

**Virginia Department of Conservation and Recreation
Public Hearing on Proposed Municipal Separate Storm Sewer System (MS4)
General Permit Regulations
(4 VAC 50-60-10 et seq.)**

December 4, 2007 in Roanoke, Virginia

Meeting Officer: Christine Watlington
Policy and Budget Analyst
Department of Conservation and Recreation

Opening:

Ms. Watlington: Good afternoon, I would like to call this public hearing on the Virginia Soil and Water Conservation Board's proposed Municipal Separate Storm Sewer System (MS4) General Permit Regulations to order. I am Christine Watlington, Policy and Budget Analyst for the Department of Conservation and Recreation. I will be serving as the meeting officer this afternoon. I welcome you to this hearing.

I would like to thank The City of Roanoke for allowing us to use this facility.

Introduce DCR Staff assisting with the meeting.

With me this afternoon I have Doug Fritz, DCR's MS4 Program Manager, and Michael Fletcher, DCR's Board and Constituent Services Liaison. Michael will be audio taping our meeting and developing a set of minutes of the comments received. Also with me this afternoon is Ryan Brown, our Policy and Planning Assistant Director, who will serve as our technical presenter.

I hope that you have registered on our attendance list. If not, please do so. Those wishing to speak should note that on the attendance list. Please also make sure that your contact information, including your name and address, is legible and complete as we will be utilizing it to keep you informed on the status of the regulatory action.

Purpose of the public hearing:

The purpose of this hearing is to receive input from interested citizens on the Board's proposed Municipal Separate Storm Sewer System (MS4) General Permit during the 60-day public comment period which closes on December 14th.

The Department used the participatory approach to develop the proposal. Following the publication of the Notice of Intended Regulatory Action regarding these regulations in March of this year and the public comment period on the NOIRA, the Department formed a Technical Advisory Committee to assist in the development of the proposed

regulations. The TAC included representatives from localities, consulting firms, environmental organizations, state agencies, colleges and universities, planning district commissions, and federal agencies, including the US EPA. The TAC met three times during the months of June, July, and August. Following the completion of the TAC's work, the Soil and Water Conservation Board proposed these regulations at its meeting held on September 20, 2007. Copies of the proposed regulations are located on the table near the attendance list.

This concludes my introductory remarks. I would like to introduce Ryan Brown, DCR's Policy and Planning Assistant Director, who will explain in more detail what the proposed regulations do.

Mr. Brown: Thank you Ms. Watlington.

This regulatory action amends the general permit for small Municipal Separate Storm Sewer Systems (MS4s). This action is necessary, as the existing general permit is good for 5 years and is set to expire on December 9, 2007. If operators submit a registration statement by December 7th, their permit will be administratively continued until July 1, 2008 when coverage under this permit would commence for another 5-year period. The amendments serve to further advance water quality protections to the maximum extent practicable, advance water quality improvements where a wasteload allocation from a TMDL has been assigned to a MS4, provide greater clarity to localities as how to administer and improve/ advance their MS4 programs, and specify sampling protocols where applicable and necessary reporting requirements.

The key changes to this permit include:

First, updating and adding needed definitions such as "maximum extent practicable", "TMDL", "wasteload allocation" and "MS4 program plan";

Second, updating exemptions and special situations associated with the general permit coverage such as de minimus discharges, discharges resulting from spills beyond the operator's control, and portions of an MS4 covered under an industrial stormwater discharge VPDES permit;

Third, updating registration statement requirements, such as submittal deadlines and filing information, including specifying the elements of a MS4 Program Plan;

Fourth, specifying special procedures within the general permit that a small regulated MS4 shall employ if a wasteload allocation (WLA) as part of a TMDL has been assigned to the MS4 including:

- A. MS4 Program Plan updates within 18 months of permit coverage to include measurable goals, strategies and implementation schedules to address the WLA;

- B. Review of ordinances, policies, plans, procedures and contracts that are applicable to reducing the pollutant;
- C. Outfall reconnaissance procedures for outfalls discharging to the surface water to which the WLA has been assigned;
- D. For operator owned or operated property, pollutant identification and sampling procedures; and
- E. An estimated annual characterization of the volume of stormwater discharged and the quantity of the pollutant identified in the WLA discharged;

Fifth, specifying that a Municipal Separate Storm Sewer System Management Program shall reduce pollutants from the MS4 to the maximum extent practicable, improve impaired waters, protect water quality, and address WLAs; as well as, establish a schedule for MS4 Program Plan Review and submittal and the public notice procedures for the plan;

Sixth, clarifying and expanding minimum criteria within the general permit associated with the six standard control practices which are:

- Public education and outreach
- Requires the operator to increase individual and household knowledge of steps to reduce stormwater pollution; increase public employee, business and general public knowledge of the hazards associated with illegal discharges and improper disposal of waste; increase local involvement in water quality improvement initiatives; increase strategies to reach diverse, disadvantaged, and minority audiences as well as special concerns related to children, and target strategies towards local groups of commercial, industrial, and institutional entities likely to have stormwater impacts.
- Public involvement/ participation
- Requires the operator to promote the availability of the MS4 Program Plan, provide public access to the annual report, and to participate in local activities aimed at increasing public participation in the reduction of stormwater pollutant loads and in improving water quality.
- Illicit discharge detection and elimination
- Requires the operator to develop, implement and enforce an illicit discharge and elimination program, maintain a storm sewer system map, effectively prohibit nonstormwater discharges into the storm sewer system, develop procedures to detect and address nonstormwater discharges, and prevent to the maximum extent practicable the discharge of hazardous substances or oil in the stormwater discharges.
- Construction site stormwater runoff control
- Requires program consistency with the Erosion and Sediment Control Law and attendant regulations.
- Post-construction stormwater management in new development and redevelopment;

- Requires program consistency with the Virginia Stormwater Management Act and attendant regulations.
- Pollution prevention/ good housekeeping for municipal operations
- Requires municipal operations to reduce pollutant discharges, eliminate illicit discharges, dispose of waste materials properly, protect soluble or erodible materials from precipitation, apply fertilizers and pesticides appropriately, and for state agencies to develop and implement nutrient management plans.

Seventh, establishing a program self evaluation requirement once every 5 years in accordance with EPA guidance;

Eighth, clarifying minimum reporting requirements such as submittal of MS4 Program Plan updates, WLA pollutant reduction estimates, number of illicit discharges identified and how they were eliminated, information regarding new stormwater management facilities brought on line, and a list of agreements with third parties for the implementation of control measures, as well as establishing a time schedule for reporting (by October 1st of each year for the previous July 1 – June 30);

Ninth, refining the basic EPA boiler plate language that applies to all VSMP permits; and finally,

Tenth, updating the incorporated General Permit Registration Statement form to track the amended regulation.

This concludes the summary of key provisions contained in the proposed regulations.

Ms. Watlington: Thank you Mr. Brown.

Before we begin receiving testimony on the proposed regulations, I would like to stress that this is an information-gathering meeting. Everyone wishing to speak will be heard. If necessary, we may ask speakers questions concerning their testimony or to request additional information concerning a subject believed to be important to the process in order to help the clarify and properly capture your comments. Staff will be available after this hearing to take any individual questions you may have.

We will now begin the public comment portion of the hearing. When I call your name, please come to the front and use the podium. Please state your name and who you represent. If you have an extra copy of your comments, we will be happy to accept it.

Ms. Watlington called on Christopher Blakeman representing the City of Roanoke Office of Environmental Management.

Christopher Blakeman, City of Roanoke

I'm Christopher Blakeman representing the City of Roanoke.

I have a couple of questions that are programmatically specific to us. I noticed that part of the proposal would require us to evaluate parcels that are owned and operated by the MS4 for potential sources of pollutants.

As you may or may not know, one of the concerns with the Roanoke River Watershed has been sedimentation and the effect on macro-invertebrates. That is one of the concerns we are being asked to address. Certainly we advocate that and are in support of that.

We are a little concerned because a lot of the parcels that are city owned, other than a few parcels where we have a facility in operation and so forth, are green space or park areas that immediately abut the receiving waters in the watershed. In many cases those are at or near a state of being vegetatively mature or in some kind of protected state. Obviously we do get periodic washouts and high water.

How will we address this sampling criteria for TMDLs where: A) we don't have an outfall on that parcel and B) some sedimentation would be normal and expected and the riparian area is fully vegetated and established? We wouldn't want to riprap those areas or artificially take means of that measure.

We are concerned about how we meet the criteria.

Mr. Fritz: That is specific to Roanoke. I will answer that after the public comment period.

Mr. Blakeman: We have one water body that has been preliminarily listed for PCBs but has not been determined to be a wasteload issue. Is that something we would see in these regulations?

Mr. Fritz: The way the regulations are now, we would have to re-open the regulations to address that.

Mr. Blakeman: Lastly you have some guidance recommending that we collaborate with DEQ with regard to the development of the implementation plan. Will there be a local or DCR representative involved in that process? How does that affect our stormwater management program?

Mr. Fritz: DCR participates in the development of the implementation plans as well as DEQ. The object of having localities participate in those implementation plan developments is to ensure they are being adequately developed.

Ms. Watlington: That concludes the list of speakers that I have.

Ms. Watlington: A handout is provided on the table outlining the public comment submittal procedures I am about to cover and the dates and locations of the remaining public meeting.

Persons desiring to submit written comments pertaining to this notice and this meeting may do by mail, by the internet, or by facsimile. Comments should be sent to the Regulatory Coordinator at: Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, Virginia 23219. Comments also may be submitted electronically to the Regulatory TownHall. Or comments may be faxed to the Regulatory Coordinator at: (804) 786-6141. All written comments must include the name and address of the commenter. In order to be considered, comments must be received by 5:00 PM on December 14, 2007.

With that announcement, I would like to thank each of you for attending this meeting and providing us with your views and comments. This meeting is now officially closed. Staff will be available afterwards to take any individual questions you may have.

I hope that everyone has a safe trip home.