference? Those seem like contradictory statements.	The map and information table are to be kept as GIS/PDF and database style files in order for permittees to maintain up to date info and query it when necessary. Therefore it is not appropriate as part of the “written” program plan documentation, but it is appropriate to incorporate by reference. No change is proposed.
VAMSA	MCM-3 requires that permittees include in the annual report a “statement that the MS4 map and information table are up-to-date as of June 30 of the reporting year;” (<i>VA Register</i> , p. 1012). Earlier in the Proposed GP, a permittee is instructed to update the map each year by October 1. (<i>VA Register</i> , p. 1010). VAMSA requests that DEQ clarify that October 1 is the date that applies to both sections of MCM-3.	Please see the response to related comments above and the proposed revisions to address this concern.
City of Charlottesville	Line 1029: on lines 922-924 it is stated that the updates to the MS4 map and information table are to be made by October 1; this requirement should be consistent and also be October 1.	Please see the response to related comments above and the proposed revisions to address this concern.
City of Richmond	Fact Sheet - Construction stormwater runoff control The Fact Sheet states “Also as part of the proposed 2018 general permit, programmatic requirements have been incorporated by reference where appropriate due to the potential changes in the near future of the VESCP underlying law and regulations. In 2016, the Virginia General Assembly passed legislation that consolidated the VESC law and the Virginia Stormwater Management Act (2016 Va. Acts Ch. 758.). Under this law, the Department is required to promulgate regulations that combine the VESCP regulations and the VSMP regulations to make the requirements consistent, among other things. While it is unclear at this time what regulatory changes may occur, it is likely that local government ordinances and programs will require	The fact sheet justification provided in this comment referencing up coming regulatory initiatives is meant to explain why DEQ believes it is appropriate to streamline the requirements of MCM 5 to reference the VESCP and VSMP regulations. Otherwise, permittees may find that there are contradictions between the MS4 permit requirements and other future program requirements. DEQ is not proposing to reference regulations that have not been promulgated. No change needed.

Commenter	Comment Received	DEQ Response
	<p>revisions. Additionally, Virginia has seen multiple legislative initiatives related to stormwater-over the past several years. To minimize contradictory requirements that could potentially occur as a result of including the specific VESCP regulatory language in the MS4 permit, the Department has opted to require the control of stormwater associated with construction activity through a regulatory requirement by reference.”</p> <p>It is not clear where the permit references possible future regulation. Regardless it is important to note that permits cannot incorporate by reference requirements that do not currently exist. Permits must provide adequate notice and opportunity for comment. Because these requirements do not exist there is no opportunity to assess the requirement and provide comment. Similar language is also included in the Fact Sheet for Post-construction stormwater management for new development and development on prior developed lands and therefore the same comment applies.</p>	
Chesapeake Bay Foundation	Amend the Draft Permit to require permittees that are towns that have not adopted a Virginia erosion and sediment control program (VESCP) or a Virginia stormwater management program (VSMP) to “comply with” the VESCP and VSMP of the surrounding city or county. The current formulation—using the phrase “rely on” — carries little meaning	If the ESC program of a town is administered by the surrounding county, the agency considers the ESC section of the town’s MS4 permit to be satisfied by the surrounding county’s program. Additionally , a permit condition has been added requiring the town to notify the surrounding county of E&S or stormwater runoff issues related to construction activities.
Chesapeake Bay Foundation	Amend the Draft Permit to require permittees that are towns that have not adopted a VESCP or a VSMP to notify the VESCP or VSMP of the surrounding city or county of any issues of concern regarding erosion, sedimentation, and/or stormwater runoff that may come to the permittee’s attention.	
Chesapeake Bay Foundation	Amend the Draft Permit to require permittees that are cities, counties, or towns to develop, submit to DEQ, and implement a progressive compliance and enforcement strategy for privately-owned stormwater management facilities. Under the current formulation, such a strategy—a critical element for an effective stormwater control program—is discretionary and would not be subject to DEQ scrutiny or guidance.	VSMP requires permittees to adopt an enforcement strategy under ordinances. VSMPs are approved by DEQ, and DEQ will perform compliance reviews to ensure the program is implemented in accordance with Virginia’s laws and regulations, local stormwater ordinance, and the program approved by DEQ. Therefore, it is not necessary for the MS4 permit to require a progressive compliance schedule to ensure that permittees are enforcing provisions of the Stormwater Management Act and VSMP

Committer	Comment Received	DEQ Response
EPA	Consider adding “from regulated construction site stormwater runoff.”	regulations that are incorporated by reference to the MS4 permit. No revision proposed. Proposed language will be added to read as follows: “...to address discharges entering the MS4 from regulated construction site stormwater runoff.”
EPA	Are the VA Erosion and Sediment Control Regulations consistent with the minimum requirements of the C&D rule?	40 CFR 450.21 (C&D Rule) is implemented through Virginia’s Construction General Permit (CGP) program because it only applies to permitted discharges from construction sites. Virginia’s ESC program applies at 10,000 sq ft or 2500 sq ft for those construction development projects located in the Chesapeake Bay Preservation Act areas or at more stringent thresholds if adopted by the local government. There is no federal requirement to apply C&D to projects at thresholds lower than those qualifying for CGP coverage. However, Virginia’s ESC regulations contains most of the components of the C&D Rule. No change is proposed.
EPA	The req’ts in these laws must be consistent with the MS4 req’ts in order to be relied upon to fulfill this MCM. See 40 CFR 122.34(b)(4)(ii)	40 CFR 122.34(b)(4)(ii) is guidance; however, if comment is meant to reference (b)(4)(i), the Virginia ESC Law and Regulation which must be implemented by all localities in Virginia include adoption of an ESC ordinance (A); requirement for ESC implementation (B); site plan review for greater than 10,000, 2500 for CBPA areas, or more stringent thresholds if adopted by the locality (D); and inspections and enforcement (F). Item (E) requirement for opportunity for public to submit information is addressed in Part I E 2 a(1) of this permit (MCM 2 - Public involvement). DEQ will reinstate previous item c.(7)- proposed for deletion. This will now be included in Part I.E.4.b as follows: “The permittee shall require implementation of appropriate controls to prevent nonstormwater discharges to the MS4, such as wastewater, concrete washout, fuels and oils, and other illicit discharges identified during land disturbing activity inspections of the MS4. The discharge of nonstormwater discharges other than those identified in 9VAC25-890-20 D through the MS4 is not authorized by this state permit.”, to prevent discharge of nonstormwater to the MS4.
EPA	Question for clarification: Do the inspection requirements in (4) and (5) cover all the possible types of MS4 permittees? Or, are (4) and (5) different types of MS4s than what is included in (1), (2), and (3).	Inspection requirements for the categories of permittees described in (4) and (5) are specified in this MS4 GP, because in these cases, the permittee is not an approved ESC authority or approved Annual Standard and Spec hold with an approved inspection program. No change is proposed.

Commenter	Comment Received	DEQ Response
DoD	<p>The permit calls for certain permittees to inspect all land disturbing activities within 48 Hrs. following any runoff producing storm event: Federal civilian employees who administer requirements of the stormwater MS4 permits at military facilities typically have regularly scheduled business days. If a runoff producing storm event occurs just prior to consecutive non-business days, it would be challenging to meet compliance. The Construction General Permit (CGP) states, "In the event that a runoff producing storm event occurs when there are more than 48 hours between business days; the inspection shall be conducted on the next business day." This language should be consistent with the CGP language. Recommendation: Add language that states, <i>"In the event that a runoff producing storm event occurs when there are more than 48 hours between business days, the inspection shall be conducted on the next business day."</i></p>	<p>MCM 4 – Construction Stormwater Runoff Control of the MS4 permit requires permittees to develop a program to oversee land disturbing projects within the permittee’s jurisdiction. For local governments that means continued implementation of the Virginia Erosion and Sediment Control Program (VESCP) in accordance with the VESCP laws and regulations. For non-traditional permittees, the condition requires permittees to establish an ESC program equivalent to that required of VESCP authorities. The inspection requirements in Part I.E.4.a(4)(c) are consistent with the periodic inspection requirements in 9 VAC 25-840-60 in the ESC regulation. The inspection frequency in the Construction General Permit is the inspection frequency expected by CGP permittees. No change proposed.</p>
DoD	<p>Runoff producing storm event is not defined. Though the intent of the language is understandable, the interpretation may be unclear allowing for inconsistent interpretation about the amount of rainfall that will trigger an inspection. This language is different from the CGP language i.e "runoff producing storm event" vs. "measurable storm event" defined as 0.25 inches of rain or greater over 24 hours. Recommendation: : Define "measurable storm event" in this section using the VPDES Permit for Discharges of Stormwater from Construction Activities (9VAC25-880-1) definition as "a rainfall event producing 0.25 inches of rain or greater over 24 hours." This ensures greater consistency across permitted programs.</p>	
City of Alexandria	<p>Line 1161 - 1193 - If applicable, when is the program plan to be updated?</p>	<p>Please see revisions to Part I C 3 regarding revisions to the MS4 program plan.</p>
EPA	<p>This section does not appear to include requirements that address the requirements in 122.34(b)(4)(D) and (E) for site plan review and procedures for receipt and consideration of information submitted by the public. Also, this section doesn’t appear to address 122.34(b)(4)(C), requirements to “control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the</p>	<p>See response to comment above in Part I.E.4.a.(1) above. As described, the Virginia ESC program requires plan approval. Additionally, (E) is addressed in MCM 2 requirements (Part I.E.2.a.(1)). No further change is proposed than those described in the response to the comment referenced above.</p>

Commenter	Comment Received	DEQ Response
	construction site that may cause adverse impacts to water quality.”	
EPA	Should include a req’t to report public information received and the permittee’s response to any public inquiries.	Part I.E.2.a.(1) and a.(4) address complaints regarding stormwater associated with land disturbance. DEQ has revised I.E.2.f.(1) in the annual reporting requirement to ensure permittee reports summary of stormwater complaints and responses.
EPA	Shouldn’t the permittee be req’d to report how many project plans were reviewed in accordance with the VESCP	<p>9 VAC 25-840-65 of the ESC regulations require reporting. Specific requirement:</p> <p>Each VESCP authority shall report to the department, at least monthly, in a method such as an online reporting system and on a time schedule established by the department, <u>a listing of each land-disturbing activity for which a plan has been approved by the VESCP authority under the Act and this chapter.</u></p> <p>No change is proposed.</p>
City of Alexandria	Line 1204 - “erosion” not “erosions”	The noted correction has been made.
EPA	This provision seems to lack specificity in terms of what the inspections must check for at a minimum.	The localities implement their own ESC programs and have done so for 30 years. These are mature programs that have been developed following the regulations requirements, but are individual locality programs.
EPA	Do these regulations include the req’t to use an ordinance (or other reg mechanism) to address PCSM?	Yes. In accordance with the Virginia Stormwater Management Act, all MS4s are required to implement the Virginia Stormwater Management Program and must have an ordinance in order to implement the program. No changes proposed.
EPA	For the requirements in both (b) and (c), is there a maintenance standard by which the facilities will be assessed, or can there be a minimum set of maintenance issues to look for during the inspections?	Post construction stormwater management facilities must conform to Virginia’s BMP Clearinghouse specifications (9VAC 25-870-65). These specifications describe the design, operation, and maintenance requirements associated with each type of BMP. No change is proposed. Additionally, in accordance with the VSMP regulations, each VSMP authority (which includes MS4 permittees) must provide for long term maintenance for BMPs that control quality and quantity. No change proposed.
EPA	The permit should list the minimum req’ts for inspection and maintenance procedures.	The specifications for post construction BMPs are provided in the Virginia Stormwater BMP Clearinghouse which lists maintenance and inspection requirements for individual BMPs and is referenced as the source for information as part of the CGP and VSMP regulatory programs. No change is proposed.
EPA	Shouldn’t this be approved by DEQ?	This language is a carry over from the previous 2013 MS4 GP. Since the VSMP regulations only require BMPs to be inspected once per 5 years,

Commenter	Comment Received	DEQ Response
		<p>DEQ is proposing to add language that states that alternative inspection frequency for permittee owned BMPs be no less than once per 5 years as long as the rationale is included in the MS4 program plan. DEQ staff believes that adding this provision would address EPA's comment and not require a separate approval by DEQ. DEQ is proposing to allow an alternative inspection frequency for permittee owned BMPs with rationale to support less frequent inspections; however, but the alternative frequency cannot be less than once per five years.</p>
NRDC	<p>While the requirement to inspect permittee-owned BMPs at least once per year is appropriate, the permit should not allow permittees to develop their own "alternative" inspection schedules without subjecting those schedules to DEQ review, as proposed in Part I.E.5.b.2 on page 36 of the draft permit document.</p>	<p>The VSMP regulations require that a VSMP authority inspect all BMPs once per five years. The requirement for MS4 permittees to inspect publicly owned BMPs once per year was established in the 2013 MS4 general permit with an unclear basis. Additionally, the 2013 MS4 general permit also allowed permittees to adopt an alternative inspection schedule for publicly owned BMPs. DEQ believes that the alternative frequency was originally included to allow permittees flexibility such that recently installed BMPs may not need inspections as frequently as once per year. As such, DEQ is proposing to revise this permit condition to require permittees to include publically owned BMPs once per year or at a reduced frequency of no less than once per five years in accordance with the requirements of the VSMP regulations as long as they provide the rationale in their MS4 program plans. DEQ believes that by setting the minimum inspection frequency of one per five years this requirement provides a clear specific and measurable requirement and a separate review and approval by DEQ is not necessary.</p>
City of Charlottesville	<p>Lines 1250 and 1255: please consider inserting the word "program" after "stormwater runoff control".</p>	<p>The noted correction has been made.</p>
City of Charlottesville	<p>Line 1364: please consider inserting the words "or BMP" after "stormwater management facility".</p>	<p>The noted correction has been made.</p>
EPA	<p>What is the reasoning for different inspection time frames for public vs privately owned BMPs? Is this schedule consistent with CB BMP verification protocols?</p>	<p>This language as explained above is a carry over from previous 2013 MS4 GP. Rationale for different inspection frequency is unknown; however, VSMP regulations specify an inspection frequency of 1 per 5 years and does not include a different frequency for MS4 permittee owned BMPs. Evaluation/comparison of each BMP verification protocol has not been performed as part of the MS4 GP reissuance. No change is proposed.</p>

Commenter	Comment Received	DEQ Response
VAMSA	MCM-5 requires that certain permittees address adequate long-term O&M of privately owned BMPs by requiring a facility owner “develop a recorded inspection schedule and maintenance agreement to the extent allowable under state or local law or other legal mechanism;” (<i>VA Register</i> , p. 1016). VAMSA suggests that an MS4 can require that an owner develop a “recordable” agreement—the act of recording the document in the land records results in a “recorded” schedule, not the drafting itself.	DEQ agrees and proposes to revise the language as follows “(b) Adequate long-term operation and maintenance by the owner of the stormwater management facility by requiring the owner to develop a recorded inspection schedule and maintenance agreement “and record a maintenance agreement, including an inspection schedule” to the extent allowable under state or local law or other legal mechanism.”
EPA	Is this different from what is req'd in (1) above?	(1)Above requires that the MS4 permittee adopt and implement an enforcement program. The language in item (3) allows the use of a progressive compliance and enforcement strategy that could include a compliance assistance component, and progressive implementation of various enforcement mechanisms, (Letter of Agreement, NOV, Warning Letter, Order) and/or a points accumulation program similar to Virginia’s VPDES compliance program. No change is proposed.
EPA	It’s sometimes helpful to have a photo of the BMP. Can we include that as something optional to have in the record for the BMP as well?	While DEQ believes that documentation such as a photo could be useful in an inspection program and understands many MS4 permittees already do this, requiring a photo as part of an inspection is too prescriptive. No change proposed.
City of Alexandria	Line 1371 and Line 61 - In line 1371, “online” is one word while in the line 61 “on line” is two words.	The noted correction has been made.
City of Alexandria	Lines 1381 and 1385 - Add “or BMP” consistently.	The noted correction has been made.
EPA	Need a copy of the ordinance or other mechanism that the permittee has in place to address PCSM in accordance with 40 CFR 122.35(b)(5)(ii)(B).	Item h.(3) requires permittees to provide a description of their legal authorities to implement a post construction stormwater program. However, to address EPA’s comment, DEQ proposed to include in h.(3) a requirement to provide the citation for an ordinance as appropriate (to recognize that non-traditional MS4 permittees cannot adopt ordinances. Using the citations, most current and related ordinances can be reviewed online.
City of Alexandria	Line 1427 - The permit requires documenting the location or link where the stormwater facility spreadsheet or database can be reviewed in the MS4 program plan. Is this requirement asking the permittee to post their database for external download? Why is this needed if the permittee is already submitting their BMPs to DEQ through the	The spreadsheet is considered part of the MS4 program plan and it is expected that permittees will maintain it as a separate document from the MS4 program plan because of the format. Therefore, the MS4 program plan needs to include a link to where the spreadsheet can be viewed. This is a separate requirement from the annual reporting requirement to upload the

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	DEQ Construction Stormwater Database or the BMP Warehouse?	spreadsheet to the BMP warehouse. No change needed.
City of Alexandria	Line 1448 - The permit requires a description of significant activities performed on the stormwater management facilities owned or operated by the permittee to ensure it continues to perform as designed. There is no definition of "significant activity" rendering this item subjective and unclear.	DEQ agrees and proposes the following: " A description of the significant "maintenance, repair or retrofit" activities performed on the stormwater management facilities owned or operated by the permittee to ensure it continues to perform as designed. This does not include routine activities such as grass mowing or trash collection.
EPA	Why is this requirement here versus in the construction section?	These are permanent post construction BMPs. MCM 4 address ESC. No change is proposed.
HRPDC	This section is titled "pollution prevention and good housekeeping for facilities owned or operated by the permittee." The HRPDC would like to add clarification that this section is intended to apply only to those facilities owned or operated by the permittee that are within the MS4 service area. Recommendation: change the section title to "pollution prevention and good housekeeping for facilities owned or operated by the permittee within the MS4".	DEQ agrees that clarification to the section title is appropriate and proposes to revise the title as suggested. Pollution prevention and good housekeeping for facilities owned or operated by the permittee <u>within the MS4 service area.</u>
City of Suffolk	Suffolk requests the addition of "within the MS4" to the title of 9VAC25-890-40 Part I (E) (6). The requested revision is "pollution prevention and good housekeeping for facilities owned or operated by the permittee within the MS4".	Please see response to similar comment above.
EPA	Since these are identified in (c) below as "Municipal high-priority facilities that have a high potential for discharging pollutants", suggest referring to them as such here for clarity. Also, suggest modifying this to identify these examples areas as the minimum types of activities/facilities that must be identified as "high priority facilities", though the MS4 can add others.	The requirements in item a. for written pollution prevention procedures applies more broadly than to just high priority facilities. No changed proposed.
City of Alexandria	Line 1463-1472 - Consider rewording this sentence.	It is unclear what the commenter's concern is in regard to this sentence; therefore, no revision is proposed.
EPA	Recommend adding citation to the training program requirement.	The noted correction has been made.
EPA	Should this be "SWPPP"?	The noted correction has been made.
City of Alexandria	Line 1496 - The high-priority facilities that have a high potential for discharging pollutants have already been identified so a time limit is not needed for permittees continuing coverage. Consider combining	As stated, existing permittees were required to identify high priority facilities under the 2013 MS4 general permit. However, for implementation of the new permit, permittees should review all high priority facilities whether previously identified or

Commenter	Comment Received	DEQ Response
	this item with item e. (annual review of high-priority facilities).	not to determine if the requirements of this section apply to any facilities not previously identified or to determine if any facilities need to be removed from the category of high priority facilities in accordance with Part I E.6.h. No proposed revision.
City of Alexandria	Line 1500 - SWPPP not SWMPP	The noted correction has been made.
City of Charlottesville	Line 1500: please verify use of the abbreviation “SWMPP” vs. “SWPPP” found in the next reference of the document at line 1529. The City believes “SWPPP” is the appropriate abbreviation	The noted correction has been made.
City of Charlottesville	Lines 1498-1499: these lines reference municipal high priority facilities that have a high potential to discharge pollutants identified in Part I E 6 a, however there is no text in the referenced section about these facilities. Municipal high priority facilities are defined in the Definitions section. Municipal high priority facilities with a high potential to discharge pollutants are further defined in Part I E 6 c 1-9. Please ensure that the proper reference is included.	<p>Upon review, DEQ agrees that revisions are necessary to the language on these lines to clarify that the requirements of the section go beyond the traditional definition of “municipal” as it applies to local governments; it also applies to federal and state MS4 permittees. During review of the language in this section, DEQ also identified additional revisions needed to clarify the requirements as noted below. The sentence with that reference was unnecessary and has been removed.</p> <p>Part I E 6 c “Within 12 months of the state permit coverage, the operator permittee shall identify which of the municipal high-priority facilities have a high potential of discharging pollutants. Municipal high priority facilities that have a potential for discharging pollutants are those facilities identified in subsection (1) above Part I E 6 a. The permittee shall maintain and implement a <u>site specific stormwater pollution prevention (SWMPP) (SWPPP) for each facility identified, high priority facility owned or operated by the permittee with a high potential to discharge pollutants. High priority facilities that have a high potential for discharging pollutants are those facilities that are not covered under a separate VPDES permit and which any of the following materials or activities occur and are expected to have exposure to stormwater resulting from rain, snow, snowmelt or runoff.”</u></p>
EPA	These requirements leave much of the “clear, specific, and measurable” details up to the MS4, which is not consistent with the Comprehensive GP requirements in the Remand Rule.	DEQ believes that the list of SWPPP requirements meets the clear, specific, and measurable standard. Each site is different and therefore the SWPPPs will be site specific. The clear, specific, and measurable standards are achieved by the permit because the permit specifies what has to be included in the site

Commenter	Comment Received	DEQ Response
		specific SWPPP. It would be nearly impossible to specify the appropriate site specific SWPPP requirements for all types of high priority facilities. DEQ added a SWPPP frequency of once per year.
NRDC	The permit may not allow permittees to develop their own inspection and maintenance schedules for permittee-owned facilities in their stormwater pollution prevention plans (SWPPPs) without DEQ approval, as proposed in Part I.E.6.d.7 on page 41 of the draft permit document. These provisions allow permittee self-regulation and clearly fall short of the criteria established by EPA. “[I]t is the permitting authority [that has] the ultimate authority to determine what small MS4s must do to meet the MS4 permit standard.”	Inspection and maintenance requirements are site specific; however the condition was revised to require SWPPP inspection to occur at a minimum of once per year.
EPA	If this happens, recommend that the rationale be explained in the subsequent annual report.	DEQ will add a requirement to the MCM 6, Part I.E.6.q.(3) annual reporting requirement to incorporate EPA’s suggestion that rationale for delisting a facility as a high priority facility be explained in the annual report.
EPA	This language does not qualify as clear, specific, and measurable.	This condition was added to ensure that contractors hired by a permittee that perform work that have the potential to discharge pollutants to stormwater follow appropriate good housekeeping and pollutant prevention measures. It is nearly impossible to specify all situations involving a contractor.
VAMSA	MCM-6 states that the permittee must require that any contractors it hires that may discharge pollutants agree to appropriate control measures “through the use of contract language, training, standard operating procedures, etc.,” (<i>VA Register</i> , p. 1020). VAMSA requests that DEQ add the text it included in the Draft Fact Sheet on this point, so that the phrase reads: “through the use of contract language, training, standard operating procedures, or other measures as appropriate.” Draft Fact Sheet, p. 11.	DEQ agrees that “etc.” is not appropriate for a clear permit requirement. To correct this, DEQ is proposing to revise the permit language as follows: “I. The permittee shall require through the use of contract language, training, standard operating procedures, or other measures within the permittee’s legal authority that contractors employed by...”
City of Charlottesville	Line 1613: please consider deleting “etc.” and inserting “or” between “training” and “standard operating procedures”	Please see response to Part I E 6 I comment above.
HRPDC	Revise the permit language in 9VAC25-890-40 Part I (E) (6) (1) as follows "...require through the use of contract language, training, standard operating procedures, <i>or other measures as appropriate</i> , that contractors employed by the permittee and engaging in activities with the potential to discharge pollutants use appropriate control	Please see response to Part I E 6 I comment above.

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	measures to minimize the discharge of pollutants to the MS4." This addition allows the permittee the flexibility to determine how best to meet the requirement.	
HRPDC	Permittee Flexibility to Ensure Contractor Training: 9VAC25-890-40 Part I (E) (6) (I) states permittees shall "...require through the use of contract language, training, standard operating procedures, etc., that contractors employed by the permittee and engaging in activities with the potential to discharge pollutants use appropriate control measures to minimize the discharge of pollutants to the MS4." This requirement is explained differently on page 11 of the Fact Sheet, which indicates that the permit provision "...is to be implemented through the use of such measures as contract language, training, and standard operating procedures, or other measures as appropriate."	Please see response to Part I E 6 I comment above.
HRPDC	<p>The requirements for contractor training have been revised and are unnecessarily onerous and limiting to MS4 permittees. Two examples have been provided A.</p> <p>Certifications: 9VAC25-890-40 Part I (E) (6) (m) (4-6) states that the training plan for applicable staff will ensure that both employees and contractors hired by the permittee obtain the appropriate state certifications. This requirement should be limited to permittee employees. Requiring contractors to minimize the discharge of pollutants to the MS4 is typically included in legally binding contract language, which is addressed in 9VAC25-890-40 Part I (E) (6) (I).</p> <p>Recommendations: Restore the 2013 MS4 GP language that requires permittees "to ensure that applicable employees obtain the appropriate certifications, as required under the Virginia Erosion and Sediment Control Law (or the Virginia Stormwater Management Act) and its attendant regulations" and to delete the reference to contractors in 9VAC25-890-40 Part I (E) (6) (m) (4-6).</p>	<p>Language in Part I E.6.m (4) is consistent with the requirements of the 2013 MS4 general permit even though the language has been revised for clarity. A sentence has been added as follows: "Certification by the Virginia Department of Agriculture and Consumer Services (VDACS) Pesticide and Herbicide Applicator program shall constitute compliance with this requirement."</p> <p>Language in Part I E.6.m (5) is consistent with Section II B 6.e (5) of the 2013 MS4 general permit. The 2013 permit requirement stated that "the operator "ensure that employees and contractors serving as plan reviewers..." are appropriately certified. No proposed revision to this permit condition.</p> <p>Additionally, Part I E.6.m(6) corrects an error in the Section II B 6.e(6) of 2013 MS4 general permit that referenced the VESCP law and regulations instead of the stormwater management program law and regulation. As part of the proposed permit DEQ corrected this error and also made the permit language consistent with item m (5) since similar certifications are required. DEQ believes the language as proposed is appropriate and proposes no revision to the draft permit condition.</p>
City of Alexandria	Line 1628 - 1629 - The word "applicable" should be added before "field personnel" so that the requirement doesn't include field	This is an issue considered applicable to all field personnel, that they recognize and notice irregular discharges occurring from stormwater

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	<p>personnel that would never encounter illicit discharges. Also, the should be “receive” instead of “received.”</p>	<p>conveyances. No change proposed. DEQ has made the change for the wording from “received” to “<u>receive</u>”.</p>
<p>City of Charlottesville</p>	<p>Line 1629: please consider replacing “received” with “receive”.</p>	<p>The noted correction has been made.</p>
<p>City of Alexandria</p>	<p>Line 1646-1649 - The permit requires a training plan for employees and contractors to obtain appropriate certifications under VESCL and VSMP regulations and administrators, plan reviewers, and inspectors. After initial certification is obtained, formal training programs are not necessary or even required in some instances such as PEs acting as VESCL plan reviewers. Further these typically are included in job descriptions not as a training plan. It would also be excessive to require the City to include a training program for outside contractors.</p>	<p>As long as the appropriate City employees and contractors meet the VESCP and VSMP certification requirements, MS4 permittees do not need to establish training for these individuals. No change proposed.</p>
<p>City of Suffolk</p>	<p>9VAC25-890-40 Part I (E)(6)(n) requires permittees to maintain documentation for permittee training events, including the date the event was held, the number of employees in attendance, and the objective for training required in 9VAC25-890-40 Part I (E)(6)(m). This requirement is well-suited to the types of training listed in 9VAC25-890-40 Part I (E)(6)(m)(1-3), which covers topics such as illicit discharges and good housekeeping. The permittee usually provides this training internally for their staff. However, it is not appropriate for the types of training listed in 9VAC25-890-40 Part I (E)(6)(m)(4-6), which includes state certifications for pesticide and herbicide applicators, erosion and sediment control professionals, and stormwater management professionals. DEQ and Virginia Department of Agriculture and Consumer Services (VDACS) administer these certification programs. It is unnecessary for MS4 permittees to maintain documentation of the objectives, persons in attendance, and the dates of the state-administered certification training events. Instead, permittees should maintain employee certification records. The suggested revision is to limit the documentation provision to those training events described in 9VAC25-890-40 Part I (E)(6)(m)(1-3).</p>	<p>The permittee is only responsible for the training that they conduct. The language was revised as follows:</p> <p>“The permittee shall maintain documentation of each training event conducted by the permittee to fulfill the requirements of Part I E 6 m for a minimum of three years after the training event.””</p>

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City of Alexandria	Line 1668 - The permit requires documentation of training events conducted to fulfill the requirements under Part I E 6 m. This indicates that the permittee needs to conduct trainings for items (5) and (6) which involve employees and contractors certified under VESCL or VSMP regulations. The permittee does not conduct these types of training events and training events may not be required for certain certifications such as PEs acting as ESC plan reviewers. Language should be uses the requires the permittee to obtain appropriate certification.	Please see the response to Part I.E.6.n above.
City of Alexandria	Line 1703 - Delete "The MS4 program plan shall include" since it is already stated above.	The noted correction has been made.
City of Charlottesville	Line 1712: please consider deleting "daily" for consistency with Part I E 6 a	The permit condition has been revised as suggested.
NRDC	<p>When the Bay TMDL strategy was initially developed in 2010, fifteen years remained to achieve the full reductions. However, because of a lengthy delay in issuing the first post-TMDL round of MS4 permits, the "first" permit cycle lasted from 2013 to 2018, and the "second" permit cycle (the term of the draft permit at issue here) will last from 2018 to 2023. This means that it is impossible for the pollution reductions required during the "third" permit cycle—comprising 60% of permittees' total TMDL obligations—to be achieved by the Bay TMDL deadline of 2025. As a result, greater pollution reductions beyond 40% must be required in this permit cycle. This is necessary if Virginia is to have any chance of satisfying its legal obligations under the Bay TMDL within the 2025 timeframe. One approach could be to require the permittees to achieve an additional 36% of their reductions, for a total of 76% of their reductions, during this term.¹² The only other alternative is to require permittees to achieve their entire reductions for the "third" permit cycle—60% of their L2 reductions—during the first two years of that permit term.</p> <p>The fact sheet for the draft permit states, "Virginia will adjust its commitments, if necessary, as part of its Phase III WIP to ensure that practices are in place by 2025 that are necessary to meet water quality standards in the Chesapeake Bay and its</p>	<p>In the Phase I and II Watershed Implementation Plans (WIPs) and the Chesapeake Bay TMDL, the Commonwealth and EPA committed to using a phased approach for the MS4 sector affording MS4 permittees three full five year permit cycles to implement necessary reductions. Virginia will adjust its commitments, if necessary, as part of its Phase III WIP to ensure that practices are in place by 2025 that are necessary to meet water quality standards in the Chesapeake Bay and its tidal tributaries. Virginia is currently reviewing the results of the Phase 6 Chesapeake Bay TMDL Watershed model and developing strategies for the Phase III to ensure compliance with the Chesapeake Bay TMDL. As such, Virginia will adjust its commitments, if necessary, as part of its Phase III WIP to ensure that practices are in place by 2025 that are necessary to meet water quality standards in the Chesapeake Bay and its tidal tributaries. No change proposed.</p>

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	tidal tributaries.” It is unclear what DEQ means by this statement, but the draft permit’s terms must be consistent with the assumptions and requirements of wasteload allocations as they currently stand—not how they may be modified in the future.	
Chesapeake Bay Foundation	Add a requirement that Bay watershed permittees develop and submit to DEQ within 36 months of the permit’s effective date a detailed report demonstrating that the permittee will have in place by 2025 all steps, including trading and any other necessary options, needed to meet the WIP	Please see response to similar NRDC comment above.
Chesapeake Bay Foundation	Add a requirement that Bay watershed permittees develop and submit to DEQ within 36 months of the permit’s effective date a detailed report that (a) outlines the financial requirements for achieving WIP goals by 2025; and (b) identifies any reasonably foreseeable funding shortfalls for this work.	The information requested is outside the scope of the VPDES permit. No revision is proposed.
EPA	Is it realistic to think that MS4s will be able to attain the remaining 60% in the two years from 2023 to 2025? Should the proposed 35% be revisited?	This is an on-going discussion as Virginia develops Phase III CB WIP. However, the Commonwealth and EPA agreed to three full 5 year permit terms to achieve the required reductions from MS4 permittees. No change is proposed.
City of Charlottesville	The City implores DEQ and the SWCB to continue to stand by the commitment the State made in the Chesapeake Bay TMDL Phase I and II Watershed Implementation Plans (WIPs) that gives MS4s three full permit cycles (15 years) to make the reductions needed to meet the requirements in the Chesapeake Bay TMDL Special Condition, specifically the pollutants of concern reductions in the L2 scoping run. (Phase I WIP, p. 93; Phase II WIP, p. 25)	Thank you for your comment.
VAMSA	<p>Part II(A) of the Proposed GP requires that a permittee reduce nutrients and sediment by 40% of the L2 scoping run by the end of this five-year term. As noted above and in Appendix A, the MEP compliance standard governs MS4 compliance with an NPDES permit. A permittee should not be required to comply with TMDL reductions above and beyond its MEP, after also considering all of the other permit obligations. For this reason, VAMSA requests the following textual changes:</p> <p>Part II(A)(1) (<i>VA Register</i>, p. 1024) The Commonwealth in its Phase I and Phase II Chesapeake Bay TMDL Watershed</p>	<p>DEQ does not believe that the suggested language is appropriate. In accordance with federal and state regulations, MEP applies to the reduction of pollutants from MS4 permittees and does not apply to the “level of effort.” Additionally, MEP must be determined by the permitting authority at the time of permit issuance, and DEQ has determined that for MS4 permittees, MEP equates to the compliance with the minimum control measures, Chesapeake Bay TMDL and local TMDL requirements as prescribed in the proposed 2018 MS4 general permit. In order to address implementation issues associated with meeting the Chesapeake Bay TMDL reduction requirements, the Commonwealth committed to MS4 reductions</p>

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	<p>Implementation Plans (WIPs) committed to a phased approach for MS4s, affording MS4 permittees up to three full five-year permit cycles to implement necessary reductions. This permit is consistent with the Chesapeake Bay TMDL and the Virginia Phase I and II WIPs to meet the Level 2 (L2) scoping run for existing developed lands as it represents an implementation of an additional 35% of L2 as specified in the 2010 Phase I Phase I and II WIPs, so long as the level of effort for a permittee is consistent with, and does not exceed, the maximum extent practicable (MEP), when considered cumulatively with other obligations in this permit. Unless MEP limitations apply, a permittee shall, in combination with the 5.0% reduction of L2 that has already been achieved, implement reductions required by Part II(A)(3), (4), and (5) below for a total reduction at the end of this permit term of 40% of L2. The updated Chesapeake Bay TMDL Action Plan in Part II(A)(11) and any required reporting on the Plan shall reflect these reductions. Conditions of future permits will be consistent with the TMDL or WIP conditions in place at the time of permit issuance.</p>	<p>that could be achieved over three full permit terms. DEQ contends that the permit language as drafted by DEQ is appropriate and no revision is necessary.</p>
<p>City of Charlottesville</p>	<p>Lines 1860-1861: please consider deleting “for” on line 1860 and adding “will be achieved” at the end of the sentence on line 1861 such that the sentence reads, “In combination with the 5% reduction of L2 that has already been achieved, a total reduction at the end of this permit term of 40% of L2 will be achieved”. The City believes this will provide more clarity as to the intended requirement.</p>	<p>DEQ agrees that the suggested language clarifies the intent of the permit language and proposes to revise the language as suggested.</p> <p>In combination with the 5% reduction of L2 that has already been achieved, for a total reduction at the end of this permit term of 40% of L2 <u>will be achieved</u>.</p>
<p>EPA</p>	<p>Is this allowing the permittee additional time to achieve the 5% required by the current permit?</p>	<p>No. This is recognizing that by the end of the 2nd permit term, 40% must be achieved. Given the requirements over multiple permit terms, and the fact that “new” permittees (2010 CUA) were not required to meet the 5% during the first permit term but is required to meet the 40% by the end of the 2nd permit term, this language simplifies the accounting for DEQ and the MS4 permittees. No change is proposed.</p>
<p>VAMSA</p>	<p>In addition to VAMSA’s concerns regarding practicability, VAMSA is also concerned that the 40% reference Part II(A)(3) (<i>VA Register</i>, p. 1024) could be misread. VAMSA believes DEQ’s intent is that the 40% requirement only applies to those</p>	<p>DEQ agrees that the suggested language clarifies the intent of the permit language and proposes to revise the language as suggested.</p>

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	<p>additional acres that were added to an individual MS4's service area as a result of the 2010 Census, and not to the full footprint of the service area based on the 2010 Census. However, out of an abundance of caution, VAMSA recommends textual edits to this section to make this point clear.</p> <p>No later than the expiration date of this permit, the permittee shall reduce the load of total nitrogen, total phosphorus, and total suspended solids from existing developed lands served by the MS4 as of June 30, 2009, within the 2010 Census Urbanized Area by at least 40% of the Level 2 (L2) Scoping Run Reductions. The 40% reduction is the sum of (i) the first phase reduction of 5.0% of the L2 Scoping Run Reductions based on the lands located within the 2000 Census Urbanized Areas required by June 30, 2018; (ii) the second phase reduction of at least 35% of the L2 Scoping Run based on lands within the 2000 Census Urbanized Areas required by June 30, 2023; and (iii) the reduction of at least 40% of the L2 Scoping Run based on, which shall only apply to the additional lands that were added by within the 2010 expanded Census Urbanized Areas required by June 30, 2023. The required reduction shall be calculated using Tables 3a, 3b, 3c, and 3d below as applicable:</p>	<p>“...and (iii) the reduction of at least 40% of the L2 Scoping Run based on, <u>which shall only apply to the additional lands that were added by within</u> the 2010 expanded Census Urbanized Areas required ...”</p>
Navy	<p>Permit language in lines 1876 through 1881 works for situations where urbanized area increased from 2000 to 2010. It is not appropriate to require load reductions from lands that were urbanized in 2000 but no longer urbanized in 2010. It is not appropriate to require reductions under an MS4 permit from areas which are no longer urbanized and therefore not a part of the MS4 regulated service area. These non-urbanized areas should be addressed in the Load Allocation of the TMDL rather than the WLA of the MS4 permit. Recommendation: This section should be modified to account for situations where an MS4 lost urbanized area from 2000 to 2010. We believe that this can be accomplished by keeping the first sentence (lines 1874 to 1877) and deleting the second sentence (lines 1878-1883). If VADEQ believes it is best to retain the existing language, it should be modified to indicate that it only applies to MS4s that had</p>	<p>When a small MS4 is automatically designated as regulated based on the definition of urbanized area for any given census year, that small MS4 remains regulated regardless of the results of subsequent urbanized area determinations. (Page 68751 of the December 8, 1999 Federal Register/Vol. 64, No 235). Therefore, even though lands may be identified in the 2010 Census as being outside the urbanized area, if they were part of the designated urbanized area in accordance with the 2000 Census, they remain regulated under the MS4. No proposed change.</p>

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	urbanized areas expanded in 2010 compared to 2000.	
DoD	This language works for situations where an MS4 service area expanded in 2010 as compared to 2000. However, provisions (i) and (ii) would require load reductions from lands that were urbanized in 2000, but are no longer urbanized in 2010. It is not appropriate to require load reductions under an MS4 permit from areas which are no longer urbanized and therefore not part of the MS4 regulated service area. These non-urbanized areas should be addressed in the Load Allocation of the TMDL rather than in the Waste Load Allocation of the MS4 permit. Recommendation: This section should be modified to account for situations where an MS4 has reduced urbanized area from 2000 to 2010. This can be accomplished by keeping the first sentence (lines 1874 to 1877) and deleting the second sentence (lines 1877-1883). If VDEQ believes it is best to retain the existing language, it should be modified to indicate that it only applies to MS4s that had urbanized areas expanded in 2010 compared to 2000.	See response above to similar Navy comment above for Part II.A.3.
City of Charlottesville	Lines 1882-1883: the City feels that these lines need to more clearly express that only new acres added in the 2010 Census (above and beyond those already identified using the 2000 Census) and that are served by the MS4 are subject to the 40% reduction requirement.	Please see the response and proposed revision to the similar comment above.
City of Charlottesville	Lines 1885-1888, Tables 3a-3d: please consider reformatting these tables to landscape orientation for ease of viewing	Virginia's Regulation Information System (RIS) requires the department to format tables in a portrait format for purposes of the official publication. DEQ will be reformatting the tables into a more "easy to read" and user-friendly format as part of the MS4 general permit that is distributed to permittees upon issuance of coverage under the 2018 permit. No change proposed in the regulation.
City of Charlottesville	Lines 1885-1888, Tables 3a-3d: please consider deleting "rate" from the header of Column D. The L2 requirement is a reduction of the total loading, not a reduction of the loading rate.	DEQ proposes to revise Table 3a through 3d as suggested as well as revise Column C from "Loading" to "Load" to accurately reflect the resulting calculation. Column C: Revise heading to: Loading (lbs/yr) Column D: Revise heading to: Percentage of MS4 required Chesapeake Bay total L2 loading rate reduction
City of Charlottesville	Lines 1885-1888, Tables 3a-3d: for clarity, please consider removing the "%" after each	DEQ agrees that a correction is needed in order to accurately represent the calculation intended

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	<p>number in Columns D and E and inserting a “(%)” at the end of the column headers. As such the Column D header would read “MS4 required Chesapeake Bay total L2 loading reduction (%)”, and Column E would read “L2 required reduction by 6/30/2023 (%)”. This will make the calculation described in Subscript 4 after each Table correct – currently it is unnecessary to divide by 100 since the numbers are already expressed as percentages.</p>	<p>for Column F and proposes to revise footnote 4 in order to correct the calculation.</p> <p>Footnote 4: Column F = Column C x (Column D divided by 100) x (Column E divided by 100)</p>
VAMSA	<p>Subscript 4 to each Table states that Column F = Column C X (Column D ÷ 100) X (Column E ÷ 100). (<i>VA Register</i>, p. 1025-1027). Columns D and E are already provided as percentages, making it unnecessary to divide by 100. VAMSA suggests either removing the % in the columns or the divide by 100 reference in the subscript.</p>	<p>Please see response to similar comment above.</p>
City of Charlottesville	<p>Line 1910: please consider replacing the first “to” with “towards” to make it clear that reductions achieved under the current MS4 General Permit count towards the overall 40% of L2 reductions required by the end of this draft permit.</p>	<p>DEQ agrees the suggested language revision is consistent with the intent of the permit condition and proposes to revise the language as indicated below:</p> <p>“...shall be applied to <u>toward</u> the total reduction...”</p>
EPA	<p>Is there a methodology for assigning values to reduction efforts and specific BMPs for tracking compliance with these requirements?</p>	<p>DEQ staff understands this comment to be referring to reduction efficiencies assigned to BMPs. The acceptable reduction efficiencies are addressed for specific BMPs through the BMP Clearinghouse or Chesapeake Bay Program. Reduction efficiencies may sometimes be refined when new information is discovered; therefore, DEQ does not believe it to be appropriate to include any reduction efficiencies in the permit. No changes proposed.</p>
EPA	<p>Are these BMPs listed in a Manual or some other central location? If so, recommend stating so here in the permit.</p>	<p>BMPs eligible for use to retrofit existing developed lands to meet the CB TMDL reduction requirements include BMPs on DEQ’s BMP Clearinghouse or the CBP approved expert panel report. DEQ has a 70 page guidance document developed with a variety of stakeholders to document acceptable practices and calculation methodologies to meet the reduction requirements. Because the guidance document periodically needs to be updated to include new approved BMPs, it is not appropriate for reference in a permit regulation. No change is proposed.</p>
City of Charlottesville	<p>Line 1927: please consider replacing “suspend” with “suspended” and adding “credits” after “total suspended solids”.</p>	<p>DEQ proposes to revise the language as suggested below:</p> <p>“...Virginia and total <u>suspended</u> solids..”</p>

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City of Charlottesville	Line 1928: there is technically not a Part II A 3 a through d, but rather Tables 3a through 3d, which all come under section Part II A 3. Please ensure that the proper reference is included.	DEQ proposes to revise the language as suggested below: ...the required reductions in Part II A Part II A Tables 3 a through A 3d...
VAMSA	<p>VAMSA supports the clear language in the Proposed GP authorizing trading for Bay compliance. (<i>VA Register</i>, p. 1028). That said, VAMSA believes the Proposed GP would be even more effective if DEQ took the existing term at 9VAC25-890-40 Part II(A)(10) and created separate terms for nutrients and sediment. The Virginia Code sections authorizing nutrient and sediment trading are different, and blending them into one paragraph means losing some of the individual features of each section.6As a concrete example, the Virginia Code limits the use of sediment credits to Bay compliance; there is no similar limitation on nutrient credits.</p> <p>If DEQ decouples the current text, VAMSA also requests that DEQ add specific authorization in the Local TMDL section of the GP that allows trading for local nutrient TMDLs. (<i>VA Register</i>, p. 1031).</p>	DEQ agrees that there are differences in the VA Code sections authorizing nutrient and sediment trading and plans to further address these issues in the TMDL Action Plan Guidance. No changes necessary.
EPA	Is this a part of the trading program? I'm wondering how credit generators would know the baseline reduction necessary?	Baseline reduction requirements are a component of Virginia's trading program. DEQ staff have established requirements for what equates to "baseline" and works closely with nutrient bankers to ensure that baseline is met prior to certifying available credits for sell or trade. No change proposed.
EPA	What is the rationale for how the updated plan avoids state review and approval?	The enforceable requirement is the reduction which is included in the permit. The action plan is the tool used to demonstrate compliance with the reduction requirement. This is explained in the fact sheet for this MS4 GP. Please note that DEQ will be receiving and reviewing action plans to ensure that the plans contain the components as required by the permit. Lack of components in the plan may constitute a permit violation and will be addressed through the compliance and/or enforcement program. No change proposed.
Chesapeake Bay Foundation	Reduce to six months the Draft Permit's allowance of 12 months from its effective date for submission to DEQ of its TMDL Action Plan. In view of the current permit's requirement for submission of an updated Action Plan with the permittee's reapplication for coverage, six months should be adequate to address any changes required by the new permit	In accordance with discussions of the Technical Advisory Committee and in consideration of other regulatory requirements associated with this permit, DEQ believes that submittal of the action plans 12 months after the permit effective date is an acceptable time frame for finalization. Note that regardless of the action plan due date, MS4 permittees are still require to ensure that plans are implemented and the necessary BMPs and

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		strategies are in place to demonstrate compliance with the requirement to achieve 35% reduction of L2 no later than the expiration date of the permit. No change proposed.
James River Association	In order to ensure continued progress and compliance with the Chesapeake Bay TMDL, this permit must include provisions that acknowledge and provide for modification when new Waste Load Allocations (WLAs) are approved as a part of the Phase III Watershed Implementation Plan process. Consistency with WLAs is an integral element of these permits and must be maintained throughout the permit cycle. Once new WLAs are approved, they must be incorporated into the permit. Continued progress towards Chesapeake Bay restoration is imperative and the permit should require action plans to be updated to incorporate compliance schedules for newly approved WLAs.	DEQ does not have the authority to modify general permit conditions without initiating a regulatory action, and does not anticipate reopening the general permit in response to the Phase III WIP. Virginia will adjust its commitments, if necessary, as part of its Phase III WIP to ensure that practices are in place by 2025 that are necessary to meet water quality standards in the Chesapeake Bay and its tidal tributaries. No change proposed.
EPA	To be able to point to milestones in the plan, there should also be some dates attached to the proposed BMPs/projects.	The permit only requires that the strategies to meet reductions be in place by the end of the permit. Annual reports include a status update of action plan/reductions. It would be impossible to require clear specific and measurable milestones for each permittee since each plan to comply with reduction requirements is different. Additionally, the action plan is not enforceable outside of the permit. No change proposed.
City of Alexandria	Line 1992 - Should this item include the BMPs not submitted to the DEQ BMP Warehouse or the "DEQ Construction Stormwater Database"? Also, how should retrofits be reported?	The intent of this reporting requirement is to prevent duplicative reporting by the permittee. As such, DEQ believes that the language in the permit condition should be revised to indicate that BMPs reported as part of the Construction Stormwater Database do not need to be reported under Part II A.14.a. BMPs retrofitted to meet Chesapeake Bay TMDL reductions should be reported through the BMP Warehouse.
City of Alexandria	Fact Sheet: 1. The City finds it is imperative that DEQ and the Board continue to stand by the commitment the State made in the Chesapeake Bay TMDL Phase I and II Watershed Implementation Plans (WIPs) that gives MS4s three full permit cycles (or 15 years) to make the reductions needed to meet the L2 scoping run. The Draft Fact sheet states that "Virginia will adjust its commitments, if necessary, as part of its Phase III WIP to ensure that practices are in place by 2025" and the City is concerned that this language signals a change to the three full permit cycles commitment. The	Language as written in the fact sheet that states "ensure practices are in place" applies as a broad statement to indicate that overall reduction requirements will be met and encompasses all sectors in aggregate. The Commonwealth has committed to three full permit terms for MS4 permittees to meet the required Chesapeake Bay TMDL reductions and intends to honor that commitment. No proposed revision necessary.

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	City recommends striking this language from the Fact Sheet.	
James River Association	Similarly, local TMDL action plans should be required to be developed for new TMDLs approved after the start date of the permit.	Implementation of future TMDL requirements in the MS4 general permit requires that the permit be modified by a regulatory action following TMDL approval. Imposing future requirements in a permit condition yet to be determined is considered to be a self-modifying permit and is not allowed under state or federal law. Because of the ongoing approval of new TMDLs, this would require a nearly continuous series of regulatory actions. For this reason requirements for implementation of new TMDLs are implemented with each permit term. No change proposed.
NRDC	The draft permit requires permittees to develop TMDL action plans for TMDLs approved prior to June 30, 2018 (the anticipated start of the permit term), but not to develop or update plans for TMDLs approved during the term of the permit. Consistency with wasteload allocations is a core Clean Water Act requirement and an integral component of this permit, and it must be maintained throughout the permit cycle. ¹⁶ Permittees should not be allowed to ignore applicable wasteload allocations for five (or perhaps more) years until they are issued a new MS4 permit. EPA Region III guidance confirms, "Permits should include provisions that allow reopening and modification of permits if new WLAs are adopted during the permit term." The permit should require action plans to be updated on an annual basis as needed to incorporate compliance schedules for newly approved TMDL wasteload allocations.	Please see response provided in Part II B immediately above.
Chesapeake Bay Foundation	Amend to six months the proposed 18-month timeframe after the permit's effective date within which the permittee must update previously developed local TMDL action plans; the shortened period is appropriate for updates, as distinct from new action plan development.	DEQ does not think 6 months provides sufficient time for local TMDL Action Plans to be updated due to the complex nature of TMDL development and evaluation. Some MS4 permittees are responsible for management of a significant number of local TMDL Action Plans and DEQ believes this would not provide sufficient time for re-evaluation. No change proposed.
EPA	Overall question here is whether the state will review and approve the plan. As it is described, a number of details are left up to the permittee, and should be subject to a second step process consistent with the Remand Rule to ensure adequate state oversight and opportunity for public comment, as well as to make these	DEQ believes that this condition meets the clear, specific and measurable standard. The plan components are clear, specific, and measurable. The action plan acts as the tool for the permittee to demonstrate compliance with the reduction requirements. Therefore, as long as the action plan includes all of the items listed in the permit and the plan demonstrates compliance with the reduction requirements, then

Commenter	Comment Received	DEQ Response
	implementation details enforceable under the permit.	the plan does not need a separate review, public notice, or approval process. No change proposed.
EPA	Compliance with this provision would be improved if the list of TMDLs, WLAs, and associated pollutants of concern were specified in the permit, or in an appendix, along with the MS4s that are affected.	TMDL information is available on DEQ's website. Additionally, DEQ staff are available to offer assistance to permittees and other stakeholders. No change proposed.
EPA	What if a new permittee has a TMDL approved prior to July 2013? They would be developing a plan, not updating.	Part I C 2 addresses the requirements for permittees receiving initial permit coverage to establish a schedule and submit it to DEQ on implementation of an MS4 program and associated plan. A schedule to develop Local TMDL action plans would be considered part of this schedule. No change proposed.
NRDC	<p>Aside from the insufficient length of the public comment period, the substantive requirements for permittees' local TMDL action plans also fall short of minimum standards. The permit terms governing these plans are extremely vague, requiring permittees to "reduce loadings for pollutants of concern" without specifying how much reduction must be achieved or, for many pollutants, any end date by which wasteload allocations must be met.</p> <p>The draft permit states: "TMDL action plans may be implemented in multiple phases over more than one permit cycle using the adaptive iterative approach provided adequate progress is achieved in the implementation of BMPs designed to reduce pollutant discharges in a manner that is consistent with the assumptions and requirements of the applicable TMDL." (Part II.B.2, on page 57 of the draft permit document.) While it is true that TMDLs may be implemented over timeframes spanning more than one permit cycle, the statement in Part II.B.2 fails to acknowledge that compliance with wasteload allocations must be achieved "as soon as possible" in accordance with the Clean Water Act. It is this standard that defines whether a permittee is making "adequate progress" toward implementation.</p> <p>Yet the draft permit does not impose any conditions that ensure a permittee will achieve wasteload allocations as soon as possible. It requires them to choose certain actions to implement, but does not require those actions to result in any particular</p>	<p>Part II B 2 has been modified to require completion of TMDL Action Plans as soon as practicable. The following sentence has been added to the condition: "The permittees shall complete implementation of the TMDL Action Plans as soon as practicable." The language in state and federal regulations requiring compliance "as soon as possible": is applicable to WQBELs and MS4 permits are not subject to WQBELs, but instead must meet the standard of reducing pollutants to the "maximum extent practicable". Likewise, the federal Phase I and Phase II MS4 regulations do not reference schedules of compliance but instead refer to schedules for implementation. This distinction reflects the unique nature of the MS4 program. A requirement to implement the TMDL action plan as soon as practicable has been added to the permit. As soon as practicable is the appropriate standard for MS4 permits as it reflects the adaptive iterative approach recognized in the definition of MEP.</p>

Commenter	Comment Received	DEQ Response
	<p>amount of pollution reduction, meaning that a permittee plan that results in a pollution reduction of 0.1% will comply with the permit just as much as a plan that results in a reduction of 90%. For PCB TMDLs, the permit does not even require that the permittee perform any pollution reduction activities at all. These arbitrary permit terms represent an abdication of DEQ's regulatory responsibility and bear no logical connection to the assumptions and requirements of applicable wasteload allocations, in contravention of the Clean Water Act.</p> <p>To resolve this legal defect, the draft permit must be revised to require permittees to develop and implement action plans that will achieve a certain minimum percentage of necessary WLA pollution reductions within the permit term.</p>	
EPA	<p>Why would the plan not identify a source even if it has its own permit? The permittee may not have to implement BMPs there, but it should still be identified and explained in the TMDL plan.</p>	<p>The MS4 permittee would not be responsible for reductions from the source if it is covered by a separate VPDES permit. That separate VPDES permittee would be responsible for complying with the TMDL, and DEQ would already be aware of it. Asking them to track sources that are already permitted is redundant and provides no value. No change proposed.</p>
City of Charlottesville	<p>Line 2028: please consider inserting "that" after "and".</p>	<p>The noted correction has been made.</p>
Chesapeake Bay Foundation	<p>Require permittees to set estimated TMDL achievement dates for local bacteria and polychlorinated biphenyl TMDLs. This is a Clean Water Act requirement in cases where permittees rely on a staged implementation plan that spans more than one permit period</p>	<p>DEQ has included the submittal of anticipated end dates for nutrients and sediment which have agency prescribed reductions efficiencies for associated BMPs. For parameters without identified BMP reduction efficiencies, DEQ has relied on the implementation of control strategies associated with those parameters. However, without established BMP reduction efficiencies for bacteria and PCBs, DEQ determined that the calculation of an anticipated end was infeasible. No changes proposed.</p>
EPA	<p>Recommend adding deadlines for the three required strategies that aren't all stacked up by the end of the permit term. Could they be required to be completed in Years 3, 4, and 5 so that they're spaced out a bit?</p>	<p>This approach has been implemented in the past (all action plans due at the same time) and has worked well. By doing so, it ensures implementation doesn't get delayed, allows permittee and DEQ to have clear expectation of when all action plans are due, and allows permittees to combine action plans if chosen strategies achieve reductions of multiple pollutants of concern. No change proposed.</p>

Commenter	Comment Received	DEQ Response
City of Charlottesville	Lines 2044 and 2048: please confirm the proper reference is cited; the City believes the correct reference is Part II B 3 d	Thank you for the comment, the reference has been corrected to Part II B 3 d.
VAMSA	<p>The Proposed GP allows a permittee to enhance its dry weather screening and IDDE program and “identify and remove illicit connections and identify leaking sanitary sewer lines infiltrating to the MS4 and implement repairs” in order to satisfy the requirement to implement at least three strategies to address bacteria local TMDLs. 9VAC25-890-40 Part II(B)(4), Table 5 (<i>VA Register</i>, p. 1030).</p> <p>VAMSA requests that DEQ revise the Proposed GP to include language from the VDOT permit that allows for MCM enhancements to address other pollutants. For example, for sediment TMDLs, the permittee could identify enhancements to MCM 1 through 6 that would also reduce loadings of sediment into the MS4.</p>	The TMDL action plan conditions in the VDOT individual permit do not list MCM enhancements as an option to meet TMDL conditions. Instead, the permit requires that VDOT list in the action plans each MCM implemented that achieves reductions for the TMDL’s pollutant of concern. This is in addition to other reduction strategies to specifically address the TMDL wasteload allocations. No change is proposed.
Chesapeake Bay Foundation	To address local bacteria TMDLs, increase to five the number of bacteria-reducing strategies that must be adopted by permittees that serve as “VSMP authorities” under the Virginia stormwater management program. As VSMP authorities, these permittees will have the ability to manage more aggressive programs where warranted, such as in cases where there may be a public health concern.	The minimum number of bacteria reducing strategies was discussed by the TAC and DEQ selected three based upon that input. No change proposed.
City of Charlottesville	Line 2049, Table 5, Illicit connections or illicit discharges to the MS4: the last strategy is merely "Marinas"; please ensure a complete strategy is provided here	The TAC discussed adding a strategy associated with marinas to the list; however, upon further review by DEQ staff, this type of strategy would not result in a reduction in load from the MS4. Therefore, “marinas” has been removed from the list of strategies to address bacteria TMDL wasteload allocations.
City of Alexandria	Line 2049 - In Table 5 under Illicit connection or illicit discharges to the MS4, the last item only says “Marinas”	See response to similar comment above.
DoD	Under the "Illicit connections or illicit discharges to the MS4", last line in the strategies section, the word "Marinas" is written with no explanation. Recommendation: Provide clarification in the form of a strategy example for Marinas indicating how they apply for the source noted or delete it if mention was not intended.	See response to similar comment above.
City of Alexandria	Line 2066 - The permit requires submitting anticipated end dates by which the permittee	DEQ believes it is appropriate for permittees to evaluate the timeline necessary to meet the

Commenter	Comment Received	DEQ Response
	<p>will meet each WLA for sediment, phosphorus or nitrogen. This requirement is unreasonable and flawed since there are many unpredictable, contributing factors involved in developing an anticipated end date. The submitted anticipated end date will require valuable staff time and not provide much, if any, benefit to DEQ</p>	<p>wasteload allocation for sediment and nutrients. DEQ published guidance in 2015 developed with input from stakeholder describing how to calculate reductions to meet the nutrient and sediment reductions for the Chesapeake Bay TMDL special condition. DEQ anticipates that permittees will use most of the same methodologies to achieve reductions for purposes of local TMDLs. Additionally, DEQ is only asking that permittees provide an <i>estimate</i> of when they will achieve reductions and is not prescribing the date by which permittees need to have achieved reductions. No proposed change.</p>
EPA	<p>This requirement lacks specificity in terms of the implementation schedule, where the BMPs must be implemented and to what extent.</p> <p>Also, which aspects of these implementation details will be enforceable?</p>	<p>BMPs for local TMDLs must be implemented in the watershed of the impaired waters in order to implement strategies through the adaptive iterative process to address TMDLs, some flexibility of permittees are needed. The components of the plan required by the permit are enforceable. No change is proposed.</p>
HRPDC	<p>The draft MS4 GP requires all permittees to submit action plans for applicable local TMDLs. 9VAC25-890-40 Part II (B)(5)(d) requires submittal of the "anticipated end dates by which the permittee will meet each WLA for sediment, phosphorus, or nitrogen" no later than 36 months after the permit effective date. The concept of requiring an MS4 permittee to make an educated guess on an anticipated end date is flawed. Several factors would influence such a date, such as population and development trends and new stormwater treatment technologies. Small MS4 permittees should instead focus on near-term implementation to reduce the discharge of these pollutants to the maximum extent practicable in accordance with the permit. Recommendation: delete this requirement from the draft MS4 GP.</p>	<p>See response to similar City of Alexandria comment above.</p>
EPA	<p>Why is this schedule longer than the due date of the plan, which is 30 months from effective date?</p>	<p>While DEQ recognizes that this is not consistent with the due date of the action plans, this date was agreed upon with the technical advisory committee during the drafting of the permit. No change is proposed.</p>
EPA	<p>Noting that a compliance schedule like this may need to be approved.</p>	<p>These are estimates of achieving reduction requirements. DEQ will evaluate the information provided to determine if specific dates are need in future permit terms. No change is proposed for this proposed permit.</p>
City of Charlottesville	<p>Lines 2065-2068: the City prefers that the general permit does not include a requirement to submit anticipated end dates for meeting WLAs.</p>	<p>See response to similar City of Alexandria comment above.</p>

Commenter	Comment Received	DEQ Response
VAMSA	<p>With regard to sediment, phosphorus, and nitrogen TMDLs, the Proposed GP also requires that the permittee submit no later than 36 months after the permit effective date the “anticipated end dates by which the permittee will meet each WLA for sediment, phosphorus, or nitrogen.” 9VAC25-890-40 Part II(B)(5)(d). (<i>VA Register</i>, p. 1031). VAMSA objects to this requirement. Not only is this inconsistent with the recently-issued VDOT permit (no requirement for an estimated end date for local TMDLs), but the concept of requiring an MS4 permittee to make an educated guess on an anticipated end date is flawed. Small MS4 permittees would make better use of their limited resources by focusing on near-term implementation, and not on out-year planning efforts. The mandate to estimate an end-date will not yield enough useful information to warrant the staffing time needed to prepare the submittal. VAMSA requests that DEQ delete this requirement from the Proposed GP.</p>	<p>See response to similar City of Alexandria comment above.</p>
James River Association	<p>The draft permit does not require reductions as a part of a PCB TMDL action plan, which directly contradicts the federal requirement to comply with WLAs as soon as possible. It is suggested that the Department consider an approach similar to Maryland’s Department of the Environment, which recommends source targeting, monitoring, accounting for PCB load reduction through stormwater practices, as well as alternative approaches.</p>	<p>The proposed general permit includes PCB TMDL requirements which are consistent with the most recent Virginia DEQ Individual permits. These permits require evaluation of permittee owned facilities and reporting of any previously identified significant sources of PCBs in the MS4 service area to DEQ within 30 days. DEQ has determined that identification of PCB sources is an appropriate initial measure to an overall PCB reduction plan and is consistent with the adaptive iterative approach allowed by state and federal law for the reduction of pollutants from MS4s. Many industrial sites discharging to MS4s are also subject to DEQs General Permit for Industrial Stormwater Discharges which includes PCB screening requirements. No change proposed.</p>
EPA	<p>This requirement lacks specificity. Will the action plan be reviewed and incorporated as enforceable by the state.</p>	<p>The enforceable requirements are the list of plan components included in the permit. The action plan is the tool used to demonstrate compliance with the TMDL requirements. This is explained in the fact sheet for this MS4 GP. Please note that DEQ will be receiving and reviewing action plans to ensure that the plans contain the components as required by the permit. Lack of components in the plan may constitute a permit violation and will be addressed through the compliance and/or enforcement program. No change proposed.</p>

Commenter	Comment Received	DEQ Response
HRPDC	<p>New language was added to Part III of the draft MS4 GP which states "discharge monitoring is not required for this general permit. If the operator chooses to monitor stormwater discharges or control measures, the operator must comply with the requirements of Part III A, B, and C as appropriate." Without a specific definition of discharge monitoring, it is not clear that field screening (such as illicit discharge source investigations) and their associated results would be excluded from the requirements listed in Part III A, B, and C.</p> <p>Recommendation: clarify the permit language at the beginning of Part III as follows: "discharge monitoring is not required for this general permit. If the operator chooses to monitor stormwater discharges or control measures, the operator must comply with the requirements of Part III A, B, and C as appropriate. <i>These requirements do not apply to field screening or other monitoring that is analyzed using a method outside of those approved by the EPA.</i>"</p>	<p>To clarify this section, the language has been revised to as follows: "Note. Discharge monitoring is not required for control measures, the operator must comply with the requirements of Part III A, B, and C as appropriate compliance purposes by this general permit. If the operator chooses to monitor stormwater discharges for informational or screening purposes, the operator does not need to comply with the requirements of Parts III A, B or C.</p>
Chesapeake Bay Foundation	<p>Amend the Draft Permit to require periodic in-stream monitoring for critical parameters. For permittees within the Bay watershed (and those with local nitrogen, phosphorus, and/or sediment local TMDLs), the parameters should include at a minimum total phosphorus, total nitrogen, total suspended sediment; dissolved oxygen; and bacteria. The monitoring should be conducted once every two months at each of five stream locations, with samples and measurements that are representative of the monitored activity and that follow prescribed monitoring, reporting, and recordkeeping protocols.</p>	<p>DEQ believes that required instream monitoring is not appropriate for a small MS4 due to the complexities associated with monitoring wet weather impacts (e.g. staffing, expense, data variability, safety, wet vs. dry weather characterization). Additionally, instream monitoring is not necessary to demonstrate compliance with any components of this permit. No change proposed.</p>
VAMSA	<p>The Proposed GP amends the existing Conditions Applicable to All State Permits to add text regarding monitoring. 9VAC25-890-40 Part III. (<i>VA Register</i>, p. 1032). The new text states that if an MS4 operator "chooses to monitor stormwater discharges or control measures" it must comply with Part II A, B, and C "as appropriate." Part A requires that monitoring be done pursuant to EPA approved methods. VAMSA requests that DEQ clarify that informational or control type testing need not be conducted pursuant to approved methodologies.</p>	<p>Please see response to the comment immediately above in Part III.</p>

Commenter	Comment Received	DEQ Response
EPA	The permit should include language that discusses the impact of the NPDES e-Reporting rule which is scheduled to come online during the middle of this permit term in 2020 for MS4s.	DEQ is still fleshing out how the MS4 e-reporting requirements for implementation in 2020 will impact the Virginia MS4 program and closely monitoring the federal MS4 e-reporting workgroup. DEQ believes that at this point it is pre-mature to incorporate or reference any e-reporting for MS4s. No change proposed.
DoD	Requirements expected to be included in the MS4 Program Plan and MS4 Annual Report (e.g. what information to include, frequency, etc.) are scattered throughout the document. It's confusing and requires the permittee to look in multiple locations to ensure all necessary information is included in MS4 program plan or annual report. Recommendation: Identify requirements for these documents in one section or central location within the permit.	DEQ discussed the organization of the general permit including the placement of the annual reporting requirements with the TAC. Based on input from the TAC DEQ believes it is appropriate that the specific annual report requirements be included with the matching permit condition rather than as a separate section. No change proposed.
NRDC	<p>Although the updated EPA regulations do not strictly require an opportunity for public comment on permittees' MS4 program plans under the "comprehensive general permit" approach, we nonetheless urge DEQ to require permittees to formally solicit public input on their plans. Allowing the public to provide comment can improve community engagement and support for municipal stormwater programs. Moreover, it can yield substantive improvements to the permittee's plan.</p> <p>The draft permit already requires the permittee to develop "procedures" for the public to "provide input on the permittee's MS4 program," in Part I.E.2.a on page 24 of the draft permit document. This provision on its own is too vague to meet the EPA's "clear, specific, and measurable" standard, but if DEQ were to require permittees to solicit public comment on the MS4 program plan, that revision would resolve the legal deficiency and boost public engagement at the same time.</p>	<p>EPA's MS4 Remand Rule does not require a public comment period for MS4 Program Plans when a permitting authority implements the Remand Rule's comprehensive permitting approach. Under this approach, the MS4 Program Plan is meant to serve as a compliance plan describing how the MS4 permittee will demonstrate compliance with the terms of the permit. Through Virginia's Administrative Process Act as it pertains to regulations such as this Small MS4 general permit regulation, the public notice requirements of the comprehensive approach are satisfied.</p> <p>However, DEQ does see value in affording the public an opportunity to review and comment on each permittee's program plan. As such the permit already contains requirements in Part I.E.2. (MCM 2- Public Involvement) for the permittee to develop and implement procedures to receive input from the public on the MS4 Program Plan and responding to such input (Part I.E.2.a). No change is proposed.</p>
NRDC	The draft permit requires permittees to develop "action plans" detailing how they will achieve the permit's TMDL-related requirements. The permit further provides that the permittee must provide a 15-day public comment period on these plans (in Part II.A.12 and Part II.B.7). This timeframe is absurdly short and cannot possibly provide the public adequate time to review and comment on the highly technical information that the plans will likely contain.	Upon further review of the Chesapeake Bay TMDL action plan section (Part II.A), DEQ staff identified that language from the 2013 MS4 general permit stating that the action plan is "incorporated by reference into the permit" was left in the draft permit in error. Incorporating by reference documents to be developed in the future does not conform to the EPA Remand Rule comprehensive permitting approach that requires all conditions of the permit to actually be included within the permit at the time that

Commenter	Comment Received	DEQ Response
	<p>Moreover, at least with regard to the Chesapeake Bay TMDL Action Plan, this 15-day comment period violates federal regulations. The draft permit provides that this plan will be incorporated by reference into the permit. As a result, its contents will become enforceable permit conditions. As EPA specifies in the preamble to the recent MS4 rulemaking, any requirements established based on information submitted by the permittee and “incorporat[ed] . . . into the permit as enforceable requirements” must follow the procedural requirements established in 40 C.F.R. 122.28(d)(2). That regulation requires the public notice-and-comment process for permittee-developed plans to be the same as the public process for the draft permit itself; in other words, the comment period must be at least 30 days long.</p>	<p>coverage is issued. DEQ’s intentions of implementing Remand Rule’s comprehensive permitting approach is well documented throughout the fact sheet.</p> <p>Additionally, the actions plans are implementation plans that allow permittees to demonstrate how they will meet the requirements of the permit. The proposed permit regulation includes specific and clear measures that permittees must achieve in regards to local TMDLS for which they have been allocated a WLA. As such, there is no federal or state requirement that the Chesapeake Bay or Local TMDL action plans be provided to the public for the purposes of review and comment. However, DEQ believes that providing the public an opportunity to review these plans is important. In determining the “15 day” public comment period, DEQ considered the results from the action plan public comment period that occurred under the 2013 MS4 general permit Chesapeake Bay TMDL special condition requirements. In very few instances were public comments submitted to permittees. Therefore, the resulting public comment period requirement is meant to allow the public to review and comment on action plans, however, it also allows that permittees can proceed with implementation of the action plans. No change proposed.</p>
<p>City of Charlottesville</p>	<p>The development of a new MS4 permit is of great significance to the City of Charlottesville. The City would like to acknowledge the hard work of the Virginia Department of Environmental Quality (DEQ) staff in engaging permit holders throughout the development of the proposed permit, and thank DEQ for the opportunity to serve on the Technical Advisory Committee (TAC)</p>	<p>Thank you for your comment.</p>
<p>City of Charlottesville</p>	<p>The City conveys our general support for the comments submitted by the Virginia Municipal Stormwater Association (VAMSA)</p>	<p>Your comment has been noted, Thank you.</p>
<p>City of Charlottesville</p>	<p>Throughout the permit, there is inconsistent use of the terms “operator” and “permittee”. Please ensure that these terms are used consistently throughout the permit.</p>	<p>Corrections have been made to address the use of “operator” and “permittee”. The term “operator” has been used to address the applicant prior to submittal of the registration statement and the term “permittee” as it applies to any operator that receives coverage under the permit and is used within the permit.</p>
<p>City of Charlottesville</p>	<p>Due dates of permit requirements and reporting requirements could be better harmonized to aid in permittee compliance.</p>	<p>We have created a table that includes due dates and important permit action items and are providing that to all permittees when e-mailed the</p>

Commenter	Comment Received	DEQ Response
	<p>There are currently discrepancies between reporting periods and when certain requirements must be met. For example, see comment 26 below regarding line 1029 of the permit. These discrepancies may lead to unintended incidents of noncompliance.</p>	<p>final copy of the MS4 Draft Permit, fact sheet and transmittal letter. This can be used as a reference for important due dates for permittees. No change to the permit regulation is proposed.</p>
<p>City of Charlottesville</p>	<p>There is inconsistent use of capitalization and abbreviation throughout the document; examples include “board” vs. “Board” in reference to the SWCB, municipal separate storm sewer system vs. MS4, and specification of small MS4 vs. MS4 generally. Please ensure consistency to aid permittees’ proper interpretation of the permit.</p>	<p>The document has been reviewed and any inconsistent terms have been addressed.</p>
<p>VAMSA</p>	<p>At the most fundamental level, the GP should never impose requirements that exceed the Clean Water Act’s “maximum extent practicable” (MEP) compliance standard and level of effort, whether due to water quality standards (WQS), total maximum daily loads (TMDLs), or otherwise. VAMSA includes as Appendix A, a discussion of the MEP compliance standard as it applies to MS4s. VAMSA requests that DEQ include a rationale to support the MEP standard in the Fact Sheet; the language in Appendix A could be used as a basis for that rationale.</p> <p>Although we suspect for the vast majority of VAMSA Members complying with the 40% aggregate Bay related reduction is unlikely to be a concern using that MEP level of effort, given the large number of MS4s there is no way to know for certain that compliance will be achievable. For that reason, it would be appropriate for DEQ to capture the overarching concept of MEP even though it was not highlighted in the prior permit. Looking even further ahead to the third permit cycle that will begin in six years and end in eleven years, which contains an even larger requirement for 100% progress to the L2 level, it becomes even more likely that practicability will become a real constraint. VAMSA recommends that DEQ address this issue now, and recommends text below in the Specific Comments that would make the appropriate link between the required 40% reductions and the MEP compliance standard.</p>	<p>Please response to similar VAMSA comment in Part I B above.</p>

Commenter	Comment Received	DEQ Response
VAMSA	<p>VAMSA requests that DEQ revise Part II(B) of the Proposed GP to include specific references to MEP. This is an appropriate reflection of the legal standard and acknowledges the role practicability and achievability plays for permittees who are developing local TMDL action plans. (<i>VA Register</i>, p. 1029):</p> <p>1. The permittee shall develop a local TMDL action plan designed to reduce loadings for pollutants of concern to the maximum extent practicable (MEP) if the permittee discharges the pollutants of concern to an impaired water for which a TMDL has been approved by the U.S. Environmental Protection Agency (EPA) as described in Part II B 1 a and 1 b:</p> <p>2. TMDL action plans may be implemented in multiple phases over more than one permit cycle using the adaptive approved provided adequate progress is achieved using an MEP level of effort in the implementation of BMPs designed to reduce pollutant discharges in a manner that is consistent with the assumptions and requirements of the applicable TMDL.</p>	<p>Please response to similar VAMSA comment in Part I B above.</p>
VAMSA	<p>In addition to TMDL work, all Small MS4s will also have to revise their programs to incorporate proposed changes and enhancements in the minimum control measures (MCMs) in the GP.</p> <p>VAMSA urges DEQ and the SWCB to consider the level-of-effort involved in implementing the Proposed GP for many of Virginia’s communities and universities. VAMSA is somewhat concerned about the practicability of the permit ramp up in the second permit cycle as a Bay Watershed-wide general requirement, and even more concerned about the even more challenging third permit cycle yet to come.</p>	<p>DEQ recognizes the significant increase in level of effort necessary to achieve the 2nd phase of reductions necessary under the Chesapeake Bay TMDL. The three phases of reductions (5%, 35% and 60% of L2) over 3 permit cycles was established prior to issuance of the 2013 permit and MS4s should have been planning for the reductions since that time. We anticipate that MS4 permittees unable to complete the 2nd phase of reductions prior to the end of the permit term will make use of relatively inexpensive nutrient and sediment credits provided for under §62.1-44.19:21 and §62.1-44.19:21.1 of the Code of Virginia.</p>
City of Richmond	<p>Many of the regulatory citations in the permit are not appropriate owing to the fact the citations are for regulations that are meant to provide direction to the permit writer and not the permittee</p>	<p>DEQ has reviewed the regulatory citations through the permit and believe the citations are appropriate. No change proposed.</p>

Commenter	Comment Received	DEQ Response
City of Richmond	In some places the Fact Sheet refers to future regulation and legislation and indicates the intent to include those future requirements in the permit. This is not allowed because it would violate requirements for adequate opportunity for notice and comment. It is not possible to provide adequate comment on a provision that does not actually exist and may not exist in the future.	Discussion in the fact sheet of future regulatory initiatives as a result of the stormwater and ESC consolidation legislation was included by DEQ to further explain why streamlining of MCM 4 (construction site runoff control) and MCM 5 (post construction stormwater runoff control) is necessary. DEQ has not drafted the permit to include any requirements other than those that are currently in effect. No proposed change.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
Contact Information		Provides agency contact information.	Agency contact person has been changed with revised phone and e-mail contact information.
MS4 General Permit Summary		Provides summary of proposed regulatory action.	The word “implanted” was corrected to “implemented” and includes a discussion of regulatory revisions for the 2018-2023 permit.
1		MS4 Program Plan is defined.	Removed definition of “MS4 Program Plan.” Details of the MS4 Program that define what needs to be included have been added to Section 40 Part I.C.
		“Operator” is defined.	Removed definition of “operator.” This term is defined in 9VAC 25-870-10 of the Virginia Stormwater Management Program regulation, and the VSMP definitions apply to this regulation
		No definition of “high priority facilities” in section.	Added definition of “high priority facilities.” This term was previously defined in the text of former Section 40 Section II.B.6.
		No definition of “MS4 Regulated Service area”.	Added definition of “MS4 Regulated Service Area.” This term clarifies the MS4 permittee’s responsibilities for reductions under the Chesapeake Bay TMDL Special Condition.
		No definition of “pollutant of concern”.	Added the definition of “pollutant of concern.” This term was previously defined specifically in former Section I.C but applies more in other sections of the regulation. The definition was also revised to reflect applicability of the term more broadly to all TMDS and not only the Chesapeake Bay TMDL.

1		“Date brought on line” is defined.	Corrected the word “on line” to “online” to provide consistency in use of term throughout the document.
10.A		Purpose and delegation of authority.	Clarify that non-stormwater and wastewater discharges are not authorized by this permit. No change in requirement to permittee. Section reference was changed to 9VAC25-890-20 D.
10.B		2013 effective date with 5 year expiration date	Update the effective and permit expiration date to 2018 and 2023.
New	10.C	Delegation of Authority	Incorporate formerly 9 VAC 25-890-50 Delegation of Authority. No change in requirement to permittee.
15		Incorporation of the 2012 Code of Federal Regulation.	Update the most recent Code of Federal Regulation publication date. Added the following sentence to update federal regulation and date information, “The final rule published in the Federal Register on August 28, 2017 (82 FR 40836) which amends 40 CFR Part 136 is also incorporated by reference in this chapter.”
20.A		Authorization to discharge with requirements.	Added language to clarify requirements.
New	20.C	New subsection C. Existing Subsection 9VAC25-890-20 C was moved the next section D	Include list of criteria that that would make permittee ineligible for coverage.
20.C	20.D.1-3	Defined non-stormwater discharges or flows authorized by the state permit that did not need to be addressed in the MS4 Program as required by 9VAC25-890-40 Section II B 3.	Corrected reference information and made grammatical changes. Added list of authorized non-stormwater discharges from 9 VAC 25-870-400 D.2.c (3) for clarification. Redefined dechlorinated water line flushing to “Water line flushing, managed in a manner to avoid an instream impact. Also added to the list as a separate item,, “discharges from noncommercial fundraising car washes if the washing uses only biodegradable, phosphate-free, water-based cleaners” as required by the amendment to the Code of Virginia, Section 15.2-2114.1.
20.C.4	20.D.4	Recognizes the discharge may be necessary to protect life and property.	Clarified who is eligible to determine discharges are necessary to protect life and property.
20.D-E, G-H	20.E-F, I-J	Authorization to discharge sections	Renumbered and added language to add clarification. The term “operator” was changed to “permittee” within the permit.
20.F	20.G	Explanation of controlling permit when a small MS4 is covered under a separate stormwater permit.	Clarify that in cases where a portion of the MS4 is covered under the General VPDES Permit for Stormwater Discharges Associated with Industrial Activities, that the industrial stormwater permit controls.
	20.H		Clarify that those areas previously covered by an industrial stormwater General VPDES Permit are subject to the requirements of the Small MS4 General VPDES Permit, as applicable, if the

			Industrial Stormwater General VPDES Permit is terminated.
NEW	20.K	New proposed subsection.	Added language that will allow the Department to administratively continue coverage under the Small MS4 General VPDES Permit, if necessary.
30.A	30.A	Registration Statement due date 90 days prior to permit expiration	Updated due date to be a specific date set by DEQ based on expected regulation finalization.
30.B.3-4	40.E.3.a and also 30.B.6	Requirements for submittal of 6 th Order HUC information for waters receiving discharges from the MS4, estimated drainage area information discharging to impaired surface waters with the registration statement.	These requirements were removed from the registration statement section and moved to 40.E.3 as part of the Illicit discharge detection and elimination, to simplify the permit application process. The necessary information is still required and will be submitted following the reporting requirements as listed in MCM 3. The requirement for impaired surface waters was changed to 30.B.6 below. The number for subsequent subsections were changed to adjust for these changes.
NEW	30.B.5	New proposed subsection.	Added requirement to include additional contact names so that the Department may maintain current contact information.
NEW	30.B.6	New proposed subsection.	Added requirement for receiving waters information to be reported with registration statement. Included the requirement to list the receiving waters listed as impaired according to the Virginia 2016 305(b)/303(d) Water Quality Assessment Integrated Report.
30.B.5	PROPOSED TO DELETE	Former B.5 – Submit listing of TMDL WLAs allocated to the small MS4.	Removed the requirement for applicant to report a list of TMDL WLAs allocated to the small MS4. This information is readily available to DEQ staff, and most MS4s request this information from DEQ.
30.B.7	PROPOSED TO DELETE	Former B.7 – For existing permittees covered under the previous small MS4 general permit, submit a copy of the MS4 Program Plan.	Removed the requirement for the existing permittee to submit the current MS4 Program Plan (implemented under 2013 MS4 General VPDES Permit in accordance with the traditional general permit approach in EPA’s small MS4 Remand Rule.
30.B.8.	PROPOSED TO DELETE	Former B.8 – For existing permittees covered under the previous small MS4 general permit, submit a copy of the MS4 Program Plan.	Removed the requirement for newly designated small MS4 to submit proposed BMPs in accordance with the traditional general permit approach in EPA’s small MS4 Remand Rule. Part I.C proposes newly designated small MS4 permittees will be required to submit a schedule of MS4 Program Plan development.
NEW	30.B.9	New proposed subsection based on 2013 permit requirement.	Added requirement for applicants discharging the Chesapeake Bay watershed to submit a draft second phase Chesapeake Bay TMDL Action Plan. This was a requirement under the 2013 Chesapeake Bay Special Condition.
30.E		Submittal information for the registration statement.	Updated information to submit registration statement information by electronic e-mail.
40	40	Permit effective and expiration dates.	Updated permit effective and expiration dates to 2018 and 2023, and updated regulatory

			references. Grammatical corrections, “DEQ” to “department” and “operator” to “permittee” have been made throughout the section.
40 Table 1	PROPOSED TO DELETE	Table 1: Schedule of MS4 Program Plan Updates Required in this Permit	Delete Table 1. This table was included in the 2013 permit due to the large number of MS4 Program Plan updates that were required. The number of substantive MS4 Program Plan changes are limited. Additionally, DEQ staff have agreed to provide a table with the schedule of submittals as part of the permit coverage transmittal letter or in the fact sheet.
40-Section I.B	40 Part II.B	Section I.B. Special Conditions for approved TMDLs other than the Chesapeake Bay TMDL	Deleted and replaced by Part II.B
40-Section I.C	40 Part II.A	Section I.C. Special Conditions for the Chesapeake Bay TMDL.	Deleted and replaced by Part II.A.
40-Section II A	40 Part I.B	Discussion of MS4 Program and the term maximum extent practicable (MEP) defined.	The revised Part I.B includes clarification of the definition for “maximum extent practicable (MEP)” within this permit.
Requirements 40 – Section II.B.1-6, II.C, II.D., and II.F	40-Part I.C.	MS4 Program Plan Requirements	<p>Created a new special condition to identify the required components of an MS4 Program Plan in one location. Also included are instructions for newly designated MS4 permittees that will be required to establish an MS4 Program Plan from scratch, requirements for modifications to the Program Plan, and information on 3rd party MS4 Program Plan implementation. This is a combination of the following Sections II.C, D, and F from the 2013 as well as the incorporation of new conditions.</p> <p>Added the requirement to update the MS4 program plan to meet the requirements of the permit no later than six months after the effective date of this state permit and update the website or location where the permit can be obtained within 30 days of the update to the plan.</p>
40 Section II.E.3 and other sections throughout 2013 permit	40 Part I.D.	Annual Report Requirements	<p>Merged evaluation and annual reporting requirement sections.</p> <p>Revised the special condition that identifies the required components of an Annual Report and incorporates the TMDL annual reporting requirements.</p> <p>A condition has been added specifying that the Annual Report and MS4 Program are to be maintained as separate documents to address limit confusion and submittal of unnecessary documents each year.</p> <p>The sections also revised the Evaluation and Assessment components of the Annual Reporting</p>

			<p>requirements. In the previous 2013 MS4 General Permit, the permittee was required to evaluate the appropriateness of the BMPs that the permittee was implementing and determine self-compliance with the permit conditions. The 2013 permit allowed permittees to independently establish BMPs for inclusion in the MS4 Program Plan and submit those for review and approval by DEQ staff. In order to comply with EPA’s Small MS4 Remand Rule, DEQ must now specify which BMPs are effective and generally appropriate for MS4s to implement within the text of the MS4 General Permit. As such, as long as the permittee is demonstrating compliance with the terms of the permit, then they are implementing BMPs previously determined to be appropriate and effective. However, DEQ recognizes that by providing a suite of BMPs in the MS4 General Permit, there are times in which a permittee may choose to implement a BMPs and after further consideration, the permittee determines that it is not appropriate for the permittee circumstances. As such DEQ is requiring an overall MS4 Program evaluation and assessment with each annual report and requiring permittees to look at each MCM rather than each BMP</p>
40 Section II.B	40-Part I.E	Note defining “public.”	<p>Deleted this note and including revised language in the fact sheet. Text as provided is guidance and informational which is not enforceable through the terms of the permit.</p>
40 Section II.B.1	40-Part I.E.1	MCM 1 – Public Education and Outreach	<p>Grammatical changes were made in Table 1 and within the section to clarify language.</p> <p>Removed requirement estimate the population of the target audience after discussions with the TAC. Experience from TAC members indicated they often have no way to accurately estimate the population size and the values they develop are best guess estimates. Resources are better used implementing a robust public education program rather than trying to estimate population size.</p> <p>Added list of criteria the Public Education and Outreach program must meet to create clear and measurable requirements for Public Education and Outreach including clearly identifying the high priority issue, explaining the importance of the issues, and explain measures that public can take to minimize the impact of pollutants associated with the issue.</p> <p>Required that messaging include contact information associated with high priority issue in order to obtain additional information if desired.</p>

			<p>Added a list of strategies for the permittees to use in their messaging to create clear and measurable requirements for Public Education and Outreach.</p> <p>Added requirement that permittees use at least 2 different strategies per year from the list to support the MCM goal of reaching a diverse public audience.</p> <p>Removed the requirement to require public participation when developing the Public Education and Outreach. This was included previously since the permit contained less specific requirement to give the public the opportunity to comment on the program proposed by the permittee; however, since revisions to the condition are proposed to provide more clear and specific requirements in accordance with the traditional approach authorized for use EPA Small MS4 Remand Rule, the public has the ability to comment on the criteria of the program during the Small MS4 General VPDES Permit regulation development process.</p> <p>Removed the requirement for the permittee to conduct sufficient activities to reach 20% of the target audience annually. Upon review staff have concluded that the condition is not practically enforceable and estimates of the audiences reached by MS4 permittees are based on gross assumptions and provides little value in implementation of the MCM.</p> <p>Removed the requirement for the permittee to provide adjustments of the target audience and outreach efforts. As proposed permittees have the ability to adjust the program requirement as long as the adjustments meet the requirements of this permit; therefore, the previous condition is unnecessary.</p> <p>Removed the requirement for permittees to evaluate the Public Education and Outreach program prior to application for continued state permit coverage. This assessment is no longer necessary as the proposed permit contains the clear and specific requirements that must be met in accordance with the traditional permitting approach as authorized by EPA's Small MS4 Remand Rule.</p> <p>Removed the requirement for permittees to evaluate the Public Education and Outreach program prior to application for continued state permit coverage. This assessment is no longer</p>
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			<p>necessary as the proposed permit contains the clear and specific requirements that must be met in accordance with the traditional permitting approach as authorized by EPA's Small MS4 Remand Rule.</p> <p>Revised requirements for inclusion in the MS4 Program that align with specific and measurable revisions to the Public Education and Outreach program in order demonstrate compliance with requirements.</p> <p>Revised annual reporting requirements for inclusion in the Annual Report that align with specific and measurable revisions to the Public Education and Outreach program in order to demonstrate compliance with requirements of the permit.</p>
<p>40-Section II.B.2</p>	<p>40-Part I.E.2</p>	<p>MCM 2 – Public Involvement/Participation</p>	<p>Grammatical changes were made in the section to clarify language.</p> <p>Removed condition that permittee comply with applicable federal, state, and local public notice requirements. Upon review staff have concluded that the condition is too vague to be practically enforceable. MS4 permittees are required to meet these requirements as appropriate outside of the requirements of the Small MS4 General VPDES Permit.</p> <p>Removed the requirement for permittee to update the MS4 Program a minimum of once per year. If the permittee is sufficiently demonstrating compliance with the requirement of the permittee there is not a need for the permittee to update the MS4 Program Plan annually.</p> <p>Revised requirements for permittee to post MS4 Program Plans and Annual Reports on the permittee's webpage within 30 days of submittal to DEQ. Permittees are no longer required to submit MS4 Program Plans to DEQ.</p> <p>Added requirement for permittee to develop procedures for public reporting of illicit discharges, the public to comment on the MS4 Program, receiving and responding to public input and complaints, and maintaining documentation. This requirement will clarify procedures for the public and provide further transparency in implementation of the MS4 Program. These additions support the requirements of the traditional approach authorized by EPA's Small MS4 Remand Rule to provide for clear and specific requirements.</p>

			<p>Added requirement for permittees to post permit coverage letters and MS4 General VPDES Permits on their webpages to provide complete program documentation. These additions support the requirements of the traditional approach authorized by EPA’s Small MS4 Remand Rule to provide for clear and specific requirements.</p> <p>Removed requirement for permittees to notify the public and receive comments on program plan prior to submitting program with registration statements for reapplication. This requirement is no longer necessary as the proposed permit contains the clear and specific requirements that must be met in accordance with the traditional permitting approach as authorized by EPA’s Small MS4 Remand Rule. The MS4 Program Plan is now construed as the tool to implement the permit.</p> <p>Added requirement for permittees to create a mechanism for public reporting of illicit discharges and include procedures for reporting on their website. This requirement will make it easier for the public to report illicit discharges to the MS4 permittee. These additions support the requirements of the traditional approach authorized by EPA’s Small MS4 Remand Rule to provide for clear and specific requirements.</p> <p>Added requirement for permittees to include procedures on their website documenting how the public can submit input on the permittee’s MS4 Program Plan. This requirement will make it easier for the public to understand how to comment on the MS4 Program Plan if they desire to do so. These additions support the requirements of the traditional approach authorized by EPA’s Small MS4 Remand Rule to provide for clear and specific requirements.</p> <p>Revised the requirement for the permittee to participate in four local environmental activities per year to provide categories of public involvement (with examples) in which the permittee will participate. Permittees will also be required to choose from at least two different categories in order to support a diverse public involvement program. These revisions support the requirements of the traditional approach authorized by EPA’s Small MS4 Remand Rule to provide for clear and specific requirements.</p> <p>Added a condition that allows permittees to</p>
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			<p>coordinate with other MS4 permittees. This will allow permittees to combine and potentially use resources more efficiently if they choose to do so.</p> <p>Revised requirements for inclusion in the MS4 Program that align with specific and measurable revisions to the Public Involvement and Participation Program in order demonstrate compliance with requirements.</p> <p>Revised annual reporting requirements for inclusion in the Annual Report that align with specific and measurable revisions to the Public Involvement and Participation Program in order to demonstrate compliance with requirements of the permit.</p>
<p>40 – Section II.B.3</p>	<p>40 – Part I.E.3</p>	<p>MCM 3 –Illicit Discharge Detection and Elimination</p>	<p>Made clarifications to language and corrected a regulatory reference. No impact.</p> <p>Added a requirement for an electronic map to be submitted by July 1, 2019 the form of a GIS shapefile or other electronic format as specified by DEQ. Updated MS4 outfall and service area information is necessary in order for DEQ staff to develop accurate TMDL wasteload allocation for local and the Chesapeake Bay TMDLs and is necessary for review during MS4 compliance audits.</p> <p>Updated the mapping requirements including name and location of all receiving waters to which the MS4 outfall discharges, MS4 regulated service area, and stormwater management facilities owned or operated by the permittee. Updated the information table requirements associated with the storm sewer system map to include latitude and longitude information of the outfall or point of discharge and regulated acreage draining to the outfall or point of discharge. The 6th Order HUC of the receiving water and predominant land use for each outfall discharging to an impaired water is also included with the table requirements. Land use information for each drainage area served by the MS4 discharging to an impaired water had been required as part of the registration statement section, VAC25-890-30.B, but has been changed to land use for each outfall discharging to an impaired water. These requirements were moved to MCM 3 to provide consistency and allows additional time for permittee to prepare the information.</p> <p>The annual report requirement added a confirmation statement that the MS4 map and information table have been updated to reflect any</p>

			<p>changes to the MS4 on or before June 30 of the reporting year.</p> <p>Revised outfall screening requirement such that permittees with more than 50 outfalls are required to screen 50 outfalls and only 50% of those screened can be from the previous 12 month period. The 50% criteria does not apply if all outfalls have been screened in the previous three years. This ensures permittee is looking at different outfalls each year but allows them to frequent annually some problem outfalls.</p> <p>Clarified how IDDE investigation procedures apply to one time discharges versus continuous discharges.</p> <p>Clarified the mechanism to track illicit discharges requirement to add documentation of the date observed, reported, or both.</p>
<p>40 – Section II.B.4</p>	<p>40 – Part I.E.4</p>	<p>MCM 4 – Construction Site Stormwater Runoff Control</p>	<p>Made clarifications to language and grammatical revisions.</p> <p>Removed and replaced requirements for the permittee to development a Construction Site Stormwater Runoff Control program. The previous permit condition included requirements based on the requirements of the Virginia Erosion and Sediment Control Program in 9VAC25-840. As previously presented if changes were approved to the Virginia Erosion and Sediment Control Program regulations, MS4 permittees would potentially be faced with conflicting regulatory requirements. Additionally, as presented the condition did not clarify the requirements for those permittees who are not authorized or who may not have elected to implement a Virginia Erosion and Sediment Control Program (state agencies, federal entities, colleges/universities, towns, etc.). Revisions to the MCM include:</p> <ul style="list-style-type: none"> • Added requirements for those permittees who implement a DEQ approved Virginia Erosion and Sediment Control Program and incorporate the Virginia Erosion and Sediment Control Program regulations by reference. • Added clarification for towns that have not adopted a Virginia Erosion and Sediment Control Program. A requirement was added for the towns to notify the surrounding county of erosion, sedimentation or other construction runoff problems when they occur to promote communications between the permittees.

			<ul style="list-style-type: none"> • Added specific requirements for those permittees with DEQ approved annual standards and specifications for Erosion and Sediment Control approved in accordance with the Virginia Erosion and Sediment Control Program in 9VAC25-840. • Added specific requirements for permittees that are not approved Virginia Erosion and Sediment Control authorities and which do not have DEQ approved annual standards and specifications for Erosion and Sediment Control approved in accordance with the Virginia Erosion and Sediment Control Program in 9VAC25-840. <p>Added requirement that the permittee shall implement control to prevent non-stormwater discharges to the MS4 and other illicit discharges identified during land disturbing activity inspections of the MS4. This requirement clarifies that discharge of non-stormwater discharges other than those identified in 9VAC25-890-20 D through the MS4 is not authorized by this state permit.</p> <p>Revised requirements for inclusion in the MS4 Program that align with specific and measurable revisions to the Construction Site Stormwater Runoff Control program MCM in order demonstrate compliance with requirements.</p> <p>Revised annual reporting requirements for inclusion in the Annual Report that align with specific and measurable revisions to the Construction Site Stormwater Runoff Control program in order to demonstrate compliance with requirements of the permit.</p>
<p>40 - Section II.B.5</p>	<p>40 - Part I.E.5</p>	<p>MCM 5 – Post-construction Stormwater Management in New Development and Development on Prior Developed Lands</p>	<p>Made clarifications in language.</p> <p>Removed and replaced requirements for the permittee to implement a post construction stormwater management program. The previous permit condition included requirements based on the Virginia Stormwater Management Program (VSMP) regulations in 9VAC25-870. As previously presented if changes were approved to VSMP regulations, MS4 permittees would potentially be faced with conflicting regulatory requirements. Additionally, the previous language did not clarify the requirements for those permittees who are not authorized or who may not have elected to implement a VSMP (state agencies, federal entities, colleges/universities, towns, etc.). Revisions to the MCM include:</p> <ul style="list-style-type: none"> • Added requirements for those permittees who implement a DEQ approved VSMP and

			<p>incorporate the VSMP regulations by reference.</p> <ul style="list-style-type: none"> • Added clarification for towns that have not adopted a VSMP. The requirement was added that the towns notify the surrounding county of erosion, sedimentation or other post construction stormwater runoff problems to promote communications between permittees. • Added specific requirements for those permittees with DEQ approved annual standards and specifications for Stormwater Management approved in accordance with VSMP regulations in 9VAC25-870. • Added specific requirements for permittees that are not approved VSMP authorities and which do not have DEQ approved annual standards and specifications for Stormwater Management approved in accordance with the VSMP in 9VAC25-870. <p>Clarified inspection, maintenance, and enforcement program requirements based on VSMP status described above.</p> <p>Updated the electronic database reporting requirements to correspond with DEQ's BMP Warehouse.</p> <p>Included a requirement for VSMP authorities to report through the CEDS Construction Stormwater database post development BMPs installed to meet water VSMP requirements.</p> <p>Included a requirement that permittees report all other BMPs through the DEQ BMP Warehouse or other approved database. This expands the reporting from only stormwater management facilities to all BMPs.</p> <p>Revised requirements for inclusion in the MS4 Program that align with specific and measurable revisions to the post development stormwater management MCM in order demonstrate compliance with requirements.</p> <p>Revised annual reporting requirements for inclusion in the Annual Report that align with specific and measurable revisions to the post development stormwater management MCM in order to demonstrate compliance with requirements of the permit.</p>
<p>40 - Section II.B.6</p>	<p>40 - Part I.E.6</p>	<p>MCM 6 – Pollution Prevention/Good Housekeeping</p>	<p>Made clarifications to language and made grammatical corrections.</p>

			<p>Added a requirement for permittees to annually review any high priority facilities previously determined not to have a high potential to discharge pollutants, and therefore no SWPPP was developed, and to determine whether or not anything has changed that would cause the facility to have a high potential to discharge. If it does, a SWPPP will need to be developed.</p> <p>For high-priority facilities that have a high potential for discharging pollutants, added a specific inspection frequency of no less than once per year and maintenance requirements for site specific source controls as part of the SWPPP.</p> <p>Added a requirement that SWPPP be reviewed at any site having an unauthorized discharge or spill within 30 days of such event; and if necessary update the SWPPP.</p> <p>Added a statement that facilities no longer having a high potential to discharge pollutants may be removed from said list.</p> <p>Replaced requirement that permittees develop and implement turf and landscape management plans on all lands where nutrients are applied equal to or greater than an acre with a condition that requires permittees to maintain plans for those lands that qualify. This will capture any new lands equal or greater than an acre where nutrients are applied.</p> <p>Added condition that permittee contractors engaging in activities with a potential to discharge use appropriate control measures. This will help continue to minimize pollutant loadings.</p> <p>Added language to clarify that first responder training will satisfy training requirements to avoid duplicative training requirements or situations where the permittee’s MS4 staff cannot dictate that type of training first responders receive.</p>
40 - Section II.C	40 - Part I.C	Using existing programs to Demonstrate Compliance with MCMs	Moved to and revised in Part I.C. See explanation of changes above.
40 - Section II.D	40 - Part I.C	Third Party Implementation of MCMs	Moved to and revised in Part I.C. See explanation of changes above.
40 - Section II.E	40 - Part I.D	Evaluation and Assessment	Moved to and revised in Part I.D. See explanation of changes above.
40 - Section II.F	40 - Part I.C	Program Plan Modifications	Replaced by Part I.C.4. Much of the language has been deleted because it is no longer relevant. EPA’s MS4 Remand Rule requires that general permits contain clear, specific, and measurable permit conditions. Under the traditional permitting

			<p>approach of the Remand Rule, under which DEQ is drafting this permit, the general permit conditions much contain specific BMP requirements that will be available for the public to review during the public comment portion of the regulatory development process. As such, as long as the permittee is complying with the BMPs and conditions of the general permit, there is no need for MS4 Program Plan modifications to be submitted to or reviewed by DEQ.</p>
<p>40 - Section I.C</p>	<p>40 - Part II.A</p>	<p>Chesapeake Bay TMDL Special Condition <i>The Chesapeake Bay TMDL Special Condition in the 2013 permit has been removed and replaced with changes as detailed.</i></p>	<p>Made clarifications in language and grammatical changes.</p> <p>Updated reduction requirements from 5% of the Level 2 Scoping Run Reductions to be achieved by June 30, 2018 to 35% of the Level 2 Scoping Run Reductions to be achieved by June 30, 2023 in accordance with the Chesapeake Bay TMDL and Watershed Implementation Plans I and II for total nitrogen, total phosphorus and total suspended solids.</p> <p>Incorporated reduction requirements for existing developed lands in the expanded urbanized areas based on the 2010 Census.</p> <p>Replaced tables 2 (a-d) and tables 3 (a-d) used by permittees for the calculation of pollutant loads and load reduction requirements, respectively, with comprehensive tables 1(a-d) total nitrogen, total phosphorus and total suspended solids.</p> <p>Added a column to the table for the calculation of the cumulative reductions.</p> <p>Added footnotes to tables 3 (a-d) to explain calculation requirements.</p> <p>Added footnote to tables 3 (a-d) to explain how to determine extent of existing developed area for which reductions are required.</p> <p>Included recognition of the Lynnhaven and Little Creek river basins as separate from the James River Basin in accordance with 2013 and 2015 legislation.</p> <p>Updated requirements to offset increased loads from new sources initiating construction between July 1, 2009 and June 30, 2014 from 5% of that increased loads to 40% of the increased loads from projects initiating projects between July 1, 2014 and June 30, 2019.</p>

			<p>Updated requirement that increased loads from projects grandfathered in accordance with the VSMP regulations be offset by the expiration date of the permit.</p> <p>Added condition recognizing that load reductions achieved during the 2013 permit term are applied to the cumulative load reductions required by June 30, 2023.</p> <p>Added condition to clarify procedures for rounding calculations.</p> <p>Added references to list of the acceptable BMPs and trading program that permittees may use to achieve reduction requirements.</p> <p>Added condition that authorizes use of credits to meet reduction requirements in accordance with State Water Control Law.</p> <p>Revise requirement that permittees must submit a Chesapeake Bay TMDL Action Plan to DEQ for review and acceptance that demonstrates reduction requirements. This condition provides a specific list of items to be included in the Action Plan. Under the first phase of reductions DEQ reviewed and approved the action plans. However, in accordance with EPA's small MS4 Remand Rule, the requirements for reductions and type of BMPs available for use are included in the permit. DEQ will receive and review the Action Plans to ensure calculations are correctly performed and appropriate BMPs are selected for implementation.</p> <p>Propose removing requirement establishing that plans are enforceable 90 days after being received by DEQ unless specifically denied in writing. DEQ is committed to reviewing all plans, however, with more than 100 plans due at the same time and limited resource review within 90 days may not be feasible. It is not appropriate for an automatic approval of plans. Additionally, the condition regulates the actions of DEQ rather than the permittee which is not appropriate.</p> <p>Revised public participation on action plan to specify a minimum of 15 days. Permit was previously silent on number of days.</p>
<p>40 – Section I.B</p>	<p>40 – Part II.B</p>	<p>Special Condition for approved TMDLS other than the Chesapeake Bay TMDL</p>	<p>Made clarifications to language and grammatical changes within the section.</p> <p>Revised in accordance with the EPA small MS4 Remand Rule to include required components of a</p>

			<p>Local TMDL Action Plan, specified specific BMPs and strategies to implement by permittees as applicable based on pollutant(s) of concern.</p> <p>Part II B 2 has been modified to require completion of TMDL Action Plans as soon as practicable and the following sentence has been added: “The permittees shall complete implementation of the TMDL Action Plans as soon as practicable.”</p> <p>Added a requirement that Local TMDL Action Plans be made available for public review for a period of no less than 15 days.</p>
40 – Section III	40 – Part III	Conditions Applicable to all State Permits	<p>Added note to clarify DMRs are not required to be submitted, but if the permittee chooses to perform monitoring it data should performed as specified. Added clarification that discharge monitoring is not required for compliance purposes by this general permit. If the operator chooses to monitor stormwater discharges for informational or screening purposes, that compliance with the requirements of Parts III A, B or C would not be needed.</p>

Global changes in this permit include:

Small MS4 Remand Rule – As a result of the partial remand of the Phase II stormwater regulations by the U.S. Court of Appeals for the Ninth Circuit, the U.S. Environmental Protection Agency (EPA) promulgated revised regulations on January 9, 2017 governing how small municipal separate storm sewer systems (MS4s) obtain coverage under National Pollutant Discharge Elimination System (NPDES) general permits.

This change promotes greater public engagement through clear requirements on the opportunities for public participation in the permitting process. The final MS4 General Permit Remand Rule established two alternative approaches, traditional general permit approach and procedural approach, for issuing and administering coverage under Small MS4 General Permits. Both approaches ensure that the permitting authority establishes what is necessary for the MS4 to “reduce the discharge of pollutants from the MS4 to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act,” referred to as the “MS4 permit standard,” and that the public participation requirements of the Clean Water Act (CWA) are met. (40 CFR 122). Conditions in the proposed permit revise, incorporate, and clarify requirement in accordance with the traditional general permit approach as allowed in the federal regulations for small MS4 general permits.

Consistency – Proposed revisions in the MS4 General Permit ensure consistency with other agency general permits and regulations.

General Reorganization – The proposed MS4 General Permit removes regulatory language that is deemed unnecessary or not practically enforceable, corrects typographic errors, re-numbers outlines where appropriate, and stream line conditions when possible. Certain conditions in the proposed permit may have been moved to more suitable locations.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives

of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The reissuance of the general VPDES permit accomplished the objectives of applicable law and minimizes the costs to local governments, state agencies, and federal entities, and simplifies the application process. Without the general permit, municipalities would be required to obtain an individual permit which would increase the complexity of a permit application and permit costs.

The amended regulation includes an allowance for continuation of permit coverage in instances where an owner has submitted a timely registration and is in compliance with their existing permit. This will allow the permittee to legally and safely discharge if permit coverage is not granted by the Board prior to the existing permit's expiration date.